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Tax Payer Relief Act [binder] [6]

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"(a) Creation of Remedy.--If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that--

"(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

"(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct. Any such redetermination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) Limitations.--

"(1) Petitioner.--A pleading may be filed under this section only by the person for whom the services are performed.

"(2) Time for filing action.--If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

"(3) No adverse inference from treatment while action is pending.--If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

"(c) Small Case Procedures.--

"(1) In general.--At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is \$10,000 or less for each calendar quarter involved.

"(2) Finality of decisions.--A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

"(3) Certain rules to apply.--Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

"(d) Special Rules.--

"(1) Restrictions on assessment and collection pending action, etc.--The principles of subsections (a), (b), (c), (d), and (f) of section 6213, section 6214(a), section 6215, section 6503(a), section 6512, and section 7481 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

"(2) Awarding of costs and certain fees.--Section 7430 shall apply to proceedings brought under this section.

"(e) Employment Tax.--The term 'employment tax' means any tax imposed by subtitle C."

(b) Conforming Amendments.--

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

"(7) Special period of limitation with respect to self-employment tax in certain cases.--If--

"(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7436, and

"(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final."

(2) Subsection (a) of section 7421 is amended by striking "and 7429(b)" and inserting "7429(b), and 7436".

(3) Sections 7453 and 7481(b) are each amended by striking "section 7463" and inserting "section 7436(c) or 7463".

(4) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

"Sec. 7436. Proceedings for determination of employment status.

"Sec. 7437. Cross references."

(c) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D--Other Provisions

SEC. 1461. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) In General.--Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: "In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'."

(b) Effective Date.--The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1462. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) In General.--Subsection (c) of section 5517 of title 5, United States Code, is amended by striking "or territory or possession" and inserting ", territory, possession, or commonwealth".

(b) Effective Date.--The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1463. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) General Rule.--Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) Exception for letters or notices involving small amounts.--For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than \$100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) Effective Date.--The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XIV--SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A--Excise Tax Simplification

PART I--EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

SEC. 1401. INCREASE IN DE MINIMIS LIMIT FOR AFTER-MARKET ALTERATIONS FOR HEAVY TRUCKS AND LUXURY CARS.

(a) In General.--Sections 4003(a)(3)(C) and 4051(b)(2)(B) (relating to exceptions) are each amended by striking "\$200" and inserting "\$1,000".

(b) Effective Date.--The amendments made by subsection (a) shall apply to installations on vehicles sold after the date of the enactment of this Act.

SEC. 1402. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) In General.--Subsection (e) of section 4051 is amended to read as follows:

"(e) Credit Against Tax for Tire Tax.--If--

"(1) tires are sold on or in connection with the sale of any article, and

"(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires."

(b) Conforming Amendment.--Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) Effective Date.--The amendments made by this section shall take effect on January 1, 1998.

PART II--PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 1411. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) In General.--Section 5008(c)(1) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1412. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) In General.--Section 5175(c) (relating to cancellation of credit of export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1413. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) In General.--Section 5207(c) (relating to preservation and inspection) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1414. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) In General.--Section 5222(b)(2) (relating to receipt) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) Clarification of Authority To Permit Removal of Beer Without Payment of Tax for Use as Distilling Material.--Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) Removal for Use as Distilling Material.--Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) Clarification of Refund and Credit of Tax.--Section 5056 (relating to refund and credit of tax, or relief from liability) is amended--

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Beer Received at a Distilled Spirits Plant.--Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) Effective Date.--The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1415. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) In General.--Section 5115 (relating to sign required on premises) is hereby repealed.

(b) Conforming Amendments.--

(1) Section 5681(a) is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Section 5681(c) is amended--

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1416. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) In General.--Section 5044(a) (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) Conforming Amendments.--

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "unmerchantable".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) Effective Date.--The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1417. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) In General.--Section 5384(b)(2)(D) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) Effective Date.--The amendment made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1418. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) In General.--Section 5053 (relating to exemptions), as amended by section 1414(b), is amended by inserting after subsection (f) the following new subsection:

"(g) Removals for Use of Foreign Embassies, Legations, Etc.--

"(1) In general.--Subject to such regulations as the Secretary may prescribe--

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) Other rules to apply.--Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection."

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1419. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) In General.--Section 5053 (relating to exemptions), as amended by section 1418(a), is amended by inserting after subsection (g) the following new subsection:

"(h) Removals for Destruction.--Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1420. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) In General.--The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1421. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.--Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) Clerical Amendment.--The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 5418. Beer imported in bulk."

(c) Effective Date.--The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

SEC. 1422. TRANSFER TO BONDED WINE CELLARS OF WINE IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) In General.--Part II of subchapter F of chapter 51 is amended by inserting after section 5363 the following new section:

"SEC. 5364. WINE IMPORTED IN BULK.

"Wine imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax."

(b) Clerical Amendment.--The table of sections for such part II is amended by inserting after the item relating to section 5363 the following new item:

"Sec. 5364. Wine imported in bulk."

(c) Effective Date.--The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act.

PART III--OTHER EXCISE TAX PROVISIONS

SEC. 1431. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) In General.--Section 4222(b)(2) (relating to export) is amended--

(1) by striking "in the case of any sale or resale for export," and

(2) by striking "Export" and inserting "Under regulations".

(b) Effective Date.--The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1432. REPEAL OF EXPIRED PROVISIONS.

(a) Piggy-Back Trailers.--Section 4051 (relating to imposition of tax on heavy trucks and trailers sold at retail) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Deep Seabed Mining.--

(1) In general.--Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) Conforming amendment.--The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

(c) Ozone-Depleting Chemicals.--

(1) Paragraph (1) of section 4681(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) Base tax amount.--The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be \$5.35 increased by 45 cents for each year after 1995."

(2) Subsection (g) of section 4682 is amended to read as follows:

"(g) Chemicals Used as Propellants in Metered-Dose Inhalers.--

"(1) Exemption from tax.--

"(A) In general.--No tax shall be imposed by section 4681 on--

"(i) any use of any substance as a propellant in metered-dose inhalers, or

"(ii) any qualified sale by the manufacturer, producer, or importer of any substance.

"(B) Qualified sale.--For purposes of subparagraph (A), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance--

"(i) for use by the purchaser as a propellant in metered dose inhalers, or

"(ii) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) Overpayments.--If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this paragraph."

SEC. 1433. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS.

