

1 **TITLE XII—PROVISIONS RELAT-**
2 **ING TO EXEMPT ORGANIZA-**
3 **TIONS**

4 **Subtitle A—Charitable Giving**
5 **Incentives**

6 **SEC. 1201. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL**
7 **RETIREMENT PLANS FOR CHARITABLE PUR-**
8 **POSES.**

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

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

14 “(A) IN GENERAL.—So much of the aggre-
15 gate amount of qualified charitable distributions
16 with respect to a taxpayer made during any
17 taxable year which does not exceed \$100,000
18 shall not be includible in gross income of such
19 taxpayer for such taxable year.

20 “(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the
21 term ‘qualified charitable distribution’ means
22 any distribution from an individual retirement
23 plan (other than a plan described in subsection
24 (k) or (p))—
25

1 “(i) which is made directly by the
2 trustee to an organization described in sec-
3 tion 170(b)(1)(A) (other than any organi-
4 zation described in section 509(a)(3) or
5 any fund or account described in section
6 4966(d)(2)), and

7 “(ii) which is made on or after the
8 date that the individual for whose benefit
9 the plan is maintained has attained age
10 70½.

11 A distribution shall be treated as a qualified
12 charitable distribution only to the extent that
13 the distribution would be includible in gross in-
14 come without regard to subparagraph (A).

15 “(C) CONTRIBUTIONS MUST BE OTHER-
16 WISE DEDUCTIBLE.—For purposes of this para-
17 graph, a distribution to an organization de-
18 scribed in subparagraph (B)(i) shall be treated
19 as a qualified charitable distribution only if a
20 deduction for the entire distribution would be
21 allowable under section 170 (determined with-
22 out regard to subsection (b) thereof and this
23 paragraph).

24 “(D) APPLICATION OF SECTION 72.—Not-
25 withstanding section 72, in determining the ex-

1 tent to which a distribution is a qualified chari-
2 table distribution, the entire amount of the dis-
3 tribution shall be treated as includible in gross
4 income without regard to subparagraph (A) to
5 the extent that such amount does not exceed
6 the aggregate amount which would have been so
7 includible if all amounts distributed from all in-
8 dividual retirement plans were treated as 1 con-
9 tract under paragraph (2)(A) for purposes of
10 determining the inclusion of such distribution
11 under section 72. Proper adjustments shall be
12 made in applying section 72 to other distribu-
13 tions in such taxable year and subsequent tax-
14 able years.

15 “(E) DENIAL OF DEDUCTION.—Qualified
16 charitable distributions which are not includible
17 in gross income pursuant to subparagraph (A)
18 shall not be taken into account in determining
19 the deduction under section 170.

20 “(F) TERMINATION.—This paragraph shall
21 not apply to distributions made in taxable years
22 beginning after December 31, 2007.”.

23 (b) MODIFICATIONS RELATING TO INFORMATION RE-
24 TURNS BY CERTAIN TRUSTS.—

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

5 **“SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

6 “(a) SPLIT-INTEREST TRUSTS.—Every trust de-
7 scribed in section 4947(a)(2) shall furnish such informa-
8 tion with respect to the taxable year as the Secretary may
9 by forms or regulations require.

10 “(b) TRUSTS CLAIMING CERTAIN CHARITABLE DE-
11 DUCTIONS.—

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

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

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

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

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

7 “(E) the total income of the trust within
8 such year and the expenses attributable thereto,
9 and

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

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

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

19 “(B) the trust is described in section
20 4947(a)(1).”.

21 (2) INCREASE IN PENALTY RELATING TO FIL-
22 ING OF INFORMATION RETURN BY SPLIT-INTEREST
23 TRUSTS.—Paragraph (2) of section 6652(c) (relating
24 to returns by exempt organizations and by certain

1 trusts) is amended by adding at the end the fol-
2 lowing new subparagraph:

3 “(C) SPLIT-INTEREST TRUSTS.—In the
4 case of a trust which is required to file a return
5 under section 6034(a), subparagraphs (A) and
6 (B) of this paragraph shall not apply and para-
7 graph (1) shall apply in the same manner as if
8 such return were required under section 6033,
9 except that—

10 “(i) the 5 percent limitation in the
11 second sentence of paragraph (1)(A) shall
12 not apply,

13 “(ii) in the case of any trust with
14 gross income in excess of \$250,000, the
15 first sentence of paragraph (1)(A) shall be
16 applied by substituting ‘\$100’ for ‘\$20’,
17 and the second sentence thereof shall be
18 applied by substituting ‘\$50,000’ for
19 ‘\$10,000’, and

20 “(iii) the third sentence of paragraph
21 (1)(A) shall be disregarded.

22 In addition to any penalty imposed on the trust
23 pursuant to this subparagraph, if the person re-
24 quired to file such return knowingly fails to file
25 the return, such penalty shall also be imposed

1 on such person who shall be personally liable
2 for such penalty.”.

3 (3) CONFIDENTIALITY OF NONCHARITABLE
4 BENEFICIARIES.—Subsection (b) of section 6104
5 (relating to inspection of annual information re-
6 turns) is amended by adding at the end the fol-
7 lowing new sentence: “In the case of a trust which
8 is required to file a return under section 6034(a),
9 this subsection shall not apply to information re-
10 garding beneficiaries which are not organizations de-
11 scribed in section 170(c).”.

12 (4) CLERICAL AMENDMENT.—The item in the
13 table of sections for subpart A of part III of sub-
14 chapter A of chapter 61 relating to section 6034 is
15 amended to read as follows:

“Sec. 6034. Returns by certain trusts.”.

16 (c) EFFECTIVE DATES.—

17 (1) SUBSECTION (a).—The amendment made
18 by subsection (a) shall apply to distributions made
19 in taxable years beginning after December 31, 2005.

20 (2) SUBSECTION (b).—The amendments made
21 by subsection (b) shall apply to returns for taxable
22 years beginning after December 31, 2006.

1 **SEC. 1202. EXTENSION OF MODIFICATION OF CHARITABLE**
2 **DEDUCTION FOR CONTRIBUTIONS OF FOOD**
3 **INVENTORY.**

4 (a) **IN GENERAL.**—Section 170(e)(3)(C)(iv) (relating
5 to termination) is amended by striking “2005” and insert-
6 ing “2007”.

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to contributions made after De-
9 cember 31, 2005.

10 **SEC. 1203. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
11 **TION CONTRIBUTING PROPERTY.**

12 (a) **IN GENERAL.**—Paragraph (2) of section 1367(a)
13 (relating to adjustments to basis of stock of shareholders,
14 etc.) is amended by adding at the end the following new
15 flush sentence:

16 “The decrease under subparagraph (B) by reason of
17 a charitable contribution (as defined in section
18 170(c)) of property shall be the amount equal to the
19 shareholder’s pro rata share of the adjusted basis of
20 such property. The preceding sentence shall not
21 apply to contributions made in taxable years begin-
22 ning after December 31, 2007.”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 this section shall apply to contributions made in taxable
25 years beginning after December 31, 2005.

1 **SEC. 1204. EXTENSION OF MODIFICATION OF CHARITABLE**
2 **DEDUCTION FOR CONTRIBUTIONS OF BOOK**
3 **INVENTORY.**

4 (a) IN GENERAL.—Section 170(e)(3)(D)(iv) (relating
5 to termination) is amended by striking “2005” and insert-
6 ing “2007”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to contributions made after De-
9 cember 31, 2005.

10 **SEC. 1205. MODIFICATION OF TAX TREATMENT OF CERTAIN**
11 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
12 **NIZATIONS.**

13 (a) IN GENERAL.—Paragraph (13) of section 512(b)
14 (relating to special rules for certain amounts received from
15 controlled entities) is amended by redesignating subpara-
16 graph (E) as subparagraph (F) and by inserting after sub-
17 paragraph (D) the following new subparagraph:

18 “(E) PARAGRAPH TO APPLY ONLY TO CER-
19 TAIN EXCESS PAYMENTS.—

20 “(i) IN GENERAL.—Subparagraph (A)
21 shall apply only to the portion of a quali-
22 fying specified payment received or accrued
23 by the controlling organization that ex-
24 ceeds the amount which would have been
25 paid or accrued if such payment met the
26 requirements prescribed under section 482.

1 “(ii) ADDITION TO TAX FOR VALU-
2 ATION MISSTATEMENTS.—The tax imposed
3 by this chapter on the controlling organiza-
4 tion shall be increased by an amount equal
5 to 20 percent of the larger of—

6 “(I) such excess determined with-
7 out regard to any amendment or sup-
8 plement to a return of tax, or

9 “(II) such excess determined
10 with regard to all such amendments
11 and supplements.

12 “(iii) QUALIFYING SPECIFIED PAY-
13 MENT.—The term ‘qualifying specified
14 payment’ means a specified payment which
15 is made pursuant to—

16 “(I) a binding written contract in
17 effect on the date of the enactment of
18 this subparagraph, or

19 “(II) a contract which is a re-
20 newal, under substantially similar
21 terms, of a contract described in sub-
22 clause (I).

23 “(iv) TERMINATION.—This subpara-
24 graph shall not apply to payments received
25 or accrued after December 31, 2007.”.

1 (b) REPORTING.—

2 (1) IN GENERAL.—Section 6033 (relating to re-
3 turns by exempt organizations) is amended by redес-
4 ignating subsection (h) as subsection (i) and by in-
5 serting after subsection (g) the following new sub-
6 section:

7 “(h) CONTROLLING ORGANIZATIONS.—Each control-
8 ling organization (within the meaning of section
9 512(b)(13)) which is subject to the requirements of sub-
10 section (a) shall include on the return required under sub-
11 section (a)—

12 “(1) any interest, annuities, royalties, or rents
13 received from each controlled entity (within the
14 meaning of section 512(b)(13)),

15 “(2) any loans made to each such controlled en-
16 tity, and

17 “(3) any transfers of funds between such con-
18 trolling organization and each such controlled enti-
19 ty.”.

20 (2) REPORT TO CONGRESS.—Not later than
21 January 1, 2009, the Secretary of the Treasury
22 shall submit to the Committee on Finance of the
23 Senate and the Committee on Ways and Means of
24 the House of Representatives a report on the effec-
25 tiveness of the Internal Revenue Service in admin-

1 ed by redesignating subparagraphs (E) and (F) as
2 subparagraphs (F) and (G), respectively, and by in-
3 serting after subparagraph (D) the following new
4 subparagraph:

5 “(E) CONTRIBUTIONS OF QUALIFIED CON-
6 SERVATION CONTRIBUTIONS.—

7 “(i) IN GENERAL.—Any qualified con-
8 servation contribution (as defined in sub-
9 section (h)(1)) shall be allowed to the ex-
10 tent the aggregate of such contributions
11 does not exceed the excess of 50 percent of
12 the taxpayer’s contribution base over the
13 amount of all other charitable contribu-
14 tions allowable under this paragraph.

15 “(ii) CARRYOVER.—If the aggregate
16 amount of contributions described in clause
17 (i) exceeds the limitation of clause (i), such
18 excess shall be treated (in a manner con-
19 sistent with the rules of subsection (d)(1))
20 as a charitable contribution to which clause
21 (i) applies in each of the 15 succeeding
22 years in order of time.

23 “(iii) COORDINATION WITH OTHER
24 SUBPARAGRAPHS.—For purposes of apply-
25 ing this subsection and subsection (d)(1),

1 contributions described in clause (i) shall
2 not be treated as described in subpara-
3 graph (A), (B), (C), or (D) and such sub-
4 paragraphs shall apply without regard to
5 such contributions.

6 “(iv) SPECIAL RULE FOR CONTRIBU-
7 TION OF PROPERTY USED IN AGRICULTURE
8 OR LIVESTOCK PRODUCTION.—

9 “(I) IN GENERAL.—If the indi-
10 vidual is a qualified farmer or rancher
11 for the taxable year for which the con-
12 tribution is made, clause (i) shall be
13 applied by substituting ‘100 percent’
14 for ‘50 percent’.

15 “(II) EXCEPTION.—Subclause (I)
16 shall not apply to any contribution of
17 property made after the date of the
18 enactment of this subparagraph which
19 is used in agriculture or livestock pro-
20 duction (or available for such produc-
21 tion) unless such contribution is sub-
22 ject to a restriction that such property
23 remain available for such production.
24 This subparagraph shall be applied
25 separately with respect to property to

1 which subclause (I) does not apply by
2 reason of the preceding sentence prior
3 to its application to property to which
4 subclause (I) does apply.

5 “(v) DEFINITION.—For purposes of
6 clause (iv), the term ‘qualified farmer or
7 rancher’ means a taxpayer whose gross in-
8 come from the trade or business of farm-
9 ing (within the meaning of section
10 2032A(e)(5)) is greater than 50 percent of
11 the taxpayer’s gross income for the taxable
12 year.

13 “(vi) TERMINATION.—This subpara-
14 graph shall not apply to any contribution
15 made in taxable years beginning after De-
16 cember 31, 2007.”.

17 (2) CORPORATIONS.—Paragraph (2) of section
18 170(b) is amended to read as follows:

19 “(2) CORPORATIONS.—In the case of a corpora-
20 tion—

21 “(A) IN GENERAL.—The total deductions
22 under subsection (a) for any taxable year (other
23 than for contributions to which subparagraph
24 (B) applies) shall not exceed 10 percent of the
25 taxpayer’s taxable income.

1 “(B) QUALIFIED CONSERVATION CON-
2 TRIBUTIONS BY CERTAIN CORPORATE FARMERS
3 AND RANCHERS.—

4 “(i) IN GENERAL.—Any qualified con-
5 servation contribution (as defined in sub-
6 section (h)(1))—

7 “(I) which is made by a corpora-
8 tion which, for the taxable year during
9 which the contribution is made, is a
10 qualified farmer or rancher (as de-
11 fined in paragraph (1)(E)(v)) and the
12 stock of which is not readily tradable
13 on an established securities market at
14 any time during such year, and

15 “(II) which, in the case of con-
16 tributions made after the date of the
17 enactment of this subparagraph, is a
18 contribution of property which is used
19 in agriculture or livestock production
20 (or available for such production) and
21 which is subject to a restriction that
22 such property remain available for
23 such production,

24 shall be allowed to the extent the aggregate
25 of such contributions does not exceed the

1 excess of the taxpayer's taxable income
2 over the amount of charitable contributions
3 allowable under subparagraph (A).

4 “(ii) CARRYOVER.—If the aggregate
5 amount of contributions described in clause
6 (i) exceeds the limitation of clause (i), such
7 excess shall be treated (in a manner con-
8 sistent with the rules of subsection (d)(2))
9 as a charitable contribution to which clause
10 (i) applies in each of the 15 succeeding
11 years in order of time.

12 “(iii) TERMINATION.—This subpara-
13 graph shall not apply to any contribution
14 made in taxable years beginning after De-
15 cember 31, 2007.

16 “(C) TAXABLE INCOME.—For purposes of
17 this paragraph, taxable income shall be com-
18 puted without regard to—

19 “(i) this section,

20 “(ii) part VIII (except section 248),

21 “(iii) any net operating loss carryback
22 to the taxable year under section 172,

23 “(iv) section 199, and

24 “(v) any capital loss carryback to the
25 taxable year under section 1212(a)(1).”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Paragraph (2) of section 170(d) is amended
3 by striking “subsection (b)(2)” each place it appears
4 and inserting “subsection (b)(2)(A)”.

5 (2) Section 545(b)(2) is amended by striking
6 “and (D)” and inserting “(D), and (E)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to contributions made in taxable
9 years beginning after December 31, 2005.

10 **SEC. 1207. EXCISE TAXES EXEMPTION FOR BLOOD COL-**
11 **LECTOR ORGANIZATIONS.**

12 (a) EXEMPTION FROM IMPOSITION OF SPECIAL
13 FUELS TAX.—Section 4041(g) (relating to other exemp-
14 tions) is amended by striking “and” at the end of para-
15 graph (3), by striking the period in paragraph (4) and
16 inserting “; and”, and by inserting after paragraph (4)
17 the following new paragraph:

18 “(5) with respect to the sale of any liquid to a
19 qualified blood collector organization (as defined in
20 section 7701(a)(49)) for such organization’s exclu-
21 sive use in the collection, storage, or transportation
22 of blood.”.

23 (b) EXEMPTION FROM MANUFACTURERS EXCISE
24 TAX.—

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

6 “(6) to a qualified blood collector organization
7 (as defined in section 7701(a)(49)) for such organi-
8 zation’s exclusive use in the collection, storage, or
9 transportation of blood.”.

