COMPARISON OF REVENUE PROVISIONS OF H.R. 3448 (SMALL BUSINESS JOB PROTECTION ACT OF 1996) AS PASSED BY THE HOUSE AND THE SENATE

Prepared for the Use of the House and Senate Conferees

By the Staff

of the

JOINT COMMITTEE ON TAXATION

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CONTENTS

INTRODUCTION

H.R. 3448 ("Small Business Job Protection Act of 1996") was passed by the House of Representatives on May 22, 1996.[1] On May 23, the House combined H.R. 3448 (revenue provisions as Title I) with the minimum wage and other provisions (as Title II) from H.R. 1227 as passed by the House on May 23.

H.R. 3448 was referred to the Senate Committee on Finance on June 6, 1996. On June 12, 1996, the Senate Committee on Finance marked up a committee amendment as a substitute for the revenue provisions of H.R. 3448 (Title I) as passed by the House, and ordered the bill favorably reported, as amended.[2] Title I of the bill was amended by a Senate Managers' amendment on July 9, 1996,[3] and H.R. 3448, as amended, was passed by the Senate on July 9, 1996.

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[1] For an explanation of the House revenue provisions of H.R. 3448, see House Committee on Ways and Means report, H. Rept. 104-586, May 20, 1996.

[2] For an explanation of the Finance Committee amendment, see Senate Committee on Finance report, S. Rept. 104-281, June 18, 1996.

[3] For an explanation of the Senate Managers' amendment to Title I, see Joint Committee on Taxation, Description of Managers' Amendment to the Revenue Provisions of H.R. 3448 (the Small Business Job Protection Act of 1996) as Reported by the Senate Finance Committee (JCX-34-96), July 9, 1996. In addition, there were two modifications to the Senate Managers' amendment described in JCX-34-96 (relating to miscellaneous pension provisions): (1) treatment of multiemployer plans under section 415 and (2) payment of lump-sum credit for former spouses of Federal employees.

This document,[4] prepared by the staff of the Joint Committee on Taxation, provides a comparison of the revenue provisions of H.R. 3448 (Title I) as passed by the House and the Senate. The first part lists the identical revenue provisions (including effective dates); the second part lists the differing technical corrections provisions; and the third part provides a comparison of the differing revenue provisions in the House bill and the Senate amendment.

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[4] This document may be cited as follows, Joint Committee on Taxation, Comparison of Revenue Provisions of H.R. 3448 (Small Business Job Protection Act of 1996) as Passed by the House and the Senate (JCS-6-96), July 1996.

I. LIST OF IDENTICAL PROVISIONS

The following revenue provisions in Title I of H.R. 3448 are identical (including effective dates) in the House bill and in the Senate amendment. (See Part II for tax technical corrections and Part III for a comparison of the differing revenue provisions.)

Small Business and Other Tax Provisions

Small Business Provisions

- Tax credit for Social Security taxes paid with respect to employee cash tips (sec. 1112 of the House bill and the Senate amendment)

Provisions Relating to S Corporations

- S corporations permitted to have 75 shareholders (sec. 1301 of the House bill and the Senate amendment)

- Electing small business trusts (sec. 1302 of the House bill and the Senate amendment)

- Expansion of post-death qualification for certain trusts (sec. 1303 of the House bill and the Senate amendment)

- Financial institutions permitted to hold safe harbor debt (sec. 1304 of the House bill and the Senate amendment)

- Rules relating to inadvertent terminations and invalid elections (sec. 1305 of the House bill and the Senate amendment)

- Agreement to terminate year (sec. 1306 of the House bill and the Senate amendment)

- Expansion of post-termination transition period (sec. 1307 of the House bill and the Senate amendment)

- S corporations permitted to hold subsidiaries (sec. 1308 of the House bill and the Senate amendment)

- Treatment of distributions during loss years (sec. 1309 of the House bill and the Senate amendment)

- Treatment of S corporations under subchapter C (sec. 1310 of the House bill and the Senate amendment)

- Elimination of certain earnings and profits (sec. 1311 of the House bill and the Senate amendment)

- Carryover of disallowed losses and deductions under at-risk rules allowed (sec. 1312 of the House bill and the Senate amendment)

- Adjustments to basis of inherited S stock to reflect certain items of income (sec. 1313 of the House bill and the Senate amendment)

- S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers (sec. 1314 of the House bill and the Senate amendment)

- Reelection of subchapter S status (sec. 1315(b) of the House bill and sec. 1317(b) of the Senate amendment)

Pension Simplification Provisions

Simplified Distribution Rules

- Repeal of $5,000 exclusion for employer-provided death benefits (sec. 1402 of the House bill and the Senate amendment)

- Simplified method for taxing annuity distributions under certain employer plans (sec. 1403 of the House bill and the Senate amendment)

- Required distributions (sec. 1404 of the House bill and the Senate amendment)

Increased Access to Retirement Savings Plans

- Tax-exempt organizations eligible under section 401(k) (sec. 1426 of the House bill and the Senate amendment)

Nondiscrimination Provisions

- Repeal of family aggregation rules (sec. 1431(b) of the House bill and the Senate amendment)

- Modification of additional participation requirements (sec. 1432 of the House bill and the Senate amendment)

- Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions (sec. 1433 of the House bill and the Senate amendment)

- Definition of compensation for purposes of the limits on contributions and benefits (sec. 1434 of the House bill and the Senate amendment)

Miscellaneous Pension Simplification

- Plans covering self-employed individuals (sec. 1441 of the House bill and of the Senate amendment)

- Elimination of special vesting rule for multiemployer plans (sec. 1442 of the House bill and the Senate amendment)

- Distributions under rural cooperative plans (sec. 1443 of the House bill and the Senate amendment)

- Treatment of governmental plans under section 415 (sec. 1444 of the House bill and the Senate amendment)

- Uniform retirement age (sec. 1445 of the House bill and the Senate amendment)

- Contributions on behalf of disabled employees (sec. 1446 of the House bill and the Senate amendment)

- Treatment of deferred compensation plans of State and local governments and tax-exempt organizations (sec. 1447 of the House bill and the Senate amendment)

- Correction of GATT interest rate and mortality rate provisions in the Retirement Protection Act (sec. 1449 of the House bill and the Senate amendment)

- Application of elective deferral limit to section 403(b) contracts (sec. 1450(c) of the House bill and the Senate amendment)

- Tax on prohibited transactions (sec. 1453 of the House bill and the Senate amendment)

- Treatment of leased employees (sec. 1454 of the House bill and the Senate amendment)

- Uniform penalty provisions to apply to certain pension reporting requirements (sec. 1455 of the House bill and the Senate amendment)

- Retirement benefits of ministers not subject to tax on net earnings from self-employment (sec. 1456 of the House bill and the Senate amendment)

- Date for adoption of plan amendments (sec. 1469 of the House bill and the Senate amendment)

II. TAX TECHNICAL CORRECTIONS PROVISIONS

The tax technical corrections provisions are identical in the House bill and the Senate amendment, except as follows:

1. Expiration date of special ethanol blender refund (sec. 1703(k) of the Senate amendment)

The Senate amendment corrects a 1990 drafting error by conforming the expiration date for an excise tax expedited refund provision for gasohol blenders to that for gasoline tax provisions generally.

2. Estate tax freezes (sec. 1702(f) of the House bill and the Senate amendment)

The House bill includes a provision (also contained in prior technical corrections bills) to provide a special definition of "applicable family member" for purposes of determining control under section 2701 of the Code (relating to special valuation rules in case of transfers of certain interests in corporations or partnerships). The Senate amendment does not include this provision.

3. Certain property not treated as section 179 property (sec. 1704(u) of the House bill and sec. 1702(h)(19) of the Senate amendment)

Present Law

Section 179 allows a qualified taxpayer (generally, a small business) to elect to expense and deduct, rather than capitalize and depreciate, a limited amount of the cost of property placed in service in the taxpayer's trade or business.

One of the "deadwood provisions" of the Omnibus Budget Reconciliation Act of 1990 ("1990 Act") inadvertently expanded the scope of section 179 to include (1) property described in section 50(b) (generally, property used outside the United States, property used in connection with furnishing lodging, property used by tax exempt organizations, governments and foreign persons); (2) air conditioning or heating units; and (3) horses. According to legislative history, these 1990 Act provisions were "an attempt to simplify the Code by deleting 'deadwood,' without making substantive changes in tax law."

House Bill

The House bill restores pre-1990 law to deny the section 179 expensing allowance for the following property placed in service after May 14, 1996: (1) property described in section 50(b); (2) air conditioning or heating units; and (3) horses.

Senate Amendment

The Senate amendment restores pre-1990 law to deny the section 179 expensing allowance for (1) property described in section 50(b) and (2) air conditioning or heating units. The Senate amendment does not restore pre-1990 law for horses. The Senate amendment is effective as if originally included in the 1990 Act.

Item	*Present Law*	*House Bill*	*Senate Amendment*
III. COMPARISON OF DIFFERING REVENUE PROVISIONS **SMALL BUSINESS AND OTHER TAX PROVISIONS** **A. Small Business Provisions**			
1. Increase in expensing for small businesses (sec. 1111 of the House bill and the Senate amendment)	In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $17,500 of the cost of qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property purchased for use in the active conduct of a trade or business. The $17,500 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may	The House bill increases the $17,500 amount allowed to be expensed under section 179 to $25,000. The increase is phased in as follows: *Taxable year beginning in* — *Maximum expensing* 1996 — $18,500 1997 — 19,000 1998 — 20,000 1999 — 21,000 2000 — 22,000 2001 — 23,000 2002 — 23,500 2003 and thereafter — 25,000 **<u>Effective date</u>**.--Property placed in service in taxable years	The Senate amendment increases the $17,500 amount allowed to be expensed under section 179 to $25,000. The increase is phased in as follows: *Taxable year beginning in* — *Maximum expensing* 1997 — $18,000 1998 — 18,500 1999 — 19,000 2000 — 20,000 2001 — 24,000 2002 — 24,000 2003 and thereafter — 25,000 **<u>Effective date</u>**.--Property placed in service in taxable years

Item	*Present Law*	*House Bill*	*Senate Amendment*
	not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).	beginning after December 31, 1995, subject to the phase-in schedule set forth above.	beginning after December 31, 1996, subject to the phase-in schedule set forth above.
2. Home office deduction: treatment of storage product samples (sec. 1113 of the House bill)	A taxpayer's business use of his or her home may give rise to a deduction for the business portion of expenses related to operating the home if the requirements of Code section 280A are satisfied. In particular, section 280A(c)(2) contains a special rule that allows a home office deduction for business expenses related to space within a home that is used on a regular (even if not exclusive) basis as a storage unit for inventory of the taxpayer's trade or business of selling	The House bill clarifies that the special rule contained in section 280A(c)(2) permits deductions for expenses related to a storage unit in a taxpayer's home regularly used for inventory <u>or product samples</u> (or both) of the taxpayer's trade or business of selling products at retail or wholesale, provided that the home is the sole fixed location of such trade or business. **<u>Effective date</u>**.--Taxable years beginning after December 31, 1995.	No provision.

Item	Present Law	House Bill	Senate Amendment
	products at retail or wholesale, but only if the home is the sole fixed location of such trade or business.		
3. Treatment of certain charitable risk pools (sec. 1114 of the House bill)	Present law does not specifically accord tax-exempt status to an organization that pools insurable risks of a group of tax-exempt organizations. Code section 501(c)(3) provides that an organization that is organized and operated exclusively for charitable purposes is entitled to tax-exempt status under that section, but only if the organization satisfies the additional requirements that (1) no part of its net earnings inures to the benefit of any private individual or shareholder (the "private inurement test"), (2) the organization does not engage in political campaign activity on behalf of (or in opposition to) any candidate for public office, and (3) the organization does	Under the House bill, a qualified charitable risk pool is treated as a tax-exempt organization organized and operated exclusively for charitable purposes, and is not subject to the Code section 501(m) rule limiting the provision of commercial-type insurance. Under the House bill, a "qualified charitable risk pool" is an organization organized and operated solely to pool insurable risks of its members (other than medical malpractice risks) and to provide information to its members with respect to loss control and risk management. Only charitable tax-exempt organizations described in section 501(c)(3) may be members.	No provision.

Item	Present Law	House Bill	Senate Amendment
	not engage in substantial lobbying activities. Code section 501(m) provides that an organization described in section 501(c)(3) or 501(c)(4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.	Under the House bill, a qualified charitable risk pool is required to (1) be organized as a nonprofit organization under State law authorizing risk pooling for charitable organizations; (2) be exempt from State income tax; (3) obtain at least $1 million in startup capital from nonmember charitable organizations; (4) be controlled by a board of directors elected by its members; and (5) provide in its organizational documents that members must be tax-exempt charitable organizations at all times, and if a member loses that status it must immediately notify the organization, and that no insurance coverage applies to a member after the date of any final determination that the member no longer qualifies as a tax-exempt charitable organization. A qualified charitable risk pool also must satisfy the other requirements of Code section 501(c)(3) (i.e., the private	

Item	Present Law	House Bill	Senate Amendment
		inurement test and the prohibition of political campaign activities and substantial lobbying). **Effective date**.--Taxable years beginning after the date of enactment.	
4. **Treatment of dues paid to agricultural or horticultural organizations (sec. 1115 of the House bill and sec. 1113 of the Senate amendment)**	Tax-exempt organizations generally are subject to the unrelated business income tax ("UBIT") on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511-514). Dues payments made to a membership organization generally are related to the organization's exempt purpose and, therefore, are not subject to the UBIT. However, several courts have held that, with respect to postal labor organizations (which are exempt under section 510(c)(5)), dues	Under the House bill, if an agricultural or horticultural organization described in section 501(c)(5) requires annual dues not exceeding $100 to be paid in order to be a member of such organization, then in no event will any portion of such dues be subject to the UBIT by reason of any benefits or privileges to which members of such organization are entitled. For taxable years beginning after 1995, the $100 amount will be indexed for inflation. The term "dues" is defined as "any payment required to be made in order to be recognized by the	Same as House bill, except with respect to the effective date.