(a) In General.--Subsection (b) of section 4161 (relating to imposition of tax) is amended to read as follows:

"(b) Bows and Arrows, Etc.--

"(1) Bows.--

"(A) In general.--There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a

draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) Parts and accessories.--There is hereby imposed upon the sale by the manufacturer, producer, or importer--

"(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver suitable for use with arrows described in paragraph (2),

a tax equivalent to 11 percent of the price for which so sold.

"(2) Arrows.--There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point,nock, or vane of a type used in the manufacture of any arrow which after its assembly--

"(A) measures 18 inches overall or more in length, or

"(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 12.4 percent of the price for which so sold.

"(3) Coordination with subsection (a).--No tax shall be imposed under this subsection with respect to any article taxable under subsection (a)."

(b) Effective Date.--The amendment made by subsection (a) shall apply to articles sold by the manufacturer, producer, or importer after September 30 1997.

SEC. 1434. MODIFICATIONS TO RETAIL TAX ON HEAVY TRUCKS.

(a) Certain Repairs and Modifications Not Treated as Manufacture.--Section 4052 is amended by redesignating the subsection defining a long-term lease as subsection (e) and by adding at the end the following new subsection:

"(f) Certain Repairs and Modifications Not Treated as Manufacture.--

"(1) In general.--An article described in section 4051(a)(1) shall not be treated as manufactured or produced solely by reason of repairs or modifications to the article (including any modification which changes the transportation function of the article or restores a wrecked article to a functional condition) if the cost of such repairs and modifications does not exceed 75 percent of the retail price of a comparable new article.

"(2) Exception.--Paragraph (1) shall not apply if the article (as repaired or modified) would, if new, be taxable under section 4051 and the article when new was not taxable under this section or the corresponding provision of prior law."

(b) Simplification of Certification Procedures With Respect to Sales of Taxable Articles.--

(1) Repeal of registration requirement.--Subsection (d) of section 4052 is amended by striking "rules of--" and all that follows through "shall apply" and inserting "rules of subsections (c) and (d) of section 4216 (relating to partial payments) shall apply".

(2) Requirement to modify regulations.--Section 4052 is amended by adding at the end the following new subsection:

"(g) Regulations.--The Secretary shall prescribe regulations which permit, in lieu of any other certification, persons who are purchasing articles taxable under this subchapter for resale or leasing in a long-term lease to execute a statement (made under penalties of perjury) on the sale invoice that such sale is for resale. The Secretary shall not impose any registration requirement as a condition of using such procedure."

(c) Effective Date.--The amendments made by this section shall take effect on January 1, 1998.

SEC. 1435. SKYDIVING FLIGHTS EXEMPT FROM TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) In General.--Section 4261 (relating to imposition of tax on transportation of persons by air), as previously amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Exemption for Skydiving Uses.--No tax shall be imposed by this section or section 4271 on any air transportation exclusively for the purpose of skydiving."

(b) Transportation Treated as Noncommercial Aviation.--The last sentence of section 4041(c)(2) is amended by inserting before the period "or by reason of section 4261(h)".

(c) Effective Dates.--

(1) Subsection (a).--The amendment made by subsection (a) shall apply to amounts paid after September 30, 1997.

(2) Subsection (b).--The amendment made by subsection (b) shall take effect on October 1, 1997.

SEC. 1436. ALLOWANCE OR CREDIT OF REFUND FOR TAX-PAID AVIATION FUEL PURCHASED BY REGISTERED PRODUCER OF AVIATION FUEL.

(a) In General.--Section 4091 (relating to aviation fuel) is amended by adding at the end the following new subsection:

"(d) Refund of Tax-Paid Aviation Fuel to Registered Producer of Fuel.--If--

"(1) a producer of aviation fuel is registered under section 4101, and

"(2) such producer establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) on aviation fuel held by such producer,

then an amount equal to the tax so paid shall be allowed as a refund (without interest) to such producer in the same manner as if it were an overpayment of tax imposed by this section."

(b) Conforming Amendment.--The last sentence of section 6416(d) is amended by inserting before the period "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(c) Effective Date.--The amendments made by this section shall apply to fuel acquired by the producer after September 30, 1997.

Subtitle B--Tax-Exempt Bond Provisions

SEC. 1441. REPEAL OF \$100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or \$100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 1442. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

"(xvii) Treatment of bona fide debt service funds.--If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 1443. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 1444. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 1445. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C--Tax Court Procedures

SEC. 1451. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) Appeal of Order.--Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Denial of Jurisdiction Regarding Certain Credits and Reductions.--Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) Denial of jurisdiction regarding certain credits and reductions.--The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1452. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) In General.--Subsection (c) of section 7481 (relating to jurisdiction over interest determinations) is amended to read as follows:

"(c) Jurisdiction Over Interest Determinations.--

"(1) In general.--Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a redetermination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

"(2) Cases to which this subsection applies.--This subsection shall apply where--

"(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

"(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

"(3) Special rules.--If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) Effective Date.--The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1453. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) In General.--Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(D) Special rules for applying net worth requirement.--In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph--

"(i) the net worth limitation in clause (i) of such section shall apply to--

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section."

(b) Effective Date.--The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 1454. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

(a) In General.--Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7436 as section 7437 and by inserting after section 7435 the following new section:

"SEC. 7436. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

"(a) Creation of Remedy.--If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that--

"(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

"(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is

correct. Any such redetermination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) Limitations.--

"(1) Petitioner.--A pleading may be filed under this section only by the person for whom the services are performed.

"(2) Time for filing action.--If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

"(3) No adverse inference from treatment while action is pending.--If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

"(c) Small Case Procedures.--

"(1) In general.--At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is \$10,000 or less for each calendar quarter involved.

"(2) Finality of decisions.--A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

"(3) Certain rules to apply.--Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

"(d) Special Rules.--

"(1) Restrictions on assessment and collection pending action, etc.--The principles of subsections (a), (b), (c), (d), and (f) of section 6213, section 6214(a), section 6215, section 6503(a), section 6512, and section 7481 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

"(2) Awarding of costs and certain fees.--Section 7430 shall apply to proceedings brought under this section.

"(e) Employment Tax.--The term 'employment tax' means any tax imposed by subtitle C."

(b) Conforming Amendments.--

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

"(7) Special period of limitation with respect to self-employment tax in certain cases.--If--

"(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7436, and

"(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final."

(2) Subsection (a) of section 7421 is amended by striking "and 7429(b)" and inserting "7429(b), and 7436".

(3) Sections 7453 and 7481(b) are each amended by striking "section 7463" and inserting "section 7436(c) or 7463".

(4) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

"Sec. 7436. Proceedings for determination of employment status.

"Sec. 7437. Cross references."