10 (2) NO EXEMPTION WITH RESPECT TO VAC-
11 CINES AND RECREATIONAL EQUIPMENT.—Section
12 4221(a) is amended by adding at the end the fol-
13 lowing new sentence: “In the case of taxes imposed
14 by subchapter C or D, paragraph (6) shall not
15 apply.”.

16 (3) CONFORMING AMENDMENTS.—

17 (A) The second sentence of section
18 4221(a) is amended by striking “Paragraphs
19 (4) and (5)” and inserting “Paragraphs (4),
20 (5), and (6)”.

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

23 (c) EXEMPTION FROM COMMUNICATION EXCISE
24 TAX.—

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

5 “(k) EXEMPTION FOR QUALIFIED BLOOD COL-
6 LECTOR ORGANIZATIONS.—Under regulations provided by
7 the Secretary, no tax shall be imposed under section 4251
8 on any amount paid by a qualified blood collector organi-
9 zation (as defined in section 7701(a)(49)) for services or
10 facilities furnished to such organization.”.

11 (2) CONFORMING AMENDMENT.—Section
12 4253(l), as redesignated by paragraph (1), is
13 amended by striking “or (j)” and inserting “(j), or
14 (k)”.

15 (d) EXEMPTION FROM TAX ON HEAVY VEHICLES.—
16 Section 4483 is amended by redesignating subsection (h)
17 as subsection (i) and by inserting after subsection (g) the
18 following new subsection:

19 “(h) EXEMPTION FOR VEHICLES USED IN BLOOD
20 COLLECTION.—

21 “(1) IN GENERAL.—No tax shall be imposed by
22 section 4481 on the use of any qualified blood col-
23 lector vehicle by a qualified blood collector organiza-
24 tion.

1 “(2) QUALIFIED BLOOD COLLECTOR VEHI-
2 CLE.—For purposes of this subsection, the term
3 ‘qualified blood collector vehicle’ means a vehicle at
4 least 80 percent of the use of which during the prior
5 taxable period was by a qualified blood collector or-
6 ganization in the collection, storage, or transpor-
7 tation of blood.

8 “(3) SPECIAL RULE FOR VEHICLES FIRST
9 PLACED IN SERVICE IN A TAXABLE PERIOD.—In the
10 case of a vehicle first placed in service in a taxable
11 period, a vehicle shall be treated as a qualified blood
12 collector vehicle for such taxable period if such quali-
13 fied blood collector organization certifies to the Sec-
14 retary that the organization reasonably expects at
15 least 80 percent of the use of such vehicle by the or-
16 ganization during such taxable period will be in the
17 collection, storage, or transportation of blood.

18 “(4) QUALIFIED BLOOD COLLECTOR ORGANIZA-
19 TION.—The term ‘qualified blood collector organiza-
20 tion’ has the meaning given such term by section
21 7701(a)(49).”.

22 (e) CREDIT OR REFUND FOR CERTAIN TAXES ON
23 SALES AND SERVICES.—

24 (1) DEEMED OVERPAYMENT.—

1 (A) IN GENERAL.—Section 6416(b)(2) is
2 amended by redesignating subparagraphs (E)
3 and (F) as subparagraphs (F) and (G), respec-
4 tively, and by inserting after subparagraph (D)
5 the following new subparagraph:

6 “(E) sold to a qualified blood collector or-
7 ganization (as defined in section 7701(a)(49))
8 for such organization’s exclusive use in the col-
9 lection, storage, or transportation of blood;”.

10 (B) NO CREDIT OR REFUND FOR VACCINES
11 OR RECREATIONAL EQUIPMENT.—Section
12 6416(b)(2) is amended by adding at the end the
13 following new sentence: “In the case of taxes
14 imposed by subchapter C or D of chapter 32,
15 subparagraph (E) shall not apply.”.

16 (C) CONFORMING AMENDMENTS.—Section
17 6416(b)(2) is amended—

18 (i) by striking “Subparagraphs (C)
19 and (D)” in the second sentence and in-
20 serting “Subparagraphs (C), (D), and
21 (E)”.

22 (ii) by striking “(B), (C), and (D)”
23 and inserting “(B), (C), (D), and (E)”.

24 (2) SALES OF TIRES.—Section 6416(b)(4)(B) is
25 amended by striking “or” at the end of clause (i),

1 by striking the period at the end of clause (ii) and
2 inserting “, or”, and by adding after clause (ii) the
3 following:

4 “(iii) sold to a qualified blood collector
5 organization for its exclusive use in con-
6 nection with a vehicle the organization cer-
7 tifies will be primarily used in the collec-
8 tion, storage, or transportation of blood.”.

9 (f) DEFINITION OF QUALIFIED BLOOD COLLECTOR
10 ORGANIZATION.—Section 7701(a) is amended by inserting
11 at the end the following new paragraph:

12 “(49) QUALIFIED BLOOD COLLECTOR ORGANI-
13 ZATION.—The term ‘qualified blood collector organi-
14 zation’ means an organization which is—

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

17 “(B) primarily engaged in the activity of
18 the collection of human blood,

19 “(C) registered with the Secretary for pur-
20 poses of excise tax exemptions, and

21 “(D) registered by the Food and Drug Ad-
22 ministration to collect blood.”.

23 (g) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 this section shall take effect on January 1, 2007.

1 (2) SUBSECTION (d).—The amendment made
2 by subsection (d) shall apply to taxable periods be-
3 ginning on or after July 1, 2007.

4 **Subtitle B—Reforming Exempt** 5 **Organizations**

6 **PART 1—GENERAL REFORMS**

7 **SEC. 1211. REPORTING ON CERTAIN ACQUISITIONS OF IN-**
8 **TERESTS IN INSURANCE CONTRACTS IN**
9 **WHICH CERTAIN EXEMPT ORGANIZATIONS**
10 **HOLD AN INTEREST.**

11 (a) REPORTING REQUIREMENTS.—

12 (1) IN GENERAL.—Subpart B of part III of
13 subchapter A of chapter 61 (relating to information
14 concerning transactions with other persons), as
15 amended by this Act, is amended by adding at the
16 end the following new section:

17 **“SEC. 6050V. RETURNS RELATING TO APPLICABLE INSUR-**
18 **ANCE CONTRACTS IN WHICH CERTAIN EX-**
19 **EMPT ORGANIZATIONS HOLD INTERESTS.**

20 “(a) IN GENERAL.—Each applicable exempt organi-
21 zation which makes a reportable acquisition shall make the
22 return described in subsection (c).

23 “(b) TIME FOR MAKING RETURN.—Any applicable
24 exempt organization required to make a return under sub-

1 section (a) shall file such return at such time as may be
2 established by the Secretary.

3 “(c) FORM AND MANNER OF RETURNS.—A return
4 is described in this subsection if such return—

5 “(1) is in such form as the Secretary pre-
6 scribes,

7 “(2) contains the name, address, and taxpayer
8 identification number of the applicable exempt orga-
9 nization and the issuer of the applicable insurance
10 contract, and

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

13 “(d) DEFINITIONS.—For purposes of this section—

14 “(1) REPORTABLE ACQUISITION.—The term
15 ‘reportable acquisition’ means the acquisition by an
16 applicable exempt organization of a direct or indirect
17 interest in any applicable insurance contract in any
18 case in which such acquisition is a part of a struc-
19 tured transaction involving a pool of such contracts.

20 “(2) APPLICABLE INSURANCE CONTRACT.—

21 “(A) IN GENERAL.—The term ‘applicable
22 insurance contract’ means any life insurance,
23 annuity, or endowment contract with respect to
24 which both an applicable exempt organization
25 and a person other than an applicable exempt

1 organization have directly or indirectly held an
2 interest in the contract (whether or not at the
3 same time).

4 “(B) EXCEPTIONS.—Such term shall not
5 include a life insurance, annuity, or endowment
6 contract if—

7 “(i) all persons directly or indirectly
8 holding any interest in the contract (other
9 than applicable exempt organizations) have
10 an insurable interest in the insured under
11 the contract independent of any interest of
12 an applicable exempt organization in the
13 contract,

14 “(ii) the sole interest in the contract
15 of an applicable exempt organization or
16 each person other than an applicable ex-
17 empt organization is as a named bene-
18 ficiary, or

19 “(iii) the sole interest in the contract
20 of each person other than an applicable ex-
21 empt organization is—

22 “(I) as a beneficiary of a trust
23 holding an interest in the contract,
24 but only if the person’s designation as
25 such beneficiary was made without

1 consideration and solely on a purely
2 gratuitous basis, or

3 “(II) as a trustee who holds an
4 interest in the contract in a fiduciary
5 capacity solely for the benefit of appli-
6 cable exempt organizations or persons
7 otherwise described in subclause (I) or
8 clause (i) or (ii).

9 “(3) APPLICABLE EXEMPT ORGANIZATION.—

10 The term ‘applicable exempt organization’ means—

11 “(A) an organization described in section
12 170(c),

13 “(B) an organization described in section
14 168(h)(2)(A)(iv), or

15 “(C) an organization not described in
16 paragraph (1) or (2) which is described in sec-
17 tion 2055(a) or section 2522(a).

18 “(e) TERMINATION.—This section shall not apply to
19 reportable acquisitions occurring after the date which is
20 2 years after the date of the enactment of this section.”.

21 (2) CONFORMING AMENDMENT.—The table of
22 sections for subpart B of part III of subchapter A
23 of chapter 61 is amended by adding at the end the
24 following new item:

“Sec. 6050V. Returns relating to applicable insurance contracts in which cer-
tain exempt organizations hold interests.”.

1 (b) PENALTIES.—

2 (1) IN GENERAL.—Subparagraph (B) of section
3 6724(d)(1), as amended by this Act, is amended by
4 redesignating clauses (xiv) through (xix) as clauses
5 (xv) through (xx) and by inserting after clause (xiii)
6 the following new clause:

7 “(xiv) section 6050V (relating to re-
8 turns relating to applicable insurance con-
9 tracts in which certain exempt organiza-
10 tions hold interests),”.

11 (2) INTENTIONAL DISREGARD.—Section
12 6721(e)(2) is amended by striking “or” at the end
13 of subparagraph (B), by striking “and” at the end
14 of subparagraph (C) and inserting “or”, and by add-
15 ing at the end the following new subparagraph:

16 “(D) in the case of a return required to be
17 filed under section 6050V, 10 percent of the
18 value of the benefit of any contract with respect
19 to which information is required to be included
20 on the return, and”.

21 (c) STUDY.—

22 (1) IN GENERAL.—The Secretary of the Treas-
23 ury shall undertake a study on—

24 (A) the use by tax exempt organizations of
25 applicable insurance contracts (as defined under

1 section 6050V(d)(2) of the Internal Revenue
2 Code of 1986, as added by subsection (a)) for
3 the purpose of sharing the benefits of the orga-
4 nization's insurable interest in individuals in-
5 sured under such contracts with investors, and

6 (B) whether such activities are consistent
7 with the tax exempt status of such organiza-
8 tions.

9 (2) REPORT.—Not later than 30 months after
10 the date of the enactment of this Act, the Secretary
11 of the Treasury shall report on the study conducted
12 under paragraph (1) to the Committee on Finance
13 of the Senate and the Committee on Ways and
14 Means of the House of Representatives.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to acquisitions of contracts after
17 the date of enactment of this Act.

18 **SEC. 1212. INCREASE IN PENALTY EXCISE TAXES RELATING**
19 **TO PUBLIC CHARITIES, SOCIAL WELFARE OR-**
20 **GANIZATIONS, AND PRIVATE FOUNDATIONS.**

21 (a) TAXES ON SELF-DEALING AND EXCESS BENEFIT
22 TRANSACTIONS.—

23 (1) IN GENERAL.—Section 4941(a) (relating to
24 initial taxes) is amended—

1 (A) in paragraph (1), by striking “5 per-
2 cent” and inserting “10 percent”, and

3 (B) in paragraph (2), by striking “2½
4 percent” and inserting “5 percent”.

5 (2) INCREASED LIMITATION FOR MANAGERS ON
6 SELF-DEALING.—Section 4941(c)(2) is amended by
7 striking “\$10,000” each place it appears in the text
8 and heading thereof and inserting “\$20,000”.

9 (3) INCREASED LIMITATION FOR MANAGERS ON
10 EXCESS BENEFIT TRANSACTIONS.—Section
11 4958(d)(2) is amended by striking “\$10,000” and
12 inserting “\$20,000”.

13 (b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—
14 Section 4942(a) (relating to initial tax) is amended by
15 striking “15 percent” and inserting “30 percent”.

16 (c) TAXES ON EXCESS BUSINESS HOLDINGS.—Sec-
17 tion 4943(a)(1) (relating to imposition) is amended by
18 striking “5 percent” and inserting “10 percent”.

19 (d) TAXES ON INVESTMENTS WHICH JEOPARDIZE
20 CHARITABLE PURPOSE.—

21 (1) IN GENERAL.—Section 4944(a) (relating to
22 initial taxes) is amended by striking “5 percent”
23 both places it appears and inserting “10 percent”.

24 (2) INCREASED LIMITATION FOR MANAGERS.—
25 Section 4944(d)(2) is amended—

1 (A) by striking “\$5,000,” and inserting
2 “\$10,000,” and

3 (B) by striking “\$10,000.” and inserting
4 “\$20,000.”.

5 (e) TAXES ON TAXABLE EXPENDITURES.—

6 (1) IN GENERAL.—Section 4945(a) (relating to
7 initial taxes) is amended—

8 (A) in paragraph (1), by striking “10 per-
9 cent” and inserting “20 percent”, and

10 (B) in paragraph (2), by striking “2½
11 percent” and inserting “5 percent”.

12 (2) INCREASED LIMITATION FOR MANAGERS.—
13 Section 4945(c)(2) is amended—

14 (A) by striking “\$5,000,” and inserting
15 “\$10,000,” and

16 (B) by striking “\$10,000.” and inserting
17 “\$20,000.”.

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act.

1 **SEC. 1213. REFORM OF CHARITABLE CONTRIBUTIONS OF**
2 **CERTAIN EASEMENTS IN REGISTERED HIS-**
3 **TORIC DISTRICTS AND REDUCED DEDUCTION**
4 **FOR PORTION OF QUALIFIED CONSERVATION**
5 **CONTRIBUTION ATTRIBUTABLE TO REHA-**
6 **BILITATION CREDIT.**

7 (a) SPECIAL RULES WITH RESPECT TO BUILDINGS
8 IN REGISTERED HISTORIC DISTRICTS.—

9 (1) IN GENERAL.—Paragraph (4) of section
10 170(h) (relating to definition of conservation pur-
11 pose) is amended by redesignating subparagraph (B)
12 as subparagraph (C) and by inserting after subpara-
13 graph (A) the following new subparagraph:

14 “(B) SPECIAL RULES WITH RESPECT TO
15 BUILDINGS IN REGISTERED HISTORIC DIS-
16 TRICTS.—In the case of any contribution of a
17 qualified real property interest which is a re-
18 striction with respect to the exterior of a build-
19 ing described in subparagraph (C)(ii), such con-
20 tribution shall not be considered to be exclu-
21 sively for conservation purposes unless—

22 “(i) such interest—

23 “(I) includes a restriction which
24 preserves the entire exterior of the
25 building (including the front, sides,
26 rear, and height of the building), and

1 “(II) prohibits any change in the
2 exterior of the building which is incon-
3 sistent with the historical character of
4 such exterior,

5 “(ii) the donor and donee enter into a
6 written agreement certifying, under pen-
7 alty of perjury, that the donee—

8 “(I) is a qualified organization
9 (as defined in paragraph (3)) with a
10 purpose of environmental protection,
11 land conservation, open space preser-
12 vation, or historic preservation, and

13 “(II) has the resources to man-
14 age and enforce the restriction and a
15 commitment to do so, and

16 “(iii) in the case of any contribution
17 made in a taxable year beginning after the
18 date of the enactment of this subpara-
19 graph, the taxpayer includes with the tax-
20 payer’s return for the taxable year of the
21 contribution—

22 “(I) a qualified appraisal (within
23 the meaning of subsection (f)(11)(E))
24 of the qualified property interest,

1 “(II) photographs of the entire
2 exterior of the building, and

3 “(III) a description of all restric-
4 tions on the development of the build-
5 ing.”.

6 (b) DISALLOWANCE OF DEDUCTION FOR STRUC-
7 TURES AND LAND IN REGISTERED HISTORIC DIS-
8 TRICTS.—Subparagraph (C) of section 170(h)(4), as re-
9 designated by subsection (a), is amended—

10 (1) by striking “any building, structure, or land
11 area which”,

12 (2) by inserting “any building, structure, or
13 land area which” before “is listed” in clause (i), and

14 (3) by inserting “any building which” before “is
15 located” in clause (ii).

