

Public Law 97-448
97th Congress

An Act

To make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation.

Jan. 12, 1983
[H.R. 6056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical
Corrections Act
of 1982.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the “Technical Corrections Act of 1982”.

26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

TITLE I—AMENDMENTS RELATED TO ECONOMIC RECOVERY TAX ACT OF 1981

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE ACT.

(a) AMENDMENTS RELATED TO SECTION 101.—

95 Stat. 176.

(1) EFFECTIVE DATE FOR AMENDMENT TO SECTION 21.—Paragraph (1) of section 101(f) of the Economic Recovery Tax Act of 1981 (relating to effective dates for rate cuts) is amended by inserting before the period at the end thereof the following: “, except that the amendment made by paragraph (3) of subsection (d) shall apply to taxable years ending after December 31, 1981”.

95 Stat. 185.
26 USC 1 note.

(2) RATE REDUCTION TAX CREDIT.—Section 6428 (relating to 1981 rate reduction tax credit) is amended by adding at the end thereof the following new subsection:

26 USC 6428.

“(d) SPECIAL RULES.—For purposes of this section—

“(1) INDIVIDUALS TO WHOM 50 PERCENT MAXIMUM RATE OR 20 PERCENT CAPITAL GAIN RATE APPLIES.—

“(A) IN GENERAL.—In the case of any individual to whom this paragraph applies, in determining the amount of the credit allowable under subsection (a)—

“(i) the portion of the tax imposed by section 1 determined under section 1348(a)(2) (as in effect before its repeal by the Economic Recovery Tax Act of 1981), and

“(ii) the portion of the tax imposed by section 1 determined under subsection (a)(2)(B) of section 102 of the Economic Recovery Tax Act of 1981,

shall not be taken into account.

95 Stat. 186.
26 USC 1201
note.

“(B) INDIVIDUALS TO WHOM PARAGRAPH APPLIES.—This paragraph applies to any individual if the tax imposed by section 1 for the taxable year is determined under—

“(i) section 1348 (as in effect before its repeal by the Economic Recovery Tax Act of 1981), or

95 Stat. 186.
26 USC 1201
note.

“(ii) section 102(a)(2) of the Economic Recovery Tax Act of 1981.

“(2) SPECIAL RULE FOR TAX IMPOSED BY SECTION 402 (e).—The tax imposed by subsection (e) of section 402 shall be treated as a tax imposed by section 1.”

26 USC 1 note.

(3) ELIMINATION OF 50-CENT ROUNDING ERRORS.—If any figure in any table—

95 Stat. 176.

(A) which is set forth in section 1 of the Internal Revenue Code of 1954 (as amended by section 101 of the Economic Recovery Tax Act of 1981), and

(B) which applies to married individuals filing separately or to estates and trusts,

differs by not more than 50 cents from the correct amount under the formula used in constructing such table, such figure is hereby corrected to the correct amount.

95 Stat. 186.
26 USC 1201
note.

(aa) AMENDMENT RELATED TO SECTION 102.—Clause (ii) of section 102(b)(1)(B) of the Economic Recovery Tax Act of 1981 is amended by striking out “qualified net capital gain” and inserting in lieu thereof “qualified net capital gain (or, if lesser, the alternative minimum taxable income within the meaning of section 55(b)(1) of such Code)”.

95 Stat. 188.
26 USC 402.

(b) AMENDMENT RELATED TO SECTION 104.—Subparagraph (C) of section 402(e)(1) (relating to imposition of separate tax on lump sum distributions) is amended by striking out “\$2,300” and inserting in lieu thereof “the zero bracket amount applicable to such an individual for the taxable year”.

95 Stat. 190.

(c) AMENDMENTS RELATED TO SECTION 111.—

26 USC 911.

(1) CLARIFICATION OF LIMITATION ON BENEFIT.—Subsection (d) of section 911 (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) AGGREGATE BENEFIT CANNOT EXCEED FOREIGN EARNED INCOME.—The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(3)(A) for the taxable year shall not exceed the individual’s foreign earned income for such year.”

(2) TECHNICAL AMENDMENT.—Clause (ii) of section 911(c)(3)(B) (relating to special rules where housing expenses not provided by employer) is amended by striking out “subsection (a)(1)” and inserting in lieu thereof “subsection (a)”.

95 Stat. 197.
26 USC 1034
note.

(d) AMENDMENT RELATED TO SECTION 122.—Subsection (c) of section 122 of the Economic Recovery Tax Act of 1981 (relating to effective date for increase in rollover period for principal residence) is amended by adding at the end thereof the following new sentences:

“Notwithstanding the preceding sentence, the taxpayer may elect to have the amendments made by this section not apply to any old residence sold or exchanged on or before August 13, 1981. Such an election shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.”

95 Stat. 197.

(e) AMENDMENTS RELATED TO SECTION 124.—

(1) BENEFITS MUST BE NONDISCRIMINATORY.—

26 USC 129.

(A) Subsection (d) of section 129 (defining dependent care assistance program) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respec-

tively, and by inserting after paragraph (1) the following new paragraph:

“(2) **DISCRIMINATION.**—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, owners, or highly compensated, or their dependents.”

(B) Paragraph (3) of section 129(d) (as redesignated by subparagraph (A)) is amended by striking out “employees who are officers, owners, or highly compensated, or their dependents” and inserting in lieu thereof “employees described in paragraph (2), or their dependents”.

95 Stat. 199.
26 USC 129.

(C) Paragraph (1) of section 129(d) is amended by striking out “paragraphs (2) through (6)” and inserting in lieu thereof “paragraphs (2) through (7)”.

(2) **CLARIFICATION OF DEDUCTION TO EMPLOYER.**—Paragraph (7) of section 129(e) (relating to disallowance of excluded amounts as credit or deduction) is amended—

(A) by striking out “shall be allowed” and inserting in lieu thereof “shall be allowed to the employee”, and

(B) by striking out “excluded from income” and inserting in lieu thereof “excluded from the gross income of the employee”.

(f) **AMENDMENT RELATED TO SECTION 125.**—Paragraph (2) of section 222(c) (defining child with special needs) is amended to read as follows:

95 Stat. 201.
26 USC 222.

“(2) **CHILD WITH SPECIAL NEEDS.**—The term ‘child with special needs’ means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.”

(g) **AMENDMENT RELATED TO SECTION 126.**—Paragraph (4) of section 483(g) (relating to nonresident alien individuals) is amended by striking out “This section” and inserting in lieu thereof “Paragraph (1)”.

95 Stat. 202.
26 USC 483.

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE ACT.

(a) **AMENDMENTS RELATED TO SECTION 201.**—

95 Stat. 203.

(1) **APPLICATION OF SHORT TAXABLE YEAR RULE TO 15-YEAR REAL PROPERTY.**—Paragraph (5) of section 168(f) (relating to short taxable years) is amended by adding at the end thereof the following new sentence: “In the case of 15-year real property, the first sentence of this paragraph shall not apply to the taxable year in which the property is placed in service or disposed of.”

26 USC 168.

(2) **ADJUSTMENTS TO BASIS IN THE CASE OF CERTAIN TRANSFERS.**—Subparagraph (B) of section 168(d)(2) (relating to adjustment to basis) is amended by striking out “subsection (f)(7)” and inserting in lieu thereof “paragraph (7) or (10) of subsection (f)”.

(3) **CHANGES IN USE.**—Subsection (f) of section 168 (relating to special rules for application of section) is amended by adding at the end thereof the following new paragraph:

“(13) **CHANGES IN USE.**—The Secretary shall, by regulation, provide for the method of determining the deduction allowable under subsection (a) with respect to any property for any taxable year (and for succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.”

(4) **QUALIFIED COAL UTILIZATION PROPERTY.**—

26 USC 168.

(A) Paragraph (4) of section 168(h) (relating to qualified coal utilization property) is amended to read as follows:
 “(4) **QUALIFIED COAL UTILIZATION PROPERTY.**—The term ‘10-year property’ includes qualified coal utilization property which would otherwise be 15-year public utility property.”

(B) The heading of subparagraph (A) of section 168(g)(8) is amended to read as follows:

“(A) **QUALIFIED COAL UTILIZATION PROPERTY.**—”.

(C) The heading of subparagraph (B) of section 168(g)(8) is amended to read as follows:

“(B) **COAL UTILIZATION PROPERTY.**—”.

(5) **CLARIFICATION OF APPLICABLE PERCENTAGE FOR YEAR REAL PROPERTY PLACED IN SERVICE.**—The third sentence of section 168(b)(2)(A) (relating to 15-year real property) is amended by striking out “For purposes of this subparagraph” and inserting in lieu thereof “In the case of 15-year real property”.

26 USC 751.

(6) **SECTION 1245 RECOVERY PROPERTY INCLUDED AS UNREALIZED RECEIVABLE.**—The second sentence of subsection (c) of section 751 (relating to unrealized receivables and inventory items) is amended by inserting “section 1245 recovery property (as defined in section 1245(a)(5)),” after “section 1245(a)(3)”,.

(7) **CLARIFICATION OF ADDITIONAL DEPRECIATION IN THE CASE OF RECOVERY PROPERTY.**—

26 USC 1250.

(A) Subsection (b) of section 1250 (defining additional depreciation) is amended by adding at the end thereof the following new paragraph:

“(5) **METHOD OF COMPUTING STRAIGHT LINE ADJUSTMENTS.**—For purposes of paragraph (1), the depreciation adjustments which would have resulted for any taxable year under the straight line method shall be determined—

“(A) in the case of recovery property, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight line method for such year using the recovery period applicable to such property, and

“(B) in the case of any property which is not recovery property, if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value).”

(B) Paragraph (1) of section 1250(b) is amended by striking out the last sentence.

26 USC 168.

(8) **THEME PARKS, ETC.**—Paragraph (2) of section 168(c) (defining classes of recovery property) is amended by adding at the end thereof the following new subparagraph:

“(F) **SPECIAL RULE FOR THEME PARKS, ETC.**—For purposes of subparagraphs (C) and (D), a building (and its structural components) shall not be treated as having a present class life of 12.5 years or less by reason of any use other than the use for which such building was originally placed in service.”

(9) **ANTI-CHURNING PROVISIONS.**—Paragraph (4) of section 168(e) (relating to certain transactions in property placed in service before 1981), as amended by section 206(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

Ante, p. 431.

(A) by adding at the end of subparagraph (D) thereof the following new sentence: “In the case of the acquisition of property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the

determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination occurs.”; and

(B) by adding at the end thereof the following new subparagraphs:

“(H) ACQUISITIONS BY REASON OF DEATH.—Subparagraphs (A) and (B) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

“(I) SECTION 1245 CLASS PROPERTY ACQUIRED INCIDENTAL TO ACQUISITION OF SECTION 1250 CLASS PROPERTY.—Under regulations prescribed by the Secretary, subparagraph (B) shall apply (and subparagraph (A) shall not apply) to section 1245 class property which is acquired incidental to the acquisition of section 1250 class property.”

(10)(A) Subparagraph (D) of section 168(f)(8) (relating to special rule for leases), as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982, is amended by adding at the end thereof the following new sentence: “Under regulations prescribed by the Secretary, public utility property shall not be treated as qualified leased property unless the requirements of rules similar to the rules of subsection (e)(3) of this section and section 46(f) are met with respect to such property.”

26 USC 168.

Ante, p. 324.

(B) The amendment made by subparagraph (A) shall apply with respect to property to which the provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982) apply.

26 USC 168 note.

(aa) AMENDMENT RELATED TO SECTION 202.—Subsection (d) of section 179 (relating to election to expense certain business assets) is amended by adding at the end thereof of the following new paragraph:

95 Stat. 219.

26 USC 179.

“(10) RECAPTURE IN CERTAIN CASES.—The Secretary shall, by regulations, provide for recapturing the benefit under any deduction allowable under subsection (a) with respect to any property which is not used predominantly in a trade or business at any time before the close of the second taxable year following the taxable year in which it is placed in service by the taxpayer.”

(b) AMENDMENTS RELATED TO SECTION 205.—

95 Stat. 223.

(1)(A) The next to the last sentence of section 57(a) is amended by striking out “and (12)” and inserting in lieu thereof “and (12)(A)”.

26 USC 57.

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 205(b) of the Economic Recovery Tax Act of 1981 but shall not apply to taxable years beginning after December 31, 1982.

26 USC 57 note.

(2) Paragraph (2) of section 58(f) is amended by striking out “the item of tax preference set forth in section 57(a)(2)” and inserting in lieu thereof “the items of tax preference set forth in paragraphs (2) and (12)(B) of section 57(a)”.

26 USC 58.

(3) Paragraph (12) of section 57(a) (defining items of tax preference) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) SUBPARAGRAPHS (A) AND (B) INAPPLICABLE WHERE LONGER RECOVERY PERIODS APPLY.—If, pursuant to section 168(b)(3) or 168(f)(2), the recovery period for any property is longer than the recovery period for such property set forth in subparagraph (A) or (B), subparagraph (A) or (B) (as the case may be) shall not apply to such property.”

26 USC 57.

(4) Subparagraph (A) of section 57(a)(12) is amended by striking out “under section 168(a)” and inserting in lieu thereof “under section 168(a) (or, in the case of property described in section 167(k), under section 167)”.

95 Stat. 224.
26 USC 1248.

(c) AMENDMENTS RELATED TO SECTION 206.—

(1) Paragraph (1) of section 1248(c) is amended by striking out “section 312(k)(3)” and inserting in lieu thereof “section 312(k)(4)”.

26 USC 562.

(2) Section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) is amended by adding at the end thereof the following new subsection:

“(e) SPECIAL RULES FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust, in determining the amount of dividends under section 316 for purposes of computing the dividends paid deduction, the earnings and profits of such trust for any taxable year beginning after December 31, 1980, shall be increased by the total amount of gain (if any) on the sale or exchange of real property by such trust during such taxable year.”

95 Stat. 225.
95 Stat. 226.
26 USC 168 note.

(d) AMENDMENTS RELATED TO SECTION 207.—

(1) Paragraph (1) of section 209(c) of the Economic Recovery Tax Act of 1981 (relating to effective date for carryover provisions) is amended by adding at the end thereof the following new subparagraph:

“(C) If any net operating loss for any taxable year ending on or before December 31, 1975, could be a net operating loss carryover to a taxable year ending in 1981 by reason of subclause (II) of section 172(b)(1)(E)(ii) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act and as modified by section 1(b) of Public Law 96-595), such net operating loss shall be a net operating loss carryover under section 172 of such Code to each of the 15 taxable years following the taxable year of such loss.”

