COMPARISON OF TAX SIMPLIFICATION PROVISIONS OF H.R. 2491 AS PASSED BY THE HOUSE AND THE SENATE

Prepared for Use of the House and Senate Conferees

By the Staff

of the

JOINT COMMITTEE ON TAXATION

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(House and Senate Tax Simplification Provisions)

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a comparison of the tax simplification provisions contained in H.R. 2491 as passed by the House on October 26, 1995 and by the Senate (as amended) on October 27, 1995.[2]

H.R. 2491 ("Seven-Year Balanced Budget Reconciliation Act of 1995") was reported by the House Committee on the Budget on October 17, 1995 (H. Rept. 104-280, Vols. I and II). Titles XIII and XIV contain the revenue reconciliation and tax simplification provisions, respectively, with certain modifications, as approved by the House Committee on Ways and Means on September 19, 1995; Title XIX incorporates by references the revenue provisions of H.R. 1215 ("Tax Fairness and Deficit Reduction Act of 1995") as passed by the House on April 5, 1995, with certain modifications.[3]

The Senate Committee on the Budget ordered favorably reported its budget reconciliation provisions (S. 1357, the "Balanced Budget Reconciliation Act of 1995") on October 23, 1995 (no written committee report), which include the revenue reconciliation provisions (Title XII) as approved by the Senate Committee on Finance on October 19, 1995.[4] Also, Title VII includes revisions of the earned income tax credit (subtitle H) and an increase in the public debt limit (subtitle I) as approved by the Committee on Finance on

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[1] This document may be cited as follows: Joint Committee on Taxation, Comparison of Tax Simplification Provisions of H.R. 2491 as Passed by the House and the Senate (JCS-23-95), October 31, 1995.

[2] For an explanation of the revenue reconciliation provisions of H.R. 2491 as passed by the House and the Senate, see Joint Committee on Taxation, Comparison of Revenue Reconciliation Provisions of H.R. 2491 as Passed by the House and the Senate (JCS-22-95), October 31, 1995.

[3] For an explanation of the revenue provisions of H.R. 1215 as reported by the House Committee on Ways and Means, see H. Rept. 104-84, March 21, 1995.

[4] For an explanation of the revenue reconciliation provisions approved by the Committee on Finance, see S. Prt. 104-35, October 1995.

September 29, 1995.[5]

The Senate considered the budget reconciliation provisions on October 25-27, 1995, and approved a Senate amendment as a substitute to the provisions of the House-passed H.R. 2491 on October 27, 1995.

[5] For an explanation of the earned income tax credit and public debt limit provisions as approved by the Committee on Finance, see S. Prt. 104-34, October 1995, pp. 137-143.

LIST OF IDENTICAL PROVISIONS

The following tax simplification provisions of H.R. 2491 as passed by the House and the Senate are identical (including effective dates). These provisions are not described in the comparison of tax simplification provisions.

Pension Simplification

- Repeal of exclusion for employer-provided death benefits (sec. 14202 of the House bill and sec. 12912 of the Senate amendment)
- Required distributions (sec. 14204 of the House bill and sec. 12914 of the Senate amendment)
- Repeal of family aggregation rules (sec. 14222 of the House bill and sec. 12901 of the Senate amendment)
- Modification of additional participation requirements (sec. 14223 of the House bill and sec. 12903 of the Senate amendment)
- Plans covering self-employed individuals (sec. 14232 of the House bill and sec. 12932 of the Senate amendment)
- Elimination of special vesting rule for multiemployer plans (sec. 14233 of the House bill and sec. 12933 of the Senate amendment)
- Uniform retirement age (sec. 14236 of the House bill and sec. 12940 of the Senate amendment)
- Contributions on behalf of disabled employees (sec. 14238 of the House bill and sec. 12937 of the Senate amendment)
- Multiple salary reduction agreements permitted under section 403(b) (sec. 14242 of the House bill and sec. 12941 of the Senate amendment)

Insurance Simplification

- Treatment of certain insurance contracts on retired lives (sec. 14571 of the House bill (H.R. 2517) and sec. 12877 of the Senate amendment)

- Treatment of modified guaranteed contracts (sec. 14572 of the House bill (H.R. 2517) and sec. 12878 of the Senate amendment)

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COMPARISON OF TAX SIMPLIFICATION PROVISIONS			
I. Provisions Relating to Individuals			
1. Provisions relating to rollover of gain on sale of principal residence (secs. 14101-14102 of the House bill)	No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.		
	Multiple rollovers.--In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more	Multiple rollovers.--Gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the	No provision.

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	than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the replacement residence. Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.	taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases. As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.	
	Rollovers in the case of divorce or separation.--The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case,	Rollovers in the case of divorce or separation.--Provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence	No provision.

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	including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.	is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale. **Effective date**.--Sales of old residences (within the meaning of sec. 1034) after the date of enactment.	
2. One-time exclusion of gain from sale of principal residence for certain spouses (sec. 14103 of the House bill)	In general, a taxpayer may exclude from gross income up to $125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has used the residence as a principal residence for three or more years of the five years preceding the sale. This election is allowed only once in a lifetime unless all previous elections are revoked. For these purposes, sales on or before July	The House bill allows an exclusion to an individual who otherwise qualifies for an exclusion under section 121 of the Code but for a marriage to a spouse with an existing election in effect. The exclusion will only be available if the individual held the property which is the subject of the exclusion for at least three years prior to marrying the spouse with the existing election.	No provision.

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	26, 1978 are not counted against the once in a lifetime limit.	**Effective date**.--Sales or exchanges after September 13, 1995.	
3. Payment of taxes by commercially acceptable means (sec. 14111 of the House bill)	Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.	The House bill allows the IRS to accept payment by any commercially acceptable means that the Secretary deems appropriate, to the extent and under the conditions provided in Treasury regulations. **Effective date**.--Nine months after the date of enactment. The IRS may, in this interim period, conduct internal tests and negotiate with card issuers, but may not accept credit or debit cards for payment of tax liability.	No provision.
4. Simplified foreign tax credit limitation for individuals (sec. 14112 of the House bill)	In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income and foreign taxes paid in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to	The House bill allows individuals with no more than $200 ($400 in the case of married persons filing jointly) of creditable foreign taxes, and no foreign source income other than passive income, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's	No provision.

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	perform the necessary calculations.	foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. For this purpose, passive income is defined to include all types of income that is foreign personal holding company income under the subpart F rules, provided that the income is shown on a payee statement furnished to the individual. Under the election, a credit is allowed only for taxes shown on a payee statement. **Effective date**.--Taxable years beginning after December 31, 1995.	
5. Treatment of personal transactions by individuals under foreign currency rules (sec. 14113 of the House bill)	When a U.S. taxpayer with a U.S. dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the	In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the House bill provides for nonrecognition of an individual's resulting exchange gain provided that such gain does not exceed $200. The	No provision.

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	time that the payment is made. The 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions will be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.	House bill does not change the treatment of resulting exchange losses. **Effective date**.--Taxable years beginning after December 31, 1995.	
6. Treatment of certain reimbursed expenses of rural mail carriers (sec. 14114 of the House bill)	A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). Alternatively, the taxpayer may elect to utilize a standard	The House bill repeals the special rate for Postal Service employees of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that	No provision.

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	mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses. An employee of the U.S. Postal Service may compute his deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.	is considered to be equivalent to their expenses is the rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation. **Effective date**.--Taxable years beginning after December 31, 1995.	
7. Exclusion of combat pay from withholding limited to amount excluded from gross income (sec. 14115 of the House bill)	Gross income does not include certain combat pay of members of the Armed Forces (Code sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from	The House bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.	No provision.

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	gross income. In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay. There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.	**Effective date**.--Remuneration paid after December 31, 1995.	
8. Treatment of traveling expenses of certain Federal	Unreimbursed ordinary and necessary travel expenses paid or incurred by an individual in	The one-year limitation with respect to deductibility of expenses while temporarily	No provision.

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employees engaged in criminal investigations (sec. 14116 of the House bill)	connection with temporary employment away from home are generally deductible, subject to the two-percent floor on miscellaneous itemized deductions. Travel expenses paid or incurred in connection with indefinite employment away from home, however, are not deductible. A taxpayer's employment away from home in a single location is indefinite rather than temporary if it lasts for one year or more; thus, no deduction is permitted for travel expenses paid or incurred in connection with such employment (sec. 162(a)). If a taxpayer's employment away from home in a single location lasts for less than one year, whether such employment is temporary or indefinite is determined on the basis of the facts and circumstances.	away from home does not include any period during which a Federal employee is certified by the Attorney General (or the Attorney General's designee) as travelling on behalf of the Federal Government in a temporary duty status to investigate or provide support services for the investigation of a Federal crime. Thus, expenses for these individuals during these periods are fully deductible, regardless of the length of the period for which certification is given (provided that the other requirements for deductibility are satisfied). **Effective date**.--Taxable years ending after the date of enactment.	

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II. Pension Simplification Provisions			
A. Simplified Distribution Rules (secs. 14201 and 14203 of the House bill and secs. 12911 and 12913 of 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.--Lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward averaging.	Lump-sum distributions.--The House bill sunsets 5-year averaging for lump-sum distributions from qualified plans.	Lump-sum distributions.--Same as House bill.
		Effective date.--Taxable years beginning after December 31, 1995.	**Effective date.**--Taxable years beginning after December 31, 1998.
	Recovery of basis.--Amounts received as an annuity under a qualified plan generally are includible in income in the year	Recovery of basis.--The House bill provides that basis recovery on payments from qualified plans generally is determined	Recovery of basis.--Same as House bill, except that the number of anticipated payments is determined under the

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	received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity. Under a simplified alternative method provided by the IRS, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method. In no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.	under a method similar to the present-law simplified alternative method provided by the IRS. The portion of each annuity payment that represents a return of basis is equal to the employee's total basis as of the annuity starting date, divided by the number of anticipated payments under the following table: *Age:* / *Number of payments:* Not more than 55 — 300 56-60 — 260 61-65 — 240 66-70 — 170 More than 70 — 120 **Effective date**.--Annuity starting dates after December	following table: *Age:* / *Number of payments:* Not more than 55 — 360 56-60 — 310 61-65 — 260 66-70 — 210 More than 70 — 160 **Effective date**.--Same as House bill.

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B. Increased Access to Pension Plans **1. Modifications of simplified employee pensions (sec. 14211 of the House bill)**	Certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension ("SEP") for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash. The amounts the employee elects to have contributed to the SEP are not currently includible in income. The election to have amounts contributed to a SEP 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 SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.	The House bill modifies the rules relating to salary reduction SEPs by providing that such SEP's may be established by employers with 100 or fewer employees. The bill repeals the requirement that at least 50 percent of eligible employees actually participate in a salary reduction SEP. The bill modifies the special nondiscrimination test applicable to elective deferred under SEP's and permits a salary reduction SEP to satisfy the design-based safe harbor available to qualified cash or deferred arrangements (see C.2., below). **Effective date.**--Years beginning after December 31, 1995.	No provision. However, the Senate amendment adopts a new type of retirement plan (called a "SIMPLE" retirement plan) (see the description in Joint Committee on Taxation, Comparison of Revenue Reconciliation Provisions of H.R. 2491, as passed by the House and the Senate (JCS-22-95) October 31, 1995, II-B.)

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	Elective deferrals under SEP's are subject to a special nondiscrimination test.		
2. State and local governments and tax-exempt organizations eligible under section 401(k) (sec. 14212 of the House bill and sec. 12917 of the Senate amendment)	Under present law, tax-exempt and State and local government organizations are generally prohibited from establishing qualified cash or deferred arrangements (sec. 401(k) plans). Qualified cash or deferred arrangements (1) of rural cooperatives, (2) adopted by State and local governments before May 6, 1986, or (3) adopted by tax-exempt organizations before July 2, 1986, are not subject to this prohibition.	The House bill allows tax-exempt organizations and State and local governments and their agencies and instrumentalities to maintain qualified cash or deferred arrangements, unless the entity maintains a section 457 plan. This treatment is also extended to Indian tribes. Tax-exempt and governmental plans eligible to maintain qualified cash or deferred arrangements under present law would not be subject to the prohibition on maintaining such a plan if the entity maintains a section 457 plan. **Effective date.**--Years beginning after December 31, 1996.	The Senate amendment permits organizations exempt from tax (other than an organization described in section 501(c)(3)) to maintain qualified cash or deferred arrangements. **Effective date.**--Years beginning after December 31, 1997.
3. Credit for pension plan start-up costs of small employers (sec.	An employer is generally entitled to deduct ordinary and necessary business expenses, including expenses associated	No provision.	In lieu of the present-law deduction, small employers would be entitled to a credit with respect to the expenses of

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12916 of the Senate amendment)	with establishing pension plans.		establishing a SIMPLE retirement plan (see the description in Joint Committee on Taxation, Comparison of Revenue Reconciliation Provisions of H.R. 2491, as passed by the House and the Senate (JCS-22-95) October 31, 1995, II-B). The credit equals 50 percent of the start-up costs of establishing the plan up to a maximum credit of $500. The credit is not available to an employer that made contributions to a qualified plan (or a SIMPLE plan) during the 2 years preceding the year in question. In addition, the credit is not available to employers substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting. **Effective date.**--Costs incurred after the date of enactment in taxable years ending after that

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			date.

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C. Nondiscrimination Provisions			
1. Definition of highly compensated employees (sec. 14221 of the House bill and sec. 12901 of 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 1995) in annual compensation from the employer, (3) received more than $66,000 (for 1995) 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 1995). 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.	Under the House bill, an employee is 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). The House bill repeals the rule requiring the highest paid officer to be treated as a highly compensated employee. **Effective date.**--Years beginning after December 31, 1995.	Under the Senate amendment, an employee is highly compensated if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation), or (3) was the most highly compensated officer of the employer for the preceding year. The rule providing that the most highly compensated officer is a highly compensated employees does not apply to plans maintained by tax-exempt or State and local governmental organizations for purposes of applying the nondiscrimination tests applicable to cash or deferred arrangements. **Effective date.**--Years beginning after December 31, 1996.
2. Non-discrimination	Under present law, a special nondiscrimination test applies to	The House bill modifies the special nondiscrimination tests	

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rules for qualified cash or deferred arrangements and matching contributions (sec. 14224 of the House bill and sec. 12904 of the Senate amendment)	qualified cash or deferred arrangements. The special nondiscrimination test is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements. To determine the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated	applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted actual deferral percentage for highly compensated employees for the year is determined by reference to the actual deferral percentage for nonhighly compensated employees for the preceding, rather than the current, year. A special rule applies for the first plan year.	