Item	Present Law	House Bill	Senate Amendment
	payments were subject to the UBIT when received from individuals who were not postal workers, but who became "associate" members for the purpose of obtaining health insurance available to members of the organization. In Rev. Proc. 95-21 (issued March 23, 1995), the IRS set forth its position regarding when associate member dues payments received by an organization described in section 501(c)(5) will be treated as subject to the UBIT. The IRS stated that dues payments from associate members will not be treated as subject to UBIT unless, for the relevant period, "the associate member category has been formed or availed of for the principal purpose of producing unrelated business income."	organization as a member of the organization." **Effective date**.--Taxable years beginning after December 31, 1994.	**Effective date**.--Taxable years beginning after December 31, 1986. The Senate amendment also provides transitional relief to agricultural or horticultural organizations that had a reasonable basis for not treating membership dues received prior to January 1, 1987, as unrelated business income.
5. **Clarify employment tax status of certain**	Under present law, service as a crew member on a fishing vessel	Under the House bill, the operating crew of a boat is	Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
fishermen (sec. 1116(a) of the House bill and sec. 1114 of the Senate amendment)	is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch. Crew members to which the exemption applies are subject to self-employment taxes. Special reporting requirements apply to the operators of boats on which exempt crew members serve.	treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals. In addition, the exemption applies if the crew member receives, in addition to the cash remuneration permitted under present law, cash remuneration which does not exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., as mate, engineer, or cook) for which additional cash remuneration is customary. Also, the reporting requirements applicable to boat operators are modified to take into account the additional cash remuneration that may be paid under the proposal. __Effective date__.--Remuneration paid after December 31, 1996. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1997, unless	__Effective date__.--Remuneration paid after December 31, 1994, and also is effective with respect to remuneration paid after December 31, 1984, and before January 1, 1995, unless the

Item	Present Law	House Bill	Senate Amendment
		the payor treated such remuneration when paid as subject to wage withholding and employment taxes.	payor treated such remuneration (when paid) as being subject to FICA taxes. However, the provision modifying the reporting requirements applicable to boat operators applies to remuneration paid after December 31, 1996.
6. Reporting requirements for purchasers of fish (sec. 1116(b) of the House bill)	Information reporting is generally not required with respect to purchases of fish or other forms of aquatic life. Information reporting is required by a person engaged in a trade or business who, in the course of that trade or business, receives more than $10,000 in cash in one transaction (or several related transactions) (Code sec. 6050I).	Requires persons engaged in the trade or business of purchasing fish for resale who pay more than $600 in cash in a calendar year for fish or other forms of aquatic life from any seller engaged in the trade or business of catching fish to file information reports with the Secretary regarding such purchases. **<u>Effective date</u>**.--Purchases made after December 31, 1996.	No provision.
7. Modify rules governing issuance of tax-exempt bonds for first-time	Interest on bonds issued by State and local governments to provide financing to private	No provision.	The Senate amendment makes two modifications to the rules governing issuance of tax-

Item	*Present Law*	*House Bill*	*Senate Amendment*
farmers (sec. 1115 of the Senate amendment)	persons is taxable unless an exception is provided in the Internal Revenue Code. One such exception allows State and local governments to issue bonds to finance loans to first-time farmers for the acquisition of land (and limited amounts of related depreciable farm property) if the purchasers will be the principal user of the property and will materially participate in the farming operation in which the property is to be used. A first-time farmer is defined as an individual who has at no time owned farm land in excess of 15 percent of the median size of the farm in the county in which such land is located, and the fair market value of the land has not at any time when held by the individual exceeded $125,000. Under general rules governing issuance of tax-exempt bonds, working capital financing (including purchases from related parties) is precluded.		exempt bonds for first-time farmers. First, the definition of first-time farmer is broadened to include an individual who has at no time owned farm land in excess of 30 percent of the median size farm in the county. Second, these bonds may be used to finance purchases between related parties provided that: (1) the price paid reflects the fair market value of the property and, (2) the seller has no financial interest in the farming operation conducted on the land after the bond-financed sale occurs. **Effective date.**--For financing provided with bonds issued after the date of enactment.

Item	*Present Law*	*House Bill*	*Senate Amendment*
8. Clarify treatment of newspaper distributors and carriers as direct sellers (sec. 1116 of the Senate amendment)	For income and employment tax purposes, a "direct seller" is deemed to be an independent contractor. A direct seller is a person engaged in the trade or business of selling consumer products in the home or otherwise than in a permanent retail establishment, if substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes. There is presently some dispute as to whether newspaper distributors and carriers qualify as direct sellers under current law.	No provision.	The treatment of qualifying newspaper distributors and carriers as direct sellers is clarified. Specifically, a person engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any services that are directly related to such trade or business such as solicitation of customers or collection of receipts) qualifies as a direct seller, provided substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes. __Effective date.__--Services performed after December 31, 1995.

Item	Present Law	House Bill	Senate Amendment
9. Application of involuntary conversion rules to property damaged as a result of Presidentially declared disasters (sec. 1117 of the Senate amendment)	A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period property similar or related in service or use. If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized.	No provision.	The Senate amendment provides that any tangible property acquired and held for productive use in a trade or business is treated as similar or related in service or use to property that (1) was held for investment or for productive use in a trade or business and (2) was involuntarily converted as a result of a Presidentially declared disaster. **Effective date**.-- Disasters for which a Presidential declaration is made after December 31, 1994, in taxable years ending after that date.
10. Establish 15-year recovery period for retail motor fuel outlet stores (sec. 1118 of the Senate amendment)	Property used in the retail gasoline trade is depreciated under section 168 using a 15-year recovery period and the 150-percent declining balance method. Nonresidential real property is depreciated using a 39-year recovery period and the straight-line method. It is understood that taxpayers	No provision.	The Senate amendment provides that 15-year property includes any section 1250 property (generally, depreciable real property) that is a retail motor fuel outlet (whether or not food or other convenience items are sold at the outlet). A retail motor fuel outlet does not include any facility related to

Item	Present Law	House Bill	Senate Amendment
	generally have taken the position that convenience stores and other structures installed at motor fuel retail outlets have a 15-year recovery period. The IRS, in a position described in a recent Coordinated Issues Paper, generally limits the application of the 15-year recovery period to instances where the structure (1) is 1,400 square feet or less or (2) meets a 50-percent test. The 50-percent test is met if : (1) 50 percent or more of the gross revenues that are generated from the building are derived from petroleum sales and (2) 50 percent or more of the floor space in the building is devoted to petroleum marketing sales.		petroleum or natural gas trunk pipelines or to any section 1250 property used only to an insubstantial extent in the retail marketing of petroleum or petroleum products. **<u>Effective date</u>**.--Property placed in service on or after the date of enactment and to which the amendments made by section 201 of the Tax Reform Act of 1986 apply (i.e., property subject to the modified Accelerated Cost Recovery System of sec. 168). The taxpayer may elect to apply the provision for property placed in service prior to the date of enactment.
11. Treatment of leasehold improvements (sec. 1119 of the Senate amendment)	An improvement made by a lessor or lessee with respect to leased property generally is depreciated in the same manner as the underlying leased property regardless of the term of the lease. If a leasehold improvement is disposed of by a	No provision.	A lessor of leased property may take the adjusted basis of a leasehold improvement into account for purposes of determining gain or loss when the improvement is irrevocably disposed of or abandoned at the termination of the lease.

Item	Present Law	House Bill	Senate Amendment
	lessor at the end of the term of the lease, proposed Treasury regulations generally require the cost of the improvement to continue to be depreciated rather than taken into account for purposes of determining gain or loss with respect to such disposition.		**<u>Effective date</u>**.--Leasehold improvements disposed of after June 12, 1996.
12. Increase deductibility of business meal expenses for certain seafood processing facilities (sec. 1120 of the Senate amendment)	In general, 50 percent of meal and entertainment expenses incurred in connection with a trade or business that are ordinary and necessary (and not lavish or extravagant) are deductible (sec. 274). Food or beverage expenses are fully deductible provided that they are (1) required by Federal law to be provided to crew members of a commercial vessel, (2) provided to crew members of similar commercial vessels not operated on the oceans, or (3) provided on certain oil or gas platforms or drilling rigs.	No provision.	Adds remote seafood processing facilities located in the United States north of 53 degrees north latitude to the present-law list of entities not subject to the 50 percent limitation on the deductibility of business meals. **<u>Effective date</u>**.-- Taxable years beginning after December 31, 1996.

Item	*Present Law*	*House Bill*	*Senate Amendment*
13. **Provide a lower rate of tax on certain hard ciders (sec. 1121 of the Senate amendment)**	Distilled spirits are taxed at a rate of $13.50 per proof gallon; beer is taxed at a rate of $18 per barrel (approximately 58 cents per gallon); and still wines of 14 percent alcohol or less are taxed at a rate of $1.07 per wine gallon. Higher rates of tax are applied to wines with greater alcohol content and sparkling wines. Certain small wineries may claim a credit against the excise tax on wine of 90 cents per wine gallon on the first 100,000 gallons of wine produced annually. Certain small breweries pay a reduced tax of $7.00 per barrel (approximately 22.6 cents per gallon) on the first 60,000 barrels (1,860,000 gallons) of beer produced annually. Apple cider containing alcohol is classified and taxed as wine.	No provision.	The Senate amendment adjusts the tax rate on apple cider having an alcohol content of no more than seven percent to 22.6 cents per gallon. **Effective date.**--Apple cider removed after December 31, 1996.

Item	Present Law	House Bill	Senate Amendment
14. Modifications to section 530 of the Revenue Act of 1978 (sec. 1122 of the Senate amendment)	**<u>In general</u>** For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. Significant tax consequences result from the classification of a worker as an employee or independent contractor. These differences relate to withholding and employment tax requirements, as well as the ability to exclude certain types of compensation from income or to take tax deductions for certain expenses. Some of these consequences favor employee status, while others favor independent contractor status. In general, the determination of whether an employer-employee relationship exists for Federal tax purposes is made under a common-law test Treasury regulations provide that an employer-employee relationship generally exists if the person	No provision.	

25-815 96 - 2

Item	Present Law	House Bill	Senate Amendment
	contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished. **<u>Section 530</u>** <u>In general</u>--Section 530 generally allows a taxpayer to treat a worker as not being an employee for employment tax purposes (but not income tax purposes), regardless of the individual's actual status under the common-law test, unless the taxpayer has no reasonable basis for such treatment.		
	Under section 530, a reasonable basis for treating a worker as an independent contractor is considered to exist if the taxpayer reasonably relied on (1) published rulings or judicial precedent, (2) past IRS audit practice with respect to the taxpayer, (3) long-standing recognized practice of a significant segment of the industry of which the taxpayer		<u>Effect of change in status on section 530 safe harbors</u>.--The fact that a taxpayer changes its treatment of workers from independent contractors to employees will not affect the applicability of the safe harbor in prior periods.

Item	Present Law	House Bill	Senate Amendment
	is a member, or (4) if the taxpayer has any "other reasonable basis" for treating a worker as an independent contractor. The legislative history states that section 530 is to be "construed liberally in favor of taxpayers." Section 530 also prohibits the issuance of Treasury regulations and revenue rulings on common-law employment status. Taxpayers may, however, obtain private letter rulings from the IRS regarding the status of workers as employees or independent contractors.		
	Status of worker.--There is no explicit statement in the language of section 530 requiring that there first be a determination that a worker is an employee under the common-law test before the relief under section 530 becomes available.		Status of worker.--Under the Senate Amendment, a worker does not have to otherwise be an employee of the taxpayer in order for section 530 to apply.
	Prior audit safe harbor.--Under the prior audit safe harbor, reasonable reliance is generally		Prior audit safe harbor.-- Under the Senate amendment, taxpayers may not rely on an

Item	Present Law	House Bill	Senate Amendment
	found to exist if the IRS failed to raise an employment tax issue on audit, even though the audit was not related to employment tax matters. A taxpayer can also rely on a prior audit in favor of the taxpayer.		audit commencing after December 31, 1996, unless such audit included an examination for employment tax purposes of whether the worker involved (or any worker holding a position substantially similar to the position held by the worker involved) should be treated as an employee of the taxpayer.
			Signed statement.--Under the Senate amendment, section 530 will not apply with respect to a worker unless the taxpayer and the worker sign a statement which provides that the worker will not be treated as an employee for employment tax purposes. An officer or employee of the IRS must, at (or before) the commencement of an audit involving worker classification issues, provide the taxpayer with written notice of the provisions of section 530.
	Industry practice safe harbor.--A taxpayer is treated as having a reasonable basis for treating a worker as an independent		Industry practice safe harbor.--(a) Under the Senate amendment, a significant segment of the taxpayer's

Item	Present Law	House Bill	Senate Amendment
	contractor under section 530 if the taxpayer reasonably relied on a long-standing recognized practice of a significant segment of the industry in which the taxpayer is engaged.		industry under the industry practice safe harbor does not require a reasonable showing of the practice of more than 25 percent of an industry (determined without taking into account the taxpayer). A lower percentage may also satisfy the requirement. (b) Under the Senate amendment, an industry practice need not have continued for more than 10 years in order for the industry practice to be considered long standing. A shorter period may also satisfy the requirement. (c) Under the Senate amendment, an industry practice will not fail to be treated as long standing merely because such practice began after 1978.
	<u>Consistency among workers with substantially similar positions</u>.--In order for section 530 to apply, the taxpayer (or a predecessor) must not have treated any worker holding a		<u>Substantially similar position</u>.--Under the Senate amendment, in determining whether a worker holds a substantially similar position to another worker, the relationship of the parties must

Item	Present Law	House Bill	Senate Amendment
	substantially similar position as an employee for purposes of employment taxes for any period beginning after 1977.		be one of the factors taken into account.
	Burden of proof.--The IRS Draft Training Guide states that the burden of proof is on the taxpayer to demonstrate that it had a reasonable basis for treating a worker as an independent contractor. However, in light of the Congressional instruction in the legislative history to construe section 530 liberally, courts appear to be split as to how stringent a burden to apply.		Burden of proof.--Under the Senate amendment, if a taxpayer establishes a prima facie case that it was reasonable not to treat a worker as an employee for purposes of section 530, the burden of proof shifts to the IRS with respect to such treatment. In order for the shift in burden of proof to occur, the taxpayer must fully cooperate with reasonable requests by the IRS for information relevant to the taxpayer's treatment of the worker as an independent contractor under section 530. The shift in the burden does not apply to the determination of "any other reasonable basis".
			Effective date.--The provisions generally apply to periods after December 31, 1996. The provision regarding the burden of proof applies to disputes with respect to periods after

Item	*Present Law*	*House Bill*	*Senate Amendment*
			December 31, 1996 In the case of workers engaged to perform services for a taxpayer before January 1, 1997, the provision requiring a written statement that such workers are not employees for employment tax purposes is effective for periods after December 31, 1997 (unless the taxpayer elects to apply the provision earlier). The provision requiring the IRS to notify taxpayers of the provisions of section 530 applies to audits commencing after December 31, 1996.
15. Employee housing for certain medical research institutions (sec. 1123 of the Senate amendment)	Under Code section 119(d), employees of an educational institution do not have to include in income the fair market value of campus housing as long as the rent is at least five percent of the appraised value of the housing. If the rent is less than the five-percent safe harbor, there is inclusion into income to the extent that the rent that was charged falls short	No provision.	The Senate amendment treats as "educational institutions" for purposes of Code section 119(d) certain medical research institutions ("academic health centers") that engage in basic and clinical research, have a regular faculty and teach a curriculum in basic and clinical research to students in attendance at the institution.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	of the lesser of five percent of the appraised value or the average of rents paid by individuals (other than employees or students of the educational institution) for similar lodging provided by the institution.		**<u>Effective date</u>**.--Taxable years beginning after December 31, 1995.

Item	Present Law	House Bill	Senate Amendment
B. Extension of Certain Expiring Provisions			
1. Work opportunity tax credit (sec. 1201 of House bill and the Senate amendment)	Prior to January 1, 1995, the targeted jobs tax credit was available on an elective basis for employers hiring individuals from one or more of nine targeted groups. The credit generally was equal to 40 percent of qualified first-year wages.	General rules.--The House bill replaces the targeted jobs tax credit with the "work opportunity tax credit". The new credit is available on an elective basis for employers hiring individuals from one or more of seven targeted groups. The credit generally is equal to 35 percent of qualified first-year wages.	General rules.--Same as the House bill with the addition of an eighth targeted group, individuals 18 to 24 who are in families receiving food stamps for at least three months.
		Minimum employment period.--Under the House bill, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 days in the case of a qualified summer youth employee) or 500 hours (120 hours in the case of a qualified summer youth employee).	Minimum employment period.--Same as the House bill except replaces the 500 hour requirement with a 375 hour requirement.
		Certification of members of targeted groups.--In general, under the House bill, an	Certification of members of targeted groups.--Same as House bill except replaces 14

Item	Present Law	House Bill	Senate Amendment
		individual is not treated as a member of a targeted group unless: (1) on or before the day the individual begins work for the employer, the employer received in writing a certification from the designated local agency that the individual is a member of a specific targeted group, or (2) on or before the day the individual is offered work with the employer, a pre-screening notice is completed with respect to that individual by the employer and within 14 days after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for certification. The pre-screening notice will contain the information provided to the employer by the individual that forms the basis of the employer's belief that the individual is a member of a targeted group.	day rule with 21 day rule for submission of pre-screening notice.

Item	Present Law	House Bill	Senate Amendment
		Effective date.--Wages paid or incurred to a qualified individual who begins work for an employer after June 30, 1996, and before July 1, 1997.	**Effective date**.--Wages paid or incurred to a qualified individual who begins work for an employer after September 30, 1996, and before October 1, 1997.
2. **Employer-provided educational assistance (sec. 1202 of the House bill and the Senate amendment)**	For taxable years beginning before January 1, 1995, employee's gross income and wages did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements. This exclusion, which expired for taxable years beginning after December 31, 1994, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applied whether or not the education was job related. In the absence of this exclusion, educational assistance is excludable from	The exclusion for employer-provided educational assistance is extended for taxable years beginning after December 31, 1994, and before January 1, 1997. In years beginning after December 31, 1995, the exclusion would not apply with respect to graduate-level courses.	The exclusion for employer-provided educational assistance (including the application of the exclusion to graduate education) is extended for taxable years beginning after December 31, 1994, and before January 1, 1998.

