COMPARISON OF REVENUE PROVISIONS OF H.R. 3103 (THE "HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996") AS PASSED BY THE HOUSE AND THE SENATE

Prepared for Use of the House and Senate Conferees

By the Staff

of the

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a comparison of the revenue provisions of H.R. 3103 (the "Health Coverage Availability and Affordability Act of 1996") as passed by the House of Representatives on March 28, 1996, and by the Senate on April 23, 1996.

The first portion of this document is a listing of the identical revenue provisions. This is followed by a comparative description of the differing revenue provisions.

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IDENTICAL PROVISION

- Exemption from Income Tax for State-Sponsored Organizations Providing Health Coverage for High-Risk Individuals (sec. 341 of the House bill and sec.   of the Senate amendment)

Item	Present Law	House Bill	Senate Amendment
COMPARISON OF REVENUE PROVISIONS			
I. HEALTH-RELATED PROVISIONS			
A. Medical Savings Accounts (sec. 301 of the House bill)	The tax treatment of health expenses depends on whether the individual is an employee or self employed, and whether the individual is covered under an employer-sponsored health plan. Employer contributions to a health plan for coverage for the employee and the employee's spouse and dependents is excludable from the employee's income and wages for social security tax purposes. Self-employed individuals are entitled to deduct 30 percent of the amount paid for health insurance for a self-employed individual and his or her spouse or dependents. Any individual who itemizes tax deductions may deduct unreimbursed medical expenses (including expenses for medical insurance) paid during the year to the	**<u>In general</u>** Within limits, contributions to a medical savings account ("MSA") are deductible if made by an eligible individual and are excludable from income (and wages for social security purposes) if made by the employer of an eligible individual. Earnings on amounts in an MSA are not currently taxable. Distributions from an MSA for medical expenses are not taxable. **<u>Eligible individuals</u>** An individual is eligible to make a deductible contribution to an MSA (or to have employer contributions made on his or her behalf) if the individual is covered under a high deductible	The Senate amendment does not contain provisions providing favorable tax treatment for MSAs. However, the Senate amendment amends the Public Health Services Act to permit health maintenance organizations to charge deductibles to individuals with an MSA. In addition, the Senate amendment provides that it is the sense of the Committee on Labor and Human Resources that the establishment of MSAs should be encouraged as part of any health insurance legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, MSAs. The Senate amendment also provides that it is the sense of the Senate that the Congress should take

Item	Present Law	House Bill	Senate Amendment
	extent that the total of such expenses exceeds 7.5 percent of the individual's adjusted gross income ("AGI"). Present law does not contain any special rules for medical savings accounts.	health plan and is not covered under another health plan (other than a plan that provides certain permitted coverage). An individual with other coverage in addition to a high deductible plan is still eligible for an MSA if such other coverage is certain permitted insurance or is coverage (whether provided through insurance to otherwise) for accidents, disability, dental care, vision care, or long-term care. Permitted insurance is (1) Medicare supplemental insurance; (2) insurance if substantially all of the coverage provided under such insurance relates to (a) liabilities incurred under worker's compensation law, (b) tort liabilities, (c) liabilities relating to ownership or use of property (e.g., auto insurance), or (d) such other similar liabilities as the Secretary may prescribe by regulations, (3) insurance for a specified disease or illness, and (4) insurance that provides a fixed payment for hospitalization. An individual is	measures to further the purposes of the Senate amendment, including any necessary changes to the Internal Revenue Code to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

Item	Present Law	House Bill	Senate Amendment
		not eligible to make deductible contributions to an MSA for a year if any employer contributions are made to an MSA on behalf of the individual for the year. **<u>Tax treatment of and limits on contributions</u>** Individual contributions to an MSA are deductible (within limits) in determining AGI. Employer contributions are excludable (within the same limits) from gross income and wages for employment tax purposes, except that this exclusion does not apply to contributions made through a cafeteria plan. The maximum amount of contributions that can be deducted or excluded for a year is equal to the lesser of (1) the deductible under the high deductible health plan or (2) $2,000 in the case of single coverage and $4,000 if the high deductible plan covers the individual and a spouse or dependent. The annual limit is	

Item	Present Law	House Bill	Senate Amendment
		the sum of the limits determined separately for each month, based on the individual's status as of the first day of the month. The maximum contribution limit to an MSA is determined separately for each spouse in a married couple. In no event can the maximum contribution limit exceed $4,000 for a family. The dollar limits are indexed for medical inflation and rounded to the nearest multiple of $50. **Definition of high deductible health plan** A high deductible health plan is a health plan with a deductible of at least $1,500 in the case of single coverage and $3,000 in the case of coverage of more than one individual. These dollar limits are indexed for medical inflation, rounded to the nearest multiple of $50. **Tax treatment of MSAs** Earnings on amounts in an MSA are not currently	

Item	Present Law	House Bill	Senate Amendment
		includible in income. **Taxation of distributions** Distributions from an MSA for the medical expenses of the individual and his or her spouse or dependents are excludable from income. For this purpose, medical expenses do not include expenses for insurance other than long-term care insurance, premiums for health care continuation coverage, and premiums for health care coverage while an individual is receiving unemployment compensation under Federal or State law. Distributions that are not for medical expenses are includible in income. Such distributions are also subject to an additional 10-percent tax unless made after age 59-1/2, death, or disability. Upon death, if the beneficiary is the individual's surviving spouse, the spouse may continue the MSA as his or	

Item	Present Law	House Bill	Senate Amendment
		her own. Otherwise, the beneficiary must include the MSA balance in income in the year of death. If there is no beneficiary, the MSA balance is includible on the final return of the decedent. In any case, no estate tax applies. **<u>Definition of MSA</u>** In general, an MSA is a trust or custodial account created exclusively for the benefit of the account holder and is subject to rules similar to those applicable to individual retirement arrangements. **<u>Effective date</u>** Taxable years beginning after December 31, 1996.	

Item	Present Law	House Bill	Senate Amendment
B. Increase in Deduction for Health Insurance Expenses of Self-Employed Individuals (sec. 311 of the House bill and sec. 401 of the Senate amendment)	Under present law, self-employed individuals are entitled to deduct up to 30 percent of the amount paid for health insurance for the self-employed individual and the individual's spouse and dependents. The deduction is not available for any month if the taxpayer was eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse. The deduction is limited to the amount of earned income from the individual's trade or business.	The House bill phases up the present-law 30-percent deduction for health insurance expenses of self-employed individuals to 50 percent as follows: 1998.........................35 percent 1999.........................40 percent 2000.........................40 percent 2001.........................40 percent 2002.........................45 percent 2003 and thereafter....50 percent **<u>Effective date</u>**.--Taxable years beginning after December 31, 1997.	The Senate amendment phases up the present-law 30-percent deduction for health insurance expenses of self-employed individuals to 80 percent as follows: 1997.........................35 percent 1998.........................40 percent 1999.........................45 percent 2000.........................50 percent 2001.........................55 percent 2002.........................60 percent 2003.........................65 percent 2004.........................70 percent 2005.........................75 percent 2006 and thereafter....80 percent **<u>Effective date</u>**.--Taxable years beginning after December 31, 1996.