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	employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages.		
		Safe harbor for cash or deferred arrangements.--The bill provides that a cash or deferred arrangement satisfies the special nondiscrimination tests if the plan satisfies one of two contribution requirements and satisfies a notice requirement.	Safe harbor for cash or deferred arrangements.--Same as House bill, except that an employer is allowed to elect to use current year actual deferral percentages. Such an election can be revoked only as provided by the Secretary.
		Alternative method of satisfying special nondiscrimination test for matching contributions.--The House bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions.	Alternative method of satisfying special nondiscrimination test for matching contributions.--Same as House bill, except that an employer is allowed to elect to use current year actual deferral percentages. Such an election can be revoked only as provided by the Secretary.
		Simplified employee pensions.--The bill modifies the present-law nondiscrimination test applicable to salary reduction SEPs to provide that the average of deferral percentages for all	Simplified employee pensions.--No provision. However, the Senate amendment adopts a new type of retirement plan (called a "SIMPLE" retirement plan) (see the description in Joint

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		nonhighly compensated employees for the preceding, rather than the current, year is to be used. In addition, the bill permits a salary reduction SEP to satisfy the qualified cash or deferred arrangement safe harbor nondiscrimination test. Distribution of excess contributions.--The House bill provides that the distribution of excess contributions are required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, excess contributions are deemed attributable first to those highly compensated employees who have the greatest dollar amount of elective deferrals. **Effective date**.--Years beginning after December 31, 1995.	Committee on Taxation, Comparison of Revenue Reconciliation Provisions of H.R. 2491, as passed by the House and the Senate (JCS-22-95) October 31, 1995, II-B). Distribution of excess contributions.--No provision. **Effective date**.--Years beginning after December 31, 1998.
3. Definition of compensation for purposes of the limits on contributions and	Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. For purposes of these limits, present law	No provision.	The Senate amendment provides that elective deferrals to 401(k) plans and similar arrangements, elective contributions to nonqualified deferred

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benefits (sec. 12902 of the Senate amendment)	provides that the definition of compensation generally does not include elective employee contributions to certain employee benefit plans.		compensation plans of tax-exempt employers and State and local governments (sec. 457 plans), and salary reduction contributions to a cafeteria plan are considered compensation for purposes of the limits on contributions and benefits. **Effective date.**--Years beginning after December 31, 1997.

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D. Miscellaneous Pension Simplification **1. Treatment of leased employees (sec. 14231 of the House bill and sec. 12931 of the Senate amendment)**	An individual who performs services for another person may be required to be treated as the recipient's employee for various employee benefit provisions if the services are performed pursuant to an agreement between the recipient and any other person (the leasing organization) who is otherwise treated as the individual's employer. The individual is treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field. An individual who otherwise is treated as a recipient's leased employee is not treated as such an employee if the individual participates in a safe harbor plan	Under the House bill, the present-law "historically performed" test is replaced with a new rule under which an individual is not considered a leased employee unless the individual's services are performed under significant direction or control by the service recipient. **Effective date.**--Years beginning after December 31, 1995, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees.	Under the Senate amendment, the present-law "historically performed" test is replaced with a new rule under which an individual is not considered a leased employee unless the individual's services are performed under the primary direction or control of the service recipient. **Effective date.**--Same as House bill.

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	maintained by the leasing organization meeting certain requirements.		
2. Distributions under rural cooperative plans (sec. 14232 of the House bill and sec. 12938 of the Senate amendment)	A qualified cash or deferred arrangement can permit withdrawals of employee elective deferrals only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, or (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59-1/2 or the occurrence of a hardship of the participant. In the case of a money purchase pension plan, including a rural cooperative plan, withdrawals by participants cannot occur upon attainment of age 59-1/2 or upon hardship.	The House bill provides that a rural cooperative plan that includes a cash or deferred arrangement may permit distributions to plan participants after the attainment of age 59-1/2. **Effective date**.--Distributions after December 31, 1995.	Same as House bill, except that withdrawals are also permitted on account of hardship. In addition, the definition of a rural cooperative is expanded to include certain public utility districts, a national association of rural cooperatives, and any other organization providing services related to the activities of rural cooperatives, but only in the case of a plan with respect to which substantially all of the organizations maintaining are rural cooperatives. **Effective date**.--Distributions after the date of enactment. The modifications to the definition of a rural cooperative applies to plan years beginning after December 31, 1994.
3. Treatment of	Present law imposes limits on	The House bill makes the	The Senate amendment is the

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governmental plans under section 415 (sec. 14235 of the House bill and sec. 12935 of the Senate amendment)	contributions and benefits under qualified plans based on the type of plan (sec. 415). Certain special rules apply to State and local governmental plans under which such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers. 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.	following modifications to the limits on contributions and benefits as applied to governmental plans: (1) compensation includes employer contributions to certain plans under a salary reduction arrangement; (2) the 100 percent of compensation limitation on defined benefit pension plan benefits does not apply; and (3) the early retirement reduction and the 10-year phasein of the defined benefit plan dollar limit do not apply to certain disability and survivor benefits. The House bill also permits State and local government employers to maintain excess benefit plans without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457).	same as the House bill, except that the exemption from the 100 percent of compensation limit does not apply to State legislators and the modification of the definition of compensation to include contributions under a salary reduction agreement apply to all employers.

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		Effective date.--Years beginning on or after January 1, 1996. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning before January 1, 1996.	**Effective date.**--Years beginning on or after January 1, 1995. With respect to governmental plans, no inference is intended with respect to prior years.
4. Limits on contributions and benefits under multiemployer plans (sec. 12935 of the Senate amendment)	Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). In the case of a defined benefit pension plan, 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.	Under the Senate amendment, in the case of a multiemployer plan, the 100 percent of compensation limit, the early retirement reduction, and the 10-year phasein of the defined benefit plan dollar limit do not apply. **Effective date.**--Years beginning after December 31, 1995.
5. Uniform penalty provisions to apply to certain pension reporting requirements (sec. 14237 of the House bill)	Any person who fails to file an information report with the IRS on or before the prescribed filing date is subject to penalties for each failure. A different, flat-amount penalty applies for each failure to provide information reports to the IRS	The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. **Effective date.**--Returns and	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	or statements to payees relating to pension payments.	statements the due date for which is after December 31, 1995.	
6. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations (sec. 14239 of the House bill and sec. 12936 of the Senate amendment)	Under a section 457 plan, an employee who elects to defer the receipt of current compensation is taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33-1/3 percent of compensation (net of the deferral). Amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70-1/2, (2) when the participant is separated from the service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Benefits under a section 457 plan are not treated as made available if the participant may	The House bill makes three changes to the rules governing section 457 plans. (1) The bill permits in-service distributions of accounts that do not exceed $3,500 under certain circumstances. (2) The bill increases the number of elections that can be made with respect to the time distributions must begin under the plan. (3) The bill provides for indexing of the dollar limit on deferrals. No rounding rules apply to such indexing.	Same as the House bill, except that a rounding rule applies to the indexing of the dollar limits on deferrals.

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	elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.		
		Effective date.--Taxable years beginning after December 31, 1995.	**Effective date.**--Same as House bill.
7. Trust requirement for deferred compensation plans of State and local governments (sec. 14240 of the House bill)	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.	Under the House bill, all amounts deferred under a section 457 plan maintained by a State and local governmental employer are 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 are not considered made available merely because they are held in a trust, custodial account, or annuity contract.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		Effective date.--Effective on the later of January 1, 1996, or 90 days after the date of enactment. Amounts deferred prior to such date are required to be held in trust (or custodial account or annuity contract) by such date.	
8. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act (sec. 14241 of the House bill)	The Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade (GATT), modified the actuarial assumptions that must be used in adjusting benefits and limitations. In general, in adjusting a benefit that is payable in a form other than a straight life annuity and in adjusting the dollar limitation if benefits begin before Social Security retirement age, the interest rate to be used cannot be less than 5 percent or the rate specified in the plan. Under the Retirement Protection Act, if the benefit is payable in a form subject to the requirements of section 417(e)(3), then the interest rate on 30-year Treasury	The House bill conforms the effective date of the new interest rate and mortality assumptions that must be used under section 415 to calculate the limits on benefits and contributions to the effective date of the provision relating to the calculation of lump-sum distributions. This rule applies only in the case of plans that were adopted and in effect before the date of enactment of the Retirement Protection Act (December 8, 1994). To the extent plans have already been amended to reflect the new assumptions, plan sponsors are permitted within 1 year of the date of enactment to amend the plan to reverse retroactively	No provision.

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	securities is substituted for 5 percent. Also under the Retirement Protection Act, for purposes of adjusting any limit or benefit, the mortality table prescribed by the Secretary must be used. This provision of the Retirement Protection Act is generally effective as of the first day of the first limitation year beginning in 1995. The Retirement Protection Act made similar changes to the interest rate and mortality assumptions used to calculate the value of lump-sum distributions for purposes of the rule permitting involuntary dispositions of certain accrued benefits. In the case of a plan adopted and in effect before December 8, 1995, those provisions do not apply before the earlier of (1) the date a plan amendment applying the new assumption is adopted or made effective (whichever is later), or (2) the first day of the first plan	such amendment. **Effective date**.--Effective as if included in the Retirement Protection Act.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
	years beginning after December 31, 1999.		
9. Waiver of minimum waiting period for qualified plan distributions (sec. 14243 of the House bill)	Under present law, in the case of a qualified joint and survivor annuity, 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 day. Even if a participant has elected to waive the qualified joint and survivor annuity and the spouse has consented to the distribution, the distribution from the plan cannot be made until 30 days after the written explanation was provided to the participant.	The House bill provides that the minimum period between the date the explanation of the qualified joint and survivor annuity 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, 1995.	No provision.
10. Repeal of combined plan limit (sec. 14244 of the House bill and sec. 12921 of the Senate amendment)	Present law provides limits on contributions and benefits under qualified plans based on the type of plan, i.e., based on whether the plan is a defined contribution plan or a defined benefit pension plan. Combined plan limit.--An overall limit applies if an	Combined plan limit.--The House bill repeals the combined	Combined plan limit.--Same as House bill, except that the

Item	Present Law	House Bill	Senate Amendment
	individual is a participant in both a defined benefit pension plan and a defined contribution plan (the combined plan limit).	plan limit.	repeal of the combined plan limit would not apply with respect to plans maintained by professional service employers (an employer substantially all of the activities of which are in the fields of architecture, science, health, law, performing arts, financial services, actuarial services, engineering, accounting, and consulting.
		Effective date.--Limitation years beginning after December 31, 1996.	**Effective date**.--Limitation years beginning after December 31, 1998.
	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.--No provision.	Excess distribution tax.--Until the repeal of the combined plan limit is effective, the Senate amendment suspends the excise tax on excess distributions. The additional estate tax on excess accumulations continues to apply. **Effective date**.--Distributions in 1996, 1997, and 1998.

Item	*Present Law*	*House Bill*	*Senate Amendment*
11. Date for adoption of plan amendments (sec. 14245 of the House bill and sec. 12914 of the Senate amendment)	Plan amendments to reflect amendments to the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs.	The House bill generally provides that any plan amendments required by the bill are not required to be made before the first plan year beginning on or after January 1, 1997. **Effective date**.--Date of enactment.	Same as the House bill, except that the date for plan amendments is extended to the first plan year beginning on or after January 1, 1999, in the case of a governmental plan. **Effective date**.--Same as House bill.
12. Full funding limitation of multiemployer plans (sec. 12934 of the Senate amendment)	An employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the lesser of (1) the accrued liability under the plan or (2) 150 percent of the plan's current liability. Valuation of defined benefit pension plans are required annually.	No provision.	The Senate amendment provides that the 150 percent of current liability limitation does not apply to multiemployer plans. In addition, the amendment repeals the annual valuation requirement for multiemployer plans and applies the prior-law rule that valuations generally be performed at least every 3 years. **Effective date**.--Years beginning after December 31, 1997.
13. Tenured faculty (sec. 12939 of the Senate amendment)	Under a section 457 plan, an employee who elects to defer the receipt of current compensation is taxed on the	No provision.	The Senate amendment provides that the limits of section 457 do not apply to eligible faculty voluntary retirement incentive

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	amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7, 500 or (2) 33-1/2 percent of compensation (net of the deferral).		pay. In order to qualify for the exception, the payments must be made to employees who elect, during a specified period of time of limited duration (as established by the employer) to retire early, the total amount of he payments cannot exceed twice the individual's annual compensation and all such payments to the employee must be completed within 5 years after the employee's termination of employment. **Effective date.**--Years beginning after December 31, 1995.
14. Application of elective deferral limit to section 403(b) plans (sec. 12941 of the Senate amendment)	A tax-sheltered annuity plan must provide that elective deferrals made under the plan on behalf of an employee may not exceed the annual limit on elective deferrals ($9,500 for 1995). Plans that do not comply with this requirement may lose their tax-favored status.	No provision.	The Senate amendment eliminates the requirement that a tax-sheltered annuity plan must provide that elective deferrals under the plan may not exceed the annual limit on elective deferrals. As under present law, employees who make elective deferrals in excess of the annual limit must include such amounts in their taxable income.

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			Effective date.--The provision is effective with respect to plan years beginning after December 31, 1995.
15. Treatment of Indian tribal governments under section 403(b) (sec. 12941 of 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 maintain tax-sheltered annuity plans.	No provision.	The Senate amendment provides that any 403(b) annuity contract purchased in a plan year beginning before January 1, 1995, by an Indian tribal government on behalf of its employees is not disqualified merely because the contract was purchased on behalf of tribal employees who are not employees of tribal educational organizations. **Effective date.**--Date of enactment.
16. Tax on prohibited transactions (sec. 12942 of the Senate amendment)	Present law prohibits certain transactions (prohibited transactions) between a qualified pension plan and a disqualified person in order to prevent persons with a close relationship to the qualified plan from using that relationship to the detriment of plan participants and beneficiaries. A	No provision.	The Senate amendment increases the initial-level prohibited transaction tax from 5 percent to 10 percent. **Effective date.**--Transactions occurring after December 31, 1995.

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	two-tier excise tax is imposed on prohibited transactions. The initial level tax is equal to 5 percent of the amount involved with respect to the transaction. If the transaction is not corrected within a certain period, a tax equal to 100 percent of the amount involved may be imposed.		

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F. Special Rules for Church Pension Plans	In general, a church plan is a pension 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 for the employees of the church or convention or association of churches. For most purposes, 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	No provision.	In general, the Senate amendment revises the rules relating to church-maintained qualified retirement plans. In addition, the amendment modifies the rules relating to employee annuity contracts and retirement income accounts maintained for the benefit of church employees. No inference is intended with respect to the application of the present-law rules to church-maintained qualified retirement plans.

