

NOVEMBER 26, 2018

**RULES COMMITTEE PRINT 115-85**  
**TEXT OF THE HOUSE AMENDMENT TO THE**  
**SENATE AMENDMENT TO H.R. 88**

[Showing the text of the \_\_\_\_\_ Act of 2018 and the  
Taxpayer First Act of 2018.]

In lieu of the matter proposed to be inserted by the  
Senate, insert the following:

1 **DIVISION A—RETIREMENT, SAV-**  
2 **INGS, AND OTHER TAX RE-**  
3 **LIEF ACT OF 2018**

4 **SECTION 1. SHORT TITLE, ETC.**

5 (a) **SHORT TITLE.**—This division may be cited as the  
6 Retirement, Savings, and Other Tax Relief Act of 2018.

7 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
8 wise expressly provided, whenever in this division an  
9 amendment or repeal is expressed in terms of an amend-  
10 ment to, or repeal of, a section or other provision, the ref-  
11 erence shall be considered to be made to a section or other  
12 provision of the Internal Revenue Code of 1986.

13 (c) **TABLE OF CONTENTS.**—The table of contents for  
14 this division is as follows:

Sec. 1. Short title, etc.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Made Permanent

Sec. 101. Railroad track maintenance credit.

Subtitle B—Extension and Phase Out

Sec. 111. Biodiesel and renewable diesel.

Subtitle C—Extensions for 2018

- Sec. 121. Nonbusiness energy property.
- Sec. 122. Qualified fuel cell motor vehicles.
- Sec. 123. Alternative fuel refueling property credit.
- Sec. 124. 2-wheeled plug-in electric vehicle credit.
- Sec. 125. Second generation biofuel producer credit.
- Sec. 126. Credit for electricity produced from certain renewable resources.
- Sec. 127. Production credit for Indian coal facilities.
- Sec. 128. Energy efficient homes credit.
- Sec. 129. Classification of certain race horses as 3-year property.
- Sec. 130. Special allowance for second generation biofuel plant property.
- Sec. 131. Energy efficient commercial buildings deduction.
- Sec. 132. Election to expense advanced mine safety equipment.
- Sec. 133. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 134. Extension of excise tax credits relating to alternative fuels.
- Sec. 135. 7-year recovery period for motorsports entertainment complexes.
- Sec. 136. Accelerated depreciation for business property on Indian reservation.
- Sec. 137. Expensing rules for certain productions.
- Sec. 138. Indian employment credit.
- Sec. 139. Mine rescue team training credit.
- Sec. 140. Exclusion from gross income of discharge of qualified principal residence indebtedness.
- Sec. 141. Treatment of mortgage insurance premiums as qualified residence interest.
- Sec. 142. Deduction of qualified tuition and related expenses.
- Sec. 143. Extension of empowerment zone tax incentives.
- Sec. 144. American Samoa economic development credit.

Subtitle D—Extensions for 2019

- Sec. 151. Extension of oil spill liability trust fund rate.
- Sec. 152. Black lung liability trust fund excise tax.

TITLE II—DISASTER TAX RELIEF

- Sec. 201. Definitions.
- Sec. 202. Special disaster-related rules for use of retirement funds.
- Sec. 203. Employment relief.
- Sec. 204. Other disaster-related tax relief provisions.
- Sec. 205. Treatment of certain possessions.

TITLE III—RETIREMENT AND SAVINGS

Subtitle A—Expanding and Preserving Retirement Savings

- Sec. 301. Multiple employer plans; pooled employer plans.
- Sec. 302. Rules relating to election of safe harbor 401(k) status.

- Sec. 303. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 304. Repeal of maximum age for traditional IRA contributions.
- Sec. 305. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 306. Portability of lifetime income investments.
- Sec. 307. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 308. Clarification of retirement income account rules relating to church-controlled organizations.
- Sec. 309. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.
- Sec. 310. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 311. Small employer automatic enrollment credit.
- Sec. 312. Exemption from required minimum distribution rules for individuals with certain account balances.
- Sec. 313. Elective deferrals by members of the Ready Reserve of a reserve component of the Armed Forces.

#### Subtitle B—Administrative Improvements

- Sec. 321. Plan adopted by filing due date for year may be treated as in effect as of close of year.
- Sec. 322. Modification of nondiscrimination rules to protect older, longer service participants.
- Sec. 323. Fiduciary safe harbor for selection of lifetime income provider.
- Sec. 324. Disclosure regarding lifetime income.
- Sec. 325. Modification of PBGC premiums for CSEC plans.

#### Subtitle C—Other Savings Provisions

- Sec. 331. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.

### TITLE IV—AMERICAN INNOVATION

- Sec. 401. Simplification and expansion of deduction for start-up and organizational expenditures.
- Sec. 402. Preservation of start-up net operating losses and tax credits after ownership change.

### TITLE V—CERTAIN TAX TECHNICAL CORRECTIONS AND CLARIFICATIONS

- Sec. 501. Technical amendments relating to Public Law 115–97.
- Sec. 502. Clarification of treatment of veterans as specified group for purposes of the low-income housing tax credit.
- Sec. 503. Clarification of general public use requirement for qualified residential rental projects.

1                   **TITLE I—EXTENSION OF**  
2                   **EXPIRING PROVISIONS**  
3                   **Subtitle A—Made Permanent**

4   **SEC. 101. RAILROAD TRACK MAINTENANCE CREDIT.**

5           (a) CREDIT PERCENTAGE REDUCED.—Section  
6 45G(a) is amended by striking “50 percent” and inserting  
7 “30 percent”.

8           (b) MADE PERMANENT.—Section 45G is amended by  
9 striking subsection (f).

10          (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to expenditures paid or incurred  
12 during taxable years beginning after December 31, 2017.

13                   **Subtitle B—Extension and Phase**  
14                   **Out**

15   **SEC. 111. BIODIESEL AND RENEWABLE DIESEL.**

16          (a) INCOME TAX CREDIT.—

17               (1) IN GENERAL.—Section 40A(g) is amended  
18 to read as follows:

19               “(g) PHASE OUT; TERMINATION.—

20                       “(1) PHASE OUT.—In the case of any sale or  
21 use after December 31, 2021, subsections (b)(1)(A)  
22 and (b)(2)(A) shall be applied by substituting for  
23 ‘\$1.00’—

24                               “(A) ‘\$.75’, if such sale or use is before  
25                               January 1, 2023,

1           “(B) ‘\$.50’, if such sale or use is after De-  
2           cember 31, 2022, and before January 1, 2024,  
3           and

4           “(C) ‘\$.33’, if such sale or use is after De-  
5           cember 31, 2023, and before January 1, 2025.

6           “(2) TERMINATION.—This section shall not  
7           apply to any sale or use after December 31, 2024.”.

8           (2) EFFECTIVE DATE.—The amendments made  
9           by this subsection shall apply to fuel sold or used  
10          after December 31, 2017.

11         (b) EXCISE TAX INCENTIVES.—

12           (1) PHASE OUT.—Section 6426(c)(2) is amend-  
13          ed to read as follows:

14           “(2) APPLICABLE AMOUNT.—For purposes of  
15          this subsection, the applicable amount is—

16           “(A) \$1.00 in the case of any sale or use  
17          for any period before January 1, 2022,

18           “(B) \$.75 in the case of any sale or use for  
19          any period after December 31, 2021, and before  
20          January 1, 2023,

21           “(C) \$.50 in the case of any sale or use for  
22          any period after December 31, 2022, and before  
23          January 1, 2024, and

1           “(D) \$.33 in the case of any sale or use  
2           for any period after December 31, 2023, and  
3           before January 1, 2025.”.

4           (2) TERMINATION.—

5           (A) IN GENERAL.—Section 6426(e)(6) is  
6           amended by striking “December 31, 2017” and  
7           inserting “December 31, 2024”.

8           (B) PAYMENTS.—Section 6427(e)(6)(B) is  
9           amended by striking “December 31, 2017” and  
10          inserting “December 31, 2024”.

11          (3) EFFECTIVE DATE.—The amendments made  
12          by this subsection shall apply to fuel sold or used  
13          after December 31, 2017.

14          (4) SPECIAL RULE FOR 2018.—Notwithstanding  
15          any other provision of law, in the case of any bio-  
16          diesel mixture credit properly determined under sec-  
17          tion 6426(c) of the Internal Revenue Code of 1986  
18          for the period beginning on January 1, 2018, and  
19          ending on December 31, 2018, such credit shall be  
20          allowed, and any refund or payment attributable to  
21          such credit (including any payment under section  
22          6427(e) of such Code) shall be made, only in such  
23          manner as the Secretary of the Treasury (or the  
24          Secretary’s delegate) shall provide. Such Secretary  
25          shall issue guidance within 30 days after the date of

1 the enactment of this Act providing for a one-time  
2 submission of claims covering periods described in  
3 the preceding sentence. Such guidance shall provide  
4 for a 180-day period for the submission of such  
5 claims (in such manner as prescribed by such Sec-  
6 retary) to begin not later than 30 days after such  
7 guidance is issued. Such claims shall be paid by such  
8 Secretary not later than 60 days after receipt. If  
9 such Secretary has not paid pursuant to a claim  
10 filed under this subsection within 60 days after the  
11 date of the filing of such claim, the claim shall be  
12 paid with interest from such date determined by  
13 using the overpayment rate and method under sec-  
14 tion 6621 of such Code.

## 15 **Subtitle C—Extensions for 2018**

### 16 **SEC. 121. NONBUSINESS ENERGY PROPERTY.**

17 (a) **IN GENERAL.**—Section 25C(g)(2) is amended by  
18 striking “December 31, 2017” and inserting “December  
19 31, 2018”.

20 (b) **EFFECTIVE DATE.**—The amendment made by  
21 this section shall apply to property placed in service after  
22 December 31, 2017.

1 **SEC. 122. QUALIFIED FUEL CELL MOTOR VEHICLES.**

2 (a) IN GENERAL.—Section 30B(k)(1) is amended by  
3 striking “December 31, 2017” and inserting “December  
4 31, 2018”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to property purchased after De-  
7 cember 31, 2017.

8 **SEC. 123. ALTERNATIVE FUEL REFUELING PROPERTY**  
9 **CREDIT.**

10 (a) IN GENERAL.—Section 30C(g) is amended by  
11 striking “December 31, 2017” and inserting “December  
12 31, 2018”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to property placed in service after  
15 December 31, 2017.

16 **SEC. 124. 2-WHEELED PLUG-IN ELECTRIC VEHICLE CREDIT.**

17 (a) IN GENERAL.—Section 30D(g)(3)(E)(ii) is  
18 amended by striking “January 1, 2018” and inserting  
19 “January 1, 2019”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to vehicles acquired after Decem-  
22 ber 31, 2017.



1 **SEC. 125. SECOND GENERATION BIOFUEL PRODUCER**  
2 **CREDIT.**

3 (a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended  
4 by striking “January 1, 2018” and inserting “January 1,  
5 2019”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to qualified second generation  
8 biofuel production after December 31, 2017.

9 **SEC. 126. CREDIT FOR ELECTRICITY PRODUCED FROM**  
10 **CERTAIN RENEWABLE RESOURCES.**

11 (a) IN GENERAL.—The following provisions of sec-  
12 tion 45(d) are each amended by striking “January 1,  
13 2018” each place it appears and inserting “January 1,  
14 2019”:

15 (1) Paragraph (2)(A).

16 (2) Paragraph (3)(A).

17 (3) Paragraph (4)(B).

18 (4) Paragraph (6).

19 (5) Paragraph (7).

20 (6) Paragraph (9).

21 (7) Paragraph (11)(B).

22 (b) EXTENSION OF ELECTION TO TREAT QUALIFIED  
23 FACILITIES AS ENERGY PROPERTY.—Section  
24 48(a)(5)(C)(ii) is amended by striking “January 1, 2018”  
25 and inserting “January 1, 2019”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on January 1, 2018.

3 **SEC. 127. PRODUCTION CREDIT FOR INDIAN COAL FACILI-**  
4 **TIES.**

5 (a) IN GENERAL.—Section 45(e)(10)(A) is amended  
6 by striking “12-year period” each place it appears and in-  
7 serting “13-year period”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to coal produced after December  
10 31, 2017.

11 **SEC. 128. ENERGY EFFICIENT HOMES CREDIT.**

12 (a) IN GENERAL.—Section 45L(g) is amended by  
13 striking “December 31, 2017” and inserting “December  
14 31, 2018”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to homes acquired after December  
17 31, 2017.

18 **SEC. 129. CLASSIFICATION OF CERTAIN RACE HORSES AS 3-**  
19 **YEAR PROPERTY.**

20 (a) IN GENERAL.—Section 168(e)(3)(A)(i) is amend-  
21 ed—

22 (1) by striking “January 1, 2018” in subclause  
23 (I) and inserting “January 1, 2019”, and

24 (2) by striking “December 31, 2017” in sub-  
25 clause (II) and inserting “December 31, 2018”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 December 31, 2017.

4 **SEC. 130. SPECIAL ALLOWANCE FOR SECOND GENERATION**  
5 **BIOFUEL PLANT PROPERTY.**

6 (a) IN GENERAL.—Section 168(l)(2)(D) is amended  
7 by striking “January 1, 2018” and inserting “January 1,  
8 2019”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to property placed in service after  
11 December 31, 2017.

12 **SEC. 131. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
13 **DUCTION.**

14 (a) IN GENERAL.—Section 179D(h) is amended by  
15 striking “December 31, 2017” and inserting “December  
16 31, 2018”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to property placed in service after  
19 December 31, 2017.

20 **SEC. 132. ELECTION TO EXPENSE ADVANCED MINE SAFETY**  
21 **EQUIPMENT.**

22 (a) IN GENERAL.—Section 179E(g) is amended by  
23 striking “December 31, 2017” and inserting “December  
24 31, 2018”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to property placed in service after  
3 December 31, 2017.

