

**SUMMARY OF THE REVENUE PROVISIONS OF
THE CONFERENCE AGREEMENT ON H.R. 2488,
THE “TAXPAYER REFUND AND RELIEF ACT OF 1999”**

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of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

This document¹ prepared by the staff of the Joint Committee on Taxation, provides a title-by-title summary of the conference agreement on H.R. 2488, the “Taxpayer Refund and Relief Act of 1999,” as passed by the House and the Senate on August 5, 1999.²

H.R. 2488 was passed by the House on July 22, 1999,³ and the bill, as amended by the provisions of S. 1429 as amended by the Senate⁴ was passed by the Senate on July 30, 1999.

H.R. 2488 and S. 1429, respectively, were reported in response to the reconciliation instructions in the Budget Resolution for Fiscal Year 2000 (11. Con. Res. 68).

¹ This document may be cited as follows: Joint Committee on Taxation, *Summary of the Revenue Provisions of Conference Agreement on H.R. 2488, the “Taxpayer Refund and Relief Act of 1999”* (JCX-63-99), August 6, 1999.

² See the conference report on H.R. 2488 (H. Rept. 106-289, August 4, 1999).

³ H.R. 2488 was reported by the House Committee on Ways and Means on July 16, 1999 (H. Rept. 106-238). H.R. 2488 was amended by a manager’s amendment and was passed by the House, as amended, on July 22, 1999.

⁴ S. 1429 was reported by the Senate Committee on Finance on July 23, 1999 (S. Rept 106-120). S. 1429, as amended by the Senate, was approved by the Senate on July 30, 1999, and the provisions were included as a Senate amendment to H.R. 2488 and sent to conference.

**SUMMARY OF REVENUE PROVISIONS OF H.R. 2488,
THE TAXPAYER REFUND AND RELIEF ACT OF 1999**

TITLE I. BROAD-BASED AND FAMILY TAX RELIEF

**A. Reduction in Individual Income Tax Rates and Expansion of
Lowest Individual Regular Income Tax Rate Bracket**

The conference agreement reduces the 15-percent individual regular income tax rates to 14.5 percent for 2001 and 2002 and to 14 percent in 2003 and thereafter. Beginning in 2005, all other individual income tax rates (including individual AMT rates) are reduced by 1 percentage point.

The conference agreement widens the 14-percent regular income tax rate bracket for unmarried individuals and head of households by \$3,000 for taxable years beginning after December 31, 2005. For taxable years beginning after December 31, 2006, the \$3,000 amounts are indexed for inflation. (See, also, the provision described in B., below, to widen the 14-percent bracket for married couples filing joint returns.)

**B. Marriage Penalty Relief Provisions Relating to the Rate
Structure and Standard Deduction Amounts**

- Basic standard deduction--The conference agreement increases the basic standard deduction for a married couple filing a joint return to twice the basic standard deduction for an unmarried individual. This increase is phased in by increasing the standard deduction for a married couple filing a joint return as follows: (1) 1.728 times the standard deduction for an unmarried individual in 2001; (2) 1.801 times the standard deduction for an unmarried individual in 2002; (3) 1.870 times the standard deduction for an unmarried individual in 2003; (4) 1.935 times the standard deduction for an unmarried individual in 2004; and (5) 2,000 times the standard deduction for an unmarried individual in 2005 and thereafter. Also, the basic standard deduction for a married taxpayer filing separately will be increased so that it will continue to equal one-half of the basic standard deduction for a married couple filing jointly. The provision is effective for taxable years beginning after December 31, 2000.
- Width of 14-percent rate bracket for a married couple filing a joint return--The conference agreement increases the size of the 14-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for an unmarried individual. This increase is phased-in by increasing the lowest regular income tax rate bracket for a married couple filing a joint return as follows: (1) 1.737 times the width of the lowest regular income tax rate bracket for an unmarried individual in 2005; (2) 1.761 times the width of the lowest regular income tax rate bracket for an unmarried individual in 2006; (3) 1.881 times the width of the lowest regular income tax rate bracket for an unmarried individual in 2007; and (4) 2.000 times

the width of the lowest regular income tax rate bracket for an unmarried individual in 2008 and thereafter. The provision is effective for taxable years beginning after December 31, 2004.

C. Expand the Exclusion from Income for Certain Foster Care Payments

The conference agreement expands the list of persons eligible to make qualified foster care payments to include a State, a political subdivision of a State, or a qualified foster care placement agency, whether taxable or tax-exempt. The conference agreement also expands the list of persons eligible to place foster care individuals to allow placements by a State, a political subdivision of a State, or a qualified foster care placement agency. The provision is effective for taxable years beginning after December 31, 1999.

D. Extension and Expansion of the Adoption Credit

The conference agreement provides that the maximum credit for special needs adoptions is increased to \$10,000 from \$6,000. In addition, taxpayers making a special needs adoption are deemed to have paid or incurred \$10,000 of qualified expenses in all cases. The provision is effective for taxable years beginning after December 31, 2000.

E. Increase and Expand the Dependent Care Credit

The conference agreement makes three changes to the dependent care tax credit. First, the maximum credit percentage is increased from 30 percent to 35 percent (in 2001-2005) and 40 percent (2006 and thereafter) for taxpayers with AGI of \$30,000 or less. The maximum credit rate is phased-down by one percentage point for each \$1,000 of AGI, or fraction thereof, between \$30,001 and \$49,000. Thus, the credit percentage is 20 percent for taxpayers with AGI of \$49,001 or greater. Second, beginning in 2001, the maximum amount of eligible employment-related expenses (\$2,400/\$4,800) is indexed for inflation. Finally, beginning in 2006, the conference agreement extends up to \$960 of additional credit (\$1,920 for two or more qualifying dependents) to taxpayers with qualifying dependents under the age of one. This additional credit is available regardless of whether the taxpayer actually incurred any out-of-pocket child care expenses.

F. Marriage Penalty Relief Relating to the Earned Income Credit

The conference agreement increases the beginning point of the phase out of the earned income credit ("EIC") for married couples filing a joint return by \$2,000, effective for taxable years beginning after December 31, 2005. The effect of the increase in the beginning point of the phase-out range is to increase the EIC for taxpayers in the phase-out range by an amount up to \$2,000 times the phase-out rate. The provision also makes taxpayers with earnings up to \$2,000 beyond the present-law phase-out range newly eligible for the EIC.

G. Individual Alternative Minimum Tax Provisions

The conference agreement allows personal credits to be taken against the entire regular tax (without regard to the minimum tax, effective for taxable years after 1998) for the taxable years beginning after December 31, 1998. The conference agreement also phases out and repeals the individual minimum tax.

The phase-out of the AMT is effective for taxable years beginning after December 31, 2004. The repeal of the AMT is effective for taxable years beginning after December 31, 2007.

The conference agreement repeals the 90-percent limitation on the utilization of the AMT foreign tax credit for taxable years beginning after December 31, 2001.

TITLE II. SAVINGS AND INVESTMENT TAX RELIEF PROVISIONS

A. Individual Capital Gains

The conference agreement reduces the rate of tax on individual capital gains from 10 and 20 percent to 8 and 18 percent and reduces the rate of tax on unrecaptured depreciation from 25 percent to 23 percent for taxable years beginning after December 31, 1998. The conference agreement also allows individuals to index the basis of assets acquired after 1999 for inflation.

B. Apply Capital Gains Rates to Capital Gains Earned by Designated Settlement Funds

The conference agreement provides that capital gains of designated settlement funds are taxed at the individual capital gain rates effective for taxable years after December 31, 1999.

C. Exclusion of Gain on the Sale of a Principal Residence by a Member of the Uniformed Service or the Foreign Service of the United States or Certain Other Individuals Relocated Outside of the United States

Under the conference agreement, the five-year test period for ownership and use is suspended indefinitely during certain absences due to service in the uniformed services or the Foreign Service of the United States.

The conference agreement also suspends for up to five years, the five-year test period for an individual relocated for a period of more than 90 days outside of the United States by the individual's (or spouse's) employer. This conference agreement does not apply to self-employed individuals.

These provisions are effective for sales or exchanges of principal residences after the date of enactment.