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	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. 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		

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	education institutions and employees of certain tax-exempt organizations (including churches and certain organizations associated with churches). In addition to tax-sheltered annuities, alternative funding mechanisms that provide similar tax benefits include church-maintained retirement income accounts (sec. 403(b)(9)).		
1. Consolidation and modification of rules relating to church-maintained qualified retirement plans (sec. 12951 of the Senate amendment)			**In general** The amendment adds a new section 401A to the Code that defines a qualified church plan. If the requirements of the new section are met, then the qualified church plan is treated as satisfying the general qualification requirements of section 401(a). None of the general qualification requirements applies to church plans except as specifically provided in the new Code section 401A. **Definition of qualified church**

Item	Present Law	House Bill	Senate Amendment
			plan In general In order to be a qualified church plan, the plan must be a church plan as under present law (sec. 414(e)). In addition, the church that maintains the plan may not have elected (pursuant to section 410(d) to waive the exemption from certain qualification requirements available to church plans (e.g., participation, vesting and funding rules). Employee contributions and vesting In order for a church plan to be qualified, an employee's rights in his or her accrued benefit derived from his or her own contributions must be nonforfeitable. In addition, accrued benefits derived from employer contributions must vest at least as rapidly as under a 10-year cliff vesting schedule or a 5- to 15-year vesting schedule. A plan satisfies the

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			10-year cliff vesting schedule if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his or her accrued benefit derived from employer contributions. A plan meets the 5- to 15-year vesting schedule if benefits are 25-percent vested after 5 years and increase to 100-percent vested after 15 years. <u>Additional requirements</u> A qualified church plan must meet the requirements of sections 401(a)(1) (contributions are to be made to a trust for the purpose of distributing the trust income and principal to plan participants), 401(a)(2) (a plan must be maintained for the exclusive benefit of participants and plan assets cannot be diverted for any other purpose), 401(a)(8) (forfeitures under a defined benefit plan cannot be used to increase benefits), 401(a)(9) (benefits under a church plan must begin no later

Item	Present Law	House Bill	Senate Amendment
			than the later age 70-1/2 or retirement), 401(a)(16) (benefits under the plan must not exceed certain limits provided in sec. 415), 401(a)(17) (the amount of compensation taken into account under a qualified plan cannot exceed $150,000 (indexed)), 401(a)(25) (defined benefit pension plans must specify actuarial assumptions used to determine benefits), 401(a)(27) (plans intended to be profit-sharing or money purchase plans must be designated as such), and 401(a)(30) (employee elective deferrals cannot exceed a certain dollar amount). In addition, the requirements of sections 401(b) (relating to retroactive changes in the plan), 401(d) (special rules for owner-employees and self-employed individuals), and 401(h) (separate accounts in defined benefit plans used to pay retiree health benefits) applies to such plans.

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			If the plan includes employees of an organization that is not a church, then the plan must meet the requirements (minimum coverage rules) of sections 401(a)(3) and 401(a)(6) as in effect on September 1, 1974, as well as sections 401(a)(4) (general nondiscrimination rule), 401(a)(5) (special rules relating to nondiscrimination) and 401(m) (special nondiscrimination test for employer matching and employee after-tax contributions). The plan administrator can elect to treat the portion of a plan covering employees that are not church employees as a separate plan. Definitions and special rules Definition of church.--A church is defined as a church or a convention or association of churches, including organizations (controlled by or associated with a church) whose principal function is to fund or maintain a plan for churches.

Item	Present Law	House Bill	Senate Amendment
			The definition of church also includes tax-exempt church controlled organizations other than (1) schools above the secondary level (other than those for religious training) or (2) health care organizations (including hospitals) that provide community service for inpatient care if not more than 50 percent of total patient days are customarily assignable to certain categories of medical treatment. Satisfaction of trust requirements.--A church plan does not fail to be a qualified plan merely because such plan is funded through a church, convention or association of churches, or an organization controlled by or associated with a church the principal function of which is to provide benefits to church employees, rather than through a trust if: (1) such organization is subject to fiduciary requirements under applicable State law, (2) such organization is separately

Item	Present Law	House Bill	Senate Amendment
			incorporated from the church which controls it, (3) the assets which equitably belong to the plan are separately accounted for, and (4) under the plan, prior to satisfaction of all liabilities with respect to plan participants and beneficiaries, plan assets cannot be used for or diverted to purposes other than for the exclusive benefit of participants and their beneficiaries. Failure of one organization to qualify.--If one or more organizations maintaining a church plan fails to satisfy the qualification requirements applicable to church plans, the plan is not disqualified with respect to the other organizations maintaining the plan that meet such requirements. Special rules relating to highly compensated and excludable employees.--For purposes of the nondiscrimination requirements applicable to church plans, a person generally is considered

Item	Present Law	House Bill	Senate Amendment
			highly compensated if the person is an officer or person whose principal duties consist of supervising the work of other employees. Under the amendment, no employee is considered to be highly compensated under this definition if such employee during the year or the preceding year received compensation of less than $50,000 (indexed). In addition, certain employees covered by collective bargaining agreements (as described in sec. 410(b)(3)(A) is not taken into account in applying the church plan qualification rules.
2. Retirement income accounts of churches (sec. 12952 of the Senate amendment)			Under present law, retirement income accounts (described in sec. 403(b)(9)) maintained by certain churches are treated as tax-sheltered annuities. The amendment modifies certain rules relating to such accounts. First, the amendment allows tax-exempt church-controlled organizations to maintain such accounts. Second, the amendment provides that

Item	*Present Law*	*House Bill*	*Senate Amendment*
			ministers (including self-employed ministers) are treated as employees for purposes of the rules relating to retirement income accounts.
3. Tax-sheltered annuity contracts purchased by churches (sec. 12953 of the Senate amendment)			The amendment modifies several rules relating to tax-sheltered annuity contracts purchased by churches. Under the amendment, if a contract is purchased under a church plan by (1) schools above the secondary level (other than those for religious training) or (2) health care organizations (including hospitals and medical research organizations) which provide community service for inpatient care if not more than 50 percent of total patient days are customarily assignable to certain categories of medical treatment, the plan must meet the requirements of sections 401(a)(3) and (a)(6) as in effect on September 1, 1974 (minimum coverage rules), 401(a)(4) (general nondiscrimination rule), 401(a)(5) (special rules relating

Item	*Present Law*	*House Bill*	*Senate Amendment*
			to nondiscrimination), 401(a)(17) (limit on includible compensation) and 401(m) (nondiscrimination rules for employer matching and employee after-tax contributions). The vesting requirements that apply for purposes of the new church plan qualification requirements apply to contracts purchased by a church. The present-law vesting rules relating to tax-sheltered annuities do not apply (secs. 403(b)(1)(C) and 403(b)(6)). In addition salary reduction amounts must be nonforfeitable. The amendment treats as an employee for section 403(b) purposes certain self-employed ministers and any other duly ordained, commissioned or licensed minister employed by an organization other than an organization described in section 501(c)(3). Thus, these individuals may participate in

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			tax-sheltered annuity programs.
4. Modification of distribution requirements (sec. 12954 of the Senate amendment)			Under present law, a tax-sheltered annuity contract must provide that distributions cannot begin before age 59-1/2, separation from service, death, disability (as defined in sec. 72(m)(7) or (with respect to principal under the contract) in the case of hardship. The amendment modifies the definition of disability for purposes of retirement income accounts to conform to the definition used for purposes of the rules relating to cash or deferred arrangements (sec. 401(k)(2)).
5. Modification of required beginning date for distributions (sec. 12955 of the Senate amendment)			Under present law, distributions under qualified pension plans are required to begin no later than April 1 of the year following the year in which a participant attains 70-1/2 (sec. 401(a)(9)). With respect to church plans, the required beginning date is the later of the date described in the preceding sentence and April 1 of the year

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			after the year in which the employee retires. Under the amendment, the special rule for church plans applies to all church plans described in section 414(e) instead of the present law rule that applies the special rule only to those churches treated as such for employment tax purposes (secs. 3121(w)(3)(A) and (B)).
6. Exclusion of ministers from nondiscrimination requirements (sec. 12956 of the Senate amendment)			The amendment provides that ministers are excluded in applying the nondiscrimination requirements applicable to pensions and certain other employee benefits. The church plan in which a minister participates is treated as a plan or contract meeting the requirement of section 401(a), 401A (the new requirements for qualified church plans), or 403(b) with respect to such minister's participation.
7. Aggregation rules not to apply to churches (sec. 12957 of the Senate amendment)			The amendment exempts churches from certain aggregation rules (secs. 414(b), (c), (m), (o) and (t) that must be

Item	Present Law	House Bill	Senate Amendment
			applied in order to determine who is the employer for certain nondiscrimination rules and for certain other purposes. The exemption is available to church-related organizations except in the case of such organizations that are not exempt from tax under section 501(a) and which have a common immediate parent. A church-related organization may make an election to use this provision for itself and other related organizations on or before the last day of the plan year beginning on or after January 1, 1998.
8. Self-employed ministers treated as employees for purposes of certain welfare benefit plans (sec. 12958 of the Senate amendment)			Under the amendment, self-employed ministers are treated as employees for purposes of certain welfare benefit and qualified plan rules. In particular, self-employed ministers are treated as employees for purposes of the exclusions for employer-provided group-term life insurance, employer-provided accident or health insurance,

Item	*Present Law*	*House Bill*	*Senate Amendment*
			and employee death benefits. In addition, self-employed ministers are treated as employees for purposes of the rules relating to cafeteria plans (sec. 125) and pension plans.
9. Deductions for contributions by certain ministers to retirement income accounts (sec. 12959 of the Senate amendment)			Under the amendment, if a minister makes a contribution to a retirement income account, such contribution is treated as though it were made to a tax-exempt pension trust and is deductible to the extent it does not exceed the exclusion allowance applicable to tax-sheltered annuities (sec. 403(b)(2)).
10. Modification of rules for plans maintained by more than one employer (sec. 12960 of the Senate amendment)			Under the amendment, a church plan is not treated as a single plan merely because employers commingle assets solely for purposes of investment and pooling of mortality experience.
11. Section 457 not to apply to deferred compensation of church employees (sec. 12961 of the Senate			Present law imposes dollar limits and certain other requirements on deferred compensation of employees of tax exempt and State and local

Item	*Present Law*	*House Bill*	*Senate Amendment*
amendment)			government employers (sec. 457). Under present law, these rules do not apply to churches (as defined in sec. 312(w)(3)(A)) and certain church-controlled organizations (as defined in sec. 3121(w)(3)(B)). The amendment expands the definition of churches under this rule to include all churches as defined under the qualification requirements applicable to church plans (new sec. 401A).
12. Modification to health benefits accounts in church plans (sec. 12962 of the Senate amendment)			Under present law, a pension or annuity plan may provide for the payment of retiree medical expenses through a segregated account (sec. 401(h)). In the case of a key employee, a separate account must be maintained and any additions to the account with respect to such employee are treated as annual additions for purposes of the rules relating to limitations on contributions and benefits (sec. 415). Under the amendment, with respect to a church plan maintained by more than one

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			employer, a separate account is not required for an employee who is a key employee solely by reason of being an officer with annual compensation greater than $45,000. The amendment modifies the amount of the annual addition under section 415 with respect to participants of church plans.
13. Modification of rule relating to investment in contract (sec. 12963 of the Senate amendment)			The amendment grants foreign missionaries the exception to the special rules for computing employee's contributions (sec. 72(f)) currently available only with respect to certain contributions relating to credits for service performed prior to January 1, 1963.
14. Modification of rule relating to elective deferral catch-up limitation for retirement income accounts (sec. 12964 of the Senate amendment)			The amendment modifies the elective catch-up provisions relating to retirement income accounts by repealing one of the limitations on the amount of such catch-up contribution (sec. 402(g)(8)(a)(iii)).
15. Church plans not required to annuitize			Under the amendment, a retirement income account, a

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benefits (sec. 12965 of the Senate amendment)			church plan, or an account comprised of qualified voluntary employee contributions (permitted under prior law) does not fail to meet the qualification requirements merely because it pays benefits to participants and their beneficiaries from a pool of assets administered or funded through an organization whose principal purpose is to provide such benefits (described in sec. 414(e)(3)(/A)), rather than through the purchase of annuities from an insurance company.
16. Church plans may increase benefits (sec. 12966 of the Senate amendment)			Under the amendment, a retirement income account, a church plan, or an account comprised of qualified voluntary employee contributions (permitted under prior law) does not fail to meet applicable qualification requirements merely because it provides benefit payments that (1) take into account the investment performance of the underlying assets or favorable interest or mortality experience, or (2) that

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			increase in an amount not in excess of 5 percent per year.
17. Exemption for church plans from nondiscrimination rules applicable to self-insured medical accounts (sec. 12967 of the Senate amendment)			The amendment exempts plans maintained by churches from the nondiscrimination rules relating to self-insured medical plans (sec. 105(h)).
18. Retirement benefits of ministers not subject to tax on net earnings from self-employment (sec. 12968 of the Senate amendment)			The amendment provides that retirement benefits of ministers are not subject to self-employment taxes.
19. Effective date of provisions providing special rules for church plans			The provisions of the Senate amendment providing special rules for church plans are effective for years beginning after December 31, 1994. No regulation or ruling under general qualification standards (sec. 401(a)) issued after December 31, 1994, applies to a qualified church plan (as

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			defined in the bill) unless such regulation or ruling is specifically made applicable to such plans.