(c) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D--Other Provisions

SEC. 1461. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) In General.--Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: "In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'."

(b) Effective Date.--The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1462. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) In General.--Subsection (c) of section 5517 of title 5, United States Code, is amended by striking "or territory or possession" and inserting ", territory, possession, or commonwealth".

(b) Effective Date.--The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1463. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) General Rule.--Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) Exception for letters or notices involving small amounts.--For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than \$100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) Effective Date.--The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XV--PENSIONS AND EMPLOYEE BENEFITS**Subtitle A--Simplification****SEC. 1501. MATCHING CONTRIBUTIONS OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.**

(a) In General.--Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended by adding at the end the following:

"(9) Matching contributions on behalf of self-employed individuals not treated as elective employer contributions.--Except as provided in section 401(k)(3)(D)(ii), any matching contribution described in section 401(m)(4)(A) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) for purposes of this title."

(b) Conforming Amendment for Simple Retirement Accounts.--Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following:

"(8) Matching contributions on behalf of self-employed individuals not treated as elective employer contributions.--Any matching contribution described in paragraph (2)(A)(iii) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution to a simple retirement account for purposes of this title."

(c) Effective Dates.--

(1) Elective deferrals.--The amendment made by subsection (a) shall apply to years beginning after December 31, 1997.

(2) Simple retirement accounts.--The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1502. MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.

(a) Amendment to ERISA.--Section 206(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)) is amended by adding at the end the following:

"(4) Paragraph (1) shall not apply to any offset of a participant's benefits provided under an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if--

"(A) the order or requirement to pay arises--

"(i) under a judgment of conviction for a crime involving such plan,

"(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

"(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle by a fiduciary or any other person,

"(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's benefits provided under the plan, and

"(C) in a case in which the survivor annuity requirements of section 205 apply with respect to distributions from the plan to the participant, if the participant has a spouse at the time at which the offset is to be made--

"(i) either--

"(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan (or it is established to the satisfaction of a plan representative that such consent may not be obtained by reason of circumstances described in section 205(c)(2)(B)), or

"(II) an election to waive the right of the spouse to a qualified joint and survivor annuity or a qualified preretirement survivor annuity is in effect in accordance with the requirements of section 205(c),

"(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this subtitle, or

"(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

A plan shall not be treated as failing to meet the requirements of section 205 solely by reason of an offset under this paragraph.

"(5)(A) The survivor annuity described in paragraph (4)(C)(iii) shall be determined as if--

"(i) the participant terminated employment on the date of the offset,

"(ii) there was no offset,

"(iii) the plan permitted commencement of benefits only on or after normal retirement age,

"(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

"(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of the participant's accrued benefit (within the meaning of section 3(23)) and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse."

(b) Amendment to 1986 Code.--Section 401(a)(13) (relating to assignment and alienation) is amended by adding at the end the following:

"(C) Special rule for certain judgments and settlements.--Subparagraph (A) shall not apply to any offset of a participant's benefits provided under a plan against an amount that the participant is ordered or required to pay to the plan if--

"(i) the order or requirement to pay arises--

"(I) under a judgment of conviction for a crime involving such plan,

"(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

"(III) pursuant to a settlement agreement between the Secretary of Labor and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of such subtitle by a fiduciary or any other person,

"(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's benefits provided under the plan, and

"(iii) in a case in which the survivor annuity requirements of section 401(a)(11) apply with respect to distributions from the plan to the participant, if the participant has a spouse at the time at which the offset is to be made--

"(I) either such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan (or it is established to the satisfaction of a plan representative that such consent may not be obtained by reason of circumstances described in section 417(a)(2)(B)), or an election to waive the right of the spouse to either a qualified joint and survivor annuity or a qualified preretirement survivor annuity is in effect in accordance with the requirements of section 417(a),

"(II) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of such subtitle, or

"(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 401(a)(11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to section 401(a)(11)(A)(ii), determined in accordance with subparagraph (D).

A plan shall not be treated as failing to meet the requirements of this subsection, subsection (k), section 403(b), or section 409(d) solely by reason of an offset described in this subparagraph.

"(D) Survivor annuity.--

"(i) In general.--The survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if--

"(I) the participant terminated employment on the date of the offset,

"(II) there was no offset,

"(III) the plan permitted commencement of benefits only on or after normal retirement age,

"(IV) the plan provided only the minimum-required qualified joint and survivor annuity, and

"(V) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

"(ii) Definition.--For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of the participant's accrued benefit (within the meaning of section 411(a)(7)) and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse."

(c) Effective Date.--The amendments made by this section shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

SEC. 1503. ELIMINATION OF PAPERWORK BURDENS ON PLANS.

(a) Elimination of Unnecessary Filing Requirements.--Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) Elimination of Plan Description.--

(1) In general.--Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended--

(A) by striking paragraph (2), and

(B) by striking "(a)(1)" and inserting "(a)".

(2) Conforming amendments.--

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking "The plan description and summary plan description shall contain" and inserting "The summary plan description shall contain".

(B) The heading for section 102 of such Act is amended by striking "plan description and".

(c) **Furnishing of Reports.--**

(1) In general.--Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(1)) is amended to read as follows:

"Sec. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor."

(2) Secretary may request documents.--

(A) In general.--Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

"(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of plan changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated."

(B) Penalty.--Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following:

"(6) If, within 30 days of a request by the Secretary to a plan administrator for documents under section 104(a)(6), the plan administrator fails to furnish the material requested to the Secretary, the Secretary may assess a civil penalty against the plan administrator of up to \$100 a day from the date of such failure (but in no event in excess of \$1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator."

(d) **Conforming Amendments.--**

(1) Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended by striking "section 102(a)(1)" each place it appears and inserting "section 102(a)".

(2) Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended by striking "the plan description and" and inserting "the latest updated summary plan description and".

(3) Section 104(b)(4) of such Act (29 U.S.C. 1024(b)(4)) is amended by striking "plan description".

(4) Section 106(a) of such Act (29 U.S.C. 1026(a)) is amended by striking "descriptions,".

(5) Section 107 of such Act (29 U.S.C. 1027) is amended by striking "description or".

(6) Section 108(2)(B) of such Act (29 U.S.C. 1028(2)(B)) is amended by striking "plan descriptions, annual reports," and inserting "annual reports".

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking "or (5)" and inserting "(5), or (6)".

(e) **Technical Correction.--**Section 1144(c) of the Social Security Act (42 U.S.C. 1320b9-14(c)) is amended by redesignating paragraph (9) as paragraph (8).

SEC. 1504. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATIONS.