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. **Treatment of Long-Term Care Insurance and Services (secs. 321-328 of the House bill and secs. 411-415 and 421-424 of the Senate amendment)**			
Tax treatment of long-term care insurance	The Federal income tax treatment of long-term care insurance contracts and services is not clear under present law.	A long-term care insurance contract generally is treated as an accident and health insurance contract.	Same as House bill.
Excludable amount	Amounts received by a taxpayer under accident and health insurance generally are excludable from income.	Amounts received under a long-term care insurance contract generally are excludable, subject to a cap on per diem type contracts of $175 per day, or $63,875 annually, indexed by the medical care cost component of the Consumer Price Index ("CPI"). Payments under a per diem type contract that exceed the dollar cap are excludable only to the extent actual long-term care costs exceed the cap amount. The dollar cap does not apply to amounts received under a reimbursement type	Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		contract. A payor of long-term care benefits is required to report the amount of such benefits.	
Employer-provided coverage	Contributions by an employer, and amounts received by an employee, under an accident or health plan, are excludable from the employee's income. A cafeteria plan is an employer-sponsored arrangement under which employees can elect among cash and certain employer-provided qualified benefits. A flexible spending account ("FSA") is an arrangement under which an employee is reimbursed for medical expenses.	A plan of an employer providing coverage under a long-term care insurance contract generally is treated as an accident or health plan, but coverage under a long-term care insurance contract is not excludable by an employee if provided through a cafeteria plan, and expenses for a long-term care services cannot be reimbursed under an FSA.	Same as House bill.
Itemized deduction for medical expenses	An itemized deduction is allowed for unreimbursed medical expenses of the taxpayer, his or her spouse or dependent, to the extent that the medical expenses exceed 7.5 percent of the taxpayer's adjusted gross income ("AGI") for the year.	Within annual dollar limits that vary with the insured person's age, premiums for long-term care insurance are treated as deductible medical expenses. Unreimbursed expenses for qualified long-term care services are treated as medical expenses without reference to the dollar limits. The services	Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		may not be provided by a relative (including the individual's spouse) or a related corporation. These medical expense deductions are subject to the present-law floor of 7.5 percent of AGI.	
Deduction for medical insurance of self-employed individuals	Self-employed individuals are allowed to deduct 30 percent of their expenses for medical insurance for the individual and his or her spouse or dependents. This deduction is not available if the individual is eligible to participate in an employer-subsidized health plan. Amounts that cannot be deducted under this provision may be taken into account for purposes of the itemized deduction for medical expenses.	Because long-term care premiums are treated as medical insurance under the House bill, the deduction for medical expenses of self-employed individuals, which is phased up to 50 percent under another provision of the bill, applies to long-term care insurance premiums.	Same as the House bill, except that the deduction for self-employed health insurance is phased up to 80 percent.
Definition of long-term care services	No definition.	Long-term care services means specified types of services that are required by a chronically ill individual and that are provided pursuant to a plan of care prescribed by a licensed health care practitioner.	Same as House bill.

Item	*Present Law*	*House Bill*	*Senate Amendment*
Chronically ill individual		A chronically ill individual is one who has been certified within the previous 12 months by a licensed health care practitioner as (1) unable to perform (without substantial assistance) at least 2 activities of daily living for a period of 90 days due to a loss of functional capacity, (2) having a similar level of disability as determined in regulations, or (3) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.	Same as House bill.
Life insurance company reserves	Long-term care insurance reserves are treated like noncancellable accident and health reserves, and are determined under the two-year full preliminary term method.	No provision.	Long-term care insurance reserves are determined under the method prescribed by the National Association of Insurance Commissioners (NAIC), which is currently the one-year full preliminary term method.
Exchanges of life insurance and other contracts for long-term care contracts	The exchange of a life insurance, endowment or annuity contract for a long-term care insurance contract is not specified as a tax-free exchange.	No provision.	The exchange of a life insurance, endowment or annuity contract for a long-term care insurance contract is included as a tax-free exchange.

Item	*Present Law*	*House Bill*	*Senate Amendment*
Penalty-free withdrawals from IRAs and elective deferrals for long-term care insurance	A 10-percent early withdrawal tax applies to distributions from individual retirement arrangements ("IRAs") and qualified retirement plans. The tax does not apply to distributions from a qualified plan for medical expenses in excess of 7.5 percent of AGI. In addition, certain plans are generally prohibited from making distributions prior to age 59-1/2, termination of employment, or certain other limited circumstances.	No provision.	The Senate amendment permits distributions for long-term care insurance premiums from IRAs and amounts attributable to elective deferrals under 401(k) plans, tax-sheltered annuities, non-qualified deferred compensation plans of governmental or tax-exempt employers, and section 501(c)(18) plans, without imposition of the 10-percent early withdrawal tax. Such distributions are includable in income (as under present law).
Consumer protection provisions	No provision.	Long-term care insurance contracts, and issuers of contracts, are required to satisfy certain provisions of the long-term care insurance model Act and model regulations promulgated by the NAIC (as adopted as of January 1993). **Effective dates**.--	Same as House bill. (Floor amendment by Senators Dole and Roth, adopted by a vote of 98 - 0.) **Effective dates**.-- Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		The provisions defining long-term care insurance contracts and long-term care services apply to contracts issued after December 31, 1996, with a grandfather rule for contracts issued before January 1, 1997 that met the long-term care insurance requirements in the State in which the policy was sitused.	
		A contract providing for long-term care insurance may be exchanged for a long-term care insurance contract that meets the House bill requirements, tax-free, between the date of enactment and January 1, 1998.	Same as House bill.
		The provision relating to treatment of long-term care insurance premiums as a medical expense is effective for taxable years beginning after December 31, 1996.	Same as House bill.
		The provision treating expenses for long-term care services as a medical expense is effective for services furnished in taxable	The provision treating expenses for long-term care services as a medical expense is effective for

Item	Present Law	House Bill	Senate Amendment
		years beginning after December 31, 1997.	taxable years beginning after December 31, 1996.
		No provision.	The change in treatment of reserves for long-term care insurance contracts is effective for contracts issued after December 31, 1996.
		No provision.	The provision relating to tax-free exchanges of life insurance, endowment and annuity contracts for long-term care insurance contracts is effective for taxable years beginning after December 31, 1997.
		No provision.	The provision relating to certain distributions from IRAs and elective deferrals used to pay long-term care insurance premiums is effective for payments and distributions after December 31, 1996.
		The provision relating to reporting of long-term care benefits is effective for benefits paid after December 31, 1996.	Same as House bill.
		The provisions relating to	Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		consumer protections apply to contracts issued after December 31, 1996 and actions taken after December 31, 1996.	