26 USC 172 note.

26 USC 168 note.

(2) Subsection (c) of section 209 of the Economic Recovery Tax Act of 1981 is amended by adding at the end thereof the following new paragraph:

“(3) CARRYOVER MUST HAVE BEEN ALIVE IN 1981.—The amendments made by subsections (a), (b), and (c) of section 207 shall not apply to any amount which, under the law in effect on the day before the date of the enactment of this Act, could not be carried to a taxable year ending in 1981.”

26 USC 53.

(3) Paragraph (2) of section 207(c) of the Economic Recovery Tax Act of 1981 (relating to new employee credit) is amended by striking out “section 53(c)” and inserting in lieu thereof “section 53(b)”.

95 Stat. 227.

(e) AMENDMENTS RELATED TO SECTION 211.—

(1) APPLICABLE INVESTMENT TAX CREDIT PERCENTAGE FOR RECOVERY PROPERTY.—Paragraph (7) of section 46(c) (relating to applicable percentage for recovery property) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) in the case of property other than 3-year property (within the meaning of section 168(c)), 100 percent, and”, and

(B) by striking out “shall be treated as 5-year property” in the last sentence and inserting in lieu thereof “shall be treated as property which is not 3-year property”.

(2) PETROLEUM STORAGE FACILITIES.—

(A) Subparagraph (G) of section 48(a)(1) (defining section 38 property) is amended by inserting “(not including a building and its structural components)” after “storage facility”. 26 USC 48.

(B) Subparagraph (F) of section 1245(a)(3) (defining section 1245 property) is amended by inserting “(not including a building or its structural components)” after “storage facility”. 26 USC 1245.

(3) CLERICAL AMENDMENT.—

(A) Paragraph (2) of section 47(d) is amended— 26 USC 47.

(i) by striking out “section 48(c)(8)(D)” and inserting in lieu thereof “section 46(c)(8)(D)”, and

(ii) by striking out “section 48(c)(8)(B)” and inserting in lieu thereof “section 46(c)(8)(B)”.

(B) Subparagraph (A) of section 47(d)(3) is amended by striking out “section 46(c)(8)(E)” and inserting in lieu thereof “section 46(c)(8)(F)”.

(f) AMENDMENTS RELATED TO SECTION 212.—

95 Stat. 235.

(1) CLARIFICATION OF TRANSITIONAL RULE.—Subparagraph (B) of section 212(e)(2) of the Economic Recovery Tax Act of 1981 (relating to transitional rule for increase in investment tax credit for qualified rehabilitation expenditures) is amended to read as follows:

26 USC 46 note.

“(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).”

(2) DETERMINATION OF SUBSTANTIAL REHABILITATION.—Clause (i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended by striking out “the 24-month period ending on the last day of the taxable year” and inserting in lieu thereof “the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year”. 26 USC 48.

(3) CLARIFICATION OF BASIS ADJUSTMENT.—Subparagraph (A) of section 48(g)(5) (relating to adjustments to basis) is amended—

(A) by striking out “a credit is allowed under this section” and inserting in lieu thereof “a credit is determined under section 46(a)(2)”, and

(B) by striking out “the credit so allowed” and inserting in lieu thereof “the credit so determined”.

(4) EXTENSION OF TIME TO MAKE ELECTION TO USE STRAIGHT LINE DEPRECIATION.—Subparagraph (B) of section 168(f)(4) (relating to election made on return) is amended to read as follows:

26 USC 168.

“(B) ELECTION MADE ON RETURN.—

“(i) IN GENERAL.—Except as provided in clause (ii), any election under this section shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year concerned.

“(ii) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any qualified rehabilitated

building (as defined in section 48(g)(1)), an election under subsection (b)(3) may be made at any time before the date 3 years after the building was placed in service."

(5) **CLARIFICATION OF BUILDINGS ELIGIBLE FOR REHABILITATION CREDIT.**—

26 USC 46.

(A) Subclause (II) of section 46(a)(2)(F)(iii) (defining 40-year building) is amended by striking out "any building" and inserting in lieu thereof "a qualified rehabilitated building".

(B) Subclause (III) of section 46(a)(2)(F)(iii) (defining certified historic structure) is amended by striking out "has the meaning given to such term by section 48(g)(3)" and inserting in lieu thereof "means a qualified rehabilitated building which meets the requirements of section 48(g)(3)".

26 USC 48.

(6) **DEFINITION OF SUBSTANTIALLY REHABILITATED.**—Clause (i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended—

(A) by striking out "property" the first 2 places it appears and inserting in lieu thereof "building (and its structural components)",

(B) by striking out "property" the third place it appears and inserting in lieu thereof "building", and

(C) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation."

26 USC 170.

(7) **CROSS REFERENCE.**—Clause (ii) of section 170(h)(4)(B) (defining certified historic structure) is amended by striking out "section 191(d)(2)" and inserting in lieu thereof "section 48(g)(3)(B)".

95 Stat. 240.

26 USC 48 note.

(g) **AMENDMENT RELATED TO SECTION 213.**—Subsection (b) of section 213 of the Economic Recovery Tax Act of 1981 (relating to investment tax credit for used property; increase in dollar limit) is amended by striking out "property placed in service" and inserting in lieu thereof "taxable years beginning".

95 Stat. 241.

26 USC 108.

(h) **AMENDMENTS RELATED TO SECTION 221.**—

(1) Subparagraph (B) of section 108(b)(2) (relating to certain credit carryovers) is amended by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and by inserting after clause (iv) the following new clause:

"(v) section 44F (relating to credit for increasing research activities)."

26 USC 44F.

(2) Effective only with respect to amounts paid or incurred after March 31, 1982, subparagraph (A) of section 44F(b)(2) is amended by adding at the end thereof the following:

"Clause (iii) shall not apply to any amount to the extent that the taxpayer (or any person with whom the taxpayer must aggregate expenditures under subsection (f)(1)) receives or accrues any amount from any other person for the right to use substantially identical personal property."

95 Stat. 246.

26 USC 381.

(3) The paragraph (28) of section 381(c) added by section 221 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (29).

95 Stat. 250.

(i) **AMENDMENTS RELATED TO SECTION 234.**—

(1) Subparagraph (B) of section 1371(g)(3) (defining qualified subchapter S trust) is amended to read as follows: 26 USC 1371.

“(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States, and”.

(2) Section 678 is amended by adding at the end thereof the following new subsection: 26 USC 678.

“(e) CROSS REFERENCE.—

“For provision under which beneficiary of trust is treated as owner of the portion of the trust which consists of stock in an electing small business corporation, see section 1361(d).”

(j) AMENDMENTS RELATED TO SECTION 251.—

95 Stat. 256.

(1) Paragraph (8) of section 422A(b) (defining incentive stock option) is amended by striking out “granted options” and inserting in lieu thereof “granted incentive stock options”. 26 USC 422A.

(2) Paragraph (1) of section 422A(c) (relating to exercise of option where price is less than value of stock) is amended—

(A) by adding at the end thereof the following new sentence: “To the extent provided in regulations by the Secretary, a similar rule shall apply for purposes of paragraph (8) of subsection (b) and paragraph (4) of this subsection.”, and
(B) by striking out the paragraph heading and inserting in lieu thereof the following:

“(1) GOOD FAITH EFFORTS TO VALUE STOCK.—”

(3) Subparagraph (A) of section 422A(c)(2) (relating to certain disqualified dispositions where amount realized is less than value at exercise) is amended by striking out “the 2-year period” and inserting in lieu thereof “either of the periods”.

(4) Clause (ii) of section 422A(c)(4)(A) (relating to carryover of unused limit) is amended by striking out “granted options” and inserting in lieu thereof “granted incentive stock options”.

(5) Subsection (j) of section 425 (relating to cross references) is amended by inserting “an incentive stock option,” after “qualified stock option,” 26 USC 425.

(6) Effective only with respect to transfers after March 15, 1982—

(A) subsection (c) of section 425 (defining disposition) is amended by adding at the end thereof the following new paragraph:

“(3) SPECIAL RULE WHERE INCENTIVE STOCK IS ACQUIRED THROUGH USE OF OTHER STATUTORY OPTION STOCK.—

“(A) NONRECOGNITION SECTIONS NOT TO APPLY.—If—

“(i) there is a transfer of statutory option stock in connection with the exercise of any incentive stock option, and

“(ii) the applicable holding period requirements (under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)) are not met before such transfer,

then no section referred to in subparagraph (B) of paragraph (1) shall apply to such transfer.

“(B) STATUTORY OPTION STOCK.—For purpose of subparagraph (A), the term ‘statutory option stock’ means any stock acquired through the exercise of a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option.”, and

- 26 USC 425. (B) paragraph (1) of section 425(c) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".
- 95 Stat. 260. 26 USC 83. (k) AMENDMENT RELATED TO SECTION 252.—
 (1) Paragraph (3) of section 83(c) (relating to sales which may give rise to suit under section 16(b) of the Securities Exchange Act) is amended by striking out "Securities and Exchange Act of 1934" each place it appears and inserting in lieu thereof "Securities Exchange Act of 1934".
- 26 USC 83 note. (2) Subsection (c) of section 252 of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out "taxable years ending after December 31, 1981" and inserting in lieu thereof "transfers after December 31, 1981".
- 95 Stat. 260. (l) AMENDMENTS RELATED TO SECTION 261.—
 (1) CLARIFICATION OF DEFINITION OF YOUTH PARTICIPATING IN QUALIFIED COOPERATIVE EDUCATION PROGRAM.—Subparagraph (D) of section 51(d)(8) (defining wages) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "clauses (i), (ii), and (iii) of subparagraph (A)".
- 26 USC 51. (2) CLARIFICATION OF EFFECTIVE DATE FOR ELIGIBLE WORK INCENTIVE EMPLOYEES.—Subparagraph (B) of section 261(g)(1) of the Economic Recovery Tax Act of 1981 (relating to eligible work incentive employees) is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".
- 26 USC 51 note. (3) DEFINITION OF ELIGIBLE WORK INCENTIVE EMPLOYEES.—Subparagraph (B) of section 51(d)(9) (defining eligible work incentive employees) is amended by striking out "section 432(b)(1)" and inserting in lieu thereof "section 432(b)(1) or 445".
- (4) PERIOD DURING WHICH LOW-INCOME DETERMINATION IS MADE.—Effective with respect to certifications made after the date of the enactment of this Act with respect to individuals beginning work for an employer after May 11, 1982, paragraph (11) of section 51(d) (defining members of an economically disadvantaged family) is amended by striking out "the month in which such determination occurs" and inserting in lieu thereof "the earlier of the month in which such determination occurs or the month in which the hiring date occurs".
- 95 Stat. 264. 26 USC 809. (m) AMENDMENTS RELATED TO SECTION 263.—
 (1) Subparagraph (A) of section 809(e)(3) (relating to charitable, etc., contributions and gifts) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".
- 26 USC 545, 556. (2) Sections 545(b)(2) and 556(b)(2) are each amended by striking out "5-percent" and inserting in lieu thereof "10-percent".
- 26 USC 512. (3) Paragraph (10) of section 512(b) (relating to modifications to unrelated business taxable income) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".
- 95 Stat. 265. 26 USC 165 note. (n) AMENDMENT RELATED TO SECTION 266.—Subsection (c) of section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authority) is amended by adding at the end thereof the following new paragraph:
 "(3) SECTION 381 OF THE INTERNAL REVENUE CODE OF 1954 TO APPLY.—For purposes of section 381 of the Internal Revenue Code of 1954, any item described in this section shall be treated as an item described in subsection (c) of such section 381."
- SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE ACT.
- 95 Stat. 267. (a) AMENDMENTS RELATED TO SECTION 301.—

(1) Paragraph (4) of section 128(d) (relating to limitation for credit unions) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the amounts described in subparagraph (A) of paragraph (5) shall include amounts paid into credit union share accounts." 95 Stat. 267.
26 USC 128.

(2) Paragraph (2) of section 584(c) (relating to dividends or interest received) is amended to read as follows: 26 USC 584.

"(2) DIVIDENDS OR INTEREST RECEIVED.—The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 or 128 applies shall be considered for purposes of such section as having been received by such participant."

(3) Paragraph (7) of section 643(a) (defining distributable net income) is amended to read as follows: 26 USC 643.

"(7) DIVIDENDS OR INTEREST.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain interest)."

(4) Paragraph (5) of section 702(a) (relating to income and credits of partner) is amended to read as follows: 26 USC 702.

"(5) dividends or interest with respect to which there is an exclusion under section 116 or 128, or a deduction under part VIII of subchapter B,"

(5) Subparagraph (A) of section 128(c)(2) (defining qualified institution) is amended— 26 USC 128.

(A) by striking out "or" at the end of clause (ii), and

(B) by inserting after clause (iii) the following new clause:

"(iv) a banking facility (whether or not insured under Federal or State law) which is operated under a cost plus agreement with the Department of Defense for members of the Armed Forces of the United States serving outside the United States and their dependents, or"

(b) AMENDMENT RELATED TO SECTION 302.—Subsection (c) of section 128 (as amended by section 302(a) of the Economic Recovery Tax Act of 1981) is amended by adding at the end thereof the following new paragraph: 95 Stat. 270.
26 USC 128.

"(3) LIMITATION ON QUALIFIED INTEREST EXPENSES, ETC.—

"(A) LIMITATION.—The amount of the qualified interest expense of any taxpayer for any taxable year shall not exceed such taxpayer's excess itemized deductions (as defined in section 63(c)).

"(B) COORDINATION WITH OTHER PROVISIONS.—For purposes of sections 37, 43, 85, 105(d), 165(c)(3), 170(b), and 213, adjusted gross income shall be determined without regard to the exclusion provided by this section."

(c) AMENDMENTS RELATED TO SECTION 311.— 95 Stat. 274.

(1) LIMITATION ON DEDUCTION FOR SPOUSE.—Subparagraph (B) of section 219(c)(2) (relating to limitation) is amended to read as follows: 26 USC 219.

"(B) the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))."