(a) **Definition of Compensation.--**

(1) In general.--Section 403(b)(3) (defining includible compensation) is amended by adding at the end the following: "Such term includes--

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457."

(2) **Effective date.--**The amendment made by this subsection shall apply to years beginning after December 31, 1997.

(b) **Repeal of Rules in Section 415(e).--**The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to reflect the amendment made by section 1452(a) of the Small Business Job Protection Act of 1996. Such modification shall take effect for years beginning after December 31,

1999.

SEC. 1505. EXTENSION OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES TO STATE AND LOCAL GOVERNMENTS.

(a) General Nondiscrimination and Participation Rules.--

(1) Nondiscrimination requirements.--Section 401(a)(5) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following:

"(G) State and local governmental plans.--Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof).".

(2) Additional participation requirements.--Section 401(a)(26)(H) (relating to additional participation requirements) is amended to read as follows:

"(H) Exception for state and local governmental plans.--This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof).".

(3) Minimum participation standards.--Section 410(c)(2) (relating to application of participation standards to certain plans) is amended to read as follows:

"(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall apply only if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).".

(b) Participation and Discrimination Standards for Qualified Cash or Deferred Arrangements.--Section 401(k)(3) (relating to application of participation and discrimination standards) is amended by adding at the end the following:

"(G) A governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof) shall be treated as meeting the requirements of this paragraph.".

(c) Nondiscrimination Rules for Section 403(b) Plans.--Section 403(b)(12) (relating to nondiscrimination requirements) is amended by adding at the end the following:

"(C) State and local governmental plans.--For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) (other than those relating to section 401(a)(17)) shall not apply to a governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof).".

(d) Effective Dates.--

(1) In general.--The amendments made by this section apply to taxable years beginning on or after the date of enactment of this Act.

(2) Treatment for years beginning before date of enactment.--A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403(b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

SEC. 1506. CLARIFICATION OF CERTAIN RULES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS OF S CORPORATIONS.

(a) Certain Cash Distributions Permitted.--

(1) Paragraph (2) of section 409(h) is amended by adding at the end the following new subparagraph:

"(B) Exception for certain plans restricted from distributing securities.--

"(i) In general.--A plan to which this subparagraph applies shall not be treated as failing to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that the participant entitled to a distribution has a right to receive the distribution in cash, except that such plan may distribute employer securities subject to a requirement that such securities may be resold to the employer under terms which meet the requirements of paragraph (1)(B).

"(ii) Applicable plans.--This subparagraph shall apply to a plan which otherwise meets the requirements of this subsection or section 4975(e)(7) and which is established and maintained by--

"(I) an employer whose charter or bylaws restrict the ownership of substantially all outstanding employer securities to employees or to a trust described in section 401(a), or

"(II) an S corporation."

(2) Paragraph (2) of section 409(h), as in effect before the amendment made by paragraph (1), is amended--

(A) by striking "A plan which" in the first sentence and inserting the following:

"(A) In general.--A plan which", and

(B) by striking the last sentence.

(b) Certain Shareholder-Employees Not Treated as Owner-Employees.--

(1) Amendment to 1986 code.--

(A) In general.--Section 4975(f) is amended by adding at the end the following new paragraph:

"(6) Exemptions not to apply to certain transactions.--

"(A) In general.--In the case of a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in section 401(c)(3)), the exemptions provided by subsection (d) (other than paragraphs (9) and (12)) shall not apply to a transaction in which the plan directly or indirectly--

"(i) lends any part of the corpus or income of the plan to,

"(ii) pays any compensation for personal services rendered to the plan to, or

"(iii) acquires for the plan any property from, or sells any property to,

any such owner-employee, a member of the family (as defined in section 267(c)(4)) of any such owner-employee, or any corporation in which any such owner-employee owns, directly or indirectly, 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

"(B) Special rules for shareholder-employees, etc.--

"(i) In general.--For purposes of subparagraph (A), the following shall be treated as owner-employees:

"(I) A shareholder-employee.

"(II) A participant or beneficiary of an individual retirement plan (as defined in section 7701(a)(37)).

"(III) An employer or association of employees which establishes such an individual retirement plan under section 408(c).

"(ii) Exception for certain transactions involving shareholder-employees.--Subparagraph (A)(iii) shall not apply to a transaction which consists of a sale of employer securities to an employee stock ownership plan (as defined in subsection (e)(7)) by a shareholder-employee, a member of the family (as defined in section 267(c)(4)) of such shareholder-employee, or a corporation in which such a shareholder-employee owns stock representing a 50 percent or greater interest described in subparagraph (A).

"(C) Shareholder-employee.--For purposes of subparagraph (B), the term 'shareholder-employee' means an employee or officer of an S corporation who owns (or is considered as owning within the meaning of section 318(a)(1)) more than 5 percent of the outstanding stock of the corporation on any day during the taxable year of such corporation."

(B) Conforming amendments.--Section 4975(d) is amended--

(i) by striking "The prohibitions" and inserting "Except as provided in subsection (f)(6), the prohibitions", and

(ii) by striking the last two sentences thereof.

(2) Amendment to erisa.--Section 408(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)) is amended to read as follows:

"(d)(1) Section 407(b) and subsections (b), (c), and (e) of this section shall not apply to a transaction in which a plan directly or indirectly--

"(A) lends any part of the corpus or income of the plan to,

"(B) pays any compensation for personal services rendered to the plan to, or

"(C) acquires for the plan any property from, or sells any property to,

any person who is with respect to the plan an owner-employee (as defined in section 401(c)(3) of the Internal Revenue Code of 1986), a member of the family (as defined in section 267(c)(4) of such Code) of any such owner-employee, or any corporation in which any such owner-employee owns, directly or indirectly, 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

"(2)(A) For purposes of paragraph (1), the following shall be treated as owner-employees:

"(i) A shareholder-employee.

"(ii) A participant or beneficiary of an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986).

"(iii) An employer or association of employees which establishes such an individual retirement plan under section 408(c) of such Code.

"(B) Paragraph (1)(C) shall not apply to a transaction which consists of a sale of employer securities to an employee stock ownership plan (as defined in section 407(d)(6)) by a shareholder-employee, a member of the family (as defined in section 267(c)(4) of such Code) of any such owner-employee, or a corporation in which such a shareholder-employee owns stock representing a 50 percent or greater interest described in paragraph (1).

"(3) For purposes of paragraph (2), the term 'shareholder-employee' means an employee or officer of an S corporation (as defined in section 1361(a)(1) of such Code) who owns (or is considered as owning within the meaning of section 318(a)(1) of such Code) more than 5 percent of the outstanding stock of the corporation on any day during the taxable year of such corporation."

