COMPARISON OF CERTAIN PROVISIONS OF H.R. 4520 AS PASSED BY THE HOUSE OF REPRESENTATIVES AND AS AMENDED BY THE SENATE:

JOB CREATION TAX INCENTIVES FOR MANUFACTURING, SMALL BUSINESS, AND FARMING

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JOINT COMMITTEE ON TAXATION

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Contents

INTRODUCTION

On June 17, 2004, the House of Representatives passed H.R. 4520, the "American Jobs Creations Act of 2004." On July 15, 2004, the Senate amended H.R. 4520 by substituting the text and title of S. 1637, the "Jumpstart Our Business Strength (JOBS) Act,"[1] and an additional non-tax amendment.

The House bill and the Senate amendment each repeal the extraterritorial income exclusion provisions of present law, provide provisions to reduce the effective income tax imposed on income earned from certain domestic production activities, and make numerous other changes to the Internal Revenue Code. This document,[2] prepared by the staff of the Joint Committee on Taxation, compares certain provisions relating to tax incentives for manufacturing, small businesses, and agriculture.

In this publication set,[3] (JCX-61-04 to JCX-66-04), the staff of the Joint Committee on Taxation compares provisions of H.R. 4520 as passed by the House of Representatives and as amended by the Senate relating to the repeal of the extraterritorial income exclusions, domestic production, corporate income tax rates applicable to small corporations, tax incentives for manufacturers, small

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[1] The Senate originally passed S. 1637 on May 11, 2004.

[2] This document may be cited as follows: Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Job Creation Tax Incentives for Manufacturing, Small Business, and Farming* (JCX-62-04), September 29, 2004.

[3] Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Provisions Relating to the Repeal of the Exclusion for Extraterritorial Income, Domestic Production, and the Corporate Income Tax Rates Applicable to Small Corporations* (JCX-61-04), September 29, 2004; Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Job Creation Tax Incentives for Manufacturing, Small Business, and Farming* (JCX-62-04), September 29, 2004; Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Provisions Relating to International Tax Reform and Simplification for United States Businesses* (JCX-63-04), September 29, 2004; Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Revenue Provisions* (JCX-64-04), September 29, 2004; Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Alcohol Fuels and Fuel Fraud Provisions* (JCX-65-04), September 29, 2004; and Joint Committee on Taxation, *Comparison of Certain Provisions of H.R. 4520 as Passed by the House of Representatives and as Amended by the Senate: Expiring Provisions* (JCX-66-04), September 29, 2004.

businesses and farming, international tax reform and simplification for United States businesses, alcohol fuels and fuel fraud, expiring provisions, and certain revenue raising provisions.

Provision	Present Law	House Bill	Senate Amendment
I. SMALL BUSINESS EXPENSING **A. Treatment of Section 179 Expensing (sec. 201 of the House bill and sec. 309 of the Senate amendment)**	Under the section 179 expensing rules, for taxable years beginning in 2003 through 2005, a taxpayer may deduct up to $100,000 of the cost of qualifying property placed in service for the taxable year. The $100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service by the taxpayer exceeds $400,000. For taxable years beginning in 2003-2005, qualifying property includes certain computer software; indexing applies (starting in 2004); and Commissioner's consent is not required to revoke 179 elections. For taxable years beginning after 2005, the $100,000 and $400,000 amounts are reduced to $25,000 and $200,000, respectively.	Extends for an additional two years (i.e., for taxable years beginning in 2006 and 2007) the increased amount that a taxpayer may deduct (applying the $100,000 and $400,000 amounts), and the other present-law rules that are effective for taxable years beginning in 2003 through 2005. Effective date.–Date of enactment.	The $100,000 amount ($25,000 for taxable years beginning in 2006 and thereafter) is reduced (but not below zero) by only one half of the amount by which the cost of qualifying property placed in service during the taxable year exceeds $400,000 ($200,000 for taxable years beginning in 2006 and thereafter). Effective date.–Taxable years beginning after December 31, 2002.

Provisions	Present Law	House Bill	Senate Amendment
II. DEPRECIATION PROVISIONS **A. 15-year Straight-Line Cost Recovery for Qualified Leasehold Improvements (sec. 211 of the House bill)**	The cost of nonresidential real property is recovered straight-line over 39 years. The cost of improvements to leased property is recovered over the leased property's recovery period, even if such recovery period is longer than the term of the lease. Thus, if a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement is depreciated straight-line over 39 years. Taxpayers are allowed an additional first-year depreciation deduction equal to either 30 percent or 50 percent of the adjusted basis of qualified leasehold improvement property placed in service before January 1, 2005. Qualified leasehold improvement property is any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the	Provides a statutory 15-year recovery period for qualified leasehold improvement property placed in service before January 1, 2006. Requires that qualified leasehold improvement property be recovered using the straight-line method. Qualified leasehold improvement property is defined as under present law for purposes of the additional first-year depreciation deduction, with the following modification. If a lessor makes an improvement that qualifies as qualified leasehold improvement property, such improvement shall not qualify as qualified leasehold improvement property to any subsequent owner of such improvement. An exception to the rule applies in the case of death and certain transfers of property that qualify for non-recognition treatment. Effective date.–Property placed in service after the date of enactment.	No provision.

Provisions	Present Law	House Bill	Senate Amendment
	lessee (or sublessee), or by the lessor, of that portion of the building to be occupied exclusively by the lessee (or sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service. Qualified leasehold improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building.		
B. 15-year Straight-Line Cost Recovery for Qualified Restaurant Improvements (sec. 211 of the House bill)	The cost of restaurant leasehold improvements and nonresidential real property is recovered using the straight-line method of depreciation over a recovery period of 39 years.	Reduces to 15 years the recovery period for qualified restaurant property placed in service before January 1, 2006. Qualified restaurant property is any improvement to a building if such improvement is placed in service more than three years after the date such building was first placed in service and more than 50 percent of the building's square footage is devoted to the preparation of, and seating for, on-premises consumption of prepared meals.	No provision.