Item	Present Law	House Bill	Senate Amendment
D. Treatment of Accelerated Death Benefits Under Life Insurance Contracts (secs. 331-332 of the House bill and secs. 431-432 of the Senate amendment)	Exclusion from income.--Any amount paid under a life insurance contract by reason of the death of the insured is excludable from the recipient's income. Proposed Treasury regulations on accelerated death benefits (proposed in 1992 but not effective until they become final, which they have not) would provide an exclusion, in addition to what the statute provides, for amounts paid before the death of the insured under a life insurance contract, if the insured is terminally ill.	Exclusion from income.--Provides an exclusion from gross income as an amount paid by reason of the death of an insured for (1) amounts received under a life insurance contract and (2) amounts received for the sale or assignment of a life insurance contract to a qualified viatical settlement provider, provided that the insured under the life insurance contract is either terminally ill or chronically ill, and provided that any amount received by a chronically ill individual is received under a contract or rider that is treated as a long-term care contract and the amount is treated as a payment for long-term care services. The exclusion does not apply in the case of an amount paid to any taxpayer other than the insured, if such taxpayer has an insurable interest by reason of the insured being a director, officer, employee, or financially interested in the taxpayer.	Exclusion from income.--Same as House bill, except that an amount received by a chronically ill individual must be received under a contract or rider that is treated as a long-term care contract (and the provision does not make a specific reference to long-term care services).

Item	Present Law	House Bill	Senate Amendment
		Terminally ill.--A terminally ill individual is defined as one who has been certified by a physician as having an illness or physical condition that reasonably can be expected to result in death within 24 months of the date of certification.	Terminally ill.--Same as House bill.
		Chronically ill.--A chronically ill individual is defined the same as under the House bill provisions on long-term care insurance, i.e., as an individual who has been certified with the previous 12 months by a licensed health care practitioner as (1) being unable to perform (without substantial assistance) at least 2 activities of daily living for at least 90 days due to a loss of functional capacity, (2) having a similar level of disability as determined in regulations or (3) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.	Chronically ill.-Same as House bill.
		Viatical settlements.-- A	Viatical settlements.--Same as

Item	Present Law	House Bill	Senate Amendment
		qualified viatical settlement provider is any person that regularly purchases or takes assignments of life insurance contracts on the lives of terminally ill or chronically ill individuals and either (1) is licensed for such purposes in the State in which the insured resides, or (2) if the person is not required to be licensed by that State, meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act issued by the National Association of Insurance Commissioners (relating to disclosure requirements and general rules for a viatical settlement contract), and also meets the requirements of the section of the Viatical Settlements Model Regulation issued by the NAIC relating to standards for evaluation of reasonable payments, including discount rates.	House bill. (Floor amendment by Senators Dole and Roth, adopted by a vote of 98 - 0.)
		Effective date.--Amounts	**Effective date**.--Same as House bill.

Item	Present Law	House Bill	Senate Amendment
		received after December 31, 1996.	

Item	Present Law	House Bill	Senate Amendment
E. Health Insurance Organizations Eligible for Benefits of Section 833 (sec. 351 of the House bill)	Section 833 provides a special deduction for eligible organizations, equal to 25 percent of the claims and expenses incurred during the year, less the adjusted surplus at the beginning of the year. In addition, section 833 eliminates the 20 percent reduction in unearned premium reserves that applies generally to all property and casualty insurance companies. Eligible health insurance organizations are (1) Blue Cross and Blue Shield organizations existing on August 16, 1986, which have not experienced a material change in structure or operations since that date, and (2) other organizations that meet certain community-service-related requirements and substantially all of whose activities involve the providing of health insurance.	The bill applies the special rules under section 833 to the same extent they are provided to certain existing Blue Cross or Blue Shield organizations, in the case of any organization that (1) is not a Blue Cross or Blue Shield organization existing on August 16, 1986, and (2) otherwise meets the requirments of section 833(c)(2) (including the requirement of no material change in operations or structure since August 16, 1986). Under the provision, an organization qualifies for this treatment only if (1) it is not a health maintenance organization and (2) it is organized under and governed by State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations. Effective date.--Taxable years ending after December 31, 1996.	No provision.

Item	Present Law	House Bill	Senate Amendment
F. Penalty-Free Withdrawals From Individual Retirement Arrangements for Medical Expenses (sec. 461 of the Senate amendment)	Under present law, a 10-percent early withdrawal tax applies to distributions from individual retirement arrangements ("IRAs") and employer-sponsored retirement plans made before age 59-1/2, unless the distribution is on account of death or disability or is made in the form of periodic payments. In the case of employer-sponsored retirement plans, the 10-percent additional tax also does not apply to distributions used to pay medical expenses of the individual (or the individual's spouse or dependents) that exceed 7.5 percent of adjusted gross income ("AGI").	Penalty-free withdrawals from IRAs for medical expenses.--No provision.	Penalty-free withdrawals from IRAs for medical expenses.--Under the Senate amendment, distributions from an IRA for medical expenses of the individual (or the individual's spouse or dependents) that exceed 7.5 percent of AGI are not subject to the 10-percent additional tax.
		Penalty-free withdrawals from IRAs for medical insurance for unemployed individuals.--No provision.	Penalty-free withdrawals from IRAs for medical insurance for unemployed individuals.--Under the Senate amendment, the 10-percent additional tax does not apply to distributions from an IRA for the cost of medical insurance (without regard to the 7.5 percent of AGI floor) for the individual (or the individual's

Item	Present Law	House Bill	Senate Amendment
			spouse or dependents) if the individual has received unemployment compensation under Federal or State law for at least 12 consecutive weeks and the distributions are made during a taxable year in which such unemployment compensation is received or the succeeding taxable year. For purposes of this rule, to the extent provided in Treasury regulations, a self-employed individual is treated as having received unemployment compensation for at least 12 consecutive weeks if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed. **Effective date.**--Taxable years beginning after December 31, 1996.

Item	*Present Law*	*House Bill*	*Senate Amendment*
G. **Organ and Tissue Donation Information Included with Income Tax Refund Payments (sec. ___ of the Senate amendment)**	There is no statutory requirement that Treasury include organ and tissue donation information with any payment of a refund of individual income taxes.	No provision.	Requires Treasury to include organ and tissue donation information with any payment of a refund of individual income taxes made on or after February 1, 1997, through June 30, 1997. (Floor amendment by Sen. Kennedy for Senators Dorgan and Frist, adopted by voice vote.) **Effective date**.--Refunds made on or after February 1, 1997, through June 30, 1997.

Item	Present Law	House Bill	Senate Amendment
H. Modifications to the COBRA Health Care Continuation Rules (sec. 104(b) of the House bill and sec. 121 of the Senate amendment)	In general.--The health care continuation rules (referred to as "COBRA" rules, after the Consolidated Omnibus Budget Reconciliation Act of 1985 in which they were enacted) require that most employer-sponsored group health plans must offer certain employees and their dependents ("qualified beneficiaries") the option of purchasing continued health coverage in the case of certain qualifying events. These qualifying events include: termination or reduction in hours of employment, death, divorce or legal separation, enrollment in Medicare, or the end of a child's dependency under a parent's health plan. In general, the maximum period of COBRA coverage is 18 months. An employer is permitted to charge qualified beneficiaries 102 percent of the applicable premium for COBRA coverage.		
	COBRA sanctions.--A tax is imposed on the failure of a group health plan to satisfy the	Application of COBRA sanctions to health coverage availability and portability	Application of COBRA sanctions to health coverage availability and portability