4 **SEC. 133. EXTENSION OF SPECIAL RULE FOR SALES OR DIS-**  
5 **POSITIONS TO IMPLEMENT FERC OR STATE**  
6 **ELECTRIC RESTRUCTURING POLICY FOR**  
7 **QUALIFIED ELECTRIC UTILITIES.**

8 (a) IN GENERAL.—Section 451(k)(3) is amended by  
9 striking “January 1, 2018” and inserting “January 1,  
10 2019”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to dispositions after December 31,  
13 2017.

14 **SEC. 134. EXTENSION OF EXCISE TAX CREDITS RELATING**  
15 **TO ALTERNATIVE FUELS.**

16 (a) EXTENSION.—

17 (1) IN GENERAL.—Sections 6426(d)(5) and  
18 6426(e)(3) are each amended by striking “December  
19 31, 2017” and inserting “December 31, 2018”.

20 (2) OUTLAY PAYMENTS FOR ALTERNATIVE  
21 FUELS.—Section 6427(e)(6)(C) is amended by strik-  
22 ing “December 31, 2017” and inserting “December  
23 31, 2018”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this section shall apply to fuel sold or used after  
3           December 31, 2017.

4           (b) SPECIAL RULE FOR 2018.—Notwithstanding any  
5           other provision of law, in the case of any alternative fuel  
6           credit properly determined under section 6426(d) of the  
7           Internal Revenue Code of 1986 for the period beginning  
8           on January 1, 2018, and ending on December 31, 2018,  
9           such credit shall be allowed, and any refund or payment  
10          attributable to such credit (including any payment under  
11          section 6427(e) of such Code) shall be made, only in such  
12          manner as the Secretary of the Treasury (or the Sec-  
13          retary’s delegate) shall provide. Such Secretary shall issue  
14          guidance within 30 days after the date of the enactment  
15          of this Act providing for a one-time submission of claims  
16          covering periods described in the preceding sentence. Such  
17          guidance shall provide for a 180-day period for the sub-  
18          mission of such claims (in such manner as prescribed by  
19          such Secretary) to begin not later than 30 days after such  
20          guidance is issued. Such claims shall be paid by such Sec-  
21          retary not later than 60 days after receipt. If such Sec-  
22          retary has not paid pursuant to a claim filed under this  
23          subsection within 60 days after the date of the filing of  
24          such claim, the claim shall be paid with interest from such

1 date determined by using the overpayment rate and meth-  
2 od under section 6621 of such Code.

3 **SEC. 135. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**  
4 **ENTERTAINMENT COMPLEXES.**

5 (a) IN GENERAL.—Section 168(i)(15)(D) is amended  
6 by striking “December 31, 2017” and inserting “Decem-  
7 ber 31, 2018”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to property placed in service after  
10 December 31, 2017.

11 **SEC. 136. ACCELERATED DEPRECIATION FOR BUSINESS**  
12 **PROPERTY ON INDIAN RESERVATION.**

13 (a) IN GENERAL.—Section 168(j)(9) is amended by  
14 striking “December 31, 2017” and inserting “December  
15 31, 2018”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to property placed in service after  
18 December 31, 2017.

19 **SEC. 137. EXPENSING RULES FOR CERTAIN PRODUCTIONS.**

20 (a) IN GENERAL.—Section 181(g) is amended by  
21 striking “December 31, 2017” and inserting “December  
22 31, 2018”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to productions commencing after  
25 December 31, 2017.

1 **SEC. 138. INDIAN EMPLOYMENT CREDIT.**

2 (a) IN GENERAL.—Section 45A(f) is amended by  
3 striking “December 31, 2017” and inserting “December  
4 31, 2018”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2017.

8 **SEC. 139. MINE RESCUE TEAM TRAINING CREDIT.**

9 (a) IN GENERAL.—Section 45N(e) is amended by  
10 striking “December 31, 2017” and inserting “December  
11 31, 2018”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 2017.

15 **SEC. 140. EXCLUSION FROM GROSS INCOME OF DISCHARGE**  
16 **OF QUALIFIED PRINCIPAL RESIDENCE IN-**  
17 **DEBTEDNESS.**

18 (a) IN GENERAL.—Section 108(a)(1)(E) is amended  
19 by striking “January 1, 2018” each place it appears and  
20 inserting “January 1, 2019”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to discharges of indebtedness after  
23 December 31, 2017.

1 **SEC. 141. TREATMENT OF MORTGAGE INSURANCE PRE-**  
2 **MIUMS AS QUALIFIED RESIDENCE INTEREST.**

3 (a) IN GENERAL.—Section 163(h)(3)(E)(iv)(I) is  
4 amended by striking “December 31, 2017” and inserting  
5 “December 31, 2018”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2017.

9 **SEC. 142. DEDUCTION OF QUALIFIED TUITION AND RE-**  
10 **LATED EXPENSES.**

11 (a) IN GENERAL.—Section 222(e) is amended by  
12 striking “December 31, 2017” and inserting “December  
13 31, 2018”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2017.

17 **SEC. 143. EXTENSION OF EMPOWERMENT ZONE TAX INCEN-**  
18 **TIVES.**

19 (a) IN GENERAL.—Section 1391(d)(1)(A)(i) is  
20 amended by striking “December 31, 2017” and inserting  
21 “December 31, 2018”.

22 (b) TREATMENT OF CERTAIN TERMINATION DATES  
23 SPECIFIED IN NOMINATIONS.—In the case of a designa-  
24 tion of an empowerment zone the nomination for which  
25 included a termination date which is contemporaneous  
26 with the date specified in subparagraph (A)(i) of section



1 1391(d)(1) of the Internal Revenue Code of 1986 (as in  
2 effect before the enactment of this Act), subparagraph (B)  
3 of such section shall not apply with respect to such des-  
4 ignation if, after the date of the enactment of this section,  
5 the entity which made such nomination amends the nomi-  
6 nation to provide for a new termination date in such man-  
7 ner as the Secretary of the Treasury (or the Secretary's  
8 designee) may provide.

9 (c) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to taxable years beginning after  
11 December 31, 2017.

12 **SEC. 144. AMERICAN SAMOA ECONOMIC DEVELOPMENT**  
13 **CREDIT.**

14 (a) IN GENERAL.—Section 119(d) of division A of  
15 the Tax Relief and Health Care Act of 2006 is amended—

16 (1) by striking “January 1, 2018” each place  
17 it appears and inserting “January 1, 2019”,

18 (2) by striking “first 12 taxable years” in para-  
19 graph (1) and inserting “first 13 taxable years”,

20 (3) by striking “first 6 taxable years” in para-  
21 graph (2) and inserting “first 7 taxable years”, and

22 (4) by adding at the end the following flush  
23 sentence:

24 “ In the case of a corporation described in subsection  
25 (a)(2), the Internal Revenue Code of 1986 shall be applied

1 and administered without regard to the amendments made  
2 by section 401(d)(1) of the Tax Technical Corrections Act  
3 of 2018.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 2017.

## 7 **Subtitle D—Extensions for 2019**

### 8 **SEC. 151. EXTENSION OF OIL SPILL LIABILITY TRUST FUND** 9 **RATE.**

10 Section 4611(f)(2) is amended by striking “Decem-  
11 ber 31, 2018” and inserting “December 31, 2019”.

### 12 **SEC. 152. BLACK LUNG LIABILITY TRUST FUND EXCISE TAX.**

13 Section 4121(e)(2)(A) is amended by striking “De-  
14 cember 31, 2018” and inserting “December 31, 2019”.

## 15 **TITLE II—DISASTER TAX RELIEF**

### 16 **SEC. 201. DEFINITIONS.**

17 For purposes of this title—

18 (1) HURRICANE FLORENCE.—

19 (A) HURRICANE FLORENCE DISASTER  
20 ZONE.—The term “Hurricane Florence disaster  
21 zone” means that portion of the Hurricane  
22 Florence disaster area determined by the Presi-  
23 dent to warrant individual or individual and  
24 public assistance from the Federal Government  
25 under the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act by reason of  
2 Hurricane Florence.

3 (B) HURRICANE FLORENCE DISASTER  
4 AREA.—The term “Hurricane Florence disaster  
5 area” means an area with respect to which a  
6 major disaster has been declared by the Presi-  
7 dent before November 26, 2018, under section  
8 401 of such Act by reason of Hurricane Flor-  
9 ence.

10 (2) HURRICANE MICHAEL.—

11 (A) HURRICANE MICHAEL DISASTER  
12 ZONE.—The term “Hurricane Michael disaster  
13 zone” means that portion of the Hurricane Mi-  
14 chael disaster area determined by the President  
15 to warrant individual or individual and public  
16 assistance from the Federal Government under  
17 the Robert T. Stafford Disaster Relief and  
18 Emergency Assistance Act by reason of Hurri-  
19 cane Michael.

20 (B) HURRICANE MICHAEL DISASTER  
21 AREA.—The term “Hurricane Michael disaster  
22 area” means an area with respect to which a  
23 major disaster has been declared by the Presi-  
24 dent before November 26, 2018, under section

1 401 of such Act by reason of Hurricane Mi-  
2 chael.

3 (3) TYPHOON MANGKHUT.—

4 (A) TYPHOON MANGKHUT DISASTER  
5 ZONE.—The term “Typhoon Mangkhut disaster  
6 zone” means that portion of the Typhoon  
7 Mangkhut disaster area determined by the  
8 President to warrant individual or individual  
9 and public assistance from the Federal Govern-  
10 ment under the Robert T. Stafford Disaster Re-  
11 lief and Emergency Assistance Act by reason of  
12 Typhoon Mangkhut.

13 (B) TYPHOON MANGKHUT DISASTER  
14 AREA.—The term “Typhoon Mangkhut disaster  
15 area” means an area with respect to which a  
16 major disaster has been declared by the Presi-  
17 dent before November 26, 2018, under section  
18 401 of such Act by reason of Typhoon  
19 Mangkhut.

20 (4) TYPHOON YUTU.—

21 (A) TYPHOON YUTU DISASTER ZONE.—  
22 The term “Typhoon Yutu disaster zone” means  
23 that portion of the Typhoon Yutu disaster area  
24 determined by the President to warrant indi-  
25 vidual or individual and public assistance from

1 the Federal Government under the Robert T.  
2 Stafford Disaster Relief and Emergency Assist-  
3 ance Act by reason of Typhoon Yutu.

4 (B) TYPHOON YUTU DISASTER AREA.—  
5 The term “Typhoon Yutu disaster area” means  
6 an area with respect to which a major disaster  
7 has been declared by the President before No-  
8 vember 26, 2018, under section 401 of such Act  
9 by reason of Typhoon Yutu.

10 (5) MENDOCINO WILDFIRE.—

11 (A) MENDOCINO WILDFIRE DISASTER  
12 ZONE.—The term “Mendocino wildfire disaster  
13 zone” means that portion of the Mendocino  
14 wildfire disaster area determined by the Presi-  
15 dent to warrant individual or individual and  
16 public assistance from the Federal Government  
17 under the Robert T. Stafford Disaster Relief  
18 and Emergency Assistance Act by reason of the  
19 wildfire in California commonly known as the  
20 Mendocino wildfire of 2018.

21 (B) MENDOCINO WILDFIRE DISASTER  
22 AREA.—The term “Mendocino wildfire disaster  
23 area” means an area with respect to which be-  
24 tween August 4, 2018, and November 26, 2018,  
25 a major disaster has been declared by the Presi-

1           dent under section 401 of such Act by reason  
2           of the wildfire in California commonly known as  
3           the Mendocino wildfire of 2018.

4           (6) CAMP AND WOOLSEY WILDFIRE.—

5                   (A) CAMP AND WOOLSEY WILDFIRE DIS-  
6           ASTER ZONE.—The term “Camp and Woolsey  
7           wildfire disaster zone” means that portion of  
8           the Camp and Woolsey wildfire disaster area  
9           determined by the President to warrant indi-  
10          vidual or individual and public assistance from  
11          the Federal Government under the Robert T.  
12          Stafford Disaster Relief and Emergency Assist-  
13          ance Act by reason of the wildfires in California  
14          commonly known as the Camp and Woolsey  
15          wildfires of 2018.

16                   (B) CAMP AND WOOLSEY WILDFIRE DIS-  
17          ASTER AREA.—The term “Camp and Woolsey  
18          wildfire disaster area” means an area with re-  
19          spect to which between November 12, 2018,  
20          and November 26, 2018, a major disaster has  
21          been declared by the President under section  
22          401 of such Act by reason of the wildfires in  
23          California commonly known as the Camp and  
24          Woolsey wildfires of 2018.

1           (7) KILAUEA VOLCANIC ERUPTION AND EARTH-  
2           QUAKES.—

3                   (A) KILAUEA VOLCANIC ERUPTION AND  
4           EARTHQUAKE DISASTER ZONE.—The term  
5           “Kilauea volcanic eruption and earthquake dis-  
6           aster zone” means that portion of the Kilauea  
7           volcanic eruption and earthquake disaster area  
8           determined by the President to warrant indi-  
9           vidual or individual and public assistance from  
10          the Federal Government under the Robert T.  
11          Stafford Disaster Relief and Emergency Assist-  
12          ance Act by reason of the Kilauea volcanic  
13          eruption or earthquakes occurring in Hawaii  
14          during the period beginning on May 3, 2018,  
15          and ending on August 17, 2018.

16                   (B) KILAUEA VOLCANIC ERUPTION AND  
17          EARTHQUAKE DISASTER AREA.—The term  
18          “Kilauea volcanic eruption and earthquake dis-  
19          aster area” means an area with respect to  
20          which between May 11, 2018, and November  
21          26, 2018, a major disaster has been declared by  
22          the President under section 401 of such Act by  
23          reason of the Kilauea volcanic eruption or  
24          earthquakes occurring in Hawaii during the pe-

1           riod beginning on May 3, 2018, and ending on  
2           August 17, 2018.