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III. Treatment of Partnerships **A. General Provisions** **1. Simplified flow-through for large partnerships (sec. 14301 of the House bill)**	A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. Many partnership items are separately reported to partners on Form K-1.	The House bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) and its partners. The taxable income of a large partnership is computed in the same manner as that of an individual, except that certain items are separately stated and certain modifications are made. The items that are separately stated and reported to partners include: taxable income or loss from passive loss limitation activities; tax-exempt interest; certain credits; and other specified items and items designated in Treasury regulations. The modifications include: disallowing the deductions for personal exemptions, the net operating loss deduction and certain itemized deductions. The	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		provisions do not apply to any partnership (1) the principal activity of which is buying and selling commodities, or options, futures or forwards with respect to commodities; or (2) that is substantially engaged in oil and gas related activities. **Effective date**.--Partnership taxable years beginning after December 31, 1995.	
2. Simplified audit procedures for large partnerships (sec. 14302 of the House bill)	Present partnership audit rules, enacted in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) permit the IRS to challenge the reporting position of a partnership by conducting a single administrative proceeding with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.	In the case of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners), partnership adjustments generally flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners' share of current year partnership items of income, gains, losses, deductions, or credits is adjusted to reflect partnership adjustments that take effect that year. The adjustments generally do not affect prior-year returns of any partners (except in the	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		case of changes to any partner's distributive share). **Effective date**.--Partnership taxable years beginning after December 31, 1995.	
3. Due date for furnishing information to partners of large partnerships (sec. 14303 of the House bill)	A partnership must file its income tax return on or before the 15th day of the 4th month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax returns.	A large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year. **Effective date**.--Partnership taxable years beginning after December 31, 1995.	No provision.
4. Partnership returns required on magnetic media (sec. 14304 of the House bill)	Partnerships are permitted, but not required, to provide the tax return of the partnership, as well as copies of the schedule K-1 sent to each partner, to the IRS on magnetic media.	Generally, any partnership (except a partnership with 100 or fewer partners) is required to provide the tax return of the partnership, as well as copies of the schedule K-1 sent to each partner, to the IRS on magnetic media.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		Effective date.--Partnership taxable years beginning after December 31, 1995.	
5. Treatment of partnership items of individual retirement accounts (sec. 14305 of the House bill)	A tax return is required to be filed on behalf of an individual retirement account (IRA) for a taxable year if the trust has gross income of $1,000 or more that is includable in calculating unrelated business taxable income (UBIT) of the IRA.	An IRA that receives taxable gross income from a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) of less than $1,000 is not required to file an income tax return if the IRA does not have any other income that is includable in calculating UBIT. **Effective date**.--Taxable years beginning after December 31, 1995.	No provision.
B. Other Partnership Audit Rules (secs. 14311-14323 of the House bill)	Present partnership audit rules, enacted in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), permit the IRS to challenge the reporting position of a partnership by conducting a single administrative proceeding with respect to all partners.	Clarifications and modifications are made to the TEFRA audit rules to improve the details of their operation, relating to, other deficiency proceedings, the statute of limitations, an exception for small partnerships, limitations on assessments, administrative adjustments, the availability of innocent spouse relief, penalties, Tax Court	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		jurisdiction, time for filing petitions, appeals, and interest. **Effective date**.--The effective dates are either date of enactment, or as if included in the amendments made by TEFRA in 1982.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
IV. Foreign Provisions			
A. Modification of Passive Foreign Investment Company Provisions to Eliminate Overlap with Subpart F and to Allow Mark-To-Market Election (secs. 14401-14404 of the House bill)	Certain 10 percent U.S. shareholders of a controlled foreign corporation (CFC) are required to include in income currently their shares of certain earnings of the CFC. U.S. shareholders of a passive foreign investment (PFIC) are subject to an interest charge when the PFIC's earnings are included in their income through a distribution or a disposition of the PFIC stock (or may elect to include in income currently their shares of the PFIC's earnings). A foreign corporation that is a CFC may also be a PFIC.	The House bill provides that, in the case of a foreign corporation that is both a CFC and a PFIC, the corporation is treated as not a PFIC with respect to the 10 percent U.S. shareholders that are subject to the current inclusion rules of subpart F with respect to such corporation. Special transition rules apply when a U.S. shareholder of a foreign corporation becomes eligible for application of this provision with respect to such corporation and when a U.S. shareholder of a foreign corporation ceases to be eligible for application of this provision with respect to such corporation.	No provision.
	A U.S. shareholder of a PFIC is subject to tax and an interest charge reflecting the value of deferral when earnings of the PFIC are included in the shareholder's income upon a distribution from the PFIC or a disposition of the PFIC stock.	The House bill allows a U.S. shareholder of a PFIC to make a mark-to-market election with respect to the stock of the PFIC, provided that such stock is marketable. Under this election, the shareholder includes in income an amount equal to the	No provision.

Item	Present Law	House Bill	Senate Amendment
	Alternatively, the U.S. shareholder may elect to include in income currently its share of the PFIC's earnings.	excess of the fair market value of the PFIC stock as of the close of the taxable year over the shareholder's basis in such stock (which is adjusted to reflect amounts previously taken into account with respect to such stock). The shareholder is allowed a deduction for any excess of the adjusted basis of the PFIC stock over its fair market value as of the close of the year (but only to the extent of net prior inclusions under the mark-to-market rule). Amounts includible under the mark-to-market rules are ordinary income or loss and are sourced as if such amounts were gain or loss from a sale of the PFIC stock. An election to mark to market applies to the taxable year for which made and all subsequent years, unless the PFIC stock ceases to be marketable or consent to revocation of the election is obtained. Special rules apply in applying the mark-to-market provision in the case of indirect or constructive ownership of the	

Item	*Present Law*	*House Bill*	*Senate Amendment*
		PFIC stock. Special transition rules apply in cases where the mark-to-market election is made after the beginning of the shareholder's holding period for the PFIC stock, where a mark-to-market election was in effect for a prior year but is no longer in effect, and where a PFIC shareholder becomes a U.S. person after the beginning of the shareholder's holding period for such stock.	
	A foreign corporation is a PFIC if it satisfies a passive income test or a passive asset test.	The House bill makes two clarifications to the definition of passive income. The House bill clarifies that the same-country exceptions from the definition of foreign personal holding company income do not apply in determining passive income for purposes of the PFIC provisions. The House bill also clarifies that foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC provisions. **Effective date.**--The provisions	No provision.

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Item	*Present Law*	*House Bill*	*Senate Amendment*
		apply to taxable years of U.S. persons beginning after December 31, 1995, and to taxable years of foreign corporations ending with or within such taxable years of U.S. persons.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
B. Treatment of Controlled Foreign Corporations			
1. General provisions affecting treatment of controlled foreign corporations (secs. 14411-14413 of the House bill)	Characterization of gain on stock disposition.--If an upper-tier controlled foreign corporation ("CFC") sells stock of a lower-tier CFC, the gain generally is included in the income of certain U.S. shareholders as subpart F income and the U.S. shareholder's basis in the stock of the first-tier CFC is increased to account for the inclusion. The inclusion is not characterized for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier CFC; instead it generally is characterized as passive income.	Characterization of gain on stock disposition.--The House bill provides that if a CFC is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the CFC were a U.S. person. This provision, however, does not affect the determination of whether the corporation whose stock is sold or exchanged is a CFC. **Effective date.**--The provision applies to gains recognized on transactions occurring after the date of enactment.	No provision.
	Dividend from certain controlled foreign corporations.--For foreign tax credit limitation purposes, a CFC is not treated as a noncontrolled section 902	Dividend from certain controlled foreign corporations.--The House bill repeals the provision that requires a recipient of a distribution from a CFC to have	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	distribution out of its earnings and profits for periods during which it was a CFC and, except as provided in regulations, the recipient of the distribution was a U.S. shareholder in such corporation.	shareholder of that CFC for the period during which the earnings and profits which gave rise to the distribution were generated in order to avoid treating the distribution as one coming from a noncontrolled section 902 corporation. **Effective date.**--The provision is effective for distributions after the date of enactment.	
	Basis adjustment on sale of lower-tier controlled foreign corporation.--If subpart F income of a lower-tier CFC is included in the gross income of a U.S. shareholder, no provision of present law allows adjustment of the basis of the upper-tier CFC's stock in the lower-tier CFC.	Basis adjustment on sale of lower-tier controlled foreign corporation.--The House bill provides that when a lower-tier CFC earns subpart F income, and stock in that corporation is later disposed of by an upper-tier CFC, the resulting income inclusions of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments currently provided to the basis of stock in a first-tier CFC. **Effective date.**--The provision	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		is effective for determining inclusions for taxable years of U.S. shareholders beginning after December 31, 1995.	
	Subpart F inclusions in year of acquisition.--The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a CFC. In the case of a U.S. shareholder who acquired stock in a CFC during the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person other than the acquirer with respect to that stock.	Subpart F inclusions in year of acquisition.--Under the House bill, if a U.S. shareholder acquires the stock of a CFC from another U.S. shareholder during a taxable year of the CFC in which it earns subpart F income, the acquirer's subpart F income inclusion for that year is reduced by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. **Effective date.**--The provision is effective with respect to transactions occurring after the date of enactment.	No provision.
	Distributions of previously taxed income.--If in a year after the year of income inclusion under the subpart F provisions of the Code, a U.S. shareholder in the CFC receives a distribution from the	Distributions of previously taxed income.--The House bill clarifies that, the Secretary of the Treasury may, by regulation, modify the application of subpart F in any case, including a transaction to which section	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)).	304 applies, where there otherwise would be a multiple inclusion of any item of income. **Effective date**.--The provision takes effect on the date of enactment.	
	Treatment of U.S. source income earned by a controlled foreign corporation.--As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the CFC. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax	Treatment of U.S. source income earned by a controlled foreign corporation.--The House bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a CFC does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. **Effective date**.--The provision	No provision.