Item	Present Law	House Bill	Senate Amendment
	COBRA rules. The tax may be imposed on the employer sponsoring the plan in the case of a plan other than a multiemployer plan, on the plan in the case of a multiemployer plan, or on each person who is responsible for administering or providing benefits under the plan if such person has, by written agreement, assumed responsibility for performing the act pursuant to which the violation occurs. The amount of the tax is generally equal to $100 per day for each day on which there is a violation. The tax applies separately with respect to each qualified beneficiary for whom a failure occurs. In general, a tax will not be imposed if the violation was unintentional and is corrected within 30 days. The maximum tax for unintentional violations that can be imposed for a taxable year generally is the lesser of (1) 10 percent of the employer's payments under group health plans (or under the	requirements.--Under the House bill, group health plans, insurers, and health maintenance organizations ("HMOs") are subject to certain requirements regarding portability, limitations on exclusion of preexisting conditions, and prohibitions on excluding individuals from coverage based on health status. The House bill extends the tax for failures to satisfy the COBRA rules to failures to comply with these requirements. No tax is imposed on an insurer or HMO that is governed under a State law that the Secretary of Health and Human Services has determined to provide enforcement of similar requirements. In addition, no tax may be imposed on a small employer (defined as an employer who employs at least 2, but fewer than 51 employees on a typical business day) that provides health care benefits through a contract with an insurer or HMO and the violation is solely because of the	requirements.--No provision.

Item	Present Law	House Bill	Senate Amendment
	trust funding the plan in the case of a multiemployer plan), or (2) $500,000. If the tax is imposed on another person responsible for administering or providing benefits under the plan, the maximum penalty for failures during the year is $2 million. The Secretary may waive all or part of the tax to the extent that payment of the tax would be excessive relative to the failure involved.	product offered by the insurer or HMO under such contract. In addition, no tax is imposed if there has been enforcement by the Secretary of Labor or the Secretary of Health and Human Services.	
	Extension of COBRA coverage for disability.--The 18-month maximum COBRA coverage period is extended to 29 months if the qualified beneficiary is determined under the Social Security Act to have been disabled at the time of the qualifying event and the qualified beneficiary provides notice of such determination to the employer before the end of the 18-month period. A qualified beneficiary has 60 days to notify the employer of a disability determination. During the 11-month period of extended	Extension of COBRA coverage for disability.--No provision.	Extension of COBRA coverage for disability.--The Senate amendment modifies the COBRA rules by clarifying that the extended maximum COBRA coverage period of 29 months in cases of disability also applies to the disabled qualified beneficiary of the covered employee. In addition, the Senate amendment provides the extended COBRA coverage if the onset of the disability occurs at any time during the initial 18-month COBRA coverage period as opposed to requiring the disability to exist at the time of

Item	Present Law	House Bill	Senate Amendment
	COBRA coverage, the qualified beneficiary may be charged 150 percent of the applicable premium.		the qualifying event. As under present law, the disability determination still has to be made, and the notice of the disability still has to be given, before the end of the initial COBRA coverage period.
	Termination of COBRA coverage.--COBRA coverage may be terminated before the 18-month maximum coverage period in the case of certain events. These include: the employer ceases to maintain any group health plan, the qualified beneficiary fails to pay the premium, the qualified beneficiary becomes covered under another group health plan with no preexisting condition limitation or exclusion, or the qualified beneficiary becomes entitled to Medicare.	Termination of COBRA coverage.--No provision.	Termination of COBRA coverage.--The Senate amendment coordinates the COBRA coverage rules with the new requirements regarding limitations on exclusion of preexisting conditions so that COBRA coverage can be terminated if a qualified beneficiary becomes covered under another group health plan, even if such group health plan contains a preexisting condition limitation or exclusion, provided the preexisting condition limitation or exclusion does not apply to the qualified beneficiary by reason of the new requirements restricting the application of preexisting condition limitations and exclusions.

Item	Present Law	House Bill	Senate Amendment
	Definition of qualified beneficiary.--Under present law, the term qualified beneficiary only includes individuals who were either the spouse or the dependent of the covered employee at the time of the qualifying event.		Definition of qualified beneficiary.--The Senate amendment also modifies the definition of qualified beneficiary to include a child born to or placed for adoption with the covered employee during the period of COBRA coverage. Consequently, since the health care availability provisions in the Senate amendment require group health plans to allow participants to change their coverage status (i.e., to change from individual coverage to family coverage, or to add on the new child) upon the birth or adoption of a new child, COBRA participants would also be allowed to change their coverage status upon the birth or adoption of a new child.
	Notice requirements.--A group health plan is required to notify each covered employee and the covered employee's spouse of their COBRA rights upon commencement of participation in the plan. Further, the group health plan administrator must	Notice requirements.--No provision.	Notice requirements.--The Senate amendment requires a group health plan to notify each qualified beneficiary who has elected COBRA coverage of the changes to the COBRA rules contained in the Senate amendment no later than 60

Item	Present Law	House Bill	Senate Amendment
	notify each qualified beneficiary of their COBRA rights within 14 days after notification of the occurrence of a qualifying event.		days prior to the date the changes become effective.
		Effective date.--The provision generally is effective with respect to plan years beginning on or after January 1, 1998.	**Effective date.**--The provision applies to qualifying events occurring on or after the date of enactment for plan years beginning after December 31, 1997.

Item	Present Law	House Bill	Senate Amendment
II. REVENUE OFFSETS			
A. Treatment of Bad Debt Reserves of Thrift Institutions (sec. 401 of the House bill and sec. _ of the Senate amendment)	A qualified thrift institution is allowed deductions for bad debts pursuant to a reserve method provided in section 593. Under section 593, a qualified thrift institution generally is allowed a deduction equal to the greater of: (1) eight percent of its taxable income or (2) the amount necessary to increase its bad debt reserve to a level that reflects the institution's actual experience for losses relative to its average outstanding loan balance for the last six years. A qualified thrift institution is a building and loan association, mutual savings bank, or cooperative bank that maintains at least 60 percent of its assets in qualifying assets (generally cash, government securities, and mortgage loans). A qualified thrift institution that makes certain excessive distributions to shareholders may be required to recapture at least part of its bad debt reserve	The House bill repeals the bad debt reserve method of thrift institutions of section 593. The portion of the bad debt reserves that arose after 1987 will be recaptured and restored to income over 6 years. This recapture will be suspended for two years if the institution continues to make qualifying residential loans during this period. The portion of the bad debt reserves that arose before 1988 will be recaptured under section 593(e) only if the institution makes certain distributions to shareholders. Certain internal reorganizations of a group of thrift institutions will not be treated as distributions to shareholders for purposes of section 593(e). <u>**Effective date.**</u>--Effective for taxable years beginning after 1995. The provision will not apply to certain distributions with respect to preferred stock	The Senate amendment generally is the same as the House bill. The Senate amendment does not contain the rule that applies to certain internal reorganizations of a group of thrift institutions. (Floor amendment by Senators Domenici and Wellstone; the Senate failed to table the amendment by a vote of 30-68.) <u>**Effective date.**</u>--Effective for taxable years beginning after 1995. The Senate amendment does not contain the rule that

Item	Present Law	House Bill	Senate Amendment
	(sec. 593(e)). In addition, a thrift institution that fails to be qualified thrift institution must change its method of accounting for bad debts and recapture its bad debt reserve.	made within a specified period of time.	applies to certain distributions with respect to preferred stock made within a specified period of time.