26 USC 219.

(2) **CLARIFICATION OF AGE 70½ RULE.**—Paragraph (1) of section 219(d) (relating to individuals who have attained age 70½) is amended to read as follows:

“(1) **BENEFICIARY MUST BE UNDER AGE 70½.**—No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual’s taxable year for which the contribution was made.”

(3) **DEFINITION OF QUALIFIED EMPLOYER PLAN.**—

(A) Paragraph (3) of section 219(e) (defining qualified employer plan) is amended by inserting “and” at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

26 USC 72.

(B)(i) Paragraph (3) of section 72(p) (defining qualified employer plan, etc.) is amended by striking out “without regard to subparagraph (D) thereof”.

Effective date.
26 USC 72 note.

(ii) The amendment made by clause (i) shall take effect as if the matter struck out had never been included in such paragraph.

(4) **CLARIFICATION OF DEFINITION OF COMPENSATION.**—Paragraph (1) of section 219(f) (defining compensation) is amended to read as follows:

“(1) **COMPENSATION.**—For purposes of this section, the term ‘compensation’ includes earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62. The term ‘compensation’ does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation.”

(5) **TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.**—Subparagraph (B) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out “the contribution is made” and inserting in lieu thereof “the contribution is made on account of the taxable year which includes such last day and”.

(6) **CLARIFICATION OF ADDITIONAL TAX WHERE AMOUNTS RECEIVED BEFORE AGE 59½.**—Subparagraph (A) of section 72(o)(2) (relating to additional tax if amount received before age 59½) is amended by striking out “to which the employee made one or more deductible employee contributions”.

26 USC 402.

(7) **10-YEAR AVERAGING AND CAPITAL GAINS PROVISIONS.**—The last sentence of subparagraph (A) of section 402(e)(4) (defining lump sum distribution) is amended by striking out “this section and section 403” and inserting in lieu thereof “this subsection, subsection (a)(2) of this section, and subsection (a)(2) of section 403”.

(8) **ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.**—

(A) Subparagraph (D) of section 402(a)(5) (relating to rollover amounts) is amended by adding at the end thereof the following new clause:

“(v) **ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.**—In the case of any qualifying rollover distribution described in subclause (III) of clause (i), clause (i) of subparagraph (A) shall be applied by substituting ‘any portion of the balance’ for ‘the balance.’”

- (B) Subparagraph (C) of section 403(b)(8) (relating to roll-over amounts) is amended by striking out “subparagraphs (B), (C),” and inserting in lieu thereof “subparagraphs (B), (C), (D)(v).” 26 USC 403.
- (9) ESTATE TAX EXCLUSION.—
- (A) Paragraph (1) of section 2039(f) is amended to read as follows: 26 USC 2039.
- “(1) IN GENERAL.—An amount is described in this subsection if—
- “(A) it is a lump sum distribution described in section 402(e)(4) (determined without regard to the third sentence of section 402(e)(4)(A)), or
- “(B) it is an amount attributable to accumulated deductible employee contributions (as defined in section 72(o)(5)(B)) in any plan taken into account for purposes of determining whether the distribution described in subparagraph (A) qualifies as a lump sum distribution.”
- (B) Paragraph (2) of section 2039(f) is amended by striking out “A lump sum distribution” and inserting in lieu thereof “An amount”.
- (10) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS BY OWNER-EMPLOYEES PERMITTED.—
- (A) The second sentence of section 401(d)(5) is amended to read as follows: “Subparagraphs (A) and (B) shall not apply to contributions described in subsection (e), and shall not apply to any deductible employee contribution (as defined in section 72(o)(5)).” 26 USC 401.
- (B) Paragraph (2) of section 4972(b) (relating to contributions by owner-employees) is amended by adding at the end thereof the following new sentence: “No contribution by an owner-employee which is a deductible employee contribution (as defined in section 72(o)(5)) shall be taken into account under this paragraph.” 26 USC 4972.
- (11) EFFECTIVE DATE FOR ESTATE AND GIFT TAX PROVISIONS.— 26 USC 219 note.
Subsection (i) of section 311 of the Economic Recovery Tax Act of 1981 (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 95 Stat. 274.
- “(5) ESTATE AND GIFT TAX PROVISIONS.—
- “(A) ESTATE TAX.—The amendments made by subsections (d)(1) and (h)(4) shall apply to the estates of decedents dying after December 31, 1981.
- “(B) GIFT TAX.—The amendments made by subsections (d)(2) and (h)(5) shall apply to transfers after December 31, 1981.”
- (12) CLERICAL AMENDMENTS.—
- (A) Subparagraph (A) of section 219(b)(2) is amended by striking out “paragraph (1)” and inserting in lieu thereof “paragraph (1)”. 26 USC 219.
- (B) Subparagraph (D) of section 3401(a)(12) is amended by striking out “section 219(a)” and inserting in lieu thereof “section 219”. 26 USC 3401.
- (C) Subsection (d) of section 6047 is amended by striking out “section 219(a)” and inserting in lieu thereof “section 219”. 26 USC 6047.
- (D) Paragraph (2) of section 311(c) of the Economic Recovery Tax Act of 1981 is amended to read as follows: 26 USC 402.

- “**(2)** Subparagraph (J) of section 402(e)(4) (relating to tax on lump sum distribution) is amended by adding at the end thereof the following new sentence: ‘This subparagraph shall not apply to distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5)).’”
- 95 Stat. 283. (d) **AMENDMENTS RELATED TO SECTION 312.—**
- 26 USC 408. (1) **SIMPLIFIED EMPLOYEE PENSIONS.—**
 (A) Clause (ii) of section 408(k)(3)(C) (relating to uniform relationships of contributions) is amended by striking out “on behalf of each employee” and inserting in lieu thereof “on behalf of each employee (other than an employee within the meaning of section 401(c)(1))”.
 (B) Subsection (j) of section 408 is amended by striking out “\$15,000” and inserting in lieu thereof “\$17,000”.
- 26 USC 401. (2) **CONFORMING AMENDMENT.—**The last sentence of section 401(j)(3) is amended—
 (A) by striking out “subsection (j)(2)” and inserting in lieu thereof “paragraph (2)”, and
 (B) by inserting “with respect only to such change” after “participation”.
- 26 USC 72 note. (3) **CLARIFICATION OF EFFECTIVE DATE.—**Paragraph (1) of section 312(f) of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out “plans which include employees within the meaning of section 401(c)(1) with respect to”.
- 95 Stat. 286. (e) **AMENDMENTS RELATED TO SECTION 314.—**
- 26 USC 408. (1) Paragraph (1) of section 314(b) of the Economic Recovery Tax Act of 1981 is amended by striking out “by redesignating subsection (n) as subsection (o) and by inserting after subsection (m)” and inserting in lieu thereof “by redesignating subsection (m) as subsection (n) and by inserting after subsection (l)”.
- 26 USC 408. (2) Section 408 is amended by redesignating the subsection added by section 314(b)(1) of the Economic Recovery Tax Act of 1981 as subsection (m).
- 95 Stat. 287. (f) **AMENDMENTS RELATED TO SECTION 321.—**
- 26 USC 305. (1) Subparagraph (A) of section 305(e)(3) (defining qualified public utility) is amended to read as follows:
 “(A) **IN GENERAL.—**For purposes of this subsection, the term ‘qualified public utility’ means, for any taxable year of the corporation, a domestic corporation which, for the 10-year period ending on the day before the beginning of the taxable year, placed in service qualified long-life public utility property having a cost equal to at least 60 percent of the aggregate cost of all tangible property described in subparagraph (A) or (B) of section 1245(a)(3) placed in service by the corporation during such period.”
- (2) Clause (ii) of section 305(e)(3)(C) is amended to read as follows:
 “(ii) **QUALIFIED LONG-LIFE PUBLIC UTILITY PROPERTY.—**The term ‘qualified long-life public utility property’ means any tangible property which—
 “(I) is described in subparagraph (A) or (B) of section 1245(a)(3),
 “(II) has a present class life (as defined in section 168(g)(2)) of more than 18 years, and
 “(III) is public utility property (within the meaning of section 167(l)(3)(A)).”

- (g) AMENDMENTS RELATED TO SECTION 331.— 95 Stat. 289.
- (1) CERTAIN REGULATED COMPANIES.—Paragraph (3) of section 44G(b) (relating to certain regulated companies) is amended— 26 USC 44G.
- (A) by striking out “No credit” and inserting in lieu thereof “No credit attributable to compensation taken into account for the ratemaking purposes involved”, and
- (B) by adding at the end thereof the following new sentence:
- “Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.”
- (2) CONFORMING AMENDMENTS.—
- (A) Paragraph (21) of section 401(a) is amended by striking out “which would be allowable” and all that follows and inserting in lieu thereof the following: 26 USC 401.
- “which would be allowable—
- “(A) under section 46(a) if the employer made the transfer described in section 48(n)(1), or
- “(B) under section 44G if the employer made the transfer described in section 44G(c)(1)(B).”
- (B) Paragraph (4) of section 331(c) of the Economic Recovery Tax Act of 1981 is amended by striking out “section 6699” and inserting in lieu thereof “section 6699(c)”. 26 USC 6699.
- (C) Clause (ii) of section 6699(c)(2)(A) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “clause (i)”. 26 USC 6699.
- (D) Clause (ii) of section 6699(c)(2)(B) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “clause (i)”. 26 USC 55.
- (E) Paragraph (4) of section 55(c) is amended by striking out “44G(b)(1),”. 26 USC 381.
- (F) The paragraph (29) of section 381(c) added by section 331 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (30).
- (h) AMENDMENT RELATED TO SECTION 334.—The last sentence of section 409A(h)(2) is amended by striking out “the requirements of section 401(a)” and inserting in lieu thereof “the requirements of this subsection or of section 401(a)”. 95 Stat. 297. 26 USC 409A.
- (i) AMENDMENT RELATED TO SECTION 337.—Paragraph (2) of section 409A(d) is amended to read as follows: 95 Stat. 298.
- “(2) a transfer of a participant to the employment of an acquiring employer from the employment of the selling corporation in the case of a sale to the acquiring corporation of substantially all of the assets used by the selling corporation in a trade or business conducted by the selling corporation, or”.
- SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE ACT.**
- (a) AMENDMENTS RELATED TO SECTION 403.— 95 Stat. 301.
- (1) PROPERTY TREATED AS HAVING PASSED FROM SPOUSE.—
- (A) Subsection (b) of section 1014 (relating to basis of property acquired from decedent) is amended by adding at the end thereof the following new paragraph: 26 USC 1014.
- “(10) Property includible in the gross estate of the decedent under section 2044 (relating to certain property for which marital deduction was previously allowed). In any such case, the last 3 sentences of paragraph (9) shall apply as if such property were described in the first sentence of paragraph (9).”

26 USC 2044.

(B) Section 2044 (relating to certain property for which marital deduction was previously allowed) is amended by adding at the end thereof the following new subsection:

“(c) PROPERTY TREATED AS HAVING PASSED FROM DECEDENT.—For purposes of this chapter and chapter 13, property includible in the gross estate of the decedent under subsection (a) shall be treated as property passing from the decedent.”

26 USC 2056.

(2) DENIAL OF DOUBLE DEDUCTION.—
 (A) Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end thereof the following new paragraph:

“(9) DENIAL OF DOUBLE DEDUCTION.—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same decedent.”

26 USC 2523.

(B) Section 2523 (relating to gift to spouse) is amended by adding at the end thereof the following new subsection:

“(h) DENIAL OF DOUBLE DEDUCTION.—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same donor.”

26 USC 2519.

(3) DISPOSITIONS OF CERTAIN LIFE ESTATES.—
 (A) Subsection (a) of section 2519 (relating to dispositions of certain life estates) is amended to read as follows:

“(a) GENERAL RULE.—For purposes of this chapter and chapter 11, any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of all interests in such property other than the qualifying income interest.”

95 Stat. 301.

(B) Clauses (i) and (ii) of section 403(d)(3)(B) of the Economic Recovery Tax Act of 1981 are each amended by striking out “chapter 11” and inserting in lieu thereof “chapter 12”.

(4) TIME FOR MAKING ELECTION.—Paragraph (4) of section 2523(f) (relating to election with respect to life estate for donee spouse) is amended to read as follows:

“(4) ELECTION.—

“(A) TIME AND MANNER.—An election under this subsection with respect to any property shall be made on or before the first April 15th after the calendar year in which the interest was transferred and shall be made in such manner as the Secretary shall by regulations prescribe.

“(B) ELECTION IRREVOCABLE.—An election under this subsection, once made, shall be irrevocable.”

(5) TREATMENT OF CERTAIN INTEREST RETAINED BY DONOR SPOUSE.—Subsection (f) of section 2523 (relating to election with respect to life estate for donee spouse) is amended by adding at the end thereof the following new paragraph:

“(5) TREATMENT OF INTEREST RETAINED BY DONOR SPOUSE.—
 “(A) IN GENERAL.—In the case of any qualified terminable interest property—

“(i) such property shall not be includible in the gross estate of the donor spouse, and

“(ii) any subsequent transfer by the donor spouse of an interest in such property shall not be treated as a transfer for purposes of this chapter.

“(B) SUBPARAGRAPH (A) NOT TO APPLY AFTER TRANSFER BY DONEE SPOUSE.—Subparagraph (A) shall not apply with respect to any property after the donee spouse is treated as having transferred such property under section 2519, or such property is includible in the donee spouse’s gross estate under section 2044.”

(6) AMENDMENT OF SECTION 2523(f).—Paragraph (3) of section 2523(f) (relating to certain rules made applicable) is amended by striking out “the rules of” and inserting in lieu thereof “rules similar to the rules of”. 26 USC 2523.

(7) CROSS REFERENCE.—Section 2519 is amended by adding at the end thereof the following new subsection: 26 USC 2519.

“(c) CROSS REFERENCE.—

“For right of recovery for gift tax in the case of property treated as transferred under this section, see section 2207A(b).”

(8) TREATMENT OF ANNUITIES.—Clause (ii) of section 2056(b)(7)(B) is amended by adding at the end thereof the following new sentence: “To the extent provided in regulations, an annuity shall be treated in a manner similar to an income interest in property (regardless of whether the property from which the annuity is payable can be separately identified).” 26 USC 2056.

(9) CLERICAL AMENDMENT.—Paragraph (2) of section 2035(b) is amended by striking out “section 6019(a)(2)” and inserting in lieu thereof “section 6019(2)”. 26 USC 2035.