16 (c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—
17 Subsection (f) of section 170 (relating to disallowance of
18 deduction in certain cases and special rules) is amended
19 by adding at the end the following new paragraph:

20 “(13) CONTRIBUTIONS OF CERTAIN INTERESTS
21 IN BUILDINGS LOCATED IN REGISTERED HISTORIC
22 DISTRICTS.—

23 “(A) IN GENERAL.—No deduction shall be
24 allowed with respect to any contribution de-
25 scribed in subparagraph (B) unless the tax-

1 payer includes with the return for the taxable
2 year of the contribution a \$500 filing fee.

3 “(B) CONTRIBUTION DESCRIBED.—A con-
4 tribution is described in this subparagraph if
5 such contribution is a qualified conservation
6 contribution (as defined in subsection (h))
7 which is a restriction with respect to the exte-
8 rior of a building described in subsection
9 (h)(4)(C)(ii) and for which a deduction is
10 claimed in excess of \$10,000.

11 “(C) DEDICATION OF FEE.—Any fee col-
12 lected under this paragraph shall be used for
13 the enforcement of the provisions of subsection
14 (h).”.

15 (d) REDUCED DEDUCTION FOR PORTION OF QUALI-
16 FIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO
17 THE REHABILITATION CREDIT.—Subsection (f) of section
18 170, as amended by subsection (c), is amended by adding
19 at the end the following new paragraph:

20 “(14) REDUCTION FOR AMOUNTS ATTRIB-
21 UTABLE TO REHABILITATION CREDIT.—In the case
22 of any qualified conservation contribution (as de-
23 fined in subsection (h)), the amount of the deduction
24 allowed under this section shall be reduced by an

1 amount which bears the same ratio to the fair mar-
2 ket value of the contribution as—

3 “(A) the sum of the credits allowed to the
4 taxpayer under section 47 for the 5 preceding
5 taxable years with respect to any building which
6 is a part of such contribution, bears to

7 “(B) the fair market value of the building
8 on the date of the contribution.”.

9 (e) EFFECTIVE DATES.—

10 (1) SPECIAL RULES FOR BUILDINGS IN REG-
11 ISTERED HISTORIC DISTRICTS.—The amendments
12 made by subsection (a) shall apply to contributions
13 made after July 25, 2006.

14 (2) DISALLOWANCE OF DEDUCTION FOR STRUC-
15 TURES AND LAND; REDUCTION FOR REHABILITA-
16 TION CREDIT.—The amendments made by sub-
17 sections (b) and (d) shall apply to contributions
18 made after the date of the enactment of this Act.

19 (3) FILING FEE.—The amendment made by
20 subsection (c) shall apply to contributions made 180
21 days after the date of the enactment of this Act.

22 **SEC. 1214. CHARITABLE CONTRIBUTIONS OF TAXIDERMY**
23 **PROPERTY.**

24 (a) DENIAL OF LONG-TERM CAPITAL GAIN.—Sub-
25 paragraph (B) of section 170(e)(1) is amended by striking

1 “or” at the end of clause (ii), by inserting “or” at the
2 end of clause (iii), and by inserting after clause (iii) the
3 following new clause:

4 “(iv) of any taxidermy property which
5 is contributed by the person who prepared,
6 stuffed, or mounted the property or by any
7 person who paid or incurred the cost of
8 such preparation, stuffing, or mounting.”.

9 (b) TREATMENT OF BASIS.—Subsection (f) of section
10 170, as amended by this Act, is amended by adding at
11 the end the following new paragraph:

12 “(15) SPECIAL RULE FOR TAXIDERMY PROP-
13 ERTY.—

14 “(A) BASIS.—For purposes of this section
15 and notwithstanding section 1012, in the case
16 of a charitable contribution of taxidermy prop-
17 erty which is made by the person who prepared,
18 stuffed, or mounted the property or by any per-
19 son who paid or incurred the cost of such prep-
20 aration, stuffing, or mounting, only the cost of
21 the preparing, stuffing, or mounting shall be in-
22 cluded in the basis of such property.

23 “(B) TAXIDERMY PROPERTY.—For pur-
24 poses of this section, the term ‘taxidermy prop-
25 erty’ means any work of art which—

1 “(i) is the reproduction or preserva-
2 tion of an animal, in whole or in part,

3 “(ii) is prepared, stuffed, or mounted
4 for purposes of recreating one or more
5 characteristics of such animal, and

6 “(iii) contains a part of the body of
7 the dead animal.”.

8 (c) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to contributions made after July
10 25, 2006.

11 **SEC. 1215. RECAPTURE OF TAX BENEFIT FOR CHARITABLE**
12 **CONTRIBUTIONS OF EXEMPT USE PROPERTY**
13 **NOT USED FOR AN EXEMPT USE.**

14 (a) RECAPTURE OF DEDUCTION ON CERTAIN SALES
15 OF EXEMPT USE PROPERTY.—

16 (1) IN GENERAL.—Clause (i) of section
17 170(e)(1)(B) (related to certain contributions of or-
18 dinary income and capital gain property) is amended
19 to read as follows:

20 “(i) of tangible personal property—
21 “(I) if the use by the donee is
22 unrelated to the purpose or function
23 constituting the basis for its exemp-
24 tion under section 501 (or, in the case
25 of a governmental unit, to any pur-

1 pose or function described in sub-
2 section (c)), or

3 “(II) which is applicable property
4 (as defined in paragraph (7)(C))
5 which is sold, exchanged, or otherwise
6 disposed of by the donee before the
7 last day of the taxable year in which
8 the contribution was made and with
9 respect to which the donee has not
10 made a certification in accordance
11 with paragraph (7)(D),”.

12 (2) DISPOSITIONS AFTER CLOSE OF TAXABLE
13 YEAR.—Section 170(e) is amended by adding at the
14 end the following new paragraph:

15 “(7) RECAPTURE OF DEDUCTION ON CERTAIN
16 DISPOSITIONS OF EXEMPT USE PROPERTY.—

17 “(A) IN GENERAL.—In the case of an ap-
18 plicable disposition of applicable property, there
19 shall be included in the income of the donor of
20 such property for the taxable year of such
21 donor in which the applicable disposition occurs
22 an amount equal to the excess (if any) of—

23 “(i) the amount of the deduction al-
24 lowed to the donor under this section with
25 respect to such property, over

1 “(ii) the donor’s basis in such prop-
2 erty at the time such property was contrib-
3 uted.

4 “(B) APPLICABLE DISPOSITION.—For pur-
5 poses of this paragraph, the term ‘applicable
6 disposition’ means any sale, exchange, or other
7 disposition by the donee of applicable prop-
8 erty—

9 “(i) after the last day of the taxable
10 year of the donor in which such property
11 was contributed, and

12 “(ii) before the last day of the 3-year
13 period beginning on the date of the con-
14 tribution of such property,
15 unless the donee makes a certification in ac-
16 cordance with subparagraph (D).

17 “(C) APPLICABLE PROPERTY.—For pur-
18 poses of this paragraph, the term ‘applicable
19 property’ means charitable deduction property
20 (as defined in section 6050L(a)(2)(A))—

21 “(i) which is tangible personal prop-
22 erty the use of which is identified by the
23 donee as related to the purpose or function
24 constituting the basis of the donee’s ex-
25 emption under section 501, and

1 “(ii) for which a deduction in excess
2 of the donor’s basis is allowed.

3 “(D) CERTIFICATION.—A certification
4 meets the requirements of this subparagraph if
5 it is a written statement which is signed under
6 penalty of perjury by an officer of the donee or-
7 ganization and—

8 “(i) which—

9 “(I) certifies that the use of the
10 property by the donee was related to
11 the purpose or function constituting
12 the basis for the donee’s exemption
13 under section 501, and

14 “(II) describes how the property
15 was used and how such use furthered
16 such purpose or function, or

17 “(ii) which—

18 “(I) states the intended use of
19 the property by the donee at the time
20 of the contribution, and

21 “(II) certifies that such intended
22 use has become impossible or infeas-
23 ible to implement.”.

1 (b) REPORTING REQUIREMENTS.—Paragraph (1) of
2 section 6050L(a) (relating to returns relating to certain
3 dispositions of donated property) is amended—

4 (1) by striking “2 years” and inserting “3
5 years”, and

6 (2) by striking “and” at the end of subpara-
7 graph (D), by striking the period at the end of sub-
8 paragraph (E) and inserting a comma, and by in-
9 serting at the end the following:

10 “(F) a description of the donee’s use of the
11 property, and

12 “(G) a statement indicating whether the
13 use of the property was related to the purpose
14 or function constituting the basis for the
15 donee’s exemption under section 501.

16 In any case in which the donee indicates that the
17 use of applicable property (as defined in section
18 170(e)(7)(C)) was related to the purpose or function
19 constituting the basis for the exemption of the donee
20 under section 501 under subparagraph (G), the
21 donee shall include with the return the certification
22 described in section 170(e)(7)(D) if such certifi-
23 cation is made under section 170(e)(7).”.

24 (c) PENALTY.—

1 (1) IN GENERAL.—Part I of subchapter B of
2 chapter 68 (relating to assessable penalties) is
3 amended by inserting after section 6720A the fol-
4 lowing new section:

5 **“SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT**
6 **USE PROPERTY.**

7 “In addition to any criminal penalty provided by law,
8 any person who identifies applicable property (as defined
9 in section 170(e)(7)(C)) as having a use which is related
10 to a purpose or function constituting the basis for the
11 donee’s exemption under section 501 and who knows that
12 such property is not intended for such a use shall pay a
13 penalty of \$10,000.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions for part I of subchapter B of chapter 68 is
16 amended by adding after the item relating to section
17 6720A the following new item:

“Sec. 6720B. Fraudulent identification of exempt use property.”.

18 (d) EFFECTIVE DATE.—

19 (1) RECAPTURE.—The amendments made by
20 subsection (a) shall apply to contributions after Sep-
21 tember 1, 2006.

22 (2) REPORTING.—The amendments made by
23 subsection (b) shall apply to returns filed after Sep-
24 tember 1, 2006.

1 (3) PENALTY.—The amendments made by sub-
2 section (c) shall apply to identifications made after
3 the date of the enactment of this Act.

4 **SEC. 1216. LIMITATION OF DEDUCTION FOR CHARITABLE**
5 **CONTRIBUTIONS OF CLOTHING AND HOUSE-**
6 **HOLD ITEMS.**

7 (a) IN GENERAL.—Subsection (f) of section 170, as
8 amended by this Act, is amended by adding at the end
9 the following new paragraph:

10 “(16) CONTRIBUTIONS OF CLOTHING AND
11 HOUSEHOLD ITEMS.—

12 “(A) IN GENERAL.—In the case of an indi-
13 vidual, partnership, or corporation, no deduc-
14 tion shall be allowed under subsection (a) for
15 any contribution of clothing or a household item
16 unless such clothing or household item is in
17 good used condition or better.

18 “(B) ITEMS OF MINIMAL VALUE.—Not-
19 withstanding subparagraph (A), the Secretary
20 may by regulation deny a deduction under sub-
21 section (a) for any contribution of clothing or a
22 household item which has minimal monetary
23 value.

24 “(C) EXCEPTION FOR CERTAIN PROP-
25 PERTY.—Subparagraphs (A) and (B) shall not

1 apply to any contribution of a single item of
2 clothing or a household item for which a deduc-
3 tion of more than \$500 is claimed if the tax-
4 payer includes with the taxpayer's return a
5 qualified appraisal with respect to the property.

6 “(D) HOUSEHOLD ITEMS.—For purposes
7 of this paragraph—

8 “(i) IN GENERAL.—The term ‘house-
9 hold items’ includes furniture, furnishings,
10 electronics, appliances, linens, and other
11 similar items.

12 “(ii) EXCLUDED ITEMS.—Such term
13 does not include—

14 “(I) food,

15 “(II) paintings, antiques, and
16 other objects of art,

17 “(III) jewelry and gems, and

18 “(IV) collections.

19 “(E) SPECIAL RULE FOR PASS-THRU ENTI-
20 TIES.—In the case of a partnership or S cor-
21 poration, this paragraph shall be applied at the
22 entity level, except that the deduction shall be
23 denied at the partner or shareholder level.”.

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

4 **SEC. 1217. MODIFICATION OF RECORDKEEPING REQUIRE-**
5 **MENTS FOR CERTAIN CHARITABLE CON-**
6 **TRIBUTIONS.**

7 (a) RECORDKEEPING REQUIREMENT.—Subsection
8 (f) of section 170, as amended by this Act, is amended
9 by adding at the end the following new paragraph:

10 “(17) RECORDKEEPING.—No deduction shall be
11 allowed under subsection (a) for any contribution of
12 a cash, check, or other monetary gift unless the
13 donor maintains as a record of such contribution a
14 bank record or a written communication from the
15 donee showing the name of the donee organization,
16 the date of the contribution, and the amount of the
17 contribution.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to contributions made in taxable
20 years beginning after the date of the enactment of this
21 Act.

22 **SEC. 1218. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN**
23 **TANGIBLE PERSONAL PROPERTY.**

24 (a) INCOME TAX.—Section 170 (relating to chari-
25 table, etc., contributions and gifts) is amended by redesign-

1 nating subsection (o) as subsection (p) and by inserting
2 after subsection (n) the following new subsection:

3 “(o) SPECIAL RULES FOR FRACTIONAL GIFTS.—

4 “(1) DENIAL OF DEDUCTION IN CERTAIN
5 CASES.—

6 “(A) IN GENERAL.—No deduction shall be
7 allowed for a contribution of an undivided por-
8 tion of a taxpayer’s entire interest in tangible
9 personal property unless all interest in the
10 property is held immediately before such con-
11 tribution by—

12 “(i) the taxpayer, or

13 “(ii) the taxpayer and the donee.

14 “(B) EXCEPTIONS.—The Secretary may,
15 by regulation, provide for exceptions to sub-
16 paragraph (A) in cases where all persons who
17 hold an interest in the property make propor-
18 tional contributions of an undivided portion of
19 the entire interest held by such persons.

20 “(2) VALUATION OF SUBSEQUENT GIFTS.—In
21 the case of any additional contribution, the fair mar-
22 ket value of such contribution shall be determined by
23 using the lesser of—

1 “(A) the fair market value of the property
2 at the time of the initial fractional contribution,
3 or

4 “(B) the fair market value of the property
5 at the time of the additional contribution.

6 “(3) RECAPTURE OF DEDUCTION IN CERTAIN
7 CASES; ADDITION TO TAX.—

8 “(A) RECAPTURE.—The Secretary shall
9 provide for the recapture of the amount of any
10 deduction allowed under this section (plus inter-
11 est) with respect to any contribution of an undi-
12 vided portion of a taxpayer’s entire interest in
13 tangible personal property—

14 “(i) in any case in which the donor
15 does not contribute all of the remaining in-
16 terest in such property to the donee (or, if
17 such donee is no longer in existence, to any
18 person described in section 170(c)) before
19 the earlier of—

20 “(I) the date that is 10 years
21 after the date of the initial fractional
22 contribution, or

23 “(II) the date of the death of the
24 donor, and

1 “(ii) in any case in which the donee
2 has not, during the period beginning on
3 the date of the initial fractional contribu-
4 tion and ending on the date described in
5 clause (i)—

6 “(I) had substantial physical pos-
7 session of the property, and

8 “(II) used the property in a use
9 which is related to a purpose or func-
10 tion constituting the basis for the or-
11 ganizations’ exemption under section
12 501.

13 “(B) ADDITION TO TAX.—The tax imposed
14 under this chapter for any taxable year for
15 which there is a recapture under subparagraph
16 (A) shall be increased by 10 percent of the
17 amount so recaptured.

18 “(4) DEFINITIONS.—For purposes of this sub-
19 section—

20 “(A) ADDITIONAL CONTRIBUTION.—The
21 term ‘additional contribution’ means any chari-
22 table contribution by the taxpayer of any inter-
23 est in property with respect to which the tax-
24 payer has previously made an initial fractional
25 contribution.

1 “(B) INITIAL FRACTIONAL CONTRIBU-
2 TION.—The term ‘initial fractional contribution’
3 means, with respect to any taxpayer, the first
4 charitable contribution of an undivided portion
5 of the taxpayer’s entire interest in any tangible
6 personal property.”.