D. Clarify the Tax Treatment of Income and Losses on Derivatives

The conference agreement adds three categories to the list of assets the gain or loss on which is treated as ordinary under section 1221. The new categories are: (1) commodities derivatives held by commodities derivatives dealers; (2) hedging transactions; and (3) supplies of a type regularly consumed by the taxpayer in the ordinary course of the taxpayer's trade or business. With respect to hedging transactions, the conference agreement replaces the present-law risk reduction standard with a risk management standard. The provision in the conference agreement is effective for any instrument held, acquired or entered into, transactions entered into, and supplies held or acquired on or after the date of enactment.

E. Treatment of Loss on Worthless Stock of Subsidiary

The conference agreement allows an ordinary loss on the worthless securities of a subsidiary corporation which is a bank or insurance company and is effective for stock becoming worthless in taxable years beginning after December 31, 1999.

F. Individual Retirement Arrangements

- Increase in IRA contribution limit--The conference agreement increases the annual dollar IRA contribution limit from \$2,000 to \$3,000 for 2001-2003, \$4,000 in 2004-2005, \$5,000 in 2006-2008, with indexing thereafter.
- Increase Roth IRA AGI limits--The AGI limits for Roth IRA contributions is increased to \$200,000 - \$210,000 for joint filers (the limit is \$100,000 - \$110,000 for all other filers), effective for taxable years beginning after December 31, 2002.
- Increase Roth IRA conversion limit--The conference agreement increases the AGI limit on conversions of traditional IRAs to Roth IRAs to \$200,000 for joint filers (the limit is \$100,000 for all other filers) for taxable years beginning after December 31, 2002.
- Deemed IRAs under employer plans--The conference agreement permits Roth IRA and traditional IRA contributions to be made to a separate account or annuity that is part of a qualified retirement plan or section 403(b) annuity, effective for plan years beginning after December 31, 2000.
- Catch-up contributions--The conference agreement allows individuals age 50 and older to make additional contributions to an IRA. The additional contribution is 10 percent of the otherwise applicable dollar limitation in 2001, 20 percent in 2002, 30 percent in 2003, 40 percent in 2004, and 50 percent in 2005 and thereafter. The provision is effective for taxable years beginning after December 31, 2000.

TITLE III. BUSINESS INVESTMENT AND JOB CREATION PROVISIONS

The conference agreement allows corporations to use minimum tax credits to offset 50 percent of their tentative minimum tax, but not below their regular tax liability for taxable years beginning after December 31, 2004.

The conference agreement repeals the 90-percent limitations on the utilization of the AMT foreign tax credit and the amount of net operating loss deduction for taxable years beginning after December 31, 2001.

TITLE IV. EDUCATION TAX RELIEF PROVISIONS

A. Expand Education Savings Accounts

The conference agreement increases the annual contribution limit to education IRAs (renamed “education savings accounts”) from \$500 to \$2,000 per beneficiary. The conference agreement expands the definition of qualified education expenses to include qualified elementary and secondary expenses, including certain homeschooling expenses. Further, the conference agreement allows contributions to be made on behalf of special needs beneficiaries after they reach age 18. The conference agreement also allows: (1) contributions for a taxable year to be made until April 15 of the following year; (2) coordination of distributions from education savings accounts with the HOPE and Lifetime Learning credits; and (3) contributions by corporations and other entities. The conference agreement provisions generally are effective for taxable years beginning after December 31, 2000.

B. Allow Tax-Free Distributions from State and Private Education Programs

The conference agreement expands the definition of “qualified tuition program” to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions). In the case of a qualified tuition program maintained by one or more private educational institutions, persons will be able to purchase tuition credits or certificates on behalf of a designated beneficiary, but will not be able to make contributions to a savings account plan. The provisions generally are effective after December 31, 1999.

Under the conference agreement, an exclusion from gross income is provided for distributions made in taxable years beginning after December 31, 1999, from qualified State tuition programs to the extent that the distribution is used to pay for qualified higher education expenses. This exclusion is extended to distributions from qualified tuition programs maintained by educational institutions for distributions made in taxable years after December 31, 2003. The conference agreement allows a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and to exclude from gross income amounts distributed from a qualified tuition

program on behalf of the same student as long as the distributions are not used for the same expenses for which a credit was claimed.

C. Eliminate Tax on Awards Under National Health Service Corps Scholarship Program, F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program, National Institutes of Health Undergraduate Scholarship Program and Certain State-Sponsored Scholarship Programs

The conference agreement provides that amounts received by an individual under the NHSC Scholarship Program, Armed Forces Scholarship Program, NIH Undergraduate Scholarship Program, and certain State-sponsored health scholarship programs determined by the Secretary of the Treasury to have substantially similar objectives to these programs are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient. The provision is effective for education awards received under the NHSC Scholarship Program, the Armed Forces Scholarship Program, and the NIH Undergraduate Scholarship Program after December 31, 1993. The provision is effective for awards received under State-sponsored programs designated by the Secretary after December 31, 1999.

D. Exclusion for Employer-Provided Educational Assistance

The conference agreement extends the exclusion for employer-provided educational assistance through 2003.

E. Liberalize Tax-Exempt Financing Rules for Public School Construction

The conference agreement increases from \$10 million to \$15 million the maximum annual issuance of governmental bonds by small State or local governments eligible for a special exception from the tax-exempt bond arbitrage rebate rules. The increase applies only where at least the excess over \$5 million of bonds issued is used for public school construction. The provision is effective for calendar years beginning after 1999.

The conference agreement extends from 24 months to 48 months the period during which proceeds of tax-exempt bonds to finance public school construction may be spent without losing eligibility for an exception from the tax-exempt bond arbitrage rebate rules. The provision is effective for bonds issued after 1999.

F. Student Loan Interest Deduction

The conference agreement increases the beginning point of the income phaseout for the student loan interest deduction for individual taxpayers from \$40,000 to \$45,000. For taxpayers filing joint returns, the conference agreement increases the beginning point of the income

phaseout to twice the beginning point of the income phaseouts applicable to single taxpayers. The conference agreement also repeals both the limit on the number of months during which interest paid on a qualified education loan is deductible and the restriction that nonmandatory payments of interest are not deductible. The provisions generally are effective for taxable years beginning after December 31, 1999.

G. Two-Percent Floor Not to Apply to Professional Development Expenses of Teachers

The conference agreement provides an exception to the two-percent floor on miscellaneous itemized deductions for the professional development expenses (not to exceed \$1,000) of elementary and secondary school teachers. Qualified professional development expenses are expenses for tuition, fees, books, supplies, equipment, and transportation required for enrollment in courses or professional conferences that are certified by the appropriate local educational agency as furthering the individual's teaching skills. The provision is effective for taxable years beginning after December 31, 2000 and ending before January 1, 2005.

TITLE V. HEALTH CARE TAX RELIEF PROVISIONS

A. Above-the-Line Deduction for Health Insurance Expenses

The conference agreement provides an above-the-line deduction for a percentage of the amount paid during the year for health insurance for the taxpayer and his or her spouse and dependents. The deductible percentage is: 25 percent in 2001-2004; 35 percent in 2005; 65 percent in 2006; and 100 percent in 2007 and thereafter. The deduction is not available to an individual for any month in which the individual is covered under an employer-sponsored health plan if at least 50 percent of the cost of the coverage is paid on a pre-tax basis. The deduction is not available with respect to certain limited types of coverage, such as dental and vision coverage. The provision is effective for taxable years beginning after December 31, 2000.

B. Provisions Relating to Long-Term Care Insurance

- Above-the-line-deduction--The conference agreement provides an above-the-line deduction for a percentage of the amount paid during the year for long-term care insurance which constitutes medical care (as defined under sec. 213) for the taxpayer and his or her spouse and dependents. The deductible percentage is: 25 percent in 2001-2004; 35 percent in 2005; 65 percent in 2006; and 100 percent in 2007 and thereafter. The deduction is not available to an individual for any month in which the individual is covered under an employer-sponsored long-term care plan if at least 50 percent of the cost of the coverage is paid on a pre-tax basis.
- Permit long-term care insurance to be offered in a cafeteria plan--The conference agreement provides that qualified long-term care insurance may be provided under a

cafeteria plan (subject to the premium caps applicable to the deduction) and that qualified long-term care services may be provided under a flexible spending arrangement. The provision is effective for taxable years beginning after December 31, 2001.