(10) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (2) of section 403(e) of the Economic Recovery Tax Act of 1981 is amended by striking out “and paragraphs (2) and (3)(B) of subsection (d)” and inserting in lieu thereof “paragraphs (2) and (3)(B) of subsection (d), and paragraph (4)(A) of subsection (d) (to the extent related to the tax imposed by chapter 12 of the Internal Revenue Code of 1954)”. 26 USC 2056 note.

(b) AMENDMENTS RELATED TO SECTION 421.—

(1) TREATMENT OF CERTAIN SURVIVING SPOUSES.—Paragraph (5) of section 2032A(b) (relating to special rules for surviving spouses) is amended by adding at the end thereof the following new subparagraph: 26 USC 2501 et seq.
95 Stat. 306.
26 USC 2032A.

“(C) COORDINATION WITH PARAGRAPH (4).—In any case in which to do so will enable the requirements of paragraph (1)(C)(ii) to be met with respect to the surviving spouse, this subsection and subsection (c) shall be applied by taking into account any application of paragraph (4).”

(2) EXCHANGES OF QUALIFIED REAL PROPERTY.—

(A) Clause (ii) of section 2032A(i)(1)(B) (relating to exchanges where other property received) is amended by striking out “the other property” and inserting in lieu thereof “the qualified exchange property”.

(B) Paragraph (3) of section 2032A(i) is amended by striking out “subparagraph (A), (B), or (C)” and inserting in lieu thereof “subparagraph (A) or (B)”.

(3) TRANSFERS OF CERTAIN FARM, ETC., REAL PROPERTY.—

(A) Subsection (a) of section 1040 (relating to transfer of certain farm, etc., real property) is amended by striking out “such exchange” and inserting in lieu thereof “such transfer”. 26 USC 1040.

(B) Subsection (c) of section 1040 is amended—

(i) by striking out "an exchange" and inserting in lieu thereof "a transfer",

(ii) by striking out "the exchange" each place it appears and inserting in lieu thereof "the transfer", and

(iii) by striking out "EXCHANGE" in the subsection heading and inserting in lieu thereof "TRANSFER".

26 USC 1223.

(C) Section 1223 (defining holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) If—

"(A) property is acquired by any person in a transfer to which section 1040 applies,

"(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death, and

"(C) such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year."

(4) CLARIFICATION OF EFFECTIVE DATES.—

95 Stat. 306.
26 USC 2032A
note.

(A) Subparagraph (A) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out "subsections (b)(1), (c)(2), (j)(1), and (j)(2)" and inserting in lieu thereof "subsections (b)(1), (j)(1), and (j)(2) and the provisions of subparagraph (A) of section 2032A(c)(7) of the Internal Revenue Code of 1954 (as added by subsection (c)(2))".

(B) Subparagraph (B) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out the second sentence and inserting in lieu thereof the following: "If the estate of any decedent would not qualify under section 2032A of the Internal Revenue Code of 1954 but for the amendments described in subparagraph (A) and the time for making an election under section 2032A with respect to such estate would (but for this sentence) expire after July 28, 1980, the time for making such election shall not expire before the close of February 16, 1982."

(C)(i) Subparagraph (C) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out "within 6 months after the date of the enactment of this Act" and inserting in lieu thereof "at any time before February 17, 1982".

(ii) Subparagraph (D) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended—

(I) by striking out "within 6 months after such date of enactment" and inserting in lieu thereof "before February 17, 1982", and

(II) by striking out "the date 6 months after such date of enactment" and inserting in lieu thereof "February 17, 1982".

95 Stat. 314.
26 USC 6166.

(c) AMENDMENTS RELATED TO SECTION 422.—

(1) Paragraph (3) of section 6166(b) (relating to farm houses and certain other structures taken into account) is amended by striking out "65-percent requirement" and inserting in lieu thereof "35-percent requirement".

(2) Clauses (i) and (ii) of the first sentence of section 6166(g)(1)(B) (relating to disposition of interest; withdrawal of funds from business) are amended to read as follows: 26 USC 6166.

“(i) the redemption of such stock, and the withdrawal of money and other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and

“(ii) for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed.”

(d) AMENDMENTS RELATED TO SECTION 424.—

95 Stat. 317.

(1) COORDINATION WITH SECTION 6166 (a) (1).—

(A) IN GENERAL.—Subsection (d) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding at the end thereof the following new paragraph: 26 USC 2035.

“(4) COORDINATION OF 3-YEAR RULE WITH SECTION 6166 (a) (1).—An estate shall be treated as meeting the 35-percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).”

(B) CROSS REFERENCE.—Subsection (j) of section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

“(5) TRANSFERS WITHIN 3 YEARS OF DEATH.—

“For special rule for qualifying an estate under this section where property has been transferred within 3 years of decedent's death, see section 2035(d)(4).”

(C) CONFORMING AMENDMENT.—Paragraph (3) of section 2035(d) is amended by striking out subparagraph (C), by adding “and” at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(2) EXCEPTIONS FOR CERTAIN TRANSFERS.—Paragraph (2) of section 2035(d) (relating to exceptions for certain transfers) is amended—

(A) by inserting “of this subsection and paragraph (2) of subsection (b)” after “Paragraph (1)”, and

(B) by striking out “2041”.

(3) ELECTION TO HAVE AMENDMENTS NOT APPLY.—

26 USC 2501
note.

(A) In the case of any decedent—

(i) who dies before August 13, 1984, and

(ii) who made a gift (before August 13, 1981, and during the 3-year period ending on the date of the decedent's death) on which tax imposed by chapter 12 of the Internal Revenue Code of 1954 has been paid before April 16, 1982,

26 USC 2501 *et seq.*

such decedent's executor may make an election to have subtitle B of such Code (relating to estate and gift taxes) applied with respect to such decedent without regard to any of the amendments made by title IV of the Economic Recovery Tax Act of 1981.

26 USC 2001.

(B) An election under subparagraph (A) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) An election under subparagraph (A), once made, shall be irrevocable.

95 Stat. 318.
26 USC 2518.

(e) AMENDMENT RELATED TO SECTION 426.—Paragraph (3) of section 2518(c) (relating to disclaimers) is amended by striking out “For purposes of subsection (a), a” and inserting in lieu thereof “A”.

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE ACT.

95 Stat. 323.

(a) AMENDMENTS RELATED TO SECTION 501.—

26 USC 1092.

(1) LOSS COMPUTED WITH RESPECT TO UNRECOGNIZED GAIN.—

(A) IN GENERAL.—Subparagraph (A) of section 1092(a)(1) (relating to recognition of loss in case of straddles, etc.) is amended by striking out “unrealized gain” and inserting in lieu thereof “unrecognized gain”.

(B) UNRECOGNIZED GAIN DEFINED.—So much of paragraph (3) of section 1092(a) as precedes subparagraph (B) thereof is amended to read as follows:

“(3) UNRECOGNIZED GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘unrecognized gain’ means—

“(i) in the case of any position held by the taxpayer as of the close of the taxable year, the amount of gain which would be taken into account with respect to such position if such position were sold on the last business day of such taxable year at its fair market value, and

“(ii) in the case of any position with respect to which, as of the close of the taxable year, gain has been realized but not recognized, the amount of gain so realized.”

(C) REPORTING OF GAIN.—Subclauses (I) and (II) of section 1092(a)(3)(B)(i) (relating to reporting of gain) are amended to read as follows:

“(I) each position (whether or not part of a straddle) with respect to which, as of the close of the taxable year, there is unrecognized gain, and

“(II) the amount of such unrecognized gain.”

(D) CLERICAL AMENDMENTS.—

26 USC 6653.

(i) Section 6653 (relating to failure to pay tax) is amended by redesignating subsection (g) as subsection (f).

(ii) The subsection heading of subsection (f) of section 6653 (as redesignated by clause (i)) is amended by striking out “UNREALIZED” and inserting in lieu thereof “UNRECOGNIZED”.

(2) CLARIFICATION OF GENERAL RULE LIMITING RECOGNITION OF LOSS.—Subparagraph (A) of section 1092(a)(1) is amended by striking out “which—” and all that follows and inserting in lieu thereof the following: “which were offsetting positions with respect to 1 or more positions from which the loss arose.”

(3) COORDINATION WITH SECTION 1256.—Paragraph (4) of section 1092(d) (relating to special rule for regulated futures contracts) is amended to read as follows:

“(4) SPECIAL RULE FOR REGULATED FUTURES CONTRACTS.—In the case of a straddle at least 1 (but not all) of the positions of which are regulated futures contracts, the provisions of this section

shall apply to any regulated futures contract and any other position making up such straddle."

(4) **CLERICAL AMENDMENT.**—Subparagraph (C) of section 1092(c)(2) (relating to offsetting positions) is amended by striking out "subsection (a)(3)(B)" and inserting in lieu thereof "subsection (a)(2)(B)". 26 USC 1092.

(b) **AMENDMENTS RELATED TO SECTION 502.**—

95 Stat. 327.

(1) **IN GENERAL.**—Clause (ii) of section 263(g)(2)(A) (defining interest and carrying charges) is amended to read as follows: 26 USC 263.

"(ii) all other amounts (including charges for temporary use of the personal property in a short sale, or to insure, store, or transport the personal property) paid or incurred to carry the personal property, over".

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to property acquired, and positions established, by the taxpayer after September 22, 1982, in taxable years ending after such date. 26 USC 263 note.

(c) **AMENDMENTS RELATED TO SECTION 503.**—

95 Stat. 327.

(1) **TRANSFERS OF RIGHTS AND OBLIGATIONS.**—Subsection (c) of section 1256 (relating to regulated futures contracts marked to market) is amended to read as follows: 26 USC 1256.

"(c) **TERMINATIONS, ETC.**—

"(1) **IN GENERAL.**—The rules of paragraphs (1), (2), and (3) of subsection (a) shall also apply to the termination (or transfer) during the taxable year of the taxpayer's obligation (or rights) with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise.

"(2) **SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY ON PART OF STRADDLE.**—If—

"(A) 2 or more regulated futures contracts are part of a straddle (as defined in section 1092(c)), and

"(B) the taxpayer takes delivery under any of such contracts,

then, for purposes of this section, each of the other such contracts shall be treated as terminated on the day on which the taxpayer took delivery.

"(3) **FAIR MARKET VALUE TAKEN INTO ACCOUNT.**—For purposes of this subsection, fair market value at the time of the termination (or transfer) shall be taken into account."

(2) **IDENTIFICATION OF MIXED STRADDLES.**—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by striking out "such position" and inserting in lieu thereof "the first regulated futures contract forming part of the straddle".

(3) **ACTIVE MANAGEMENT WITH RESPECT TO SYNDICATES.**—Clause (v) of section 1256(e)(3)(C) is amended by inserting "(by regulations or otherwise)" after "determines".

(4) **HOLDING PERIOD.**—Paragraph (8) of section 1223 (relating to holding period of property) is amended by inserting "(other than a commodity futures contract to which section 1256 applies)" after "commodity futures contract" the first place it appears. 26 USC 1223.

(5) **FOREIGN CURRENCY AND CASH SETTLEMENT CONTRACTS MARKED TO MARKET.**—

(A) **CASH SETTLEMENT CONTRACTS.**—Subsection (b) of section 1256 (defining regulated futures contract) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 1256.

(B) FOREIGN CURRENCY CONTRACTS.—Subsection (b) of section 1256 (as amended by subparagraph (A)) is amended by adding at the end thereof the following new sentence: "Such term includes any foreign currency contract."

(C) FOREIGN CURRENCY CONTRACT DEFINED.—Section 1256 is amended by adding at the end thereof the following new subsection:

“(g) FOREIGN CURRENCY CONTRACT DEFINED.—

“(1) FOREIGN CURRENCY CONTRACT.—For purposes of this section, the term ‘foreign currency contract’ means a contract—

“(A) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

“(B) which is traded in the interbank market, and

“(C) which is entered into at arm’s length at a price determined by reference to the price in the interbank market.

Regulations.

“(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1), including regulations excluding from the application of paragraph (1) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.”

26 USC 1256 note.

(D) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the amendments made by subparagraphs (B) and (C) shall apply only with respect to contracts entered into after May 11, 1982.

(ii) ELECTION BY TAXPAYER OF RETROACTIVE APPLICATION.—

(I) RETROACTIVE APPLICATION.—If the taxpayer so elects, the amendments made by subparagraphs (B) and (C) shall apply as if included within the amendments made by title V of the Economic Recovery Tax Act of 1981.

95 Stat. 323.

(II) ADDITIONAL CHOICES WITH RESPECT TO 1981.—If the taxpayer held a foreign currency contract after December 31, 1980, and before June 24, 1981, and such taxpayer makes an election under subclause (I), such taxpayer may revoke any election made under section 508(c) or 509(a) of such Act, and may make an election under section 508(c) or 509(a) of such Act.

(III) ADDITIONAL CHOICES APPLY TO ALL REGULATED FUTURES CONTRACTS.—Except as provided in subclause (IV), in the case of any taxpayer who makes an election under subclause (I), any election under section 508(c) or 509(a) of such Act or any revocation of such an election shall apply to all regulated futures contracts (including foreign currency contracts).

(IV) SECTION 509 (a) (3) AND (4) NOT TO APPLY TO FOREIGN CURRENCY CONTRACTS.—Paragraphs (3) and (4) of section 509(a) of such Act shall not apply to any foreign currency contract.

(V) TIME FOR MAKING ELECTION OR REVOCATION.—Any election under subclause (I) and any election or revocation under subclause (II) may be made only within the 90-day period beginning on the

date of the enactment of this Act. Any such action, once taken, shall be irrevocable.

(VI) DEFINITIONS.—For purposes of this clause, the terms “regulated futures contract” and “foreign currency contract” have the same respective meanings as when used in section 1256 of the Internal Revenue Code of 1954 (as amended by this Act).

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD DURING TAXABLE YEARS ENDING AFTER MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) applied to all positions held in taxable years ending after May 11, 1982, except that the provisions of section 509(a) (3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

(6) CLARIFICATION OF EXTENSION.—Paragraph (3) of section 509(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

26 USC 1256
note.

“(3) the fair market value on the last business day of the preceding taxable year for each regulated futures contract described in paragraph (2), and”.

(7) CLERICAL AMENDMENT.—Subparagraph (A) of section 1212(c)(4) (defining net commodities futures loss) is amended by striking out “and positions to which section 1256 applies”.