Item	Present Law	House Bill	Senate Amendment
	pursuant to a provision of a U.S. treaty.	applies to taxable years beginning after December 31, 1986.	
	Indirect foreign tax credits.--A U.S. corporation that owns at least 10 percent of the voting stock of a foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation in the year in which the foreign corporation's earnings and profits become subject to U.S. tax as dividend income of the U.S. shareholder (sec. 902(a)). A U.S. corporation also may be deemed to have paid taxes paid by a second- or third-tier foreign corporation if certain conditions are satisfied.	Indirect foreign tax credits.--The House bill extends the application of the indirect foreign tax credit (secs. 902 and 960) to taxes paid or accrued by certain fourth-, fifth-, and sixth-tier foreign corporations if certain conditions are satisfied. **Effective date.**--The provision is effective for foreign taxes paid or incurred by CFCs for taxable years of such corporations beginning after the date of enactment.	No provision.
2. Repeal of excess passive assets provision (sec. 14414 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	The House bill repeals section 956A. **Effective date.**--The provision applies to taxable years of U.S. shareholders beginning after September 30, 1995, and taxable years of foreign corporations	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	is treated as having excess passive assets if its passive assets exceed 25% of its total assets.	ending with or within such taxable years of U.S. shareholders.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Other Foreign Provisions **1. Exchange rate used in translating foreign taxes (sec. 14421 of the House bill)**	Translation of certain accrued foreign taxes.--Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies to foreign taxes paid directly by U.S. taxpayers, which taxes are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or has an income inclusion.	Translation of certain accrued foreign taxes.--The House bill permits taxpayers who utilize the accrual basis of accounting for determining creditable foreign taxes to translate their foreign taxes at the average exchange rate for the taxable year to which such taxes relate, provided such taxes are actually paid no later than the date that is 2 years after the close of the year to which such taxes relate. This rule does not apply (1) with respect to taxes of an accrual-basis taxpayer that are actually paid in a taxable year prior to the year to which they relate, or (2) to tax payments that are denominated in a hyperinflationary currency. Foreign taxes not eligible for application of the preceding rules generally are translated into U.S. dollars using the exchange rates as of the time such taxes are paid.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		The House bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. **Effective date**.--The provision is effective for taxes paid or accrued in taxable years beginning after December 31, 1995.	
	Redetermination of foreign taxes.--In certain cases where a difference exists between the dollar value of accrued foreign taxes and the dollar value of those taxes when paid, a redetermination of foreign taxes is required. Generally, such an adjustment may be attributable to one of three causes: (1) a refund of foreign taxes, (2) a difference between the amount of foreign currency units	Redetermination of foreign taxes.--Under the House bill, section 905(c) defines a foreign tax redetermination to include: (1) a refund of foreign taxes, (2) a difference between accrued taxes when paid and the amounts claimed as credits by the taxpayer, and (3) accrued taxes not paid before the date 2 years after the close of the taxable year to which such taxes relate.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	actually paid and the amount of foreign currency units accrued, and (3) fluctuations in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment. A redetermination of foreign tax paid or accrued directly by a U.S. person requires notification of the IRS and a redetermination of U.S. tax liability for the taxable year for which the foreign tax was claimed as a credit. Exceptions to this rule apply for de minimis amounts of foreign tax redetermination. In the case of a redetermination of foreign taxes that qualify for the indirect foreign tax credit under sections 902 and 960, taxpayers generally are required to make appropriate adjustments to the relevant pools of earnings and profits and foreign taxes.	**Effective date**.--The provision applies to taxes which relate to taxable years beginning after December 31, 1995.	
2. Election to use simplified foreign tax credit limitation under the	Foreign tax credit limitations must be computed both for regular tax purposes and alternative minimum tax (AMT)	The House bill permits taxpayers to elect to use as their AMT foreign tax credit limitation the ratio of foreign	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
alternative minimum tax (sec. 14422 of the House bill)	purposes. Each foreign tax credit limitation computation requires the allocation and apportionment of deductions between foreign source income and U.S. source income.	source regular taxable income to entire alternative minimum taxable income. Foreign source regular taxable income is used only to the extent it does not exceed entire alternative minimum taxable income. The election must be made for the first taxable year beginning after December 31, 1995 for which the taxpayer claims an AMT foreign tax credit; once made, the election applies to all subsequent years and may be revoked only with consent. **Effective date.**--The provision applies to taxable years beginning after December 31, 1995.	
3. Treatment of inbound and outbound transfers (secs. 14423-14424 of the House bill)	Certain transfers of property by a U.S. person to a foreign corporation, partnership, estate or trust are subject to an excise tax of 35% of the amount of unrecognized gain inherent in the property transferred. This excise tax is subject to certain exceptions.	The House bill repeals the excise tax on outbound transfers and replaces it with the requirement of full recognition of gain upon a transfer of property to a foreign corporation (as paid-in surplus or a contribution to capital) or to a foreign partnership, estate or	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		trust. Certain exceptions to the gain recognition requirement are provided.	
	Under section 367(b), in the case of certain organizations, reorganizations and liquidations involving a foreign corporation, the foreign corporation is treated as a corporation except to the extent necessary or appropriate to prevent the avoidance of Federal income taxes.	The House bill provides that in the case of certain corporate organizations, reorganizations and liquidations in which the status of a foreign corporation is a condition for nonrecognition by a party to the transaction, income is recognized to the extent provided in regulations which are necessary or appropriate to prevent the avoidance of Federal income taxes. **Effective date**.--The provisions apply to transfers after December 31, 1995.	No provision.
4. Modification of reporting threshold for stock ownership of a foreign corporation (sec. 14425 of the House bill)	Section 6046 mandates the filing of information returns on behalf of a foreign corporation by certain U.S. persons upon the occurrence of certain events. U.S. persons required to file these information returns include those who own or	The House bill increases the reporting threshold for stock ownership of a foreign corporation under section 6046 from 5 percent (based on value) to 10 percent (based on vote or value).	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	acquire 5 percent or more of the value of the stock of a foreign corporation.	**Effective date**.--The provision is effective for reportable transactions occurring after December 31, 1995.	
5. Application of uniform capitalization rules to foreign persons (sec. 14426 of the House bill)	The uniform capitalization rules, which require certain direct and indirect costs allocable to property to be capitalized or included in inventory, generally apply in computing taxable income and earnings and profits of domestic and foreign taxpayers.	Under the House bill, a foreign corporation is subject to the uniform capitalization rules only with respect to the determination of (1) its tax liability with respect to its U.S. trade or business and (2) the tax liability of its U.S. shareholders under the subpart F provisions of the Code. A foreign corporation that is not required to apply the uniform capitalization rules under the bill may nevertheless continue to apply such rules. **Effective date**.--The provision is effective for taxable years of the foreign corporation beginning after December 31, 1995.	No provision.
6. Prizes and awards received by	Amounts received by a nonresident alien as prizes or	The House bill treats prizes and awards received by a	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
a nonresident alien relating to amateur sports competitions held in the United States (sec. 14427 of House bill)	awards associated with athletic competitions held in the United States are generally treated as services income subject to U.S. income tax. A limited exception is available for U.S. source compensation income not exceeding $3,000 if certain criteria are satisfied.	nonresident alien with respect to his participation in an amateur sports competition held within the United States as foreign source income if the recipient does not perform any services for the prize or award. **Effective date**.--The provision is effective for prizes and awards received on or after the date of enactment.	
7. Treatment for estate tax purposes of short-term obligations held by nonresident aliens (sec. 14428 of House bill)	The United States imposes estate tax on assets of noncitizen nonresidents that are situated in the United States at the time of the individual's death. Special rules apply to treat certain bank deposits and debt instruments the income from which qualifies for the bank deposit interest exemption or the portfolio interest exemption as property from without the United States so that these items are excluded from the U.S. gross estate of a nonresident not a citizen of the United States. However, no equivalent exemption is	The House bill treats any debt obligation the income from which would be eligible for the exemption for short-term OID under section 871(g)(1)(B)(i) held by a decedent on the date of his death as property situated outside of the United States in determining the U.S. estate tax liability of a nonresident not a U.S. citizen. However, a short-term OID obligation the income from which is effectively connected with a U.S. trade or business conducted by the decedent is not subject to this rule.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	available from the U.S. estate tax for obligations held by a noncitizen nonresident that generate short-term original issue discount ("OID") despite the fact that such income also is exempt from U.S. income tax in the hands of the nonresident recipient.	**Effective date**.--The provision is effective for estates of decedents dying after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
V. Other Income Tax Simplification Provisions			
A. Provisions Relating to S Corporations			
1. S corporations permitted to have 75 shareholders (sec. 14501 of the House bill)	The taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, whether or not such income is distributed. A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 35 shareholders, (2) as a shareholder, a person (other than certain trusts or estates) who is not an individual, (3) a nonresident alien as a shareholder, and (4) more than one class of stock. For purposes of the 35-shareholder limitation, a husband and wife are treated as one shareholder.	Increases maximum number of eligible shareholders from 35 to 75. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
2. Electing small business trusts (sec. 14502 of the House bill)	Trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in a S corporation. A "qualified subchapter S trust" is a trust which, under its terms, (1) is required to have only one current income beneficiary (for life), (2) any corpus distributed during the life of the beneficiary must be distributed to the beneficiary, (3) the beneficiary's income interest must terminate at the earlier of the beneficiary's death or the termination of the trust, and (4) if the trust terminates during the beneficiary's life, the trust assets must be distributed to the beneficiary. All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.	Allows stock in an S corporation to be held by certain trusts ("electing small business trusts"). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates eligible to be S corporation shareholders, except that charitable organizations may hold contingent remainder interests. No interest in the trust may be acquired by purchase. A trust must elect to be treated as an electing small business trust. Each potential current beneficiary of the trust is counted as a shareholder for purposes of the proposed 75 shareholder limitation (or if there were no potential current beneficiaries, the trust would be treated as the shareholder). The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		individual rate (currently, 39.6 percent on ordinary income and 28 percent on net capital gain) on this portion of the trust's income. In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	
3. Expansion of post-death qualification for certain trusts (sec. 14503 of the House bill)	Trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in a S corporation. A grantor trust may remain an S corporation shareholder for 60 days after the death of the grantor. The 60-day period is extended to 2 years if the entire corpus of the trust is includible in the gross estate of the deemed owner. In addition, a trust may be an S corporation shareholder for 60 days after the	Expands the post-death holding period to 2 years for all testamentary trusts. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	transfer of S corporation pursuant to a will.		
4. Financial institutions permitted to hold safe harbor debt (sec. 14504 of the House bill)	A small business corporation eligible to be an S corporation may not have more than one class of stock. Certain debt ("straight debt") is not treated as a second class of stock so long as such debt is an unconditional promise to pay on demand or on a specified date a sum certain in money if: (1) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors; (2) there is no convertability (directly or indirectly) into stock, and (3) the creditor is an individual (other than a nonresident alien), an estate, or certain qualified trusts.	The definition of "straight debt" is expanded to include debt held by creditors, other than individuals, that are actively and regularly engaged in the business of lending money. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.
5. Rules relating to inadvertent terminations and invalid elections (sec. 14505 of the House bill)	If the IRS determines that a corporation's Subchapter S election is inadvertently terminated, the IRS can waive the effect of the terminating event for any period if the corporation timely corrects the	The authority of the IRS to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the IRS the ability to waive the effect of an inadvertent invalid Subchapter S election. In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The IRS may not validate a late election.	business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. The bill also allows the IRS to treat a late Subchapter S election as timely where the IRS determines that there was reasonable cause for the failure to make the election timely. **Effective date.**--Effective for taxable years beginning after December 31, 1982.	
6. Agreement to terminate year (sec. 14506 of the House bill)	In general, each item of S corporation income, deduction and loss is allocated to shareholders on a per-share, per-day basis. However, if any shareholder terminates his or her interest in an S corporation during a taxable year, the S corporation, with the consent of all its shareholders, may elect to allocate S corporation items by closing its books as of the date of such termination rather than apply the per-share, per-day	Under regulations to be prescribed by the Secretary of the Treasury, the election to close the books of the S corporation upon the termination of a shareholder's interest is made by all affected shareholders and the corporation, rather than by all shareholders. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	rule.		
7. Expansion of post-termination transition period (sec. 14507 of the House bill)	Distributions made by a former S corporation during its post-termination period are treated in the same manner as if the distributions were made by an S corporation (e.g., treated by shareholders as nontaxable distributions to the extent of the accumulated adjustment account). Distributions made after the post-termination period are generally treated as made by a C corporation (i.e., treated by shareholders as taxable dividends to the extent of earnings and profits). In addition, the audit procedures adopted by the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") with respect to partnerships also apply to S corporations. Thus, the tax treatment of items is determined at the corporate, rather than individual level.	(1) Expands the definition of post-termination period to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjusts a subchapter S item of income, loss or deduction of the S corporation during the S period. (2) Repeals the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholders. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.
8. S corporations	A small business corporation	(1) Allow an S corporation to	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
permitted to hold subsidiaries (sec. 14508 of the House bill)	may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). Thus, an S corporation may not own 80 percent or more of the stock of another corporation (whether an S corporation or a C corporation). In addition, a small business corporation may not have as a shareholder another corporation (whether an S corporation or a C corporation).	own 80 percent or more of the stock of a C corporation. (2) Allow an S corporation to own a qualified subchapter S subsidiary. The term "qualified subchapter S subsidiary" means a domestic corporation that is not an ineligible corporation (i.e., a corporation that would be eligible to be an S corporation if the stock of the corporation were held directly by the shareholders of its parent S corporation) if (1) 100 percent of the stock of the subsidiary were held by its S corporation parent and (2) for which the parent elects to treat as a qualified subchapter S subsidiary. **Effective date**.--Effective for taxable years beginning after December 31, 1995.	
9. Treatment of distributions during loss years (sec. 14509 of the	The amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of	Adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
House bill)	the shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward. Income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.	limitation for the year. The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	
10. Treatment of S corporations under subchapter C (sec. 14510 of the House bill)	Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code. An S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of	Repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. **Effective date.**--Effective for taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	subchapter C.		
11. Elimination of certain earnings and profits (sec. 14511 of the House bill)	The accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits.	Reduces the accumulated earnings and profits of an S corporation as of the beginning of its first taxable year beginning after December 31, 1995, by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an S corporation. **Effective date**.--Effective for taxable years beginning after December 31, 1995.	No provision.
12. Carryover of disallowed losses and deductions under at-risk rules allowed (sec. 14512 of the House bill)	The amount of loss an S corporation shareholder may take into account cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the unadjusted basis in any indebtedness of the corporation to the shareholder. Any disallowed loss is carried forward to the next taxable year.	Carries forward to the S corporation's post-termination period, losses of an S corporation that are suspended under the at-risk rules of section 465. **Effective date**.--Effective for taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	Any loss that is disallowed for the last taxable year of the S corporation may be carried forward to the post-termination period. In addition, under section 465, a shareholder of an S corporation may not deduct losses that are flowed through from the corporation to the extent the shareholder is not "at-risk" with respect to the loss. Any loss not deductible in one taxable year because of the at-risk rules is carried forward to the next taxable year.		
13. Adjustments to basis of inherited S stock to reflect certain items of income (sec. 14513 of the House bill)	Income in respect to a decedent ("IRD") generally consists of items of gross income that accrued during the decedent's lifetime but were not includible in the decedent's income before his or her death under his or her method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. The cost or basis of property acquired from a decedent is its fair market value at the date of death (or	Provides that a person acquiring stock in an S corporation from a decedent would treat as IRD his or her pro rata share of any item of income of the corporation that would have been IRD if that item had been acquired directly from the decedent. The stepped-up basis in the stock in an S corporation acquired from a decedent is reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	alternate valuation date if that date is elected for estate tax purposes). Property that constitutes a right to receive IRD does not receive a stepped-up basis.	conforms the treatment of items of IRD of partnerships and S corporations. **Effective date.**--Effective with respect to decedents dying after the date of enactment.	
14. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers (sec. 14514 of the House bill)	A lot or parcel of land held by a taxpayer other than a corporation generally is not treated as ordinary income property solely by reason of the land being subdivided if (1) such parcel had not previously been held as ordinary income property and if in the year of sale, the taxpayer did not hold other real property; (2) no substantial improvement has been made on the land by the taxpayer, a related party, a lessee, or a government; and (3) the land has been held by the taxpayer for five years.	Allows the present-law capital gains presumption in the case of land held by an S corporation. **Effective date.**--Effective for sales in taxable years beginning after December 31, 1995.	No provision.
15. Termination of subchapter S election (sec. 14515 of the House bill)	A small business corporation that terminates its subchapter S election (whether by revocation or otherwise) may not make	For purposes of the five-year rule, any termination of subchapter S status in effect immediately before the date of	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	another election to be an S corporation for five taxable years unless the Secretary of the Treasury consents to such election.	enactment is not taken into account. **Effective date.**--Effective upon the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
B. Provisions Relating to Regulated Investment Companies ("RICs") and Real Estate Investment Trusts ("REITS")			
1. Repeal the short-short test for regulated investment companies (sec. 14521 of the House bill)	A regulated investment company ("RIC") generally is treated as a conduit for Federal income tax purposes. Among other requirements, to be a RIC a corporation must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than three months (the "short-short test").	The House bill repeals the short-short test. **Effective date**.--Taxable years ending after the date of enactment.	No provision.
2. Modifications of rules for real estate investment trusts (secs. 14531-14543 of the House bill)	Election to be treated as a REIT A newly-electing entity generally cannot have earnings and profits accumulated from any year in	Election to be treated as a REIT Changes the ordering rule for purposes of the requirement that	No provision.

Item	Present Law	House Bill	Senate Amendment
	which the entity was in existence and not treated as a real estate investment trust (REIT). To satisfy this requirement, the entity must distribute, during its first REIT taxable year, any earnings and profits that were accumulated in non-REIT years. For this purpose, distributions by the entity generally are treated as being made from the most recently accumulated earnings and profits.	newly-electing REITs distribute earnings and profits that were accumulated in non-REIT years. Under the bill, distributions of accumulated earnings and profits generally would be treated as made from the entity's earliest accumulated earnings and profits.	
	Taxation of REITs	Taxation of REITs	
	Capital gains.--A REIT that has a net capital gain for a taxable year generally is subject to tax on such capital gain under the capital gains tax regime generally applicable to corporations. However, a REIT may diminish or eliminate its tax liability attributable to such capital gain by paying a "capital gain dividend" to its shareholders. Shareholders who receive capital gain dividends treat the amount of such	Capital gains.--Permits a REIT to elect to retain and pay income tax on net long-term capital gains it received during the tax year.	

Item	Present Law	House Bill	Senate Amendment
	dividends as long-term capital gain regardless of their holding period of the stock. Income from foreclosure property.--In addition to tax on its REIT taxable income, a REIT is subject to tax at the highest rate of tax paid by corporations on its net income from foreclosure property. Foreclosure property is any real property or personal property incident to such real property that is acquired by a REIT as a result of default or imminent default on a lease of such property or indebtedness secured by such property, provided that (unless acquired as foreclosure property), such property was not held by the REIT for sale to customers. A property generally may be treated as foreclosure property for a period of two years after the date the property is acquired by the REIT. Income or loss from prohibited transactions.--A 100-percent tax	Income from foreclosure property.--Lengthens the original grace period for foreclosure property until the last day of the third full taxable year following the election. The grace period also could be extended for an additional three years by filing a request to the IRS. Under the bill, a REIT could revoke an election to treat property as foreclosure property for any taxable year by filing a revocation on or before its due date for filing its tax return. Conforms the definition of independent contractor for purposes of the foreclosure property rule to the definition of independent contractor for purposes of the general rules. Income or loss from prohibited transactions.--Excludes from the	

Item	Present Law	House Bill	Senate Amendment
	is imposed on the net income of a REIT from "prohibited transactions." A prohibited transaction is the sale or other disposition of property described in section 1221(1) of the Code (property held for sale in the ordinary course of a trade or business) other than foreclosure property. A safe harbor is provided for certain sales that otherwise might be considered prohibited transactions. The safe harbor is limited to seven or fewer sales a year or, alternatively, any number of sales provided that the aggregate adjusted basis of the property sold does not exceed 10 percent of the aggregate basis of all the REIT's assets at the beginning of the REIT's taxable year.	prohibited sales rules property that was involuntarily converted.	
	<u>Organizational structure requirements</u>	<u>Organizational structure requirements</u>	
	To qualify as a REIT, an entity must be for its entire taxable year a corporation or an unincorporated trust or	Replaces the rule that disqualifies a REIT for any year in which the REIT failed to comply with regulations to	

Item	Present Law	House Bill	Senate Amendment
	association that would be taxable as a domestic corporation but for the REIT provisions, and must be managed by one or more trustees. Except for the first taxable year for which an entity elects to be a REIT, the beneficial ownership of the entity must be held by 100 or more persons, and the entity may not be so closely held by individuals that it would be treated as a personal holding company. A REIT is disqualified for any year in which it does not comply with regulations to ascertain the actual ownership of the REIT's outstanding shares. Income requirements In general.--In order for an entity to qualify as a REIT, at least 95 percent of its gross income generally must be derived from certain passive sources (the "95-percent test"). In addition, at least 75 percent of its income generally must be	ascertain its ownership, with an intermediate penalty for failing to do so. The penalty would be $25,000 ($50,000 for intentional violations) for any year in which the REIT did not comply with the ownership regulations. In addition, a REIT that complied with the regulations for ascertaining its ownership, and which did not know, or have reason to know, that it was so closely held as to be classified as a personal holding company, would not be treated as a personal holding company. Income requirements In general.--Repeals the rule that requires less than 30 percent of a REIT's gross income be derived from gain from the sale or other disposition of stock or securities held for less than one year, certain real property held less than four years, and property	