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B. Earned Income Credit (sec. 411 of the House bill)	<u>Taxpayer identification number</u>.-- In order to claim the earned income credit, a taxpayer must either have a qualifying child or meet other requirements. A qualifying child must meet an identification test. To satisfy the identification test, taxpayers must include on their tax return the name, age and taxpayer identification number of each qualifying child. A taxpayer's TIN is generally that taxpayer's social security number.	<u>Taxpayer identification number</u>.--Under the House bill, individuals are not eligible for the earned income credit if they do not include their taxpayer identification number (and, if married, their spouse's taxpayer identification number) on their tax return. Solely for these purposes and for purposes of the present-law identification test for a qualifying child, a taxpayer identification number is defined as a social security number issued to an individual by the Social Security Administration other than a number issued under section 205(c)(2)(B)(i)(II) (or that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act (regarding the issuance of a number to an individual applying for or receiving Federally funded benefits).	<u>Taxpayer identification number</u>.--No provision.
	<u>Mathematical errors</u>.--The IRS may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a	<u>Mathematical errors</u>.--If an individual fails to provide a correct taxpayer identification number, such omission is treated as a mathematical or	<u>Mathematical errors</u>.--No provision.

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	notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. A request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he believes the assessment was made in error.	clerical error. If an individual who claims the credit with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on such net earnings, the failure is treated as a mathematical or clerical error for purposes of the amount of credit allowed. **Effective date**.--Taxable years beginning after December 31, 1995.	

Item	*Present Law*	*House Bill*	*Senate Amendment*
C. Expatriation Tax Provisions (secs. 421-423 of the House bill and secs. 471-473 of the Senate amendment)	In general.--Individuals who relinquish U.S. citizenship with a principal purpose of avoiding U.S. taxes are subject to special tax provisions for 10 years after expatriation.	In general.--Certain U.S. citizens who relinquish citizenship and certain long-term residents who terminate residency are subject to special tax provisions for 10 years after expatriation.	In general.--Certain U.S. citizens who relinquish citizenship and certain long-term residents who terminate residency generally are subject to tax on the unrealized gain in their property upon expatriation.
	Date of loss of citizenship.--The determination of who is a U.S. citizen for tax purposes, and when such citizenship is lost, is governed by the provisions of the Immigration and Nationality Act, 8 U.S.C. section 1401, et. seq.	Date of loss of citizenship.--No provision.	Date of loss of citizenship.--Under the Senate amendment, for tax purposes, a U.S. citizen who formally renounces his citizenship before a U.S. consular officer is treated as losing citizenship as of that date. A citizen who provides the State Department with a statement confirming performance of an expatriating act is treated as losing citizenship as of the date the statement is provided (and not as of the date of the expatriating act). If neither of these rules apply, the citizen is treated as losing citizenship as of date the State Department issues a CLN or a court cancels his certificate of naturalization. The date the citizen is treated as losing citizenship applies for all tax

Item	Present Law	House Bill	Senate Amendment
			purposes.
	Individuals covered.-- The expatriation income tax applies to any U.S. citizen who relinquishes citizenship with a principal purpose of avoiding U.S. taxes.	Individuals covered.--Under the House bill, the expatriation income tax applies to U.S. citizens who relinquish citizenship with a principal purpose of avoiding U.S. taxes. The expatriation tax provisions also apply to long-term residents who terminate residency with a principal purpose of avoiding U.S. taxes; a long-term resident is an individual who was a lawful permanent resident for at least 8 of the 15 taxable years ending with the year in which the termination occurs. U.S. citizens and long-term residents are deemed to have relinquished citizenship or terminated residency for a principal purpose of tax avoidance if (1) the individual's average U.S. income tax liability for the 5 years before the expatriation date exceeds $100,000 or (2) the individual's net worth as of the expatriation date is $500,000 or more (with	Individuals covered.--Under the Senate amendment, the expatriation income tax applies to U.S. citizens who relinquish citizenship and long-term residents whose residency is terminated if they meet certain income or net worth thresholds. A long-term resident is an individual who was a lawful permanent resident for at least 8 of the 15 taxable years ending with the year in which the termination occurs. U.S. citizens who relinquish citizenship and long-term residents who terminate residency are subject to the expatriation income tax if: (1) the individual's average U.S. income tax liability for the 5 years before the expatriation date exceeds $100,000 or (2) the individual's net worth as of the expatriation date is $500,000 or more (with indexing for these dollar thresholds).

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		indexing for these dollar thresholds). A U.S. citizen who satisfies the tax liability test or the net worth test is not subject to the expatriation tax provisions if he can demonstrate that he did not have a principal purpose of tax avoidance and he is in one of the following categories: (1) the individual was born with dual citizenship and retains only the non-U.S. citizenship; (2) the individual becomes a citizen of the country in which the individual, his spouse, or one of his parents was born; (3) the individual was present in the U.S. for no more than 30 days in any year of the 10 years preceding the expatriation date; (4) the individual relinquishes citizenship before age 18-1/2; or (5) the individual is in any other category prescribed by regulations. In order to qualify for one of these exceptions, the former U.S. citizen must submit within 1 year of the expatriation date a ruling request for a	An exception is provided for an individual born with dual citizenship who retains the non-U.S. citizenship and who is resident in the other country as of the expatriation date, provided that he was resident in U.S. for no more than 8 of the 15 years before the expatriation date. Another exception is provided for a citizen who renounces U.S. citizenship before age 18-1/2, provided that he was a U.S. resident for no more than 5 years before the expatriation date.

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		determination that tax avoidance was not a principal purpose for the expatriation. The foregoing exceptions are not applicable to long-term residents, but Treasury is authorized to prescribe regulations providing exemptions applicable to long-term residents.	
	Imposition of tax.--A covered expatriate is subject to tax on his U.S. source income at the rates applicable to U.S. citizens rather than the rates applicable to other non-resident aliens for 10 years after expatriation. In addition, the scope of items treated as U.S. source income for this purpose is broader than those items generally considered to be U.S. source income (e.g., gains on the sale of personal property located in the United States and gains on the sale or exchange of stock or securities issued by U.S. persons are treated as U.S. source income). This alternative method of income taxation applies only if it results in a higher U.S. tax liability.	Imposition of tax.--The House bill expands the reach of the expatriation income tax. An expatriate who exchanges U.S. source property for foreign source property in a transaction that would otherwise qualify for nonrecognition treatment is required to recognize immediately as U.S. source income any gain on such exchange. However, this gain recognition rule does not apply if the expatriate enters into an agreement to treat income or gains derived from the property received in the exchange during the 10 years after the expatriation date as U.S. source income. Such an agreement terminates if the property	Imposition of tax.--Under the Senate amendment, a covered expatriate is subject to tax on the unrealized gain in property held on the expatriation date. Property is deemed to be sold upon expatriation, and any net gain or loss on such deemed sale is recognized for tax purposes, subject to an exclusion for the first $600,000 of net gain. The expatriation income tax applies to all property interests held by the expatriate on the expatriation date, provided that any gain on such an interest would be includible in the expatriate's gross income if such interest were sold. The expatriation income tax also