(c) Effective Date.--The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1507. MODIFICATION OF 10-PERCENT TAX FOR NONDEDUCTIBLE CONTRIBUTIONS.

(a) In General.--Section 4972(c)(6)(B) (relating to exceptions) is amended to read as follows:

"(B) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of--

"(i) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

"(ii) the sum of--

"(I) the amount of contributions described in section 401(m)(4)(A), plus

"(II) the amount of contributions described in section 402(g)(3)(A)."

(b) Effective Date.--The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1508. MODIFICATION OF FUNDING REQUIREMENTS FOR CERTAIN PLANS.

(a) Funding Rules for Certain Plans.--Section 769 of the Retirement Protection Act of 1994 is amended by adding at the end the following new subsection:

"(c) Transition Rules for Certain Plans.--

"(1) In general.--In the case of a plan that--

"(A) was not required to pay a variable rate premium for the plan year beginning in 1996;

"(B) has not, in any plan year beginning after 1995 and before 2009, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor); and

"(C) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the transition rules described in paragraph (2) shall apply for any plan year beginning after 1996 and before 2010.

"(2) Transition rules.--The transition rules described in this paragraph are as follows:

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974--

"(i) the funded current liability percentage for any plan year beginning after 1996 and before 2005 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage is at least 85 percent, and

"(ii) the funded current liability percentage for any plan year beginning after 2004 and before 2010 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage satisfies the minimum percentage determined according to the following table:

c3,L0,ns,tp0,p0,l0/l2,g1,t1,xls14,r10,xls86

xl" In the case of a plan year beginning in: The minimum percentage is:

2005 86 percent 05

2006 87 percent 05

2007 88 percent 05

2008 89 percent 05

2009 and thereafter 90 percent.

"(B) Sections 412(c)(7)(E)(i)(I) of such Code and 302(c)(7)(E)(i)(I) of such Act shall be applied--

"(i) by substituting '85 percent' for '90 percent' for plan years beginning after 1996 and before 2005, and

"(ii) by substituting the minimum percentage specified in the table contained in subparagraph (A)(ii) for '90 percent' for plan years beginning after 2004 and before 2010.

"(C) In the event the funded current liability percentage of a plan is less than 85 percent for any plan year beginning after 1996 and before 2005, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan if contributions for such a plan year are made to the plan in an amount equal to the lesser of--

"(i) the amount necessary to result in a funded current liability percentage of 85 percent, or

"(ii) the greater of--

"(I) 2 percent of the plan's current liability as of the beginning of such plan year, or

"(II) the amount necessary to result in a funded current liability percentage of 80 percent as of the end of such plan year.

For the plan year beginning in 2005 and for each of the 3 succeeding plan years, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan for such plan year only if contributions to the plan for such plan year equal at least the expected increase in current liability due to benefits accruing during such plan year."

(b) Effective Date.--The amendment made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 1509. CLARIFICATION OF DISQUALIFICATION RULES RELATING TO ACCEPTANCE OF ROLLOVER CONTRIBUTIONS.

The Secretary of the Treasury or his delegate shall clarify that, under the Internal Revenue Service regulations protecting pension plans from disqualification by reason of the receipt of invalid rollover contributions under section 402(c) of the Internal Revenue Code of 1986, in order for the administrator of the plan receiving any such contribution to reasonably conclude that the contribution is a valid rollover contribution it is not necessary for the distributing plan to have a determination letter with respect to its status as a qualified plan under section 401 of such Code.

SEC. 1510. NEW TECHNOLOGIES IN RETIREMENT PLANS.

(a) In General.--Not later than December 31, 1998, the Secretary of the Treasury and the Secretary of Labor shall each issue guidance which is designed to--

(1) interpret the notice, election, consent, disclosure, and time requirements (and related recordkeeping requirements) under the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 relating to retirement plans as applied to the use of new technologies by plan sponsors and administrators while maintaining the protection of the rights of

participants and beneficiaries, and

(2) clarify the extent to which writing requirements under the Internal Revenue Code of 1986 relating to retirement plans shall be interpreted to permit paperless transactions.

(b) **Applicability of Final Regulations.**--Final regulations applicable to the guidance regarding new technologies described in subsection (a) shall not be effective until the first plan year beginning at least 6 months after the issuance of such final regulations.

Subtitle B--Other Provisions Relating to Pensions and Employee Benefits

SEC. 1521. INCREASE IN CURRENT LIABILITY FUNDING LIMIT.

(a) **Amendment to 1986 Code.**--Section 412(c)(7) (relating to full-funding limitation) is amended--

(A) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(B) by adding at the end the following:

"(F) **Applicable percentage.**--For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in--

The applicable percentage is--

1999 or 2000 155 20

2001 or 2002 160 20

2003 or 2004 165 20

2005 and succeeding years 170.".

(b) **Amendment to ERISA.**--Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended--

(A) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(B) by adding at the end the following:

"(F) **Applicable percentage.**--For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

"In the case of any plan year beginning in--

The applicable percentage is--

1999 or 2000 155 20

2001 or 2002 160 20

2003 or 2004 165 20

2005 and succeeding years 170.".

(c) **Special Amortization Rule.**--

(1) **Code amendment.**--Section 412(b)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I)."

(2) **ERISA amendment.**--Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting after subparagraph (D) the following:

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the

contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I)."

(3) Conforming amendments.--

(A) Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(d) Effective Dates.--

(1) In general.--The amendments made by this section shall apply to plan years beginning after December 31, 1998.

(2) Special rule for unamortized balances under existing law.--The unamortized balance (as of the close of the plan year preceding the plan's first year beginning in 1999) of any amortization base established under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by subsection (c)(3)) for any plan year beginning before 1999 shall be amortized in equal annual installments (until fully amortized) over a period of years equal to the excess of--

(A) 20 years, over

(B) the number of years since the amortization base was established.

SEC. 1522. SPECIAL RULES FOR CHURCH PLANS.

(a) In General.--Section 414(e)(5) (relating to special rules for chaplains and self-employed ministers) is amended--

(1) by striking "not eligible to participate" in subparagraph (C) and inserting "not otherwise participating", and

(2) by adding at the end the following new subparagraph:

"(E) Exclusion.--In the case of a contribution to a church plan made on behalf of a minister described in subparagraph (A)(i)(II), such contribution shall not be included in the gross income of the minister to the extent that such contribution would not be so included if the minister was an employee of a church."