7 (b) ESTATE TAX.—Section 2055 (relating to trans-
8 fers for public, charitable, and religious uses) is amended
9 by redesignating subsection (g) as subsection (h) and by
10 inserting after subsection (f) the following new subsection:

11 “(g) VALUATION OF SUBSEQUENT GIFTS.—

12 “(1) IN GENERAL.—In the case of any addi-
13 tional contribution, the fair market value of such
14 contribution shall be determined by using the lesser
15 of—

16 “(A) the fair market value of the property
17 at the time of the initial fractional contribution,
18 or

19 “(B) the fair market value of the property
20 at the time of the additional contribution.

21 “(2) DEFINITIONS.—For purposes of this para-
22 graph—

23 “(A) ADDITIONAL CONTRIBUTION.—The
24 term ‘additional contribution’ means a bequest,
25 legacy, devise, or transfer described in sub-

1 section (a) of any interest in a property with re-
2 spect to which the decedent had previously
3 made an initial fractional contribution.

4 “(B) INITIAL FRACTIONAL CONTRIBU-
5 TION.—The term ‘initial fractional contribution’
6 means, with respect to any decedent, any chari-
7 table contribution of an undivided portion of
8 the decedent’s entire interest in any tangible
9 personal property for which a deduction was al-
10 lowed under section 170.”

11 (c) GIFT TAX.—Section 2522 (relating to charitable
12 and similar gifts) is amended by redesignating subsection
13 (e) as subsection (f) and by inserting after subsection (d)
14 the following new subsection:

15 “(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

16 “(1) DENIAL OF DEDUCTION IN CERTAIN
17 CASES.—

18 “(A) IN GENERAL.—No deduction shall be
19 allowed for a contribution of an undivided por-
20 tion of a taxpayer’s entire interest in tangible
21 personal property unless all interest in the
22 property is held immediately before such con-
23 tribution by—

24 “(i) the taxpayer, or

25 “(ii) the taxpayer and the donee.

1 “(B) EXCEPTIONS.—The Secretary may,
2 by regulation, provide for exceptions to sub-
3 paragraph (A) in cases where all persons who
4 hold an interest in the property make propor-
5 tional contributions of an undivided portion of
6 the entire interest held by such persons.

7 “(2) VALUATION OF SUBSEQUENT GIFTS.—In
8 the case of any additional contribution, the fair mar-
9 ket value of such contribution shall be determined by
10 using the lesser of—

11 “(A) the fair market value of the property
12 at the time of the initial fractional contribution,
13 or

14 “(B) the fair market value of the property
15 at the time of the additional contribution.

16 “(3) RECAPTURE OF DEDUCTION IN CERTAIN
17 CASES; ADDITION TO TAX.—

18 “(A) IN GENERAL.—The Secretary shall
19 provide for the recapture of an amount equal to
20 any deduction allowed under this section (plus
21 interest) with respect to any contribution of an
22 undivided portion of a taxpayer’s entire interest
23 in tangible personal property—

24 “(i) in any case in which the donor
25 does not contribute all of the remaining in-

1 terest in such property to the donee (or, if
2 such donee is no longer in existence, to any
3 person described in section 170(c)) before
4 the earlier of—

5 “(I) the date that is 10 years
6 after the date of the initial fractional
7 contribution, or

8 “(II) the date of the death of the
9 donor, and

10 “(ii) in any case in which the donee
11 has not, during the period beginning on
12 the date of the initial fractional contribu-
13 tion and ending on the date described in
14 clause (i)—

15 “(I) had substantial physical pos-
16 session of the property, and

17 “(II) used the property in a use
18 which is related to a purpose or func-
19 tion constituting the basis for the or-
20 ganizations’ exemption under section
21 501.

22 “(B) ADDITION TO TAX.—The tax imposed
23 under this chapter for any taxable year for
24 which there is a recapture under subparagraph

1 (A) shall be increased by 10 percent of the
2 amount so recaptured.

3 “(4) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) ADDITIONAL CONTRIBUTION.—The
6 term ‘additional contribution’ means any gift
7 for which a deduction is allowed under sub-
8 section (a) or (b) of any interest in a property
9 with respect to which the donor has previously
10 made an initial fractional contribution.

11 “(B) INITIAL FRACTIONAL CONTRIBU-
12 TION.—The term ‘initial fractional contribution’
13 means, with respect to any donor, the first gift
14 of an undivided portion of the donor’s entire in-
15 terest in any tangible personal property for
16 which a deduction is allowed under subsection
17 (a) or (b).”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to contributions, bequests, and
20 gifts made after the date of the enactment of this Act.

21 **SEC. 1219. PROVISIONS RELATING TO SUBSTANTIAL AND**
22 **GROSS OVERSTATEMENTS OF VALUATIONS.**

23 (a) MODIFICATION OF THRESHOLDS FOR SUBSTAN-
24 TIAL AND GROSS VALUATION MISSTATEMENTS.—

1 (1) SUBSTANTIAL VALUATION
2 MISSTATEMENT.—

3 (A) INCOME TAXES.—Subparagraph (A) of
4 section 6662(e)(1) (relating to substantial valu-
5 ation misstatement under chapter 1) is amend-
6 ed by striking “200 percent” and inserting
7 “150 percent”.

8 (B) ESTATE AND GIFT TAXES.—Paragraph
9 (1) of section 6662(g) is amended by striking
10 “50 percent” and inserting “65 percent”.

11 (2) GROSS VALUATION MISSTATEMENT.—

12 (A) INCOME TAXES.—Clauses (i) and (ii)
13 of section 6662(h)(2)(A) (relating to increase in
14 penalty in case of gross valuation
15 misstatements) are amended to read as follows:

16 “(i) in paragraph (1)(A), ‘200 per-
17 cent’ for ‘150 percent’,

18 “(ii) in paragraph (1)(B)(i)—

19 “(I) ‘400 percent’ for ‘200 per-
20 cent’, and

21 “(II) ‘25 percent’ for ‘50 per-
22 cent’, and”.

23 (B) ESTATE AND GIFT TAXES.—Subpara-
24 graph (C) of section 6662(h)(2) is amended by

1 striking “‘25 percent’ for ‘50 percent’” and in-
2 serting “‘40 percent’ for ‘65 percent’”.

3 (3) **ELIMINATION OF REASONABLE CAUSE EX-**
4 **CEPTION FOR GROSS MISSTATEMENTS.**—Section
5 6664(c)(2) (relating to reasonable cause exception
6 for underpayments) is amended by striking “para-
7 graph (1) shall not apply unless” and inserting
8 “paragraph (1) shall not apply. The preceding sen-
9 tence shall not apply to a substantial valuation over-
10 statement under chapter 1 if”.

11 (b) **PENALTY ON APPRAISERS WHOSE APPRAISALS**
12 **RESULT IN SUBSTANTIAL OR GROSS VALUATION**
13 **MISSTATEMENTS.**—

14 (1) **IN GENERAL.**—Part I of subchapter B of
15 chapter 68 (relating to assessable penalties) is
16 amended by inserting after section 6695 the fol-
17 lowing new section:

18 **“SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION**
19 **MISSTATEMENTS ATTRIBUTABLE TO INCOR-**
20 **RECT APPRAISALS.**

21 **“(a) IMPOSITION OF PENALTY.**—If—

22 **“(1) a person prepares an appraisal of the**
23 **value of property and such person knows, or reason-**
24 **ably should have known, that the appraisal would be**

1 used in connection with a return or a claim for re-
2 fund, and

3 “(2) the claimed value of the property on a re-
4 turn or claim for refund which is based on such ap-
5 praisal results in a substantial valuation
6 misstatement under chapter 1 (within the meaning
7 of section 6662(e)), or a gross valuation
8 misstatement (within the meaning of section
9 6662(h)), with respect to such property, then such
10 person shall pay a penalty in the amount determined
11 under subsection (b).

12 “(b) AMOUNT OF PENALTY.—The amount of the
13 penalty imposed under subsection (a) on any person with
14 respect to an appraisal shall be equal to the lesser of—

15 “(1) the greater of—

16 “(A) 10 percent of the amount of the un-
17 derpayment (as defined in section 6664(a)) at-
18 tributable to the misstatement described in sub-
19 section (a)(2), or

20 “(B) \$1,000, or

21 “(2) 125 percent of the gross income received
22 by the person described in subsection (a)(1) from
23 the preparation of the appraisal.

24 “(c) EXCEPTION.—No penalty shall be imposed
25 under subsection (a) if the person establishes to the satis-

1 faction of the Secretary that the value established in the
2 appraisal was more likely than not the proper value.”.

3 (2) RULES APPLICABLE TO PENALTY.—Section
4 6696 (relating to rules applicable with respect to
5 sections 6694 and 6695) is amended—

6 (A) by striking “6694 and 6695” each
7 place it appears in the text and heading thereof
8 and inserting “6694, 6695, and 6695A”, and

9 (B) by striking “6694 or 6695” each place
10 it appears in the text and inserting “6694,
11 6695, or 6695A”.

12 (3) CONFORMING AMENDMENT.—The table of
13 sections for part I of subchapter B of chapter 68 is
14 amended by striking the item relating to section
15 6696 and inserting the following new items:

“Sec. 6695A. Substantial and gross valuation misstatements attributable to in-
correct appraisals.

“Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.”.

16 (c) QUALIFIED APPRAISERS AND APPRAISALS.—

17 (1) IN GENERAL.—Subparagraph (E) of section
18 170(f)(11) is amended to read as follows:

19 “(E) QUALIFIED APPRAISAL AND AP-
20 PRAISER.—For purposes of this paragraph—

21 “(i) QUALIFIED APPRAISAL.—The
22 term ‘qualified appraisal’ means, with re-
23 spect to any property, an appraisal of such
24 property which—

1 “(I) is treated for purposes of
2 this paragraph as a qualified ap-
3 praisal under regulations or other
4 guidance prescribed by the Secretary,
5 and

6 “(II) is conducted by a qualified
7 appraiser in accordance with generally
8 accepted appraisal standards and any
9 regulations or other guidance pre-
10 scribed under subclause (I).

11 “(ii) QUALIFIED APPRAISER.—Except
12 as provided in clause (iii), the term ‘quali-
13 fied appraiser’ means an individual who—

14 “(I) has earned an appraisal des-
15 ignation from a recognized profes-
16 sional appraiser organization or has
17 otherwise met minimum education
18 and experience requirements set forth
19 in regulations prescribed by the Sec-
20 retary,

21 “(II) regularly performs apprais-
22 als for which the individual receives
23 compensation, and

24 “(III) meets such other require-
25 ments as may be prescribed by the

1 Secretary in regulations or other guid-
2 ance.

3 “(iii) SPECIFIC APPRAISALS.—An in-
4 dividual shall not be treated as a qualified
5 appraiser with respect to any specific ap-
6 praisal unless—

7 “(I) the individual demonstrates
8 verifiable education and experience in
9 valuing the type of property subject to
10 the appraisal, and

11 “(II) the individual has not been
12 prohibited from practicing before the
13 Internal Revenue Service by the Sec-
14 retary under section 330(c) of title
15 31, United States Code, at any time
16 during the 3-year period ending on
17 the date of the appraisal.”.

18 (2) REASONABLE CAUSE EXCEPTION.—Sub-
19 paragraphs (B) and (C) of section 6664(c)(3) are
20 amended to read as follows:

21 “(B) QUALIFIED APPRAISAL.—The term
22 ‘qualified appraisal’ has the meaning given such
23 term by section 170(f)(11)(E)(i).

1 “(C) QUALIFIED APPRAISER.—The term
2 ‘qualified appraiser’ has the meaning given such
3 term by section 170(f)(11)(E)(ii).”.

4 (d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—
5 Section 330(c) of title 31, United States Code, is amended
6 by striking “with respect to whom a penalty has been as-
7 sessed under section 6701(a) of the Internal Revenue
8 Code of 1986”.

9 (e) EFFECTIVE DATES.—

10 (1) MISSTATEMENT PENALTIES.—Except as
11 provided in paragraph (3), the amendments made by
12 subsection (a) shall apply to returns filed after the
13 date of the enactment of this Act.

14 (2) APPRAISER PROVISIONS.—Except as pro-
15 vided in paragraph (3), the amendments made by
16 subsections (b), (c), and (d) shall apply to appraisals
17 prepared with respect to returns or submissions filed
18 after the date of the enactment of this Act.

19 (3) SPECIAL RULE FOR CERTAIN EASE-
20 MENTS.—In the case of a contribution of a qualified
21 real property interest which is a restriction with re-
22 spect to the exterior of a building described in sec-
23 tion 170(h)(4)(C)(ii) of the Internal Revenue Code
24 of 1986, and an appraisal with respect to the con-
25 tribution, the amendments made by subsections (a)

1 and (b) shall apply to returns filed after July 25,
2 2006.

3 **SEC. 1220. ADDITIONAL STANDARDS FOR CREDIT COUN-**
4 **SELING ORGANIZATIONS.**

5 (a) IN GENERAL.—Section 501 (relating to exemp-
6 tion from tax on corporations, certain trusts, etc.) is
7 amended by redesignating subsection (q) as subsection (r)
8 and by inserting after subsection (p) the following new
9 subsection:

10 “(q) SPECIAL RULES FOR CREDIT COUNSELING OR-
11 GANIZATIONS.—

12 “(1) IN GENERAL.—An organization with re-
13 spect to which the provision of credit counseling
14 services is a substantial purpose shall not be exempt
15 from tax under subsection (a) unless such organiza-
16 tion is described in paragraph (3) or (4) of sub-
17 section (c) and such organization is organized and
18 operated in accordance with the following require-
19 ments:

20 “(A) The organization—

21 “(i) provides credit counseling services
22 tailored to the specific needs and cir-
23 cumstances of consumers,

24 “(ii) makes no loans to debtors (other
25 than loans with no fees or interest) and

1 does not negotiate the making of loans on
2 behalf of debtors,

3 “(iii) provides services for the purpose
4 of improving a consumer’s credit record,
5 credit history, or credit rating only to the
6 extent that such services are incidental to
7 providing credit counseling services, and

8 “(iv) does not charge any separately
9 stated fee for services for the purpose of
10 improving any consumer’s credit record,
11 credit history, or credit rating.

12 “(B) The organization does not refuse to
13 provide credit counseling services to a consumer
14 due to the inability of the consumer to pay, the
15 ineligibility of the consumer for debt manage-
16 ment plan enrollment, or the unwillingness of
17 the consumer to enroll in a debt management
18 plan.

19 “(C) The organization establishes and im-
20 plements a fee policy which—

21 “(i) requires that any fees charged to
22 a consumer for services are reasonable,

23 “(ii) allows for the waiver of fees if
24 the consumer is unable to pay, and

1 “(iii) except to the extent allowed by
2 State law, prohibits charging any fee based
3 in whole or in part on a percentage of the
4 consumer’s debt, the consumer’s payments
5 to be made pursuant to a debt manage-
6 ment plan, or the projected or actual sav-
7 ings to the consumer resulting from enroll-
8 ing in a debt management plan.

9 “(D) At all times the organization has a
10 board of directors or other governing body—

11 “(i) which is controlled by persons
12 who represent the broad interests of the
13 public, such as public officials acting in
14 their capacities as such, persons having
15 special knowledge or expertise in credit or
16 financial education, and community lead-
17 ers,

18 “(ii) not more than 20 percent of the
19 voting power of which is vested in persons
20 who are employed by the organization or
21 who will benefit financially, directly or in-
22 directly, from the organization’s activities
23 (other than through the receipt of reason-
24 able directors’ fees or the repayment of
25 consumer debt to creditors other than the

1 credit counseling organization or its affili-
2 ates), and

3 “(iii) not more than 49 percent of the
4 voting power of which is vested in persons
5 who are employed by the organization or
6 who will benefit financially, directly or in-
7 directly, from the organization’s activities
8 (other than through the receipt of reason-
9 able directors’ fees).

10 “(E) The organization does not own more
11 than 35 percent of—

12 “(i) the total combined voting power
13 of any corporation (other than a corpora-
14 tion which is an organization described in
15 subsection (c)(3) and exempt from tax
16 under subsection (a)) which is in the trade
17 or business of lending money, repairing
18 credit, or providing debt management plan
19 services, payment processing, or similar
20 services,

21 “(ii) the profits interest of any part-
22 nership (other than a partnership which is
23 an organization described in subsection
24 (c)(3) and exempt from tax under sub-
25 section (a)) which is in the trade or busi-

1 ness of lending money, repairing credit, or
2 providing debt management plan services,
3 payment processing, or similar services,
4 and

5 “(iii) the beneficial interest of any
6 trust or estate (other than a trust which is
7 an organization described in subsection
8 (c)(3) and exempt from tax under sub-
9 section (a)) which is in the trade or busi-
10 ness of lending money, repairing credit, or
11 providing debt management plan services,
12 payment processing, or similar services.