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		transferred in the exchange is disposed of by the acquirer, and any gain not recognized by reason of the agreement is recognized as U.S. source on such date. Treasury is authorized to issue regulations providing similar treatment for nonrecognition transactions within 5 years before the expatriation date. In addition, Treasury is authorized to issue regulations treating the removal of tangible personal property from the United States, and other circumstances that result in the conversion of U.S. source income to foreign source income without recognition of unrealized gain, as exchanges to which the foregoing rules would apply. The House bill treats as U.S. source any income or gains derived from stock in a foreign corporation if the expatriate owns (directly or indirectly) more than 50 percent (by vote or by value) of the stock of such	applies to trust interests under rules described below. Exclusions are provided for U.S. real property, qualified retirement plans and certain foreign pension plans. Treasury is authorized to issue regulations exempting other property interests as appropriate. The expatriate is required to pay a tentative tax within 90 days after the expatriation date, which tax reflects the gain on the deemed sale as well as other items for the portion of the year that precedes the expatriation date. An expatriate may elect to defer payment of the expatriation income tax with respect to any property. This election is made on an asset-by-asset basis. Under this election, the deferred tax accrues interest through the payment date. The deferred tax is payable when the asset is disposed of (or immediately before death if the asset is held at such time). The expatriate

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		corporation on the expatriation date or at any time during the preceding 2 years. Such recharacterization applies only to the extent of the earnings and profits attributable to such stock earned or accumulated prior to the expatriation date (and while the ownership requirement is satisfied). The House bill also suspends the running of the 10-year period for imposition of the expatriation income tax with respect to a property during any period in which the individual's risk of loss with respect to such property is substantially diminished.	must provide adequate security and must waive any treaty rights that would preclude collection of the tax in order to elect to defer payment.
		<u>Special rules for trust interests</u>.--No provision.	<u>Special rules for trust interests</u>.--The Senate amendment provides special rules with respect to the application of the expatriation income tax in the case of trust interests. The rules applicable to trust interests depend on whether the trust is a qualified trust. A qualified trust is a trust governed by U.S. law which is

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			required at all times to have a U.S. trustee. The expatriation income tax with respect to a qualified trust interest is imposed only when a distribution is received. The amount of the expatriation income tax is calculated as of the expatriation date based on the gain in the maximum assets that could be allocable to the trust interest (determined by resolving contingencies and discretionary powers in the expatriate's favor). The amount so calculated plus interest is collected from subsequent distributions as received. If a qualified trust interest is disposed of, the expatriate dies, or the trust ceases to be qualified, the expatriation income tax is imposed at such time in an amount equal to the lesser of the remainder of the expatriation income tax calculated as of the expatriation date (and not yet collected) or the amount of tax calculated

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

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			expatriation income tax is imposed on the gain in the trust interest determined as if the trust assets were sold for fair market value on the expatriation date. Payment of the expatriation income tax that is imposed with respect to a nonqualified trust interest could be deferred under the rules described above.
		Election to be taxed as a U.S. citizen.--No provision.	Election to be taxed as a U.S. citizen.--Instead of being subject to the expatriation tax on unrealized gain in his property at the time of expatriation, the expatriate may elect to continue to be taxed as a U.S. citizen with respect to all property that would otherwise be subject to the expatriation tax. This election covers all such property (and any property the basis of which is determined by reference to such property). The income, gift, estate, and generation-skipping transfer taxes continue to apply to such property; however, the transfer taxes imposed under this

Item	Present Law	House Bill	Senate Amendment
			provision are limited to the amount of income tax that would be due if the property were sold for its fair market value at the time of the transfer. The $600,000 exclusion is available to reduce taxes imposed by reason of this election. In order to make the election, the expatriate is required to provide security and waive any treaty rights that would preclude collection of the tax.
		Special basis rule for long-term residents.--The House bill provides that a long-term resident may elect to use the fair market value basis of property on the date the individual became a U.S. resident to determine the amount of gain subject to the expatriation tax provisions if the property is sold within the 10-year period after expatriation.	Special basis rule for long-term residents.--No provision.
	Special estate and gift tax provisions.--Rules applicable in the estate and gift tax contexts	Special estate and gift tax provisions.--Under the House bill, the special expatriation	Special estate and gift tax provisions.--Under the Senate amendment, the special estate

Item	Present Law	House Bill	Senate Amendment
	expand the categories of items that are subject to the gift and estate taxes in the case of a U.S. citizen who relinquished citizenship with a principal purpose of avoiding U.S. taxes within the 10-year period ending on the date of the transfer (e.g., U.S. property held through a foreign corporation controlled by the expatriate and related persons is included in his estate and gifts of U.S.-situs intangible property by the expatriate are subject to the gift tax).	estate and gift tax provisions are applicable to the covered individuals described above.	and gift tax provisions with respect to citizens who expatriate with a principal purpose of avoiding U.S. taxes continue to apply as under present law.
		<u>Special tax credit provisions</u>.--The House bill provides a credit against the tax imposed under the expatriation tax provisions for any foreign income, gift, estate or similar taxes paid with respect to the items subject to such taxation. While it is believed that the expatriation tax provisions of the House bill are generally consistent with income tax treaties, it is intended that the expatriation tax provisions not	<u>Special tax credit provisions</u>.--A credit against the tax imposed solely by reason of the special estate and gift tax provisions is allowed for the expatriation income tax imposed with respect to the same property.

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		be defeated by any treaty provision. However, beginning on the 10th anniversary of enactment, any conflicting treaty provision that remains in force takes precedence over the expatriation tax provisions.	
		Treatment of gifts and inheritances from an expatriate.--No provision.	Treatment of gifts and inheritances from an expatriate.--Under the Senate amendment, the section 102 exclusion is not applicable to property received by gift or inheritance from an expatriate who was subject to the expatriation tax.
	Information reporting.--There is no special information reporting requirement with respect to U.S. citizens who lose U.S. citizenship or long-term residents who terminate U.S. residency.	Information reporting.--The House bill imposes an information reporting requirement on an individual who renounces citizenship or terminates residency. Statements are required to be provided to the State Department in the case of a former U.S. citizen and filed with the U.S. tax return for the year in which the termination of residency occurs in the case of a former long-term resident.	Information reporting.--Same as the House bill.