Provisions	Present Law	House Bill	Senate Amendment
		Effective date.–Property placed in service after the date of enactment.	
C. Extended Placed in Service Date for Bonus Depreciation for Certain Aircraft (Excluding Aircraft Used in the Transportation Industry) (sec. 212 of the House bill and sec. 622 of the Senate amendment)	Generally, bonus depreciation applies to property placed in service prior to January 1, 2005. Certain types of property qualify for bonus depreciation if placed in service prior to January 1, 2006.	Provides criteria under which certain non-commercial aircraft can qualify for the extended placed-in-service date (prior to January 1, 2006.) Effective date.–Property placed in service after September 10, 2001.	Same as the House bill except for effective date. Effective date.–Taxable years beginning after the date of enactment.
D. Special Placed in Service Rule for Bonus Depreciation for Certain Property Subject to Syndication (sec. 213 of the House bill and sec. 621 of the Senate amendment)	Generally, bonus depreciation applies to property placed in service for original use by the taxpayer prior to January 1, 2005. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. The statute does not specifically refer to syndication transactions, but conference report language and temporary regulations provide that if property is originally placed in service by a	Provides that if property is originally placed in service by a lessor, such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale. (Confirms the rule in the temporary regulations.) Also provides a special rule in the case of multiple units of property subject to the same lease. In such cases, property will qualify as placed in service on the date of sale if it is sold within three months after the final unit is placed in service, so long as the period between the time the first and last	Same as the House bill except for effective date.

Provisions	Present Law	House Bill	Senate Amendment
	lessor, such property is sold within three months after the date that the property was placed in service by the lessor, and the user of such property remains the same as when the property was originally placed in service by the lessor, then the property is treated as originally placed in service by the taxpayer not earlier than the date of sale.	units are placed in service does not exceed 12 months. Effective date.–Generally, for property acquired and placed in service after September 10, 2001. However, the special rule in the case of multiple units of property subject to the same lease applies to property sold after June 4, 2004.	Effective date.–Sales after the date of enactment.

Provision	Present Law	House Bill	Senate Amendment
III. S CORPORATION REFORM AND SIMPLIFICATION **A. Members of Family Treated as One Shareholder (sec. 221 of the House bill)**	An S corporation may not have more than 75 shareholders. A husband and wife are treated as one shareholder.	Allows election for members of a family to be treated as one shareholder for purposes of determining the number of shareholders. Members of a family mean the common ancestor and the lineal descendants of the common ancestor (and spouses). To qualify as common ancestor, the person must be no more than 3 generations removed (at later of date of S election or date of enactment) from youngest generation of shareholders who otherwise would be members of family. Effective date.–Taxable years beginning after 2004.	No provision.
B. Increase Maximum Number of Shareholders (sec. 222 of the House bill)	An S corporation may not have more than 75 shareholders.	Increases the maximum number of shareholders to 100. Effective date.–Taxable years beginning after 2004.	No provision.
C. Certain IRAs Holding Bank Stock as Eligible Shareholders (sec. 223 of the House bill)	IRAs may not hold stock in an S corporation.	Allows an IRA to hold S corporation bank stock that the IRA held on date of enactment; all the income is subject to UBIT;	No provision.

Provision	Present Law	House Bill	Senate Amendment
		allows the stock to be sold to the beneficiary for fair market value upon the corporation making an S election. Effective date.–Date of enactment.	
D. Disregard Unexercised Powers of Appointment in Determining Potential Current Beneficiary of an Electing Small Business Trust (sec. 224 of the House bill)	Each potential current beneficiary of an electing small business trust is treated as a shareholder of the S corporation for purposes of determining the number of shareholders.	Disregards unexercised powers of appointment in determining the potential current beneficiaries; increases period during which trust can dispose of stock after ineligible shareholder becomes potential current beneficiary from 60 days to one year. Effective date.–Taxable years beginning after 2004.	No provision.
E. Transfers of Suspended Losses Incident to Divorce (sec. 225 of the House bill)	Losses in excess of basis are carried forward with respect to a shareholder.	Allows suspended losses to be transferred in the case of transfers of stock to a spouse or former spouse incident to divorce. Effective date.–Taxable years beginning after 2004.	No provision.
F. Use of Passive Activity Loss and At-Risk Amounts by Qualified Subchapter S Trust Income Beneficiaries (sec. 226 the House bill)	The income of a qualified subchapter S trust is taxed to the beneficiary.	Beneficiary is allowed to deduct suspended losses under the at-risk and passive loss rules when trust disposes of S corporation stock.	No provision.

Provision	Present Law	House Bill	Senate Amendment
		Effective date.–Transfers after 2004.	
G. Exclusion of Investment Securities Income from Passive Income Test for Bank S Corporations (sec. 227 of the House bill)	S corporation with accumulated earnings and profits are subject to tax or disqualification if they have excess passive investment income.	Clarifies that interest income and certain dividend income received by a bank are not treated as passive investment income. Effective date.–Taxable years beginning after 2004.	No provision.
H. Treatment of Bank Director Shares (sec. 228 of the House bill)	An S corporation may not have more than 75 shareholders and may have only one class of stock.	In applying subchapter S, certain restricted shares held by bank directors are not taken into account as outstanding stock. Effective date.–Taxable years beginning after 2004.	No provision.
I. Relief from Inadvertently Invalid Subchapter S Subsidiary Elections and Terminations (sec. 229 of the House bill)	Relief is provided for inadvertently invalid subchapter S elections.	Provides relief from inadvertently invalid subchapter S subsidiary elections and terminations. Effective date.–Taxable years beginning after 2004.	No provision.
J. Information Returns for Qualified Subchapter S Subsidiaries (sec. 230 of the House bill)	A qualified subchapter S subsidiary is treated as part of the S corporation parent.	Allows information returns of a qualified subchapter S subsidiary to be filed by the subsidiary. Effective date.–Taxable years beginning after 2004.	No provision.

Provision	Present Law	House Bill	Senate Amendment
K. Repayment of Loan for Qualifying Employer Securities Held by an ESOP (sec. 231 of the House bill and sec. 654 of Senate amendment)	Distributions made with respect to S corporation stock allocated to a participant under an ESOP may not be used to repay a loan that was used to purchase the stock held by the ESOP.	Allows distributions made with respect to S corporation stock allocated to a participant under an ESOP to be used to repay a loan that was used to purchase stock held by the ESOP, provided that stock of value not less than the amount of the distribution is allocated to the participant. Effective date.–Distributions made after December 31, 2004.	Same as the House bill except for effective date. Effective date.–January 1, 1998.

Provision	Present Law	House Bill	Senate Amendment
IV. ALTERNATIVE MIMINUM TAX RELIEF			
A. Foreign Tax Credit (sec. 241 of the House bill and sec. 203 of the Senate amendment)	AMT foreign tax credit generally is limited to 90 percent of tentative minimum tax.	Repeals 90 percent limitation. Effective date.–Taxable years beginning after 2004.	Same as the House bill.
B. Small Corporation Exemption (sec. 242 of the House bill)	AMT does not apply to a corporation with average annual gross receipts for the prior three years of not more than $7.5 million ($5 million for its first three-year period).	Increases $7.5 million amount to $20 million. Effective date.–Taxable years beginning after 2005.	No provision.
C. Farmer Income Averaging (sec. 243 of the House bill)	Tax benefits of farmer income averaging do not apply in computing AMT.	Allows tax benefits of farmer income averaging in computing AMT. Effective date.–Taxable years beginning after 2003.	No provision.