Item	Present Law	House Bill	Senate Amendment
	income only if it is related to the employee's current job.		
		Effective date.--Taxable years beginning after December 31, 1994, and before January 1, 1997, and the restriction of the exclusion to undergraduate education is effective for taxable years beginning after December 31, 1995.	**Effective date**.--Taxable years beginning after December 31, 1994, and before January 1, 1998
3. **Permanent extension of FUTA exemption for alien agricultural workers (sec. 1203 of the House bill)**	Generally, the Federal Unemployment Tax ("FUTA") is imposed on farm operators who (1) employ 10 or more agricultural workers for some portion of 20 different days, each being in a different calendar week or (2) have a quarterly payroll for agricultural services of at least $20,000. An exclusion from FUTA was provided, however, for labor performed by an alien admitted to the United States to perform agricutural labor under section 214(c) and 101(a)(15)(H) of the Immigration and Nationality	The House bill permanently extends the FUTA exemption for alien agricultural workers. **Effective date.**--Labor performed on or after January 1, 1995.	No provision.

Item	Present Law	House Bill	Senate Amendment
	Act. This exclusion was effective for labor performed before January 1, 1995.		
4. Research and experimentation tax credit (sec. 1203 of the Senate amendment)	Prior to July 1, 1995, section 41 of the Code provided for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and does not apply to amounts paid or incurred after June 30, 1995.	No provision.	The Senate amendment extends the research tax credit for 18 months--i.e., for the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental credit regime).
	Start-up firms.--A so-called "start-up firm"--i.e., a taxpayer that did not both incur qualified research expenditures and have gross receipts during each of at least three years from 1984 through 1988--is assigned a fixed-base percentage of 3 percent when computing its base amount.		Start-up firms.--The Senate amendment expands the definition of "start-up firms" to include any firm if the first taxable year in which such firm had both qualified research expenditures and gross receipts began after 1983.
	Payments to research consortia.--Qualified research expenditures		Payments to research consortia.--75 percent of amounts paid to a

Item	Present Law	House Bill	Senate Amendment
	include 65 percent of amounts paid by the taxpayer for qualified research conducted on the taxpayer's behalf.		tax-exempt research consortium is treated as a qualified research expenditure if (1) the consortium is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) the research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer
	Alternative incremental credit.--No provision.		Alternative incremental credit.--The Senate amendment allows taxpayers to elect an alternative incremental credit regime, under which the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate is reduced to 1.65 percent, 2.2 percent, and 2.75 percent.
			Effective date.--Extension of the research tax credit is effective for expenditures paid

Item	Present Law	House Bill	Senate Amendment
			or incurred during the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental credit regime). Credit amounts may not be claimed against estimated tax payments required to be paid before October 1, 1996. The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1996. Taxpayers may elect the alternative incremental credit regime for the first taxable year beginning after June 30, 1996, and before July 1, 1997, and the credit is available with respect to all qualified research expenses incurred during such taxable year and during the first six months of the following taxable year. The rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1996.

Item	*Present Law*	*House Bill*	*Senate Amendment*
5. **Orphan drug tax credit (sec. 1204 of the Senate amendment)**	Prior to January 1, 1995, a 50-percent nonrefundable tax credit was allowed for qualified clinical testing expenses incurred in testing certain drugs for rare diseases or conditions, generally referred to as "orphan drugs." The orphan drug tax credit expired after December 31, 1994. Unused orphan drug tax credits could not be carried back or carried forward to reduce taxes in other years.	No provision.	The Senate amendment extends the orphan drug tax credit for 18 months--i.e., for the period July 1, 1996, through December 31, 1997. The Senate amendment allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned. **Effective date**.--The Senate amendment applies to qualified clinical testing expenses paid or incurred during the period July 1, 1996, through December 31, 1997. The provision allowing for the carry back and carry forward of unused credits would be effective for taxable years ending after June 30, 1996. No portion of the unused business credit that is attributable to the orphan drug credit could be carried back under section 39 to a taxable year ending before July 1, 1996.

Item	*Present Law*	*House Bill*	*Senate Amendment*
6. Contributions of stock to private foundations (sec. 1205 of the Senate amendment)	In cases involving charitable contributions to a private foundation (other than certain private operating foundations), the amount of the deduction a taxpayer may claim generally is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers were allowed a deduction equal to the fair market value of "qualified appreciated stock" contributed to a private foundation prior to January 1, 1995. Qualified appreciated stock was defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applied only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. This special rule in section 170(e)(5) expired after December 31, 1994.	No provision.	The Senate amendment reenacts the special rule contained in section 170(e)(5) for 18 months--i.e., for contributions of qualified appreciated stock made to private foundations for contributions made during the period July 1, 1996, through December 31, 1997. **Effective date**.--Contributions of qualified appreciated stock to private foundations made during the period July 1, 1996, through December 31, 1997.

Item	Present Law	House Bill	Senate Amendment
7. Tax credit for producing fuel from a nonconventional source (sec. 1206 of the Senate amendment)	Certain fuels produced from "nonconventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels must be produced within the United States. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite). In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and	No provision.	The Senate amendment extends the binding contract date for facilities producing synthetic fuels from coal and gas from biomass until the date which is six months after the date of the provision's enactment, and the placed in service date for two years. The present sunset on production qualifying for the credit is not changed. Therefore, under the provision, synthetic fuels from coal and gas from biomass produced from a facility placed in service before January 1, 1999, pursuant to a binding contract entered into before the date which is six months after the date of the provision's enactment, will be eligible for the tax credit if produced before January 1, 2008. **Effective date**.--The provision is effective on the date of enactment.

Item	Present Law	House Bill	Senate Amendment
	synthetic fuel from coal if the facility producing the fuel is placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996. The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of nonconventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).		
8. Suspend imposition of diesel fuel tax on recreational motorboats (sec. 1207 of the Senate amendment)	Diesel fuel used in recreational motorboats is subject to a 24.4 cents-per-gallon excise tax through December 31, 1999. This tax was enacted by the Omnibus Budget Reconciliation Act of 1993 as a revenue offset for repeal of the excise tax on certain luxury boats. Revenues from this tax are retained in the General Fund.	No provision.	The Senate amendment provides that no tax will be imposed on diesel fuel used in recreational motorboats during the period beginning seven days after the date of enactment through December 31, 1997 In addition, the Senate Finance Committee requested that the Treasury Department study

Item	Present Law	House Bill	Senate Amendment
	The diesel fuel tax is imposed on removal of the fuel from a registered terminal facility (i.e., at the "terminal rack"). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. If fuel on which tax is paid at the terminal rack (i.e., undyed diesel fuel) ultimately is used in a nontaxable use, a refund is allowed. Depending on the aggregate amount of tax to be refunded, this refund may be claimed either by a direct filing with the Internal Revenue Service or as a credit against income tax. Dyed diesel fuel (fuel on which no tax is paid) may not be used in a taxable use. Present law imposes a penalty equal to the greater of $10 per gallon or $1,000 on persons found to be violating this prohibition.		possible alternatives to the current collection regime for motorboat diesel fuel that will provide comparable compliance with the law, and report to the House Committee on Ways and Means and the Senate Committee on Finance no later than April 1, 1997. **Effective date**.--The provision is effective on the date of enactment.

Item	*Present Law*	*House Bill*	*Senate Amendment*
9. Extension of transition rule for certain publicly traded partnerships (sec. 1208 of the Senate amendment)	A publicly traded partnership generally is treated as a corporation for Federal income tax purposes. An exception is provided for partnerships, 90 percent or more of whose gross income is passive-type income (as defined under the provision). The provision was added by the Omnibus Budget Reconciliation Act of 1987 (the "1987 Act"), and applies generally to taxable years beginning after December 31, 1987. However, a 10-year grandfather rule was provided in the 1987 Act for certain existing partnerships. Thus, the provision becomes effective for such existing partnerships for taxable years beginning after December 31, 1997.	No provision.	A 2-year extension of the 10-year grandfather rule for certain existing partnerships is provided. Thus, the provision of present law treating publicly traded partnerships as corporations applies to certain existing partnerships for taxable years beginning after December 31, 1999. **Effective date**.--Effective as if included in the 1987 Act.

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Provisions Relating to S Corporations			
1. Certain financial institutions as eligible corporations (sec. 1315 of the Senate amendment)	Banks and similar depository financial institutions cannot elect to be treated as an S corporation.	No provision	The Senate amendment allows banks and similar depository financial institutions to elect to be treated as an S corporation unless the corporation uses a reserve method of accounting for bad debts. __Effective date__.--Taxable years beginning after December 31, 1996.
2. Certain tax-exempt entities allowed to be shareholders (sec. 1316 of the Senate amendment)	A tax-exempt organization described in section 401(a) (relating to qualified retirement plan trusts) or section 501(c)(3) (relating to certain charitable organizations) cannot be a shareholder in an S corporation.	No provision.	The Senate amendment allows tax-exempt organizations described in sections 401(a) and 501(c)(3) to be shareholders in S corporations. All items of income or loss of an S corporation that flow through to the tax-exempt organization (and gain or loss on the sale of S corporation stock) is treated as unrelated business taxable income. Special present-law rules applicable to employee stock ownership plans ("ESOPs") will not apply to S

Item	Present Law	House Bill	Senate Amendment
			corporation stock held by an ESOP. **Effective date**.--Taxable years beginning after December 31, 1997.

Item	*Present Law*	*House Bill*	*Senate Amendment*
PENSION SIMPLIFICATION PROVISIONS			
A. Simplified Distribution Rules			
1. Repeal of 5-year income averaging for lump-sum distributions (sec. 1401 of the House bill and the Senate amendment)	In general, a distribution of benefits from a tax-favored retirement arrangement (i.e., a qualified plan) generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A qualified plan includes a qualified pension plan, a qualified annuity plan, and a tax-sheltered annuity contract (sec. 403(b) annuity). Lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward averaging.	5-year averaging for lump-sum distributions from qualified plans is repealed.	Same as House bill, except the Senate amendment clarifies that the transition rules adopted in the Tax Reform Act of 1986 (i.e., 10-year averaging and capital gains treatment for the pre-1974 portion of the lump-sum distribution), but not 5-year averaging, are preserved for lump-sum distributions to individuals eligible for such transition rules.
		<u>**Effective date**</u>.--Taxable years beginning after December 31, 1998.	<u>**Effective date**</u>.--Taxable years beginning after December 31, 1999.

Item	Present Law	House Bill	Senate Amendment
B. Increased Access to Retirement Savings Plans			
1. Establish SIMPLE retirement plans for employees of small employers (secs. 1421-1422 of the House bill and the Senate amendment)	Present law does not contain rules relating to SIMPLE retirement plans. However, present law does provide a number of ways in which individuals can save for retirement on a tax-favored basis. These include employer-sponsored retirement plans that meet the requirements of the Internal Revenue Code (a "qualified plan") and individual retirement arrangements ("IRAs"). Employees can earn significant retirement benefits under employer-sponsored retirement plans. However, in order to receive tax-favored treatment, such plans must comply with a variety of rules, including complex nondiscrimination and administrative rules (including top-heavy rules). Such plans are also subject to certain requirements under the labor law provisions of the Employee	In general.-The House bill creates a simplified retirement plan for small business called the savings incentive match plan for employees ("SIMPLE") retirement plan. SIMPLE plans can be adopted by employers who employ 100 or fewer employees on any day during the year and who do not maintain another employer-sponsored retirement plan. A SIMPLE plan can be either an IRA for each employee or part of a qualified cash or deferred arrangement ("401(k) plan"). If established in IRA form, a SIMPLE plan is not subject to the nondiscrimination rules generally applicable to qualified plans (including the top-heavy rules) and simplified reporting requirements apply. Within limits, contributions to a SIMPLE plan are not taxable until withdrawn.	Same as the House bill, with the following modifications: A SIMPLE plan can be adopted by employers who employed 100 employees or less with at least $5,000 in compensation for the preceding year. Employers who no longer qualify are given a 2-year grace period to continue to maintain the plan. Eligible employees are given 60 days before the beginning of any year (or the 60-day period before first becoming eligible to participate in the plan) to elect to participate in the SIMPLE plan. For purposes of the 2 percent of compensation nonelective contribution formula, in any year no more than $150,000 of compensation can be taken into account with respect to any eligible employee.

Item	Present Law	House Bill	Senate Amendment
	Retirement Income Security Act of 1974 ("ERISA"). IRAs are not subject to the same rules as qualified plans, but the amount that can be contributed in any year is significantly less The maximum deductible IRA contribution for a year is limited to $2,000. Distributions from IRAs and employer-sponsored retirement plans are generally taxable when made. In addition, distributions prior to age 59-1/2 generally are subject to an additional 10-percent early withdrawal tax. Contributions to an IRA can also be made by an employer at the election of an employee under a salary reduction simplified employee pension ("SARSEP"). Under SARSEPs, which are not qualified plans, employees can elect to have contributions made to the SARSEP or to receive the contributions in cash. The amount the employee elects to have contributed to the SARSEP	A SIMPLE plan can also be adopted as part of a 401(k) plan. In that case, the plan does not have to satisfy the special nondiscrimination tests applicable to 401(k) plans and is not subject to the top-heavy rules. The other qualified plan rules continue to apply. **<u>SIMPLE plans in IRA form</u>** <u>Contributions</u>.--A SIMPLE plan allows employees to make elective contributions to an IRA. Employee contributions cannot exceed $6,000 per year. The $6,000 dollar limit is indexed for inflation in $500 increments. Under the House bill, the employer is required to satisfy one of two contribution formulas. Under the matching contribution formula, the employer generally is required to match employee elective contributions on a dollar-for-dollar basis up to 3 percent of the employee's compensation. Under a special rule, the	The provision clarifies that an employer is permitted to designate a SIMPLE account trustee to which contributions on behalf of eligible employees are made. The provision also amends parts 1 and 4, Subtitle B, Title I of ERISA so that only simplified reporting requirements apply to SIMPLE plans and so that the employer (and any other plan fiduciary) will not be subject to fiduciary liability resulting from the employee (or beneficiary) exercising control over the assets in the SIMPLE account. For this purpose, an employee (or beneficiary) will be treated as exercising control over the assets in his or her account upon the earlier of (1) an affirmative election with respect to the initial investment of any contributions, (2) a rollover contribution (including a trustee-to-trustee transfer) to another SIMPLE account or IRA, or (3) one year after the SIMPLE account is established.