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		Failure to provide the required statement results in a penalty for each year the failure continues equal to the greater of (1) 5 percent of the individual's expatriation tax liability for such year or (2) $1,000. The State Department is required to provide Treasury with all statements received from former citizens and the names of those who refuse to provide the statement. The State Department is also required to provide Treasury with a copy of each CLN approved. The agency administering the immigration laws is required to provide Treasury with the names of individuals whose residency status is revoked or determined to have been abandoned. Treasury is required to publish in the *Federal Register* the names of all former citizens from whom it receives statements or whose names it receives under the information-	

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		sharing provisions.	
		Treasury Department study.--Treasury is directed to undertake a study on the tax compliance of U.S. citizens and green-card holders residing abroad and to make recommendations regarding the improvement of such compliance.	Treasury Department study.--Same as the House bill.
		Effective date.--The expatriation tax provisions of the House bill apply to individuals who terminate residency or who relinquish citizenship on or after February 6, 1995. The required information statement is not due earlier than 90 days after date of enactment.	**Effective date**.--The Senate amendment applies to individuals who terminate residency or who are treated as losing citizenship on or after February 6, 1995. The tentative tax and the required information statement are due not earlier than 90 days after date of enactment.
		An individual who committed an expatriating act within one year prior to February 6, 1995, but who had not applied for a CLN as of February 6, 1995, is subject to the expatriation tax provisions of the House bill as of the date of application for	An individual who committed an expatriating act before February 6, 1995 but who provided the confirming statement or had a CLN issued on or after such date is subject to the expatriation tax imposed under the Senate amendment as

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		CLN. Such individual is not subject retroactively to U.S. income taxes on his worldwide income. In order to qualify for one of the exceptions from the expatriation tax provisions, such individual must submit a ruling request within one year after the date of enactment.	of such later date. Such individual is not subject retroactively to tax as a U.S. citizen from the date of the expatriating act. The prior law expatriation income tax provisions of section 877 continue to apply to such individual through the date the new expatriation tax provisions are applicable. (Floor amendment by Senators Dole and Roth, adopted by a vote of 98-0.)

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D. Disallow Interest Deduction for Corporate-Owned Life Insurance Policy Loans (sec. ____ of the Senate amendment)			
Deduction disallowance rule	No deduction is allowed for any interest paid or accrued on any indebtedness with respect to one or more life insurance policies owned by the taxpayer covering the life of any individual who (1) is an officer or employee of, or (2) is financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such debt with respect to policies covering the individual exceeds $50,000.	No provision.	No deduction is allowed for interest paid or accrued on any indebtedness with respect to one or more life insurance policies or annuity or endowment contracts owned by the taxpayer covering any individual who is (1) an officer or employee of, or (2) financially interested in any trade or business carried on by the taxpayer, regardless of the aggregate amount of debt with respect to policies or contracts covering the individual.
Key person exception	No provision.	No provision.	An exception is provided retaining present law for interest on indebtedness with respect to life insurance policies covering up to 10 key persons. (Floor amendment by Senators Dole and Roth, adopted by a

Item	*Present Law*	*House Bill*	*Senate Amendment*
			vote of 98 - 0.)
Effective date		No provision.	In general.--The proposal generally is effective with respect to interest paid or accrued after December 31, 1995 (subject to a phase-in rule). Phase-in rule.--The phase-in rule provides that with respect to debt incurred before January 1, 1996, any otherwise deductible interest paid or accrued after October 13, 1995, and before January 1, 1999, would be allowed to the extent the rate of interest does not exceed the lesser of (1) the borrowing rate specified in the contract as of October 13, 1995, or (2) a percentage of Moody's Corporate Bond Yield Average - Monthly Average Corporates for each month the interest is paid or accrued. For interest paid or accrued after October 13, 1995, and before January 1, 1996, the percentage of the Moody's rate is 100 percent; for 1996, 90 percent; for 1997, 80

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			percent; for 1998, 70 percent; for 1999 and thereafter, 0 percent. Under the phase-in, a deduction is allowed for interest on borrowings with respect to the lives of more than 20,000 insured individuals, effective for interest paid or accrued after December 31, 1995. 1994 and 1995 contracts.--Under a special rule for any life insurance contract entered into during 1994 or 1995, the provision does not apply to debt incurred before January 1, 1997, except as provided under the phase-in rule. Pre-1986 Act contracts.--The proposal generally does not apply to interest on debt with respect to contracts purchased on or before June 20, 1986 (thus generally continuing the effective date provision of the $50,000 limitation enacted in the 1986 Act). 4-year spread.--A 4-year income-spreading rule applies to

Item	Present Law	House Bill	Senate Amendment
			any amount included in income during 1996, 1997, or 1998, that is received under a contract described in the provision on the complete surrender, redemption or maturity of the contract or in full discharge of the obligation under the contract that is in the nature of a refund of the consideration paid for the contract. Policy acquisition expenses.--In the case of an insurance company, the unamortized balance of policy expenses attributable to a contract with respect to which the 4-year income-spreading treatment is allowed to the policyholder is deductible in the year in which the transaction giving rise to income-spreading occurs.

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E. Modify Treatment of Foreign Trusts (secs. ________ of the Senate amendment)	Inbound foreign grantor trust rules.--Under the grantor trust rules, a grantor generally is treated as the owner of the trust's assets without regard to whether the grantor is a domestic or foreign person. Under these rules, U.S. trust beneficiaries can avoid U.S. tax on distributions from a trust where a foreign grantor is treated as owner of the trust, even though no tax may be imposed on the trust income by any jurisdiction.	Inbound foreign grantor trust rules.--No provision.	Inbound foreign grantor trust rules.--The Senate amendment generally applies the grantor trust rules only to the extent that they result, directly or indirectly, in amounts being currently taken into account in computing the income of a U.S. citizen or resident or a domestic corporation. Certain exceptions apply to this general rule. Under the exceptions, the general rule does not apply in the case of revocable trusts and trusts where the only amounts distributable during the lifetime of the grantor are to the grantor or the grantor's spouse. These exceptions do not apply to the extent of gifts made by a U.S. beneficiary of the trust to the foreign grantor. The Senate amendment does not apply to trusts established to pay compensation, and certain trusts in existence as of September 19, 1995. In addition, the amendment generally does not apply where the grantor is a controlled foreign corporation. Under the amendment, the

Item	Present Law	House Bill	Senate Amendment
			grantor trust rules apply in determining whether a foreign corporation is characterized as a passive foreign investment company. **Effective date**.--The provision is effective on the date of enactment.
	Foreign nongrantor trust rules.--Under the accumulation distribution rules (which generally apply to distributions from a trust in excess of the trust's distributable net income for the taxable year), a distribution by a foreign nongrantor trust of previously accumulated income generally is taxed at the U.S. beneficiary's average marginal rate for the prior 5 years, plus interest. Interest is computed at a fixed annual rate of 6 percent, with no compounding. If adequate records of the trust are not available to determine the proper application of the rules relating to accumulation distributions to any distribution	Foreign nongrantor trust rules.--No provision.	Foreign nongrantor trust rules.--Under the Senate amendment, the interest rate applicable to accumulation distributions from foreign nongrantor trusts is the interest rate for underpayments of tax under section 6621(a)(2), with compounding. Simple interest continues to accrue at the rate of 6 percent through 1995. Beginning on January 1, 1996, compound interest based on the underpayment rate is imposed on tax amounts determined under the accumulation distribution rules and the total simple interest for pre-1996 periods, if any. For purposes of computing the interest charge, the accumulation distribution is

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	from a trust, the distribution is treated as an accumulation distribution out of income earned during the first year of the trust.		allocated proportionately to prior trust years in which the trust has undistributed net income (and the beneficiary receiving the distribution was a U.S. citizen or resident), rather than to the earliest of such years. **Effective date.**--The provision applies to distributions after the date of enactment.
	If a foreign nongrantor trust makes a loan to one of its beneficiaries, the principal of such a loan generally is not taxable as income to the beneficiary.	No provision.	Under the Senate amendment, except as provided in Treasury regulations, the full amount of a loan of cash or marketable securities by the foreign nongrantor trust to a U.S. grantor or a U.S. beneficiary (or a U.S. person related to such a grantor or beneficiary) is treated as distributed to the grantor or beneficiary. **Effective date.**--The provision applies to loans made after September 19, 1995.
	Outbound foreign grantor trust rules.--Under the grantor trust	Outbound foreign grantor trust rules.--No provision.	Outbound foreign grantor trust rules.--The Senate amendment