Provision	Present Law	House Bill	Senate Amendment
V. STATUTORY STOCK OPTIONS **A. Exclusion of Incentive Stock Options and Employee Stock Purchase Plan Stock Options from Wages (sec. 261 of the House bill)**	The Code does not provide an exception from FICA and FUTA taxes for wages paid to an employee arising from the exercise of an incentive stock option or an option under an employee stock purchase plan (collectively referred to as "statutory stock options"). There has been uncertainty in the past as to employer withholding obligations upon the exercise of statutory stock options. Until further guidance is issued, the IRS has announced that it will not assess FICA or FUTA taxes, or impose Federal income tax withholding obligations, upon either the exercise of a statutory stock option or the disposition of stock acquired pursuant to the exercise of a statutory stock option.	Provides specific exclusions from FICA and FUTA wages for remuneration on account of the transfer of stock pursuant to the exercise of an incentive stock option or under an employee stock purchase plan, or any disposition of such stock. Also provides that Federal income tax withholding is not required on a disqualifying disposition or when compensation is recognized in connection with an employee stock purchase plan discount. Effective date.–Stock acquired pursuant to options exercised after the date of enactment.	No provision.

Provision	Present Law	House Bill	Senate Amendment
VI. REPATRIATION OF FOREIGN EARNINGS **A. Incentives to Reinvest Foreign Earnings in the United States (sec. 271 of the House bill and sec. 231 of the Senate amendment)**	Income earned by a domestic parent corporation from operations conducted by foreign corporate subsidiaries generally is subject to full U.S. tax when the income is distributed as a dividend to the domestic corporation, subject to available foreign tax credits.	Provides a temporary 85-percent deduction for dividends received by a domestic corporation from its controlled foreign corporations ("CFCs"). Deduction applies to dividends in excess of a base-period average (repatriations over three of five most recent taxable years ending before March 31, 2003, disregarding high and low years). Dividends and certain distributions of earnings through a chain of CFCs may qualify for the deduction. In addition to dividends, section 956 inclusions and distributions of previously taxed earnings are included in the base-period average. Taxpayer must adopt a plan for reinvesting the dividends in the United States. A proportional amount of foreign tax credits is disallowed; taxpayer may designate which dividends	Provides a temporary 5.25-percent tax rate for dividends received by a domestic corporation from its CFCs. Reduced rate applies to dividends in excess of a base-period average (repatriations over three of five most recent taxable years ending on or before December 31, 2002, disregarding high and low years). Dividends and section 956 inclusions may qualify for the reduced rate and are included in the base-period average. Taxpayer must adopt a plan for reinvesting the dividends in the United States. A proportional amount of foreign tax credits is disallowed; taxpayer may designate which dividends

Provision	Present Law	House Bill	Senate Amendment
		carry foreign tax credits and which dividends are deductible. Income from nondeductible portion of dividends cannot be offset by NOLs; tax cannot be offset by credits other than foreign tax credits and AMT credits, and cannot reduce AMT otherwise owed. Deductions under sections 243 and 245 are disallowed. Eligible dividends are limited to the greatest of: (1) $500 million; (2) amount shown on applicable financial statement as permanently invested outside the United States; and (3) in the case of an applicable financial statement showing an amount of tax attributable to earnings permanently invested outside the United States, an amount of earnings determined under Treasury regulations. Effective date.–Dividends received: (1) during the first six months of the taxpayer's first taxable year beginning on or after date of enactment; or (2) during any six-month or shorter period after date of enactment, within the taxpayer's last taxable year ending	carry foreign tax credits and which dividends qualify for reduced rate. Income from nonqualifying dividends cannot be offset by expenses, losses, or other deductions. Effective date.–Dividends received during the taxpayer's first taxable year ending 120 days or more after date of enactment.

Provision	Present Law	House Bill	Senate Amendment
		after such date, at the taxpayer's election.	

Provisions	Present Law	House Bill	Senate Amendment
VII. OTHER INCENTIVE PROVISIONS **A. Special Rules for Livestock Sold on Account of Weather-Related Conditions (sec. 281 of the House bill and sec. 649 of the Senate amendment)**	Generally, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.	Extends the applicable period for a taxpayer to replace livestock sold on account of drought, flood, or other weather-related conditions from two years to four years after the close of the first taxable year in which any part of the gain on conversion is realized. In addition, Treasury is granted authority to further extend the replacement period on a regional basis should the weather-related conditions continue longer than three years. Also, for property eligible for the provision's extended replacement period, extends the deadline for making an election under section 451(e) until the period for reinvestment of such property under section 1033 expires. <u>Effective date</u>.– Taxable years with respect to which the due date (without regard to extensions) for the return is after December 31, 2002.	Permits the taxpayer to replace compulsorily or involuntarily converted livestock with other farm property if, due to drought, flood, or other weather-related conditions, it is not feasible for the taxpayer to reinvest the proceeds in property similar or related in use to the livestock so converted. <u>Effective date</u>.–Taxable years beginning after December 31, 2001.

Provisions	Present Law	House Bill	Senate Amendment
B. Payment of Dividends on Stock of Cooperatives Without Reducing Patronage Dividends (sec. 282 of the House bill and sec. 648 of the Senate amendment)	Cooperatives generally are entitled to deduct or exclude amounts distributed as patronage dividends. Patronage dividends generally are comprised of amounts paid to patrons: (1) on the basis of the quantity or value of business done with or for patrons; (2) under a valid and enforceable obligation to pay such amounts that was in existence before the cooperative received the amounts paid; and (3) which are determined by reference to the net earnings of the cooperative from business done with or for patrons. Treasury regulations provide that net earnings are reduced by dividends paid on capital stock or other proprietary capital interests. The regulations have been interpreted to require that such dividends be allocated between a cooperative's patronage and nonpatronage operations, with the amount allocated to the patronage operations reducing the net earnings available for the payment of patronage dividends.	Provides a special rule for dividends on capital stock of a cooperative. To the extent provided in organizational documents of the cooperative, dividends on capital stock do not reduce patronage income and do not prevent the cooperative from being treated as operating on a cooperative basis. Effective date.–Distributions made in taxable years ending after the date of enactment.	Same as the House bill.