C. Additional Personal Exemption for Caretakers

The conference agreement provides an additional personal exemption to taxpayers who maintain a household including one or more parents or ancestors of the taxpayer, or the taxpayer's spouse, if such parent or ancestor has been certified to need long term care for a period which is at least 180 consecutive days and a portion of which occurs within the taxable year. The provision is effective for taxable years beginning after December 31, 1999.

D. Expand Human Clinical Trials Expenses Qualifying for the Orphan Drug Tax Credit

The conference agreement expands qualifying expenses to include those expenses related to human clinical testing 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. The provision is effective for expenditures after December 31, 1999.

E. Add Certain Vaccines Against Streptococcus Pneumoniae to the List of Taxable Vaccines; Reduce Vaccine Excise Tax

The conference agreement adds any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines effective after final CDC recommendation. The conference agreement also reduces the rate of tax applicable to all taxable vaccines from 75 cents per dose to 50 cents per dose for sales of vaccines after December 31, 2004.

F. Above-the-Line Deduction for Prescription Drug Insurance Coverage of Medicare Beneficiaries if Certain Medicare and Low-Income Assistance Provisions Are in Effect

The conference agreement provides that, in the case of individuals enrolled in Medicare, the term "medical expenses" includes formerly prescription drugs for purposes of the itemized deduction for medical expenses, effective with respect to taxable years beginning after December 31, 2002. In addition, the conference agreement provides an above-the-line deduction for prescription drug insurance for Medicare enrollees, effective contingent upon certain Medicare and low-income assistance provisions and the enactment of the provision relating to formerly prescription drugs.

TITLE VI. ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX RELIEF PROVISIONS

A. Reduction and Repeal of Estate, Gift, and Generation-Skipping Transfer Taxes

Under the conference agreement, the estate, gift, and generation-skipping transfer (“GST”) taxes are reduced until they are repealed in 2009. Beginning in 2001, the unified credit is replaced with a unified exemption, and the estate and gift tax rates above 53 percent and the 5-percent surtax (which phases out the benefit of the graduated rates) are repealed. In 2002, the rates above 50 percent are repealed. Beginning in 2003 and through 2006, each tax rate is reduced by 1 percentage point; in 2007, the each tax rate is reduced by 1.5 percentage point; and in 2008, each tax rate is reduced by 2 percentage points. The estate, gift, and GST taxes are repealed beginning in 2009, after which a carryover basis regime is phased in for transfers of assets from large estates. The first \$3 million of transfers to surviving spouses would receive a step up in basis.

B. Modify Generation-Skipping Transfer Tax Rules

The conference agreement modifies the GST tax rules as follows: (1) GST tax exemption is automatically allocated to transfers made during life that are “indirect skips,” which are transfers to GST trusts that are not direct skips. This provision applies to transfers subject to estate or gift tax made after December 31, 1999, and to estate tax inclusion periods ending after December 31, 1999. (2) Retroactive allocation of GST tax exemption is permitted when there is an unnatural order of death. This rule applies to deaths of non-skip persons occurring after the date of enactment. (3) Trusts holding property with an inclusion ratio greater than zero may be severed at any time in a “qualified severance,” in order to achieve a trust with an inclusion ratio of one and a trust with an inclusion ratio of zero. The severance provisions are effective for severances of trusts occurring after the date of enactment. (4) The valuation rules are modified such that, for timely and automatic allocations of GST tax exemption, the value of the property for purposes of determining the inclusion ratio is its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. (5) The Treasury Secretary is authorized and directed to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. (6) The conference agreement provides that substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption will suffice to establish that GST tax exemption was allocated to a particular transfer or trust.

C. Expand Estate Tax Rule for Conservation Easements

The conference agreement expands the availability of qualified conservation easements by modifying the distance requirements. The distance from which the land must be situated from a metropolitan area, national park, or wilderness area is increased from 25 to 50 miles, and the

distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The conference agreement also clarifies that the date for determining easement compliance is the date on which the donation is made.

TITLE VII. DISTRESSED COMMUNITIES AND INDUSTRIES PROVISIONS

A. Renewal Community Provisions

The conference agreement authorizes the Secretary of HUD to designate up to 20 renewal communities that would receive certain tax benefits for a seven-year period beginning January 1, 2001, and ending December 31, 2007. The tax benefits include: (1) a zero-percent capital gains tax rate on the sale of qualified assets held for more than five years; (2) family development accounts designed to encourage savings for qualified higher educational expenses, qualified first-time homebuyer costs, qualified business capitalization costs, and qualified medical expenses; (3) a commercial revitalization deduction for expenditures with respect to qualified revitalization buildings in a renewal community; (4) \$35,000 in additional section 179 expensing; (5) expensing of environmental remediation costs (for brownfields); and (6) an extension of the work opportunity tax credit to qualified individuals who live in a renewal community.

B. Provide That Federal Production Payments to Farmers Are Taxable in the Year Received

The conference agreement provides that an option to accelerate the receipt of any payment under a production flexibility contract will not accelerate the recognition of income unless exercised. The provision is effective for contracts in effect on the date of enactment.

C. Allow Net Operating Losses From Oil and Gas Properties to be Carried Back for Up to Five Years

The conference agreement allows independent oil and gas producers to carry back net operating losses for up to five years. Present-law carryforward rules are unaffected. The provision applies to net operating losses arising in taxable years beginning after 1998.

D. Deduction for Delay Rental Payments

The conference agreement provides that delay rental payments by oil and gas producers are currently deductible expenses, effective for taxable years beginning after 1999. Delay rental payments are amounts paid to continue oil or gas leases when production activities are delayed.

E. Election to Expense Geological and Geophysical Expenditures

The conference agreement provides that geophysical and geological costs associated with oil and gas production are currently deductible, effective for costs incurred in taxable years beginning after 1999.

F. Temporary Suspension of Limitation Based on 65 Percent of Taxable Income

The conference agreement suspends for six years, 1999 through 2004, a rule limiting percentage depletion deductions of oil and gas independent producers to 65 percent of their overall taxable income.

G. Modify Small Refiner Limit for Eligibility for Percentage Depletion Deductions

The conference agreement modifies a limit on the amount of refining that an oil or gas producer may engage in while maintaining the taxpayer's status as an independent producer eligible to claim percentage depletion deductions effective for taxable years beginning after December 31, 1999.

H. Increase the Maximum Dollar Amount of Reforestation Expenditures Eligible for Amortization and Credit

The conference agreement provides that for taxable years beginning in 2000 through 2003, the amount of reforestation expenditures eligible for the reforestation credit is limited to \$25,000 and no limit applies to the amount eligible for 7-year amortization. For taxable years beginning after 2003, the amount of reforestation expenditures eligible for 7-year amortization and for the credit is limited to \$25,000.

I. Capital Gain Treatment Under Section 631(b) to Apply to Outright Sales by Landowners

The conference agreement provides that in the case of a sale of timber by the owner of the land from which the timber is cut, the requirement that a taxpayer retain an economic interest in the timber in order to treat gains on sales prior to the time the timber is cut as capital gains does not apply, effective for sales of timber after the date of enactment.

TITLE VIII. SMALL BUSINESS TAX RELIEF PROVISIONS

A. Accelerate 100-Percent Self-Employed Health Insurance Deduction

Beginning in 2000, the conference agreement increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent. The conference agreement also provides that the deduction is not available in any month in which the taxpayer participates in an employer-subsidized health plan.

B. Increase Section 179 Expensing

The conference agreement provides that the maximum dollar amount that may be deducted under section 179 is increased to \$30,000 for taxable years beginning after December 31, 1999.

C. Repeal of Temporary Federal Unemployment Surtax

The conference agreement repeals the temporary Federal Unemployment Tax Act (“FUTA”) surtax, effective for labor performed on or after January 1, 2005.

D. Provisions Relating to Deduction for Business Meals

For taxable year 2006, the conference agreement increases the business meals deduction from the present-law 50 percent to 55 percent, and for taxable years 2007 and thereafter, to 60 percent. The conference agreement also accelerates to taxable years beginning after 2006 the full 80-percent deduction for business meals while operating under Department of Transportation hours of service limitations.