3           (8) HAWAII SEVERE STORMS, FLOODING, LAND-  
4           SLIDES, AND MUDSLIDES.—

5           (A) HAWAII SEVERE STORMS, FLOODING,  
6           LANDSLIDE, AND MUDSLIDE DISASTER ZONE.—

7           The term “Hawaii severe storms, flooding,  
8           landslides, and mudslides disaster zone” means  
9           that portion of the Hawaii severe storms, flood-  
10          ing, landslides, and mudslides disaster area de-  
11          termined by the President to warrant individual  
12          or individual and public assistance from the  
13          Federal Government under the Robert T. Staf-  
14          ford Disaster Relief and Emergency Assistance  
15          Act by reason of the severe storms, flooding,  
16          landslides, or mudslides occurring in Hawaii  
17          during the period beginning on April 13, 2018,  
18          and ending on April 16, 2018.

19          (B) HAWAII SEVERE STORMS, FLOODING,  
20          LANDSLIDES, AND MUDSLIDE DISASTERS  
21          AREA.—The term “Hawaii severe storms, flood-  
22          ing, landslides, and mudslides disaster area”  
23          means an area with respect to which between  
24          May 8, 2018, and November 26, 2018, a major  
25          disaster has been declared by the President



1 under section 401 of such Act by reason of the  
2 severe storms, flooding, landslides, or mudslides  
3 occurring in Hawaii during the period begin-  
4 ning on April 13, 2018, and ending on April  
5 16, 2018.

6 **SEC. 202. SPECIAL DISASTER-RELATED RULES FOR USE OF**  
7 **RETIREMENT FUNDS.**

8 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-  
9 MENT PLANS.—

10 (1) IN GENERAL.—Section 72(t) of the Internal  
11 Revenue Code of 1986 shall not apply to any quali-  
12 fied disaster distribution.

13 (2) AGGREGATE DOLLAR LIMITATION.—

14 (A) IN GENERAL.—For purposes of this  
15 subsection, the aggregate amount of distribu-  
16 tions received by an individual which may be  
17 treated as qualified disaster distributions for  
18 any taxable year shall not exceed the excess (if  
19 any) of—

20 (i) \$100,000, over

21 (ii) the aggregate amounts treated as  
22 qualified disaster distributions received by  
23 such individual for all prior taxable years.

24 (B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would  
25

1 (without regard to subparagraph (A)) be a  
2 qualified disaster distribution, a plan shall not  
3 be treated as violating any requirement of the  
4 Internal Revenue Code of 1986 merely because  
5 the plan treats such distribution as a qualified  
6 disaster distribution, unless the aggregate  
7 amount of such distributions from all plans  
8 maintained by the employer (and any member  
9 of any controlled group which includes the em-  
10 ployer) to such individual exceeds \$100,000.

11 (C) CONTROLLED GROUP.—For purposes  
12 of subparagraph (B), the term “controlled  
13 group” means any group treated as a single  
14 employer under subsection (b), (c), (m), or (o)  
15 of section 414 of the Internal Revenue Code of  
16 1986.

17 (D) SPECIAL RULE FOR INDIVIDUALS AF-  
18 FECTED BY MORE THAN ONE DISASTER.—The  
19 limitation of subparagraph (A) shall be applied  
20 separately with respect to distributions de-  
21 scribed in each clause of paragraph (4)(A).

22 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

23 (A) IN GENERAL.—Any individual who re-  
24 ceives a qualified disaster distribution may, at  
25 any time during the 3-year period beginning on

1           the day after the date on which such distribu-  
2           tion was received, make 1 or more contributions  
3           in an aggregate amount not to exceed the  
4           amount of such distribution to an eligible retire-  
5           ment plan of which such individual is a bene-  
6           ficiary and to which a rollover contribution of  
7           such distribution could be made under section  
8           402(c), 403(a)(4), 403(b)(8), 408(d)(3), or  
9           457(e)(16), of the Internal Revenue Code of  
10          1986, as the case may be.

11                   (B) TREATMENT OF REPAYMENTS OF DIS-  
12           TRIBUTIONS FROM ELIGIBLE RETIREMENT  
13           PLANS OTHER THAN IRAS.—For purposes of  
14           the Internal Revenue Code of 1986, if a con-  
15           tribution is made pursuant to subparagraph (A)  
16           with respect to a qualified disaster distribution  
17           from an eligible retirement plan other than an  
18           individual retirement plan, then the taxpayer  
19           shall, to the extent of the amount of the con-  
20           tribution, be treated as having received the  
21           qualified disaster distribution in an eligible roll-  
22           over distribution (as defined in section  
23           402(c)(4) of such Code) and as having trans-  
24           ferred the amount to the eligible retirement

1 plan in a direct trustee to trustee transfer with-  
2 in 60 days of the distribution.

3 (C) TREATMENT OF REPAYMENTS FOR  
4 DISTRIBUTIONS FROM IRAS.—For purposes of  
5 the Internal Revenue Code of 1986, if a con-  
6 tribution is made pursuant to subparagraph (A)  
7 with respect to a qualified disaster distribution  
8 from an individual retirement plan (as defined  
9 by section 7701(a)(37) of such Code), then, to  
10 the extent of the amount of the contribution,  
11 the qualified disaster distribution shall be treat-  
12 ed as a distribution described in section  
13 408(d)(3) of such Code and as having been  
14 transferred to the eligible retirement plan in a  
15 direct trustee to trustee transfer within 60 days  
16 of the distribution.

17 (4) DEFINITIONS.—For purposes of this sub-  
18 section—

19 (A) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in paragraph (2),  
20 the term “qualified disaster distribution”  
21 means—  
22

23 (i) any distribution from an eligible  
24 retirement plan made on or after Sep-  
25 tember 7, 2018, and before January 1,

1                   2020, to an individual whose principal  
2                   place of abode on September 7, 2018, is lo-  
3                   cated in the Hurricane Florence disaster  
4                   area and who has sustained an economic  
5                   loss by reason of Hurricane Florence,

6                   (ii) any distribution from an eligible  
7                   retirement plan made on or after October  
8                   7, 2018, and before January 1, 2020, to  
9                   an individual whose principal place of  
10                  abode on October 7, 2018, is located in the  
11                  Hurricane Michael disaster area and who  
12                  has sustained an economic loss by reason  
13                  of Hurricane Michael,

14                  (iii) any distribution from an eligible  
15                  retirement plan made on or after Sep-  
16                  tember 10, 2018, and before January 1,  
17                  2020, to an individual whose principal  
18                  place of abode on September 10, 2018, is  
19                  located in the Typhoon Mangkhut disaster  
20                  area and who has sustained an economic  
21                  loss by reason of Typhoon Mangkhut,

22                  (iv) any distribution from an eligible  
23                  retirement plan made on or after October  
24                  24, 2018, and before January 1, 2020, to  
25                  an individual whose principal place of

1 abode on October 24, 2018, is located in  
2 the Typhoon Yutu disaster area and who  
3 has sustained an economic loss by reason  
4 of Typhoon Yutu,

5 (v) any distribution from an eligible  
6 retirement plan made on or after July 23,  
7 2018, and before January 1, 2020, to an  
8 individual whose principal place of abode  
9 during any portion of the period from July  
10 23, 2018, to September 19, 2018, is lo-  
11 cated in the Mendocino wildfire disaster  
12 area and who has sustained an economic  
13 loss by reason of the wildfires to which the  
14 declaration of such area relates,

15 (vi) any distribution from an eligible  
16 retirement plan made on or after Novem-  
17 ber 8, 2018, and before January 1, 2020,  
18 to an individual whose principal place of  
19 abode during any portion of the period  
20 from November 8, 2018, to November 30,  
21 2018, is located in the Camp and Woolsey  
22 wildfire disaster area and who has sus-  
23 tained an economic loss by reason of the  
24 wildfires to which the declaration of such  
25 area relates,

1 (vii) any distribution from an eligible  
2 retirement plan made on or after May 3,  
3 2018, and before January 1, 2020, to an  
4 individual whose principal place of abode  
5 during any portion of the period from May  
6 3, 2018, to August 17, 2018, is located in  
7 the Kilauea volcanic eruption and earth-  
8 quake disaster area and who has sustained  
9 an economic loss by reason of the volcanic  
10 eruption or earthquakes to which the dec-  
11 laration of such area relates, and

12 (viii) any distribution from an eligible  
13 retirement plan made on or after April 13,  
14 2018, and before January 1, 2020, to an  
15 individual whose principal place of abode  
16 on April 13, 2018, is located in the Hawaii  
17 severe storms, flooding, landslides, and  
18 mudslides disaster area and who has sus-  
19 tained an economic loss by reason of the  
20 severe storms, flooding, landslides, and  
21 mudslides to which the declaration of such  
22 area relates.

23 (B) ELIGIBLE RETIREMENT PLAN.—The  
24 term “eligible retirement plan” shall have the  
25 meaning given such term by section

1           402(c)(8)(B) of the Internal Revenue Code of  
2           1986.

3           (5) INCOME INCLUSION SPREAD OVER 3-YEAR  
4           PERIOD.—

5                   (A) IN GENERAL.—In the case of any  
6           qualified disaster distribution, unless the tax-  
7           payer elects not to have this paragraph apply  
8           for any taxable year, any amount required to be  
9           included in gross income for such taxable year  
10          shall be so included ratably over the 3-taxable-  
11          year period beginning with such taxable year.

12                   (B) SPECIAL RULE.—For purposes of sub-  
13          paragraph (A), rules similar to the rules of sub-  
14          paragraph (E) of section 408A(d)(3) of the In-  
15          ternal Revenue Code of 1986 shall apply.

16          (6) SPECIAL RULES.—

17                   (A) EXEMPTION OF DISTRIBUTIONS FROM  
18          TRUSTEE TO TRUSTEE TRANSFER AND WITH-  
19          HOLDING RULES.—For purposes of sections  
20          401(a)(31), 402(f), and 3405 of the Internal  
21          Revenue Code of 1986, qualified disaster dis-  
22          tributions shall not be treated as eligible roll-  
23          over distributions.

24                   (B) QUALIFIED DISASTER DISTRIBUTIONS  
25          TREATED AS MEETING PLAN DISTRIBUTION RE-



1           REQUIREMENTS.—For purposes the Internal Rev-  
2           enue Code of 1986, a qualified disaster dis-  
3           tribution shall be treated as meeting the re-  
4           quirements of sections 401(k)(2)(B)(I),  
5           403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A)  
6           of such Code.

7           (b) RECONTRIBUTIONS OF WITHDRAWALS FOR  
8 HOME PURCHASES.—

9           (1) RECONTRIBUTIONS.—

10           (A) IN GENERAL.—Any individual who re-  
11           ceived a qualified distribution may, during the  
12           applicable period, make 1 or more contributions  
13           in an aggregate amount not to exceed the  
14           amount of such qualified distribution to an eli-  
15           gible retirement plan (as defined in section  
16           402(c)(8)(B) of the Internal Revenue Code of  
17           1986) of which such individual is a beneficiary  
18           and to which a rollover contribution of such dis-  
19           tribution could be made under section 402(c),  
20           403(a)(4), 403(b)(8), or 408(d)(3), of such  
21           Code, as the case may be.

22           (B) TREATMENT OF REPAYMENTS.—Rules  
23           similar to the rules of subparagraphs (B), (C),  
24           and (D) of subsection (a)(3) shall apply for  
25           purposes of this subsection.

1           (2) QUALIFIED DISTRIBUTION.—For purposes  
2 of this subsection—

3           (A) IN GENERAL.—The term “qualified  
4 distribution” means any qualified Florence dis-  
5 tribution, any qualified Michael distribution,  
6 any qualified Mangkhut distribution, any quali-  
7 fied Yutu distribution, any qualified Mendocino  
8 distribution, any qualified Camp and Woolsey  
9 distribution, any qualified Kilauea distribution,  
10 and any qualified Hawaii distribution.

11           (B) QUALIFIED FLORENCE DISTRIBUTION.—The term “qualified Florence distribu-  
12 tion” means any distribution—

14           (i) described in section  
15 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
16 only to the extent such distribution relates  
17 to financial hardship), 403(b)(11)(B), or  
18 72(t)(2)(F), of the Internal Revenue Code  
19 of 1986,

20           (ii) received after February 28, 2018,  
21 and before November 8, 2018, and

22           (iii) which was to be used to purchase  
23 or construct a principal residence in the  
24 Hurricane Florence disaster area, but

1           which was not so purchased or constructed  
2           on account of Hurricane Florence.

3           (C) QUALIFIED MICHAEL DISTRIBUTION.—

4           The term “qualified Michael distribution”  
5           means any distribution—

6                   (i)       described       in       section  
7                   401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
8                   only to the extent such distribution relates  
9                   to financial hardship), 403(b)(11)(B), or  
10                  72(t)(2)(F), of the Internal Revenue Code  
11                  of 1986,

12                   (ii) received after February 28, 2018,  
13                  and before November 23, 2018, and

14                   (iii) which was to be used to purchase  
15                  or construct a principal residence in the  
16                  Hurricane Michael disaster area, but which  
17                  was not so purchased or constructed on ac-  
18                  count of Hurricane Michael.

19           (D) QUALIFIED MANGKHUT DISTRIBUTION.—The term “qualified Mangkhut distribu-  
20           tion” means any distribution—

21                   (i)       described       in       section  
22                   401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
23                   only to the extent such distribution relates  
24                   to financial hardship), 403(b)(11)(B), or  
25                  to financial hardship), 403(b)(11)(B), or

1 72(t)(2)(F), of the Internal Revenue Code  
2 of 1986,

3 (ii) received after February 28, 2018,  
4 and before October 11, 2018, and

5 (iii) which was to be used to purchase  
6 or construct a principal residence in the  
7 Typhoon Mangkhut disaster area, but  
8 which was not so purchased or constructed  
9 on account of Typhoon Mangkhut.

10 (E) QUALIFIED YUTU DISTRIBUTION.—

11 The term “qualified Yutu distribution” means  
12 any distribution—

13 (i) described in section  
14 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
15 only to the extent such distribution relates  
16 to financial hardship), 403(b)(11)(B), or  
17 72(t)(2)(F), of the Internal Revenue Code  
18 of 1986,

19 (ii) received after February 28, 2018,  
20 and before November 26, 2018, and

21 (iii) which was to be used to purchase  
22 or construct a principal residence in the  
23 Typhoon Mangkhut disaster area, but  
24 which was not so purchased or constructed  
25 on account of Typhoon Mangkhut.