Provision	Present Law	House Bill	Senate Amendment
C. Expensing of Reforestation Expenditures (sec. 331 of the Senate amendment)	Section 194 provides for an 84-month amortization period for up to $10,000 of qualified reforestation expenditures. Section 48(b) provides a 10-percent credit on up to $10,000 of qualified amortizable basis in timber property. The amount amortized under section 194 is reduced by one half of the amount of credit claimed under section 48(b).	No provision.	Permits up to $10,000 of qualified reforestation expenditures to be deducted in the year paid or incurred (i.e., expensed). Repeals the reforestation tax credit. Effective date.–Expenditures paid or incurred after the date of enactment.
D. Capital Gain for Timber (secs. 102(b) and 283 of the House bill and secs. 332 and 333 of the Senate amendment)	Election to treat cutting of timber as a sale or exchange may be revoked only with consent on IRS (and new election may be made only with consent of IRS). Disposition of timber with retained economic interest qualifies for capital gain treatment.	Allows a corporation to revoke prior election (and make new election) without consent of IRS. Effective date.–Taxable years ending after date of enactment. Allows capital gain treatment for outright sales of timber. Effective date.–Sales after 2004.	Same as the House bill, except applies to all taxpayers. Effective date.–Taxable years ending after date of enactment. Same as the House bill except for effective date. Effective date.–Sales after date of enactment.
E. Modification of Safe Harbor Rules for Timber REITs (sec. 334 of the Senate amendment)	REITs generally are not taxed at the entity level as they may deduct dividends paid to investors. REITs generally may not engage in an active business. REITs have been	No provision.	A safe harbor for the sale of timberland is provided under which, if requirements are met, a sale of such property will not be treated as a prohibited transaction

Provision	Present Law	House Bill	Senate Amendment
	formed to hold land on which trees are grown. The IRS has issued private letter rulings stating the income from the sale of uncut timber that can qualify for capital gain treatment can also be qualified REIT income. A 100 percent penalty tax is imposed on net income of a REIT from the sale of property held for sale to customers in the ordinary course of business (a "prohibited transaction").		for a REIT. The property must have been held for at least four years in the business of producing timber. Certain limits on the amount of sales or the percent of aggregate adjusted basis of property sold, as well as limits on certain expenditures, also must be met. Effective date.–Sales after date of enactment.
F. Distributions from Publicly Traded Partnerships Treated as Qualifying Income of Regulated Investment Company (sec. 284 of the House bill and sec. 899 of the Senate amendment)	One of the requirements for a RIC to qualify for conduit treatment is that at least 90 percent of its gross income must be dividends, interest, and other specifically listed types of income. A "look-through" rule applies in determining whether income received from a partnership meets the 90 percent test.	Modifies the 90-percent test to include as qualifying income of a RIC the income derived from a publicly traded partnership. Modifies the look-through rule to apply to partnerships other than publicly traded partnerships. Effective date.–Taxable years beginning after date of enactment.	Same as the House bill.
G. Improvements Related to REITs (sec. 285 of the House bill)	REITs are treated in substance as pass-through entities by allowing a deduction of dividends paid to shareholders. (1) A REIT must satisfy numerous tests on a continuing basis or will	(1) A REIT may avoid disqualification for certain failures of the REIT requirements, provided	No provision.

Provision	Present Law	House Bill	Senate Amendment
	become taxable as a regular corporation.	that: a) the failure was due to reasonable cause and not willful neglect; b) the failure is corrected; and c) except for certain de minimis failures, a penalty amount is paid. Effective date.–Taxable years beginning after date of enactment.	
	(2) A REIT may avoid disqualification by paying a deficiency dividend following an IRS or court determination that the REIT has failed to distribute the required amount of its income.	(2) A REIT may declare a correcting deficiency dividend without awaiting an IRS or court determination. Effective date.–Taxable years beginning after date of enactment.	No provision.
	(3) A REIT generally cannot own securities representing more than 10 percent of the voting power or 10 percent of the value of the securities of any one issuer. An exception is made for certain "straight debt" securities.	(3) Modifies and broadens the definition of "straight debt" securities. Effective date.–Taxable years beginning after December 31, 2000, except that certain "look through" rules for partnerships are effective for taxable years beginning after the date of enactment.	No provision.
	(4) A REIT is permitted to own more than 10 percent of the vote or value of the securities of a "taxable REIT subsidiary" (TRS) and still	(4) Specific safe harbor testing dates and rules are provided for determining whether 90 percent of a REIT property is rented to	No provision.

Provision	Present Law	House Bill	Senate Amendment
	can receive rent from the TRS that is treated as qualified REIT rental income, provided certain requirements are met. One requirement for qualified rents received from a TRS is that at least 90 percent of any REIT property rented to a TRS is rented to unrelated persons and that rents paid by any related person are substantially comparable to unrelated party rents.	unrelated persons and whether the rents paid by unrelated persons are substantially comparable to unrelated party rents. Effective date.–Taxable years beginning after December 31, 2000.	
	(5) A 100-percent excise tax is imposed on certain non-arm's length transactions between a REIT and a TRS. A special rule allows rents from a TRS to a REIT to be exempt from the 100-percent excise tax if rents are for customary services performed by the TRS	(5) The safe harbor exempting rents from a 100-percent excise tax if for customary services is replaced with a requirement that the REIT pay the TRS at least 150 percent of the cost to the TRS of providing any services. Effective date.–Taxable years beginning after date of enactment.	No provision.
	(6) Certain payments to a REIT under certain hedging arrangements to reduce interest rate risks on certain REIT indebtedness are treated as qualifying income for purposes of a test requiring a REIT to receive 95 percent of its gross income from certain types of income.	(6) The definition of hedging arrangements is generally conformed to rules provided elsewhere in the Code. Income from such hedging transactions is excluded from both the numerator and the denominator of the 95 percent of gross income test.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	(7) A REIT is required to distribute 95 percent of its gross income. A tax is applied to the extent the REIT fails to distribute 90 percent of gross income.	Effective date.–Taxable years beginning after the date of enactment. (7) The application of the tax on inadequate distributions is revised to refer to a 95 percent fraction rather than a 90 percent fraction. Effective date.–Taxable years beginning after the date of enactment.	No provision.
H. Treatment of Certain Dividends of Regulated Investment Companies (sec. 286 of the House bill)	Regulated investment companies A RIC generally pays no income tax because it is permitted to deduct dividends paid to its shareholders in computing its taxable income. A RIC generally may pass through to its shareholders the character of its long-term capital gains. U.S. source investment income of foreign persons In general.–A flat 30-percent withholding tax generally is imposed on the gross amount of U.S.-source investment income payments, such as interest, dividends, rents, royalties or similar types of income, to	Interest-related dividends Provides that a RIC that earns certain interest income that would not be subject to U.S. tax if earned by a foreign person directly may, to the extent of such income, designate a dividend it pays as derived from such interest income. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, as if the foreign person had earned the interest directly. Short-term capital gains dividends Also provides that a RIC that earns an excess of net short-term capital gains over net long-term capital	No provision.