E. Farmer and Fishermen Income Averaging

The conference agreement extends farmer income averaging to commercial fishermen and coordinates the averaging rules with the alternative minimum tax. A farmer or fisherman electing to average his or her qualified income will owe alternative minimum tax only to the extent he or she would have owed alternative minimum tax had averaging not been elected. The provision is effective for taxable years beginning after December 31, 1999.

F. Farm, Fish, and Ranch Risk Management Accounts

The conference agreement allows active farmers, fishermen and ranchers to establish Farm, Fish and Ranch Risk Management (“FFARRM”) accounts. Deductible contributions to a FFARRM account are limited to 20 percent of active farming, ranching and commercial fishing income. Income earned by a FFARRM account must be distributed currently and distributions

are included in income when received. The provision is effective for taxable years beginning after December 31, 2000.

G. S Corporation Bank Provisions

The conference agreement provides that interest and certain dividend income of S corporation banks is not treated as passive income and allows S corporation banks to have director shares of stock. The provisions are effective for taxable years beginning after December 31, 1999.

TITLE IX. INTERNATIONAL TAX RELIEF PROVISIONS

A. Allocate Interest Expense on Worldwide Basis

The conference agreement modifies the present-law interest expense allocation rules (which generally apply for purposes of computing the foreign tax credit limitations) by providing a one-time election under which the taxable income of domestic members of an affiliated group from foreign sources generally may be determined by allocating and apportioning interest expense of the domestic members of the worldwide affiliated group on a worldwide-group basis. The election provides taxpayers with the option either to apply fungibility principles on a worldwide basis or to continue to apply present law. For purposes of the new elective rules based on worldwide fungibility, the worldwide affiliated group includes any foreign corporations in which more than 50 percent of the total vote or value of the stock of such corporation is owned (directly, indirectly, or, in certain circumstances, constructively) by U.S. members of the affiliated group. A pro rata portion of such foreign corporation's interest expense and assets is treated as attributable to the worldwide affiliated group and taken into account for purposes of determining the allocation and apportionment of interest expense.

In addition, to the extent that a worldwide affiliated group elects to apply the new worldwide fungibility principle, the conference agreement provides two additional elections that are exceptions to the general "one-taxpayer" rule: (1) a subsidiary group election under which U.S. members with debt that is not supported by other members of the worldwide affiliated group could elect to treat themselves and their subsidiaries as a separate group for a period of five years; and (2) a financial institution group election under which all members that are predominantly engaged in a financial services business could make a one-time election to be treated as a separate group.

The provision in the conference agreement is effective for taxable years beginning after December 31, 2001.

B. Look-Through Rules to Apply to Dividends from Noncontrolled Section 902 Corporations

For taxable years beginning after December 31, 2001, the conference agreement applies the look-through approach to all dividends paid by a 10/50 company for foreign tax credit limitation purposes, regardless of the year in which the earnings and profits out of which the dividend is paid were accumulated. The conference agreement provides a transition rule under which pre-effective date foreign tax credits associated with a 10/50 company separate limitation category can be carried forward into post-effective date years.

C. Subpart F Treatment of Pipeline Transportation Income and Income from Transmission of High Voltage Electricity

The conference agreement exempts income derived from the transmission of high voltage electricity from the definition of subpart F foreign base company services income. Further, the conference agreement provides that subpart F foreign base company oil-related income does not include income from the pipeline transportation of oil or gas within a foreign country. The provision is effective for taxable years beginning after December 31, 2001.

D. Recharacterization of Overall Domestic Loss

The conference agreement applies a resourcing rule to U.S.-source income where the taxpayer has suffered a reduction in the amount of its foreign tax credit limitation due to a prior overall domestic loss. The provision applies to losses incurred in taxable years beginning after December 31, 2005.

E. Treatment of Military Property of Foreign Sales Corporations

The conference agreement repeals the special Foreign Sales Corporation (FSC) limitation relating to the export of military property, thus providing exports of military property through a FSC with the same treatment currently provided exports of non-military property. The provision is effective for taxable years beginning after December 31, 2001.

F. Modify Treatment of RIC Dividends Paid to Foreign Persons

Under the conference agreement, a regulated investment company (RIC) that earns certain interest income or short-term capital gains which would not be subject to U.S. tax if earned by a foreign person directly may designate a dividend it pays as derived from such income. Under the provision, a foreign person who is a shareholder in the RIC generally treats such dividends as exempt from gross-basis U.S. tax, just as if the foreign person had realized the interest income or short-term capital gains directly. In addition, 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, deposits, or other property that would generally be treated as situated

outside the United States if held directly by the estate. The provision in the conference agreement generally is effective for taxable years beginning after December 31, 2004.

G. Repeal of Special Rules for Applying Foreign Tax Credit in Case of Foreign Oil And Gas Income

The conference agreement repeals the special rules of section 907, such that taxes attributable to foreign oil and gas extraction income are no longer subject to a special limitation, and the special rules with respect to discriminatory taxes on foreign oil related income no longer apply. The provision in the conference agreement is effective for taxable years beginning after December 31, 2007.

H. Prohibit Disclosure of APAs and APA Background Files

The conference agreement confirms that APAs and related background information are confidential return information, and are not "written determinations" for purposes of section 6110's public inspection requirements. The conference agreement requires the Department of Treasury to prepare annually a detailed report regarding APAs and the APA program. The IRS user fee is increased by \$500. The conference agreement permits the Secretary to reduce such fee as appropriate for small businesses. The conference agreement is effective upon enactment, such that neither APAs, regardless of when executed, nor their related background files, could be released to the public.

I. Increase Dollar Limitation on Section 911 Exclusion

The conference agreement increases the maximum exclusion for foreign earned income in annual increments of \$3,000 per year beginning in 2003, until the exclusion amount is \$95,000. Beginning in 2008, the maximum exclusion amount of \$95,000 is indexed for inflation.

J. Exempt Certain Sales of Frequent-Flyer and Similar Reduced-Fare Air Transportation Rights from Aviation Excise Taxes

The conference agreement exempts payments for rights to free or reduced-fare air transportation (e.g. frequent-flyer points) that are credited to accounts of persons whose mailing address is outside the United States from the 7.5-percent Airport and Airway Trust Fund excise tax on these rights. The provision is effective beginning in 2005.

TITLE X. TAX-EXEMPT ORGANIZATION PROVISIONS

A. Provide Tax Exemption for Organizations Created by a State to Provide Property and Casualty Insurance Coverage for Property for Which Such Coverage Is Otherwise Unavailable

The conference agreement provides tax-exempt status for any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, provided certain requirements are met. The provision is effective for taxable years beginning after December 31, 1999.

B. Conform Provisions Relating to Arbitrage Treatment to Reflect Proposed State Constitutional Amendments

The conference agreement conforms a present-law arbitrage exception for a permanent university fund to revised State constitutional provisions, effective for bonds issued after 1999.

C. Authorize Secretary of Treasury to Grant Waivers from Section 4941 Prohibitions

The conference agreement requires the Secretary of the Treasury to establish an exemption procedure pursuant to which the Secretary can grant a conditional or unconditional exemption from the self-dealing prohibition of section 4941. The conference agreement provision is effective for transactions occurring after the date of enactment.

D. Extend Declaratory Judgment Procedures to Non-501(c)(3) Tax-Exempt Organizations

The conference agreement extends declaratory judgment procedures similar to those currently available to charities under section 7428 to other section 501(c) determinations. The provision is effective for pleadings with respect to determinations made after the date of enactment.

E. Modify Section 512(b)(13)

The conference agreement provides that the general rule of section 512(b)(13), which includes interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization in the latter organization's unrelated business income, applies only to the portion of payments received in a taxable year that exceed the amount of the specified payment which would have been paid if such payment had been determined in an arm's length transaction. The

conference agreement also imposes an addition to tax of 20 percent of the excess amount of any such payment. The provision applies to payments received or accrued after December 31, 1999.