13 “(F) The organization receives no amount
14 for providing referrals to others for debt man-
15 agement plan services, and pays no amount to
16 others for obtaining referrals of consumers.

17 “(2) ADDITIONAL REQUIREMENTS FOR ORGANI-
18 ZATIONS DESCRIBED IN SUBSECTION (c)(3).—

19 “(A) IN GENERAL.—In addition to the re-
20 quirements under paragraph (1), an organiza-
21 tion with respect to which the provision of cred-
22 it counseling services is a substantial purpose
23 and which is described in paragraph (3) of sub-
24 section (c) shall not be exempt from tax under
25 subsection (a) unless such organization is orga-

1 nized and operated in accordance with the fol-
2 lowing requirements:

3 “(i) The organization does not solicit
4 contributions from consumers during the
5 initial counseling process or while the con-
6 sumer is receiving services from the orga-
7 nization.

8 “(ii) The aggregate revenues of the
9 organization which are from payments of
10 creditors of consumers of the organization
11 and which are attributable to debt manage-
12 ment plan services do not exceed the appli-
13 cable percentage of the total revenues of
14 the organization.

15 “(B) APPLICABLE PERCENTAGE.—

16 “(i) IN GENERAL.—For purposes of
17 subparagraph (A)(ii), the applicable per-
18 centage is 50 percent.

19 “(ii) TRANSITION RULE.—Notwith-
20 standing clause (i), in the case of an orga-
21 nization with respect to which the provi-
22 sion of credit counseling services is a sub-
23 stantial purpose and which is described in
24 paragraph (3) of subsection (c) and ex-
25 empt from tax under subsection (a) on the

1 date of the enactment of this subsection,
2 the applicable percentage is—

3 “(I) 80 percent for the first tax-
4 able year of such organization begin-
5 ning after the date which is 1 year
6 after the date of the enactment of this
7 subsection, and

8 “(II) 70 percent for the second
9 such taxable year beginning after such
10 date, and

11 “(III) 60 percent for the third
12 such taxable year beginning after such
13 date.

14 “(3) ADDITIONAL REQUIREMENT FOR ORGANI-
15 ZATIONS DESCRIBED IN SUBSECTION (c)(4).—In ad-
16 dition to the requirements under paragraph (1), an
17 organization with respect to which the provision of
18 credit counseling services is a substantial purpose
19 and which is described in paragraph (4) of sub-
20 section (c) shall not be exempt from tax under sub-
21 section (a) unless such organization notifies the Sec-
22 retary, in such manner as the Secretary may by reg-
23 ulations prescribe, that it is applying for recognition
24 as a credit counseling organization.

1 “(4) CREDIT COUNSELING SERVICES; DEBT
2 MANAGEMENT PLAN SERVICES.—For purposes of
3 this subsection—

4 “(A) CREDIT COUNSELING SERVICES.—
5 The term ‘credit counseling services’ means—

6 “(i) the providing of educational infor-
7 mation to the general public on budgeting,
8 personal finance, financial literacy, saving
9 and spending practices, and the sound use
10 of consumer credit,

11 “(ii) the assisting of individuals and
12 families with financial problems by pro-
13 viding them with counseling, or

14 “(iii) a combination of the activities
15 described in clauses (i) and (ii).

16 “(B) DEBT MANAGEMENT PLAN SERV-
17 ICES.—The term ‘debt management plan serv-
18 ices’ means services related to the repayment,
19 consolidation, or restructuring of a consumer’s
20 debt, and includes the negotiation with creditors
21 of lower interest rates, the waiver or reduction
22 of fees, and the marketing and processing of
23 debt management plans.”.

24 (b) DEBT MANAGEMENT PLAN SERVICES TREATED
25 AS AN UNRELATED BUSINESS.—Section 513 (relating to

1 unrelated trade or business) is amended by adding at the
2 end the following:

3 “(j) DEBT MANAGEMENT PLAN SERVICES.—The
4 term ‘unrelated trade or business’ includes the provision
5 of debt management plan services (as defined in section
6 501(q)(4)(B)) by any organization other than an organiza-
7 tion which meets the requirements of section 501(q).”.

8 (c) EFFECTIVE DATE.—

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

13 (2) TRANSITION RULE FOR EXISTING ORGANI-
14 ZATIONS.—In the case of any organization described
15 in paragraph (3) or (4) section 501(c) of the Inter-
16 nal Revenue Code of 1986 and with respect to which
17 the provision of credit counseling services is a sub-
18 stantial purpose on the date of the enactment of this
19 Act, the amendments made by this section shall
20 apply to taxable years beginning after the date
21 which is 1 year after the date of the enactment of
22 this Act.

23 **SEC. 1221. EXPANSION OF THE BASE OF TAX ON PRIVATE**
24 **FOUNDATION NET INVESTMENT INCOME.**

25 (a) GROSS INVESTMENT INCOME.—

1 (1) IN GENERAL.—Paragraph (2) of section
2 4940(c) (relating to gross investment income) is
3 amended by adding at the end the following new
4 sentence: “Such term shall also include income from
5 sources similar to those in the preceding sentence.”.

6 (2) CONFORMING AMENDMENT.—Subsection (e)
7 of section 509 (relating to gross investment income)
8 is amended by adding at the end the following new
9 sentence: “Such term shall also include income from
10 sources similar to those in the preceding sentence.”.

11 (b) CAPITAL GAIN NET INCOME.—Paragraph (4) of
12 section 4940(c) (relating to capital gains and losses) is
13 amended—

14 (1) in subparagraph (A), by striking “used for
15 the production of interest, dividends, rents, and roy-
16 alties” and inserting “used for the production of
17 gross investment income (as defined in paragraph
18 (2))”,

19 (2) in subparagraph (C), by inserting “or
20 carrybacks” after “carryovers”, and

21 (3) by adding at the end the following new sub-
22 paragraph:

23 “(D) Except to the extent provided by reg-
24 ulation, under rules similar to the rules of sec-
25 tion 1031 (including the exception under sub-

1 section (a)(2) thereof), no gain or loss shall be
2 taken into account with respect to any portion
3 of property used for a period of not less than
4 1 year for a purpose or function constituting
5 the basis of the private foundation's exemption
6 if the entire property is exchanged immediately
7 following such period solely for property of like
8 kind which is to be used primarily for a purpose
9 or function constituting the basis for such foun-
10 dation's exemption.”.

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

14 **SEC. 1222. DEFINITION OF CONVENTION OR ASSOCIATION**
15 **OF CHURCHES.**

16 Section 7701 (relating to definitions) is amended by
17 redesignating subsection (o) as subsection (p) and by in-
18 serting after subsection (n) the following new subsection:

19 “(o) CONVENTION OR ASSOCIATION OF CHURCH-
20 ES.—For purposes of this title, any organization which is
21 otherwise a convention or association of churches shall not
22 fail to so qualify merely because the membership of such
23 organization includes individuals as well as churches or be-
24 cause individuals have voting rights in such organiza-
25 tion.”.

1 **SEC. 1223. NOTIFICATION REQUIREMENT FOR ENTITIES**
2 **NOT CURRENTLY REQUIRED TO FILE.**

3 (a) IN GENERAL.—Section 6033 (relating to returns
4 by exempt organizations), as amended by this Act, is
5 amended by redesignating subsection (i) as subsection (j)
6 and by inserting after subsection (h) the following new
7 subsection:

8 “(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—
9 Any organization the gross receipts of which in any tax-
10 able year result in such organization being referred to in
11 subsection (a)(3)(A)(ii) or (a)(3)(B)—

12 “(1) shall furnish annually, in electronic form,
13 and at such time and in such manner as the Sec-
14 retary may by regulations prescribe, information set-
15 ting forth—

16 “(A) the legal name of the organization,

17 “(B) any name under which such organiza-
18 tion operates or does business,

19 “(C) the organization’s mailing address
20 and Internet web site address (if any),

21 “(D) the organization’s taxpayer identifica-
22 tion number,

23 “(E) the name and address of a principal
24 officer, and

1 “(F) evidence of the continuing basis for
2 the organization’s exemption from the filing re-
3 quirements under subsection (a)(1), and

4 “(2) upon the termination of the existence of
5 the organization, shall furnish notice of such termi-
6 nation.”.

7 (b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE
8 RETURN OR NOTICE.—Section 6033 (relating to returns
9 by exempt organizations), as amended by subsection (a),
10 is amended by redesignating subsection (j) as subsection
11 (k) and by inserting after subsection (i) the following new
12 subsection:

13 “(j) LOSS OF EXEMPT STATUS FOR FAILURE TO
14 FILE RETURN OR NOTICE.—

15 “(1) IN GENERAL.—If an organization de-
16 scribed in subsection (a)(1) or (i) fails to file an an-
17 nual return or notice required under either sub-
18 section for 3 consecutive years, such organization’s
19 status as an organization exempt from tax under
20 section 501(a) shall be considered revoked on and
21 after the date set by the Secretary for the filing of
22 the third annual return or notice. The Secretary
23 shall publish and maintain a list of any organization
24 the status of which is so revoked.

1 “(2) APPLICATION NECESSARY FOR REINSTATE-
2 MENT.—Any organization the tax-exempt status of
3 which is revoked under paragraph (1) must apply in
4 order to obtain reinstatement of such status regard-
5 less of whether such organization was originally re-
6 quired to make such an application.

7 “(3) RETROACTIVE REINSTATEMENT IF REA-
8 SONABLE CAUSE SHOWN FOR FAILURE.—If, upon
9 application for reinstatement of status as an organi-
10 zation exempt from tax under section 501(a), an or-
11 ganization described in paragraph (1) can show to
12 the satisfaction of the Secretary evidence of reason-
13 able cause for the failure described in such para-
14 graph, the organization’s exempt status may, in the
15 discretion of the Secretary, be reinstated effective
16 from the date of the revocation under such para-
17 graph.”.

18 (c) NO DECLARATORY JUDGMENT RELIEF.—Section
19 7428(b) (relating to limitations) is amended by adding at
20 the end the following new paragraph:

21 “(4) NONAPPLICATION FOR CERTAIN REVOCA-
22 TIONS.—No action may be brought under this sec-
23 tion with respect to any revocation of status de-
24 scribed in section 6033(j)(1).”.

1 (d) NO MONETARY PENALTY FOR FAILURE TO NO-
2 TIFY.—Section 6652(c)(1) (relating to annual returns
3 under section 6033 or 6012(a)(6)) is amended by adding
4 at the end the following new subparagraph:

5 “(E) NO PENALTY FOR CERTAIN ANNUAL
6 NOTICES.—This paragraph shall not apply with
7 respect to any notice required under section
8 6033(i).”.

9 (e) SECRETARIAL OUTREACH REQUIREMENTS.—

10 (1) NOTICE REQUIREMENT.—The Secretary of
11 the Treasury shall notify in a timely manner every
12 organization described in section 6033(i) of the In-
13 ternal Revenue Code of 1986 (as added by this sec-
14 tion) of the requirement under such section 6033(i)
15 and of the penalty established under section 6033(j)
16 of such Code—

17 (A) by mail, in the case of any organiza-
18 tion the identity and address of which is in-
19 cluded in the list of exempt organizations main-
20 tained by the Secretary, and

21 (B) by Internet or other means of out-
22 reach, in the case of any other organization.

23 (2) LOSS OF STATUS PENALTY FOR FAILURE TO
24 FILE RETURN.—The Secretary of the Treasury shall
25 publicize, in a timely manner in appropriate forms

1 and instructions and through other appropriate
2 means, the penalty established under section 6033(j)
3 of such Code for the failure to file a return under
4 subsection (a)(1) or (i) of section 6033 of such
5 Code.

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to notices and returns with respect
8 to annual periods beginning after 2006.

9 **SEC. 1224. DISCLOSURE TO STATE OFFICIALS RELATING TO**
10 **EXEMPT ORGANIZATIONS.**

11 (a) IN GENERAL.—Subsection (c) of section 6104 is
12 amended by striking paragraph (2) and inserting the fol-
13 lowing new paragraphs:

14 “(2) DISCLOSURE OF PROPOSED ACTIONS RE-
15 LATED TO CHARITABLE ORGANIZATIONS.—

16 “(A) SPECIFIC NOTIFICATIONS.—In the
17 case of an organization to which paragraph (1)
18 applies, the Secretary may disclose to the ap-
19 propriate State officer—

20 “(i) a notice of proposed refusal to
21 recognize such organization as an organi-
22 zation described in section 501(c)(3) or a
23 notice of proposed revocation of such orga-
24 nization’s recognition as an organization
25 exempt from taxation,

1 “(ii) the issuance of a letter of pro-
2 posed deficiency of tax imposed under sec-
3 tion 507 or chapter 41 or 42, and

4 “(iii) the names, addresses, and tax-
5 payer identification numbers of organiza-
6 tions which have applied for recognition as
7 organizations described in section
8 501(c)(3).

9 “(B) ADDITIONAL DISCLOSURES.—Returns
10 and return information of organizations with
11 respect to which information is disclosed under
12 subparagraph (A) may be made available for in-
13 spection by or disclosed to an appropriate State
14 officer.

15 “(C) PROCEDURES FOR DISCLOSURE.—In-
16 formation may be inspected or disclosed under
17 subparagraph (A) or (B) only—

18 “(i) upon written request by an ap-
19 propriate State officer, and

20 “(ii) for the purpose of, and only to
21 the extent necessary in, the administration
22 of State laws regulating such organiza-
23 tions.

24 Such information may only be inspected by or
25 disclosed to a person other than the appropriate

1 State officer if such person is an officer or em-
2 ployee of the State and is designated by the ap-
3 propriate State officer to receive the returns or
4 return information under this paragraph on be-
5 half of the appropriate State officer.

6 “(D) DISCLOSURES OTHER THAN BY RE-
7 QUEST.—The Secretary may make available for
8 inspection or disclose returns and return infor-
9 mation of an organization to which paragraph
10 (1) applies to an appropriate State officer of
11 any State if the Secretary determines that such
12 returns or return information may constitute
13 evidence of noncompliance under the laws with-
14 in the jurisdiction of the appropriate State offi-
15 cer.

16 “(3) DISCLOSURE WITH RESPECT TO CERTAIN
17 OTHER EXEMPT ORGANIZATIONS.—Upon written re-
18 quest by an appropriate State officer, the Secretary
19 may make available for inspection or disclosure re-
20 turns and return information of any organization de-
21 scribed in section 501(c) (other than organizations
22 described in paragraph (1) or (3) thereof) for the
23 purpose of, and only to the extent necessary in, the
24 administration of State laws regulating the sollicita-
25 tion or administration of the charitable funds or

1 charitable assets of such organizations. Such infor-
2 mation may only be inspected by or disclosed to a
3 person other than the appropriate State officer if
4 such person is an officer or employee of the State
5 and is designated by the appropriate State officer to
6 receive the returns or return information under this
7 paragraph on behalf of the appropriate State officer.

8 “(4) USE IN CIVIL JUDICIAL AND ADMINISTRA-
9 TIVE PROCEEDINGS.—Returns and return informa-
10 tion disclosed pursuant to this subsection may be
11 disclosed in civil administrative and civil judicial pro-
12 ceedings pertaining to the enforcement of State laws
13 regulating such organizations in a manner pre-
14 scribed by the Secretary similar to that for tax ad-
15 ministration proceedings under section 6103(h)(4).

16 “(5) NO DISCLOSURE IF IMPAIRMENT.—Re-
17 turns and return information shall not be disclosed
18 under this subsection, or in any proceeding described
19 in paragraph (4), to the extent that the Secretary
20 determines that such disclosure would seriously im-
21 pair Federal tax administration.

22 “(6) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) RETURN AND RETURN INFORMA-
25 TION.—The terms ‘return’ and ‘return informa-

1 tion’ have the respective meanings given to such
2 terms by section 6103(b).

3 “(B) APPROPRIATE STATE OFFICER.—The
4 term ‘appropriate State officer’ means—

5 “(i) the State attorney general,

6 “(ii) the State tax officer,

7 “(iii) in the case of an organization to
8 which paragraph (1) applies, any other
9 State official charged with overseeing orga-
10 nizations of the type described in section
11 501(c)(3), and

12 “(iv) in the case of an organization to
13 which paragraph (3) applies, the head of
14 an agency designated by the State attorney
15 general as having primary responsibility
16 for overseeing the solicitation of funds for
17 charitable purposes.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Paragraph (2) of section 6103(a) is amend-
20 ed by inserting “or section 6104(c)” after “this sec-
21 tion”.