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Item	*Present Law*	*House Bill*	*Senate Amendment*
	from certain real estate sources (the "75-percent test"), including rents from real property. In addition, less than 30 percent of the entity's gross income may be derived from gain from the sale or other disposition of stock or securities held for less than one year, real property held less than four years , and property that is sold or disposed of in a prohibited transaction. Definition of rents.--For purposes of the income requirements, rents from real property generally include rents from interests in real property, charges for services customarily rendered or furnished in connection with the rental of real property, whether or not such charges are separately stated, and rent attributable to personal property that is leased under or in connection with a lease of real property, but only if the rent attributable to such personal	that is sold or disposed of in a prohibited transaction. Definition of rents.--Permits a REIT to render a *de minimis* amount of impermissible services to tenants, or in connection with the management of property, and still treat amounts received with respect to that property as rent. Modifies the attribution to partnerships for purposes of defining rent, so that attribution would occur only when a partner owns a 25 percent or greater interest in the partnership.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
	property does not exceed 15 percent of the total rent for the year under the lease. Hedging instruments.--Interest rate swaps or cap agreements that protect a REIT from interest rate fluctuations on variable rate debt incurred to acquire or carry real property are treated as securities under the 30-percent test and payments under these agreements are treated as qualifying under the 95-percent test. Asset requirements REIT subsidiaries.--A subsidiary of a REIT is a qualified REIT subsidiary if and only if 100 percent of the subsidiary's stock is owned by the REIT at all times that the subsidiary is in existence. If at any time the REIT ceases to own 100 percent of the stock of the subsidiary, or if the REIT ceases to qualify for (or revokes an election of) REIT status, such subsidiary is treated	Hedging instruments.--Interest rate swaps or cap agreements that protect a REIT from interest rate fluctuations on variable rate debt incurred to acquire or carry real property are treated as securities under the 30-percent test and payments under these agreements are treated as qualifying under the 95-percent test Asset requirements REIT subsidiaries.--Permits any wholly-owned corporation of a REIT to be treated as a qualified subsidiary, regardless of whether the corporation had always been owned by the REIT. In addition, any pre-REIT earnings and profits of the subsidiary must be distributed before the end of the REIT's taxable year.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
	as a new corporation that acquired all of its assets in exchange for its stock (and assumption of liabilities) immediately before the time that the REIT ceased to own 100 percent of the subsidiary's stock, or ceased to be a REIT as the case may be. <u>Distribution requirements</u> To satisfy the distribution requirement, a REIT must distribute as dividends to its shareholders during the taxable year an amount equal to or exceeding (i) the sum of 95 percent of its REITTI other than net capital gain income and 95 percent of the excess of its net income from foreclosure property over the tax imposed on that income minus (ii) certain excess noncash income. Excess noncash items include (a) the excess of the amounts that the REIT is required to include in income under section 467	<u>Distribution requirements</u> The House bill (1) expands the class of excess noncash items to include income from the cancellation of indebtedness and (2) extends the treatment of original issue discount and coupon interest as excess noncash items to REITs that use an accrual method of taxation.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
	with respect to certain rental agreements involving deferred rents, over the amounts that the REIT otherwise would recognize under its regular method of accounting, (2) in the case of a REIT using the cash method of accounting, the excess of the amount of original issue discount and coupon interest that the REIT is required to take into account with respect to a loan to which section 1274 applies, over the amount of money and fair market value of other property received with respect to the loan, and (3) income arising from the disposition of a real estate asset in certain transactions that failed to qualify as like-kind exchanges under section 1031.	**Effective date**.--Taxable years beginning after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. **Accounting Provisions** 1. **Modifications to the look-back method for long-term contracts (sec. 14551 of the House bill)**	Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with estimated total contract costs. Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the	(1) Provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs. (2) Provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.	above). (3) Provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins. **Effective date**.--Contracts completed in taxable years ending after the date of enactment.	
2. **Application of mark to market accounting method to traders in securities (sec. 14552 of the House bill)**	A dealer in securities must compute its income pursuant to a "mark-to-market" method of accounting prescribed by section 475. Section 475 does not explicitly apply to traders in securities. Traders generally account for gains and losses on trading securities when the securities are sold, rather than marking the securities to market, for Federal income tax purposes.	Provides that a trader in securities may, with the consent of the Secretary of the Treasury, elect to change its method of accounting to adopt a mark-to-market method for its trading activities. Such method may be based on the provisions of present-law section 475, modified to clearly reflect the income of the taxpayer. **Effective date**.--Effective for taxable years ending on or after	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		December 31, 1995.	
3. Modification of ruling amounts for nuclear decommissioning costs (sec. 14553 of the House bill)	Under the economic performance rules, a deduction for accrual basis taxpayers generally is deferred until there is economic performance for the item for which the deduction is claimed. Present law contains an exception to the economic performance rules under which a taxpayer responsible for nuclear power plant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund. In order to prevent accumulations of funds over the remaining life of the plant in excess of those required to pay future decommissioning costs and to ensure that contributions to the funds are not deducted more rapidly than level funding, taxpayers are required to obtain a ruling from the IRS to establish the maximum contribution that may be made to the fund. Taxpayers are required to obtain subsequent	Deletes the requirement that a taxpayer obtain certain rulings from the IRS in order to deduct contributions to a nuclear decommissioning fund. Under the bill, a taxpayer is required to obtain an initial ruling to determine its maximum deduction for contributions to a fund, but is not required to obtain subsequent rulings if such amounts are not substantially modified. **Effective date**.--Effective for modifications after the date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	rulings to reflect changes in the ruling amount in certain instances.		
4. Election of alternative taxable years by partnerships and S corporations (sec. 14554 of the House bill)	The taxable income of a partnership or an S corporation (a "flow-thru entity") generally is reported by the partnership's partners or the corporation's shareholders (the "owners") in the taxable year within which the taxable year of the flow-thru entity ends. As a result, if a flow-thru entity uses a taxable year that is the same as the taxable year of its owners, the owners will report income earned by the entity in the year that the income is earned. If a flow-thru entity uses a taxable year that is different than the taxable year of its owners, the owners will defer reporting a portion of the income earned by the entity until the year following the year the income was earned. Thus, in order to avoid this deferral, under present law, a flow-through entity generally must use a taxable year	Allows any flow-thru entity to use a fiscal year so long as the entity makes quarterly estimated tax payments at an applicable rate. These estimated tax payments are treated as estimated tax payments of the owners of the flow-thru entity for the owners' taxable year in which the fiscal year ends. Quarterly installments are due on the 15th day of the 3rd, 5th, 8th, and 12th months of the taxable year. Estimated tax payments are not required for a taxable year if the amount of aggregate payments otherwise due is $5,000 or less. In determining its estimated tax payments for a taxable year, the flow-thru entity uses an applicable rate of 34 percent, unless the flow-thru entity is a "high income average entity," in which case the applicable rate is	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	that corresponds to the taxable years of its owners (i.e., generally, the calendar year in the case of an entity owned by individuals). However, under certain circumstances, deferral through use of a fiscal year is permitted. A flow-thru entity may use a fiscal year that it used prior to 1987 or a fiscal year that provides up to a 3-month deferral so long as it makes a payment equal to the income attributable to the deferral period times the highest individual tax rate plus 1 percentage point (currently, 40.6 percent). Such payments remain on deposit and may be refunded if the income of the entity for the deferral period diminishes or the entity abandons its fiscal year.	39.6 percent. A "high average income entity" is one where the average applicable income of certain owners for the prior year was at least $250,000 or, in the case of a partnership, the applicable income for the base year was at least $10,000,000. In determining its quarterly estimated tax payments, the entity may use (1) the 100-percent method, (2) the 110-percent method, or (3) the annualization method. Under the 100-percent method, the required quarterly installment is one-quarter of the product of the entity's applicable income for the current year and the applicable rate. Under the 110-percent method, the required quarterly installment is one-quarter of 110 percent of the product of the entity's applicable income for the base year and the applicable rate. The 110-percent method is not available if the entity's current year applicable income exceeds its base year	

Item	*Present Law*	*House Bill*	*Senate Amendment*
		applicable income by more than $750,000, or if the entity fails to elect such method before the due date of the first quarterly installment. Under the annualization method, the required quarterly installment is one-quarter of the product of the entity's annualized applicable income and the applicable rate. An "entity's applicable income" is its taxable income with certain adjustments. **Effective date**.--Effective for taxable years beginning after December 31, 1996.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
D. Tax-Exempt Bond Provisions			
1. Repeal of $100,000 limitation on unspent proceeds under 1-year exception from rebate (sec. 14561 of the House bill)	Generally, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required six months after issuance by issuers of certain governmental bonds and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.	Repeals the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds. **Effective date**.--Bonds issued after the date of enactment.	No provision.
2. Exception from rebate for earnings on bona fide debt service fund under construction bond rules (sec. 14562 of the House bill)	In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the	Exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement and the penalty requirement of the 24-month exception if the spending requirements of that exception are otherwise	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	available construction proceeds of the issue are spent at minimum specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a bona fide debt service fund.	satisfied. **Effective date**.--Bonds issued after the date of enactment.	
3. Repeal of debt service-based limitation on investment in certain nonpurpose investments (sec. 14563 of the House bill)	With certain exceptions, present law limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at materially higher yields at any time during a bond year to 150 percent of the debt service for that bond year. (Any profits earned from higher yielding investments generally must be rebated to the Federal government.)	Repeals the 150-percent of debt service yield restriction. **Effective date**.--Bonds issued after the date of enactment.	No provision.
4. Repeal of expired provisions (sec. 14564 of the House bill)	Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. These exceptions applied	Repeals these special exceptions as "deadwood." **Effective date**.--Date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	only to bonds issued before January 1, 1989.		

Item	*Present Law*	*House Bill*	*Senate Amendment*
E. Insurance Provision **1. Minimum tax treatment of certain property and casualty insurance companies (sec. 14573 of the House bill)**	Property and casualty insurance companies whose net written premiums (or if greater, direct written premiums) for the taxable year exceed $350,000 but do not exceed $1,200,000 may elect to be taxed only on taxable investment income for regular tax purposes, without regard to underwriting income or expense. This election does not apply for alternative minimum tax purposes.	A property and casualty insurance company that elects for regular tax purposes to be taxed only on taxable investment income determines its adjusted current earnings under the alternative minimum tax without regard to underwriting income or underwriting expense. **Effective date**.--Taxable years beginning after December 31, 1995.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
F. Other Provisions			
1. Closing of partnership taxable year with respect to deceased partner (sec. 14581 of the House bill)	The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged or liquidated, but generally not upon the death of a partner. A decedent's entire share of partnership items is taxed to the decedent's estate or successor in interest, rather than on the decedent's final tax return.	The taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise. **Effective date**.--Partnership taxable years beginning after December 31, 1995.	No provision.
2. Tax credit for Social Security taxes paid with respect to employee cash tips (sec. 14582 of the House bill)	Employee tip income is treated as employer-provided wages for purposes of the Federal Insurance Contributions Act ("FICA"). Employees are required to report to the employer the amount of tips received. The Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993") provided a business tax credit with respect to certain employer FICA taxes paid with respect to tips treated as paid by the employer. The credit applies to tips received	The House bill clarifies the credit with respect to employer FICA taxes paid on tips by providing that the credit is available whether or not the employee reported the tips and that the credit is effective with respect to taxes paid after December 31, 1993, regardless of when the services with respect to which the tips are received were performed. **Effective date**.--The provision is effective as if included in	No provision.

Item	Present Law	House Bill	Senate Amendment
	from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees is customary. OBRA 1993 provided that the FICA tip credit is effective for taxes paid after December 31, 1993. Temporary Treasury regulations provide that the tax credit is available only with respect to tips reported by the employee. The temporary regulations also provide that the credit is effective for FICA taxes paid by an employer after December 31, 1993, with respect to tips received for services performed after December 31, 1993.	OBRA 1993.	
3. Due date for first quarter estimated tax payments by private foundations (sec. 14583 of the House bill)	Section 6655(g)(3) requires private foundations to pay estimated tax with respect to their excise tax liability under section 4940 (as well as any unrelated business income tax liability under section 511). For	The House bill amends section 6655(g)(3) to provide that a calendar-year foundation's first-quarter estimated tax payment is due on May 15 (which is the same day that its annual return for the preceding year is due).	No provision.

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Item	*Present Law*	*House Bill*	*Senate Amendment*
	calendar-year foundations, the first quarterly installment is due on April 15. Fiscal-year foundations must make their quarterly installments no later than the dates in their fiscal years that correspond to the dates applicable to calendar-year foundations.	Fiscal-year foundations will be required to make their first-quarter estimated tax payment no later than the 15th day of the 5th month of their taxable year. **Effective date**.--Taxable years beginning after 1995.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
VI. Estates, Gifts, and Trusts			
A. Income Tax Provisions			
1. Certain revocable trusts treated as part of estate (sec. 14601 of the House bill)	While both estates and revocable inter vivos trusts perform essentially the same function after the testator or grantor's death, numerous differences presently exist between the income tax treatment of estates and revocable trusts.	The House bill provides an irrevocable election to treat a qualified revocable trust as part of the decedent's estate for Federal income tax purposes. This elective treatment is effective from the date of the decedent's death until two years after his or her death (if no estate tax return is required) or six months after the final determination of estate tax liability (if an estate tax return is required). **Effective date**.--Effective for decedents dying after the date of enactment.	No provision.
2. Distributions during first 65 days of taxable year of estate (sec. 14602 of the House bill)	Under the "65-day rule," a trust may elect to treat distributions paid within 65 days after the close of its taxable year as paid on the last day of its taxable year. The 65-day rule is not	The House bill extends application of the 65-day rule to distributions by estates. Thus, an executor can elect to treat distributions paid within 65 days after the close of the estate's	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	applicable to estates.	taxable year as having been paid on the last day of such taxable year. **Effective date**.--Effective for taxable years beginning after the date of enactment.	
3. Separate share rules available to estates (sec. 14603 of the House bill)	Trusts with more than one beneficiary must use the "separate share" rule in order to provide different tax treatment of distributions to different beneficiaries to reflect the income earned by different shares of the trust's corpus. The separate share rule does not apply to estates.	The House bill extends the application of the separate share rule to estates. There are separate shares in an estate when the governing instrument of the estate creates separate economic interests in one beneficiary or class of beneficiaries such that the economic interests of those beneficiaries are not affected by economic interests accruing to another separate beneficiary or class of beneficiaries. **Effective date**.--Effective for decedents dying after the date of enactment.	No provision.
4. Executor of estate and beneficiaries treated as related	Section 267 disallows a deduction for any loss on the sale of an asset to a person related to the taxpayer. Section	An estate and a beneficiary of that estate are treated as related persons for purposes of sections 267 and 1239, except in the case	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
persons for disallowance of losses, etc. (sec. 14604 of the House bill)	1239 disallows capital gain treatment on the sale of depreciable property to a related person. Neither section 267 or section 1239 presently treat an estate and a beneficiary of the estate as related persons.	of a sale or exchange in satisfaction of a pecuniary bequest. **Effective date**.--Effective for taxable years beginning after the date of enactment.	
5. Limitation on taxable year of estates (sec. 14605 of the House bill)	Trusts are required to use a calendar year and, consequently, income of a trust that is distributed to a calendar-year beneficiary in the year earned is taxed to the beneficiary in the year earned. In contrast, estates are allowed to use any fiscal year and, consequently, the taxation of distributions to a calendar-year beneficiary in up to the last 11 months of the calendar year can be deferred until the next taxable year depending upon the fiscal year selected.	The House bill limits the taxable year of an estate to a year ending on October 31, November 30, or December 31. Thus, the maximum deferral allowable to a calendar-year beneficiary is with respect to distributions made in the last two months of the calendar year. **Effective date**.--Effective for decedents dying after the date of enactment.	No provision.
6. Repeal of certain throwback rules applicable to domestic trusts (sec. 14606 of the House bill)	Nongrantor trusts are subject to a separate graduated tax rate structure which historically has permitted accumulated trust income to be taxed at lower rates than the rates applicable to	The House bill exempts from the throwback rules amounts distributed by a domestic trust after December 31, 1995. The provision also provides that precontribution gain on property	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	trust beneficiaries. Under the so-called "throwback" rules, the distribution of previously accumulated trust income to a beneficiary is subject to tax (in addition to any tax paid by the trust on that income) where the beneficiary's average top marginal rate in the previous five years is higher than the trust's. Under section 644, if property is sold within two years of its contribution to a trust, the gain that would have been recognized had the contributor sold the property is taxed at the contributor's marginal tax rates. In effect, section 644 treats such gains as if the contributor had realized the gain and then transferred the net after-tax proceeds from the sale to the trust as corpus.	sold by a domestic trust no longer is subject to section 644 (i.e., taxed at the contributor's marginal tax rates). **Effective date**.--The provision with respect to the throwback rules is effective for distributions made in taxable years beginning after December 31, 1995. The modification to section 644 applies to sales or exchanges after December 31, 1995.	
7. Treatment of funeral trusts (sec. 14607 of the House bill)	Pre-need funeral trusts generally are treated as grantor trusts, and the annual income earned by such trusts is taxed to the purchaser/grantor of the trust.	The House bill allows the trustee of a pre-need funeral trust to elect special tax treatment for such trusts. A qualified funeral trust is defined	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	Amounts received from the trust by the seller are treated as payments for services and merchandise and are includible in the gross income of the seller.	as one which meets the following requirements: (1) the trust arises as the result of a contract between a person engaged in the trade or business of providing funeral or burial services or merchandise and one or more individuals to have such services or property provided upon such individuals' death; (2) the only beneficiaries of the trust are individuals who have entered into contracts to have such services or merchandise provided upon their death; (3) the only contributions to the trust are contributions by or for the benefit of the trust beneficiaries; (4) the trust's only purpose is to hold and invest funds that will be used to make payments for funeral or burial services or merchandise for the trust beneficiaries; and (5) the trust has not accepted contributions in excess of $5,000 by or for the benefit of any individual. The trustee's election to have this provision apply to a	