F. Provide Exclusion for Mileage Reimbursements by Charitable Organizations

Under the conference agreement, reimbursement by certain charitable organizations for the costs of using an automobile in connection with providing donated services is excludable from the gross income of the volunteer. The provision is effective for taxable years beginning after December 31, 1999.

G. Charitable Contribution Deduction for Certain Expenses in Support of Native Alaskan Subsistence Whaling

The conference agreement allows individuals to claim a deduction under section 170 not exceeding \$7,500 per taxable year for certain expenses incurred in carrying out sanctioned whaling activities. No inference is intended regarding the deductibility of any whaling expenses incurred in a taxable year ending before January 1, 2000. The provision is effective for taxable years ending after December 31, 1999.

H. Simplify Lobbying Expenditure Limitations

The conference agreement removes the separate percentage limitation on grass roots lobbying expenditures. Consequently, public charities that have elected the expenditure test under section 501(h) are subject to an expenditure limitation only on their total lobbying expenditures. The provision is effective for taxable years beginning after December 31, 1999.

I. Tax-Free Withdrawals from IRAs for Charitable Purposes

The conference agreement provides an exclusion from gross income for qualified charitable distributions from an IRA to a charitable organization to which deductible contributions can be made. A qualified charitable distribution is any distribution from an IRA which is made after age 70-1/2 and which is made directly to the charitable organization. The provision is effective with respect to distributions after December 31, 2002.

TITLE XI. REAL ESTATE TAX RELIEF PROVISIONS

A. Increase the Low-Income Housing Tax Credit Cap and Make Other Modifications

The conference agreement modifies the \$1.25 per capita cap to guarantee each State a minimum of \$2 million of annual credit cap. Also, the \$1.25 per capita element of the credit cap is phased up to \$1.75 per capita, by increasing the credit cap by 10 cents each year for five years.

The conference agreement also makes other modifications to the credit. The provisions are effective for calendar years beginning after December 31, 1999.

B. Provisions Relating to REITs

The conference agreement provides that a REIT may not own 10 percent or more of the vote or value of another entity. However, REIT ownership of a “taxable REIT subsidiary”, engaged in certain activities, can exceed this amount. Rules regarding the operation of hotels and health care facilities are provided, as well as a definition of “independent contractor” for certain purposes. Certain REIT rules relating to distributions are conformed to those for regulated investment companies. The conference agreement also substitutes a fair market value comparison for the present law adjusted basis comparison, in determining whether certain rents from personal property exceed a 15 percent limit. These provisions are generally effective for taxable years beginning after December 31, 2000, with transition for certain REIT holdings and leases in effect on July 12, 1999.

C. Modify At-Risk Rules for Publicly Traded Nonrecourse Debt

The conference agreement modifies the rules relating to qualified nonrecourse financing to provide that, in the case of an activity of holding real property, a taxpayer is considered at risk with respect to the taxpayer's share of certain financing that is not borrowed from a person that is regularly engaged in the business of lending money, and that is not secured by real property used in the activity, if the financing is qualified publicly traded debt. The financing may not be borrowed from a related person. The provision is effective for debt instruments issued after December 31, 1999.

D. Exclusion From Gross Income for Certain Contributions to the Capital of Certain Retailers

The conference agreement establishes a safe harbor allowing certain inducements received by retailers to be treated as nontaxable contributions to capital if the retailer agrees to operate a qualified retail business at particular location for a period of at least 15 years and, immediately after the receipt of the contribution, the retailers own the land and structures to be used in carrying on the retail business at the agreed location. The provision is effective for contributions received after December 31, 1999.

E. Accelerate the Scheduled Increase in State Volume Limits on Tax-Exempt Private Activity Bonds

The conference agreement accelerates the scheduled phase up to \$75 per resident of each State or \$225 million (if greater) of the annual State private activity bond volume limits. Under the conference agreement, the phase up will begin in calendar year 2000 and will be fully phased-in for calendar year 2004 and thereafter.

F. Deduction for Renovating Historic Homes

The conference agreement permits a taxpayer to claim a deduction for 50 percent of qualified rehabilitation expenditures made with respect to a qualified historic home which the taxpayer subsequently occupies as his or her principal residence for at least five years. The maximum deduction is limited to \$50,000. The provision is effective for expenses incurred after December 31, 1999.

TITLE XII. PENSION REFORM PROVISIONS

A. Expanding Coverage

- Increase contribution and benefit limits--Beginning in 2001, the conference agreement increases the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in \$1,000 annual increments until the limits reach \$15,000 in 2005. Beginning in 2001, the conference agreement increases the maximum annual elective deferrals that may be made to a SIMPLE plan in \$1,000 annual increments until the limit reaches \$10,000 in 2004. The \$15,000 and \$10,000 dollar limits are indexed in \$500 increments, as under present law. The conference agreement increases the dollar limit on deferrals under a section 457 plan to \$11,000 in 2001, \$12,000 in 2002, \$13,000 in 2003, \$14,000 in 2004 and \$15,000 in 2005. After 2005, the limit is indexed in \$500 increments. The limit is twice the otherwise applicable dollar limit in the three years prior to retirement. Effective in 2001, the conference agreement: increases the \$130,000 annual benefit limit for defined benefit plans to \$160,000 (indexed in \$5,000 increments) and lowers the early retirement age to 62 and the normal retirement age to 65 for purposes of applying the limit; increases the \$30,000 annual contribution limit for defined contribution plans to \$40,000 (indexed in \$1,000 increments); and increases the limit on compensation that may be taken into account under a plan to \$200,000 (indexed in \$5,000 increments).
- Plan loans for subchapter S shareholders, partners, and sole proprietors--The conference agreement generally eliminates the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption applies to such transactions. Present law applies with respect to IRAs. The provision is effective with respect to loans made in years beginning after December 31, 2000.
- Modification of top-heavy rules--The conference agreement provides that a safe-harbor section 401(k) plan is not a top-heavy plan and that matching contributions may be taken into account in satisfying the minimum contribution requirements. In addition, the conference agreement simplifies the definition of key employee and the determination of top-heavy and status and repeals the family attribution rule used to determine whether an individual is a key employee by reason of being a 5-percent owner of the employer. The provision is effective for years beginning after December 31, 2000.

- Elective deferrals not taken into account for purposes of deduction limits--The conference agreement provides that the elective deferral contributions are not subject to the qualified plan deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan does not take into account elective deferral contributions. The provision is effective for years beginning after December 31, 2000.
- Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations--For years beginning after December 31, 2000, the conference agreement repeals the rules coordinating the section 457 dollar limit with contributions under other types of plans.
- Eliminate IRS user fees for determination letter requests regarding small employer plans--Under the conference agreement, an employer with no more than 100 employees is not required to pay a user fee for any determination letter request made during the first 5 plan years with respect to the qualified status of a retirement plan that the employer maintains. The conference agreement is effective for determination letter requests made after December 31, 2000.
- Definition of compensation for purposes of deduction limits--The conference agreement provides that for purposes of the qualified plan deduction limit the compensation otherwise paid or accrued during the employer's taxable year to the beneficiaries under the plan includes elective deferrals under a section 401(k) plan or a section 403(b) annuity, and elective contributions under a section 457 plan. The provision is effective for years beginning after December 31, 2000.
- Option to treat elective deferrals as after-tax contributions--The conference agreement provides that a section 401(k) plan or a section 403(b) annuity may permit a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. A qualified distribution from a participant's designated plus contributions account is not includible in the participant's gross income. Designated plus contributions are generally otherwise treated the same as elective deferrals for purposes of the qualified plan rules. The provision is effective for taxable years beginning after December 31, 2000.
- Reduce PBGC premiums for small and new plans--Under the conference agreement, for the first five plan years of a new single-employer plan of a small employer, the flat-rate Pension Benefit Guaranty Corporation ("PBGC") premium is \$5 per plan participant. The provision also provides that the variable premium is phased in for new defined benefit plans over a six-year period starting with the plan's first plan year. In addition, the conference agreement provides that, in the case of any plan (not just a new plan) of an employer with 25 or fewer employees, the variable-rate premium is no more than \$5

multiplied by the number of plan participants. The provisions relating to new plans is effective for plans established after December 31, 2000. The provision reducing the PBGC premium for small plans is effective for years beginning after December 31, 2000.