1 (F) QUALIFIED MENDOCINO DISTRIBUTION.—The term “qualified Mendocino distribution.” means any distribution—

2 (i) described in section  
3 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
4 only to the extent such distribution relates  
5 to financial hardship), 403(b)(11)(B), or  
6 72(t)(2)(F), of the Internal Revenue Code  
7 of 1986,

8 (ii) received after February 28, 2018,  
9 and before October 19, 2018, and

10 (iii) which was to be used to purchase  
11 or construct a principal residence in the  
12 Mendocino wildfire disaster area, but  
13 which was not so purchased or constructed  
14 on account of the wildfires to which the  
15 declaration of such area relates.

16 (G) QUALIFIED CAMP AND WOOLSEY DISTRIBUTION.—The term “qualified Camp and Woolsey distribution” means any distribution—

17 (i) described in section  
18 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
19 only to the extent such distribution relates  
20 to financial hardship), 403(b)(11)(B), or

1 72(t)(2)(F), of the Internal Revenue Code  
2 of 1986,

3 (ii) received after February 28, 2018,  
4 and before December 30, 2018, and

5 (iii) which was to be used to purchase  
6 or construct a principal residence in the  
7 Camp and Woolsey wildfire disaster area,  
8 but which was not so purchased or con-  
9 structed on account of the wildfires to  
10 which the declaration of such area relates.

11 (H) QUALIFIED KILAUEA DISTRIBUTION.—

12 The term “qualified Kilauea distribution”  
13 means any distribution—

14 (i) described in section  
15 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
16 only to the extent such distribution relates  
17 to financial hardship), 403(b)(11)(B), or  
18 72(t)(2)(F), of the Internal Revenue Code  
19 of 1986,

20 (ii) received after February 28, 2018,  
21 and before September 17, 2019, and

22 (iii) which was to be used to purchase  
23 or construct a principal residence in the  
24 Kilauea disaster area, but which was not  
25 so purchased or constructed on account of

1 the volcanic eruption and earthquakes to  
2 which the declaration of such area relates.

3 (I) QUALIFIED HAWAII DISTRIBUTION.—

4 The term “qualified Hawaii distribution”  
5 means any distribution—

6 (i) described in section  
7 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but  
8 only to the extent such distribution relates  
9 to financial hardship), 403(b)(11)(B), or  
10 72(t)(2)(F), of the Internal Revenue Code  
11 of 1986,

12 (ii) received after February 28, 2018,  
13 and before May 16, 2018, and

14 (iii) which was to be used to purchase  
15 or construct a principal residence in the  
16 Hawaii severe storms, flooding, landslides,  
17 and mudslides disaster area, but which was  
18 not so purchased or constructed on ac-  
19 count of the severe storms, flooding, land-  
20 slides, and mudslides to which the declara-  
21 tion of such area relates.

22 (3) APPLICABLE PERIOD.—For purposes of this  
23 subsection, the term “applicable period” means—

1 (A) with respect to any qualified Florence  
2 distribution, the period beginning on September  
3 7, 2018, and ending on February 28, 2019,

4 (B) with respect to any qualified Michael  
5 distribution, the period beginning on October 7,  
6 2018, and ending on February 28, 2019,

7 (C) with respect to any qualified Mangkhut  
8 distribution, the period beginning on September  
9 10, 2018, and ending on February 28, 2019,

10 (D) with respect to any qualified Yutu dis-  
11 tribution, the period beginning on October 24,  
12 2018, and ending on February 28, 2019,

13 (E) with respect to any qualified  
14 Mendocino distribution, the period beginning on  
15 July 23, 2018, and ending on February 28,  
16 2019,

17 (F) with respect to any qualified Camp  
18 and Woolsey distribution, the period beginning  
19 on November 8, 2018, and ending on February  
20 28, 2019,

21 (G) with respect to any qualified Kilauea  
22 distribution, the period beginning on May 3,  
23 2018, and ending on February 28, 2019, and



1 (H) with respect to any qualified Hawaii  
2 distribution, the period beginning on April 13,  
3 2018, and ending on February 28, 2019.

4 (c) LOANS FROM QUALIFIED PLANS.—

5 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-  
6 ED AS DISTRIBUTIONS.—In the case of any loan  
7 from a qualified employer plan (as defined under  
8 section 72(p)(4) of the Internal Revenue Code of  
9 1986) to a qualified individual made during the pe-  
10 riod beginning on the date of the enactment of this  
11 Act and ending on December 31, 2019—

12 (A) clause (i) of section 72(p)(2)(A) of  
13 such Code shall be applied by substituting  
14 “\$100,000” for “\$50,000”, and

15 (B) clause (ii) of such section shall be ap-  
16 plied by substituting “the present value of the  
17 nonforfeitable accrued benefit of the employee  
18 under the plan” for “one-half of the present  
19 value of the nonforfeitable accrued benefit of  
20 the employee under the plan”.

21 (2) DELAY OF REPAYMENT.—In the case of a  
22 qualified individual with an outstanding loan on or  
23 after the qualified beginning date from a qualified  
24 employer plan (as defined in section 72(p)(4) of the  
25 Internal Revenue Code of 1986)—

1 (A) if the due date pursuant to subpara-  
2 graph (B) or (C) of section 72(p)(2) of such  
3 Code for any repayment with respect to such  
4 loan occurs during the period beginning on the  
5 qualified beginning date and ending on Decem-  
6 ber 31, 2019, such due date shall be delayed for  
7 1 year,

8 (B) any subsequent repayments with re-  
9 spect to any such loan shall be appropriately  
10 adjusted to reflect the delay in the due date  
11 under paragraph (1) and any interest accruing  
12 during such delay, and

13 (C) in determining the 5-year period and  
14 the term of a loan under subparagraph (B) or  
15 (C) of section 72(p)(2) of such Code, the period  
16 described in subparagraph (A) shall be dis-  
17 regarded.

18 (3) QUALIFIED INDIVIDUAL.—For purposes of  
19 this subsection—

20 (A) IN GENERAL.—The term “qualified in-  
21 dividual” means any qualified Florence indi-  
22 vidual, any qualified Michael individual, any  
23 qualified Mangkhut individual, any qualified  
24 Yutu individual, any qualified Mendocino indi-  
25 vidual, any qualified Camp and Woolsey indi-

1           vidual, any qualified Kilauea individual, and  
2           any qualified Hawaii individual.

3           (B) QUALIFIED FLORENCE INDIVIDUAL.—

4           The term “qualified Florence individual” means  
5           any individual whose principal place of abode on  
6           September 7, 2018, is located in the Hurricane  
7           Florence disaster area and who has sustained  
8           an economic loss by reason of Hurricane Flor-  
9           ence.

10          (C) QUALIFIED MICHAEL INDIVIDUAL.—

11          The term “qualified Michael individual” means  
12          any individual whose principal place of abode on  
13          October 7, 2018, is located in the Hurricane  
14          Michael disaster area and who has sustained an  
15          economic loss by reason of Hurricane Michael.

16          (D) QUALIFIED MANGKHUT INDIVIDUAL.—

17          The term “qualified Mangkhut individual”  
18          means any individual whose principal place of  
19          abode on September 10, 2018, is located in the  
20          Typhoon Mangkhut disaster area and who has  
21          sustained an economic loss by reason of Ty-  
22          phoon Mangkhut.

23          (E) QUALIFIED YUTU INDIVIDUAL.—The

24          term “qualified Yutu individual” means any in-  
25          dividual whose principal place of abode on Octo-

1           ber 24, 2018, is located in the Typhoon Yutu  
2           disaster area and who has sustained an eco-  
3           nomic loss by reason of Typhoon Yutu.

4           (F)    QUALIFIED    MENDOCINO    INDI-  
5           VIDUAL.—The term “qualified Mendocino indi-  
6           vidual” means any individual whose principal  
7           place of abode during any portion of the period  
8           from July 23, 2018, to September 19, 2018, is  
9           located in the Mendocino wildfire disaster area  
10          and who has sustained an economic loss by rea-  
11          son of wildfires to which the declaration of such  
12          area relates.

13          (G) QUALIFIED CAMP AND WOOLSEY INDI-  
14          VIDUAL.—The term “qualified Camp and Wool-  
15          sey individual” means any individual whose  
16          principal place of abode during any portion of  
17          the period from November 8, 2018, to Novem-  
18          ber 30, 2018, is located in the Camp and Wool-  
19          sey wildfire disaster area and who has sustained  
20          an economic loss by reason of wildfires to which  
21          the declaration of such area relates.

22          (H) QUALIFIED KILAUEA INDIVIDUAL.—  
23          The term “qualified Kilauea individual” means  
24          any individual whose principal place of abode  
25          during any portion of the period from May 3,

1           2018, to August 17, 2018, is located in the  
2           Kilauea volcanic eruption and earthquake dis-  
3           aster area and who has sustained an economic  
4           loss by reason of the volcanic eruption and  
5           earthquakes to which the declaration of such  
6           area relates.

7           (I) QUALIFIED HAWAII INDIVIDUAL.—The  
8           term “qualified Hawaii individual” means any  
9           individual whose principal place of abode on  
10          April 13, 2018, is located in the Hawaii severe  
11          storms, flooding, landslides and mudslides dis-  
12          aster area and who has sustained an economic  
13          loss by reason of the severe storms, flooding,  
14          landslides, and mudslides to which the declara-  
15          tion of such area relates.

16          (4) QUALIFIED BEGINNING DATE.—For pur-  
17          poses of this subsection—

18               (A) HURRICANE FLORENCE.—In the case  
19               of any qualified Florence individual, the quali-  
20               fied beginning date is September 7, 2018.

21               (B) HURRICANE MICHAEL.—In the case of  
22               any qualified Michael individual, the qualified  
23               beginning date is October 7, 2018.

1 (C) TYPHOON MANGKHUT.—In the case of  
2 any qualified Mangkhut individual, the qualified  
3 beginning date is September 10, 2018.

4 (D) TYPHOON YUTU.—In the case of any  
5 qualified Yutu individual, the qualified begin-  
6 ning date is October 24, 2018.

7 (E) MENDOCINO WILDFIRE.—In the case  
8 of any qualified Mendocino individual, the  
9 qualified beginning date is July 23, 2018.

10 (F) CAMP AND WOOLSEY WILDFIRE.—In  
11 the case of any qualified Camp and Woolsey in-  
12 dividual, the qualified beginning date is Novem-  
13 ber 8, 2018.

14 (G) KILAUEA VOLCANIC ERUPTION AND  
15 EARTHQUAKES.—In the case of any qualified  
16 Kilauea individual, the qualified beginning date  
17 is May 3, 2018.

18 (H) HAWAII SEVERE STORMS, FLOODING,  
19 LANDSLIDES, AND MUDSLIDES.—In the case of  
20 any qualified Hawaii individual, the qualified  
21 beginning date is April 13, 2018.

22 (d) PROVISIONS RELATING TO PLAN AMEND-  
23 MENTS.—

24 (1) IN GENERAL.—If this subsection applies to  
25 any amendment to any plan or annuity contract,

1 such plan or contract shall be treated as being oper-  
2 ated in accordance with the terms of the plan during  
3 the period described in paragraph (2)(B)(i).

4 (2) AMENDMENTS TO WHICH SUBSECTION AP-  
5 PLIES.—

6 (A) IN GENERAL.—This subsection shall  
7 apply to any amendment to any plan or annuity  
8 contract which is made—

9 (i) pursuant to any provision of this  
10 section, or pursuant to any regulation  
11 issued by the Secretary or the Secretary of  
12 Labor under any provision of this section,  
13 and

14 (ii) on or before the last day of the  
15 first plan year beginning on or after Janu-  
16 ary 1, 2020, or such later date as the Sec-  
17 retary may prescribe.

18 In the case of a governmental plan (as defined  
19 in section 414(d) of the Internal Revenue Code  
20 of 1986), clause (ii) shall be applied by sub-  
21 stituting the date which is 2 years after the  
22 date otherwise applied under clause (ii).

23 (B) CONDITIONS.—This subsection shall  
24 not apply to any amendment unless—

25 (i) during the period—

1 (I) beginning on the date that  
2 this section or the regulation de-  
3 scribed in subparagraph (A)(i) takes  
4 effect (or in the case of a plan or con-  
5 tract amendment not required by this  
6 section or such regulation, the effec-  
7 tive date specified by the plan), and  
8 (II) ending on the date described  
9 in subparagraph (A)(ii) (or, if earlier,  
10 the date the plan or contract amend-  
11 ment is adopted),  
12 the plan or contract is operated as if such plan  
13 or contract amendment were in effect, and  
14 (ii) such plan or contract amendment  
15 applies retroactively for such period.

16 **SEC. 203. EMPLOYMENT RELIEF.**

17 (a) **EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**  
18 **AFFECTED BY HURRICANE FLORENCE.—**

19 (1) **IN GENERAL.—**For purposes of section 38  
20 of the Internal Revenue Code of 1986, in the case  
21 of an eligible employer, the Hurricane Florence em-  
22 ployee retention credit shall be treated as a credit  
23 listed in subsection (b) of such section. For purposes  
24 of this subsection, the Hurricane Florence employee  
25 retention credit for any taxable year is an amount



1 equal to 40 percent of the qualified wages with re-  
2 spect to each eligible employee of such employer for  
3 such taxable year. For purposes of the preceding  
4 sentence, the amount of qualified wages which may  
5 be taken into account with respect to any individual  
6 shall not exceed \$6,000.

7 (2) DEFINITIONS.—For purposes of this sub-  
8 section—

9 (A) ELIGIBLE EMPLOYER.—The term “eli-  
10 gible employer” means any employer—

11 (i) which conducted an active trade or  
12 business on September 7, 2018, in the  
13 Hurricane Florence disaster zone, and

14 (ii) with respect to whom the trade or  
15 business described in clause (i) is inoper-  
16 able on any day after September 7, 2018,  
17 and before January 1, 2019, as a result of  
18 damage sustained by reason of Hurricane  
19 Florence.