Item	*Present Law*	*House Bill*	*Senate Amendment*
		qualified funeral trust is to be made separately with respect to each purchaser's trust. The amount of tax paid with respect to each purchaser's trust is determined in accordance with the income tax rate schedule generally applicable to estates and trusts (Code sec. 1(e)), but no deduction is allowed under section 642(b). The tax on the annual earnings of the trust is payable by the trustee. **Effective date**.--Effective for taxable years beginning after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
B. Estate and Gift Tax Provisions			
1. Clarification of waiver of certain rights of recovery (sec. 14611 of the House bill)	For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate upon his or her death. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to inclusion of QTIP from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). For this purpose, a will provision specifying that all taxes shall be paid by the estate is sufficient to waive the right of recovery. A decedent's gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion	The House bill provides that the right of recovery with respect to QTIP is waived only to the extent that language in the decedent's will or revocable trust specifically so indicates (e.g., by a specific reference to QTIP, the QTIP trust, section 2044, or section 2207A). Thus, a general provision specifying that all taxes be paid by the estate is no longer sufficient to waive the right of recovery. The House bill also provides that the right of contribution for property over which the decedent retained enjoyment or the right to income is waived by a specific indication in the decedent's will or revocable trust, but specific reference to section 2207B is no longer required.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.	**Effective date**.--Effective for decedents dying after the date of enactment.	
2. Adjustments for gifts within 3 years of decedent's death (sec. 14612 of the House bill)	A taxpayer may exclude $10,000 of gifts made to each donee during a calendar year. Certain transfers made from a revocable trust within three years of death may be included in the decedent's gross estate even though such transfers would qualify for the annual $10,000 exclusion if made by the decedent directly.	The House bill provides that a transfer from a revocable trust is treated as if made directly by the grantor. Thus, an annual exclusion gift from such trust is not included in the gross estate. **Effective date**.--Effective for decedents dying after the date of enactment.	No provision.
3. Clarification of qualified terminable interest rules (sec. 14613 of the House bill)	A marital deduction is allowed for qualified terminal interest property ("QTIP"). Property is QTIP only if the surviving spouse is entitled to all income from the property for life, payable at least annually. QTIP generally is includible in the surviving spouse's gross estate. The United States Tax Court has held that, in order to satisfy the	The House bill provides that property does not fail to be QTIP solely because the accumulated income is not required to be distributed to the surviving spouse. Such income is includible in the surviving spouse's gross estate.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	QTIP requirements, the income accumulating between the last distribution date and the date of the surviving spouse's death (the "accumulated income") must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. In contrast, proposed Treasury regulations presently provide that the QTIP requirements may be satisfied even if the accumulated income is not required to be distributed to the surviving spouse or the surviving spouse's estate.	**Effective date**.--Effective for decedents dying, and gifts made, after the date of enactment. However, the bill does not include in the surviving spouse's gross estate property transferred before the date of enactment for which no marital deduction was claimed.	
4. Transitional rule under section 2056A (sec. 14614 of the House bill)	A "marital deduction" generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to an alien spouse outside a qualified domestic trust ("QDT"). An estate tax generally is imposed on corpus distributions from a QDT. A QDT was originally defined as a trust that, among other	A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	things, required all trustees be U.S. citizens or domestic corporations. This provision was later modified to require that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").	**Effective date**.--The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.	
5. Opportunity to correct certain failures under section 2032A (sec. 14615 of the House bill)	For estate tax purposes, an executor may elect to value certain real property used in farming or other closely held business operations at its current use value rather than its highest and best use (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election. Treasury regulations require that a notice of election and certain information be filed with the Federal estate tax return. Under procedures prescribed by the Treasury Department, an executor who makes the election	The House bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to compliance with the Treasury regulations. Thus, the bill allows the current use valuation election if the executor supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the Treasury Department. During that time period, the bill also allows the addition of signatures to a previously filed agreement.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property may supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Treasury Department.	**Effective date**.--The provision applies to decedents dying after the date of enactment.	
6. Unified credit of decedent increased by unified credit of spouse used on split gift included in decedent's gross estate (sec. 14616 of the House bill)	The estate tax is imposed on all of the assets held by the decedent at his death, including the value of property previously transferred by the decedent in which the decedent retained certain powers or interests, e.g., sections 2036 (transfers with retained life estate), 2037 (transfers taking effect at death), 2038 (revocable transfers), or 2042 (proceeds of life insurance). Under section 2035, the estate tax also would apply with respect to property in which such a retained power or interest is transferred within three years of death. Under section 2513, spouses	With respect to any split-gift property that is subsequently included in the estate of the transferor spouse under sections 2035, 2036, 2037 or 2038, the House bill increases the unified credit allowable to the transferor spouse's estate by the amount of the unified credit previously allowed to the nontransferor spouse with respect to the split gift. **Effective date**.--The provision applies to gifts made after the date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	may elect to treat a gift made by one spouse to a third person as made one-half by each spouse (i.e., "gift-splitting").		
7. Reformation of defective bequests, etc. to spouse of decedent (sec. 14617 of the House bill)	A marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. However, "terminable interest" property (i.e., an interest in property that will terminate or fail) transferred to a spouse generally will only qualify for the marital deduction under certain special rules designed to ensure that there will be an estate or gift tax to the transferee spouse on unspent transferred proceeds. One of the special terminable interest rules allows a marital deduction where the decedent transfers property to a "power of appointment trust", i.e., a trust that is required to pay income to the surviving spouse and over which the surviving spouse has a general power of appointment at that spouse's death (sec.	The House bill allows the marital deduction with respect to a defective power of appointment or QTIP trust if there is a "qualified reformation" of the trust that changes the governing instrument in a manner that corrects the defect. Where a reformation proceeding is commenced after the due date for the estate tax return (including extensions), the reformation qualifies only if, prior to reformation, the governing instrument provides (1) that the surviving spouse is entitled to all income from the property for life, and (2) no person other than the surviving spouse is entitled to any distributions during the surviving spouse's life. With respect to QTIP, an election to qualify must be made by the executor on the estate tax return	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	2056(b)(5)). Another special rule called the "qualified terminable interest property" rule ("QTIP") generally permits a marital deduction for transfers by the decedent to a trust that is required to distribute all income to the surviving spouse for life at least annually and an election is made to subject the transferee spouse to transfer tax on the trust property. To qualify for the marital deduction, a power of appointment trust or QTIP trust must meet certain specific requirements. If there is a technical defect in meeting those requirements, the marital deduction may be lost.	as required by section 2056(b)(7)(B)(v). The determination as to whether the property qualifies for the marital deduction is made either as of the due date for filing the estate or gift tax return (including any extensions) or the time that changes are completed pursuant to a reformation proceeding. The statute of limitations is extended with respect to the estate or gift tax attributable to the trust property until one year after the date the Treasury Department is notified that a qualified reformation has been completed or that the reformation proceeding has otherwise terminated. **Effective date**.--The provision applies to decedents dying after the date of enactment.	
8. Gifts may not be revalued for estate tax purposes after expiration of	The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's	The House bill provides that a gift for which the limitations period has passed cannot be revalued for purposes of	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
statute of limitations (sec. 14618 of the House bill)	cumulative gifts and bequests. The tax on gifts made in a particular year is computed by determining the tax on the sum of the taxable gifts made that year and all prior years and then subtracting the tax on the prior years' taxable gifts and the unified credit. Similarly, the estate tax is computed by determining the tax on the sum of the taxable estate and prior taxable gifts and then subtracting the tax on taxable gifts and the unified credit. Under a special rule applicable to the computation of the gift tax (sec. 2504(c)), the value of gifts made in prior years is the value that was used to determine the prior year's gift tax. There is no comparable rule in the case of the computation of the estate tax. Generally, any estate or gift tax must be assessed within three years after the filing of the return. No proceeding in a court for the collection of an estate or gift tax can be begun without an	determining the applicable estate tax bracket and available unified credit. For gifts made in calendar years after the date of enactment, the House bill also extends the special rule governing gifts valued under Chapter 14 to all gifts. Thus, the statute of limitations will not run on an inadequately disclosed transfer in calendar years after the date of enactment, regardless of whether a gift tax return was filed for other transfers in that same year. It is intended that, in order to revalue a gift that has been adequately disclosed on a gift tax return, the IRS must issue a final notice of redetermination of value (a "final notice") within the statute of limitations applicable to the gift for gift tax purposes (generally, three years). This rule is applicable even where the value of the gift as shown on the return does not result in any gift tax being owed (e.g., through use of the unified credit). It is also anticipated	

Item	Present Law	House Bill	Senate Amendment
	assessment within the three-year period. If no return is filed, the tax may be assessed, or a suit commenced to collect the tax without assessment, at any time. If an estate or gift tax return is filed, and the amount of unreported items exceeds 25 percent of the amount of the reported items, the tax may be assessed or a suit commenced to collect the tax without assessment, within six years after the return was filed (sec. 6501). Commencement of the statute of limitations generally does not require that a particular gift be disclosed. A special rule, however, applies to certain gifts that are valued under the special valuation rules of Chapter 14. The gift tax statute of limitations runs for such a gift only if it is disclosed on a gift tax return in a manner adequate to apprise the Secretary of the Treasury of the nature of the item.	that the IRS will develop an administrative appeals process whereby a taxpayer can challenge a redetermination of value by the IRS prior to issuance of a final notice. A taxpayer who is mailed a final notice may challenge the redetermined value of the gift (as contained in the final notice) by filing a motion for a declaratory judgment with the Tax Court. The motion must be filed on or before 90 days from the date that the final notice was mailed. The statute of limitations is tolled during the pendency of the Tax Court proceeding. **Effective date**.--The provision generally applies to gifts made after the date of enactment. The extension of the special rule under chapter 14 to all gifts applies to gifts made in calendar years after the date of enactment.	