(b) Effective Date.--The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 1523. REPEAL OF APPLICATION OF UNRELATED BUSINESS INCOME TAX TO ESOPS.

(a) In General.--Section 512(e) is amended by adding at the end the following new paragraph:

"(3) Exception for esops.--This subsection shall not apply to employer securities (within the meaning of section 409(l)) held by an employee stock ownership plan described in section 4975(e)(7)."

(b) Effective Date.--The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1524. DIVERSIFICATION OF SECTION 401(k) PLAN INVESTMENTS.

(a) Limitations on Investment in Employer Securities and Employer Real Property by Cash or Deferred Arrangements.--Section 407(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(b)) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2)(A) If this paragraph applies to an eligible individual account plan, the portion of such plan which consists of applicable elective deferrals (and earnings allocable thereto) shall be treated as a separate plan--

"(i) which is not an eligible individual account plan, and

"(ii) to which the requirements of this section apply.

"(B)(i) This paragraph shall apply to any eligible individual account plan if any portion of the plan's applicable elective deferrals (or earnings allocable thereto) are required

"(ii) This paragraph shall not apply to an individual account plan for a plan year if, on the last day of the preceding plan year, the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans (other than multiemployer plans) maintained by the employer.

"(iii) This paragraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 4975(e)(7) of the Internal Revenue Code of 1986.

"(iv) This paragraph shall not apply to an individual account plan if, pursuant to the terms of the plan, the portion of any employee's applicable elective deferrals which is required to be invested in qualifying employer securities and qualifying employer real property for any year may not exceed 1 percent of the employee's compensation which is taken into account under the plan in determining the maximum amount of the employee's applicable elective deferrals for such year.

"(C) For purposes of this paragraph, the term 'applicable elective deferral' means any elective deferral (as defined in section 402(g)(3)(A) of the Internal Revenue Code of 1986) which is made pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986."

(b) Effective Date.--The amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1998.

SEC. 1525. SECTION 401(K) PLANS FOR CERTAIN IRRIGATION AND DRAINAGE ENTITIES.

(a) In General.--Subparagraph (B) of section 401(k)(7) (relating to rural cooperative plan) is amended--

(1) by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any organization which--

"(I) is a mutual irrigation or ditch company described in section 501(c)(12) (without regard to the 85 percent requirement thereof), or

"(II) is a district organized under the laws of a State as a municipal corporation for the purpose of irrigation, water conservation, or drainage, and", and

(2) in clause (v), as so redesignated, by striking "or (iii)" and inserting ", (iii), or (iv)".

(b) Effective Date.--The amendments made by subsection (a) shall apply to years beginning after December 31, 1997.

SEC. 1526. PORTABILITY OF PERMISSIVE SERVICE CREDIT UNDER GOVERNMENTAL PENSION PLANS.

(a) In General.--Section 415 (relating to limitations on benefits and contributions under qualified plans) is amended by adding at the end the following new subsection:

"(n) Special Rules Relating to Purchase of Permissive Service Credit.--

"(1) In general.--If an employee makes 1 or more contributions to a defined benefit governmental plan (within the meaning of section 414(d)) to purchase permissive service credit under such plan, then the requirements of this section shall be treated as met only if--

"(A) the requirements of subsection (b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of subsection (b), or

"(B) the requirements of subsection (c) are met, determined by treating all such contributions as annual additions for purposes of subsection (c).

"(2) Application of limit.--For purposes of--

"(A) applying paragraph (1)(A), the plan shall not fail to meet the reduced limit under subsection (b)(2)(C) solely by reason of this subsection, and

"(B) applying paragraph (1)(B), the plan shall not fail to meet the percentage limitation under subsection (c)(1)(B) solely by reason of this subsection.

"(3) Permissive service credit.--For purposes of this subsection--

"(A) In general.--The term 'permissive service credit' means service credit--

"(i) recognized by the governmental plan for purposes of calculating a participant's benefit under the plan,

"(ii) which such participant has not received under such governmental plan, and

"(iii) which such participant may receive only by making a voluntary additional contribution, in an amount determined under such governmental plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

"(B) Limitation on nonqualified service credit.--A plan shall fail to meet the requirements of this section if--

"(i) more than 5 years of permissive service credit attributable to nonqualified service are taken into account for purposes of this subsection, or

"(ii) any permissive service credit attributable to nonqualified service is taken into account under this subsection before the employee has at least 5 years of participation under the plan.

"(C) Nonqualified service.--For purposes of subparagraph (B), the term 'nonqualified service' means service for which permissive service credit is allowed other than--

"(i) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in subsection (k)(3)),

"(ii) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (i)) of an educational organization described in section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), as determined under State law,

"(iii) service as an employee of an association of employees who are described in clause (i), or

"(iv) military service (other than qualified military service under section 414(u)) recognized by such governmental plan.

In the case of service described in clauses (i), (ii), or (iii), such service will be nonqualified service if recognition of such service would cause a participant to receive a retirement benefit for the same service under more than one plan."

(b) Special Rule for Repayment of Cashouts.--Section 415(k) (relating to special rules) is amended by adding at the end the following new paragraph:

"(3) Repayments of cashouts under governmental plans.--In the case of any repayment of contributions (including interest thereon) to the governmental plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or under another governmental plan maintained by a State or local government employer within the same State, any such repayment shall not be taken into account for purposes of this section."

(c) Effective Dates.--

(1) In general.--The amendments made by this section shall apply to permissive service credit contributions made in years beginning after December 31, 1997.

(2) Transition rule.--

(A) In general.--In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the limitations of section 415(c)(1) of such Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on the date of the enactment of this Act.

(B) Eligible participant.--For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan before the first plan year beginning after the last day of the calendar year in which the next regular session (following the date of the enactment of this Act) of the governing body with authority to amend the plan ends.

SEC. 1527. REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) In General.--Subparagraph (G) of section 415(b)(2) is amended by striking "participant--" and all that follows and inserting "participant, subparagraph (C) of this paragraph shall not apply."

(b) Effective Date.--The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

SEC. 1528. SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

(a) In General.--Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(h) Survivor Benefits Attributable to Service by a Public Safety Officer who is Killed in the Line of Duty.--

"(1) In general.--Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty--

"(A) if such annuity is provided, under a governmental plan which meets the requirements of section 401(a), to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

"(B) to the extent such annuity is attributable to such officer's service as a public safety officer.

"(2) Exceptions.--Paragraph (1) shall not apply with respect to the death of any public safety officer if, as determined in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968--

"(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

"(B) the officer was voluntarily intoxicated (as defined in section 1204 of such Act) at the time of death;

"(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death; or

"(D) the payment is to an individual whose actions were a substantial contributing factor to the death of the officer."