22 (2) Subparagraph (A) of section 6103(p)(3) is
23 amended by inserting “and section 6104(c)” after
24 “section” in the first sentence.

1 (3) Paragraph (4) of section 6103(p) is amend-
2 ed—

3 (A) in the matter preceding subparagraph
4 (A), by inserting “, any appropriate State offi-
5 cer (as defined in section 6104(c)),” before “or
6 any other person”,

7 (B) in subparagraph (F)(i), by inserting
8 “any appropriate State officer (as defined in
9 section 6104(c)),” before “or any other per-
10 son”, and

11 (C) in the matter following subparagraph
12 (F), by inserting “, an appropriate State officer
13 (as defined in section 6104(c)),” after “includ-
14 ing an agency” each place it appears.

15 (4) The heading for paragraph (1) of section
16 6104(c) is amended by inserting “FOR CHARITABLE
17 ORGANIZATIONS” after “RULE”.

18 (5) Paragraph (2) of section 7213(a) is amend-
19 ed by inserting “or under section 6104(c)” after
20 “6103”.

21 (6) Paragraph (2) of section 7213A(a) is
22 amended by inserting “or under section 6104(c)”
23 after “7213(a)(2)”.

1 (7) Paragraph (2) of section 7431(a) is amend-
2 ed by inserting “ or in violation of section 6104(c)”
3 after “6103”.

4 (c) **EFFECTIVE DATE.**—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act but shall not apply to requests made before
7 such date.

8 **SEC. 1225. PUBLIC DISCLOSURE OF INFORMATION RELAT-**
9 **ING TO UNRELATED BUSINESS INCOME TAX**
10 **RETURNS.**

11 (a) **IN GENERAL.**—Subparagraph (A) of section
12 6104(d)(1) is amended by redesignating clauses (ii) and
13 (iii) as clauses (iii) and (iv), respectively, and by inserting
14 after clause (i) the following new clause:

15 “(ii) any annual return filed under
16 section 6011 which relates to any tax im-
17 posed by section 511 (relating to imposi-
18 tion of tax on unrelated business income of
19 charitable, etc., organizations) by such or-
20 ganization, but only if such organization is
21 described in section 501(c)(3),”.

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

1 **SEC. 1226. STUDY ON DONOR ADVISED FUNDS AND SUP-**
2 **PORTING ORGANIZATIONS.**

3 (a) STUDY.—The Secretary of the Treasury shall un-
4 dertake a study on the organization and operation of
5 donor advised funds (as defined in section 4966(d)(2) of
6 the Internal Revenue Code of 1986, as added by this Act)
7 and of organizations described in section 509(a)(3) of such
8 Code. The study shall specifically consider—

9 (1) whether the deductions allowed for the in-
10 come, gift, or estate taxes for charitable contribu-
11 tions to sponsoring organizations (as defined in sec-
12 tion 4966(d)(1) of such Code, as added by this Act)
13 of donor advised funds or to organizations described
14 in section 509(a)(3) of such Code are appropriate in
15 consideration of—

16 (A) the use of contributed assets (including
17 the type, extent, and timing of such use), or

18 (B) the use of the assets of such organiza-
19 tions for the benefit of the person making the
20 charitable contribution (or a person related to
21 such person),

22 (2) whether donor advised funds should be re-
23 quired to distribute for charitable purposes a speci-
24 fied amount (whether based on the income or assets
25 of the fund) in order to ensure that the sponsoring
26 organization with respect to such donor advised fund

1 is operating consistent with the purposes or func-
2 tions constituting the basis for its exemption under
3 section 501, or its status as an organization de-
4 scribed in section 509(a), of such Code,

5 (3) whether the retention by donors to organi-
6 zations described in paragraph (1) of rights or privi-
7 leges with respect to amounts transferred to such or-
8 ganizations (including advisory rights or privileges
9 with respect to the making of grants or the invest-
10 ment of assets) is consistent with the treatment of
11 such transfers as completed gifts that qualify for a
12 deduction for income, gift, or estate taxes, and

13 (4) whether the issues raised by paragraphs
14 (1), (2), and (3) are also issues with respect to other
15 forms of charities or charitable donations.

16 (b) REPORT.—Not later than 1 year after the date
17 of the enactment of this Act, the Secretary of the Treasury
18 shall submit to the Committee on Finance of the Senate
19 and the Committee on Ways and Means of the House of
20 Representatives a report on the study conducted under
21 subsection (a) and make such recommendations as the
22 Secretary of the Treasury considers appropriate.

1 **PART 2—IMPROVED ACCOUNTABILITY OF DONOR**

2 **ADVISED FUNDS**

3 **SEC. 1231. EXCISE TAXES RELATING TO DONOR ADVISED**

4 **FUNDS.**

5 (a) IN GENERAL.—Chapter 42 (relating to private
6 foundations and certain other tax-exempt organizations),
7 as amended by the Tax Increase Prevention and Reconcili-
8 ation Act of 2005, is amended by adding at the end the
9 following new subchapter:

10 **“Subchapter G—Donor Advised Funds**

“Sec. 4966. Taxes on taxable distributions.

“Sec. 4967. Taxes on prohibited benefits.

11 **“SEC. 4966. TAXES ON TAXABLE DISTRIBUTIONS.**

12 “(a) IMPOSITION OF TAXES.—

13 “(1) ON THE SPONSORING ORGANIZATION.—

14 There is hereby imposed on each taxable distribution
15 a tax equal to 20 percent of the amount thereof. The
16 tax imposed by this paragraph shall be paid by the
17 sponsoring organization with respect to the donor
18 advised fund.

19 “(2) ON THE FUND MANAGEMENT.—There is
20 hereby imposed on the agreement of any fund man-
21 ager to the making of a distribution, knowing that
22 it is a taxable distribution, a tax equal to 5 percent
23 of the amount thereof. The tax imposed by this

1 paragraph shall be paid by any fund manager who
2 agreed to the making of the distribution.

3 “(b) SPECIAL RULES.—For purposes of subsection
4 (a)—

5 “(1) JOINT AND SEVERAL LIABILITY.—If more
6 than one person is liable under subsection (a)(2)
7 with respect to the making of a taxable distribution,
8 all such persons shall be jointly and severally liable
9 under such paragraph with respect to such distribu-
10 tion.

11 “(2) LIMIT FOR MANAGEMENT.—With respect
12 to any one taxable distribution, the maximum
13 amount of the tax imposed by subsection (a)(2) shall
14 not exceed \$10,000.

15 “(c) TAXABLE DISTRIBUTION.—For purposes of this
16 section—

17 “(1) IN GENERAL.—The term ‘taxable distribu-
18 tion’ means any distribution from a donor advised
19 fund—

20 “(A) to any natural person, or

21 “(B) to any other person if—

22 “(i) such distribution is for any pur-
23 pose other than one specified in section
24 170(c)(2)(B), or

1 “(ii) the sponsoring organization does
2 not exercise expenditure responsibility with
3 respect to such distribution in accordance
4 with section 4945(h).

5 “(2) EXCEPTIONS.—Such term shall not in-
6 clude any distribution from a donor advised fund—

7 “(A) to any organization described in sec-
8 tion 170(b)(1)(A) (other than a disqualified
9 supporting organization),

10 “(B) to the sponsoring organization of
11 such donor advised fund, or

12 “(C) to any other donor advised fund.

13 “(d) DEFINITIONS.—For purposes of this sub-
14 chapter—

15 “(1) SPONSORING ORGANIZATION.—The term
16 ‘sponsoring organization’ means any organization
17 which—

18 “(A) is described in section 170(c) (other
19 than in paragraph (1) thereof, and without re-
20 gard to paragraph (2)(A) thereof),

21 “(B) is not a private foundation (as de-
22 fined in section 509(a)), and

23 “(C) maintains 1 or more donor advised
24 funds.

25 “(2) DONOR ADVISED FUND.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B) or (C), the term ‘donor ad-
3 vised fund’ means a fund or account—

4 “(i) which is separately identified by
5 reference to contributions of a donor or do-
6 nors,

7 “(ii) which is owned and controlled by
8 a sponsoring organization, and

9 “(iii) with respect to which a donor
10 (or any person appointed or designated by
11 such donor) has, or reasonably expects to
12 have, advisory privileges with respect to
13 the distribution or investment of amounts
14 held in such fund or account by reason of
15 the donor’s status as a donor.

16 “(B) EXCEPTIONS.—The term ‘donor ad-
17 vised fund’ shall not include any fund or ac-
18 count—

19 “(i) which makes distributions only to
20 a single identified organization or govern-
21 mental entity, or

22 “(ii) with respect to which a person
23 described in subparagraph (A)(iii) advises
24 as to which individuals receive grants for

1 travel, study, or other similar purposes,
2 if—

3 “(I) such person’s advisory privi-
4 leges are performed exclusively by
5 such person in the person’s capacity
6 as a member of a committee all of the
7 members of which are appointed by
8 the sponsoring organization,

9 “(II) no combination of persons
10 described in subparagraph (A)(iii) (or
11 persons related to such persons) con-
12 trol, directly or indirectly, such com-
13 mittee, and

14 “(III) all grants from such fund
15 or account are awarded on an objec-
16 tive and nondiscriminatory basis pur-
17 suant to a procedure approved in ad-
18 vance by the board of directors of the
19 sponsoring organization, and such
20 procedure is designed to ensure that
21 all such grants meet the requirements
22 of paragraphs (1), (2), or (3) of sec-
23 tion 4945(g).

24 “(C) SECRETARIAL AUTHORITY.—The Sec-
25 retary may exempt a fund or account not de-

1 scribed in subparagraph (B) from treatment as
2 a donor advised fund—

3 “(i) if such fund or account is advised
4 by a committee not directly or indirectly
5 controlled by the donor or any person ap-
6 pointed or designated by the donor for the
7 purpose of advising with respect to dis-
8 tributions from such fund (and any related
9 parties), or

10 “(ii) if such fund benefits a single
11 identified charitable purpose.

12 “(3) FUND MANAGER.—The term ‘fund man-
13 ager’ means, with respect to any sponsoring organi-
14 zation—

15 “(A) an officer, director, or trustee of such
16 sponsoring organization (or an individual hav-
17 ing powers or responsibilities similar to those of
18 officers, directors, or trustees of the sponsoring
19 organization), and

20 “(B) with respect to any act (or failure to
21 act), the employees of the sponsoring organiza-
22 tion having authority or responsibility with re-
23 spect to such act (or failure to act).

24 “(4) DISQUALIFIED SUPPORTING ORGANIZA-
25 TION.—

1 “(A) IN GENERAL.—The term ‘disqualified
2 supporting organization’ means, with respect to
3 any distribution—

4 “(i) any type III supporting organiza-
5 tion (as defined in section 4943(f)(5)(A))
6 which is not a functionally integrated type
7 III supporting organization (as defined in
8 section 4943(f)(5)(B)), and

9 “(ii) any organization which is de-
10 scribed in subparagraph (B) or (C) if—

11 “(I) the donor or any person des-
12 ignated by the donor for the purpose
13 of advising with respect to distribu-
14 tions from a donor advised fund (and
15 any related parties) directly or indi-
16 rectly controls a supported organiza-
17 tion (as defined in section 509(f)(3))
18 of such organization, or

19 “(II) the Secretary determines by
20 regulations that a distribution to such
21 organization otherwise is inappro-
22 priate.

23 “(B) TYPE I AND TYPE II SUPPORTING OR-
24 GANIZATIONS.—An organization is described in
25 this subparagraph if the organization meets the

1 requirements of subparagraphs (A) and (C) of
2 section 509(a)(3) and is—

3 “(i) operated, supervised, or controlled
4 by one or more organizations described in
5 paragraph (1) or (2) of section 509(a), or

6 “(ii) supervised or controlled in con-
7 nection with one or more such organiza-
8 tions.

9 “(C) FUNCTIONALLY INTEGRATED TYPE
10 III SUPPORTING ORGANIZATIONS.—An organiza-
11 tion is described in this subparagraph if the or-
12 ganization is a functionally integrated type III
13 supporting organization (as defined under sec-
14 tion 4943(f)(5)(B)).

15 **“SEC. 4967. TAXES ON PROHIBITED BENEFITS.**

16 “(a) IMPOSITION OF TAXES.—

17 “(1) ON THE DONOR, DONOR ADVISOR, OR RE-
18 LATED PERSON.—There is hereby imposed on the
19 advice of any person described in subsection (d) to
20 have a sponsoring organization make a distribution
21 from a donor advised fund which results in such per-
22 son or any other person described in subsection (d)
23 receiving, directly or indirectly, a more than inci-
24 dental benefit as a result of such distribution, a tax
25 equal to 125 percent of such benefit. The tax im-

1 posed by this paragraph shall be paid by any person
2 described in subsection (d) who advises as to the dis-
3 tribution or who receives such a benefit as a result
4 of the distribution.

5 “(2) ON THE FUND MANAGEMENT.—There is
6 hereby imposed on the agreement of any fund man-
7 ager to the making of a distribution, knowing that
8 such distribution would confer a benefit described in
9 paragraph (1), a tax equal to 10 percent of the
10 amount of such benefit. The tax imposed by this
11 paragraph shall be paid by any fund manager who
12 agreed to the making of the distribution.

13 “(b) EXCEPTION.—No tax shall be imposed under
14 this section with respect to any distribution if a tax has
15 been imposed with respect to such distribution under sec-
16 tion 4958.

17 “(c) SPECIAL RULES.—For purposes of subsection
18 (a)—

19 “(1) JOINT AND SEVERAL LIABILITY.—If more
20 than one person is liable under paragraph (1) or (2)
21 of subsection (a) with respect to a distribution de-
22 scribed in subsection (a), all such persons shall be
23 jointly and severally liable under such paragraph
24 with respect to such distribution.

1 “(2) LIMIT FOR MANAGEMENT.—With respect
2 to any one distribution described in subsection (a),
3 the maximum amount of the tax imposed by sub-
4 section (a)(2) shall not exceed \$10,000.

5 “(d) PERSON DESCRIBED.—A person is described in
6 this subsection if such person is described in section
7 4958(f)(7) with respect to a donor advised fund.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 4963 is amended by inserting
10 “4966, 4967,” after “4958,” each place it appears
11 in subsections (a) and (c).

12 (2) The table of subchapters for chapter 42 is
13 amended by adding at the end the following new
14 item:

 “SUBCHAPTER G. DONOR ADVISED FUNDS”.

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

18 **SEC. 1232. EXCESS BENEFIT TRANSACTIONS INVOLVING**
19 **DONOR ADVISED FUNDS AND SPONSORING**
20 **ORGANIZATIONS.**

21 (a) DISQUALIFIED PERSONS.—

22 (1) IN GENERAL.—Paragraph (1) of section
23 4958(f) is amended by striking “and” at the end of
24 subparagraph (B), by striking the period at the end
25 of subparagraph (C) and inserting a comma, and by

1 adding after subparagraph (C) the following new
2 subparagraphs:

3 “(D) which involves a donor advised fund
4 (as defined in section 4966(d)(2)), any person
5 who is described in paragraph (7) with respect
6 to such donor advised fund (as so defined), and

7 “(E) which involves a sponsoring organiza-
8 tion (as defined in section 4966(d)(1)), any per-
9 son who is described in paragraph (8) with re-
10 spect to such sponsoring organization (as so de-
11 fined).”.

12 (2) DONORS, DONOR ADVISORS, AND INVEST-
13 MENT ADVISORS TREATED AS DISQUALIFIED PER-
14 SONS.—Section 4958(f) is amended by adding at the
15 end the following new paragraphs:

16 “(7) DONORS AND DONOR ADVISORS.—For pur-
17 poses of paragraph (1)(E), a person is described in
18 this paragraph if such person—

19 “(A) is described in section
20 4966(d)(2)(A)(iii),

21 “(B) is a member of the family of an indi-
22 vidual described in subparagraph (A), or

23 “(C) is a 35-percent controlled entity (as
24 defined in paragraph (3) by substituting ‘per-
25 sons described in subparagraph (A) or (B) of

1 paragraph (7)’ for ‘persons described in sub-
2 paragraph (A) or (B) of paragraph (1)’ in sub-
3 paragraph (A)(i) thereof).