26 USC 1212.

(d) AMENDMENT RELATED TO SECTION 506.—

95 Stat. 332.

(1) REQUIREMENT THAT OPTIONS BE DESIGNATED AS HELD FOR INVESTMENT.—Section 1236 (relating to dealers in securities) is amended by adding at the end thereof the following new subsection:

26 USC 1236.

“(e) SPECIAL RULE FOR OPTIONS.—For purposes of subsection (a), any security acquired by a dealer pursuant to an option held by such dealer may be treated as held for investment only if the dealer, before the close of the day on which the option was acquired, clearly identified the option on his records as held for investment. For purposes of the preceding sentence, the term ‘option’ includes the right to subscribe to or purchase any security.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to securities acquired after September 22, 1982, in taxable years ending after such date.

26 USC 1236
note.

(e) AMENDMENT RELATED TO SECTION 507.—Section 1234A (relating to gains or losses from certain terminations) is amended to read as follows:

95 Stat. 333.
26 USC 1234A.

“SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

“Gain or loss attributable to the cancellation, lapse, expiration, or other termination of—

“(1) a right or obligation with respect to personal property (as defined in section 1092(d)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer, or

“(2) a regulated futures contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer,

shall be treated as gain or loss from the sale of a capital asset.”

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE ACT.

(a) AMENDMENTS RELATED TO SECTION 601.—

95 Stat. 335.

(1) PRODUCTION FROM TRANSFERRED PROPERTY.—Paragraph (3) of section 6429(d) (relating to production from transferred property) is amended by striking out subparagraph (D).

26 USC 6429.

26 USC 4994.

(2) **ALLOCATION OF ROYALTY LIMIT.**—Subparagraph (B) of section 4994(f)(3) (relating to allocation of royalty limit) is amended by striking out “subsection (b)(1)” and inserting in lieu thereof “paragraph (2)(A)”.

26 USC 6429.

(3) **QUALIFIED FAMILY CORPORATION DEFINED.**—Subparagraph (B) of section 6429(d)(4) is amended by striking out “other than royalty interests described in paragraph (2)(A)” and inserting in lieu thereof “other than royalty interests from which there is qualified royalty production determined by treating such corporation as a qualified royalty owner”.

(4) **CREDIT OR REFUND FOR BENEFICIARIES OF TRUST OWNING ROYALTY INTERESTS.**—

(A) **IN GENERAL.**—Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

26 USC 6430.

“**SEC. 6430. CREDIT OR REFUND OF WINDFALL PROFIT TAXES TO CERTAIN TRUST BENEFICIARIES.**

“(a) **GENERAL RULE.**—That portion of the tax imposed by section 4986 (relating to crude oil windfall profit tax) which is paid by any trust with respect to any qualified beneficiary’s allocable trust production shall be treated as an overpayment of such tax by such qualified beneficiary. Any such overpayment shall be credited against the tax imposed by section 4986 or refunded to such qualified beneficiary.

“(b) **COORDINATION WITH ROYALTY EXEMPTION.**—

“(1) **IN GENERAL.**—If the aggregate amount of the allocable trust production of any qualified beneficiary for any calendar year exceeds such beneficiary’s unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under subsection (a) with respect to such qualified beneficiary shall be reduced by an amount which bears the same ratio to the amount which (but for this paragraph) would be so treated as—

“(A) the amount of such excess, bears to

“(B) the aggregate amount of such allocable trust production.

“(2) **UNUSED EXEMPT ROYALTY LIMIT.**—The unused exempt royalty limit of any qualified beneficiary for any calendar year is the excess of—

“(A) the number of days in such calendar year, multiplied by the limitation in barrels determined under the table contained in section 4994(f)(2)(A)(ii), over

“(B) the amount of exempt royalty oil (within the meaning of section 4994(f))—

“(i) with respect to which such qualified beneficiary is the producer, and

“(ii) which is removed from the premises during such calendar year.

“(3) **ALLOCATION.**—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the amount determined under paragraph (2)(A).

“(c) **ALLOCABLE TRUST PRODUCTION.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘allocable trust production’ means, with respect to any qualified beneficiary, the qualified royalty production of any trust which—

“(A) is removed from the premises during the calendar year, and

“(B) is allocated to such qualified beneficiary under paragraph (2).

“(2) ALLOCATION OF PRODUCTION.—

“(A) IN GENERAL.—The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries as follows:

“(i) there shall be allocated to the trust an amount of production based on the amount of any reserve for depletion for the calendar year with respect to qualified royalty production, and

“(ii) production not allocated under clause (i) shall be allocated between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year.

“(B) DEFINITION AND SPECIAL RULE.—For purposes of this paragraph—

“(i) ADJUSTED DISTRIBUTABLE NET INCOME.—The term ‘adjusted distributable net income’ means distributable net income (as defined in section 643) for the calendar year reduced by the excess (if any) of—

“(I) any reserve for depletion for such year with respect to qualified royalty production, over

“(II) the amount allowable as a deduction for depletion to the trust for such year with respect to qualified royalty production.

“(ii) ALLOCATION PRO RATA FROM EACH UNIT OF PRODUCTION.—Allocations under subparagraph (A) shall be treated as made pro rata from each unit of the qualified royalty production.

“(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

“(A) IN GENERAL.—The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer which—

“(i) is described in section 613A(c)(9)(A), and

“(ii) is not described in section 613A(c)(9)(B).

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by subsection (b)(3) to share the amount determined under subsection (b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

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

“(1) QUALIFIED BENEFICIARY.—The term ‘qualified beneficiary’ means any individual or estate which is a beneficiary of any trust which is a producer.

“(2) QUALIFIED ROYALTY PRODUCTION.—The term ‘qualified royalty production’ means, with respect to any person, taxable crude oil (within the meaning of section 4991(a)) which is attributable to an economic interest of such person other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributa-

ble to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

“(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

“(B) is not created pursuant to a binding contract entered into before June 10, 1981.

“(3) PRODUCER.—The term ‘producer’ has the meaning given to such term by section 4996(a)(1).

Regulations.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

26 USC 4994.

(B) ALLOCATION OF LIMITATION BETWEEN EXEMPT ROYALTY OIL AND ALLOCABLE TRUST PRODUCTION.—Paragraph (2) of section 4994(f) (relating to royalty limit) is amended—

(i) by striking out “A qualified” in subparagraph (A) and inserting in lieu thereof “Except as provided in subparagraph (C), a qualified”, and

(ii) by adding at the end thereof the following new subparagraph:

“(C) ELECTION TO INCREASE SECTION 6430 ROYALTY CREDIT BY REDUCING EXEMPTION UNDER THIS SUBSECTION.—Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430(d)(1)) for any quarter may elect (at such time and in such manner as the Secretary may prescribe by regulations) to reduce by any amount the qualified royalty owner's royalty limit determined under subparagraph (A) for such quarter (after the application of paragraph (3)(B)).”

26 USC 6654.

(C) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6654(g)(3) (relating to estimated tax computed after application of credits against tax) is amended by inserting “or 6430” after “section 6429”.

(D) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

“Sec. 6430. Credit or refund of windfall profit taxes to certain trust beneficiaries.”

26 USC 6430
note.

(E) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to calendar years beginning after December 31, 1981.

(ii) ESTIMATED TAX.—The amendment made by subparagraph (C) shall take effect on January 1, 1982.

(b) AMENDMENT RELATED TO SECTION 603.—Paragraph (2) of section 4994(g) (relating to limitations for certain transferred properties) is amended by striking out “owned by a person other than an independent producer (within the meaning of section 4992(b)(1)).” and inserting in lieu thereof “owned by any person (other than the producer) who during the period of ownership after such date was not an independent producer (within the meaning of section 4992(b)(1)). The preceding sentence shall not apply to property so owned by any person if, at the time of transfer of such property by such person, such property was not a proven property (within the meaning of section 613A(c)(9)(A)).”

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

(a) AMENDMENTS RELATED TO SECTION 722.—

95 Stat. 341.

(1) AGGREGATION OF PROPERTIES.—Subsection (d) of section 6659 (relating to underpayment must be at least \$1,000) is amended by striking out “the valuation overstatement” and inserting in lieu thereof “valuation overstatements”.

26 USC 6659.

(2) CLARIFICATION OF DEFINITION OF VALUATION OVERSTATEMENT.—Paragraph (1) of section 6659(c) (defining valuation overstatement) is amended by striking out “exceeds 150 percent of” and inserting in lieu thereof “is 150 percent or more of”.

(3) CLARIFICATION OF INCREASE IN NEGLIGENCE PENALTY.—Subparagraph (B) of section 6653(a)(2) (relating to additional amount for portion attributable to negligence, etc.) is amended by inserting “(or, if earlier, the date of the payment of the tax)” after “assessment of the tax”.

26 USC 6653.

(b) AMENDMENTS RELATED TO SECTION 724.—Subsection (c) of section 5761 (relating to application of section 6659) is amended—

95 Stat. 344.

26 USC 5761.

(1) by striking out “section 6659(a)” and inserting in lieu thereof “section 6660(a)”, and

(2) by striking out “Section 6659” in the heading and inserting in lieu thereof “Section 6660”.

(c) AMENDMENT RELATING TO SECTION 725.—

95 Stat. 345.

(1) Paragraph (1) of section 6654(f) (relating to exception to penalty for failure to pay estimated tax where tax is small amount) is amended by striking out “is less than” and inserting in lieu thereof “, reduced by the credit allowable under section 31, is less than”.

26 USC 6654.

(2) Subsection (a) of section 6015 (relating to requirement of declaration of estimated income tax by individuals) is amended by striking out “entitled under subsection (b)” each place it appears and inserting in lieu thereof “entitled under subsection (c)”.

26 USC 6015.

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 802.—Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal service plans) is amended by striking out “This section” and inserting in lieu thereof “This section and section 501(c)(20)”.

95 Stat. 349.

26 USC 120.

(b) AMENDMENT RELATED TO SECTION 823.—Subparagraph (A) of section 4942(j)(3) is amended by striking out “and” at the end of clause (i) and inserting in lieu thereof “or”.

95 Stat. 351.

26 USC 4942.

SEC. 109. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if it had been included in the provision of the Economic Recovery Tax Act of 1981 to which such amendment relates.

26 USC 1 note.

95 Stat. 172.

26 USC 1 note.

TITLE II—AMENDMENTS RELATED TO CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

SEC. 201. AMENDMENTS RELATED TO WINDFALL PROFIT TAX.

26 USC 1 note.

(a) AMENDMENTS TO SECTION 4988.—

26 USC 4988.

26 USC 4988.

(1) Paragraph (3) of section 4988(b) (defining taxable income from the property) is amended by striking out "purposes of paragraph (2)" and inserting in lieu thereof "purposes of this subsection".

(2) Clause (ii) of section 4988(b)(3)(C) (relating to taxable income reduced by cost depletion) is amended by striking out "all taxable periods" and inserting in lieu thereof "all taxable years".

26 USC 4989.

(b) AMENDMENT TO SECTION 4989.—Paragraph (3) of section 4989(b) (relating to inflation adjustment) is amended—

(1) by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1)(A) and (2)", and

(2) by adding at the end thereof the following new sentence: "For purposes of applying paragraph (1)(B), the revision of the price deflator which is most consistent with the revision used for purposes of paragraph (1)(A) shall be used."

26 USC 4991.

(c) AMENDMENT TO SECTION 4991.—Subparagraph (B) of section 4991(d)(1) (defining tier 2 oil) is amended by striking out "National Petroleum Reserve" and inserting in lieu thereof "Naval Petroleum Reserve".

26 USC 4992.

(d) AMENDMENTS TO SECTION 4992.—

(1) Subsection (b) of section 4992 (defining independent producer) is amended to read as follows:

"(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'independent producer' means, with respect to any quarter in any calendar year, any person other than a person to whom subsection (c) of section 613A does not apply for such calendar year by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

"(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A (d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied by substituting 'calendar year' for 'taxable year' each place it appears in such paragraphs."

(2) Paragraph (2) of section 4992(c) (relating to allocation where production exceeds independent producer amount) is amended—

(A) by striking out "such person's production for such quarter of domestic crude oil" and inserting in lieu thereof "such person's qualified production of oil for such quarter",

(B) by striking out "such person's domestic crude oil" and inserting in lieu thereof "such person's qualified production of oil", and

(C) by striking out the last sentence.

(3) Clause (i) of section 4992(d)(3)(B) (relating to small producer transfer exemption) is amended by striking out "has the property" and inserting in lieu thereof "has the interest".

26 USC 4993.

(e) AMENDMENT TO SECTION 4993.—Subparagraph (B) of section 4993(c)(2) (relating to requirements for qualified tertiary recovery project) is amended to read as follows:

"(B) the date on which the injection of liquids, gases, or other matter begins is after May 1979,".

26 USC 4994.

(f) AMENDMENTS TO SECTION 4994.—

(1) Subparagraph (A) of section 4994(c)(2) (relating to refunds for tertiary projects of integrated producers) is amended by

striking out "the taxpayer" each place it appears and inserting in lieu thereof "the producer".

(2)(A) Paragraph (1) of section 4994(e) (defining exempt Alaskan oil) is amended to read as follows: 26 USC 4994.

"(1) from a well located north of the Arctic Circle or from a reservoir from which oil has been produced in commercial quantities through such a well, or"

(B) Paragraph (2) of section 4994(e) is amended by striking out "the divide of the Alaskan-Aleutian range" and inserting in lieu thereof "the divides of the Alaska and Aleutian ranges".

(3)(A) Subparagraph (A) of section 4994(b)(1) (defining qualified charitable interest) is amended—

(i) by striking out "or" at the end of clause (ii),

(ii) by striking out "and" at the end of clause (iii) and inserting in lieu thereof "or", and

(iii) by adding at the end thereof the following new clause:

"(iv) held by an organization described in section 509(a)(3) which is operated exclusively for the benefit of an organization described in—

"(I) clause (ii), or

"(II) section 170(b)(1)(A)(ii) which is also described in section 170(c)(2), and".

(B) Subparagraph (B) of section 4994(b)(1) is amended by striking out "or (ii)" and inserting in lieu thereof ", (ii), or (iv)".