(b) Effective Date.--The amendments made by this section shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

SEC. 1529. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) General Rule.--For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) Amounts To Which Section Applies.--This section shall apply to any amount--

(1) which is payable--

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before July 1, 1992; and

(2) which was received in calendar year 1989, 1990, or 1991.

(c) Waiver of Statute of Limitations.--If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment), credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law (including res judicata), then credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. 1530. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) In General.--Subparagraph (C) of section 664(d)(1) and subparagraph (C) of section 664(d)(2) are each amended by striking the period at the end thereof and inserting "or, to the extent the remainder interest is in qualified employer securities (as defined in subsection (g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)).".

(b) Qualified Gratuitous Transfer Defined.--Section 664 is amended by adding at the end the following new subsection:

"(g) Qualified Gratuitous Transfer of Qualified Employer Securities.--

"(1) In general.--For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that--

"(A) the securities transferred previously passed from a decedent dying before January 1, 1999, to a trust described in paragraph (1) or (2) of subsection (d),

"(B) no deduction under section 404 is allowable with respect to such transfer,

"(C) such plan contains the provisions required by paragraph (3),

"(D) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404, and

"(E) the employer whose employees are covered by the plan described in this paragraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

"(2) Exception.--The term 'qualified gratuitous transfer' shall not include a transfer of qualified employer securities to an employee stock ownership plan unless--

"(A) such plan was in existence on August 1, 1996,

"(B) at the time of the transfer, the decedent and members of the decedent's family (within the meaning of section 2032A(e)(2)) own (directly or through the application of section 318(a)) no more than 10 percent of the value of the stock of the corporation referred to in paragraph (4), and

"(C) immediately after the transfer, such plan owns (after the application of section 318(a)(4)) at least 60 percent of the value of the outstanding stock of the corporation.

"(3) Plan requirements.--A plan contains the provisions required by this paragraph if such plan provides that--

"(A) the qualified employer securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4),

"(B) plan participants are entitled to direct the plan as to the manner in which such securities which are entitled to vote and are allocated to the account of such participant are to be voted,

"(C) an independent trustee votes the securities so transferred which are not allocated to plan participants,

"(D) each participant who is entitled to a distribution from the plan has the rights described in subparagraphs (A) and (B) of section 409(h)(1),

"(E) such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415(c) and (e), and

"(F) on termination of the plan, all securities so transferred which are not allocated to plan participants as of such termination are to be transferred to, or for the use of, an organization described in section 170(c).

For purposes of the preceding sentence, the term 'independent trustee' means any trustee who is not a member of the family (within the meaning of section 2032A(e)(2)) of the decedent or a 5-percent shareholder. A plan shall not fail to be treated as meeting the requirements of section 401(a) by reason of meeting the requirements of this subsection.

"(4) Qualified employer securities.--For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation--

"(A) which has no outstanding stock which is readily tradable on an established securities market, and

"(B) which has only 1 class of stock.

"(5) Treatment of securities allocated by employee stock ownership plan to persons related to decedent or 5-percent shareholders.--

"(A) In general.--If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of--

"(i) any person who is related to the decedent (within the meaning of section 267(b)) or a member of the decedent's family (within the meaning of section 2032A(e)(2)), or

"(ii) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan, the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so

allocated.

"(B) 5-percent shareholder.--For purposes of subparagraph (A), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of the outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation. For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

"(C) Cross reference.--

"For excise tax on allocations described in subparagraph (A), see section 4979A.

"(6) Tax on failure to transfer unallocated securities to charity on termination of plan.--If the requirements of paragraph (3)(F) are not met with respect to any securities, there is hereby imposed a tax on the employer maintaining the plan in an amount equal to the sum of--

"(A) the amount of the increase in the tax which would be imposed by chapter 11 if such securities were not transferred as described in paragraph (1), and

"(B) interest on such amount at the underpayment rate under section 6621 (and compounded daily) from the due date for filing the return of the tax imposed by chapter 11."

(c) Conforming Amendments.--

(1) Section 401(a)(1) is amended by inserting "or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(g)(1))," after "stock bonus plans),".

(2) Section 404(a)(9) is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) A qualified gratuitous transfer (as defined in section 664(g)(1)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph."

(3) Section 415(c)(6) is amended by adding at the end thereof the following new sentence:

"The amount of any qualified gratuitous transfer (as defined in section 664(g)(1)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section."

(4) Section 415(e) is amended--

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) Special rule for qualified gratuitous transfers.--Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(g)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection."

(5) Subparagraph (B) of section 664(d)(1) and subparagraph (B) of section 664(d)(2) are each amended by inserting "and other than qualified gratuitous transfers described in subparagraph (C)" after "subparagraph (A)".

(6) Paragraph (4) of section 674(b) is amended by inserting before the period "or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(g)(1))".

(7) Section 2055(a) is amended--

(i) by striking "or" at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting "; or", and

(iii) by inserting after paragraph (4) the following new paragraph:

"(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(g)."

(8) Paragraph (8) of section 2056(b) is amended to read as follows:

"(8) Special rule for charitable remainder trusts.--

"(A) In general.--If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) Definitions.--For purposes of subparagraph (A)--

"(i) Charitable beneficiary.--The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

"(ii) ESOP beneficiary.--The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(g)(4)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(g)(1)).

"(iii) Qualified charitable remainder trust.--The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664)."

(9) Section 4947(b) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Section 507.--The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(g)(4)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(g))."

(10) The last sentence of section 4975(e)(7) is amended by inserting "and section 664(g)" after "section 409(n)"

(11) Subsection (a) of section 4978 is amended--

(A) by inserting "or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(g) applied" after "section 1042 applied", and

(B) by inserting before the comma at the end of paragraph (2) "60 percent of the total value of all employer securities as of such disposition in the case of any qualified employer securities acquired in a qualified gratuitous transfer to which section 664(g) applied)".

(12) Paragraph (2) of section 4978(b) is amended--

(A) by inserting "or acquired in the qualified gratuitous transfer to which section 664(g) applied" after "section 1042 applied", and

(B) by inserting "or to which section 664(g) applied" after "section 1042 applied" in subparagraph (A) thereof.

(13) Subsection (c) of section 4978 is amended by striking "written statement" and all that follows and inserting "written statement described in section 664(g)(1)(E) or in section 1042(b)(3) (as the case may be)".

(14) Paragraph (2) of section 4978(e) is amended by striking the period and inserting "; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(g)(1))."