4 “(8) INVESTMENT ADVISORS.—For purposes of
5 paragraph (1)(F)—

6 “(A) IN GENERAL.—A person is described
7 in this paragraph if such person—

8 “(i) is an investment advisor,

9 “(ii) is a member of the family of an
10 individual described in clause (i), or

11 “(iii) is a 35-percent controlled entity
12 (as defined in paragraph (3) by sub-
13 stituting ‘persons described in clause (i) or
14 (ii) of paragraph (8)(A)’ for ‘persons de-
15 scribed in subparagraph (A) or (B) of
16 paragraph (1)’ in subparagraph (A)(i)
17 thereof).

18 “(B) INVESTMENT ADVISOR DEFINED.—
19 For purposes of subparagraph (A), the term
20 ‘investment advisor’ means, with respect to any
21 sponsoring organization (as defined in section
22 4966(d)(1)), any person (other than an em-
23 ployee of such organization) compensated by
24 such organization for managing the investment
25 of, or providing investment advice with respect

1 to, assets maintained in donor advised funds
2 (as defined in section 4966(d)(2)) owned by
3 such organization.”.

4 (b) CERTAIN TRANSACTIONS TREATED AS EXCESS
5 BENEFIT TRANSACTIONS.—

6 (1) IN GENERAL.—Section 4958(c) is amended
7 by redesignating paragraph (2) as paragraph (3)
8 and by inserting after paragraph (1) the following
9 new paragraph:

10 “(2) SPECIAL RULES FOR DONOR ADVISED
11 FUNDS.—In the case of any donor advised fund (as
12 defined in section 4966(d)(2))—

13 “(A) the term ‘excess benefit transaction’
14 includes any grant, loan, compensation, or other
15 similar payment from such fund to a person de-
16 scribed in subsection (f)(7) with respect to such
17 fund, and

18 “(B) the term ‘excess benefit’ includes,
19 with respect to any transaction described in
20 subparagraph (A), the amount of any such
21 grant, loan, compensation, or other similar pay-
22 ment.”.

23 (2) SPECIAL RULE FOR CORRECTION OF TRANS-
24 ACTION.—Section 4958(f)(6) is amended by insert-
25 ing “, except that in the case of any correction of

1 an excess benefit transaction described in subsection
2 (c)(2), no amount repaid in a manner prescribed by
3 the Secretary may be held in any donor advised
4 fund” after “standards”.

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

8 **SEC. 1233. EXCESS BUSINESS HOLDINGS OF DONOR AD-**
9 **ADVISED FUNDS.**

10 (a) IN GENERAL.—Section 4943 is amended by add-
11 ing at the end the following new subsection:

12 “(e) APPLICATION OF TAX TO DONOR ADVISED
13 FUNDS.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, a donor advised fund (as defined in section
16 4966(d)(2)) shall be treated as a private foundation.

17 “(2) DISQUALIFIED PERSON.—In applying this
18 section to any donor advised fund (as so defined),
19 the term ‘disqualified person’ means, with respect to
20 the donor advised fund, any person who is—

21 “(A) described in section
22 4966(d)(2)(A)(iii),

23 “(B) a member of the family of an indi-
24 vidual described in subparagraph (A), or

1 “(C) a 35-percent controlled entity (as de-
2 fined in section 4958(f)(3) by substituting ‘per-
3 sons described in subparagraph (A) or (B) of
4 section 4943(e)(2)’ for ‘persons described in
5 subparagraph (A) or (B) of paragraph (1)’ in
6 subparagraph (A)(i) thereof).

7 “(3) PRESENT HOLDINGS.—For purposes of
8 this subsection, rules similar to the rules of para-
9 graphs (4), (5), and (6) of subsection (c) shall apply
10 to donor advised funds (as so defined), except that—

11 “(A) ‘the date of the enactment of this
12 subsection’ shall be substituted for ‘May 26,
13 1969’ each place it appears in paragraphs (4),
14 (5), and (6), and

15 “(B) ‘January 1, 2007’ shall be sub-
16 stituted for ‘January 1, 1970’ in paragraph
17 (4)(E).”.

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

21 **SEC. 1234. TREATMENT OF CHARITABLE CONTRIBUTION**
22 **DEDUCTIONS TO DONOR ADVISED FUNDS.**

23 (a) INCOME.—Section 170(f) (relating to disallow-
24 ance of deduction in certain cases and special rules), as

1 amended by this Act, is amended by adding at the end
2 the following new paragraph:

3 “(18) CONTRIBUTIONS TO DONOR ADVISED
4 FUNDS.—A deduction otherwise allowed under sub-
5 section (a) for any contribution to a donor advised
6 fund (as defined in section 4966(d)(2)) shall only be
7 allowed if—

8 “(A) the sponsoring organization (as de-
9 fined in section 4966(d)(1)) with respect to
10 such donor advised fund is not—

11 “(i) described in paragraph (3), (4),
12 or (5) of subsection (c), or

13 “(ii) a type III supporting organiza-
14 tion (as defined in section 4943(f)(5)(A))
15 which is not a functionally integrated type
16 III supporting organization (as defined in
17 section 4943(f)(5)(B)), and

18 “(B) the taxpayer obtains a contempora-
19 neous written acknowledgment (determined
20 under rules similar to the rules of paragraph
21 (8)(C)) from the sponsoring organization (as so
22 defined) of such donor advised fund that such
23 organization has exclusive legal control over the
24 assets contributed.”.

1 (b) ESTATE.—Section 2055(e) is amended by adding
2 at the end the following new paragraph:

3 “(5) CONTRIBUTIONS TO DONOR ADVISED
4 FUNDS.—A deduction otherwise allowed under sub-
5 section (a) for any contribution to a donor advised
6 fund (as defined in section 4966(d)(2)) shall only be
7 allowed if—

8 “(A) the sponsoring organization (as de-
9 fined in section 4966(d)(1)) with respect to
10 such donor advised fund is not—

11 “(i) described in paragraph (3) or (4)
12 of subsection (a), or

13 “(ii) a type III supporting organiza-
14 tion (as defined in section 4943(f)(5)(A))
15 which is not a functionally integrated type
16 III supporting organization (as defined in
17 section 4943(f)(5)(B)), and

18 “(B) the taxpayer obtains a contempora-
19 neous written acknowledgment (determined
20 under rules similar to the rules of section
21 170(f)(8)(C)) from the sponsoring organization
22 (as so defined) of such donor advised fund that
23 such organization has exclusive legal control
24 over the assets contributed.”.

1 (c) GIFT.—Section 2522(c) is amended by adding at
2 the end the following new paragraph:

3 “(5) CONTRIBUTIONS TO DONOR ADVISED
4 FUNDS.—A deduction otherwise allowed under sub-
5 section (a) for any contribution to a donor advised
6 fund (as defined in section 4966(d)(2)) shall only be
7 allowed if—

8 “(A) the sponsoring organization (as de-
9 fined in section 4966(d)(1)) with respect to
10 such donor advised fund is not—

11 “(i) described in paragraph (3) or (4)
12 of subsection (a), or

13 “(ii) a type III supporting organiza-
14 tion (as defined in section 4943(f)(5)(A))
15 which is not a functionally integrated type
16 III supporting organization (as defined in
17 section 4943(f)(5)(B)), and

18 “(B) the taxpayer obtains a contempora-
19 neous written acknowledgment (determined
20 under rules similar to the rules of section
21 170(f)(8)(C)) from the sponsoring organization
22 (as so defined) of such donor advised fund that
23 such organization has exclusive legal control
24 over the assets contributed.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made after the
3 date which is 180 days after the date of the enactment
4 of this Act.

5 **SEC. 1235. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

6 (a) MATTERS INCLUDED ON RETURNS.—

7 (1) IN GENERAL.—Section 6033, as amended
8 by this Act, is amended by redesignating subsection
9 (k) as subsection (l) and by inserting after sub-
10 section (j) the following new subsection:
11

12 “(k) ADDITIONAL PROVISIONS RELATING TO SPON-
13 SORING ORGANIZATIONS.—Every organization described
14 in section 4966(d)(1) shall, on the return required under
15 subsection (a) for the taxable year—

16 “(1) list the total number of donor advised
17 funds (as defined in section 4966(d)(2)) it owns at
18 the end of such taxable year,

19 “(2) indicate the aggregate value of assets held
20 in such funds at the end of such taxable year, and

21 “(3) indicate the aggregate contributions to and
22 grants made from such funds during such taxable
23 year.”.

24 (2) EFFECTIVE DATE.—The amendments made
25 by this subsection shall apply to returns filed for

1 taxable years ending after the date of the enactment
2 of this Act.

3 (b) MATTERS INCLUDED ON EXEMPT STATUS APPLI-
4 CATION.—

5 (1) IN GENERAL.—Section 508 is amended by
6 adding at the end the following new subsection:

7 “(f) ADDITIONAL PROVISIONS RELATING TO SPON-
8 SORING ORGANIZATIONS.—A sponsoring organization (as
9 defined in section 4966(d)(1)) shall give notice to the Sec-
10 retary (in such manner as the Secretary may provide)
11 whether such organization maintains or intends to main-
12 tain donor advised funds (as defined in section
13 4966(d)(2)) and the manner in which such organization
14 plans to operate such funds.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall apply to organizations apply-
17 ing for tax-exempt status after the date of the enact-
18 ment of this Act.

19 **PART 3—IMPROVED ACCOUNTABILITY OF**
20 **SUPPORTING ORGANIZATIONS**

21 **SEC. 1241. REQUIREMENTS FOR SUPPORTING ORGANIZA-**
22 **TIONS.**

23 (a) TYPES OF SUPPORTING ORGANIZATIONS.—Sub-
24 paragraph (B) of section 509(a)(3) is amended to read
25 as follows:

1 “(B) is—

2 “(i) operated, supervised, or controlled
3 by one or more organizations described in
4 paragraph (1) or (2),

5 “(ii) supervised or controlled in con-
6 nection with one or more such organiza-
7 tions, or

8 “(iii) operated in connection with one
9 or more such organizations, and”.

10 (b) REQUIREMENTS FOR SUPPORTING ORGANIZA-
11 TIONS.—Section 509 (relating to private foundation de-
12 fined) is amended by adding at the end the following new
13 subsection:

14 “(f) REQUIREMENTS FOR SUPPORTING ORGANIZA-
15 TIONS.—

16 “(1) TYPE III SUPPORTING ORGANIZATIONS.—
17 For purposes of subsection (a)(3)(B)(iii), an organi-
18 zation shall not be considered to be operated in con-
19 nection with any organization described in para-
20 graph (1) or (2) of subsection (a) unless such orga-
21 nization meets the following requirements:

22 “(A) RESPONSIVENESS.—For each taxable
23 year beginning after the date of the enactment
24 of this subsection, the organization provides to
25 each supported organization such information

1 as the Secretary may require to ensure that
2 such organization is responsive to the needs or
3 demands of the supported organization.

4 “(B) FOREIGN SUPPORTED ORGANIZA-
5 TIONS.—

6 “(i) IN GENERAL.—The organization
7 is not operated in connection with any sup-
8 ported organization that is not organized
9 in the United States.

10 “(ii) TRANSITION RULE FOR EXISTING
11 ORGANIZATIONS.—If the organization is
12 operated in connection with an organiza-
13 tion that is not organized in the United
14 States on the date of the enactment of this
15 subsection, clause (i) shall not apply until
16 the first day of the third taxable year of
17 the organization beginning after the date
18 of the enactment of this subsection.

19 “(2) ORGANIZATIONS CONTROLLED BY DO-
20 NORS.—

21 “(A) IN GENERAL.—For purposes of sub-
22 section (a)(3)(B), an organization shall not be
23 considered to be—

1 “(i) operated, supervised, or controlled
2 by any organization described in paragraph
3 (1) or (2) of subsection (a), or

4 “(ii) operated in connection with any
5 organization described in paragraph (1) or
6 (2) of subsection (a),

7 if such organization accepts any gift or con-
8 tribution from any person described in subpara-
9 graph (B).

10 “(B) PERSON DESCRIBED.—A person is
11 described in this subparagraph if, with respect
12 to a supported organization of an organization
13 described in subparagraph (A), such person
14 is—

15 “(i) a person (other than an organiza-
16 tion described in paragraph (1), (2), or (4)
17 of section 509(a)) who directly or indi-
18 rectly controls, either alone or together
19 with persons described in clauses (ii) and
20 (iii), the governing body of such supported
21 organization,

22 “(ii) a member of the family (deter-
23 mined under section 4958(f)(4)) of an in-
24 dividual described in clause (i), or

1 “(iii) a 35-percent controlled entity
2 (as defined in section 4958(f)(3) by sub-
3 stituting ‘persons described in clause (i) or
4 (ii) of section 509(f)(2)(B)’ for ‘persons
5 described in subparagraph (A) or (B) of
6 paragraph (1)’ in subparagraph (A)(i)
7 thereof).

8 “(3) SUPPORTED ORGANIZATION.—For pur-
9 poses of this subsection, the term ‘supported organi-
10 zation’ means, with respect to an organization de-
11 scribed in subsection (a)(3), an organization de-
12 scribed in paragraph (1) or (2) of subsection (a)—

13 “(A) for whose benefit the organization de-
14 scribed in subsection (a)(3) is organized and
15 operated, or

16 “(B) with respect to which the organiza-
17 tion performs the functions of, or carries out
18 the purposes of.”.

19 (c) CHARITABLE TRUSTS WHICH ARE TYPE III SUP-
20 PORTING ORGANIZATIONS.—For purposes of section
21 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986,
22 an organization which is a trust shall not be considered
23 to be operated in connection with any organization de-
24 scribed in paragraph (1) or (2) of section 509(a) of such
25 Code solely because—

1 (1) it is a charitable trust under State law,

2 (2) the supported organization (as defined in
3 section 509(f)(3) of such Code) is a beneficiary of
4 such trust, and

5 (3) the supported organization (as so defined)
6 has the power to enforce the trust and compel an ac-
7 counting.

8 (d) PAYOUT REQUIREMENTS FOR TYPE III SUP-
9 PORTING ORGANIZATIONS.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall promulgate new regulations under section
12 509 of the Internal Revenue Code of 1986 on pay-
13 ments required by type III supporting organizations
14 which are not functionally integrated type III sup-
15 porting organizations. Such regulations shall require
16 such organizations to make distributions of a per-
17 centage of either income or assets to supported orga-
18 nizations (as defined in section 509(f)(3) of such
19 Code) in order to ensure that a significant amount
20 is paid to such organizations.

21 (2) TYPE III SUPPORTING ORGANIZATION;
22 FUNCTIONALLY INTEGRATED TYPE III SUPPORTING
23 ORGANIZATION.—For purposes of paragraph (1), the
24 terms “type III supporting organization” and “func-
25 tionally integrated type III supporting organization”

1 have the meanings given such terms under subpara-
2 graphs (A) and (B) section 4943(f)(5) of the Inter-
3 nal Revenue Code of 1986 (as added by this Act),
4 respectively.

5 (e) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
7 subsections (a) and (b) shall take effect on the date
8 of the enactment of this Act.

9 (2) CHARITABLE TRUSTS WHICH ARE TYPE III
10 SUPPORTING ORGANIZATIONS.—Subsection (c) shall
11 take effect—

12 (A) in the case of trusts operated in con-
13 nection with an organization described in para-
14 graph (1) or (2) of section 509(a) of the Inter-
15 nal Revenue Code of 1986 on the date of the
16 enactment of this Act, on the date that is one
17 year after the date of the enactment of this Act,
18 and

19 (B) in the case of any other trust, on the
20 date of the enactment of this Act.

21 **SEC. 1242. EXCESS BENEFIT TRANSACTIONS INVOLVING**
22 **SUPPORTING ORGANIZATIONS.**

23 (a) DISQUALIFIED PERSONS.—Paragraph (1) of sec-
24 tion 4958(f), as amended by this Act, is amended by re-
25 designating subparagraphs (D) and (E) as subparagraphs

1 (E) and (F), respectively, and by adding after subpara-
2 graph (C) the following new subparagraph:

3 “(D) any person who is described in sub-
4 paragraph (A), (B), or (C) with respect to an
5 organization described in section 509(a)(3) and
6 organized and operated exclusively for the ben-
7 efit of, to perform the functions of, or to carry
8 out the purposes of the applicable tax-exempt
9 organization.”.