20 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
21 gible employee” means with respect to an eligi-  
22 ble employer an employee whose principal place  
23 of employment on September 7, 2018, with  
24 such eligible employer was in the Hurricane  
25 Florence disaster zone.

1 (C) QUALIFIED WAGES.—The term “quali-  
2 fied wages” means wages (as defined in section  
3 51(c)(1) of the Internal Revenue Code of 1986,  
4 but without regard to section 3306(b)(2)(B) of  
5 such Code) paid or incurred by an eligible em-  
6 ployer with respect to an eligible employee on  
7 any day after September 7, 2018, and before  
8 January 1, 2019, which occurs during the pe-  
9 riod—

10 (i) beginning on the date on which the  
11 trade or business described in subpara-  
12 graph (A) first became inoperable at the  
13 principal place of employment of the em-  
14 ployee immediately before Hurricane Flor-  
15 ence, and

16 (ii) ending on the date on which such  
17 trade or business has resumed significant  
18 operations at such principal place of em-  
19 ployment.

20 Such term shall include wages paid without re-  
21 gard to whether the employee performs no serv-  
22 ices, performs services at a different place of  
23 employment than such principal place of em-  
24 ployment, or performs services at such principal

1 place of employment before significant oper-  
2 ations have resumed.

3 (3) CERTAIN RULES TO APPLY.—For purposes  
4 of this subsection, rules similar to the rules of sec-  
5 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
6 enue Code of 1986, shall apply.

7 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
8 MORE THAN ONCE.—An employee shall not be treat-  
9 ed as an eligible employee for purposes of this sub-  
10 section for any period with respect to any employer  
11 if such employer is allowed a credit under section 51  
12 of the Internal Revenue Code of 1986 with respect  
13 to such employee for such period.

14 (b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
15 AFFECTED BY HURRICANE MICHAEL.—

16 (1) IN GENERAL.—For purposes of section 38  
17 of the Internal Revenue Code of 1986, in the case  
18 of an eligible employer, the Hurricane Michael em-  
19 ployee retention credit shall be treated as a credit  
20 listed in subsection (b) of such section. For purposes  
21 of this subsection, the Hurricane Michael employee  
22 retention credit for any taxable year is an amount  
23 equal to 40 percent of the qualified wages with re-  
24 spect to each eligible employee of such employer for  
25 such taxable year. For purposes of the preceding

1 sentence, the amount of qualified wages which may  
2 be taken into account with respect to any individual  
3 shall not exceed \$6,000.

4 (2) DEFINITIONS.—For purposes of this sub-  
5 section—

6 (A) ELIGIBLE EMPLOYER.—The term “eli-  
7 gible employer” means any employer—

8 (i) which conducted an active trade or  
9 business on October 7, 2018, in the Hurri-  
10 cane Michael disaster zone, and

11 (ii) with respect to whom the trade or  
12 business described in clause (i) is inoper-  
13 able on any day after October 7, 2018, and  
14 before January 1, 2019, as a result of  
15 damage sustained by reason of Hurricane  
16 Michael.

17 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
18 gible employee” means with respect to an eligi-  
19 ble employer an employee whose principal place  
20 of employment on October 7, 2018, with such  
21 eligible employer was in the Hurricane Michael  
22 disaster zone.

23 (C) QUALIFIED WAGES.—The term “quali-  
24 fied wages” means wages (as defined in section  
25 51(c)(1) of the Internal Revenue Code of 1986,

1 but without regard to section 3306(b)(2)(B) of  
2 such Code) paid or incurred by an eligible em-  
3 ployer with respect to an eligible employee on  
4 any day after October 7, 2018, and before Jan-  
5 uary 1, 2019, which occurs during the period—

6 (i) beginning on the date on which the  
7 trade or business described in subpara-  
8 graph (A) first became inoperable at the  
9 principal place of employment of the em-  
10 ployee immediately before Hurricane Mi-  
11 chael, and

12 (ii) ending on the date on which such  
13 trade or business has resumed significant  
14 operations at such principal place of em-  
15 ployment.

16 Such term shall include wages paid without re-  
17 gard to whether the employee performs no serv-  
18 ices, performs services at a different place of  
19 employment than such principal place of em-  
20 ployment, or performs services at such principal  
21 place of employment before significant oper-  
22 ations have resumed.

23 (3) CERTAIN RULES TO APPLY.—For purposes  
24 of this subsection, rules similar to the rules of sec-

1        tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
2        enue Code of 1986, shall apply.

3            (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
4        MORE THAN ONCE.—An employee shall not be treat-  
5        ed as an eligible employee for purposes of this sub-  
6        section for any period with respect to any employer  
7        if such employer is allowed a credit under section 51  
8        of the Internal Revenue Code of 1986 with respect  
9        to such employee for such period.

10        (c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
11        AFFECTED BY TYPHOON MANGKHUT.—

12            (1) IN GENERAL.—For purposes of section 38  
13        of the Internal Revenue Code of 1986, in the case  
14        of an eligible employer, the Typhoon Mangkhut em-  
15        ployee retention credit shall be treated as a credit  
16        listed in subsection (b) of such section. For purposes  
17        of this subsection, the Typhoon Mangkhut employee  
18        retention credit for any taxable year is an amount  
19        equal to 40 percent of the qualified wages with re-  
20        spect to each eligible employee of such employer for  
21        such taxable year. For purposes of the preceding  
22        sentence, the amount of qualified wages which may  
23        be taken into account with respect to any individual  
24        shall not exceed \$6,000.

1           (2) DEFINITIONS.—For purposes of this sub-  
2 section—

3           (A) ELIGIBLE EMPLOYER.—The term “eli-  
4 gible employer” means any employer—

5           (i) which conducted an active trade or  
6 business on September 10, 2018, in the  
7 Typhoon Mangkhut disaster zone, and

8           (ii) with respect to whom the trade or  
9 business described in clause (i) is inoper-  
10 able on any day after September 10, 2018,  
11 and before January 1, 2019, as a result of  
12 damage sustained by reason of Typhoon  
13 Mangkhut.

14           (B) ELIGIBLE EMPLOYEE.—The term “eli-  
15 gible employee” means with respect to an eligi-  
16 ble employer an employee whose principal place  
17 of employment on September 10, 2018, with  
18 such eligible employer was in the Typhoon  
19 Mangkhut disaster zone.

20           (C) QUALIFIED WAGES.—The term “quali-  
21 fied wages” means wages (as defined in section  
22 51(c)(1) of the Internal Revenue Code of 1986,  
23 but without regard to section 3306(b)(2)(B) of  
24 such Code) paid or incurred by an eligible em-  
25 ployer with respect to an eligible employee on

1 any day after September 10, 2018, and before  
2 January 1, 2019, which occurs during the pe-  
3 riod—

4 (i) beginning on the date on which the  
5 trade or business described in subpara-  
6 graph (A) first became inoperable at the  
7 principal place of employment of the em-  
8 ployee immediately before Typhoon  
9 Mangkhut, and

10 (ii) ending on the date on which such  
11 trade or business has resumed significant  
12 operations at such principal place of em-  
13 ployment.

14 Such term shall include wages paid without re-  
15 gard to whether the employee performs no serv-  
16 ices, performs services at a different place of  
17 employment than such principal place of em-  
18 ployment, or performs services at such principal  
19 place of employment before significant oper-  
20 ations have resumed.

21 (3) CERTAIN RULES TO APPLY.—For purposes  
22 of this subsection, rules similar to the rules of sec-  
23 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
24 enue Code of 1986, shall apply.



1           (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
2 MORE THAN ONCE.—An employee shall not be treat-  
3 ed as an eligible employee for purposes of this sub-  
4 section for any period with respect to any employer  
5 if such employer is allowed a credit under section 51  
6 of the Internal Revenue Code of 1986 with respect  
7 to such employee for such period.

8           (d) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
9 AFFECTED BY TYPHOON YUTU.—

10           (1) IN GENERAL.—For purposes of section 38  
11 of the Internal Revenue Code of 1986, in the case  
12 of an eligible employer, the Typhoon Yutu employee  
13 retention credit shall be treated as a credit listed in  
14 subsection (b) of such section. For purposes of this  
15 subsection, the Typhoon Yutu employee retention  
16 credit for any taxable year is an amount equal to 40  
17 percent of the qualified wages with respect to each  
18 eligible employee of such employer for such taxable  
19 year. For purposes of the preceding sentence, the  
20 amount of qualified wages which may be taken into  
21 account with respect to any individual shall not ex-  
22 ceed \$6,000.

23           (2) DEFINITIONS.—For purposes of this sub-  
24 section—

1 (A) ELIGIBLE EMPLOYER.—The term “eli-  
2 gible employer” means any employer—

3 (i) which conducted an active trade or  
4 business on October 24, 2018, in the Ty-  
5 phoon Yutu disaster zone, and

6 (ii) with respect to whom the trade or  
7 business described in clause (i) is inoper-  
8 able on any day after October 24, 2018,  
9 and before January 1, 2019, as a result of  
10 damage sustained by reason of Typhoon  
11 Yutu.

12 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
13 gible employee” means with respect to an eligi-  
14 ble employer an employee whose principal place  
15 of employment on October 24, 2018, with such  
16 eligible employer was in the Typhoon Yutu dis-  
17 aster zone.

18 (C) QUALIFIED WAGES.—The term “quali-  
19 fied wages” means wages (as defined in section  
20 51(c)(1) of the Internal Revenue Code of 1986,  
21 but without regard to section 3306(b)(2)(B) of  
22 such Code) paid or incurred by an eligible em-  
23 ployer with respect to an eligible employee on  
24 any day after October 24, 2018, and before

1           January 1, 2019, which occurs during the pe-  
2           riod—

3                   (i) beginning on the date on which the  
4                   trade or business described in subpara-  
5                   graph (A) first became inoperable at the  
6                   principal place of employment of the em-  
7                   ployee immediately before Typhoon Yutu,  
8                   and

9                   (ii) ending on the date on which such  
10                  trade or business has resumed significant  
11                  operations at such principal place of em-  
12                  ployment.

13           Such term shall include wages paid without re-  
14           gard to whether the employee performs no serv-  
15           ices, performs services at a different place of  
16           employment than such principal place of em-  
17           ployment, or performs services at such principal  
18           place of employment before significant oper-  
19           ations have resumed.

20           (3) CERTAIN RULES TO APPLY.—For purposes  
21           of this subsection, rules similar to the rules of sec-  
22           tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
23           enue Code of 1986, shall apply.

24           (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
25           MORE THAN ONCE.—An employee shall not be treat-

1 ed as an eligible employee for purposes of this sub-  
2 section for any period with respect to any employer  
3 if such employer is allowed a credit under section 51  
4 of the Internal Revenue Code of 1986 with respect  
5 to such employee for such period.

6 (e) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
7 AFFECTED BY MENDOCINO WILDFIRES.—

8 (1) IN GENERAL.—For purposes of section 38  
9 of the Internal Revenue Code of 1986, in the case  
10 of an eligible employer, the Mendocino wildfire em-  
11 ployee retention credit shall be treated as a credit  
12 listed in subsection (b) of such section. For purposes  
13 of this subsection, the Mendocino wildfire employee  
14 retention credit for any taxable year is an amount  
15 equal to 40 percent of the qualified wages with re-  
16 spect to each eligible employee of such employer for  
17 such taxable year. For purposes of the preceding  
18 sentence, the amount of qualified wages which may  
19 be taken into account with respect to any individual  
20 shall not exceed \$6,000.

21 (2) DEFINITIONS.—For purposes of this sub-  
22 section—

23 (A) ELIGIBLE EMPLOYER.—The term “eli-  
24 gible employer” means any employer—

1 (i) which conducted an active trade or  
2 business for any portion of the period from  
3 July 23, 2018, to September 19, 2018, in  
4 the Mendocino wildfire disaster zone, and

5 (ii) with respect to whom the trade or  
6 business described in clause (i) is inoper-  
7 able on any day after September 19, 2018,  
8 and before January 1, 2019, as a result of  
9 damage sustained by reason of the  
10 wildfires to which the declaration of the  
11 Mendocino wildfire disaster area relates.

12 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
13 gible employee” means with respect to an eligi-  
14 ble employer an employee whose principal place  
15 of employment for any portion of the period  
16 from July 23, 2018, to September 19, 2018,  
17 with such eligible employer was in the  
18 Mendocino wildfire disaster zone.

19 (C) QUALIFIED WAGES.—The term “quali-  
20 fied wages” means wages (as defined in section  
21 51(c)(1) of the Internal Revenue Code of 1986,  
22 but without regard to section 3306(b)(2)(B) of  
23 such Code) paid or incurred by an eligible em-  
24 ployer with respect to an eligible employee on

1 any day after July 23, 2018, and before Janu-  
2 ary 1, 2019, which occurs during the period—

3 (i) beginning on the date on which the  
4 trade or business described in subpara-  
5 graph (A) first became inoperable at the  
6 principal place of employment of the em-  
7 ployee immediately before the wildfires to  
8 which the declaration of the Mendocino  
9 wildfire disaster area relates, and

10 (ii) ending on the date on which such  
11 trade or business has resumed significant  
12 operations at such principal place of em-  
13 ployment.

14 Such term shall include wages paid without re-  
15 gard to whether the employee performs no serv-  
16 ices, performs services at a different place of  
17 employment than such principal place of em-  
18 ployment, or performs services at such principal  
19 place of employment before significant oper-  
20 ations have resumed.

21 (3) CERTAIN RULES TO APPLY.—For purposes  
22 of this subsection, rules similar to the rules of sec-  
23 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
24 enue Code of 1986, shall apply.

1           (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
2 MORE THAN ONCE.—An employee shall not be treat-  
3 ed as an eligible employee for purposes of this sub-  
4 section for any period with respect to any employer  
5 if such employer is allowed a credit under section 51  
6 of the Internal Revenue Code of 1986 with respect  
7 to such employee for such period.