Provision	Present Law	House Bill	Senate Amendment
	nonresident alien individuals and foreign corporations. Interest.–Payments of U.S.-source interest that is not effectively connected with a U.S. trade or business generally are subject to the 30-percent withholding tax, although there are certain exceptions to that rule. Capital gains.–Foreign persons generally are not subject to U.S. tax on gain realized on the disposition of stock or securities issued by a U.S. person, unless the gain is effectively connected with the conduct of a U.S. trade or business. A RIC may elect not to withhold on a distribution to a foreign person representing a capital gain dividend. Gain or loss of a foreign person from the disposition of a U.S. real property interest (including interests in U.S. real property and U.S. real property holding companies) is subject to net basis tax as if the taxpayer were engaged in a trade or business within the United States and the gain or loss were effectively connected with such trade or business.	losses, which excess would not be subject to U.S. tax if earned by a foreign person, generally may, to the extent of such excess, designate a dividend it pays as derived from such excess. A foreign person who is a shareholder in the RIC generally would treat such a dividend as exempt from gross-basis U.S. tax, as if the foreign person had realized the excess directly. As under present law for distributions from REITs, also provides that any distribution by a RIC to a foreign person shall, to the extent attributable to gains from sales or exchanges by the RIC of an asset that is considered a U.S. real property interest, be treated as gain recognized by the foreign person from the sale or exchange of a U.S. real property interest. Also extends the special rules for domestically-controlled REITs to domestically-controlled RICs. Estate tax treatment.–Also provides that the estate of a foreign decedent is exempt from U.S. estate tax on a transfer of stock in the RIC in the proportion that the assets held by the RIC are debt obligations,	

Provision	Present Law	House Bill	Senate Amendment
	Estate taxation.–Decedents who were U.S. citizens or residents generally are subject to Federal estate tax on all property, wherever situated. Nonresident decedents who were not U.S. citizens are subject to estate tax only on their U.S. property. Treaties may reduce U.S. taxation on transfers by estates of nonresident decedents who are not U.S. citizens.	deposits, or other property that would generally be treated as situated outside the United States if held directly by the estate. Effective date.–In general, dividends with respect to taxable years of RICs beginning after December 31, 2004. With respect to the treatment of a RIC for estate tax purposes, estates of decedents dying after December 31, 2004. With respect to the treatment of RICs under section 897 (relating to U.S. real property interests), after December 31, 2004.	
I. Taxation of Certain Settlement Funds (sec. 287 of the House bill)	The cleanup of hazardous waste sites is sometimes funded by environmental "settlement funds" or escrow accounts established in consent decrees between the Environmental Protection Agency and the settling parties under the jurisdiction of a Federal district court. In general, a payment to a designated settlement fund that extinguishes a tort liability of the taxpayer will result in a deduction to the taxpayer. A designated settlement fund means a fund which is established pursuant to a court order, extinguishes the	Establishes that certain settlement funds are not subject to Federal income tax. To qualify, the settlement fund must be: (1) established pursuant to a consent decree entered by a judge of a Federal district court; (2) created for the receipt of settlement payments for the sole purpose of resolving claims under Comprehensive Environmental Response, Compensation and Liability Act of 1980; and (3) controlled (in terms of expenditures of contributions and	No provision.

Provision	Present Law	House Bill	Senate Amendment
	taxpayer's tort liability, is managed and controlled by persons unrelated to the taxpayer, and in which the taxpayer does not have a beneficial interest. Present law provides that nothing in any provision of law is to be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax.	earnings thereon) by the government or an agency or instrumentality thereof. Also, upon termination, any remaining funds must be disbursed to such government entity and used in accordance with applicable law. Effective date.–Taxable years beginning after December 31, 2004.	
J. Expand Human Clinical Trial Expenses Qualifying for the Orphan Drug Tax Credit (sec. 288 of the House bill)	Taxpayers may claim a 50-percent credit for expenses related to human clinical testing of drugs for the treatment of certain rare diseases and conditions. Qualifying expenses are those paid or incurred by the taxpayer after the date on which the drug is designated as a potential treatment for a rare disease or disorder by the Food and Drug Administration ("FDA").	Expands qualifying expenses to include those expenses related to human clinical testing paid or incurred after the date on which the taxpayer files an application with the FDA for designation of the drug as a potential treatment for a rare disease or disorder, if the drug receives FDA designation before the due date (including extensions) for filing the tax return for the taxable year in which the application was filed with the FDA. Effective date.–Expenditures paid or incurred after the date of enactment.	No provision.