B. Enhancing Fairness for Women

- Additional catch-up contributions--The conference agreement permits individuals who are age 50 or older to make additional contributions to a section 401(k) (or similar plan). The maximum permitted additional contribution is the applicable percent of the otherwise applicable dollar contribution limitation. The applicable percent is 10 percent in 2001, and increases by 10 percentage points until the applicable percent is 50 in 2005 and thereafter. Catch-up contributions to a section 401(k) (or similar) plan are not subject to any other contribution limits, are not taken into account in applying other contribution limits, and are not subject to nondiscrimination rules.
- Equitable treatment for contributions of employees to defined contribution plans--The conference agreement (1) increases the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent, (2) conforms the limits on contributions to a tax-sheltered annuity to the limits applicable to tax-qualified plans, and (3) increases the 33-1/3 percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation. The provision is effective for years beginning after December 31, 2000.
- Simplify and update the minimum distribution rules--The conference agreement applies the present-law rules applicable if the participant dies before distribution of minimum benefits has begun to all post-death distributions. The conference agreement reduces the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed. The Treasury is directed to update, simplify, and finalize the regulations relating to the minimum distribution rules. The conference agreement repeals the special minimum distribution rules applicable to section 457 plans. The provision is effective for years beginning after December 31, 2000.
- Clarification of tax treatment of division of section 457 plan benefits upon divorce--The conference agreement applies the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan is not treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO. The provision is effective for transfers, distributions and payments made after December 31, 2000.
- Modification of safe harbor relief for hardship withdrawals from 401(k) plans--The conference agreement directs the Secretary of the Treasury to revise the applicable

regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need. The provision is effective for years beginning after December 31, 2000.

- Faster vesting of employer matching contributions--Under the conference agreement, employer matching contributions have to vest at least as rapidly as under 3-year cliff vesting or under 6-year graded vesting that provides for a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service. The provision is effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement.

C. Increasing Portability for Participants

- Rollovers of retirement plan and IRA distributions--The conference agreement provides that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, IRAs and governmental section 457 plans generally can be rolled over to any of such plans or arrangements. The direct rollover and withholding rules are extended to distributions from a section 457 plan. The conference agreement provides that employee after-tax contributions can be rolled over into another qualified plan or a traditional IRA. In the case of a rollover from a qualified plan to another qualified plan, the rollover can be accomplished only through a direct rollover. The conference agreement provides that surviving spouses can roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates. The provision is effective for distributions made after December 31, 2000.
- Waiver of 60-day rule--The conference agreement provides that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. The provision applies to distributions made after December 31, 2000.
- Treatment of forms of distribution--Under the conference agreement, if certain requirements are satisfied, a defined contribution plan may eliminate optional forms of benefit (1) in connection with certain transfers of benefits, or (2) if a single sum distribution is offered. In addition, the Secretary is to provide for circumstances under which early retirement benefits, retirement-type subsidies, or an optional form of benefit may be reduced or eliminated if the rights of participants are not materially affected. The provision is effective for years beginning after December 31, 2000.
- Rationalization of restrictions on distributions--The conference agreement modifies the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and

section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service. The provision is effective for distributions after December 31, 2000.

- Purchase of service credit under governmental pension plans--Under the conference agreement a participant in a State or local governmental plan is not required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay certain contributions. The provision is effective for transfers after December 31, 2000.
- Employers may disregard rollovers for purposes of cash-out rules--Under the conference agreement a plan is permitted to disregard benefits attributable to rollover contributions for purposes of the cash-out rules. The provision is effective for distributions after December 31, 2000.

D. Strengthening Pension Security and Enforcement

- Phase in repeal of 150 percent of current liability funding limit; deduction for contributions to fund termination liability--Under the conference agreement, the current liability full funding limit is 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit is repealed for plan years beginning in 2004 and thereafter. The special rule allowing a deduction for unfunded current liability generally is extended to all defined benefit pension plans covered by the PBGC. The provision is effective for years beginning after December 31, 2000.
- Excise tax relief for sound pension--Under the conference agreement if an employer elects, contributions in excess of the current liability full funding limit are not subject to the excise tax on nondeductible contributions. The provision is effective for years beginning after December 31, 2000.
- Notice of significant reduction in plan benefit accruals--The conference agreement requires the plan administrator of a defined benefit plan (other than governmental plans and certain church plans) with more than 100 participants to notify plan participants in advance of an amendment that significantly reduces the rate of future benefit accruals. The notice must include sufficient information to allow participants to understand how the amendment will affect different classes of employees. In some cases, additional information must be provided after the amendment is effective. An excise tax applies if the required notice is not provided.
- Extension of PBGC missing participants program--The conference agreement extends the PBGC missing participant program to multiemployer plans, defined contribution plans,

and defined benefit plans that are not covered by the PBGC. The provision is effective for distributions from terminating plans that occur after the PBGC adopts final regulations implementing the provision.

- Investment of employee contributions in 401(k) plans--The conference agreement modifies the effective date of the rule excluding certain elective deferrals (and earnings thereon) from the definition of individual account plan. The provision is effective as if included in the Taxpayer Relief Act of 1997.

E. Reducing Regulatory Burdens

- Repeal of the multiple use test--The conference agreement repeals the multiple use test, effective for years beginning after December 31, 2000.
- Modification of timing of plan valuations--The conference agreement provides that a valuation must be performed with respect to a defined benefit plan with assets of at least 125 percent of current liability only once every 3 years. The provision is effective for plan years beginning after December 31, 2000.
- Flexibility in nondiscrimination, coverage, and line of business rules--The conference agreement directs the Secretary of the Treasury to provide by regulation circumstances under which plans can use the prior-law facts and circumstances test to satisfy the nondiscrimination, coverage, and line of business rules.
- ESOP dividends may be reinvested without loss of dividend deduction--Under the conference agreement, an employer is entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are paid to the plan and reinvested in employer securities. The provision is effective for taxable years beginning after December 31, 2000.
- Repeal transition rule relating to certain highly compensated employees--The conference agreement repeals the special definition of highly compensated employee under the Tax Reform Act of 1986. The provision is effective for plan years beginning after December 31, 1999.
- Employees of tax-exempt entities--The conference agreement directs the Treasury Department to revise its regulations under section 410(b) to provide that, if certain requirements are satisfied, employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan.
- Treatment of employer-provided retirement advice--Under the conference agreement, qualified retirement planning services provided to an employee and his or her spouse by

an employer maintaining a qualified plan are generally excludable from income and wages. The provision is effective with respect to taxable years beginning after December 31, 2000.

- Provisions relating to plan amendments--Under the conference agreement, any amendments to a plan or annuity contract required to be made by the provision are not required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments is extended to the first plan year beginning on or after January 1, 2005. The provision is effective on the date of enactment.
- Reporting simplification--The conference agreement directs the Secretary of the Treasury to provide for an exemption from the annual return requirement for a plan that covers only the sole owner of a business that maintains the plan (and such owner's spouse), or partners in a partnership that maintains the plan (and such partners' spouses), if the total value of the plan assets as of the end of the plan year and all prior plan years does not exceed \$250,000 and the plan meets certain other requirements. In addition, the Secretary of the Treasury is directed to provide for the filing of a simplified annual return substantially similar to the Form 5500-EZ by a plan that meets certain requirements. The provision is effective on the date of enactment.
- Improvement to employer plans compliance resolution system--The conference agreement directs the Secretary of the Treasury to continue to update and improve EPCRS, giving special attention to (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period under APRSC for significant compliance failures, (4) expanding the availability to correct insignificant compliance failures under APRSC during audit, and (5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure. The provision is effective on the date of enactment.
- Modifications to section 415 limits for multiemployer plans--Under the conference agreement, the 100 percent of compensation defined benefit plan limit does not apply to multiemployer plans. The provision is effective for years beginning after December 31, 2000.
- Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local government plans--Under the conference agreement, a plan maintained by a tax-exempt international organization is exempt from the nondiscrimination and minimum participation rules. The provision is effective for plan years beginning after December 31, 2000.