Item	Present Law	House Bill	Senate Amendment
	is not currently includible in income. The annual amount an employee can elect to contribute to a SARSEP is limited to $9,500 for 1996. This dollar limit is indexed for inflation in $500 increments. The election to have amounts contributed to a SARSEP or received in cash is available only if at least 50 percent of the eligible employees of the employer elect to have amounts contributed to the SARSEP. In addition, such election is available for a taxable year only if the employer maintaining the SARSEP had 25 or fewer eligible employees at all times during the prior taxable year. Elective deferrals under SARSEPs are subject to a special nondiscrimination test. Under one type of qualified plan that can be maintained by an employer, employees can elect to reduce their taxable compensation and have nontaxable contributions made to the plan. Such contributions	employer could elect a lower percentage matching contribution for all employees (but not less than 1 percent of each employee's compensation). Alternatively, for any year, an employer is permitted to elect, in lieu of making matching contributions, to make a 2 percent of compensation nonelective contribution on behalf of each eligible employee with at least $5,000 in compensation for such year. <u>Eligibility</u>.--Only employers who normally employ 100 or fewer employees on any day during the year and who do not currently maintain a qualified plan can establish a SIMPLE plan for their employees. Each employee of the employer who received at least $5,000 in compensation from the employer during each of the 2 preceding years and who is reasonably expected to receive at least $5,000 in compensation during the year must be eligible to participate in the SIMPLE	

Item	Present Law	House Bill	Senate Amendment
	are called elective deferrals, and the plans which allow such contributions are called qualified cash or deferred arrangements (or "401(k) plans"). Like SARSEPs, the maximum annual amount of elective deferrals that can be made by an individual is $9,500 for 1996. A special nondiscrimination test applies to elective deferrals. An employer may make contributions based on an employee's elective contributions. Such contributions are called matching contributions, and are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to elective deferrals.	plan. Self-employed individuals can participate in a SIMPLE plan. <u>Taxation</u>.--Contributions to a SIMPLE account are generally deductible by the employer and are excludable from the employee's income. SIMPLE accounts, like IRAs, are not subject to tax. Distributions from a SIMPLE plan generally are taxed as under the rules relating to IRAs (i.e., includible in income when withdrawn), except that an increased additional tax on early withdrawals (25 percent) applies to distributions within 2 years of the employee first participating in the SIMPLE plan. Tax-free rollovers can be made from one SIMPLE account to another. Employer contributions to a SIMPLE account are not subject to employment taxes. <u>Administrative requirements</u>.--Each eligible employee can elect, within the 30-day period before the beginning of any year	

Item	Present Law	House Bill	Senate Amendment
		(or the 30-day period before first becoming eligible to participate), to participate in the SIMPLE plan (i.e., to make elective deferrals), and to modify any previous elections regarding the amount of contributions. Employees must be allowed to terminate participation in the SIMPLE plan at any time during the year (i.e., to stop making contributions). <u>Reporting</u>.--A SIMPLE plan is also subject to simplified reporting requirements. **<u>SIMPLE 401(k) plans</u>** In general, under the House bill, a cash or deferred arrangement (i.e., 401(k) plan), will be deemed to satisfy the special nondiscrimination tests applicable to employee elective deferrals and employer matching contributions if the plan satisfies the safe-harbor contribution requirements applicable to SIMPLE plans.	

Item	Present Law	House Bill	Senate Amendment
		The safe harbor is satisfied if, for the year, the employer does not maintain another qualified plan and (1) employees' elective deferrals are limited to no more than $6,000, (2) the employer matches employees' elective deferrals up to 3 percent of compensation (or, alternatively, makes a 2 percent of compensation nonelective contribution on behalf of all eligible employees with at least $5,000 in compensation), and (3) no other contributions are made to the arrangement. Contributions under the safe harbor have to be 100 percent vested. The employer cannot reduce the matching percentage below 3 percent of compensation. **<u>Repeal of SARSEPs</u>** Under the House bill, the present-law rules permitting SARSEPs no longer apply after December 31, 1996, unless the SARSEP was established before January 1, 1997. Consequently,	

Item	Present Law	House Bill	Senate Amendment
		an employer is not permitted to establish a SARSEP after December 31, 1996. SARSEPs established before January 1, 1997, can continue to receive contributions under present-law rules, and new employees of the employer hired after December 31, 1996, can participate in the SARSEP in accordance with such rules. __Effective date__.--Years beginning after December 31, 1996.	__Effective date__.--Same as the House bill.
2. Spousal IRAs (sec. 1427 of the Senate amendment)	Within limits, an individual is allowed a deduction for contributions to an individual retirement account or an individual retirement annuity (an "IRA"). An individual generally is not subject to income tax on amounts held in an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.	No provision.	The present-law rules relating to deductible IRAs are modified by permitting deductible IRA contributions of up to $2,000 to be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

Item	Present Law	House Bill	Senate Amendment
	The maximum deductible contribution that can be made to an IRA generally is the lesser of $2,000 or 100 percent of an individual's compensation (earned income in the case of a self-employed individual). In the case of a married individual whose spouse has no compensation (or elects to be treated as having no compensation), the $2,000 limit on IRA contributions is increased to $2,250.		**Effective date**.--Taxable years beginning after December 31, 1996.

Item	Present Law	House Bill	Senate Amendment
C. Nondiscrimination Provisions			
1. Definition of highly compensated employees (sec. 1431(a) of the House bill and the Senate amendment)	An employee, including a self-employed individual, is treated as highly compensated if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, (2) received more than $100,000 (for 1996) in annual compensation from the employer, (3) received more than $66,000 (for 1996) in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year, or (4) was an officer of the employer who received compensation in excess of $60,000 (for 1996). If, for any year, no officer has compensation in excess of the threshold, then the highest paid officer of the employer is treated as a highly compensated employee.	An employee is treated as highly compensated if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year or (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation) and the employee was in the top 20 percent of employees by compensation for such year. Also, the rule requiring the highest paid officer to be treated as a highly compensated employee is repealed. __Effective date__.-Years beginning after December 31, 1996.	Same as the House bill, except an employee who had compensation for the preceding year in excess of $80,000 is treated as highly compensated without regard to whether the employee was in the top 20 percent of employees by compensation. __Effective date__.--Same as the House bill.

25-815 96 - 3

Item	*Present Law*	*House Bill*	*Senate Amendment*
D. Miscellaneous Pension Simplification			
1. Trust requirement for deferred compensation plans of State and local governments (sec. 1448 of the House bill and the Senate amendment)	Until deferrals under a section 457 plan are made available to a plan participant, such amounts deferred, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights must remain solely the property and rights of the employer, subject only to the claims of the employer's general creditors.	All amounts deferred under a section 457 plan maintained by a State and local governmental employer have to be held in trust (or custodial account or annuity contract) for the exclusive benefit of employees. The trust (or custodial account or annuity contract) is provided tax-exempt status. Amounts will not be considered made available merely because they are held in a trust, custodial account, or annuity contract. __**Effective date**__.-Amounts held on or after date of enactment. In the case of amounts deferred before the date of enactment, a trust will not need to be established until January 1, 1999.	Same as the House bill. __**Effective date**__.--Same as the House bill, except that in the case of plans in existence on the date of enactment, a trust will not need to be established until January 1, 1999.
2. Multiple salary reduction agreements	Under Treasury regulations, a participant in a tax-sheltered	For participants in a tax-sheltered annuity plan, the	Same as the House bill, except that the Senate amendment

Item	*Present Law*	*House Bill*	*Senate Amendment*
permitted under section 403(b) (sec. 1450(a) of the House bill and the Senate amendment)	annuity plan (sec. 403(b)) is not permitted to enter into more than one salary reduction agreement in any taxable year. These regulations further provide that a salary reduction agreement is effective only with respect to amounts "earned" after the agreement becomes effective, and that a salary reduction agreement must be irrevocable with respect to amounts earned while the agreement is in effect. These restrictions do not apply to other elective deferral arrangements such as qualified cash or deferred arrangement (sec. 401(k)). Under present law, employee elective contributions to a qualified cash or deferred arrangement are not treated as distributed or made available merely because such arrangement permits the employee to elect between making the contribution or receiving the amount in cash. Under Treasury regulations, participants in a qualified cash	frequency that a salary reduction agreement may be entered into, the compensation to which such agreement applies, and the ability to revoke such agreement shall be determined under the rules applicable to qualified cash or deferred arrangements.	clarifies that amounts are not treated as distributed or made available merely because a participant enters into a salary reduction agreement with respect to a tax-sheltered annuity plan.

Item	Present Law	House Bill	Senate Amendment
	or deferred arrangement may enter into more than one salary reduction agreement in a taxable year, such an agreement is effective with respect to compensation currently available to the participant after the agreement becomes effective even though previously "earned," and the agreement may be revoked by the participant.		
		<u>Effective date</u>.--Taxable years beginning after December 31, 1995.	**<u>Effective date</u>**.--Same as the House bill.
3. Treatment of Indian tribal governments under section 403(b) (sec. 1450(b) of the House bill and the Senate amendment)	Under present law, certain tax-exempt employers and certain State and local government educational organizations are permitted to maintain tax-sheltered annuity plans (sec. 403(b)). Indian tribal governments are treated as States for this purpose, so certain educational organizations associated with a tribal government are eligible to	Any 403(b) annuity contract purchased in a plan year beginning before January 1, 1995, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. In addition, such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.	Any section 403(b) annuity contract purchased in a plan year beginning before January 1, 1997, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. Also, such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.

Item	Present Law	House Bill	Senate Amendment
	maintain tax-sheltered annuity plans.		In addition, beginning January 1, 1997, Indian tribal governments will be permitted to maintain a tax-sheltered annuity plan.
		Effective date.--Date of enactment.	**Effective date**.-Generally effective on the date of enactment, except that the provision permitting Indian tribal governments to maintain tax-sheltered annuity plans is effective for taxable years beginning after December 31, 1996.
4. Waiver of minimum waiting period for qualified plan distributions (sec. 1451 of the House bill)	Under present law, in the case of a qualified joint and survivor annuity ("QJSA"), a written explanation of the form of benefit must generally be provided to participants no less than 30 days and no more than 90 days before the annuity starting date. Temporary Treasury regulations provide that a plan may permit a participant to elect (with any applicable spousal consent) a	The minimum period between the date the explanation of the QJSA is provided and the annuity starting date does not apply if it is waived by the participant and, if applicable, the participant's spouse. **Effective date**.--Plan years beginning after December 31, 1996.	No provision.

Item	Present Law	House Bill	Senate Amendment
	distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided.		
5. **Expansion of PBGC missing participant program (sec. 1451 of the Senate amendment)**	The Retirement Protection Act ("RPA"), enacted as part of the legislation implementing the General Agreement on Tariffs and Trade ("GATT") in 1994, provided special rules for The payment of benefits with respect to missing participants under a terminating single-employer defined benefit plan covered by the Pension Benefit Guaranty Corporation ("PBGC"). These rules generally require the plan administrator to (1) transfer the missing participant's designated benefit to the PBGC or purchase an annuity from an insurer to satisfy the benefit liability, and (2) provide the PBGC with such information and certifications	No provision.	The missing participant program is generally expanded to be available to multiemployer defined benefit plans, defined contribution plans, and defined benefit plans not covered by the PBGC (or other governmental and church plans). Under the Senate amendment, the present-law missing participant program applicable to single-employer defined benefits plans applies to a terminating multiemployer defined benefit plan under rules prescribed by the PGBC In the case of a terminating defined contribution plan or a terminating defined benefit plan not covered by the PBGC, the

Item	Present Law	House Bill	Senate Amendment
	with respect to the benefits or annuity as the PBGC may specify. The missing participant program does not apply to multiemployer defined benefit plans, defined contribution plans, and defined benefit plans not covered by the PBGC (generally governmental plans, church plans, and plans sponsored by professional service employers with less than 25 employees).		missing participant program does not apply unless the plan elects to transfer a missing participant's benefits to the PBGC. To the extent provided in regulations issued by the PBGC, the administrator of the plan making such an election is required to provide the PBGC with information with respect to the benefits of a missing participant. Upon location of the missing participant, the missing participant's benefits would be paid by the PBGC in a lump sum or in such other form as specified in regulations. **Effective date**.--Distributions made on or after the date final regulations implementing the proposal are issued by the PBGC.
6. Repeal of combined plan limit (sec. 1452 of the House bill and the Senate amendment)	Combined plan limit.--Present law provides limits on contributions and benefits under qualified retirement plans based	Combined plan limit.--The combined plan limit is repealed.	Combined plan limit.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
	on the type of plan (i.e., based on whether the plan is a defined contribution plan or a defined benefit pension plan). An overall limit applies if an individual is a participant in both a defined benefit pension plan and a defined contribution plan (called the combined plan limit).		
	Excess distribution tax.--Present-law imposes a 15-percent excise tax on excess distributions from qualified retirement plans, tax-sheltered annuities, and IRAs. Excess distributions are generally the aggregate amount of retirement distributions from such plans during any calendar year in excess of $150,000 (or $750,000 in the case of a lump-sum distribution). An additional 15-percent estate tax is also imposed on an individual's excess retirement accumulation	Excess distribution tax.--Until the repeal of the combined plan limit is effective, the excise tax on excess distributions is suspended. The additional estate tax on excess accumulations continues to apply.	Excess distribution tax.--Same as the House bill.
		Effective date.--The provision	**Effective date**.--The provision

Item	*Present Law*	*House Bill*	*Senate Amendment*
		repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1998. The provision relating to the excise tax on excess distributions is effective with respect to distributions received in 1996, 1997, and 1998.	repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1999. The provision relating to the excise tax on excess distributions is effective with respect to distributions received in 1997, 1998, and 1999.
7. **Treasury to provide model forms for spousal consent and qualified domestic relations orders (sec. 1457 of the Senate amendment)**	Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. Under these spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity ("QJSA") or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity ("QPSA").	No provision.	Model spousal consent form.--The Secretary is required to develop a model spousal consent form no later than January 1, 1997, waiving the QJSA and QPSA forms of benefit. Such form must be written in a manner calculated to be understood by the average person, and must disclose in plain form whether the waiver is irrevocable and that it may be revoked by a QDRO. Model QDRO.--The Secretary is required to develop a model QDRO, no later than January 1, 1997, which satisfies the requirements of a QDRO under

Item	Present Law	House Bill	Senate Amendment
	Benefits from a plan subject to the survivor benefit rules may be paid in a form other than a QJSA or QPSA if the participant waives the QJSA or QPSA (or both) and the applicable notice, election, and spousal consent requirements are satisfied.		present law, and the provisions of which focus attention on the need to consider the treatment of any lump sum payment, QJSA, or QPSA. __Effective date__.--Date of enactment.
8. Treatment of length of service awards for certain volunteers under section 457 (sec. 1458 of the Senate amendment)	Under section 457 of the Code, compensation deferred under an eligible deferred compensation plan of a tax-exempt or governmental employer that meets certain requirements is not includible in gross income until paid or made available. One of the requirements for a section 457 plan is that the maximum annual amount that can be deferred is the lesser of $7,500 or 33-1/3 percent of the individual's taxable compensation. Amounts deferred under plans of tax-exempt and governmental employers that do not meet the	No provision.	The requirements of section 457 do not apply to any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of fire fighting and prevention, emergency medical, and ambulance services performed by such volunteers. A length of service award plan will not qualify for this special treatment under section 457 if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	requirements of section 457 (other than amounts deferred under tax-qualified retirement plans, section 403(b) annuities and certain other plans) are includible in gross income in the first year in which there is no substantial risk of forfeiture of such amounts.		In addition, any amounts exempt from the requirements of section 457 under the provision are not considered wages for purposes of the Federal Insurance Contribution Act ("FICA") taxes. **Effective date**.--Accruals of length of service awards after December 31, 1996.
9. Alternative nondiscrimination rules for certain plans that provide for early participation (sec. 1459 of the Senate amendment)	Under present law, a special nondiscrimination test the ("ADP test") applies to qualified cash or deferred arrangements (sec. 401(k) plans). Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test (the actual contribution percentage ("ACP" test) similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.	No provision.	For purposes of the ADP test, a section 401(k) plan may elect to ignore employees (other than highly compensated employees) eligible to participate before they have completed 1 year of service and reached age 21, provided the plan separately satisfies the minimum coverage rules of section 410(b) taking into account only those employees who have not completed 1 year of service or are under age 21. Instead of applying two separate ADP

Item	Present Law	House Bill	Senate Amendment
	In general, a plan need not permit employees to enter a plan prior to the attainment of age 21 and the completion of 1 year of service. For purposes of the nondiscrimination rules (including the ADP and ACP tests), an employer that chooses less restrictive entry conditions (e.g., age 18 rather than age 21) may choose "separate testing" under which all employees who have not met the statutory age and service entry maximums are disregarded, provided that the plan satisfies the nondiscrimination rules taking into account only those employees whose age and service are less than the statutory age and service maximums Thus, for example, such a plan would apply one ADP test for employees who are over age 21 with 1 year of service, under which the plan would disregard elective contributions for other employees, and a second ADP test looking solely at elective contribution for employees		tests, such a plan could apply a single ADP test that compares the ADP for all highly compensated employees who are eligible to make elective contributions with the ADP for those nonhighly compensated employees who are eligible to make elective contributions and who have completed one year of service and reached age 21. A similar rule applies for purposes of the ACP test. **<u>Effective date</u>**.--Plan years beginning after December 31, 1998.