Provision	Present Law	House Bill	Senate Amendment
K. Modification of Excise Tax on Bows and Arrows (sec. 289 of House Bill and sec. 305 of the Senate amendment)	An excise tax of 11 percent is imposed on the sale by a manufacturer, producer, or importer of any bow with a draw weight of 10 pounds or more. An excise tax of 12.4 percent is imposed on the sale by a manufacturer or importer of any shaft, point, nock, or vane designed for use as part of an arrow which after its assembly is: (1) over 18 inches long; or (2) designed for use with a taxable bow (if shorter than 18 inches). No tax is imposed on finished arrows. An 11-percent excise tax also is imposed on any part of an accessory for taxable bows and on quivers for use with arrows: (1) over 18 inches long; or (2) designed for use with a taxable bow (if shorter than 18 inches).	Increases the draw weight for a taxable bow from 10 pounds or more to a peak draw weight of 30 pounds or more. Imposes an excise tax of 12 percent on arrows generally. Subjects certain broadheads (a type of arrow point) to an excise tax equal to 11 percent of the sales price instead of 12.4 percent. The present law 12.4-percent excise tax on certain arrow components (excluding broadheads) is unchanged. Effective date.–Articles sold by the manufacturer, producer, or importer after December 31, 2004.	Same as the House bill except for effective date. Effective date.–Articles sold by the manufacturer, producer, or importer after the date which is 30 days after the date of enactment.
L. Repeal Excise Tax on Fishing Tackle Boxes (sec. 290 of the House bill)	A 10-percent manufacturer's excise tax is imposed on specified sport fishing equipment. Examples of taxable equipment include fishing rods and poles, fishing reels, artificial bait, fishing lures, line and hooks, and fishing tackle boxes. Revenues from the excise tax on sport fishing equipment are deposited in the Sport Fishing	Repeals the excise tax on fishing tackle boxes. Effective date.–Articles sold by the manufacturer, producer, or importer after December 31, 2004.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	Account of the Aquatic Resources Trust Fund. Monies in the fund are spent, subject to an existing permanent appropriation, to support Federal-State sport fish enhancement and safety programs.		
M. Repeal of Excise Tax on Sonar Devices Suitable for Finding Fish (sec. 291 of the House bill)	A 10-percent manufacturer's excise tax generally is imposed on the sale of specified sport fishing equipment. However, a 3-percent rate applies to the sale of electric outboard motors and sonar devices suitable for finding fish. Further, the tax imposed on the sale of sonar devices suitable for finding fish is limited to $30. A sonar device suitable for finding fish does not include any device that is a graph recorder, a digital type, a meter readout, a combination graph recorder, or combination meter readout. Revenues from the excise tax on sport fishing equipment are deposited in the Sport Fishing Account of the Aquatic Resources Trust Fund. Monies in the fund are spent, subject to an existing permanent appropriation, to	Repeals the excise tax on all sonar devices suitable for finding fish. Effective date.–Articles sold by the manufacturer, producer, or importer after December 31, 2004.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	support Federal-State sport fish enhancement and safety programs.		
N. Income Tax Credit for Cost of Carrying Tax-Paid Distilled Spirits in Wholesale Inventories (sec. 292 of the House bill)	Excise taxes on distilled spirits are imposed at a point in the chain of distribution before the product reaches the retail (consumer) level. No tax credits are provided for business costs associated with having tax-paid products in inventory. Rather, excise tax that is included in the purchase price of a product is treated the same as the other components of the product cost (i.e., deductible as a cost of goods sold).	Creates a new income tax credit for eligible wholesale distributors of distilled spirits. An eligible wholesaler is any person who holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits. The credit is calculated by multiplying the number of cases of bottled distilled spirits by the average tax-financing cost per case for the most recent calendar year ending before the beginning of the taxable year. A case is 12 80-proof 750-milliliter bottles. The average tax-financing cost per case is the amount of interest that would accrue at corporate overpayment rates during an assumed 60-day holding period on an assumed tax rate of $22.83 per case of 12 750-milliliter bottles. The credit only applies to domestically bottled distilled spirits purchased directly from the bottler of such spirits. The credit is in addition to present-law rules allowing tax included in inventory	No provision.

Provision	Present Law	House Bill	Senate Amendment
		costs to be deducted as a cost of goods sold. The credit cannot be carried back to a taxable year beginning before January 1, 2005. Effective date.–Taxable years beginning after December 31, 2004.	
O. Suspension of Occupational Taxes Relating to Distilled Spirits, Wine, and Beer (sec. 293 of the House bill)	As part of a broader Federal tax and regulatory structure governing the production and marketing of alcoholic beverages, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. The special occupational taxes are payable annually, on July 1 of each year, and range from $250 per year for retail dealers to $1,000 per year per premise for producers. All wholesale or retail dealers in liquors, wine or beer are required to keep records of their transactions. There are penalties for failing to comply with the recordkeeping requirements.	The special occupational taxes on producers and marketers of alcoholic beverages are suspended for a three-year period, July 1, 2004 through June 30, 2007. Present-law recordkeeping and registration requirements will continue to apply, notwithstanding the suspension of the special occupation taxes. In addition, during the suspension period, it shall be unlawful for any dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is subject to the recordkeeping requirements, except that a limited retail dealer may purchase distilled spirits for resale from a retail dealer in liquors, as permitted under present law.	No provision.

Provision	Present Law	House Bill	Senate Amendment
		Effective date.–July 1, 2004.	
P. Modification of Unrelated Business Income Limitation on Investment in Certain Debt-Financed Properties of Small Business Investment Companies (sec. 294 of the House bill and sec. 642 of the Senate amendment)	Tax-exempt organizations that invest in small business investment companies (SBICs) that (1) are treated as partnerships, and (2) incur debt that is held or guaranteed by the Small Business Administration, may be subject to unrelated business income tax on their distributive shares of income from the small business investment company because of the debt-financed property rules.	Excludes from the debt-financed property rules indebtedness incurred by an SBIC that is evidenced by a debenture issued by the SBIC under section 303(a) of the Small Business Investment Act of 1958 and that is held or guaranteed by the Small Business Administration. The exclusion does not apply during any period that any exempt organization (other than a government) owns more than 25 percent of the SBIC, or exempt organizations (including governments other than the Federal government) own in the aggregate 50 percent or more of the SBIC. Effective date.–SBICs formed after the date of enactment.	Same as the House bill except: (1) does not provide limitations on SBIC ownership percentages held by exempt organizations; and (2) effective date. Effective date.–Acquisitions of property made on or after the date of enactment.
Q. Election to Determine Taxable Income from Certain International Shipping Activities Using Per Ton Rate (sec. 295 of the House bill)	Generally, foreign corporations are taxed only on income, including income from shipping operations, which is "effectively connected" with the conduct of a U.S. trade or business. Such income generally is taxed in the same manner and at the same rates as the income of a U.S. corporation.	Generally allows corporations to elect a "tonnage tax" on their taxable income from certain shipping activities in lieu of the U.S. corporate income tax. Electing entities are only subject to tax at the maximum corporate income tax rate on a notional amount based on	No provision.

Provision	Present Law	House Bill	Senate Amendment
	A four-percent tax is imposed on the amount of a foreign corporation's U.S. gross transportation income, which includes income from the use (or hiring or leasing for use) of a vessel and income from services directly related to the use of a vessel. The tax does not apply, however, to U.S. gross transportation income that is treated as income effectively connected with the conduct of a U.S. trade or business. The taxes imposed on income from shipping operations may be limited by an applicable U.S. income tax treaty or by an exemption of a foreign corporation's international shipping operations income in instances where a foreign country grants an equivalent exemption.	the net tonnage of a corporation's qualifying vessels. No deductions are allowed against the taxable income of an electing corporation from qualifying shipping activities, and no credit is allowed against the tax imposed under the tonnage tax regime. No deduction is allowed for any net operating loss attributable to the qualifying shipping activities of a corporation. No gain is generally recognized upon the disposition of qualifying shipping assets, except to the extent that the amount realized upon such sale or disposition exceeds the cost of the replacement qualifying shipping assets. Effective date.–Taxable years beginning after the date of enactment.	