(C) Paragraph (2) of section 4994(b) is amended—

(i) by striking out "clause (ii) or (iii)" and inserting in lieu thereof "clause (ii), (iii), or (iv)",

(ii) by striking out "clause (i) or (ii)" each place it appears and inserting in lieu thereof "clause (i), (ii), or (iv)", and

(iii) by inserting ", whichever is applicable," after "paragraph (1)(A)" each place it appears.

(g) AMENDMENTS TO SECTION 4995.—

26 USC 4995.

(1) Subparagraph (A) of section 4995(a)(3) (relating to adjustments for withholding errors) is amended—

(A) by striking out "removed during any calendar year", and

(B) by striking out "removed during the same calendar year".

(2) Paragraph (3) of section 4995(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) Subparagraph (B) of section 4995(a)(4) (relating to time payment deemed made) is amended by striking out "The producer" and inserting in lieu thereof "For purposes of this chapter (and so much of subtitle F as relates to this chapter), the producer".

(h) AMENDMENTS TO SECTION 4996.—

26 USC 4996.

(1)(A) Paragraph (1) of section 4996(a) (defining producer) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) NET PROFITS INTERESTS.—

"(i) IN GENERAL.—Except to the extent otherwise provided by regulations, in the case of any property, all cost recovery oil covered by a net profits agreement (within the meaning of subsection (h)) shall be treated

as produced by the parties to such agreement in proportion to their respective shares (determined after reduction for such cost recovery oil) of the production of the crude oil covered by such agreement.

“(ii) **CLAUSE (i) NOT TO APPLY BEFORE PAYOUT.**—In the case of any property, clause (i) shall only apply for—

“(I) the first taxable period in which, under the agreement with respect to such property, one or more persons receives a share described in subsection (h)(1)(B), and

“(II) all subsequent taxable periods to which such agreement applies.”.

(B) Subparagraph (A) of such paragraph (1) is amended by striking out “subparagraph (B)” and inserting in lieu thereof “subparagraphs (B) and (C)”.

26 USC 4996.

(C) Section 4996 (relating to other definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **TERMS USED IN SUBSECTION (a)(1)(B).**—For purposes of subsection (a)(1)(B) and this subsection—

“(1) **NET PROFITS AGREEMENT.**—The term ‘net profits agreement’ means an agreement entered into (or renewed) after March 31, 1982, and providing for sharing part or all of the production of crude oil from a property where—

“(A) 1 or more persons are to be reimbursed for qualified costs by the allocation of cost recovery oil, and

“(B) 1 or more persons are to receive a share of any production of crude oil from the property remaining after reduction for the cost recovery oil referred to in subparagraph (A).

“(2) **COST RECOVERY OIL DEFINED.**—The term ‘cost recovery oil’ means crude oil produced from the property which is allocated to a person as reimbursement for qualified costs paid or incurred with respect to the property. The Secretary shall by regulation prescribe rules for allocating the cost recovery oil to the oil produced from the property.

“(3) **QUALIFIED COSTS.**—The term ‘qualified costs’ means any amount paid or incurred for exploring for, or developing or producing, 1 or more oil or gas wells on the property.

“(4) **SCOPE OF AGREEMENT.**—A net profits agreement shall be treated as covering only shares of production of crude oil held by persons who hold economic interests in the property (determined without regard to subsection (a)(1)(B)).”

26 USC 4988.

(D) Subsection (b) of section 4988 (relating to net income limitation on windfall profit) is amended by adding at the end thereof the following new paragraph:

“(6) **COST RECOVERY OIL COVERED BY NET PROFITS AGREEMENT.**—For purposes of paragraph (2), if any person is treated under section 4996(a)(1)(B) as the producer of any portion of the cost recovery oil covered by a net profits agreement (within the meaning of section 4996(h))—

“(A) such person (and only such person) shall include in his gross income from the property the gross income from such portion, and

“(B) the qualified costs allocable to such portion shall be treated as paid or incurred by such person (and only by such person).”

(E) If 90 percent or more of the remaining production referred to in subparagraph (B) of section 4996(h)(1) of the Internal Revenue Code of 1954 is to be received by governmental entities, and organizations described in clause (i), (ii), or (iii) of section 4994(b)(1)(A) of such Code, which do not share in the costs referred to in subparagraph (A) of such section 4996(h)(1), then the requirement of paragraph (1) of section 4996(h) of such Code that the agreement be entered into (or renewed) after March 31, 1982, shall not apply. 26 USC 4996 note.

(2)(A) Paragraph (1) of section 4996(b) (defining crude oil) is amended by adding at the end thereof the following new sentence: “In the case of crude oil which is condensate recovered off the premises by mechanical separation, such crude oil shall be treated as removed from the premises on the date on which it is so recovered.” 26 USC 4996.

(B) Paragraph (3) of section 4996(b) (defining domestic) is amended by striking out “an oil well” and inserting in lieu thereof “a well”.

(i) AMENDMENTS RELATED TO SECTION 4997.— 26 USC 4997.

(1) IN GENERAL.—Subsection (a) of section 4997 (relating to records and information; regulations) is amended by striking out “such information” and inserting in lieu thereof “such statements and other information”.

(2) PENALTY FOR FAILURE TO MAKE A RETURN.—

(A) Subsection (a) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out “or” at the end of subparagraph (F) of paragraph (1), by adding “or” at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph: 26 USC 6652.

“(3) to make a return required by section 4997(a) (relating to information with respect to windfall profit tax on crude oil).”

(B) Subsection (a) of section 6652 is amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (2) or (3)”.

(3) PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—

Paragraph (3) of section 6678 (relating to failure to furnish certain statements) is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following: 26 USC 6678.

“(A) section 4997(a) (relating to statements with respect to windfall profit tax on crude oil).”

(j) AMENDMENTS TO ESTIMATED TAX PROVISIONS.—

(1) Paragraph (3) of section 6015(d) (defining estimated tax in the case of an individual) is amended to read as follows: 26 USC 6015.

“(3) the amount which the individual estimates as the sum of—

“(A) any credits against tax provided by part IV of subchapter A of chapter 1, and

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986.” 26 USC 31.

- 26 USC 6154. (2) Paragraph (2) of section 6154(c) (defining estimated tax in the case of a corporation) is amended to read as follows:
“(2) the amount which the corporation estimates as the sum of—
“(A) any credits against tax provided by part IV of subchapter A of chapter 1, and
“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986.”
- 26 USC 31. (3) Subparagraph (B) of section 6654(g)(3) (defining tax) is amended to read as follows:
“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”
- 26 USC 6654. (4) Subparagraph (B) of section 6655(e)(2) (defining tax) is amended to read as follows:
“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”
- 26 USC 6655. (4) Subparagraph (B) of section 6655(e)(2) (defining tax) is amended to read as follows:
“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

SEC. 202. MISCELLANEOUS PROVISIONS.

- 26 USC 44D. (a) AMENDMENT TO SECTION 44D.—Subsection (f) of section 44D (relating to application of section) is amended by striking out “December 3, 1979” each place it appears and inserting in lieu thereof “December 31, 1979”.
- 26 USC 193. (b) AMENDMENT TO SECTION 193.—Paragraph (1) of section 193(b) (defining qualified tertiary injectant expenses) is amended by striking out “during the taxable year”.
- 26 USC 48. (c) AMENDMENT TO SECTION 223 OF THE ACT.—Paragraph (1) of section 223(a) of the Crude Oil Windfall Profit Tax Act of 1980 (relating to boilers fueled by petroleum coke or petroleum pitch) is amended by striking out “Paragraph (10)” and inserting in lieu thereof “Subparagraph (A) of paragraph (10)”.
- 26 USC 613A. (d) AMENDMENTS TO SECTION 613A.—
(1) Subparagraph (E) of section 613A(c)(10) is amended by inserting “and, in the case of any property, also includes necessary production equipment for such property which is in place when the property is transferred” before the period at the end thereof.
(2) Paragraph (2) of section 613A(d) (relating to exclusion of retailers) is amended by inserting “(excluding bulk sales of aviation fuels to the Department of Defense)” after “any product derived from oil or natural gas” the first place it appears.
- 26 USC 44E note. (e) AMENDMENT TO SECTION 232 OF THE ACT.—Subsection (h) of section 232 of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:
“(4) ADDITION OF DENATURANTS.—Notwithstanding paragraph (1), the provisions of section 44E(d)(4)(B) of such Code, as added by this section, shall take effect on April 2, 1980.”
- 26 USC 46. (f) CERTAIN LONG-TERM PROJECTS.—Subclause (I) of section 46(a)(2)(C)(iii) is amended to read as follows:
“(I) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed

and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and”.

SEC. 203. EFFECTIVE DATES.

(a) **GENERAL RULE.**—Except as provided in subsection (b), any amendment made by this title shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 to which such amendment relates.

26 USC 4988
note.

(b) **EXCEPTIONS.**—

26 USC 1 note.
26 USC 4988
note.

(1) **DEFINITION OF INDEPENDENT PRODUCER.**—The amendment made by section 201(d)(1) shall take effect on January 1, 1983.

(2) **PENALTY PROVISION.**—The amendments made by section 201(i) shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act.

(3) **AMENDMENTS TO SECTION 613A.**—

26 USC 613A.

(A) The amendment made by section 202(d)(1) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

(B) The amendment made by section 202(d)(2) shall apply to bulk sales after September 18, 1982.

(4) **NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.**—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1954 by reason of the amendment made by section 201(h)(2)(A) of this Act before the date on which regulations with respect to such amendment are published in the Federal Register.

(c) **NO INTEREST FOR PAST PERIODS RESULTING FROM AMENDMENTS RELATING TO COST RECOVERY OIL.**—No interest shall be paid or credited with respect to the credit or refund of any overpayment of tax imposed by the Internal Revenue Code of 1954, and no interest shall be assessed or collected with respect to any underpayment of tax imposed by such Code, for any period before the date which is 60 days after the date of the enactment of this Act, to the extent that such overpayment or underpayment is attributable to the amendments made by section 201(h)(1).

26 USC 4996
note.

TITLE III—AMENDMENTS RELATED TO INSTALLMENT SALES REVISION ACT OF 1980, ETC.

SEC. 301. CLARIFICATION OF ATTRIBUTION RULES IN SECTION 1239.

(a) **DEFINITION OF RELATED PERSONS.**—Subsection (b) of section 1239 (defining related persons) is amended to read as follows:

26 USC 1239.

“(b) **RELATED PERSONS.**—For purposes of subsection (a), the term ‘related persons’ means—

“(1) a husband and wife, and

“(2) a person and all entities which are 80-percent owned entities with respect to such person.”

26 USC 1239. (b) 80-PERCENT OWNED ENTITY DEFINED.—Subsection (c) of section 1239 (defining 80-percent owned entity) is amended to read as follows:

“(c) 80-PERCENT OWNED ENTITY DEFINED.—

“(1) GENERAL RULE.—For purposes of this section, the term ‘80-percent owned entity’ means, with respect to any person—

“(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for such person, and

“(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person.

“(2) CONSTRUCTIVE OWNERSHIP.—For purposes of subparagraphs (A) and (B) of paragraph (1), the principles of section 318 shall apply, except that—

“(A) the members of an individual’s family shall consist only of such individual and such individual’s spouse,

“(B) paragraph (2)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein, and

“(C) paragraph (3) of section 318(a) shall not apply.”

SEC. 302. CORRECTION OF CLERICAL ERROR IN SECTION 453B(d)(2).

26 USC 453B. Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out “to the extent that under paragraph (1)” and inserting in lieu thereof “to the extent that under subsection (a)”.

SEC. 303. CLARIFICATION OF INSTALLMENT SALE RULES WITH RESPECT TO LIKE-KIND EXCHANGES.

26 USC 453. Subparagraph (C) of section 453(f)(6) (relating to like-kind exchanges) is amended by inserting “, when used in any provision of this section other than subsection (b)(1),” after “the term ‘payment’”.

SEC. 304. TECHNICAL CORRECTIONS TO BANKRUPTCY TAX ACT OF 1980.

26 USC 443. (a) CORRECTION OF CLERICAL ERROR RELATING TO CROSS REFERENCE.—The last sentence of subsection (e) of section 443 (relating to returns for a period of less than 12 months) is amended by striking out “section 1398(d)(3)(E)” and inserting in lieu thereof “section 1398(d)(2)(E)”.

26 USC 368. (b) CLARIFICATION OF CERTAIN TRANSFERS OF ASSETS IN SUBPARAGRAPH (G) REORGANIZATIONS.—The last sentence of subparagraph (C) of section 368(a)(2) (relating to special rules relating to definition of reorganization) is amended by striking out “or stock”.

(c) TRANSFER OF ASSETS IN A TITLE 11 OR SIMILAR CASE.—Clause (i) of section 368(a)(3)(B) (relating to transfer of assets in a title 11 or similar case) is amended by striking out “such corporation” and inserting in lieu thereof “any party to the reorganization”.

26 USC 108. (d) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—Subparagraph (A) of section 108(e)(7) (relating to recapture of gain on subsequent sale of stock) is amended—

(1) by striking out “and” at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof “, and”, and

(3) by inserting after clause (ii) the following new clause:

“(iii) an exchange of such stock qualifying under section 354(a), 355(a), or 356(a) shall be treated as an exchange to which section 1245(b)(3) applies.”

SEC. 305. MISCELLANEOUS AMENDMENTS.

(a) **Effective Date of Section 404A.**—Subparagraph (E) of section 2(e)(2) of Public Law 96-603 is amended by striking out “was barred” and inserting in lieu thereof “was not barred”. 26 USC 404A note.

(b) **REDESIGNATION OF SECTION 194.**—

(1) The section 194 which relates to contributions to employer liability trusts is hereby redesignated as section 194A. 26 USC 194, 194A.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to the section 194 which relates to contributions to employer liability trusts and inserting in lieu thereof the following:

“Sec. 194A. Contributions to employer liability trusts.”

(c) **AMENDMENT RELATED TO SECTION 421 OF THE REVENUE ACT OF 1978.**—The last sentence of section 55(b)(1), as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “subparagraph (A)” and inserting in lieu thereof “subparagraph (A) (and in determining the sum of itemized deductions for purposes of subparagraph (C)(i))”. 26 USC 55. *Ante*, p. 324.

(d) **AMENDMENTS RELATED TO SUBCHAPTER S REVISION ACT OF 1982.**—

(1)(A) Section 6 of the Subchapter S Revision Act of 1982 is amended by adding at the end thereof the following new subsection: *Ante*, p. 1697. 26 USC 1361 note.