Item	Present Law	House Bill	Senate Amendment
	under age 21 or who have not completed 1 year of service.		
10. Modifications of joint and survivor annuity requirements (sec. 1460 of the Senate amendment)	Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. These rules are in both the Internal Revenue Code and title 1 of the Employee Retirement Income Security Act of 1974, as amended. Under the spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity ("QJSA") or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity ("QPSA"). A QJSA is generally defined as an annuity for the life of the participant with a survivor	No provision.	If a plan provides as its QJSA a benefit which provides a survivor annuity for the life of the spouse which is not equal to 66-2/3 percent of the amount of the participant's annuity, the plan is required to provide the participant with an election to receive an annuity for the life of the participant with a survivor annuity for the life of the spouse which is 66-2/3 percent of the amount of the participant's annuity. If the participant makes such an election, the benefit received is treated as a QJSA for purposes of the qualified plan requirements; however, the fact that such an election is offered does not affect how the QPSA is calculated. In other words, the QPSA would continue to be based on the regular QJSA currently provided under the plan.

Item	Present Law	House Bill	Senate Amendment
	annuity for the life of the spouse which is not less than 50 percent of (and not greater than 100 percent of) the amount of the participant's annuity, and which is the actuarial equivalent of a single life annuity for the life of the participant. A QPSA is generally defined as an annuity for the life of the surviving spouse of the participant, the payments of which are not less than the amount which would be payable as a survivor annuity under the plan's QJSA.		**Effective date**.--Plan years beginning after December 31, 1996. Plans in existence on the date of enactment do not have to comply with the requirements of the provision before the plan year immediately following the first plan year in which an amendment to the plan that is otherwise made becomes effective.
11. Clarification of application of ERISA to insurance company general accounts (sec. 1461 of the Senate amendment)	Part 4, subtitle B, of Title 1 of the Employee Retirement Income Security Act of 1974 ("ERISA") imposes certain fiduciary requirements (including restrictions on certain prohibited transactions) with respect to the assets of an employee benefit plan ("plan assets"). Section 4975 of the Internal Revenue Code of 1986 (the "Code") imposes an excise tax in the case of certain	No provision.	Not later than December 31, 1996, the Secretary of Labor is required to issue proposed regulations providing guidance for the purpose of determining, in cases where an insurer issues 1 or more policies (supported by the assets of the insurer's general account) to or for the benefit of an employee benefit plan, which assets of the insurer (other than plan assets held in its separate account) constitute plan

Item	Present Law	House Bill	Senate Amendment
	prohibited transactions involving plan assets. In 1975, the Department of Labor issued Interpretive Bulletin 1975-2 which provided that if an insurance company issues a contact or policy of insurance to an employee benefit plan and places the consideration of such contract or policy in its general asset account, the assets in such account are not considered to be plan assets. However, on December 13, 1993, the Supreme Court in <u>John Hancock Mutual Life Insurance Company v. Harris Trust and Savings Bank</u> 510 U.S. 86 (1993), ruled that certain assets held in an insurance company's general account should be considered plan assets.		assets for purposes of ERISA and the Code. Such proposed regulations are subject to public notice and comment until March 31, 1997, and the Secretary of Labor is required to issue final regulations by June 30, 1997. Any regulations issued by the Secretary of Labor in accordance with the amendment could not take effect before the date on which such regulations became final. In issuing regulations, the Secretary of Labor has to ensure that such regulations are administratively feasible and are designed to protect the interests and rights of the plan and of the plan's participants and beneficiaries In so doing, the Secretary of Labor may exclude any assets of the insurer with respect to its operations, products, or services from treatment as plan assets. Further, the regulations have to provide that plan assets do not include assets which are not treated as plan assets under

Item	Present Law	House Bill	Senate Amendment
			present-law ERISA by reason of being (1) assets of an investment company registered under the Investment Company Act of 1940, and (2) assets of an insurer with respect to a guaranteed benefit policy issued by such insurer. No person would be liable under ERISA or the Code for conduct which occurred prior to the date which is 18 months following the effective date of the final regulations on the basis of a claim that the assets of the insurer (other than plan assets held in a separate account) constituted plan assets, except as otherwise provided by the Secretary of Labor in order to prevent avoidance of the guidance in the regulations or as provided in an action brought by the Secretary of Labor under ERISA's enforcement provisions for a breach of fiduciary responsibility which would also constitute a violation of Federal criminal law or constitute a

Item	Present Law	House Bill	Senate Amendment
			felony under applicable State law. The amendment does not preclude the application of any Federal criminal law. **Effective date**.--Generally effective on January 1, 1975. However, the provision does not apply to any civil action commenced before November 7, 1995.
12. Church pension plan simplification (secs. 1462-1464 of the Senate amendment)	In general, a church plan is a plan established and maintained for employees (or their beneficiaries) by a church or a church convention or association of churches that is exempt from tax (sec. 414(e)). Church plans include plans maintained by an organization, whether a corporation or otherwise, that has as its principal purpose or function the administration or funding of a plan or program for providing retirement or welfare benefits	No provision.	Self-employed ministers eligible to participate in church pension plans.--Self-employed ministers are allowed to participate in a church plan. For purposes of the definition of a church plan, a self-employed minister is treated as his or her own employer and as if the employer were a tax-exempt organization under section 501(c)(3). The earned income of the self-employed minister is treated as his or her compensation. Self-

Item	Present Law	House Bill	Senate Amendment
	for the employees of the church or convention or association of churches. Employees of a church include any minister, regardless of the source of his or her compensation, and an employee of an organization which is exempt from tax and which is controlled by or associated with a church or a convention or association of churches. Plans maintained by churches and certain church-controlled organizations are exempt from certain of the requirements applicable to pension plans under the Code pursuant to the Employee Retirement Income Security Act of 1974 (as amended) ("ERISA"). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. In some cases, such plans are subject to provisions in effect before the enactment of ERISA. Under the rules in effect before ERISA, a plan cannot		employed ministers are able to deduct their contributions. In addition, ministers employed by an organization other than a church are treated as if employed by a church. Thus, such ministers can also participate in a church plan. If a minister is employed by an employer that is not eligible to maintain a church plan, the minister would not be taken into account by that employer in applying nondiscrimination rules. Self-employed ministers are also permitted to establish retirement income accounts. <u>Definition of highly compensated employees under church plans</u>.--Church plans subject to the pre-ERISA nondiscrimination rules apply the same definition of highly compensated employee as other pension plans, rather than the pre-ERISA rule relating to employees who are officers,

Item	Present Law	House Bill	Senate Amendment
	discriminate in favor of officers, shareholder, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees. Church plans may elect to waive the exemption from the qualification rules (sec. 410(d)). Electing plans become subject to all the tax Code (sec. 401(a)) qualification requirements, Title I of ERISA, the excise tax on prohibited transactions, and participation in the pension plan termination insurance program administered by the Pension Benefit Guaranty Corporation. Certain eligible employers may maintain tax-sheltered annuity plans (sec. 403(b)). These plans provide tax-deferred retirement savings for employees of public education institutions and employees of certain tax-exempt organizations (including churches and certain organizations associated with churches). In addition to tax-sheltered annuities,		shareholders, persons whose principal duties consist of supervising the work of other employees or highly compensated employees. Also, the Secretary may develop safe harbor rules for church plans under the applicable coverage and nondiscrimination rules. <u>Pension contributions on behalf of foreign missionaries</u>.--In the case of foreign missionaries, amounts contributed to a plan by the employer are included as investment in the contract even though the amounts, if paid directly to the employee, would have been excludable under section 911. **<u>Effective date</u>**.--Years beginning after December 31, 1996.

Item	Present Law	House Bill	Senate Amendment
	alternative funding mechanisms that provide similar tax benefits include church-maintained retirement income accounts (sec. 403(b)(9)). For purposes of determining an employee's investment in the contract under the rules relating to taxation of annuities, amounts contributed by the employer are included as investment in the contract, but only to the extent that such amounts were includible in the gross income of the employee or, if such amounts had been paid directly to the employee, would not have been includible in income. However, amounts contributed by the employer which, if they had been paid directly to the employee, would have been excludable under section 911 are not treated as investment in the contract, except to the extent attributable to services performed before January 1, 1963.		

Item	Present Law	House Bill	Senate Amendment
13. Increase in multiemployer plan benefits guaranteed (sec. 1465 of the Senate amendment)	The Pension Benefit Guaranty Corporation ("PBGC") guarantees the benefits of workers in multiemployer plans. The monthly guarantee is equal to the participant's years of service multiplied by the sum of (1) 100 percent of the first $5 of the monthly benefit accrual rate, and (2) 75 percent of the next $15 of the accrual rate.	No provision.	The amount guaranteed in multiemployer plans is generally adjusted to account for changes in the Social Security wage index since 1980. The PBGC would guarantee a monthly benefit equal to the participant's years of service multiplied by the sum of (1) 100 percent of the first $11 of the monthly benefit accrual rate, and (2) 75 percent of the next $33 of the accrual rate. The maximum annual guarantee for a retiree with 30 years of service is generally increased to $12,870. The changes to the benefits guaranteed in multiemployer plans only apply in the case of multiemployer plans which first receive financial assistance from the PBGC during the applicable period. The applicable period is the period beginning on the date of enactment and ending on the last day of the first fiscal year in which the surplus in the PBGC's multiemployer insurance program, as reflected in the

Item	Present Law	House Bill	Senate Amendment
			Statement of Financial Condition for the fiscal year ending September 30, 1995 in the PBGC's 1995 Annual Report, declines by more than 50 percent. The benefits of participant's in multiemployer plans that first received financial assistance from the PBGC during the applicable period would not be affected. In determining whether the surplus in the multiemployer insurance program declined by more than 50 percent in any fiscal year, the PBGC is required to use the same actuarial assumptions that is used in determining the surplus for the fiscal year ending September 30, 1995. **<u>Effective date</u>**.--Date of enactment.
14. Waiver of excise tax on failure to pay liquidity shortfall (sec. 1466 of the Senate amendment)	A provision in the Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade	No provision.	The Secretary is given authority to waive all or part of the excise tax imposed for a failure to make a liquidity shortfall payment if the plan sponsor

Item	Present Law	House Bill	Senate Amendment
	("GATT"), generally requires certain underfunded single-employer defined benefit plans to make quarterly contributions sufficient to maintain liquid plan assets, i.e., cash and marketable securities, at an amount approximately equal to three times the total trust disbursements for the preceding 12-month period. This liquidity requirement only applies to underfunded single-employer defined benefit plans (other than small plans) that (1) are required to make quarterly installments of their estimated minimum funding contribution for the plan year, and (2) have a liquidity shortfall for any quarter during the plan year. If a liquidity shortfall payment is not made, then the plan sponsor will be subject to a nondeductible excise tax equal to 10 percent of the amount of the outstanding liquidity shortfall. A liquidity shortfall payment will no longer be considered outstanding on the		establishes to the satisfaction of the Secretary that the liquidity shortfall was due to reasonable cause and not willful neglect and reasonable steps have been taken to remedy such shortfall. **<u>Effective date</u>**.--Effective as if included in GATT.

Item	Present Law	House Bill	Senate Amendment
	earlier of (1) the last day of a later quarter for which the plan does not have a liquidity shortfall or (2) the date on which the liquidity shortfall for a later quarter is timely paid. If the liquidity shortfall remains outstanding after four quarters, the excise tax increases to 100 percent.		
15. Treatment of multiemployer plans under section 415 (sec. 1467 of the Senate amendment)	Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.	No provision.	The Senate amendment makes following modifications to the limits on contributions and benefits as applied to multiemployer plans: (1) the 100 percent of compensation limitation on defined benefit pension plan benefits does not apply; and (2) the early retirement reduction and the 10-year phase-in of the defined benefit pension plan dollar limit does not apply to certain disability and survivor benefits.

Item	*Present Law*	*House Bill*	*Senate Amendment*
			Effective date.--Applies to multiemployer plans for years beginning after December 31, 1966.
16. Payment of lump-sum credit for former spouses of Federal employees (sec. 1468 of the Senate amendment)	When a Federal employee or former Federal employee dies, any contribution to his or her credit in the Civil Service Retirement and Disability Fund must be paid to whomever the employee designated to receive that contribution. If no designation was made, there is a statutory order of precedence beginning with the surviving spouse. There is no provision in law that permits a domestic relations order to interfere with these arrangements. Thus, if an employee agreed in a divorce settlement to designate a former spouse to receive these funds, and later designated another individual, present law would require payment of the funds to the other individual.	No provision.	The payment of contributions to the employee's credit in the Civil Service Retirement and Disability Fund is subject to the provisions of a domestic relations order, in the same way as the employee's annuity and survivor benefits. Thus, a domestic relations order on file with the Office of Personnel Management supersedes any designation of beneficiary by the employee. **Effective date**.--Deaths occurring after the 90th day after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
FOREIGN SIMPLIFICATION PROVISION			
1. **Repeal of excess passive assets provision (sec. 1501 of the House bill)**	Section 956A requires certain U.S. shareholders of controlled foreign corporations (CFCs) to include in income currently their shares of the CFC's earnings to the extent such earnings are invested by the CFC in excess passive assets. A CFC generally is treated as having excess passive assets if its passive assets exceed 25 percent of its total assets.	The House bill repeals section 956A. **Effective date.**--Taxable years of foreign corporations beginning after December 31, 1996, and taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.	No provision.

Item	Present Law	House Bill	Senate Amendment
OTHER PROVISIONS			
1. Exempt Alaska from diesel dyeing requirement while Alaska is exempt from similar Clean Air Act dyeing requirement (sec. 1801 of the Senate amendment)	An excise tax totaling 24.3 cents per gallon is imposed on diesel fuel. In the case of fuel used in highway transportation, 20 cents per gallon is dedicated to the Highway Trust Fund. The remaining portion of this tax is imposed on transportation generally and is retained in the General Fund. The diesel fuel tax is imposed on removal of the fuel from a pipeline or barge terminal facility (i.e., at the "terminal rack"). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. In general, the diesel fuel tax does not apply to non-transportation uses of the fuel. A specific exemption is	No provision.	The Senate amendment provides that diesel fuel sold in the State of Alaska will be exempt from the diesel dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirements. Thus, subject to a certification procedure to be developed by the Treasury Department, undyed diesel fuel which is destined for a nontaxable use may be removed from terminals without payment of tax through September 30, 1996 (urban areas, unless extended by the Environmental Protection Agency) or permanently (remote areas). __**Effective date**__.--Effective beginning with the first calendar quarter after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
	provided for off-highway business uses (e.g., use as fuel powering off-highway equipment). Use as heating oil also is exempt. (Most fuel commonly referred to as heating oil is diesel fuel.) The tax also does not apply to fuel used on a farm for farming purposes or by State and local governments, to exported fuels, and to fuel used in commercial shipping. Fuel used by intercity buses and trains is partially exempt from the diesel fuel tax. A similar dyeing regime exists for diesel fuel under the Clean Air Act. That Act prohibits the use on highways of diesel fuel with a sulfur content exceeding prescribed levels. This "high sulfur" diesel fuel is required to be dyed by the EPA. The State of Alaska generally was exempted from the Clean Air Act, but not the excise tax, dyeing regime for three years (until October 1, 1996) (urban areas) or permanently (remote areas).		