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	rules, a U.S. person who transfers property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property for any taxable year in which there is a U.S. beneficiary of any portion of the trust. This treatment generally does not apply, however, to transfers by reason of death, to transfers made before the transferor became a U.S. person, or to sales or exchanges of property at fair market value where gain is recognized to the transferor.		treats a nonresident alien individual who transfers property to a foreign trust and then becomes a U.S. resident within 5 years after the transfer as making a transfer to the foreign trust on his residency starting date. Under the Senate amendment, in determining whether a foreign trust paid fair market value to the transferor for property transferred to the trust, obligations issued by the trust, by any grantor or beneficiary of the trust, or by any person related to any grantor or beneficiary generally are not taken into account except as provided in Treasury regulations. **Effective date.**--The provision applies to transfers of property after February 6, 1995.
	Residence of estates and trusts.--An estate or trust is treated as foreign if it is not subject to U.S. income taxation on its income that is neither derived from U.S. sources nor	Residence of estates and trusts.--No provision.	Residence of estates and trusts.--The Senate amendment establishes a two-part objective test for determining whether a trust is foreign or domestic for tax purposes. If both parts of the

Item	Present Law	House Bill	Senate Amendment
	effectively connected with the conduct of a U.S. trade or business. Thus, if a trust is taxed in a manner similar to a nonresident alien individual, it is considered to be a foreign trust. Any other estate or trust is treated as domestic. Section 1491 generally imposes a 35-percent excise tax on a U.S. person that transfers appreciated property to certain foreign entities, including a foreign trust. In the case of a domestic trust that changes its situs and becomes a foreign trust, it is unclear whether property has been transferred from a U.S. person to a foreign entity, and, thus, whether the transfer is subject to the excise tax.		test are satisfied, the trust is treated as domestic. Only the first part of the test applies to estates. First, if a U.S. court exercises primary supervision over the administration of the estate or trust, the estate or trust is treated as domestic. Second, if one or more U.S. fiduciaries have the authority to control all substantial decisions of the trust, the trust is treated as domestic. Under the Senate amendment, if a domestic trust changes its situs and becomes a foreign trust, the trust is treated as having made a transfer of its assets to the foreign trust and is subject to the 35-percent excise tax imposed by present-law section 1491 unless one of the exceptions to this excise tax is applicable. **<u>Effective date</u>.**--The provision modifying the rules to determine the residence of a trust or estate is effective for taxable years beginning after December 31, 1996. A trustee may elect to apply the provision to taxable

Item	Present Law	House Bill	Senate Amendment
			years ending after the date of enactment. The amendment to section 1491 is effective on the date of enactment.
	Information reporting requirements and associated penalties.--Any U.S. person who creates a foreign trust or transfers money or property to a foreign trust is required to report that event to the Treasury Department without regard to whether the trust is a grantor or nongrantor trust. Similarly, any U.S. person who transfers property to a foreign trust that has one or more U.S. beneficiaries is required to report annually to the Treasury Department. In addition, if the transfer of any appreciated property by a U.S. person is subject to section 1491, the transferor is required to report the transfer to the Treasury Department.	Information reporting requirements and associated penalties.--No provision.	Information reporting requirements and associated penalties.--Under the Senate amendment, the grantor, transferor or executor (the "responsible party") is required to notify the Treasury Department upon the occurrence of certain reportable events, including the death of a U.S. citizen or resident if any portion of a foreign trust was included in the gross estate of the decedent. In addition, a U.S. owner of any portion of a foreign trust is required to ensure that the trust files an annual report with the Treasury Department to provide full accounting of all the trust activities for the taxable year. Finally, any U.S. person who receives any distribution from a foreign trust is required to file a notice with the Treasury Department to report the

Item	Present Law	House Bill	Senate Amendment
			aggregate amount of the distributions received during the taxable year. The Senate amendment provides that if a U.S. owner of any portion of a foreign trust fails to appoint a limited U.S. agent to accept service of process with respect to requests and summons by the Secretary of the Treasury in connection with the tax treatment of items related to the trust, the Secretary of the Treasury may determine the amount to be taken into account by a U.S. person under the grantor trust rules. In cases where adequate records are not provided to the Secretary to determine the proper treatment of any distributions from a foreign trust, the distribution includible in the gross income of the U.S. distributee is treated as an accumulation distribution from the mid year of a foreign trust (i.e., the number of years that the trust has been in existence

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			divided by 2) for purposes of computing the interest charge applicable to such distribution. Treasury regulations may provide that this rule does not apply if the foreign trust elects to have a U.S. agent for the limited purpose of accepting service of process (as described above).
	Any person who fails to file a required report with respect to the creation of, or a transfer to, a foreign trust may be subject to a penalty of 5 percent of the amount transferred to the foreign trust. Similarly, any person who fails to file a required annual report with respect to a foreign trust with U.S. beneficiaries may be subject to a penalty of 5 percent of the value of the corpus of the trust at the close of the taxable year. The maximum amount of the penalty imposed under either case may not exceed $1,000. A reasonable cause exception is available.	No provision.	Under the Senate amendment, a person who fails to provide the required notice in cases involving a transfer of property to any foreign trust or a distribution by a foreign trust to a U.S. person is subject to an initial penalty equal to 35 percent of the "gross reportable amount" (generally the value of the property involved in the transaction). A failure to provide an annual reporting of trust activities will subject a U.S. owner of such trust to an initial penalty equal to 5 percent of the value of the trust's assets treated as owned by such person. An additional $10,000 penalty is imposed for continued

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			failure for each 30-day period beginning 90 days after the Secretary of the Treasury notifies the responsible party of such failure. Such penalties are subject to a reasonable cause exception. In no event will the total amount of penalties exceed the gross reportable amount. **Effective date.**--The reporting requirements and applicable penalties generally apply to reportable events occurring, or distributions received, after the date of enactment. The annual reporting requirement and penalties applicable to U.S. grantors apply to taxable years of such persons beginning after the date of enactment.
	Reporting of certain foreign gifts.--There is no requirement to report gifts or bequests from foreign sources.	Reporting of certain foreign gifts.--No provision.	Reporting of certain foreign gifts.--The Senate amendment generally requires any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources totaling more than $10,000 during the taxable year to report

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			them to the Secretary of the Treasury. The $10,000 threshold is indexed for inflation. If the U.S. person fails, without reasonable cause, to report foreign gifts as required, the U.S. person will be subject to a penalty equal to 5 percent of the amount of the gift for each month that the failure continues, with the total penalty not to exceed 25 percent of such amount. In addition, certain sanctions also may apply. (Floor amendment by Senators Domenici and Wellstone; the Senate failed to table the amendment by a vote of 30-68.) **Effective date**.--This provision applies to amounts received after the date of enactment.