“(f) **TAXABLE YEAR OF S CORPORATIONS.**—Section 1378 of the Internal Revenue Code of 1954 (as added by this Act) shall take effect on the day after the date of the enactment of this Act. For purposes of applying such section, the reference in subsection (a)(2) of such section to an election under section 1362(a) shall include a reference to an election under section 1372(a) of such Code as in effect on the day before the date of the enactment of this Act.”

(B) **If—**

(i) after September 30, 1982, and on or before the date of the enactment of this Act, stock or securities were transferred to a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954 as amended by the Subchapter S Revision Act of 1982) in a transaction to which section 351 of such Code applies, and

(ii) such corporation is liquidated under section 333 of such Code before March 1, 1983,

then such stock or securities shall not be taken into account under section 333(e)(2) of such Code.

(2) Subsection (e) of section 1368 (relating to distributions) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 1680.

“(3) **ELECTION TO DISTRIBUTE EARNINGS FIRST.**—

“(A) **IN GENERAL.**—An S corporation may, with the consent of all of its affected shareholders, elect to have paragraph (1) of subsection (c) not apply to all distributions made during the taxable year for which the election is made.

“(B) AFFECTED SHAREHOLDER.—For purposes of subparagraph (A), the term ‘affected shareholder’ means any shareholder to whom a distribution is made by the S corporation during the taxable year.”

Ante, p. 1683.

(3) Subsection (d) of section 1374 (relating to determination of taxable income) is amended by striking out “subsections (a)(2) and (b)(2)” and inserting in lieu thereof “this section”.

26 USC 221.

(4) Subparagraph (B) of section 221(b)(1) is amended by striking out “(9),”.

26 USC 4975.

(5) The last sentence of section 4975(d) is amended by striking out “section 1379” and inserting in lieu thereof “section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982”.

Ante, p. 1729.
26 USC 7448
note.

(e) AMENDMENT RELATED TO MISCELLANEOUS REVENUE ACT OF 1982.—Subsection (c) of section 105 of the Miscellaneous Revenue Act of 1982 is amended by striking out “the amendment made by subsection (a)” and inserting in lieu thereof “the amendment made by subsection (b)”.

SEC. 306. TECHNICAL AMENDMENTS TO THE REVENUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

(a) AMENDMENTS RELATED TO TITLE II.—

Ante, p. 411.

(1) AMENDMENTS RELATED TO SECTION 201.—

(A) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(i) by redesignating the second subsection (c) as subsection (d), and

26 USC 56 note.

(ii) by striking out “subsection (c)(1)” in subsection (e)(2) and inserting in lieu thereof “subsection (d)(1)”.

26 USC 55.

(B) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) is amended by striking out “net capital gain” and inserting in lieu thereof “capital gain net income”.

(C) Subparagraph (B) of section 55(d)(2) (relating to adjustments to net operating loss computation) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “paragraph (1)”.

Ante, p. 423.

26 USC 291.

(2) AMENDMENT RELATED TO SECTION 204.—Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items) is amended by adding at the end thereof the following new sentence: “Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d).”

Ante, p. 427.

26 USC 48.

(3) AMENDMENT RELATED TO SECTION 205.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out “paragraphs (1) and (2)” and inserting in lieu thereof “paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)”.

Ante, p. 432.

(4) AMENDMENTS RELATED TO SECTION 208.—

(A) Subsection (d) of section 208 of such Act is amended—

26 USC 168 note.

(i) by striking out “described in section 1381(a)” in paragraph (3)(E)(i) and inserting in lieu thereof “engaged in the furnishing of electric energy to persons in rural areas”, and

(ii) by inserting “, or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)” after “as added by subsection (a)(1)” in paragraph (5) thereof. 26 USC 168 note.

(B) Subsection (d) of section 208 of such Act (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 26 USC 168 note.

“(7) COORDINATION WITH AT RISK RULES.—Subparagraph (J) of section 168(f)(8) of the Internal Revenue Code of 1954 (as added by subsection (b)(4)) shall take effect as provided in such subparagraph (J).”

(C) Subparagraph (C) of section 208(d)(3) of such Act (defining transitional safe harbor lease property) is amended to read as follows: 26 USC 168 note.

“(C) AUTOMOTIVE MANUFACTURING PROPERTY.—

“(i) IN GENERAL.—Property is described in this subparagraph if—

“(I) such property is used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture of automobiles or light-duty trucks,

“(II) such property is automotive manufacturing property, and

“(III) such property would be described in subparagraph (A) if ‘October 1’ were substituted for ‘January 1’.

“(ii) LIGHT-DUTY TRUCK.—For purposes of this subparagraph, the term ‘light-duty truck’ means any truck with a gross vehicle weight of 13,000 pounds or less. Such term shall not include any truck tractor.

“(iii) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this subparagraph, the term ‘automotive manufacturing property’ means machinery, equipment, and special tools of the type included in the former asset depreciation range guideline classes 37.11 and 37.12.

“(iv) SPECIAL TOOLS USED BY CERTAIN VENDORS.—For purposes of this subparagraph, any special tools owned by a taxpayer described in subclause (I) of clause (i) which are used by a vendor solely for the production of component parts for sale to the taxpayer shall be treated as automotive manufacturing property used directly by such taxpayer.”

(5) AMENDMENT RELATED TO SECTION 211.—Paragraph (2) of section 211(e) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for foreign tax credit for taxes on oil and gas income) is amended to read as follows: *Ante*, p. 448.
26 USC 907 note.

“(2) Retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss.—

“(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) The term ‘separate basket foreign loss’ means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).”

“(ii) An ‘old’ section is such section as in effect on the day before the date of the enactment of this Act.”

Ante, p. 478.
26 USC 302 note.

(6) AMENDMENTS RELATED TO SECTION 222.—

(A) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting “, except that in applying such section both direct and indirect ownership of stock shall be taken into account” before the period at the end thereof.

26 USC 312.

(B)(i) Paragraph (3) of section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out “in partial liquidation or”.

(ii) The heading for paragraph (3) of section 312(j) is amended to read as follows:

“(3) REDEMPTIONS.—”

Ante, p. 483.
26 USC 311 note.

(7) AMENDMENT RELATED TO SECTION 223.—Subparagraph (B) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appreciated property in redemption of stock) is amended to read as follows:

“(B) either before October 21, 1982, or within 90 days after the date of such ruling.”

(8) AMENDMENTS RELATED TO SECTION 224.—

Ante, p. 485.

(A)(i) Subsection (h) of section 338 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

“(8) TARGET NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as otherwise provided in paragraph (9) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in subsection (a)(1).”

“(9) ELECTIVE RECOGNITION OF GAIN OR LOSS BY TARGET CORPORATION, TOGETHER WITH NONRECOGNITION OF GAIN OR LOSS ON STOCK SOLD BY SELLING CONSOLIDATED GROUP.—

“(A) IN GENERAL.—Under regulations prescribed by the Secretary, an election may be made under which if—

“(i) the target corporation was, before the transaction, a member of the selling consolidated group, and

“(ii) the target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction,

then the target corporation shall be treated as a member of the selling consolidated group with respect to such sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

“(B) SELLING CONSOLIDATED GROUP.—For purposes of subparagraph (A), the term ‘selling consolidated group’ means any group of corporations which (for the taxable period which includes the transaction)—

“(i) includes the target corporation, and

“(ii) files a consolidated return.”

26 USC 338 note.

(ii) If—

(I) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, and on or before the date of the enactment of this Act, and

Ante, p. 324.

(II) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, the target corporation would be treated as a member of the affiliated group which includes the selling corporation,

then the amendment made by clause (i) shall not apply to such qualified stock purchase.

(B)(i) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraphs:

Ante, p. 485.
26 USC 338 note.

“(4) EXTENSION OF TIME FOR MAKING ELECTIONS; REVOCATION OF ELECTIONS.—

“(A) EXTENSION.—The time for making an election under section 338 of such Code shall not expire before the close of February 28, 1983.

“(B) REVOCATION.—Any election made under section 338 of such Code may be revoked by the purchasing corporation if revoked before March 1, 1983.

“(5) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2).—

“(A) IN GENERAL.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)—

“(i) the date selected under subparagraph (B) of this paragraph shall be treated as the acquisition date,

“(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

“(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (6), (8), and (9) of subsection (h) of such section 338, shall not apply.

“(B) SELECTION OF ACQUISITION DATE BY PURCHASING CORPORATION.—The purchasing corporation may select any date for purposes of subparagraph (A)(i) if such date—

“(i) is after the later of June 30, 1982, or the acquisition date (within the meaning of section 338 of such Code without regard to this paragraph), and

“(ii) is on or before the date on which the election described in paragraph (2)(C) is made.”

(ii) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out “under paragraph (1)” and inserting in lieu thereof “(within the meaning of section 338 of such Code without regard to paragraph (5) of this subsection)”.

26 USC 338 note.

(9) AMENDMENTS RELATED TO SECTION 231.—

(A) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out “section 1232(a)(4)(A)” and inserting in lieu thereof “section 1232(a)(3)(A)”.

26 USC 263.

(B) Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (c).

26 USC 1232.

26 USC 1232.

(C)(i) The next to the last sentence of section 1232(b)(2) (defining issue price) is amended by striking out "(other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371 or 374)".

(ii) Subsection (b) of section 1232 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR EXCHANGE OF BONDS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any bond is issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) for another bond (hereinafter in this paragraph referred to as the 'old bond'), and

"(ii) the fair market value of the old bond is less than its adjusted issue price,

then, for purposes of the next to the last sentence of paragraph (2), the fair market value of the old bond shall be treated as equal to its adjusted issue price.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) BOND.—The term 'bond' includes any other evidence of indebtedness and an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old bond is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old bond is its issue price, increased by any original issue discount previously allowed as a deduction."

(iii) For purposes of paragraph (4) of section 1232(b) of the Internal Revenue Code of 1954 (as added by clause (ii)), any insolvency reorganization within the meaning of section 371 or 374 of such Code shall be treated as a reorganization within the meaning of section 368(a)(1) of such Code.

(iv) The amendments made by this subparagraph shall apply to evidences of indebtedness issued after December 13, 1982; except that such amendments shall not apply to any evidence of indebtedness issued after such date pursuant to a written commitment which was binding on such date and at all times thereafter.

(10) AMENDMENT RELATED TO SECTION 235.—Section 235(g)(5) of such Act is amended by striking out "section 253" and inserting in lieu thereof "section 242".

(11) AMENDMENT RELATED TO SECTION 236.—Subsection (c) of section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN RENEGOTIATIONS.—If—

"(A) the taxpayer after August 13, 1982, and before September 4, 1982, borrows money from a government plan (as

26 USC 1232
note.26 USC 1232
note.Ante, p. 505.
26 USC 415 note.Ante, p. 509.
26 USC 72 note.

defined in section 219(e)(4) of the Internal Revenue Code of 1954),

“(B) under the applicable State law, such loan requires the renegotiation of all outstanding prior loans made to the taxpayer under such plan, and

“(C) the renegotiation described in subparagraph (B) does not change the interest rate on, or extend the duration of, any such outstanding prior loan,

then the renegotiation described in subparagraph (B) shall not be treated as a renegotiation, extension, renewal, or revision for purposes of paragraph (1). If the renegotiation described in subparagraph (B) does not meet the requirements of subparagraph (C) solely because it extends the duration of any such outstanding prior loan, the requirements of subparagraph (C) shall be treated as met with respect to such renegotiation if, before April 1, 1983, such extension is eliminated.”

(12) AMENDMENT RELATED TO SECTION 237.—Paragraph (2) of section 401(d) (as redesignated by section 237 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out “paragraph (9)(B)” and inserting in lieu thereof “paragraph (1)(B)”.

Ante, p. 511.
26 USC 401.

(13) AMENDMENT RELATED TO SECTION 266.—Section 266(c)(3) of such Act is amended by striking out “section 103(f)(2)(C)” and inserting in lieu thereof “section 101(f)(2)(C)”.

Ante, p. 547.
26 USC 101 note.

(14) AMENDMENT RELATED TO SECTION 283.—Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out “January 18” and inserting in lieu thereof “February 17”.

Ante, p. 568.
26 USC 5701
note.

(b) AMENDMENTS RELATED TO TITLE III.—

(1) AMENDMENTS RELATED TO SECTION 302.—

Ante, p. 585.
26 USC 31.

(A) Subsection (d) of section 31 (relating to year for which credit allowed) is amended to read as follows:

“(d) YEAR FOR WHICH CREDIT ALLOWED.—

“(1) WAGES.—Any credit allowed—

“(A) by subsection (a) shall be allowed for the taxable year beginning in the calendar year in which the amount is withheld, or

“(B) by subsection (c) shall be allowed for the taxable year beginning in the calendar year in which the wages are received.

For purposes of this paragraph, if more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

“(2) INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Any credit allowed by subsection (b) shall be allowed for the taxable year of the recipient of the income in which the amount is received.”

(B) Paragraph (4) of section 3(i) of the Subchapter S Revision Act of 1982 is hereby repealed.

Ante, p. 1687.
26 USC 31.

(2) AMENDMENT RELATED TO SECTION 310.—Subsection (d) of section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for requirement that obligations be registered) is amended by adding at the end thereof the following new paragraph:

Ante, p. 595.
26 USC 103 note.

“(4) EFFECTIVE DATE FOR TAX-EXEMPT OBLIGATIONS.—In the case of obligations the interest on which is exempt from tax

(determined without regard to the amendments made by this section)—

“(A) under section 103 of the Internal Revenue Code of 1954, or

“(B) under any other provision of law (without regard to the identity of the holder),

the amendments made by this section shall apply only to obligations issued after June 30, 1983. The preceding sentence shall not apply in the case of any obligation which under the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) was required to be in registered form.”

Ante, p. 628.
26 USC 7701.

(3) AMENDMENT RELATED TO SECTION 336.—Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) (as added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

Ante, p. 631.
26 USC 6038A.

(4) AMENDMENT RELATED TO SECTION 339.—Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting “, (b)(2)(C),” after “(a)(4)”.

Ante, p. 640.
26 USC 501.

(5) AMENDMENT RELATED TO SECTION 354.—Paragraph (23) of section 501(c) (relating to exempt organizations) is amended by striking out “25 percent” and inserting in lieu thereof “75 percent”.