- Rules for substantial owner benefits in terminated plans--The conference agreement increases the PBGC guarantee for certain substantial owners. The conference agreement is effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC after December 31, 2000.
- Clarification of exclusion for employer-provided transit passes--The conference agreement repeals the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer. The provision is effective for taxable years beginning after December 31, 1999.

TITLE XIII. MISCELLANEOUS PROVISIONS

A. Survivor Benefits of Public Safety Officers Killed in the Line of Duty

The conference agreement provides that certain payments received by a survivor of a public safety officer killed in the line of duty are excludable from income, effective with respect to payments received after December 31, 1999.

B. Expansion of D.C. Homebuyer Tax Credit

The conference agreement increases the D.C. homebuyer tax credit phase-out range for married individuals filing a joint return so that it is equal to twice that of unmarried individuals. The provision is effective for purchases on or after the date of enactment.

C. Exemption from Federal Income Tax for Amounts Received by Holocaust Victims and Their Heirs

The conference agreement provides an exclusion from gross income for any amount received by an individual or any heir of the individual: (1) from the Swiss Humanitarian Fund established by the government of Switzerland or from any similar fund established in any foreign country; (2) as a result of the settlement of the action entitled, "In re Holocaust Victims' Asset Litigation", (E.D. NY), C.A. No. 96-4849, or as a result of any similar action; and (3) the value of land (including structures thereon) recovered by an individual (or any heir of the individual) from a government of a foreign country as a result of a settlement of a claim arising out of the confiscation of such land in connection with the Holocaust. The provision is effective with regard to any amounts received on or after the date of enactment.

D. Income from Publicly Traded Partnerships Treated as Qualifying Income of Regulated Investment Companies

The provision modifies the 90-percent test with respect to income of a RIC to include income derived from an interest in a publicly traded partnership, effective for taxable years beginning after December 31, 2000.

E. Equalize the Tax Treatment of Oversized “Clean Fuel” Vehicles and Electric Vehicles

The conference agreement provides that large electric trucks and vans or an electric bus is a qualified clean fuel vehicle for which the taxpayer may deduct up to \$50,000 of cost and that such vehicles are not eligible for the electric vehicle credit. The provision is effective for vehicles placed in service after December 31, 1999.

F. Nuclear Decommissioning Costs

The conference agreement repeals the cost of service requirement for contributions to a qualified nuclear decommissioning fund. The conference agreement also provides for the transfer of nonqualified nuclear decommissioning funds to a qualified fund with the deduction for the amount transferred required to be spread over the remaining life of the plant beginning in 2002. The provision is effective for taxable years beginning after 1999.

G. Permit Consolidation of Life and Nonlife Insurance Companies

The conference agreement repeals the 5-year limitation on treating life insurance companies as includible corporations that may file a consolidated tax return with an affiliated group including nonlife insurance companies, effective for taxable years beginning after December 31, 2000. In addition, the conference agreement repeals the 5-year limitation providing that any net operating loss of a nonlife insurance member of the group may not offset the taxable income of a life insurance member for any of the first 5 years the life and nonlife insurance corporations have been members of the same affiliated group, effective for taxable years beginning after December 31, 2005.

H. Simplify the Active Trade or Business Requirement for Tax-Free Spin-Offs

The conference agreement simplifies the active trade or business requirement for tax-free spin-offs by applying the requirement on an affiliated group basis. In applying the requirement to an affiliated group, each separate affiliated group (immediately after the distribution) must satisfy the requirement. The provision generally is effective for distributions after the date of enactment.

I. Modify Personal Holding Company “Lending or Finance Business” Exception

The conference agreement modifies the definition of a lending or finance company by repealing the business expense requirement and limitation on maturity of loans, and by including leasing and certain activities related to lending or leasing. Also, all companies within an affiliated group engaged in such business are aggregated for purposes of testing whether the requirements of the definition are met. The provision is effective for taxable years beginning after December 31, 1999.

J. Expensing of Environmental Remediation Expenditures and Expansion of Qualifying Sites

The conference agreement extends the benefits of expensing of environmental remediation expenses to all sites containing (or potentially containing) a hazardous substance other than those sites already identified as national Superfund sites expenses incurred after December 31, 1999.

K. Consolidate Code Provisions Governing the Hazardous Substance Superfund and the Leaking Underground Storage Tank Trust Fund

The conference agreement consolidates the Code provisions governing the Hazardous Substance Superfund and the Leaking Underground Storage Tank Trust Fund into a single Environmental Remediation Trust Fund. The new Trust Fund will be divided into separate accounts reflecting the present-law Trust Fund programs upon enactment of Superfund reauthorizing legislation.

L. Repeal Certain Excise Taxes on Rail Diesel Fuel and Inland Waterway Barge Fuels

The conference agreement repeals the 4.3-cents-per-gallon General Fund excise taxes on diesel fuel used in trains and fuels used in inland waterways barges, effective October 1, 2003. The 0.1-cent-per-gallon LUST tax rate on train diesel fuel is repealed on October 1, 1999.

M. Repeal Excise Tax on Fishing Tackle Boxes

The conference agreement repeals the excise tax on tackle boxes effective 30 days after the date of enactment. To prevent a reduction in the Sport Fish Restoration program of the Aquatic Resources Trust Fund, an additional 0.2 cent per gallon of the excise tax on motorboat gasoline and special fuels is transferred to that Trust Fund.

N. Modify Excise Tax on Arrow Components and Accessories

The conference agreement extends the excise tax on certain arrow components to include “outserts” and “inserts,” and further reclassifies “broadheads” used primarily in game hunting as arrow accessories (subject to a lower tax rate than arrow points generally). The provision is effective for calendar quarters beginning 30 days after the date of enactment.

O. Reclassify Air Transportation on Certain Small Seaplanes as NonCommercial Aviation for Excise Tax Purposes

The conference agreement reclassifies transportation for hire on scheduled flights of seaplanes having maximum certificated weights not exceeding 6,000 pounds as noncommercial aviation, subject to higher fuels tax rates but exempt from the passenger ticket and freight waybill taxes. The provision is effective for transportation beginning after December 31, 1999.

P. Modify the Definition of Rural Airport Eligible for Reduced Air Passenger Ticket Tax Rate

The conference agreement expands the definition of rural airport eligible for reduced Airport and Airway Trust Fund excise tax rates to include certain small airports that are not connected by paved road to larger airports, but which otherwise are too close geographically to the larger airports to qualify for the reduced tax rates. The provision is effective for calendar years beginning after December 31, 1999.

Q. Authorize Limited Private Activity Tax-Exempt Financing for Highway Construction

The conference agreement allows up to \$15 billion of tax-exempt financing for up to 15 privately owned and/or operated highway pilot projects. The provision is effective for bonds issued after December 31, 1999.

R. Tax Treatment of Alaska Native Settlement Trusts

Under the conference agreement, shareholders of an Alaska Native Corporation (ANC) are not taxed when the ANC makes contributions to a Settlement Trust (under section 39 of the Alaska Native Corporation Settlement Act) of which they are beneficiaries. The provision is effective for contributions after, and taxable years of Settlement Trusts ending after December 31, 1999.

**S. Increase Joint Committee on Taxation Refund
Review Threshold to \$2 Million**

The conference agreement increases the threshold above which refunds must be submitted to the Joint Committee on Taxation for review from \$1,000,000 to \$2,000,000. The provision is effective on the date of enactment.

T. Medical Innovation Tax Credit

The conference agreement creates a new, 40-percent credit for qualified medical research expenditures incurred at certain academic institutions with respect to human clinical testing of any drug, biologic, or medical device. The credit applies to research expenditures in excess of a base period amount and is effective for taxable years beginning after December 31, 1998.

U. Dividends Paid by Cooperatives

The conference agreement allows cooperatives to pay dividends on capital stock without those dividends reducing excludable patronage-sourced income to the extent that the cooperative's organizational documents provide that the dividends do not reduce amounts owed to patrons. The provision is effective for taxable years beginning after the date of enactment.

V. Tax Court Provisions

Under the conference agreement, Tax Court is authorized to charge a filing fee of up to \$60 in all cases commenced by the filing of a petition. In addition, Tax Court fees imposed on practitioners also are available to provide services to pro se taxpayers. These provisions are effective on the date of enactment. Further, the conference agreement provides that the Tax Court may apply the principle of equitable recoupment to the same extent that it may be applied in Federal civil tax cases by the U.S. District Courts or the U.S. Court of Federal Claims. This provision is effective for any action or proceeding in the Tax Court with respect to which a decision has not become final as of the date of enactment.