8           (f) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
9 AFFECTED BY CAMP AND WOOLSEY WILDFIRES.—

10           (1) IN GENERAL.—For purposes of section 38  
11 of the Internal Revenue Code of 1986, in the case  
12 of an eligible employer, the Camp and Woolsey wild-  
13 fire employee retention credit shall be treated as a  
14 credit listed in subsection (b) of such section. For  
15 purposes of this subsection, the Camp and Woolsey  
16 wildfire employee retention credit for any taxable  
17 year is an amount equal to 40 percent of the quali-  
18 fied wages with respect to each eligible employee of  
19 such employer for such taxable year. For purposes  
20 of the preceding sentence, the amount of qualified  
21 wages which may be taken into account with respect  
22 to any individual shall not exceed \$6,000.

23           (2) DEFINITIONS.—For purposes of this sub-  
24 section—

1 (A) ELIGIBLE EMPLOYER.—The term “eli-  
2 gible employer” means any employer—

3 (i) which conducted an active trade or  
4 business for any portion of the period from  
5 November 8, 2018, to November 30, 2018,  
6 in the Camp and Woolsey wildfire disaster  
7 zone, and

8 (ii) with respect to whom the trade or  
9 business described in clause (i) is inoper-  
10 able on any day after November 8, 2018,  
11 and before January 1, 2019, as a result of  
12 damage sustained by reason of the  
13 wildfires to which the declaration of the  
14 Camp and Woolsey wildfire disaster area  
15 relates.

16 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
17 gible employee” means with respect to an eligi-  
18 ble employer an employee whose principal place  
19 of employment for any portion of the period  
20 from November 8, 2018, to November 30,  
21 2018, with such eligible employer was in the  
22 Camp and Woolsey wildfire disaster zone.

23 (C) QUALIFIED WAGES.—The term “quali-  
24 fied wages” means wages (as defined in section  
25 51(c)(1) of the Internal Revenue Code of 1986,



1 but without regard to section 3306(b)(2)(B) of  
2 such Code) paid or incurred by an eligible em-  
3 ployer with respect to an eligible employee on  
4 any day after November 8, 2018, and before  
5 January 1, 2019, which occurs during the pe-  
6 riod—

7 (i) beginning on the date on which the  
8 trade or business described in subpara-  
9 graph (A) first became inoperable at the  
10 principal place of employment of the em-  
11 ployee immediately before the wildfires to  
12 which the declaration of the Camp and  
13 Woolsey wildfire disaster area relates, and

14 (ii) ending on the date on which such  
15 trade or business has resumed significant  
16 operations at such principal place of em-  
17 ployment.

18 Such term shall include wages paid without re-  
19 gard to whether the employee performs no serv-  
20 ices, performs services at a different place of  
21 employment than such principal place of em-  
22 ployment, or performs services at such principal  
23 place of employment before significant oper-  
24 ations have resumed.

1           (3) CERTAIN RULES TO APPLY.—For purposes  
2 of this subsection, rules similar to the rules of sec-  
3 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
4 enue Code of 1986, shall apply.

5           (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
6 MORE THAN ONCE.—An employee shall not be treat-  
7 ed as an eligible employee for purposes of this sub-  
8 section for any period with respect to any employer  
9 if such employer is allowed a credit under section 51  
10 of the Internal Revenue Code of 1986 with respect  
11 to such employee for such period.

12          (g) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS  
13 AFFECTED BY KILAUEA VOLCANIC ERUPTION AND  
14 EARTHQUAKES.—

15           (1) IN GENERAL.—For purposes of section 38  
16 of the Internal Revenue Code of 1986, in the case  
17 of an eligible employer, the Kilauea volcanic eruption  
18 and earthquake employee retention credit shall be  
19 treated as a credit listed in subsection (b) of such  
20 section. For purposes of this subsection, the Kilauea  
21 volcanic eruption and earthquake employee retention  
22 credit for any taxable year is an amount equal to 40  
23 percent of the qualified wages with respect to each  
24 eligible employee of such employer for such taxable  
25 year. For purposes of the preceding sentence, the

1 amount of qualified wages which may be taken into  
2 account with respect to any individual shall not ex-  
3 ceed \$6,000.

4 (2) DEFINITIONS.—For purposes of this sub-  
5 section—

6 (A) ELIGIBLE EMPLOYER.—The term “eli-  
7 gible employer” means any employer—

8 (i) which conducted an active trade or  
9 business for any portion of the period from  
10 May 3, 2018, to August 17, 2018, in the  
11 Kilauea volcanic eruption and earthquake  
12 disaster zone, and

13 (ii) with respect to whom the trade or  
14 business described in clause (i) is inoper-  
15 able on any day after May 3, 2018, and  
16 before January 1, 2019, as a result of  
17 damage sustained by reason of the volcanic  
18 eruption or earthquakes to which the dec-  
19 laration of the Kilauea volcanic eruption  
20 and earthquake disaster area relates.

21 (B) ELIGIBLE EMPLOYEE.—The term “eli-  
22 gible employee” means with respect to an eligi-  
23 ble employer an employee whose principal place  
24 of employment for any portion of the period  
25 from May 3, 2018, to August 17, 2018, with

1 such eligible employer was in the Kilauea vol-  
2 canic eruption and earthquake disaster zone.

3 (C) QUALIFIED WAGES.—The term “quali-  
4 fied wages” means wages (as defined in section  
5 51(c)(1) of the Internal Revenue Code of 1986,  
6 but without regard to section 3306(b)(2)(B) of  
7 such Code) paid or incurred by an eligible em-  
8 ployer with respect to an eligible employee on  
9 any day after May 3, 2018, and before January  
10 1, 2019, which occurs during the period—

11 (i) beginning on the date on which the  
12 trade or business described in subpara-  
13 graph (A) first became inoperable at the  
14 principal place of employment of the em-  
15 ployee immediately before the volcanic  
16 eruption or earthquakes to which the dec-  
17 laration of the Kilauea volcanic eruption  
18 and earthquake disaster area relates, and

19 (ii) ending on the date on which such  
20 trade or business has resumed significant  
21 operations at such principal place of em-  
22 ployment.

23 Such term shall include wages paid without re-  
24 gard to whether the employee performs no serv-  
25 ices, performs services at a different place of

1 employment than such principal place of em-  
2 ployment, or performs services at such principal  
3 place of employment before significant oper-  
4 ations have resumed.

5 (3) CERTAIN RULES TO APPLY.—For purposes  
6 of this subsection, rules similar to the rules of sec-  
7 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
8 enue Code of 1986, shall apply.

9 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
10 MORE THAN ONCE.—An employee shall not be treat-  
11 ed as an eligible employee for purposes of this sub-  
12 section for any period with respect to any employer  
13 if such employer is allowed a credit under section 51  
14 of the Internal Revenue Code of 1986 with respect  
15 to such employee for such period.

16 (h) EMPLOYEE RETENTION CREDIT FOR EMPLOY-  
17 ERS AFFECTED BY HAWAII SEVERE STORMS, FLOODING,  
18 LANDSLIDES, AND MUDSLIDES.—

19 (1) IN GENERAL.—For purposes of section 38  
20 of the Internal Revenue Code of 1986, in the case  
21 of an eligible employer, the Hawaii severe storms,  
22 flooding, landslides, and mudslides employee reten-  
23 tion credit shall be treated as a credit listed in sub-  
24 section (b) of such section. For purposes of this sub-  
25 section, the Hawaii severe storms, flooding, land-

1 slides, and mudslides employee retention credit for  
2 any taxable year is an amount equal to 40 percent  
3 of the qualified wages with respect to each eligible  
4 employee of such employer for such taxable year.  
5 For purposes of the preceding sentence, the amount  
6 of qualified wages which may be taken into account  
7 with respect to any individual shall not exceed  
8 \$6,000.

9 (2) DEFINITIONS.—For purposes of this sub-  
10 section—

11 (A) ELIGIBLE EMPLOYER.—The term “eli-  
12 gible employer” means any employer—

13 (i) which conducted an active trade or  
14 business on April 13, 2018, in the Hawaii  
15 severe storms, flooding, mudslides, and  
16 landslides disaster zone, and

17 (ii) with respect to whom the trade or  
18 business described in clause (i) is inoper-  
19 able on any day after April 13, 2018, and  
20 before January 1, 2019, as a result of  
21 damage sustained by reason of the severe  
22 storms, flooding, mudslides, or landslides  
23 to which the declaration of the Hawaii se-  
24 vere storms, flooding, mudslides, and land-  
25 slides area relates.

1           (B) ELIGIBLE EMPLOYEE.—The term “eli-  
2           gible employee” means with respect to an eligi-  
3           ble employer an employee whose principal place  
4           of employment on April 13, 2018, with such eli-  
5           gible employer was in the Hawaii severe storms,  
6           flooding, landslides, and mudslides disaster  
7           zone.

8           (C) QUALIFIED WAGES.—The term “quali-  
9           fied wages” means wages (as defined in section  
10          51(c)(1) of the Internal Revenue Code of 1986,  
11          but without regard to section 3306(b)(2)(B) of  
12          such Code) paid or incurred by an eligible em-  
13          ployer with respect to an eligible employee on  
14          any day after April 13, 2018, and before Janu-  
15          ary 1, 2019, which occurs during the period—

16                 (i) beginning on the date on which the  
17                 trade or business described in subpara-  
18                 graph (A) first became inoperable at the  
19                 principal place of employment of the em-  
20                 ployee immediately before the severe  
21                 storms, flooding, landslides, and mudslides  
22                 to which the declaration of the Hawaii se-  
23                 vere storms, flooding, landslides, and  
24                 mudslides disaster area relates, and

1 (ii) ending on the date on which such  
2 trade or business has resumed significant  
3 operations at such principal place of em-  
4 ployment.

5 Such term shall include wages paid without re-  
6 gard to whether the employee performs no serv-  
7 ices, performs services at a different place of  
8 employment than such principal place of em-  
9 ployment, or performs services at such principal  
10 place of employment before significant oper-  
11 ations have resumed.

12 (3) CERTAIN RULES TO APPLY.—For purposes  
13 of this subsection, rules similar to the rules of sec-  
14 tions 51(i)(1), 52, and 280C(a), of the Internal Rev-  
15 enue Code of 1986, shall apply.

16 (4) EMPLOYEE NOT TAKEN INTO ACCOUNT  
17 MORE THAN ONCE.—An employee shall not be treat-  
18 ed as an eligible employee for purposes of this sub-  
19 section for any period with respect to any employer  
20 if such employer is allowed a credit under section 51  
21 of the Internal Revenue Code of 1986 with respect  
22 to such employee for such period.



1 **SEC. 204. OTHER DISASTER-RELATED TAX RELIEF PROVI-**  
2 **SIONS.**

3 (a) TEMPORARY SUSPENSION OF LIMITATIONS ON  
4 CHARITABLE CONTRIBUTIONS.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in paragraph (2), subsection (b) of section 170  
7 of the Internal Revenue Code of 1986 shall not  
8 apply to qualified contributions and such contribu-  
9 tions shall not be taken into account for purposes of  
10 applying subsections (b) and (d) of such section to  
11 other contributions.

12 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—  
13 For purposes of section 170 of the Internal Revenue  
14 Code of 1986—

15 (A) INDIVIDUALS.—In the case of an indi-  
16 vidual—

17 (i) LIMITATION.—Any qualified con-  
18 tribution shall be allowed only to the ex-  
19 tent that the aggregate of such contribu-  
20 tions does not exceed the excess of the tax-  
21 payer's contribution base (as defined in  
22 subparagraph (H) of section 170(b)(1) of  
23 such Code) over the amount of all other  
24 charitable contributions allowed under sec-  
25 tion 170(b)(1) of such Code.

1 (ii) CARRYOVER.—If the aggregate  
2 amount of qualified contributions made in  
3 the contribution year (within the meaning  
4 of section 170(d)(1) of such Code) exceeds  
5 the limitation of clause (i), such excess  
6 shall be added to the excess described in  
7 the portion of subparagraph (A) of such  
8 section which precedes clause (i) thereof  
9 for purposes of applying such section.

10 (B) CORPORATIONS.—In the case of a cor-  
11 poration—

12 (i) LIMITATION.—Any qualified con-  
13 tribution shall be allowed only to the ex-  
14 tent that the aggregate of such contribu-  
15 tions does not exceed the excess of the tax-  
16 payer's taxable income (as determined  
17 under paragraph (2) of section 170(b) of  
18 such Code) over the amount of all other  
19 charitable contributions allowed under such  
20 paragraph.

21 (ii) CARRYOVER.—Rules similar to the  
22 rules of subparagraph (A)(ii) shall apply  
23 for purposes of this subparagraph.

24 (3) QUALIFIED CONTRIBUTIONS.—

1           (A) IN GENERAL.—For purposes of this  
2 subsection, the term “qualified contribution”  
3 means any charitable contribution (as defined  
4 in section 170(c) of the Internal Revenue Code  
5 of 1986) if—

6           (i) such contribution—

7                   (I) is paid during the period be-  
8 ginning on April 13, 2018, and ending  
9 on December 31, 2018, in cash to an  
10 organization described in section  
11 170(b)(1)(A) of such Code, and

12                   (II) is made for relief efforts in  
13 the Hurricane Florence disaster area,  
14 the Hurricane Michael disaster area,  
15 the Typhoon Mangkhut disaster area,  
16 the Typhoon Yutu disaster area, the  
17 Mendocino wildfire disaster area, the  
18 Camp and Woolsey wildfire disaster  
19 area, the Kilauea volcanic eruption  
20 and earthquake disaster area, or the  
21 Hawaii severe storms, flooding, land-  
22 slides, and mudslides disaster area,

23           (ii) the taxpayer obtains from such or-  
24 ganization contemporaneous written ac-  
25 knowledgment (within the meaning of sec-

1                   tion 170(f)(8) of such Code) that such con-  
2                   tribution was used (or is to be used) for  
3                   relief efforts described in clause (i)(II),  
4                   and

5                   (iii) the taxpayer has elected the ap-  
6                   plication of this subsection with respect to  
7                   such contribution.