Item	Present Law	House Bill	Senate Amendment
2. **Application of common paymaster rules to certain agency accounts at State universities (sec. 1802 of the Senate amendment)**	In general, the OASDI portion of FICA taxes are payable with respect to employee remuneration not in excess of a contribution base. If an employee works for more than one employer during a year, these taxes are payable for each employer up to the contribution base. Under the common paymaster rule if an individual works for two or more related corporations, the remuneration may be treated as being from one employer and therefor taxable for one contribution base. Section 125 of Social Security Amendments of 1983 provided a common paymaster rule for certain State universities that employ health care professionals as faculty members at a medical school and at a tax-exempt faculty practice plan. This rule does not explicitly apply to situations where compensation is made through a university agency account and not directly by a	No provision.	The Senate amendment establishes a common paymaster rule in cases where: (1) a State or State university provides remuneration pursuant to a single contract of employment to certain health care professionals as members of its medical school faculty; and (2) an agency account at such institution also provides remuneration to such health care professionals. The agency account must receive funds for the remuneration from a faculty practice plan described in section 501(c)(3) of the Code. The payments may only be distributed by the agency account to faculty members who render patient care at the medical school. The faculty members receiving payments must comprise at least 30 percent of the membership of the faculty practice plan. __**Effective date**__.--Remuneration paid after December 31, 1996. It is intended that, with respect to years before the effective

Item	Present Law	House Bill	Senate Amendment
	medical school faculty practice plan.		date, the Secretary apply present law in a manner consistent with the proposal.
3. Modifications to excise tax on ozone-depleting chemicals	An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount is $5.80 per pound in 1996 and will increase by 45 cents per pound per year thereafter.		
a. Exempt imported recycled halons from the excise tax on ozone-depleting chemicals (sec. 1803 (a) of Senate amendment)	Taxable chemicals that are recovered and recycled within the United States are exempt from tax.	No provision.	The Senate amendment extends the exemption from tax for domestically recovered and recycled ozone-depleting chemicals to imported recycled halons. The exemption for imported recycled halons applies only to such chemicals imported from countries that are signatories to the Montreal

Item	Present Law	House Bill	Senate Amendment
			Protocol on Substances that Deplete the Ozone Layer. **Effective date**.--Chemicals imported after December 31, 1996.
b. Exempt chemicals used in metered-dose inhalers from the excise tax on ozone-depleting chemicals (sec. 1803 (b) of the Senate amendment)	A reduced rate of tax of $1.67 per pound applies to chemicals used as propellants in metered-dose inhalers.	No provision.	The Senate amendment exempts chemicals used as propellants in metered-dose inhalers from the excise tax on ozone-depleting chemicals. **Effective date**.--Effective for chemicals sold or used seven days after the date of enactment.
4. Tax-exempt bonds for the sale of the Alaska Power Administration facility (sec. 1804 of the Senate amendment)	Interest on State and local government bonds to provide financing to private parties (private activity bonds) is taxable unless an exception is provided in the Internal Revenue Code. One such exception relates to the	No provision.	Provides an exception from the general rehabilitation requirement for private activity bonds used to acquire existing property for certain bonds to finance the acquisition of the Snettisham hydroelectric project for the Alaska Power Administration pursuant to

Item	Present Law	House Bill	Senate Amendment
	financing of facilities for the furnishing of electricity and gas. Most private activity bonds are subject to annual State volume limits of the greater of $50 per resident of the State or $150 million. Additionally, persons acquiring existing property financed with most private activity bonds must satisfy a rehabilitation requirement as a condition of the financing.		legislation that has been enacted authorizing that transaction. These bonds are subject to the State of Alaska's private activity bond volume limit. **<u>Effective date.</u>**--Bonds issued after the date of enactment.
5. Allow bank common trust funds to transfer assets to regulated investment companies without taxation (sec. 1805 of the Senate amendment)	<u>Common trust funds</u>.--A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of monies contributed by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts. The common trust fund is not subject to tax and is not treated as a corporation. Each participant in a common trust	No provision.	In general, the bill permits a common trust fund to transfer substantially all of its assets to one or more RICs without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RICs solely in exchange for shares of the RICs, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participant's interests in the fund.

Item	Present Law	House Bill	Senate Amendment
	fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable. No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of an interest. Withdrawals from the fund generally are treated as the sale of an interest by the participant <u>Regulated investment companies (RICs)</u>.--A RIC also is treated as a conduit for Federal income tax purposes. Conduit treatment is accorded by allowing the RIC a deduction for dividend distributions to its shareholders. Present law is unclear as to the tax consequences when a common trust fund transfers its assets to one or more RICs.		The basis of any asset received by a RIC will be the basis of the asset in the hands of the fund prior to transfer. In addition, the basis of any RIC shares ("converted shares") that are received by a fund participant will be an allocable portion of the participant's basis in the interests exchanged. If stock in more than one RIC is received in exchange for assets of a common trust fund, the basis of the shares in each RIC shall be determined by allocating the basis of common fund assets used in the exchange among the shares of each RIC received in the exchange on the basis of the respective fair market values of the RICs. **<u>Effective date</u>** --Transfers after December 31, 1995

25-815 96 - 4

Item	Present Law	House Bill	Senate Amendment
6. **Treatment of qualified State tuition programs (sec. 1806 of the Senate amendment)**	Tax-exempt status of program.--In Michigan v. United States, 40 F.3d 817 (6th Cir. 1994) the Sixth Circuit held that the Michigan Education Trust, an entity created by the State of Michigan to operate a prepaid tuition payment program, is an integral part of the State and, thus, not subject to Federal income tax.	No provision	Tax-exempt status of program.--The Senate amendment provides tax-exempt status to "qualified State tuition programs," meaning programs established and maintained by a State under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or payment of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the sole purpose of meeting qualified higher education expenses of the designated beneficiary of the account. "Qualified higher education expenses" are defined as tuition, fees, books, and equipment required for enrollment or attendance at a college or university (or certain vocational schools).
	Treatment of contributors and beneficiaries.--On June 11, 1996, the Treasury Department issued final regulations under		Treatment of contributors and beneficiaries.--The Senate amendment provides that no amount shall be included in the

Item	Present Law	House Bill	Senate Amendment
	the original issue discount ("OID") provisions of the Code (secs. 163(e) and 1271 through 1275), including regulations relating to debt instruments that provide for contingent payments (see TD 8674). These regulations specifically provide that they do not apply to contracts issued pursuant to State-sponsored prepaid tuition programs, whether or not the contracts are debt instruments.		gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that any distribution under such a program is includible in the gross income of the distributee in the same manner as provided under present-law section 72 to the extent not excluded from gross income under any other provision of the Code.
	<u>Gift tax</u>.--Section 2501 imposes a Federal gift tax on certain transfers of property by gift. Section 2503(e) specifically excludes from gifts subject to tax under section 2501 any "qualified transfer," which includes any amount paid on behalf of an individual as tuition to an educational institution for the education or training of such individual.		<u>Gift tax</u>.--The Senate amendment provides that, for purposes of present-law section 2503(e), contributions made by an individual to a qualified State tuition program are treated as a qualified transfer and, thus, not subject to Federal gift tax
			<u>Effective date</u>.--Taxable years ending after the date of enactment. The Senate

Item	Present Law	House Bill	Senate Amendment
			amendment also provides transitional relief for certain contributions (and earnings allocable thereto) made under a State program that is modified within a specified period to satisfy the requirements of a qualified State tuition program.

Item	*Present Law*	*House Bill*	*Senate Amendment*
REVENUE OFFSETS			
1. Modifications of the Puerto Rico and possession tax credit (sec. 1601 of the House bill and the Senate amendment)	Certain corporations with operations in the U.S. possessions may elect the section 936 credit with respect to possession business income and qualified possession source investment income (QPSII). The amount of the credit attributable to possession business income is subject to the economic activity limit (the "wage credit") or, if the corporation elects, the applicable percentage limit (the "income credit").	The House bill generally repeals the section 936 credit for taxable years beginning after December 31, 1995, with a set of grandfather rules for existing credit claimants under which the credit for possession business income computed under the wage credit method or the income credit method generally continues for a 10-year period, subject to restrictions.	The Senate amendment also generally repeals the section 936 credit for taxable years beginning after December 31, 1995, with a set of grandfather rules for existing credit claimants under which the credit for possession business income computed under the income credit method generally continues for a 10-period, subject to restrictions, and the credit for possession business income computed under the wage credit method generally continues, subject to restrictions.
		<u>Existing credit claimant</u>.--Under the House bill, a corporation is an existing credit claimant with respect to a particular possession if it was engaged in the active conduct of business in such possession on October 13, 1995, and it has elected the section 936 credit for its taxable year that includes such date A corporation is treated as	<u>Existing credit claimant</u>.--Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		engaged in the active conduct of a business on such date if it was engaged in such active conduct before January 1, 1996, and it had a binding contract with respect to such business on October 13, 1995. A corporation that adds a substantial new line of business after October 13, 1995, ceases to be an existing credit claimant with respect to such possession as of the beginning of the taxable year in which it adds such new line of business. The determination of whether a corporation is an existing credit corporation is an existing credit claimant is made separately for each possession. The credit, subject to the limitations described below, is computed separately for each possession with respect to which the corporation is an existing credit claimant.	
	Wage credit.--Under the economic activity limit, the amount of the credit with respect to a taxpayer's possession business income	Wage credit.--Under the House bill, for corporations that are existing credit claimants with respect to a possession and that use the wage credit, the wage	Wage credit.--Under the Senate amendment, for corporations that are existing credit claimants with respect to a possession and that use the wage credit, the

Item	Present Law	House Bill	Senate Amendment
	cannot exceed an amount equal to the sum of (i) 60 percent of the taxpayer's qualifying wage and fringe benefit expenses, (ii) specified percentages of the taxpayer's depreciation allowances with respect to qualifying tangible property, and (iii) in certain cases, the taxpayer's qualifying possession income taxes.	credit is determined in the same manner as under present law for taxable years beginning after December 31, 1995, and before January 1, 2002. For taxable years beginning after December 31, 2001, and before January 1, 2006, the corporation's possession business income that is eligible for the wage credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the wage credit is eliminated. The House bill adds to the Code a new section which provides a credit determined under the wage credit method for business income from Puerto Rico. Such credit is computed under the rules described above. Such section applies for taxable years beginning after December 31, 1995 and before January 1, 2006.	wage credit is determined in the same manner as under present law for taxable years beginning after December 31, 1995, and before January 1, 2002. For taxable years beginning after December 31, 2001, and before January 1, 2006, the corporation's possession business income that is eligible for the wage credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, in computing the economic activity limit on the wage credit, the percentage of the taxpayer's qualifying wage and fringe benefit expenses that is taken into account is reduced from 60 percent to 40 percent. Moreover, for taxable years beginning in 2006 and thereafter, the corporation's possession business income that is eligible for the wage credit continues to be subject to the cap described below. The Senate amendment adds to the Code a new section which

Item	Present Law	House Bill	Senate Amendment
			provides a credit determined under the wage credit method for business income from Puerto Rico. Such credit is computed under the rules described above. Such section applies for taxable years beginning after December 31, 1995.
	Income credit.--Under the applicable percentage limit, the credit that would otherwise be allowable with respect to possession business income is limited to a specified percentage. The applicable percentage is 50 percent for 1996, 45 percent for 1997, and 40 percent for 1998 and thereafter.	Income credit.--Under the House bill, for corporations that are existing credit claimants with respect to a possession and that elected to use the income credit, the income credit continues to be determined as under present law for taxable years beginning after December 31, 1995, and before January 1, 1998. For taxable years beginning after December 31, 1997, and before January 1, 2006, the corporation's possession business income that is eligible for the income credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the income credit is eliminated.	Income credit.--Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		A corporation that had elected to use the income credit rather than the wage credit is permitted to revoke that election under present law. Under the House bill, such a revocation is required to be made not later than with respect to the first taxable year beginning after December 31, 1996; such revocation, if made, applies to such taxable year and to all subsequent taxable years.	
		Income cap.--Under the House bill, the cap on a corporation's possession business income that is eligible for either the income credit or the wage credit is computed based on the corporation's possession business income for the base period years. The income for each of the base period years is adjusted by (1) an inflation factor reflecting inflation from such year to 1995, and (2) 5 percentage points compounded for each year from such year to the corporation's first taxable year beginning on or after	Income cap.--Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		September 13, 1995. The cap is the average of such adjusted income amounts for 3 of the corporation's 5 most recent taxable years ending before September 13, 1995, determined by disregarding the years in which such adjusted income amounts are highest and lowest. Special rules apply in computing the cap in the case of corporations that do not have significant income in each of such 5 taxable years. A corporation may elect to use as its base period its taxable year ending in 1992. Alternatively, a corporation may elect to use as its cap the annualized amount of its possession business income for the first 10 months of calendar year 1995 (calculated by excluding extraordinary items). The cap is adjusted to reflect acquisitions (within the same line of business) and dispositions by a corporation prior to the close of the grandfather period.	
		QPSII credit.--Under the House	QPSII credit.--Under the Senate

Item	Present Law	House Bill	Senate Amendment
		bill, the credit attributable to QPSII is eliminated for taxable years beginning after December 31, 1995	amendment, the credit attributable to QPSII generally is eliminated for taxable years beginning after December 31, 1995. However, the credit attributable to QPSII continues to be allowed for QPSII earned before July 1, 1996.
		<u>Special rules for certain possessions</u>.--Under the House bill, a special grandfather rule applies to the possession tax credit with respect to operations in Guam, American Samoa or the Commonwealth of the Northern Mariana Islands A corporation that is an existing credit claimant with respect to such a possession continues to determine its section 936 credit with respect to operations in such possession under present law for its taxable years beginning before January 1, 2006.	<u>Special rules for certain possessions</u>.---Under the Senate amendment, a special grandfather rule applies to the possession tax credit with respect to operations in Guam, American Samoa or the Commonwealth of the Northern Mariana Islands. A corporation that is an existing credit claimant with respect to such a possession continues to determine its section 936 credit with respect to operations in such possession under present law for its taxable years beginning before January 1, 2006 For taxable years beginning in 2006 and thereafter, a corporation that is an existing credit claimant with respect to one of these

Item	*Present Law*	*House Bill*	*Senate Amendment*
			possessions continues to be entitled to the wage credit with respect to the operations in such possession, but such credit is subject to the limits described above.
		No provision.	Wage credit study.--Under the Senate amendment, the Treasury Department is directed to study the effect on the Puerto Rican economy of the wage credit, including an analysis of the impact of such credit on unemployment rates and economic growth. Reports of its findings are to be submitted within 2 years after the date of enactment and every 4 years thereafter.
		Effective date.--Taxable years beginning after December 31, 1995.	**Effective date**.--Same as House bill.
2. Repeal 50-percent interest income exclusion for financial institution loans to	A bank, insurance company, regulated investment company, or a corporation actively engaged in the business of	The 50-percent interest exclusion with respect to ESOP loans is repealed.	Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
ESOPs (sec. 1602 of the House bill and the Senate amendment)	lending money may generally exclude from gross income 50 percent of interest received on an ESOP loan. The 50-percent interest exclusion only applies if: (1) immediately after the acquisition of securities with the loan proceeds, the ESOP owns more than 50 percent of the outstanding stock or more than 50 percent of the total value of all outstanding stock of the corporation; (2) the ESOP loan term will not exceed 15 years; and (3) the ESOP provides for full pass-through voting to participants on all allocated shares acquired or transferred in connection with the loan.		
		<u>**Effective date**</u>.--Loans made after October 13, 1995, other than loans made pursuant to a written binding contract in effect on October 13, 1995, and at all times thereafter before such loan is made. The repeal of the 50-percent interest exclusion does not apply to the refinancing of an ESOP loan originally made on or before	<u>**Effective date**</u>.--Loans made after the date of enactment, other than loans made pursuant to a written binding contract in effect before June 10, 1996, and at all times thereafter before such loan is made. The repeal of the 50-percent interest exclusion does not apply to the refinancing of an ESOP loan originally made on or before the

Item	*Present Law*	*House Bill*	*Senate Amendment*
		October 13, 1995, or pursuant to a binding contract in effect on such date, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on or before October 13, 1995; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.	date of enactment or pursuant to a binding contract in effect before June 10, 1996, provided (1) such refinancing loan otherwise meets the requirements of section 133 in effect on the day before the date of enactment; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.
3. Apply look-through rule for purposes of characterizing certain subpart F insurance income as unrelated business taxable income (sec. 1603 of the House bill)	Dividend income is excluded from unrelated business taxable income. The treatment of income inclusions under subpart F for unrelated business income tax purposes is not entirely clear, but the IRS has issued several private letter rulings concluding that subpart F inclusions are treated as dividends for unrelated business income tax purposes.	The House bill applies a look-through rule in characterizing certain subpart F insurance income for unrelated business income tax purposes. The look-through rule applies to amounts that constitute insurance income currently includible in gross income under the subpart F rules and that are not attributable to the insurance of risks of (1) the tax-exempt organization itself, (2) tax-exempt affiliates of such organization, and (3) officers or	No provision.