Provision	Present Law	House Bill	Senate Amendment
R. Charitable Contribution Deduction for Certain Expenses in Support of Native Alaskan Subsistence Whaling (sec. 296 of the House bill)	In computing taxable income, a charitable contribution deduction generally is available for contributions made to a qualified charitable organization or a governmental entity. No charitable contribution deduction is allowed for traveling expenses incurred while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel, or for a contribution of services.	Provides a charitable contribution deduction for certain reasonable and necessary sanctioned whaling expenses incurred by an individual designated by the Alaska Whaling Commission as a whaling captain. Imposes certain substantiation requirements. Deduction is limited to $10,000 per year. Effective date.–Contributions made after December 31, 2004.	No provision.

Provision	Present Law	House Bill	Senate Amendment
VIII. GENERAL PROVISIONS			
A. Modification to Qualified Small Issue Bonds (sec. 301 of the Senate amendment)	Qualified small-issue bonds are used to finance private business manufacturing facilities or the acquisition of land and equipment by certain farmers. In general, no more than $1 million of small-issue bond financing may be outstanding at any time for property of a business in the same municipality or county. Generally, this $1 million limit may be increased to $10 million if all other capital expenditures of the business in the same municipality or county over a six-year period are counted toward the limit. Other rules apply.	No provision.	Increases the maximum allowable amount of total capital expenditures by an eligible business in the same municipality or county during the six-year period from $10 million to $20 million. As under present law, no more than $10 million of bond financing may be outstanding at any time for property of an eligible business (including related parties) located in the same municipality or county. Other present-law limits continue to apply. Effective date.–Bonds issued after the date of enactment.
B. Expensing of Investment in Broadband Equipment (sec. 302 of the Senate amendment)	A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under the Modified Accelerated Cost Recovery System (MACRS), which determines depreciation by applying specific recovery periods, placed-in-service conventions, and depreciation methods to the cost of	No provision.	Provides that expenses incurred by the taxpayer for qualified broadband expenditures during the twelve-month period following the date of enactment with respect to qualified equipment may be deducted in full in the year in which the equipment is placed in service. Effective date.–Expenditures incurred after the date of enactment

Provision	Present Law	House Bill	Senate Amendment
	various types of depreciable property.		and before the date which is 12 months after the date of enactment.
C. Exemption of Natural Aging Process in Determination of Production Period for Distilled Spirits Under Section 263A (sec. 303 of the Senate amendment)	Taxpayers are required to capitalize direct costs and an allocable portion of indirect costs of production of real or tangible personal property. Interest paid or incurred during the production period of certain types of property that is allocable to the production of the property must be capitalized. For this purpose, the production period begins when production is commenced and ends when the property is ready to be placed in service or is ready to be held for sale. For example, in the case of property such as tobacco, wine, or whiskey that is aged before it is sold, the production period includes the aging period.	No provision.	Provides that, in calculating interest capitalization under section 263A(f), the production period for distilled spirits shall be determined without regard to any period allocated during the natural aging process. Effective date.–Production periods beginning after the date of enactment.
D. Modification of Active Business Definition Under Section 355 (sec. 304 of the Senate amendment)	One requirement for a corporation to distribute stock of a subsidiary to its shareholders without the recognition of any gain is that both the distributing and distributed corporation must meet a five-year "active business" test immediately after the distribution. For this purpose, a corporation that is not itself directly engaged in an active	No provision.	Provides that the active business test is applied, for each of the distributing and distributed corporations, by including the activities of the entire affiliated group (as defined) of which that corporation is the common parent immediately after the distribution.

Provision	Present Law	House Bill	Senate Amendment
	business will meet the test only if substantially all of its assets consist of stock and securities of a corporation it controls that is so engaged.		Effective date.–Distributions after date of enactment with three exceptions. Unless the taxpayer elects otherwise, the provision does not apply to distributions: (1) made pursuant to an agreement that is binding on the date of enactment and at all times thereafter; (2) described in a ruling request submitted to the IRS on or before such date; or (3) described on or before such date in a public announcement of in a filing with the SEC. Also applies to distributions prior to the date of enactment, solely for purposes of determining whether, after such date, the taxpayer continues to satisfy the active business requirement (e.g., in the case of a restructuring).
E. Modification to Cooperative Marketing Rules to Include Value Added Processing Involving Animals (sec. 306 of the Senate amendment)	Cooperatives generally are treated similarly to pass-through entities in that the cooperative is not subject to corporate income tax to the extent the cooperative timely pays patronage dividends. Farmers' cooperatives are tax-exempt and include cooperatives of farmers, fruit growers, and like organizations that are organized	No provision.	Provides that marketing products of members or other producers includes feeding products of members or other producers to cattle, hogs, fish, chickens, or other animals and selling the resulting animals or animal products.

Provision	Present Law	House Bill	Senate Amendment
	and operated on a cooperative basis for the purpose of marketing the products of members or other producers and remitting the proceeds of sales, less necessary marketing expenses, on the basis of either the quantity or the value of products furnished by them. In determining whether a cooperative qualifies as a tax-exempt farmers' cooperative, the IRS apparently has taken the position that a cooperative is not marketing certain products of members or other producers if the cooperative adds value through the use of animals (e.g., farmers sell corn to a cooperative which is fed to chickens that produce eggs sold by the cooperative).		Effective date.–Taxable years beginning after the date of enactment.
F. Extension of Declaratory Judgment Procedures to Farmers' Cooperative Organizations (sec. 307 of the Senate amendment)	In limited circumstances, declaratory judgment procedures generally permit a taxpayer to seek judicial review of an IRS determination prior to the issuance of a notice of deficiency and prior to payment of tax. Examples of available declaratory judgment procedures include disputes involving the initial or continuing classification of a tax-exempt organization, a private foundation, or a private operating foundation,	No provision.	Extends the declaratory judgment procedures to cooperatives. Such a case may be commenced in the U.S. Tax Court, a U.S. district court, or the U.S. Court of Federal Claims, and such court would have jurisdiction to determine a cooperative's initial or continuing qualification as a farmers' cooperative. Effective date.–Pleadings filed after the date of enactment.