8                   (B) EXCEPTION.—Such term shall not in-  
9                   clude a contribution by a donor if the contribu-  
10                  tion is—

11                  (i) to an organization described in sec-  
12                  tion 509(a)(3) of the Internal Revenue  
13                  Code of 1986, or

14                  (ii) for the establishment of a new, or  
15                  maintenance of an existing, donor advised  
16                  fund (as defined in section 4966(d)(2) of  
17                  such Code).

18                  (C) APPLICATION OF ELECTION TO PART-  
19                  NERSHIPS AND S CORPORATIONS.—In the case  
20                  of a partnership or S corporation, the election  
21                  under subparagraph (A)(iii) shall be made sepa-  
22                  rately by each partner or shareholder.

23                  (b) SPECIAL RULES FOR QUALIFIED DISASTER-RE-  
24                  LATED PERSONAL CASUALTY LOSSES.—

1           (1) IN GENERAL.—If an individual has a net  
2           disaster loss for any taxable year—

3                   (A) the amount determined under section  
4                   165(h)(2)(A)(ii) of the Internal Revenue Code  
5                   of 1986 shall be equal to the sum of—

6                           (i) such net disaster loss, and

7                           (ii) so much of the excess referred to  
8                           in the matter preceding clause (i) of sec-  
9                           tion 165(h)(2)(A) of such Code (reduced  
10                           by the amount in clause (i) of this sub-  
11                           paragraph) as exceeds 10 percent of the  
12                           adjusted gross income of the individual,

13                   (B) section 165(h)(1) of such Code shall  
14                   be applied by substituting “\$500” for “\$500  
15                   (\$100 for taxable years beginning after Decem-  
16                   ber 31, 2009)”,

17                   (C) the standard deduction determined  
18                   under section 63(c) of such Code shall be in-  
19                   creased by the net disaster loss, and

20                   (D) section 56(b)(1)(E) of such Code shall  
21                   not apply to so much of the standard deduction  
22                   as is attributable to the increase under sub-  
23                   paragraph (C) of this paragraph.

24           (2) NET DISASTER LOSS.—For purposes of this  
25           subsection, the term “net disaster loss” means the

1 excess of qualified disaster-related personal casualty  
2 losses over personal casualty gains (as defined in  
3 section 165(h)(3)(A) of the Internal Revenue Code  
4 of 1986).

5 (3) QUALIFIED DISASTER-RELATED PERSONAL  
6 CASUALTY LOSSES.—For purposes of this sub-  
7 section, the term “qualified disaster-related personal  
8 casualty losses” means—

9 (A) losses described in section 165(c)(3) of  
10 the Internal Revenue Code of 1986 which arise  
11 in the Hurricane Florence disaster area on or  
12 after September 7, 2018, and which are attrib-  
13 utable to Hurricane Florence,

14 (B) losses described in section 165(c)(3) of  
15 the Internal Revenue Code of 1986 which arise  
16 in the Hurricane Michael disaster area on or  
17 after October 7, 2018, and which are attrib-  
18 utable to Hurricane Michael,

19 (C) losses described in section 165(c)(3) of  
20 the Internal Revenue Code of 1986 which arise  
21 in the Typhoon Mangkhut disaster area on or  
22 after September 10, 2018, and which are at-  
23 tributable to Typhoon Mangkhut,

24 (D) losses described in section 165(c)(3) of  
25 the Internal Revenue Code of 1986 which arise

1 in the Typhoon Yutu disaster area on or after  
2 October 24, 2018, and which are attributable to  
3 Typhoon Yutu,

4 (E) losses described in section 165(c)(3) of  
5 the Internal Revenue Code of 1986 which arise  
6 in the Mendocino wildfire disaster area on or  
7 after July 23, 2018, and which are attributable  
8 to the wildfires to which the declaration of such  
9 area relates,

10 (F) losses described in section 165(c)(3) of  
11 the Internal Revenue Code of 1986 which arise  
12 in the Camp and Woolsey wildfire disaster area  
13 on or after November 8, 2018, and which are  
14 attributable to the wildfires to which the dec-  
15 laration of such area relates,

16 (G) losses described in section 165(c)(3) of  
17 the Internal Revenue Code of 1986 which arise  
18 in the Kilauea volcanic eruption and earthquake  
19 disaster area on or after May 3, 2018, and  
20 which are attributable to the volcanic eruption  
21 or earthquakes to which the declaration of such  
22 area relates, and

23 (H) losses described in section 165(c)(3) of  
24 the Internal Revenue Code of 1986 which arise  
25 in the Hawaii severe storms, flooding, land-

1 slides, and mudslides disaster area on or after  
2 April 13, 2018, and which are attributable to  
3 the severe storms, flooding, landslides, and  
4 mudslides to which the declaration of such area  
5 relates.

6 (c) SPECIAL RULE FOR DETERMINING EARNED IN-  
7 COME.—

8 (1) IN GENERAL.—In the case of a qualified in-  
9 dividual, if the earned income of the taxpayer for the  
10 applicable taxable year is less than the earned in-  
11 come of the taxpayer for the preceding taxable year,  
12 the credits allowed under sections 24(d) and 32 of  
13 the Internal Revenue Code of 1986 may, at the elec-  
14 tion of the taxpayer, be determined by sub-  
15 stituting—

16 (A) such earned income for the preceding  
17 taxable year, for

18 (B) such earned income for the applicable  
19 taxable year.

20 (2) QUALIFIED INDIVIDUAL.—For purposes of  
21 this subsection—

22 (A) IN GENERAL.—The term “qualified in-  
23 dividual” means any qualified Florence indi-  
24 vidual, any qualified Michael individual, any  
25 qualified Mangkhut individual, any qualified



1 Yutu individual, any qualified Mendocino indi-  
2 vidual, any qualified Camp and Woolsey indi-  
3 vidual, any qualified Kilauea individual, and  
4 any qualified Hawaii individual.

5 (B) QUALIFIED FLORENCE INDIVIDUAL.—  
6 The term “qualified Florence individual” means  
7 any individual whose principal place of abode on  
8 September 7, 2018, was located—

9 (i) in the Hurricane Florence disaster  
10 zone, or

11 (ii) in the Hurricane Florence disaster  
12 area (but outside the Hurricane Florence  
13 disaster zone) and such individual was dis-  
14 placed from such principal place of abode  
15 by reason of Hurricane Florence.

16 (C) QUALIFIED MICHAEL INDIVIDUAL.—  
17 The term “qualified Michael individual” means  
18 any individual whose principal place of abode on  
19 October 7, 2018, was located—

20 (i) in the Hurricane Michael disaster  
21 zone, or

22 (ii) in the Hurricane Michael disaster  
23 area (but outside the Hurricane Michael  
24 disaster zone) and such individual was dis-

1 placed from such principal place of abode  
2 by reason of Hurricane Michael.

3 (D) QUALIFIED MANGKHUT INDIVIDUAL.—

4 The term “qualified Mangkhut individual”  
5 means any individual whose principal place of  
6 abode on September 10, 2018, was located—

7 (i) in the Typhoon Mangkhut disaster  
8 zone, or

9 (ii) in the Typhoon Mangkhut disaster  
10 area (but outside the Typhoon Mangkhut  
11 disaster zone) and such individual was dis-  
12 placed from such principal place of abode  
13 by reason of Typhoon Mangkhut.

14 (E) QUALIFIED YUTU INDIVIDUAL.—The  
15 term “qualified Yutu individual” means any in-  
16 dividual whose principal place of abode on Octo-  
17 ber 24, 2018, was located—

18 (i) in the Typhoon Yutu disaster zone,  
19 or

20 (ii) in the Typhoon Yutu disaster area  
21 (but outside the Typhoon Yutu disaster  
22 zone) and such individual was displaced  
23 from such principal place of abode by rea-  
24 son of Typhoon Yutu.

1 (F) QUALIFIED MENDOCINO INDI-  
2 VIDUAL.—The term “qualified Mendocino indi-  
3 vidual” means any individual whose principal  
4 place of abode during any portion of the period  
5 from July 23, 2018, to September 19, 2018,  
6 was located—

7 (i) in the Mendocino wildfire disaster  
8 zone, or

9 (ii) in the Mendocino wildfire disaster  
10 area (but outside the Mendocino wildfire  
11 disaster zone) and such individual was dis-  
12 placed from such principal place of abode  
13 by reason of the wildfires to which the dec-  
14 laration of such area relates.

15 (G) QUALIFIED CAMP AND WOOLSEY INDI-  
16 VIDUAL.—The term “qualified Camp and Wool-  
17 sey individual” means any individual whose  
18 principal place of abode during any portion of  
19 the period from November 8, 2018, to Novem-  
20 ber 30, 2018, was located—

21 (i) in the Camp and Woolsey wildfire  
22 disaster zone, or

23 (ii) in the Camp and Woolsey wildfire  
24 disaster area (but outside the Camp and  
25 Woolsey disaster zone) and such individual

1           was displaced from such principal place of  
2           abode by reason of the wildfires to which  
3           the declaration of such area relates.

4           (H) QUALIFIED KILAUEA INDIVIDUAL.—

5           The term “qualified Kilauea individual” means  
6           any individual whose principal place of abode  
7           during any portion of the period from May 3,  
8           2018, to August 17, 2018, was located—

9                   (i) in the Kilauea volcanic eruption  
10                   and earthquake disaster zone, or

11                   (ii) in the Kilauea volcanic eruption  
12                   and earthquake disaster area (but outside  
13                   the Kilauea volcanic eruption and earth-  
14                   quake disaster zone) and such individual  
15                   was displaced from such principal place of  
16                   abode by reason of the volcanic eruption or  
17                   earthquakes to which the declaration of  
18                   such area relates.

19           (I) QUALIFIED HAWAII INDIVIDUAL.—The

20           term “qualified Hawaii individual” means any  
21           individual whose principal place of abode on  
22           April 13, 2018, was located—

23                   (i) in the Hawaii severe storms, flood-  
24                   ing, landslides, and mudslides disaster  
25                   zone, or

1 (ii) in the Hawaii severe storms,  
2 flooding, landslides, and mudslides disaster  
3 area (but outside the Hawaii severe  
4 storms, flooding, landslides, and mudslides  
5 disaster zone) and such individual was dis-  
6 placed from such principal place of abode  
7 by reason of the severe storms, flooding,  
8 landslides, or mudslides to which the dec-  
9 laration of such area relates.

10 (3) APPLICABLE TAXABLE YEAR.—The term  
11 “applicable taxable year” means the taxable year  
12 which includes—

13 (A) in the case of a qualified Florence indi-  
14 vidual, September 7, 2018,

15 (B) in the case of a qualified Michael indi-  
16 vidual, October 7, 2018,

17 (C) in the case of a qualified Mangkhut in-  
18 dividual, September 10, 2018,

19 (D) in the case of a qualified Yutu indi-  
20 vidual, October 24, 2018,

21 (E) in the case of a qualified Mendocino  
22 individual, any portion of the period from July  
23 23, 2018, to September 19, 2018,

24 (F) in the case of a qualified Camp and  
25 Woolsey individual, any portion of the period

1 from November 8, 2018, to November 30,  
2 2018,

3 (G) in the case of a qualified Kilauea indi-  
4 vidual, any portion of the period from May 3,  
5 2018, to August 17, 2018, and

6 (H) in the case of a qualified Hawaii indi-  
7 vidual, April 13, 2018.

8 (4) EARNED INCOME.—For purposes of this  
9 subsection, the term “earned income” has the mean-  
10 ing given such term under section 32(c) of the Inter-  
11 nal Revenue Code of 1986.

12 (5) SPECIAL RULES.—

13 (A) APPLICATION TO JOINT RETURNS.—  
14 For purposes of paragraph (1), in the case of  
15 a joint return for an applicable taxable year—

16 (i) such paragraph shall apply if ei-  
17 ther spouse is a qualified individual, and

18 (ii) the earned income of the taxpayer  
19 for the preceding taxable year shall be the  
20 sum of the earned income of each spouse  
21 for such preceding taxable year.

22 (B) UNIFORM APPLICATION OF ELEC-  
23 TION.—Any election made under paragraph (1)  
24 shall apply with respect to both sections 24(d)  
25 and 32, of the Internal Revenue Code of 1986.

1 (C) ERRORS TREATED AS MATHEMATICAL  
2 ERROR.—For purposes of section 6213 of the  
3 Internal Revenue Code of 1986, an incorrect  
4 use on a return of earned income pursuant to  
5 paragraph (1) shall be treated as a mathe-  
6 matical or clerical error.

7 (D) NO EFFECT ON DETERMINATION OF  
8 GROSS INCOME, ETC.—Except as otherwise pro-  
9 vided in this subsection, the Internal Revenue  
10 Code of 1986 shall be applied without regard to  
11 any substitution under paragraph (1).

12 **SEC. 205. TREATMENT OF CERTAIN POSSESSIONS.**

13 (a) PAYMENTS TO GUAM AND THE COMMONWEALTH  
14 OF THE NORTHERN MARIANA ISLANDS.—The Secretary  
15 of the Treasury shall pay to Guam and the Commonwealth  
16 of the Northern Mariana Islands amounts equal to the loss  
17 to that possession by reason of the application of the pro-  
18 visions of this title. Such amounts shall be determined by  
19 the Secretary of the Treasury based on information pro-  
20 vided by the government of the respective possession.

21 (b) TREATMENT OF PAYMENTS.—For purposes of  
22 section 1324 of title 31, United States Code, the payments  
23 under this section shall be treated in the same manner  
24 as a refund due from a credit provision described in sub-  
25 section (b)(2) of such section.

1       **TITLE III—RETIREMENT AND**  
2                                   **SAVINGS**  
3                   **Subtitle A—Expanding and**  
4       **Preserving Retirement Savings**

5   **SEC. 301. MULTIPLE EMPLOYER PLANS; POOLED EM-**  
6                                   **PLOYER PLANS.**

7       (a) QUALIFICATION REQUIREMENTS.—

8               (1) IN GENERAL.—Section 413 is amended by  
9       adding at the end the following new subsection:

10       “(e) APPLICATION OF QUALIFICATION REQUIRE-  
11       MENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH  
12       POOLED PLAN PROVIDERS.—

13               “(1) IN GENERAL.—Except as provided in para-  
14       graph (2), if a defined contribution plan to which  
15       subsection (c) applies—

16                       “(A) is maintained by employers which  
17               have a common interest other than having  
18               adopted the plan, or

19                       “(B) in the case of a plan not described in  
20               subparagraph (A), has a pooled plan provider,  
21       then the plan shall not be treated as failing to meet  
22       the requirements under this title applicable to a plan  
23       described in section 401(a) or to a plan that consists  
24       of individual retirement accounts described in sec-  
25       tion 408 (including by reason of subsection (c)



1       thereof), whichever is applicable, merely because one  
2       or more employers of employees covered by the plan  
3       fail to take such actions as are required of such em-  
4       ployers for the plan to meet such requirements.