TITLE XIV. EXTENSION OF EXPIRING TAX PROVISIONS

**A. Extension of Research and Experimentation Credit and Increase
in the Rates for the Alternative Incremental Research Credit**

The conference agreement extends the research credit through June 30, 2004, and increases the credit rate under the alternative incremental credit by one percentage point for each step.

B. Extend Exceptions Under Subpart F for Active Financing Income

The conference agreement extends for five years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business. The provision is effective for taxable years of a foreign corporation beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporation end.

C. Extend Suspension of Net Income Limitation on Percentage Depletion from Marginal Oil and Gas Wells

The conference agreement extends for five years, through December 31, 2004, the present-law suspension of a rule limiting percentage depletion deductions of oil and gas independent producers to 100 percent of the net income from the mineral property.

D. Extend the Work Opportunity Tax Credit

The conference agreement extends the Work Opportunity Tax Credit for 30 months (through December 31, 2001). Generally, the provision is effective for wages paid to, or incurred with respect to, qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

E. Extend the Welfare-to-Work Tax Credit

The conference agreement extends the welfare-to-work credit for 30 months (through December 31, 2001). The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

F. Extend and Modify Tax Credit for Electricity Produced by Wind and Closed-Loop Biomass Facilities

The conference agreement extends for four years, through June 30, 2003, the period when facilities qualifying for a present-law tax credit for electricity produced from wind and closed-loop biomass facilities may be placed in service. Facilities producing electricity from poultry waste are made eligible for the tax credit, effective for facilities placed in service after December 31, 1999 and before June 30, 2003.

TITLE XV. REVENUE OFFSET PROVISIONS

A. Expand Reporting of Cancellation of Indebtedness Income

The conference agreement requires that information reporting on discharges of indebtedness also be done by any organization a significant trade or business of which is the lending of money, such as finance companies and credit card companies (whether or not affiliated with financial institutions). The conference agreement is effective with respect to discharges of indebtedness after December 31, 1999.

B. Extension of IRS User Fees

The conference agreement extends the statutory authorization for these user fees through September 30, 2009. The conference agreement also moves the statutory authorization for these fees into the Internal Revenue Code. The provision is effective on the date of enactment.

C. Impose Limitation on Prefunding of Certain Employee Benefits

Under the conference agreement, the present-law exception to the deduction limit for 10-or-more employer plans is limited to plans that provide only medical benefits, disability benefits, and qualifying group-term life insurance benefits. If any portion of a welfare benefit fund attributable to contributions that are deductible under the 10-or-more employer rule is used for a purpose other than the purpose for which the contributions were made, an excise tax is imposed. The provision is effective with respect to contributions paid or accrued on or after June 9, 1999, in taxable years ending after such date.

D. Increase Elective Withholding Rate for Nonperiodic Distributions from Deferred Compensation Plans

Under the conference agreement, the elective withholding rate for nonperiodic distributions from deferred compensation plans is increased from 10 percent to 15 percent. The provision is effective for distributions made after December 31, 2000.

E. Modify Treatment of Closely-Held REITs

The conference agreement imposes an additional requirement for REIT qualification that, except for the first taxable year for which an entity elects to be a REIT, no person may own 50 percent or more of the vote or value of a REIT. There is an exception for certain “incubator” REITS that are intended to be brought public. The provision is effective for taxable years ending after July 14, 1999. Any entity that elects (or that has elected) REIT status for a taxable year including July 14, 1999 and which is closely held and has significant business assets as of such date is not subject to the provision. Transition relief is also provided for interests held on July

14, 1999 or acquired pursuant to a binding contract or SEC filing made on or before July 14, 1999.

F. Limit Conversion of Character of Income from Constructive Ownership Transactions

The conference agreement limits the amount of long-term capital gain a taxpayer can recognize from derivative transactions with respect to certain pass-through entities. The amount of long-term capital gain is limited to the amount of such gain the taxpayer would have had if the taxpayer owned a direct interest in the pass-through entity during the term of the derivative contract. Any gain in excess of this amount is treated as ordinary income. An interest charge is imposed on the amount of gain that is treated as ordinary income. The provision applies to transactions entered into on or after July 12, 1999.

G. Treatment of Excess Pension Assets Used for Retiree Health Benefits

Under the conference agreement the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account is extended through September 30, 2009. In addition, the present-law minimum benefit requirement is replaced by the minimum cost requirement that applied to qualified transfers before December 9, 1994, to section 401(h) accounts, generally effective with respect to transfers after the date of enactment.

H. Modify Installment Method and Prohibit its Use by Accrual Method Taxpayers

The conference agreement generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting. The conference agreement does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming, of timeshares or residential lots if the taxpayer elects to pay interest under section 453(l), or sales by cash method taxpayers.

The conference agreement also modifies the installment sale pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated as the direct pledge of the installment note and gain required to be recognized.

The provisions are effective for sales or other dispositions entered into on or after the date of enactment.

I. Limitation on Use of Nonaccrual Experience Method of Accounting

Under the conference agreement use of the non-accrual experience method is limited to amounts to be received for the performance of qualified personal services if the taxpayer does not charge interest or a penalty for failure to timely pay the amount owed. Qualified personal services are personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting. The provision is effective for taxable years ending after the date of enactment.

J. Denial of Charitable Contribution Deduction for Transfers Associated with Split-Dollar Insurance Arrangements

The conference agreement restates present law to provide that no charitable contribution deduction is allowed for a transfer to or for the use of a charitable organization, if in connection with the transfer the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor. The provision also imposes on the charitable organization an excise tax in the amount of the premiums paid. The provision applies generally to transfers, or premiums paid, after February 8, 1999.

K. Modify Estimated Tax Rules for Closely-Held REITs

The conference agreement provides that year-end dividends received by a 10-percent owner of a closely-held REIT must be accelerated for that person's estimated tax purposes. The provision is effective for estimated tax payments due on or after September 15, 1999.

L. Modify Anti-Abuse Rules Relating to Assumption of Liabilities

The conference agreement modifies the rules applicable to certain corporate tax avoidance transactions by changing the standard to "a principal purpose" of tax avoidance and deleting the reference suggesting that the avoidance must occur "on the exchange". The provision also requires a basis reduction in the stock received by the transferor in a transaction that is within the provision. Similar rules can be applied to partnerships. The provision is effective for assumptions of liabilities after July 14, 1999.

M. Require Consistent Treatment and Provide Basis Allocation Rules for Transfers of Intangibles in Certain Nonrecognition Transactions

The conference agreement treats a transfer of less than all the substantial rights of the transferor in an intangible as a qualifying transfer of property for purposes of the nonrecognition provisions regarding transfers to corporations and partnerships. The transferor is

required to allocate basis between the retained and transferred interests, based upon their respective fair market values. The provision is effective for transfers on or after the date of enactment.

N. Distributions by a Partnership to a Corporate Partner of Stock in Another Corporation

The conference agreement provides for a basis reduction to assets of a corporation if stock in that corporation is distributed by a partnership to a corporate partner. The reduction applies if, after the distribution, the corporate partner controls the distributed corporation. The provision is effective for distributions after July 14, 1999, except that in the case of a corporation that is a partner in a partnership on July 14, 1999, the provision is effective for distributions by that partnership to the corporation after the date of enactment.

O. Prohibited Allocations of Stock in an S Corporation ESOP

Under the conference agreement, if there is a prohibited allocation of stock to a disqualified individual under an ESOP sponsored by an S corporation at least 50 percent of which is owned by disqualified individuals: (1) an excise tax is imposed on the employer equal to 50 percent of the amount involved in the prohibited allocation; and (2) the stock allocated in the prohibited allocation is treated as distributed to the disqualified individual. The provision is generally effective with respect to years beginning after December 31, 2000. In the case of an ESOP established after July 14, 1999, or an ESOP established on or before such date if the employer maintaining the plan was not an S corporation on such date, the provision is effective with respect to plan years ending after July 14, 1999.