(c) AMENDMENTS RELATED TO TITLE IV.—

Ante, p. 648.
26 USC 6226.

(1) AMENDMENTS RELATED TO SECTION 402.—

(A) The second sentence of section 6226(g) (relating to determination of court reviewable) is amended by striking out “Only” and inserting in lieu thereof “With respect to the partnership, only”.

26 USC 6228.

(B) The second sentence of section 6228(a)(6) (relating to determination of court reviewable) is amended by striking out “Only” and inserting in lieu thereof “With respect to the partnership, only”.

Ante, p. 669.
26 USC 6679.

(2) AMENDMENTS RELATED TO SECTION 405.—

(A) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

“(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisition of their stock), as amended by section 340(b)(1), is amended by striking out ‘section 6035 or 6046’ and inserting in lieu thereof ‘section 6035, 6046, or 6046A’.”

(B) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as follows:

“(2) The section heading of section 6679, as amended by section 340(b)(2), is amended to read as follows:

“‘SEC. 6679. FAILURE TO FILE RETURNS, ETC., WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.’

“(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

“‘Sec. 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.’”

SEC. 307. EXTENSION OF CERTAIN PROVISIONS RELATING TO MEMBERS OF THE ARMED FORCES MISSING IN ACTION.

(a) **SURVIVING SPOUSE.**—Clause (i) of section 2(a)(3)(B) (relating to special rule where deceased spouse was in missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 2.

(b) **INCOME TAXES ON MEMBERS OF ARMED FORCES ON DEATH.**—Paragraph (1) of section 692(b) (relating to income taxes of members of the Armed Forces on death while in a missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 692.

(c) **JOINT RETURNS BY HUSBAND AND WIFE.**—The last sentence of section 6013(f)(1) (relating to joint return where individual is in missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 6013.

(d) **TIME FOR PERFORMING CERTAIN ACTS POSTPONED.**—Paragraph (1) of section 7508(b) (relating to the application to spouse of provisions relating to the time for performing certain acts postponed by reason of service in combat zone) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 7508.

SEC. 308. EXTENSION OF TIME FOR PAYMENT OF CIGARETTE TAX.

(a) **IN GENERAL.**—Subsection (b) of section 5703 (relating to method of payment of tax) is amended to read as follows: 26 USC 5703.

“(b) METHOD OF PAYMENT OF TAX.—

“(1) IN GENERAL.—The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

“(2) TIME FOR MAKING OF RETURN AND PAYMENT OF TAXES.—In the case of tobacco products and cigarette papers and tubes removed after December 31, 1982, under bond for deferred payment of tax, the last day for filing a return and paying any tax due for each return period shall be the last day of the first succeeding return period plus 10 days.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982. 26 USC 5703 note.

SEC. 309. TECHNICAL CORRECTIONS RELATING TO SPENDING REDUCTION PROVISIONS OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

Ante, p. 324.

42 USC 1395ww
note.

42 USC 1395u
note.

42 USC 1395xx
note.

42 USC 1395x.

42 USC 1395cc.

42 USC 1395b-1
note, 1395f note.

42 USC 1395f
note.

42 USC 1396a,
1396o note.

42 USC 1320c
note.

42 USC 426 note.

42 USC 426-1.

Ante, p. 382.

42 USC 1320c-2.

Ante, p. 385.

42 USC 1320c-3.

(a)(1) Section 101(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "title 5" and inserting in lieu thereof "title 44".

(2) Section 104(b) of such Act is amended by striking out "made by this section".

(3) Section 108 of such Act is amended by redesignating subsection (c) as subsection (b).

(4) Section 109(b)(2) of such Act is amended by striking out "section 108(b)(2)" and inserting in lieu thereof "section 108(a)(2)".

(5) Section 122(g)(5) of such Act is amended by striking out "1866(b)(2)(A)" and inserting in lieu thereof "1866(a)(2)(A)".

(6) Section 122 of such Act is amended by redesignating the last three subsections as subsections (i), (j), and (k).

(7) Section 122(k) of such Act (as redesignated by paragraph (6)) is amended by striking out "1861(dd)(2)(A)(iv)" and inserting in lieu thereof "1861(dd)(2)(A)(iii)".

(8) Section 131 of such Act is amended by redesignating the last two subsections thereof as subsections (c) and (d).

(9)(A) The second sentence of section 150(a) of such Act and the first sentence of section 150(b) of such Act are each amended by striking out "contract" and inserting in lieu thereof "agreement".

(B) The first sentence of section 150(b) of such Act is amended by striking out "contracts" and inserting in lieu thereof "agreements".

(10) Section 278(c)(2)(A) of such Act is amended by striking out "paragraph (3) of that subsection" and inserting in lieu thereof "paragraph (2) of that subsection".

(11) Section 278(d) of such Act is amended—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act), the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be 'employment' (as defined for purposes of title II of such Act), but only for the purpose of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act."

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and striking out "or (2)" in subparagraph (A) thereof.

(b)(1) Section 226A(a)(1)(B)(iii) of the Social Security Act is amended by striking out "210(p) after December 31, 1982," and inserting in lieu thereof "section 210(p)".

(2) Section 1153(d) of such Act is amended—

(A) in paragraph (1), by striking out "(c)(5)(B)" and inserting in lieu thereof "(c)(6)(B)"; and

(B) in paragraph (2), by striking out "(c)(5)(C)" and inserting in lieu thereof "(c)(6)(B)".

(3) Section 1154(a)(1)(A) of such Act is amended by striking out "or otherwise allowable under section 1862(a)(1)" and inserting in lieu

thereof "and whether such services and items are not allowable under subsection (a)(1) or (a)(9) of section 1862".

(4) Section 1154(a)(2)(B) of such Act is amended by striking out "posthospital".

Ante, p. 385.
42 USC 1320c-3.

(5) Section 1812(d)(2)(A) of such Act is amended by striking out "or to other than services" and inserting in lieu thereof "or to services".

Ante, p. 356.
42 USC 1395d.

(6) The heading of subsection (i) of section 1814 of such Act is amended to read as follows:

"Payment for Hospice Care".

(7) Section 1814(i)(1) of such Act is amended by inserting "made" before "for bereavement counseling".

Ante, p. 358.
42 USC 1395f.

(8) Section 1839(d) of such Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (g)".

42 USC 1395r.

(9) The heading of subsection (dd) of section 1861 of such Act is amended to read as follows:

Ante, p. 359.
42 USC 1395x.

"Hospice Care; Hospice Program".

(10) Section 1862(b)(3)(A)(i) of such Act is amended—

Ante, p. 353.
42 USC 1395y.

(A) by inserting "in any month" after "service furnished"; and

(B) by inserting "during any part of such month" after "70 years of age" each place it appears.

(11) Section 1866(a)(2)(A) of such Act is amended by inserting a comma after "1813(a)(1)".

42 USC 1395cc.

(12) Section 1876(g)(1) of such Act is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "subsection (b)".

Ante, p. 341.
42 USC 1395mm.

(13) Section 1886(a)(4) of such Act is amended by striking out "and such costs are determined" and inserting in lieu thereof "as such costs are determined".

Ante, p. 331.
42 USC 1395ww.

(14) Section 1886(b)(1) of such Act is amended by striking out "sections 1814(b)" and inserting in lieu thereof "section 1814(b)".

(15) Section 1886(b)(6)(C) of such Act is amended by striking out "under this subsection" in the matter before clause (i) and inserting in lieu thereof "under this title (taking into account any limitation under subsection (a))".

(16) Section 1903(t)(3) of such Act is amended to read as follows:

42 USC 1396b.

"(3) Only for the purposes of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the lower of the Federal medical assistance percentage for the State in effect for fiscal year 1981, or the Federal medical assistance percentage for the State in effect for fiscal year 1982."

(17) Section 1915(c)(2)(B) of such Act is amended by striking out "need for such services" in the matter following clause (iii) and inserting in lieu thereof "need for such skilled nursing facility or intermediate care facility services".

Ante, p. 380.
42 USC 1396n.

(18) Section 1916(c) of such Act is amended by striking out "this subparagraph" and inserting in lieu thereof "this subsection".

Ante, p. 367.
42 USC 1396o.

Ante, p. 367.
42 USC 1396o.

(19) Section 1916(d) of such Act is amended by striking out "unless authorized under this section" and inserting in lieu thereof ", except as provided in subsections (a)(3) and (b)(3)".

(20) Section 1916(d)(5) of such Act is amended by striking out "in which participation is voluntary, or in which provision is made" and inserting in lieu thereof "is voluntary, or makes provision".

Ante, p. 370.
42 USC 1396p.

(21) Section 1917(b)(2)(B) of such Act is amended by striking out "and has lawfully resided" and inserting in lieu thereof "who has lawfully resided".

(22) Section 1917(c)(2)(B)(iii) of such Act is amended—

(A) in subclause (I), by striking out "cannot" and inserting in lieu thereof "can"; and

(B) in subclause (IV), by striking out "if".

Ante, p. 551.
42 USC 410.

(23) Subsection (p) of section 210 of such Act (as added by section 269(b) of the Tax Equity and Fiscal Responsibility Act of 1982, relating to treatment of real estate agents) is redesignated as subsection (q).

42 USC 426 note.

(c)(1) Any amendment to the Tax Equity and Fiscal Responsibility Act of 1982 made by this section shall be effective as if it had been originally included in the provision of such Act to which such amendment relates.

42 USC 426-1
note.

(2) Any amendment to the Social Security Act made by this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of such Act was amended or added by the Tax Equity and Fiscal Responsibility Act of 1982.

42 USC 1320c
note.

(d) In order to avoid unfairly discriminating against professional standards review organizations whose performance was evaluated during the first and second calendar quarters of 1982, the Secretary of Health and Human Services shall disregard the results of such evaluations and shall carry out such new evaluations of such organizations as may be necessary to select utilization and quality control peer review organizations in accordance with subtitle C of title I of the Tax Equity and Fiscal Responsibility Act of 1982 and part B of title XI of the Social Security Act as amended by such subtitle.

42 USC 1395b-1
note.

(e) Section 122(i) of the Tax Equity and Fiscal Responsibility Act of 1982 (as redesignated by subsection (a)(6) of this section) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Notwithstanding the provisions of paragraph (1), the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of a hospice demonstration project described in paragraph (1) until September 30, 1986, if the hospice involved in such demonstration project does not provide hospice care directly but acts as a channeling agency for the provision of hospice care.

"(B) During the period after the date on which a hospice demonstration project described in subparagraph (A) would otherwise have terminated under the provisions of paragraph (1), and prior to September 30, 1986, any such hospice demonstration project shall be subject to the same requirements as are imposed under the hospice program provided for under the amendments made by this section with respect to reimbursement and benefits, other than the requirement that certain benefits be provided directly by the hospice involved."

SEC. 310. TECHNICAL CORRECTION RELATING TO FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION PROGRAM.

(a) Section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

26 USC 3304
note.

(1) by striking out “and” at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, multiplied by the number ‘6’, ‘8’, or ‘10’, whichever is applicable under subsection (e)(2)(A)(ii) in the State in which such individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.”.

26 USC 3304
note.

(b) The amendment made by subsection (a) shall be effective as if it had been originally included in section 602 of the Tax Equity and Fiscal Responsibility Act of 1982.

Effective date.
26 USC 3304
note.
Ante, p. 702.

SEC. 311. EFFECTIVE DATES.

(a) FOR SECTIONS 301, 302, AND 303.—The amendments made by sections 301, 302, and 303 shall apply to dispositions made after October 19, 1980, in taxable years ending after such date.

26 USC 453 note.

(b) FOR SECTION 304.—

(1) The amendment made by subsection (a) of section 304 shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980.

26 USC 443 note.

(2) The amendment made by subsection (b) of section 304 shall take effect as if included in the amendments made by section 4 of such Act.

94 Stat. 3397.

26 USC 368 note.

94 Stat. 3401.

(c) FOR SECTION 305.—

(1) The amendment made by subsection (a) of section 305 shall take effect on December 28, 1980.

26 USC 404A
note.

(2) The amendments made by subsection (b) of section 305 shall take effect on October 14, 1980.

26 USC 194A
note.

(3) The amendment made by subsection (c) of section 305 shall take effect as if included in the amendments made by section 421 of the Revenue Act of 1978.

26 USC 55 note.

92 Stat. 2871.

(4) The amendments made by subsection (d) of section 305 shall take effect on the date of the enactment of the Subchapter S Revision Act of 1982.

26 USC 221 note.

Ante, p. 1669.

26 USC 7448
note.

Ante, p. 1726.

26 USC 31 note.

Ante, p. 324.

(5) The amendment made by subsection (e) of section 305 shall take effect on the date of the enactment of the Miscellaneous Revenue Act of 1982.

(d) FOR SECTION 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.

Approved January 12, 1983.

the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (a) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interest benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount for the purpose of section 2039(d) of the Federal-State Extended Unemployment Compensation Act of 1970 for his benefit year multiplied by the number 3, 5, or 10, whichever is applicable under subsection (e)(2)(A) in the State in which such individual is filing such interest claim under the interest benefit payment plan for the week in which he is filing such claim."

(b) The amendment made by subsection (a) shall be effective as if it had been originally included in section 302 of the Tax Equity and Fiscal Responsibility Act of 1982.

(c) For sections 301, 302, and 303—The amendments made by sections 301, 302, and 303 shall apply to dispositions made after October 18, 1980, in taxable years ending after such date.

(d) For section 304—(1) The amendment made by subsection (a) of section 304 shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980.

(2) The amendment made by subsection (b) of section 304 shall take effect as if included in the amendments made by section 4 of such Act.

(e) For section 305—(1) The amendment made by subsection (a) of section 305 shall take effect on December 28, 1980.
(2) The amendments made by subsection (b) of section 305 shall take effect on October 14, 1980.
(3) The amendment made by subsection (c) of section 305 shall take effect as if included in the amendments made by section 4 of the Revenue Act of 1978.

LEGISLATIVE HISTORY—H.R. 6056:

HOUSE REPORTS: No. 97-794 (Comm. on Ways and Means) and No. 97-986 (Comm. of Conference).

SENATE REPORT No. 97-592 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed House.
Sept. 30, considered and passed Senate, amended.

Dec. 13, House concurred in certain Senate amendments in others with amendments.

Dec. 21, House agreed to conference report.
Dec. 22, Senate agreed to conference report.