Item	Present Law	House Bill	Senate Amendment
		directors of individuals who (directly or indirectly) perform services for, such organization or such affiliates if the insurance covers primarily risks associated with the individual's performance of services in connection with such organization or affiliates. **<u>Effective date</u>.**--Amounts includible in gross income in taxable years beginning after December 31, 1995	
4. Depreciation under the income forecast method (sec. 1604 of the House bill)	The cost of certain types of property (generally, motion picture and television films, shows and video tapes; books; patents; sound recordings; and video games) may be depreciated under the income forecast method of accounting. Under the income forecast method, depreciation for a taxable year is calculated by multiplying the cost of the property by a fraction, the numerator of which is the	The House bill makes several changes to the income forecast method, including: (1) require that all income earned in the first 10 taxable years after the property is placed in service with respect to the property be taken into account; (2) provide that the cost of property subject to depreciation only includes amounts that satisfy the economic performance standards of sec. 461(h); (3) provide a look-back method that	No provision.

Item	Present Law	House Bill	Senate Amendment
	income from the property during the taxable year and the denominator of which is the total estimated income from the property over its entire life. The IRS has ruled that in applying the income forecast method, certain types of income need not be taken into account.	requires taxpayers to pay (or receive) interest to the extent depreciation calculated using estimated rather than actual income had been too rapid (or slow). **<u>Effective date</u>**.--Property placed in service after September 13, 1995, unless placed in service pursuant to a binding written contract.	
5. Modify exclusion of damages received on account of personal injury or sickness (sec. 1605 of the House bill and sec. 1603 of the Senate amendment)	Under present law, gross income does not include any damages received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injury or sickness.		
	<u>Taxation of punitive damages</u>.--The exclusion from gross income of damages received on account of personal injury or sickness specifically does not apply to punitive damages received in connection with a	<u>Include in income all punitive damages</u>.--The exclusion from gross income does not apply to any punitive damages received on account of personal injury or sickness whether or not related to a physical injury or physical	<u>Include in income all punitive damages</u>.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
	case not involving physical injury or sickness. Courts presently differ as to whether the exclusion applies to punitive damages received in connection with a case involving a physical injury or physical sickness. Certain States provide that, in the case of claims under a wrongful death statute, only punitive damages may be awarded	sickness. Present law continues to apply to punitive damages received in a wrongful death action if the applicable State law (as in effect on September 13, 1995, without regard to subsequent modification) provides, or has been construed to provide by a court decision issued on or before such date, that only punitive damages may be awarded in a wrongful death action.	
	<u>Taxation of damage recoveries nonphysical injuries</u>.--Courts have interpreted the exclusion from gross income of damages received on account of personal injury or sickness broadly in some cases to cover awards for personal injury that do not relate to a physical injury or sickness. For example, some courts have held that the exclusion applies to damages in cases involving certain forms of employment discrimination and injury to reputation where there is no physical injury or sickness. The damages received in these cases	<u>Include in income damage recoveries for nonphysical injuries</u>.--The exclusion from gross income only applies to damages received on account of a personal physical injury or physical sickness. If an action has its origin in a physical injury or physical sickness, then all damages (other than punitive damages) that flow therefrom are treated as payments received on account of physical injury or physical sickness whether or not the recipient of the damages is the injured party. Damages (other than punitive damages)	<u>Include in income damages recoveries for nonphysical injuries</u>.--No provision.

Item	Present Law	House Bill	Senate Amendment
	generally consist of back pay and other awards intended to compensate the claimant for lost wages or lost profits. The Supreme Court recently held that damages received based on a claim under the Age Discrimination in Employment Act could not be excluded from income. In light of the Supreme Court decision, the Internal Revenue Service has suspended existing guidance on the tax treatment of damages received on account of other forms of employment discrimination.	received on account of a claim of wrongful death continue to be excludable from taxable income as under present law. Under the provision, emotional distress specifically is not considered a physical injury or physical sickness. Thus, the exclusion from gross income does not apply to any damages received (other than for medical expenses as discussed below) based on a claim of employment discrimination or injury to reputation accompanied by a claim of emotional distress.	
		<u>Effective date</u>.--Amounts received after June 30, 1996. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.	**<u>Effective date</u>**.--Same as the House bill.
6. Repeal advance refunds of diesel fuel	Excise taxes are imposed on gasoline (14 cents per gallon)	The House bill repeals the tax credit for purchasers of diesel-	No provision.

Item	Present Law	House Bill	Senate Amendment
tax for purchasers of diesel-powered automobiles, vans and light trucks (sec. 1606 of the House bill)	and diesel fuel (20 cents per gallon) to fund the Federal Highway Trust Fund. Before 1985, the gasoline and diesel fuel tax rates were the same. The predominate highway use of diesel fuel is by trucks. In 1984, the diesel excise tax rate was increased above the gasoline tax as the revenue offset for a reduction in the annual heavy truck use tax. Because automobiles, vans, and light trucks did not benefit from the use tax reductions, a provision was enacted allowing first purchasers of model year 1979 and later diesel-powered automobiles and light trucks a tax credit to offset this increased diesel fuel tax. The credit is $102 for automobiles, and $198 for vans and light trucks.	powered automobiles, vans and light trucks __Effective date__.--Vehicles purchased after the date of the bill's enactment.	
7. Extension and phaseout of excise tax on luxury automobiles (sec. 1604 of Senate amendment)	Present law imposes an excise tax on the sale of automobiles whose price exceeds a designated threshold, currently $34,000 The excise tax is	No provision.	The Senate amendment reduces the tax rate by one percentage point per year beginning in 1996. The tax rate for sales (on or after seven days after the date

Item	*Present Law*	*House Bill*	*Senate Amendment*
	imposed at a rate of 10-percent on the excess of the sales price above the designated threshold. The $34,000 threshold is indexed for inflation. The tax applies to sales before January 1, 2000.		of enactment) in 1996 is 9 percent. The tax rate for sales in 1997 is 8 percent. The tax rate for sales in 1998 is 7 percent. The tax rate for sales in 1999 is 6 percent. The tax rate for sales in 2000 is 5 percent. The tax rate for sales in 2001 is 4 percent. The tax rate for sales in 2002 is 3 percent. The tax will expire after December 31, 2002. **Effective date.**--Sales on or after date of enactment plus seven days.
8. Allow certain persons engaged in the local furnishing of electricity or gas to elect not to be eligible for future tax-exempt bond financing (sec. 1605 of the Senate amendment)	Interest on State and local government bonds generally is excluded from income except where the bonds are issued to provide financing for private parties. Present law includes several exceptions, however, that allow tax-exempt bonds to be used to provide financing for certain specifically identified private parties. One such exception allows tax-exempt bonds to be issued to finance	No provision.	The Senate amendment allows persons that have received tax-exempt financing for facilities that currently qualify as used in the local furnishing of electricity or gas to elect to terminate their qualification for this tax-exempt financing and to expand their service areas without incurring the present-law loss of interest deductions and loss of tax-exemption penalties if --

Item	Present Law	House Bill	Senate Amendment
	facilities for the furnishing of electricity or gas by private parties if the area served by the facilities does not exceed (1) two contiguous counties or (2) a city and a contiguous county (commonly referred to as the "local furnishing" of electricity or gas). Like most other private beneficiaries of tax-exempt bonds, borrowers using tax-exempt bonds to finance these facilities are denied interest deductions on the debt underlying the bonds if the facilities cease to be used in qualified local furnishing activities. Additionally, as with all tax-exempt bonds, if the use of facilities financed with the bonds (or the beneficiary of the bonds) changes to a use (or beneficiary) not qualified for tax-exempt financing after the debt is incurred, interest on the bonds becomes taxable unless certain safe harbor standards are satisfied.		(1) no additional bonds are issued for facilities of the person making the election (or were issued for any predecessor) after the date of the amendment enactment; (2) the expansion of the person's service area is not financed with any tax-exempt bond proceeds; and (3) all outstanding tax-exempt bonds of the person making the election (and any predecessor) are redeemed no later than six months after the earliest date on which redemption is not prohibited under the terms of the bonds, as issued or six months after the election, if later. The Senate amendment further generally limits the exception allowing tax-exempt bonds to be issued for facilities used in the local furnishing of electricity or gas to bonds for facilities (1) of persons that qualify as engaged in that activity on the date of the

Item	Present Law	House Bill	Senate Amendment
			amendment's enactment and (2) that serve areas served by those persons on that date. Successor entities may assume this eligibility under a "step-in-the-shoes" rule if the service provided remains unchanged and the area served after the facilities are transferred does not exceed the area served before the transfer. **Effective date**.--The provision is effective on the date of enactment.
9. Repeal of financial institution transition rule to interest allocation rules (sec. 1606 of the Senate amendment)	For foreign tax credit purposes, taxpayers generally are required to allocate and apportion interest expense between U.S. and foreign source income based on the proportion of the taxpayer's total assets in each location. Such allocation and apportionment is required to be made for affiliated groups (as defined in sec. 864(e)(5)) as a whole rather than on a subsidiary-by-subsidiary basis	No provision.	The Senate amendment repeals the targeted rule of section 1215(c)(5) of the Tax Reform Act of 1986. **Effective date**.--Taxable years beginning after December 31, 1995.

Item	Present Law	House Bill	Senate Amendment
	However, certain types of financial institutions that are members of an affiliated group are treated as members of a separate affiliated group for purposes of allocating and apportioning their interest expense. Section 1215(c)(5) of the Tax Reform Act of 1986 (P.L. 99-514, 100 Stat. 2548) includes a targeted rule which treats a certain corporation as a financial institution for this purpose.		
10. Extension of Airport and Airway Trust Fund excise taxes (sec. 1607 of the Senate amendment)			
	Extension of aviation taxes.--Before January 1, 1996, the following excise taxes were imposed to fund the Airport and Airway Trust Fund: (1) a 10-percent tax on domestic air passenger tickets;	No provision.	Extension of aviation taxes.--The five Airport and Airway Trust Fund excises taxes are reinstated at the pre-1996 rates for the period beginning seven days after the date of enactment through April 15, 1997.

Item	Present Law	House Bill	Senate Amendment
	(2) a 6.25-percent tax on domestic air freight waybills; (3) a $6-per-person tax on international air departures; (4) a 17.5-cents-per-gallon tax on jet fuel used in noncommercial aviation; and (5) a 15-cents-per-gallon tax on gasoline used in noncommercial aviation (14 cents per gallon of this tax continues, with the revenues being deposited in the Highway Trust Fund)		
	<u>Exemption for certain medical air transportation</u>.--An exemption is provided from the air passenger and air freight taxes for emergency medical helicopter transportation if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.	No provision.	<u>Exemption for certain medical air transportation</u>.--The Senate amendment: (1) expands the exemption for emergency medical helicopters to also include fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services; and (2) removes the reference to non-use of Federally assisted airports or other Federal aviation facilities or services for such medical aircraft to qualify for the exemption.

Item	Present Law	House Bill	Senate Amendment
	<u>Exemption for helicopters used in exploration or development of hard minerals or oil or gas</u>.--An exemption is provided from the air passenger tax for helicopter transportation for exploration, development, or removal of hard minerals or oil or gas if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.	No provision.	<u>Exemption for helicopters used in exploration or development of hard minerals or oil or gas</u>.--The Senate amendment provides that the exemption for such helicopter transportation applies on a flight segment basis. **<u>Effective date</u>**.--For transportation or fuel sold beginning seven days after the date of enactment. The air passenger and air freight taxes do not apply to any amount paid before that date, even if for transportation occurring during the reinstatement period
11. Modify basis adjustment rules under section 1033 (sec. 1608 of the Senate amendment)	Under section 1033, a taxpayer may defer gain realized from the involuntary conversion of property to the extent the taxpayer acquires qualified replacement property within a specified period. Qualified replacement property may include a controlling interest in the stock of a corporation that owns qualified replacement	No provision.	The Senate amendment requires a taxpayer that acquires stock of a corporation as qualified replacement property to adjust the basis of property owned by the corporation as well as the taxpayer's basis in the stock. **<u>Effective date</u>**.--Involuntary conversions occurring after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
	property. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property.		
12. Extension of withholding to certain gambling winnings (sec. 1609 of the Senate amendment)	In general, proceeds from a wagering transaction are subject to withholding at a rate of 28 percent if the proceeds exceed $5,000 and are at least 300 times as large as the amount wagered. No withholding tax is imposed on winnings from bingo or keno.	No provision.	The Senate amendment imposes withholding on proceeds from bingo or keno wagering transactions at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager. **Effective date**.--Thirty days after the date of enactment.
13. Treatment of certain insurance contracts on retired lives (sec. 1610 of the Senate amendment)	Life insurance companies' reserves for variable contracts are adjusted to eliminate unrealized gains and losses. The basis of each asset is also adjusted. A variable contract generally is any annuity or life insurance contract (1) that provides for the allocation of all	No provision.	The definition of a variable contract is expanded to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if (1) the contract provides for the allocation of all or part of the amounts received under the

Item	Present Law	House Bill	Senate Amendment
	or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of he segregated asset account. Certain pension plan contracts are treated as annuity contracts for this purpose.		contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract. __**Effective date**__.--Taxable years beginning after December 31, 1995.
14. Treatment of contributions in aid of construction for water utilities (sec. 1611(a) of the Senate amendment)	Pursuant to a provision in the Tax Reform Act of 1986 ("1986 Act"), the receipt of a contribution in aid of construction by a utility must be included in its income. The utility takes a depreciable basis	No provision.	The Senate amendment restores the pre-1986 Act treatment of contributions in aid of construction for water utilities. __**Effective date**__.--Amounts received after June 12, 1996

Item	Present Law	House Bill	Senate Amendment
	in the property received as a contribution. Prior to the 1986 Act (pursuant to a provision in the Tax Reform Act of 1976), a utility was not required to include in income a contribution in aid of construction, and was not allowed a depreciable basis in the property received as a contribution.		
15. Require water utility property to be depreciated over 25 years (sec. 1611(b) of the Senate amendment)	Property used by a water utility in the gathering, treatment, and commercial distribution of water and municipal sewers are depreciated over a 20-year period for regular tax purposes. The depreciation method generally applicable to property with a recovery period of 20 years is the 150-percent declining balance method (switching to the straight-line method in the year that maximizes the depreciation deduction). The straight-line method applies to property with a recovery period of more than 20 years.	No provision.	The Senate amendment provides that water utility property will be depreciated using a 25-year recovery period and the straight-line method for regular tax purposes. For this purpose, "water utility property" means (1) property that is an integral part of the gathering, treatment, or commercial distribution of water, and that, without regard to the proposal, would have had a recovery period of 20 years and (2) any municipal sewer. **Effective date**.--Property placed in service after June 12, 1996, other than property placed in service pursuant to a binding contract in effect before June

Item	Present Law	House Bill	Senate Amendment
			10, 1996, and at all times thereafter
16. Allow conversion of scholarship funding corporation to taxable corporation (sec. 1612 of the Senate amendment)	Qualified scholarship funding corporations are nonprofit corporations established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965 (sec. 150(d)). In addition, a qualified scholarship funding corporation must be required by its corporate charter and bylaws, or under State law, to devote any income (after payment of expenses, debt service and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States. In general, State and local government bonds issued to finance private loans (e.g., student loans) are taxable private activity bonds However, interest on qualified	No provision.	In general.--The Senate amendment provides that a nonprofit student loan funding corporation may elect to cease its status as a qualified scholarship funding corporation. If the corporation meets the requirements outlined below, such an election will not cause any bond outstanding as of the date of the issuer's election and any bond issued to refund such a bond to fail to be a qualified student loan bond. Once made, an election may be revoked only with the consent of the Secretary of Treasury. After making the election, the issuer is not authorized to issue any new bonds. Requirements.--First, upon making the election, the issuer is required to transfer all of the student loan notes to another, taxable, corporation in exchange