Provision	Present Law	House Bill	Senate Amendment
	the qualification of retirement plans, the value of gifts, the status of certain governmental obligations, or eligibility of an estate to pay tax in installments. In such cases, taxpayers may challenge adverse determinations by commencing a declaratory judgment action. Declaratory judgment procedures are not available to a cooperative with respect to an IRS determination regarding its status as a farmers' cooperative under section 521.		
G. Temporary Suspension of Personal Holding Company Tax (sec 308 of the Senate amendment)	In addition to the regular corporate level tax, a tax at the maximum individual tax rate is imposed on undistributed "personal holding company" income. A corporation is subject to this tax if it meets specified ownership (generally, closely held) and income (generally, passive income) requirements.	No provision.	Temporarily repeals the personal holding company tax. Effective date.–Taxable years beginning after December 31, 2003, and before January 1, 2009.

Provision	Present Law	House Bill	Senate Amendment
H. 5-year NOL Carryback for 2003 NOLs if Taxpayer Elects Out of Bonus Depreciation as Modified; Extend Temporary Suspension of 90-Percent Limit on Minimum Tax NOLs (sec. 310 of the Senate amendment)	In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years. The Job Creation and Worker Assistance Act of 2002 ("JCWAA") provided a temporary extension of the general NOL carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. The AMT rules provide that a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income ("AMTI") by more than 90 percent of the AMTI (determined without regard to the NOL deduction). JCWAA also provided that an NOL deduction attributable to NOL carrybacks arising in taxable years ending in 2001 and 2002, as well as NOL carryforwards to these taxable years, may offset 100 percent of a taxpayer's AMTI.	No provision.	Extends the five-year carryback of NOLs to NOLs arising in taxable years ending in 2003, provided that the taxpayer elects out of bonus depreciation. Taxpayers with taxable years ending during January are permitted to apply the provision to tax years ending during January 2004 rather than tax years ending during January 2003. Also allows an NOL deduction attributable to NOL carrybacks arising in taxable years ending in 2003, as well as NOL carryforwards to these taxable years, to offset 100 percent of a taxpayer's AMTI. Includes technical corrections to the NOL provisions of JCWAA. Effective date.–Net operating losses for taxable years ending after December 31, 2002.
I. Manufacturers' Jobs Credit for Employing TAA Certified Employees (sec. 313 of the Senate amendment)	There is no specific tax credit to businesses for employing TAA-certified employees.	No provision.	Provides a tax credit to businesses for a portion of the wages they pay to an eligible TAA recipient.

Provision	Present Law	House Bill	Senate Amendment
			Effective date.–Taxable years beginning after December 31, 2003 and prior to January 1, 2006.
J. Qualified Green Building and Sustainable Design Project Bonds (sec. 314 of the Senate amendment)	In certain circumstances, States or local governments are permitted to act as conduits providing tax-exempt financing for private activities. In most cases, annual volume caps restrict the aggregate volume of tax-exempt private activity bonds that may be issued in a State. States or local governments may issue tax-exempt "exempt-facility bonds" to finance property for certain private businesses.	No provision.	Authorizes the issuance of "qualified green building and sustainable design project bonds" between December 31, 2004 and October 1, 2009. Property eligible for financing with these bonds includes any project designated by Treasury, after consultation with the Environmental Protection Agency ("EPA"), as a green building and sustainable design project that meets certain requirements relating to project size, design, location, and State and/or local government financial contribution. Of the projects designated, at least one of the projects must be located in, or within a 10-mile radius of, an empowerment zone and at least one of the projects must be located in a "rural State." Qualified green building and sustainable design project bonds are not subject to the State tax-exempt private activity bond volume cap. Instead, Treasury may allocate authority to issue qualified

Provision	Present Law	House Bill	Senate Amendment
			green building and sustainable design project bonds up to an aggregate total of $2 billion for all projects for the period between December 31, 2004 and October 1, 2009. Effective date.–Bonds issued after December 31, 2004.
K. Special Rules for Certain Film and Television Production (sec. 321 of the Senate amendment)	The cost of a film, videotape, or similar property that is produced by a taxpayer may not be recovered under either the MACRS depreciation provisions or the section 197 amortization provisions. Instead, the cost recovery of such property is determined using the straight-line method. In addition, the cost of motion picture films, sound recordings, copyrights, books, and patents is eligible to be recovered using the income forecast method of depreciation.	No provision.	Provides an election to deduct up to $15 million per production of qualifying film and television production expenditures in the year the expenditure is incurred. The limit is increased to $20 million if a significant amount of the expenditures are incurred in certain distressed areas. Expenditures in excess of the limit must be recovered over a three-year period using the straight-line method beginning in the month such property is placed in service. A qualified film or television production is defined as any production of a motion picture, miniseries, scripted dramatic television episode, or movie of the week, provided at least 75 percent of the total compensation expended on the production are for services

Provision	Present Law	House Bill	Senate Amendment
			performed in the United States. With respect to property that is one or more episodes in a television series, only the first 44 episodes qualify for the election. Effective date.–Qualifying productions started after the date of enactment, with a sunset for productions commencing after December 31, 2008.
L. Modification of Application of the Income Forecast Method of Depreciation (sec. 322 of the Senate amendment)	The cost of motion picture films, sound recordings, copyrights, books, and patents is eligible to be recovered using the income forecast method of depreciation. Under the income forecast method, a property's depreciation deduction for a taxable year is determined by multiplying the adjusted basis of the property by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income expected to be generated prior to the close of the tenth taxable year after the year the property was placed in service. Any costs that are not recovered by the end of the tenth taxable year after the property was placed in	No provision.	Clarifies that, for purposes of the income forecast method, participations and residuals may be included in the adjusted basis of the property beginning in the year such property is placed in service, but only if such participations and residuals relate to income to be derived from the property before the close of the tenth taxable year following the year the property is placed in service. Participations and residuals are defined as costs the amount of which, by contract, varies with the amount of income earned in connection with such property. Also clarifies that the income from the property to be taken into account is the gross income from

Provision	Present Law	House Bill	Senate Amendment
	service may be taken into account as depreciation in such year. The adjusted basis of property that may be taken into account under the income forecast method only includes amounts that satisfy the economic performance standard of section 461(h).		such property, not reduced by distribution costs. Grants authority to Treasury to prescribe appropriate adjustments to the basis of property to reflect the treatment of participations and residuals under the provision. Clarifies that, rather than accounting for participations and residuals as a cost of the property under the income forecast method of depreciation, the taxpayer may choose to deduct those payments as they are paid. Effective date.–Property placed in service after the date of enactment.