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Item	*Present Law*	*House Bill*	*Senate Amendment*
	Most courts have permitted the Commissioner to redetermine the value of a gift for which the statute of limitations period for the gift tax has expired in order to determine the appropriate tax rate bracket and unified credit for the estate tax.		
9. Clarifications relating to disclaimers (sec. 14619 of the House bill)	Historically, there must be acceptance of a gift in order for the gift to be completed under State law and there is no taxable gift for Federal gift tax purposes unless there is a completed gift. Most States have rules that provide that, where there is a disclaimer of a gift, the property passes to the person who is entitled to the property had the disclaiming party died before the purported transfer. Under section 2518, a State law type disclaimer is effective for Federal transfer tax purposes if it is an irrevocable and unqualified refusal to accept an interest in property and certain other requirements are satisfied. One of these other requirements	The House bill allows a transfer-type disclaimer of an "undivided portion" of the disclaimant transferor's interest in property to qualify under section 2518. The House bill also allows a spouse to make a qualified transfer-type disclaimer where the disclaimed property is transferred to a trust in which the disclaimant spouse has an interest (e.g., a credit shelter trust). Finally, the House bill provides that a qualified disclaimer for transfer tax purposes under section 2518 is also effective for Federal income tax purposes (e.g., disclaimers of interests in annuities and income in respect of a decedent).	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	is that the disclaimer generally must be made in writing not later than nine months after the transfer creating the interest occurs. Section 2518 is not presently effective for Federal tax purposes other than transfer taxes. Certain transfers of property can also be treated as qualified disclaimers under section 2518. In order to qualify, these transfer-type disclaimers must be a written transfer of the disclaimant's "entire interest in the property" to persons who would have received the property had there been a valid disclaimer under State law (sec. 2518(c)(3)). Like other disclaimers, the transfer-type disclaimer generally must be made within nine months of the transfer creating the interest.	**Effective date**.--The provision applies to disclaimers made after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
10. Clarification of treatment of survivor annuities under qualified terminable interest rules (sec. 14620 of the House bill)	Under State community property laws, each spouse owns an undivided one-half interest in each community property asset. In community property States, a nonparticipant spouse may be treated as having a vested community property interest in his or her spouse's qualified plan, individual retirement arrangement, or simplified employee pension plan. A survivorship interest in an annuity interest arising out of the decedent's employment that is includible his or her estate (under section 2039) that passes to the non-participant spouse is treated as a deductible marital transfer under the qualified terminable interest property (QTIP) rules unless the executor of the decedent's estate elects otherwise (sec. 2056(b)(7)(C)). Thus, in noncommunity property States, no estate tax generally is imposed on such survivor annuity interests in the non-surviving spouse's estate.	The House bill clarifies that the marital deduction is available with respect to a nonparticipant spouse's interest in an annuity attributable to community property laws where he or she predeceases the participant spouse. Under the House bill, the nonparticipant spouse's interest in an annuity arising under the community property laws of a State that passes to the surviving participant spouse may qualify for treatment as QTIP under section 2056(b)(7). **Effective date**.--The provision applies to decedents dying, or waivers, transfers and disclaimers made, after the date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	In contrast, an interest of the non-participant spouse arising under community property laws in an annuity derived from the employment of his or her spouse is includible in his or her estate under section 2033 and, therefore, may not qualify as a deductible transfer to his or her surviving spouse under the QTIP rules.		
11. Treatment under qualified domestic trust rules of forms of ownership which are not trusts (sec. 14621 of the House bill)	Trusts are not permitted in some countries (e.g., many civil law countries). As a result, it is not possible to create a qualified domestic trust in those countries.	The House bill provides the Treasury Department with regulatory authority to treat as trusts legal arrangements that have substantially the same effect as a trust. It is anticipated that such regulations, if any, would only permit a marital deduction with respect to non-trust arrangements under which the U.S. would retain jurisdiction and adequate security to impose U.S. transfer tax on transfers by the surviving spouse of the property transferred by the decedent. **Effective date**.--The provision applies to decedents dying after	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
		the date of enactment.	
12. Authority to waive requirement of United States trustee for qualified domestic trusts (sec. 14622 of the House bill)	In order for a trust to be a QDT, a U.S. trustee must have the power to approve all corpus distributions from the trust. In some countries, trusts may be prohibited from having a U.S. trustee (e.g., some countries do not allow real property to be placed in trust if a U.S. trustee must approve distributions from the trust.) As a result, such trusts cannot qualify as a QDT.	In order to permit the establishment of a QDT in those situations where a country prohibits a trust from having a U.S. trustee, the House bill provides the Treasury Department with regulatory authority to waive the requirement that a QDT have a U.S. trustee. It is anticipated that such regulations, if any, provide an alternative mechanism under which the U.S. would retain jurisdiction and adequate security to impose U.S. transfer tax on transfers by the surviving spouse of the property transferred by the decedent. **Effective date**.--The provision applies to decedents dying after the date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Generation-Skipping Tax Provisions			
1. Severing of trusts holding property having an inclusion ratio of greater than zero (sec. 14631 of the House bill)	A generation-skipping transfer tax ("GST" tax) generally is imposed on transfers to an individual who is in more than one generation below that of the transferror. An exemption of $1 million is provided for each person making generation-skipping transfers. The transferor (or his or her executor) may allocate the exemption to transferred property. If the value of the transferred property exceeds the amount of the GST exemption allocated to that property, an "inclusion ratio" and an "exclusion ratio" are determined with respect to the property. The exclusion ratio is equal to the amount of the GST exemption allocated to the property divided by the value of the property. The inclusion ration is equal to one minus the exclusion ratio. For any taxable event that occurs with respect to	If a trust with an inclusion ratio of greater than zero is severed into two separate trusts, the bill allows the trustee to elect to treat one of the separate trusts as having an inclusion ratio of zero and the other separate trust as having an inclusion ratio of one. To qualify for this treatment, the separate trust with the inclusion ratio of one must receive an interest in each property held by the single trust (prior to severance) equal to the single trust's inclusion ratio, except to the extent otherwise provided by regulation. The remaining interests in each property will be transferred to the separate trust with the inclusion ratio of zero. **Effective date**.--The provision is effective for severances of trusts occurring after the date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	the property, the amount of GST tax generally is determined by multiplying highest estate tax rate by the inclusion ratio and the value of the taxable property at the time of the taxable event.		
2. Clarification of who is transferor where subsequent gift by reason of power of appointment (sec. 14632 of the House bill)	The exercise or release of a general power of appointment (e.g., a power of withdrawal) generally is treated as a transfer of property by the person who possesses such power (sec. 2514(b)). Under section 2514(e), the lapse of a general power of appointment also is treated as a taxable transfer except to the extent that the power does not exceed the greater of $5,000 or five percent of the fair market value of the property with respect to which the power could have been exercised.	The House bill clarifies that an individual cannot be treated as a "transferor" with respect to any portion of property with respect to which another person is treated as the "transferor" by reason of the exercise, release or lapse of a general power of appointment with respect to such property. **Effective date**.--The provision applies to the exercise, release or lapse of a general power of appointment occurring after the date of enactment.	No provision.
3. Taxable termination not to include direct skips (sec. 14633 of the House bill)	A generation-skipping transfer tax ("GST" tax) generally is imposed on transfers to an individual who is in more than one generation below that of the transferor. Transfers subject to	The House bill provides that, when a transfer is described as both a direct skip and a taxable termination, the transaction will be treated as a direct skip (i.e., treatment as a direct skip takes	No provision.

Item	Present Law	House Bill	Senate Amendment
	the GST tax include direct skips, taxable terminations and taxable distributions. For this purpose, a direct skip is any transfer subject to estate or gift tax of an interest in property to a skip person (sec. 2612(c)(1)). A taxable termination is a termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in trust unless, immediately after such termination, a non-skip person has an interest in the property, or unless at no time after the termination may a distribution (including a distribution upon termination) be made from the trust to a skip person (sec. 2612(a)). A taxable distribution is a distribution from a trust to a skip person (other than a taxable termination or a direct skip)(sec. 2612(b)). Direct skips are subject to less GST tax than taxable terminations and distributions since the GST tax on direct skips is paid by the transferor	precedence over treatment as a taxable termination). **Effective date**.--Effective for generation skipping transfers occurring after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
	(sec. 2603(a)(3)) and, therefore, the tax base for a direct skip is tax exclusive (like the Federal gift tax), while the GST tax on taxable terminations and distributions is paid by the trust or beneficiary (secs. 2603(a)(1) & (2)) and, therefore, the tax base on taxable terminations and distributions is tax inclusive (like the Federal estate tax).		

Item	*Present Law*	*House Bill*	*Senate Amendment*
II. Excise Tax Simplification			
A. Provisions Relating to Distilled Spirits, Wines, and Beer (secs. 14701-14711 of the House bill)	Credit or refund for imported distilled spirits returned bonded premises.--When tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise tax is refunded. This provision does not apply to imported bottled distilled spirits because they are withdrawn from customs custody and not from bonded premises of a distilled spirits plant.	Credit or refund for imported bottled distilled spirits returned to bonded premises.--Conforms procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises to the rules for domestically produced and imported bulk distilled spirits.	No provision.
	Authority to cancel or credit bonds without submission of records.--Bond generally must be furnished to the Treasury Department when distilled spirits are removed from bonded premises of a distilled spirits plant for exportation without payment of tax. These bonds are canceled or credited when evidence is submitted to the Treasury that the distilled spirits	Authority to cancel or credit bonds without submission of records.--The House bill authorizes the Treasury Department to permit records of exportation to be maintained by the exporter, rather than requiring submission of proof of exportation to Treasury in all cases.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	have been exported.		
	Required maintenance of records on premises of distilled spirits plant.--Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried out.	Repeal of required maintenance of records on premises of distilled spirits plant.--Permits distilled spirits plant proprietors to maintain records of their activities at locations other than the premises where the operations covered by the records are carried out (e.g., corporate headquarters) provided that the records are available for inspection by the Treasury Department during business hours.	No provision.
	Transfers from breweries to distilled spirits plants.--Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, but only if the brewery is contiguous to the distilled spirits plant.	Fermented material from any brewery may be received at a distilled spirits plant.--Allows beer to be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.	No provision.
	Requirement that wholesale dealers in liquors post sign.--	Repeal of requirement that wholesale dealers in liquors post	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers.	sign.--Repeals requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers.	
	Refund of tax on wine returned to bond.--When unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044).	Refund of tax on wine returned to bond not limited to unmerchantable wine.--Repeals the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.	No provision.
	Use of ameliorating material in certain wines.--Tax law rules govern the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine.	Use of additional ameliorating material in certain wines.--Modifies the wine labelling restrictions to allow any wine made exclusively from a fruit or berry with a natural fixed acid of made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a	No provision.

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Item	*Present Law*	*House Bill*	*Senate Amendment*
		volume of ameliorating material not in excess of 60 percent.	
	Domestically produced beer for use by foreign embassies, etc.--Distilled spirits, wine, and imported beer may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations. No such provision exists under present law for domestically produced beer.	Domestically produced beer may be withdrawn free of tax for use by foreign embassies, etc.--Extends to domestically produced beer the present law rule applicable which permits other alcoholic beverages to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.	No provision.
	Withdrawal of beer for destruction.--Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.	Beer may be withdrawn free of tax for destruction.--Permits beer to be removed from a brewery without payment of tax for destruction, subject to Treasury Department regulations.	No provision.
	Records of exportation of beer.--Present law provides that a brewer is allowed a refund of tax paid on exported beer upon	Authority to allow drawback on exported beer without submission of records.--Repeals requirement that proof of	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	submission to Treasury Department of certain records indicating that the beer has been exported.	exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax.	
	Transfer to brewery of beer imported in bulk.--Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant where bottling will occur without payment of tax.	Transfer to brewery of beer imported in bulk without payment of tax.--Extends the present law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers.	No provision.
		Effective date.--Beginning 180 days after date of enactment. (Provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the proposal's enactment.)	

Item	*Present Law*	*House Bill*	*Senate Amendment*
B. Consolidation of Taxes on Aviation Gasoline (sec. 14721 of the House bill)	Gasoline used in noncommercial (not for hire) aviation is subject to a 19.4-cents-per-gallon excise tax. 18.4 cents per gallon of this tax is collected when the gasoline is removed from a pipeline or barge terminal. The remaining 1 cent per gallon is imposed at the retail level.	The House bill consolidates imposition of the aviation gasoline excise tax, with the entire 19.4-cents-per-gallon rate being imposed when the gasoline is removed from a terminal facility. **Effective date**.--Sales or uses beginning on or after January 1, 1996.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Other Excise Tax Provisions			
1. Authority to grant exemptions from excise tax registration requirements (sec. 14731 of the House bill)	Certain sales for exempt use of articles subject to Federal excise taxes may not be made without payment of tax unless the manufacturer, the first purchaser, and the second purchaser (if any), are all registered under regulations prescribed by the Secretary of Treasury.	The House bill allows the IRS to provide exemptions from generally applicable excise tax registration requirements for certain classes of taxpayers (rather than only all taxpayers or individually identified taxpayers). **Effective date**.--Sales occurring after 180 days after date of enactment.	No provision.
2. Certain combinations not treated as manufacture under retail sales tax on heavy trucks (sec. 14732 of the House bill)	A 12-percent excise tax is imposed on the sale of trucks, tractors, and trailers having a gross vehicle weight in excess of specified amounts. The tax is imposed on the first retail sale of a taxable vehicle or addition thereto. Generally, repairs of used vehicles are treated as remanufacture (giving rise to tax on the entire vehicle) if certain tests are met.	The House bill clarifies that the following activities do not constitute remanufacture when performed on a used truck or tractor chassis: (1) removal of a fifth wheel and addition of a power take-off, hoist, and dump body; or (2) simple addition of a power take-off, hoist, and dump body.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	The mere addition of a fifth wheel to a taxable truck is not treated as remanufacture, although the fifth wheel itself would be taxed.	These activities will remain taxable to the extent of the modifications made. **Effective date**.--Date of enactment.	
3. Repeal of expired excise tax provisions (sec. 14734 of the House bill)	Temporary reduction in tax on piggyback trailers.--Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984, were permitted a temporary reduction in the retail excise tax rate on trailers.	Temporary reduction in tax on piggyback trailers.--Repeals the expired tax reduction for piggy back trailers as "deadwood." **Effective date**.--Date of enactment.	No provision.
	Expiration of excise tax on deep seabed minerals.--The Deep Seabed Mineral Resources Act (Public Law 96-283) imposed an excise tax on certain hard minerals mined on the deep seabed. The tax revenues were intended to fund obligations of the United States under a contemplated Law of the Sea Convention. Because the United States did not sign the treaty, this excise tax never became effective and the tax	Expiration of excise tax on deep seabed minerals.--Repeals the excise tax on deep seabed hard minerals as "deadwood." **Effective date**.--Date of enactment.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	expired after June 28, 1990.		

Item	*Present Law*	*House Bill*	*Senate Amendment*
VIII. Administrative Provisions			
A. General Provisions			
1. Repeal of authority to disclose whether a prospective juror has been audited (sec. 14801 of the House bill)	In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).	The House bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service. **Effective date.**--The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.	No provision.
2. Clarification of statute of limitations (sec. 14802 of the House bill)	Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any	The House bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit.	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	taxes due.	**Effective date.**--The provision is effective for taxable years beginning after the date of enactment.	
3. Certain notices disregarded under provision increasing interest rate on large corporate underpayments (sec. 14803 of the House bill)	The interest rate on a large corporate underpayment of tax is the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date on which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent.	For purposes of determining the period to which the large corporate underpayment rate applies, any letter or notice is disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax). **Effective date.**--The provision is effective for purposes of determining interest for periods after December 31, 1995.	No provision.
4. Clarification of authority to withhold Puerto Rico income taxes	If State law provides generally for the withholding of State income taxes from the wages of employees in a State, the	The House bill makes any Commonwealth eligible to enter into an agreement with the Secretary of the Treasury that	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
from salaries of Federal employees (sec. 14804 of the House bill)	Secretary of the Treasury shall (upon the request of the State) enter into an agreement with the State providing for the withholding of State income taxes from the wages of Federal employees in the State. For this purpose, a State is a State, territory, or possession of the United States. The Court of Appeals for the Federal Circuit recently held in Romero v. United States (38 F. 3d 1204 (1994)) that Puerto Rico was not encompassed within this definition; consequently, the court invalidated an agreement between the Secretary of the Treasury and Puerto Rico that provided for the withholding of Puerto Rico income taxes from the wages of Federal employees.	would provide for income tax withholding from the wages of Federal employees. **Effective date**.--The provision is effective on the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
B. Tax Court Procedures			
1. Overpayment determinations of Tax Court (sec. 14811 of the House bill)	The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.	The House bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. **Effective date**.--The provision is effective on the date of enactment.	No provision.
2. Awarding of administrative costs (sec. 14812 of the House bill)	Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding. No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to	The House bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice. The House bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.	reviewed in the same manner as other decisions of the Tax Court. **Effective date.**--The provision is effective on the date of enactment.	
3. Redetermination of interest pursuant to motion (sec. 14813 of the House bill)	A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.	The House bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court. **Effective date.**--The provision is effective on the date of enactment.	No provision.
4. Application of net worth requirement for awards of litigation costs (sec. 14814 of the House bill)	Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding. A person who substantially prevails must meet	The House bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. **Effective date.**--The provision applies to proceedings	No provision.

Item	*Present Law*	*House Bill*	*Senate Amendment*
	certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award.	commenced after the date of enactment.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Authority for Certain Cooperative Agreements (sec. 14821 of the House bill)	The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323, 335 (1983)).	The House bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes). **Effective date.**--The provision is effective on the date of enactment.	No provision.