Item	Present Law	House Bill	Senate Amendment
	student loan bonds is tax-exempt. Qualified scholarship funding corporations are eligible issuers of qualified student loan bonds. The Internal Revenue Code restricts the direct and indirect investment of bond proceeds in higher yielding investments and requires that profits on investments that are unrelated to the government purpose for which the bonds are issued be rebated to the United States. Special allowance payments (SAP) made by the Department of Education are treated as interest on notes and, therefore, are permitted arbitrage that need not be rebated to the United States. Generally, a private foundation and disqualified persons may, in the aggregate, own 20 percent of the voting stock of a functionally unrelated corporation.		for senior stock of such corporation within a reasonable period of time after the election is made. Immediately after the transfer, the issuer, and any other issuer who made the election, is required to hold all of the senior stock of the corporation. Senior stock is stock whose rights to dividends, liquidation or redemption rights are not inferior to those of any other class of stock and that (1) participates pro rata and fully in the equity value of any other common stock of the corporation, (2) has the right to payments receivable in liquidation prior to any other stock in the corporation, (3) upon liquidation or redemption, has a fixed right to receive the greater of (a) the fair market value of the stock at the date of liquidation or redemption or (b)the net fair market value of all assets transferred to the corporation by the issuer, and (4) has a right to require its redemption by a date which is

Item	Present Law	House Bill	Senate Amendment
			not later than 10 years after the date that the election is made. Second, the transferee corporation is required to assume or otherwise provide for the payment of all the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election. Lastly, immediately after the transfer, the issuer (i.e., the nonprofit student loan funding corporation) is required to become a charitable organization (described in section 501(c)(3) that is exempt from tax under section 501(a)), at least 80 percent of the members of its board of directors must be independent members, and it must hold all of the senior stock of the corporation. <u>Excess business holdings</u>.--For purposes of the excess business holding restrictions imposed on a private foundation, the charity

Item	Present Law	House Bill	Senate Amendment
			would not be required to divest its ownership in a corporation most of whose assets are student loan notes incurred under the Higher Education Act of 1965. **Effective date.**--Date of enactment.
17. **Apply mathematical or clerical error procedures for dependency exemptions and filing status when correct taxpayer identification numbers are not provided (sec. 1613 of the Senate amendment)**	Individuals who claim personal exemptions for dependents must include on their tax return the name and taxpayer identification number (TIN) of each dependent. An individual's TIN is generally that individual's social security number. If the individual fails to provide a correct TIN for a dependent, the Internal Revenue Service may impose a $50 penalty. The IRS may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to	No provision.	If an individual fails to provide a correct TIN for a dependent, the IRS is authorized to deny the dependency exemption. Such a change also has indirect consequences for other tax benefits currently conditioned on being able to claim a dependency exemption (e.g., head of household filing status and the dependent care credit). In addition, the failure to provide a correct TIN for a dependent will be treated as a mathematical or clerical error and thus any notification that the taxpayer owes additional tax because of that failure will not be treated as a notice of deficiency

Item	Present Law	House Bill	Senate Amendment
	petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment.		**Effective date**.--Tax returns for which the due date (without regard to extensions) is 30 days or more after the date of enactment. For taxable years beginning in 1995, no requirement to obtain a TIN applies in the case of dependents born after October 31, 1995. For taxable years beginning in 1996, no requirement to obtain a TIN applies in the case of dependents born after November 30, 1996.
18. Treatment of financial asset securitization investment trusts ("FASITs")(sec. 1621 of Senate amendment)	An individual can own income-producing assets directly, or indirectly through an entity (i.e., a corporation, partnership, or trust). Where an individual owns assets through an entity (e.g., a corporation), the nature of the interest in the entity (e.g., stock of a corporation) is different than the nature of the assets held by the entity (e.g., assets of the corporation).	No provision.	The Senate amendment creates a new type of statutory entity called a "financial asset securitization investment trust" ("FASIT") that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans. A FASIT generally will not be taxable; the FASIT's taxable income or net loss will flow through to the owner of the FASIT.

Item	Present Law	House Bill	Senate Amendment
	Securitization is the process of converting one type of asset with certain economic characteristics into another type of asset with different economic characteristics. Securitization generally involves the use of an entity separate from the underlying assets. In the case of securitization of debt instruments, the instruments created in the securitization typically have different maturities and characteristics than the debt instruments that are securitized. Entities used in securitization include entities that are subject to tax (e.g., a corporation), conduit entities that generally are not subject to tax (e.g., a partnership, grantor trust, or real estate mortgage investment conduit ("REMIC")), or partial-conduit entities that generally are subject to tax only to the extent their income is not distributed to their owners (e.g., a trust, real estate investment		The ownership interest of a FASIT generally will be required to be entirely held by a single domestic C corporation. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and will be subject to certain restrictions on its activities. Instruments issued by a FASIT that meet certain specified requirements are treated as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over 5 percentage points above the yield to maturity on specified United States government obligations also are treated as debt, but may be held only by domestic C corporations that are not exempt from income tax. **Effective date**.--Date of enactment. The amendment provides a special transitional rule for existing entities (e.g., a trust whose interests are taxed like a partnership) that elect to be a FASIT.

Item	Present Law	House Bill	Senate Amendment
	trust ("REIT"), or regulated investment company ("RIC")). There is no statutory entity that facilitates the securitization of revolving, non-mortgage debt obligations.		
19. Revision of expatriation tax rules (secs. 1631-1633 of the Senate amendment)	In general.--Individuals who relinquish U.S. citizenship with a principal purpose of avoiding U.S. taxes are subject to special tax provisions for 10 years after expatriation. Date of loss of citizenship.--The determination of who is a U.S. citizen for tax purposes, and when such citizenship is lost, is governed by the provisions of the Immigration and Nationality Act, 8 U.S.C. section 1401, et. seq.	No provision in H.R. 3348. (However, similar provisions are included in H.R. 3103 as passed by the House.)	In general.--Certain U.S citizens who relinquish citizenship and certain long-term residents who terminate residency generally are subject to tax on the unrealized gain in their property upon expatriation. Date of loss of citizenship.--Under the Senate amendment, for tax purposes, a U.S. citizen who formally renounces his citizenship before a U.S. consular officer is treated as losing citizenship as of that date. A citizen who provides the State Department with a statement confirming performance of an expatriating act is treated as losing citizenship as of the date the statement is provided (and

Item	Present Law	House Bill	Senate Amendment
			not as of the date of the expatriating act). If neither of these rules apply, the citizen is treated as losing citizenship as of date the State Department issues a CLN or a court cancels his certificate of naturalization. The date the citizen is treated as losing citizenship applies for all tax purposes.
	Individuals covered.-- The expatriation income tax applies to any U.S. citizen who relinquishes citizenship with a principal purpose of avoiding U.S. taxes.		Individuals covered.--Under the Senate amendment, the expatriation income tax applies to U.S. citizens who relinquish citizenship and long-term residents whose residency is terminated if they meet certain income or net worth thresholds. A long-term resident is an individual who was a lawful permanent resident for at least 8 of the 15 taxable years ending with the year in which the termination occurs. U.S. citizens who relinquish citizenship and long-term residents who terminate residency are subject to the expatriation income tax if

Item	Present Law	House Bill	Senate Amendment
			(1) the individual's average U.S. income tax liability for the 5 years before the expatriation date exceeds $100,000 <u>or</u> (2) the individual's net worth as of the expatriation date is $500,000 or more (with indexing for these dollar thresholds). An exception is provided for an individual born with dual citizenship who retains the non-U.S. citizenship and who is resident in the other country as of the expatriation date, provided that he was resident in the United States for no more than 8 of the 15 years before the expatriation date. Another exception is provided for a citizen who renounces U.S. citizenship before age 18-1/2, provided that he was a U.S resident for no more than 5 years before the expatriation date.
	<u>Imposition of tax</u>.--A covered expatriate is subject to tax on his U.S. source income at the rates		<u>Imposition of tax</u>.--Under the Senate amendment, a covered expatriate is subject to tax on

Item	Present Law	House Bill	Senate Amendment
	applicable to U.S. citizens rather than the rates applicable to other non-resident aliens for 10 years after expatriation. In addition, the scope of items treated as U.S. source income for this purpose is broader than those items generally considered to be U.S. source income (e.g., gains on the sale of personal property located in the United States and gains on the sale or exchange of stock or securities issued by U.S. persons are treated as U.S. source income). This alternative method of income taxation applies only if it results in a higher U.S. tax liability.		the unrealized gain in property held on the expatriation date. Property is deemed to be sold upon expatriation, and any net gain or loss on such deemed sale is recognized for tax purposes, subject to an exclusion for the first $600,000 of net gain. The expatriation income tax applies to all property interests held by the expatriate on the expatriation date, provided that any gain on such an interest would be includible in the expatriate's gross income if such interest were sold. The expatriation income tax also applies to trust interests under rules described below. Exclusions are provided for U.S real property, qualified retirement plans and certain foreign pension plans. Treasury is authorized to issue regulations exempting other property interests as appropriate. The expatriate is required to pay a tentative tax within 90 days after the expatriation date,

Item	Present Law	House Bill	Senate Amendment
			which tax reflects the gain on the deemed sale as well as other items for the portion of the year that precedes the expatriation date. An expatriate may elect to defer payment of the expatriation income tax with respect to any property. This election is made on an asset-by-asset basis. Under this election, the deferred tax accrues interest through the payment date. The deferred tax is payable when the asset is disposed of (or immediately before death if the asset is held at such time). The expatriate must provide adequate security and must waive any treaty rights that would preclude collection of the tax in order to elect to defer payment. <u>Special rules for trust interests</u>.--The Senate amendment provides special rules with respect to the application of the expatriation income tax in the case of trust interests. The rules applicable to trust interests depend on

Item	Present Law	House Bill	Senate Amendment
			whether the trust is a qualified trust A qualified trust is a trust governed by U.S. law which is required at all times to have U.S trustee. The expatriation tax with respect to a qualified trust interest is imposed only when a distribution is received The amount of the expatriation tax is calculated as of the expatriation date based on the gain in the maximum assets that could be allocable to the trust interest (determined by resolving contingencies and discretionary powers in the expatriate's favor). The amount so calculated plus interest is collected from subsequent distributions as received. If a qualified trust interest is disposed of, the expatriate dies, or the trust ceases to be qualified, the expatriation tax is imposed at such time in an amount equal to the lesser of the remainder of the expatriation tax calculated as of the expatriation

Item	Present Law	House Bill	Senate Amendment
			date (and not yet collected) or the amount of tax calculated with respect to the gain in trust assets allocable to the interest at the time of such event. The tax with respect to qualified trust interests generally is imposed on distributions and is collected through withholding, provided that the expatriate waives any treaty rights that would preclude collection of the tax. If the expatriate does not agree to a waiver of such treaty rights (and in the case of tax imposed in connection with the expatriate's disposition of a trust interest, the expatriate's death while holding the trust interest, or the expatriate's holding of a trust interest that ceases to be qualified), the tax is imposed on the trust with a right of contribution for other beneficiaries. In the case of a nonqualified trust interest, the expatriate's interest in the trust is determined based on the facts

Item	Present Law	House Bill	Senate Amendment
			and circumstances on the expatriation date. The expatriation tax is imposed on the gain in the trust interest determined as if the trust assets were sold for fair market value on expatriation date. Payment of the expatriation tax that is imposed with respect to a nonqualified trust interest could be deferred under the rules described above. <u>Election to be taxed as a U.S. citizen</u>.--Instead of being subject to the expatriation tax on unrealized gain in his property at the time of expatriation, the expatriate may elect to continue to be taxed as a U.S. citizen with respect to <u>all</u> property that would otherwise be subject to the expatriation tax. This election covers all such property (and any property the basis of which is determined by reference to such property). The income, gift, estate, and generation-skipping transfer taxes continue to apply to such property; however, the transfer

Item	Present Law	House Bill	Senate Amendment
			taxes imposed under this provision are limited to the amount of income tax that would be due if the property were sold for its fair market value at the time of the transfer. The $600,000 exclusion is available to reduce taxes imposed by reason of this election. In order to make the election, the expatriate is required to provide security and waive any treaty rights that would preclude collection of the tax.
	Special estate and gift tax provisions.--Rules applicable in the estate and gift tax contexts expand the categories of items that are subject to the gift and estate taxes in the case of a U.S. citizen who relinquished citizenship with a principal purpose of avoiding U.S. taxes within the 10-year period ending on the date of the transfer (e.g., U.S. property held through a foreign corporation controlled		Special estate and gift tax provisions.--Under the Senate amendment, the special estate and gift tax provisions with respect to citizens who expatriate with a principal purpose of avoiding U.S. tax are extended to long-term U.S. residents who terminate their U.S. residency with a principal purpose of avoiding U.S. tax. In addition, for purposes of the expatriation estate and gift tax

Item	*Present Law*	*House Bill*	*Senate Amendment*
	by the expatriate and related persons is included in his estate and gifts of U.S.-situs intangible property by the expatriate are subject to the gift tax)		provisions, an individual is deemed to have relinquished U.S. citizenship or terminated U.S. residency for a principal purpose of avoiding U.S. taxes if such individual is a covered expatriate as described above. A credit against the tax imposed solely by reason of the special estate and gift tax provisions is allowed for the expatriation income tax imposed with respect to the same property. A credit under such tax is also allowed for any foreign estate, gift or similar tax paid with respect to the items subject to such taxation. <u>Treatment of gifts and inheritances from an expatriate</u>.--Under the Senate amendment, the section 102 exclusion is not applicable to property received by gift or inheritance from an expatriate who was subject to the expatriation tax
	<u>Information reporting</u>.--There is no special information reporting		<u>Information reporting</u>.--The Senate amendment imposes an

Item	Present Law	House Bill	Senate Amendment
	requirement with respect to U.S. citizens who lose U.S. citizenship or long-term residents who terminate U.S. residency.		information reporting requirement on an individual who renounces citizenship or terminates residency. Statements are required to be provided to the State Department in the case of a former U.S. citizen and filed with the U.S. tax return for the year in which the termination of residency occurs in the case of a former long-term resident. Failure to provide the required statement results in a penalty for each year the failure continues equal to the greater of (1) 5 percent of the individual's expatriation tax liability for such year or (2) $1,000. The State Department is required to provide Treasury with all statements received from former citizens and the names of those who refuse to provide the statement. The State Department is also required to provide Treasury with a copy of each CLN approved. The agency administering the immigration

Item	Present Law	House Bill	Senate Amendment
			laws is required to provide Treasury with the names of individuals whose residency status is revoked or determined to have been abandoned. Treasury is required to publish in the *Federal Register* the names of all former citizens from whom it receives statements or whose names it receives under the information-sharing provisions. Treasury Department study.--Treasury is directed to undertake a study on the tax compliance of U.S. citizens and green-card holders residing abroad and to make recommendations regarding the improvement of such compliance. **Effective date**.--Individuals who terminate residency or who are treated as losing citizenship on or after February 6, 1995. An individual who committed an expatriating act before

Item	Present Law	House Bill	Senate Amendment
			February 6, 1995 but who provided the confirming statement or had a CLN issued on or after such date is subject to the expatriation tax imposed under the Senate amendment. Such individual is <u>not</u> subject retroactively to tax as a U.S. citizen from the date of the expatriating act. The prior law expatriation income tax provisions continue to apply to such individual through the date the new expatriation tax provisions are applicable. The tentative tax and the required information statement are due not earlier than 90 days after date of enactment of the Senate amendment.