(15) Subsection (a) of section 4979A is amended to read as follows:

"(a) Imposition of Tax.--If--

"(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

"(2) there is an allocation described in section 664(g)(5)(A),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved."

(16) Subsection (c) of section 4979A is amended to read as follows:

"(c) Liability for Tax.--The tax imposed by this section shall be paid by--

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may be)."

(17) Section 4979A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the

following new subsection:

"(d) Special Statute of Limitations for Tax Attributable to Certain Allocations.--The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of--

"(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(g)(1)), or

"(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2).".

(d) Effective Date.--The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

Subtitle C--Provisions Relating to Certain Health Acts

SEC. 1531. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 TO IMPLEMENT THE NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996 AND THE MENTAL HEALTH PARITY ACT OF 1996.

(a) In General.--Subtitle K is amended--

(1) by striking all that precedes section 9801 and inserting the following:

"Subtitle K--Group Health Plan Requirements

"Chapter 100. Group health plan requirements.

"CHAPTER 100--GROUP HEALTH PLAN REQUIREMENTS

"Subchapter A. Requirements relating to portability, access, and renewability.

"Subchapter B. Other requirements.

"Subchapter C. General provisions.

"Subchapter A--Requirements Relating to Portability, Access, and Renewability

"Sec. 9801. Increased portability through limitation on preexisting condition exclusions.

"Sec. 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.

"Sec. 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.",

(2) by redesignating sections 9804, 9805, and 9806 as sections 9831, 9832, and 9833, respectively,

(3) by inserting before section 9831 (as so redesignated) the following:

"Subchapter C--General Provisions

"Sec. 9831. General exceptions.

"Sec. 9832. Definitions.

"Sec. 9833. Regulations.", and

(4) by inserting after section 9803 the following:

"Subchapter B--Other Requirements

"Sec. 9811. Standards relating to benefits for mothers and newborns.

"Sec. 9812. Parity in the application of certain limits to mental health benefits.

"SEC. 9811. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

"(a) Requirements for Minimum Hospital Stay Following Birth.--

"(1) In general.--A group health plan may not--

"(A) except as provided in paragraph (2)--

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a caesarean section, to less than 96 hours; or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) Exception.--Paragraph (1)(A) shall not apply in connection with any group health plan in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) Prohibitions.--A group health plan may not--

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) Rules of Construction.--

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary--

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) Level and Type of Reimbursements.--Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) Preemption; Exception for Health Insurance Coverage in Certain States.--The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (including a decision, rule, regulation, or other State action having the effect of law) for a State that regulates such coverage that is described in any of the following paragraphs:

"(1) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a caesarean section.

"(2) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(3) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"SEC. 9812. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

"(a) In General.--

"(1) Aggregate lifetime limits.--In the case of a group health plan that provides both medical and surgical benefits and mental health benefits--

"(A) No lifetime limit.--If the plan does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan may not impose any aggregate lifetime limit on mental health benefits.

"(B) Lifetime limit.--If the plan includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan shall either--

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) Rule in case of different limits.--In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) Annual limits.--In the case of a group health plan that provides both medical and surgical benefits and mental health benefits--

"(A) No annual limit.--If the plan does not include an annual limit on substantially all medical and surgical benefits, the plan may not impose any annual limit on mental health benefits.

"(B) Annual limit.--If the plan includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan shall either--

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) Rule in case of different limits.--In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) Construction.--Nothing in this section shall be construed--

"(1) as requiring a group health plan to provide any mental health benefits; or

"(2) in the case of a group health plan that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) Exemptions.--

"(1) Small employer exemption.--This section shall not apply to any group health plan for any plan year of a small employer (as defined in section 4980D(d)(2)).

"(2) Increased cost exemption.--This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

"(d) Separate Application to Each Option Offered.--In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) Definitions.--For purposes of this section:

"(1) Aggregate lifetime limit.--The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan with respect to an individual or other coverage unit.

"(2) Annual limit.--The term 'annual limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan with respect to an individual or other coverage unit.

"(3) Medical or surgical benefits.--The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

"(4) Mental health benefits.--The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) Sunset.--This section shall not apply to benefits for services furnished on or after September 30, 2001."

(b) Conforming Amendments.--

(1) Chapter 100 of such Code is further amended--

(A) in the last sentence of section 9801(c)(1), by striking "section 9805(c)" and inserting "section 9832(c)";

(B) in section 9831(b), by striking "9805(c)(1)" and inserting "9832(c)(1)";

(C) in section 9831(c)(1), by striking "9805(c)(2)" and inserting "9832(c)(2)";

(D) in section 9831(c)(2), by striking "9805(c)(3)" and inserting "9832(c)(3)"; and

(E) in section 9831(c)(3), by striking "9805(c)(4)" and inserting "9832(c)(4)".

(2) Section 4980D of such Code is amended--

(A) in subsection (a), by striking "plan portability, access, and renewability" and inserting "plans";

(B) in subsection (c)(3)(B)(i)(I), by striking "9805(d)(3)" and inserting "9832(d)(3)";

(C) in subsection (d)(1), by inserting "(other than a failure attributable to section 9811)" after "on any failure";

(D) in subsection (d)(3), by striking "9805" and inserting "9832";

(E) in subsection (f)(1), by striking "9805(a)" and inserting "9832(a)".

(3) The table of subtitles for such Code is amended by striking the item relating to subtitle K and inserting the following new item:

"Subtitle K. Group health plan requirements."

(c) Effective Date.--The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 1532. SPECIAL RULES RELATING TO CHURCH PLANS.

(a) In General.--Section 9802 (relating to prohibiting discrimination against individual participants and beneficiaries based on health status) is amended by adding at the end the following new subsection:

"(c) Special Rules for Church Plans.--A church plan (as defined in section 414(e)) shall not be treated as failing to meet the requirements of this section solely because such plan requires evidence of good health for coverage of--

"(1) both any employee of an employer with 10 or less employees (determined without regard to section 414(e)(3)(C)) and any self-employed individual, or

"(2) any individual who enrolls after the first 90 days of initial eligibility under the plan.

This subsection shall apply to a plan for any year only if the plan included the provisions described in the preceding sentence on July 15, 1997, and at all times thereafter before the beginning of such year."

(b) Effective Date.--The amendments made by subsection (a) shall take effect as if included in the amendments made by section 401(a) of the Health Insurance Portability and Accountability Act of 1996.

Subtitle D--Provisions Relating to Plan Amendments

SEC. 1541. PROVISIONS RELATING TO PLAN AMENDMENTS.