10 (b) CERTAIN TRANSACTIONS TREATED AS EXCESS
11 BENEFIT TRANSACTIONS.—Section 4958(c), as amended
12 by this Act, is amended by redesignating paragraph (3)
13 as paragraph (4) and by inserting after paragraph (2) the
14 following new paragraph:

15 “(3) SPECIAL RULES FOR SUPPORTING ORGANI-
16 ZATIONS.—

17 “(A) IN GENERAL.—In the case of any or-
18 ganization described in section 509(a)(3)—

19 “(i) the term ‘excess benefit trans-
20 action’ includes—

21 “(I) any grant, loan, compensa-
22 tion, or other similar payment pro-
23 vided by such organization to a person
24 described in subparagraph (B), and

1 “(II) any loan provided by such
2 organization to a disqualified person
3 (other than an organization described
4 in paragraph (1), (2), or (4) of section
5 509(a)), and

6 “(ii) the term ‘excess benefit’ includes,
7 with respect to any transaction described
8 in clause (i), the amount of any such
9 grant, loan, compensation, or other similar
10 payment.

11 “(B) PERSON DESCRIBED.—A person is
12 described in this subparagraph if such person
13 is—

14 “(i) a substantial contributor to such
15 organization,

16 “(ii) a member of the family (deter-
17 mined under section 4958(f)(4)) of an in-
18 dividual described in clause (i), or

19 “(iii) a 35-percent controlled entity
20 (as defined in section 4958(f)(3) by sub-
21 stituting ‘persons described in clause (i) or
22 (ii) of section 4958(c)(3)(B)’ for ‘persons
23 described in subparagraph (A) or (B) of
24 paragraph (1)’ in subparagraph (A)(i)
25 thereof).

1 “(C) SUBSTANTIAL CONTRIBUTOR.—For
2 purposes of this paragraph—

3 “(i) IN GENERAL.—The term ‘sub-
4 stantial contributor’ means any person who
5 contributed or bequeathed an aggregate
6 amount of more than \$5,000 to the organi-
7 zation, if such amount is more than 2 per-
8 cent of the total contributions and be-
9 quests received by the organization before
10 the close of the taxable year of the organi-
11 zation in which the contribution or bequest
12 is received by the organization from such
13 person. In the case of a trust, such term
14 also means the creator of the trust. Rules
15 similar to the rules of subparagraphs (B)
16 and (C) of section 507(d)(2) shall apply
17 for purposes of this subparagraph.

18 “(ii) EXCEPTION.—Such term shall
19 not include any organization described in
20 paragraph (1), (2), or (4) of section
21 509(a).”.

22 (c) EFFECTIVE DATES.—

23 (1) SUBSECTION (a).—The amendments made
24 by subsection (a) shall apply to transactions occur-
25 ring after the date of the enactment of this Act.

1 (2) SUBSECTION (b).—The amendments made
2 by subsection (a) shall apply to transactions occur-
3 ring after July 25, 2006.

4 **SEC. 1243. EXCESS BUSINESS HOLDINGS OF SUPPORTING**
5 **ORGANIZATIONS.**

6 (a) IN GENERAL.—Section 4943, as amended by this
7 Act, is amended by adding at the end the following new
8 subsection:

9 “(f) APPLICATION OF TAX TO SUPPORTING ORGANI-
10 ZATIONS.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, an organization which is described in para-
13 graph (3) shall be treated as a private foundation.

14 “(2) EXCEPTION.—The Secretary may exempt
15 the excess business holdings of any organization
16 from the application of this subsection if the Sec-
17 retary determines that such holdings are consistent
18 with the purpose or function constituting the basis
19 for its exemption under section 501.

20 “(3) ORGANIZATIONS DESCRIBED.—An organi-
21 zation is described in this paragraph if such organi-
22 zation is—

23 “(A) a type III supporting organization
24 (other than a functionally integrated type III
25 supporting organization), or

1 “(B) an organization which meets the re-
2 quirements of subparagraphs (A) and (C) of
3 section 509(a)(3) and which is supervised or
4 controlled in connection with or one or more or-
5 ganizations described in paragraph (1) or (2) of
6 section 509(a), but only if such organization ac-
7 cepts any gift or contribution from any person
8 described in section 509(f)(2)(B).

9 “(4) DISQUALIFIED PERSON.—

10 “(A) IN GENERAL.—In applying this sec-
11 tion to any organization described in paragraph
12 (3), the term ‘disqualified person’ means, with
13 respect to the organization—

14 “(i) any person who was, at any time
15 during the 5-year period ending on the
16 date described in subsection (a)(2)(A), in a
17 position to exercise substantial influence
18 over the affairs of the organization,

19 “(ii) any member of the family (deter-
20 mined under section 4958(f)(4)) of an in-
21 dividual described in clause (i),

22 “(iii) any 35-percent controlled entity
23 (as defined in section 4958(f)(3) by sub-
24 stituting ‘persons described in clause (i) or
25 (ii) of section 4943(f)(4)(A)’ for ‘persons

1 described in subparagraph (A) or (B) of
2 paragraph (1)’ in subparagraph (A)(i)
3 thereof),

4 “(iv) any person described in section
5 4958(c)(3)(B), and

6 “(v) any organization—

7 “(I) which is effectively con-
8 trolled (directly or indirectly) by the
9 same person or persons who control
10 the organization in question, or

11 “(II) substantially all of the con-
12 tributions to which were made (di-
13 rectly or indirectly) by the same per-
14 son or persons described in subpara-
15 graph (B) or a member of the family
16 (within the meaning of section
17 4946(d)) of such a person.

18 “(B) PERSONS DESCRIBED.—A person is
19 described in this subparagraph if such person
20 is—

21 “(i) a substantial contributor to the
22 organization (as defined in section
23 4958(c)(3)(C)),

24 “(ii) an officer, director, or trustee of
25 the organization (or an individual having

1 powers or responsibilities similar to those
2 of the officers, directors, or trustees of the
3 organization), or

4 “(iii) an owner of more than 20 per-
5 cent of—

6 “(I) the total combined voting
7 power of a corporation,

8 “(II) the profits interest of a
9 partnership, or

10 “(III) the beneficial interest of a
11 trust or unincorporated enterprise,

12 which is a substantial contributor (as so
13 defined) to the organization.

14 “(5) TYPE III SUPPORTING ORGANIZATION;
15 FUNCTIONALLY INTEGRATED TYPE III SUPPORTING
16 ORGANIZATION.—For purposes of this subsection—

17 “(A) TYPE III SUPPORTING ORGANIZA-
18 TION.—The term ‘type III supporting organiza-
19 tion’ means an organization which meets the re-
20 quirements of subparagraphs (A) and (C) of
21 section 509(a)(3) and which is operated in con-
22 nection with one or more organizations de-
23 scribed in paragraph (1) or (2) of section
24 509(a).

1 “(B) FUNCTIONALLY INTEGRATED TYPE
2 III SUPPORTING ORGANIZATION.—The term
3 ‘functionally integrated type III supporting or-
4 ganization’ means a type III supporting organi-
5 zation which is not required under regulations
6 established by the Secretary to make payments
7 to supported organizations (as defined under
8 section 509(f)(3)) due to the activities of the
9 organization related to performing the functions
10 of, or carrying out the purposes of, such sup-
11 ported organizations.

12 “(6) SPECIAL RULE FOR CERTAIN HOLDINGS
13 OF TYPE III SUPPORTING ORGANIZATIONS.—For
14 purposes of this subsection, the term ‘excess busi-
15 ness holdings’ shall not include any holdings of a
16 type III supporting organization in any business en-
17 terprise if, as of November 18, 2005, the holdings
18 were held (and at all times thereafter, are held) for
19 the benefit of the community pursuant to the direc-
20 tion of a State attorney general or a State official
21 with jurisdiction over such organization.

22 “(7) PRESENT HOLDINGS.—For purposes of
23 this subsection, rules similar to the rules of para-
24 graphs (4), (5), and (6) of subsection (c) shall apply

1 to organizations described in section 509(a)(3), ex-
2 cept that—

3 “(A) ‘the date of the enactment of this
4 subsection’ shall be substituted for ‘May 26,
5 1969’ each place it appears in paragraphs (4),
6 (5), and (6), and

7 “(B) ‘January 1, 2007’ shall be sub-
8 stituted for ‘January 1, 1970’ in paragraph
9 (4)(E).”.

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

13 **SEC. 1244. TREATMENT OF AMOUNTS PAID TO SUPPORTING**
14 **ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

15 (a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of
16 section 4942(g) is amended to read as follows:

17 “(4) LIMITATION ON DISTRIBUTIONS BY NON-
18 OPERATING PRIVATE FOUNDATIONS TO SUPPORTING
19 ORGANIZATIONS.—

20 “(A) IN GENERAL.—For purposes of this
21 section, the term ‘qualifying distribution’ shall
22 not include any amount paid by a private foun-
23 dation which is not an operating foundation
24 to—

1 “(i) any type III supporting organiza-
2 tion (as defined in section 4943(f)(5)(A))
3 which is not a functionally integrated type
4 III supporting organization (as defined in
5 section 4943(f)(5)(B)), and

6 “(ii) any organization which is de-
7 scribed in subparagraph (B) or (C) if—

8 “(I) a disqualified person of the
9 private foundation directly or indi-
10 rectly controls such organization or a
11 supported organization (as defined in
12 section 509(f)(3)) of such organiza-
13 tion, or

14 “(II) the Secretary determines by
15 regulations that a distribution to such
16 organization otherwise is inappro-
17 priate.

18 “(B) TYPE I AND TYPE II SUPPORTING OR-
19 GANIZATIONS.—An organization is described in
20 this subparagraph if the organization meets the
21 requirements of subparagraphs (A) and (C) of
22 section 509(a)(3) and is—

23 “(i) operated, supervised, or controlled
24 by one or more organizations described in
25 paragraph (1) or (2) of section 509(a), or

1 “(ii) supervised or controlled in con-
2 nection with one or more such organiza-
3 tions.

4 “(C) FUNCTIONALLY INTEGRATED TYPE
5 III SUPPORTING ORGANIZATIONS.—An organiza-
6 tion is described in this subparagraph if the or-
7 ganization is a functionally integrated type III
8 supporting organization (as defined under sec-
9 tion 4943(f)(5)(B)).”.

10 (b) TAXABLE EXPENDITURES.—Subparagraph (A)
11 of section 4945(d)(4) is amended to read as follows:

12 “(A) such organization—

13 “(i) is described in paragraph (1) or
14 (2) of section 509(a),

15 “(ii) is an organization described in
16 section 509(a)(3) (other than an organiza-
17 tion described in clause (i) or (ii) of section
18 4942(g)(4)(A)), or

19 “(iii) is an exempt operating founda-
20 tion (as defined in section 4940(d)(2)),
21 or”.

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

1 **SEC. 1245. RETURNS OF SUPPORTING ORGANIZATIONS.**

2 (a) **REQUIREMENT TO FILE RETURN.**—Subpara-
3 graph (B) of section 6033(a)(3) is amended by inserting
4 “(other than an organization described in section
5 509(a)(3))” after “paragraph (1)”.

6 (b) **MATTERS INCLUDED ON RETURNS.**—Section
7 6033, as amended by this Act, is amended by redesi-
8 gnating subsection (l) as subsection (m) and by inserting
9 after subsection (k) the following new subsection:

10 “(l) **ADDITIONAL PROVISIONS RELATING TO SUP-**
11 **PORTING ORGANIZATIONS.**—Every organization described
12 in section 509(a)(3) shall, on the return required under
13 subsection (a)—

14 “(1) list the supported organizations (as de-
15 fined in section 509(f)(3)) with respect to which
16 such organization provides support,

17 “(2) indicate whether the organization meets
18 the requirements of clause (i), (ii), or (iii) of section
19 509(a)(3)(B), and

20 “(3) certify that the organization meets the re-
21 quirements of section 509(a)(3)(C).”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to returns filed for taxable years
24 ending after the date of the enactment of this Act.

1 **TITLE XIII—OTHER PROVISIONS**

2 **SEC. 1301. TECHNICAL CORRECTIONS RELATING TO MINE**
3 **SAFETY.**

4 Section 110 of the Federal Mine Safety and Health
5 Act of 1977 (30 U.S.C. 820), as amended by the Mine
6 Improvement and New Emergency Response Act of 2006
7 (Public Law 109-236), is amended—

8 (1) by striking subsection (d); and

9 (2) in subsection (a)—

10 (A) by striking “(1)(1) The operator” and
11 inserting “(1) The operator”;

12 (B) in the paragraph (2) added by section
13 8(a)(1)(B) of the Mine Improvement and New
14 Emergency Response Act of 2006 (Public Law
15 109-236)—

16 (i) by striking “paragraph (1)” and
17 inserting “subsection (a)(1)”; and

18 (ii) by redesignating such paragraph
19 as subsection (d) and transferring such
20 subsection so as to appear after subsection
21 (c); and

22 (3) in subsection (b)—

23 (A) by striking “Any operator” and insert-
24 ing “(1) Any operator”; and

1 (B) in the second sentence, as added by
2 section 8(a)(2) of the Mine Improvement and
3 New Emergency Response Act of 2006 (Public
4 Law 109-236), by striking “Violations” and in-
5 serting the following:

6 “(2) Violations”.

7 **SEC. 1302. GOING-TO-THE-SUN ROAD.**

8 (a) IN GENERAL.—Section 1940 of the Safe, Ac-
9 countable, Flexible, Efficient Transportation Equity Act:
10 A Legacy for Users (119 Stat. 1511) is amended—

11 (1) in subsection (a)—

12 (A) by striking paragraphs (1) and (2);

13 (B) by redesignating paragraphs (3)
14 through (5) as paragraphs (1) through (3), re-
15 spectively; and

16 (C) by striking “\$10,000,000” each place
17 that it appears and inserting “\$16,666,666”;
18 and

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

20 “(c) CONTRACT AUTHORITY.—Except as otherwise
21 provided in this section, funds authorized to be appro-
22 priated under this section shall be available for obligation
23 in the same manner as if the funds were apportioned
24 under chapter 1 of title 23, United States Code.”.

1 (b) RESCISSION.—Section 10212 of the Safe, Ac-
2 countable, Flexible, Efficient Transportation Equity Act:
3 A Legacy for Users (119 Stat. 1937) is amended by strik-
4 ing “\$8,543,000,000” each place it appears and inserting
5 “\$8,593,000,000”.

6 **SEC. 1303. EXCEPTION TO THE LOCAL FURNISHING RE-**
7 **QUIREMENT OF THE TAX-EXEMPT BOND**
8 **RULES.**

9 (a) SNETTISHAM HYDROELECTRIC FACILITY.—For
10 purposes of determining whether any private activity bond
11 issued before May 31, 2006, and used to finance the ac-
12 quisition of the Snettisham hydroelectric facility is a quali-
13 fied bond for purposes of section 142(a)(8) of the Internal
14 Revenue Code of 1986, the electricity furnished by such
15 facility to the City of Hoonah, Alaska, shall not be taken
16 into account for purposes of section 142(f)(1) of such
17 Code.

18 (b) LAKE DOROTHY HYDROELECTRIC FACILITY.—
19 For purposes of determining whether any private activity
20 bond issued before May 31, 2006, and used to finance the
21 Lake Dorothy hydroelectric facility is a qualified bond for
22 purposes of section 142(a)(8) of the Internal Revenue
23 Code of 1986, the electricity furnished by such facility to
24 the City of Hoonah, Alaska, shall not be taken into ac-

1 count for purposes of paragraphs (1) and (3) of section
2 142(f) of such Code.

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

4 (1) LAKE DOROTHY HYDROELECTRIC FACIL-
5 ITY.—The term “Lake Dorothy hydroelectric facil-
6 ity” means the hydroelectric facility located approxi-
7 mately 10 miles south of Juneau, Alaska, and com-
8 monly referred to as the “Lake Dorothy project”.

9 (2) SNETTISHAM HYDROELECTRIC FACILITY.—
10 The term “Snettisham hydroelectric facility” means
11 the hydroelectric project described in section 1804 of
12 the Small Business Job Protection Act of 1996.

13 **SEC. 1304. QUALIFIED TUITION PROGRAMS.**

14 (a) PERMANENT EXTENSION OF MODIFICATIONS.—
15 Section 901 of the Economic Growth and Tax Relief Rec-
16 onciliation Act of 2001 (relating to sunset provisions) shall
17 not apply to section 402 of such Act (relating to modifica-
18 tions to qualified tuition programs).

19 (b) REGULATORY AUTHORITY TO PREVENT
20 ABUSE.—Section 529 (relating to qualified tuition pro-
21 grams) is amended by adding at the end the following new
22 subsection:

23 “(f) REGULATIONS.—Notwithstanding any other pro-
24 vision of this section, the Secretary shall prescribe such
25 regulations as may be necessary or appropriate to carry

1 out the purposes of this section and to prevent abuse of
2 such purposes, including regulations under chapters 11,
3 12, and 13 of this title.”.