5           “(2) LIMITATIONS.—

6           “(A) IN GENERAL.—Paragraph (1) shall  
7       not apply to any plan unless the terms of the  
8       plan provide that in the case of any employer  
9       in the plan failing to take the actions described  
10      in paragraph (1)—

11           “(i) the assets of the plan attributable  
12      to employees of such employer (or bene-  
13      ficiaries of such employees) will be trans-  
14      ferred to a plan maintained only by such  
15      employer (or its successor), to an eligible  
16      retirement plan as defined in section  
17      402(c)(8)(B) for each individual whose ac-  
18      count is transferred, or to any other ar-  
19      rangement that the Secretary determines is  
20      appropriate, unless the Secretary deter-  
21      mines it is in the best interests of the em-  
22      ployees of such employer (and the bene-  
23      ficiaries of such employees) to retain the  
24      assets in the plan, and

1           “(ii) such employer (and not the plan  
2           with respect to which the failure occurred  
3           or any other employer in such plan) shall,  
4           except to the extent provided by the Sec-  
5           retary, be liable for any liabilities with re-  
6           spect to such plan attributable to employ-  
7           ees of such employer (or beneficiaries of  
8           such employees).

9           “(B) FAILURES BY POOLED PLAN PRO-  
10          VIDERS.—If the pooled plan provider of a plan  
11          described in paragraph (1)(B) does not perform  
12          substantially all of the administrative duties  
13          which are required of the provider under para-  
14          graph (3)(A)(i) for any plan year, the Secretary  
15          may provide that the determination as to  
16          whether the plan meets the requirements under  
17          this title applicable to a plan described in sec-  
18          tion 401(a) or to a plan that consists of indi-  
19          vidual retirement accounts described in section  
20          408 (including by reason of subsection (c)  
21          thereof), whichever is applicable, shall be made  
22          in the same manner as would be made without  
23          regard to paragraph (1).

24          “(3) POOLED PLAN PROVIDER.—

1           “(A) IN GENERAL.—For purposes of this  
2 subsection, the term ‘pooled plan provider’  
3 means, with respect to any plan, a person  
4 who—

5           “(i) is designated by the terms of the  
6 plan as a named fiduciary (within the  
7 meaning of section 402(a)(2) of the Em-  
8 ployee Retirement Income Security Act of  
9 1974), as the plan administrator, and as  
10 the person responsible to perform all ad-  
11 ministrative duties (including conducting  
12 proper testing with respect to the plan and  
13 the employees of each employer in the  
14 plan) which are reasonably necessary to  
15 ensure that—

16           “(I) the plan meets any require-  
17 ment applicable under the Employee  
18 Retirement Income Security Act of  
19 1974 or this title to a plan described  
20 in section 401(a) or to a plan that  
21 consists of individual retirement ac-  
22 counts described in section 408 (in-  
23 cluding by reason of subsection (c)  
24 thereof), whichever is applicable, and

1                   “(II) each employer in the plan  
2                   takes such actions as the Secretary or  
3                   such person determines are necessary  
4                   for the plan to meet the requirements  
5                   described in subclause (I), including  
6                   providing to such person any disclo-  
7                   sures or other information which the  
8                   Secretary may require or which such  
9                   person otherwise determines are nec-  
10                  essary to administer the plan or to  
11                  allow the plan to meet such require-  
12                  ments,

13                  “(ii) registers as a pooled plan pro-  
14                  vider with the Secretary, and provides such  
15                  other information to the Secretary as the  
16                  Secretary may require, before beginning  
17                  operations as a pooled plan provider,

18                  “(iii) acknowledges in writing that  
19                  such person is a named fiduciary (within  
20                  the meaning of section 402(a)(2) of the  
21                  Employee Retirement Income Security Act  
22                  of 1974), and the plan administrator, with  
23                  respect to the plan, and

24                  “(iv) is responsible for ensuring that  
25                  all persons who handle assets of, or who

1           are fiduciaries of, the plan are bonded in  
2           accordance with section 412 of the Em-  
3           ployee Retirement Income Security Act of  
4           1974.

5           “(B) AUDITS, EXAMINATIONS AND INVES-  
6           TIGATIONS.—The Secretary may perform au-  
7           dits, examinations, and investigations of pooled  
8           plan providers as may be necessary to enforce  
9           and carry out the purposes of this subsection.

10          “(C) AGGREGATION RULES.—For purposes  
11          of this paragraph, in determining whether a  
12          person meets the requirements of this para-  
13          graph to be a pooled plan provider with respect  
14          to any plan, all persons who perform services  
15          for the plan and who are treated as a single  
16          employer under subsection (b), (c), (m), or (o)  
17          of section 414 shall be treated as one person.

18          “(D) TREATMENT OF EMPLOYERS AS PLAN  
19          SPONSORS.—Except with respect to the admin-  
20          istrative duties of the pooled plan provider de-  
21          scribed in subparagraph (A)(i), each employer  
22          in a plan which has a pooled plan provider shall  
23          be treated as the plan sponsor with respect to  
24          the portion of the plan attributable to employ-

1           ees of such employer (or beneficiaries of such  
2           employees).

3           “(4) GUIDANCE.—The Secretary shall issue  
4           such guidance as the Secretary determines appro-  
5           priate to carry out this subsection, including guid-  
6           ance—

7                   “(A) to identify the administrative duties  
8                   and other actions required to be performed by  
9                   a pooled plan provider under this subsection,

10                   “(B) which describes the procedures to be  
11                   taken to terminate a plan which fails to meet  
12                   the requirements to be a plan described in para-  
13                   graph (1), including the proper treatment of,  
14                   and actions needed to be taken by, any em-  
15                   ployer in the plan and the assets and liabilities  
16                   of the plan attributable to employees of such  
17                   employer (or beneficiaries of such employees),  
18                   and

19                   “(C) identifying appropriate cases to which  
20                   the rules of paragraph (2)(A) will apply to em-  
21                   ployers in the plan failing to take the actions  
22                   described in paragraph (1).

23           The Secretary shall take into account under sub-  
24           paragraph (C) whether the failure of an employer or  
25           pooled plan provider to provide any disclosures or

1 other information, or to take any other action, nec-  
2 essary to administer a plan or to allow a plan to  
3 meet requirements applicable to the plan under sec-  
4 tion 401(a) or 408, whichever is applicable, has con-  
5 tinued over a period of time that demonstrates a  
6 lack of commitment to compliance.

7 “(5) MODEL PLAN.—The Secretary shall pub-  
8 lish model plan language which meets the require-  
9 ments of this subsection and of paragraphs (43) and  
10 (44) of section 3 of the Employee Retirement In-  
11 come Security Act of 1974 and which may be adopt-  
12 ed in order for a plan to be treated as a plan de-  
13 scribed in paragraph (1)(B).”.

14 (2) CONFORMING AMENDMENT.—Section  
15 413(c)(2) is amended by striking “section 401(a)”  
16 and inserting “sections 401(a) and 408(c)”.

17 (3) TECHNICAL AMENDMENT.—Section 408(c)  
18 is amended by inserting after paragraph (2) the fol-  
19 lowing new paragraph:

20 “(3) There is a separate accounting for any in-  
21 terest of an employee or member (or spouse of an  
22 employee or member) in a Roth IRA.”.

23 (b) NO COMMON INTEREST REQUIRED FOR POOLED  
24 EMPLOYER PLANS.—Section 3(2) of the Employee Retire-

1 ment Income Security Act of 1974 (29 U.S.C. 1002(2))  
2 is amended by adding at the end the following:

3 “(C) A pooled employer plan shall be treat-  
4 ed as—

5 “(i) a single employee pension benefit  
6 plan or single pension plan; and

7 “(ii) a plan to which section 210(a)  
8 applies.”.

9 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-  
10 FINED.—

11 (1) IN GENERAL.—Section 3 of the Employee  
12 Retirement Income Security Act of 1974 (29 U.S.C.  
13 1002) is amended by adding at the end the fol-  
14 lowing:

15 “(43) POOLED EMPLOYER PLAN.—

16 “(A) IN GENERAL.—The term ‘pooled em-  
17 ployer plan’ means a plan—

18 “(i) which is an individual account  
19 plan established or maintained for the pur-  
20 pose of providing benefits to the employees  
21 of 2 or more employers;

22 “(ii) which is a plan described in sec-  
23 tion 401(a) of the Internal Revenue Code  
24 of 1986 which includes a trust exempt  
25 from tax under section 501(a) of such



1 Code or a plan that consists of individual  
2 retirement accounts described in section  
3 408 of such Code (including by reason of  
4 subsection (c) thereof); and

5 “(iii) the terms of which meet the re-  
6 quirements of subparagraph (B).

7 Such term shall not include a plan maintained  
8 by employers which have a common interest  
9 other than having adopted the plan.

10 “(B) REQUIREMENTS FOR PLAN TERMS.—  
11 The requirements of this subparagraph are met  
12 with respect to any plan if the terms of the  
13 plan—

14 “(i) designate a pooled plan provider  
15 and provide that the pooled plan provider  
16 is a named fiduciary of the plan;

17 “(ii) designate one or more trustees  
18 meeting the requirements of section  
19 408(a)(2) of the Internal Revenue Code of  
20 1986 (other than an employer in the plan)  
21 to be responsible for collecting contribu-  
22 tions to, and holding the assets of, the  
23 plan and require such trustees to imple-  
24 ment written contribution collection proce-

1                   dures that are reasonable, diligent, and  
2                   systematic;

3                   “(iii) provide that each employer in  
4                   the plan retains fiduciary responsibility  
5                   for—

6                                 “(I) the selection and monitoring  
7                                 in accordance with section 404(a) of  
8                                 the person designated as the pooled  
9                                 plan provider and any other person  
10                                who, in addition to the pooled plan  
11                                provider, is designated as a named fi-  
12                                duciary of the plan; and

13                               “(II) to the extent not otherwise  
14                                delegated to another fiduciary by the  
15                                pooled plan provider and subject to  
16                                the provisions of section 404(c), the  
17                                investment and management of the  
18                                portion of the plan’s assets attrib-  
19                                utable to the employees of the em-  
20                                ployer (or beneficiaries of such em-  
21                                ployees);

22                               “(iv) provide that employers in the  
23                                plan, and participants and beneficiaries,  
24                                are not subject to unreasonable restric-  
25                                tions, fees, or penalties with regard to

1           ceasing participation, receipt of distribu-  
2           tions, or otherwise transferring assets of  
3           the plan in accordance with section 208 or  
4           paragraph (44)(C)(i)(II);

5           “(v) require—

6                   “(I) the pooled plan provider to  
7                   provide to employers in the plan any  
8                   disclosures or other information which  
9                   the Secretary may require, including  
10                  any disclosures or other information  
11                  to facilitate the selection or any moni-  
12                  toring of the pooled plan provider by  
13                  employers in the plan; and

14                  “(II) each employer in the plan  
15                  to take such actions as the Secretary  
16                  or the pooled plan provider determines  
17                  are necessary to administer the plan  
18                  or for the plan to meet any require-  
19                  ment applicable under this Act or the  
20                  Internal Revenue Code of 1986 to a  
21                  plan described in section 401(a) of  
22                  such Code or to a plan that consists  
23                  of individual retirement accounts de-  
24                  scribed in section 408 of such Code  
25                  (including by reason of subsection (c)

1                   thereof), whichever is applicable, in-  
2                   cluding providing any disclosures or  
3                   other information which the Secretary  
4                   may require or which the pooled plan  
5                   provider otherwise determines are nec-  
6                   essary to administer the plan or to  
7                   allow the plan to meet such require-  
8                   ments; and

9                   “(vi) provide that any disclosure or  
10                  other information required to be provided  
11                  under clause (v) may be provided in elec-  
12                  tronic form and will be designed to ensure  
13                  only reasonable costs are imposed on  
14                  pooled plan providers and employers in the  
15                  plan.

16                  “(C) EXCEPTIONS.—The term ‘pooled em-  
17                  ployer plan’ does not include—

18                         “(i) a multiemployer plan; or

19                         “(ii) a plan established before the  
20                         date of the enactment of the Family Sav-  
21                         ings Act of 2018 unless the plan adminis-  
22                         trator elects that the plan will be treated  
23                         as a pooled employer plan and the plan  
24                         meets the requirements of this title appli-

1 cable to a pooled employer plan established  
2 on or after such date.

3 “(D) TREATMENT OF EMPLOYERS AS PLAN  
4 SPONSORS.—Except with respect to the admin-  
5 istrative duties of the pooled plan provider de-  
6 scribed in paragraph (44)(A)(i), each employer  
7 in a pooled employer plan shall be treated as  
8 the plan sponsor with respect to the portion of  
9 the plan attributable to employees of such em-  
10 ployer (or beneficiaries of such employees).

11 “(44) POOLED PLAN PROVIDER.—

12 “(A) IN GENERAL.—The term ‘pooled plan  
13 provider’ means a person who—

14 “(i) is designated by the terms of a  
15 pooled employer plan as a named fiduciary,  
16 as the plan administrator, and as the per-  
17 son responsible for the performance of all  
18 administrative duties (including conducting  
19 proper testing with respect to the plan and  
20 the employees of each employer in the  
21 plan) which are reasonably necessary to  
22 ensure that—

23 “(I) the plan meets any require-  
24 ment applicable under this Act or the  
25 Internal Revenue Code of 1986 to a

1 plan described in section 401(a) of  
2 such Code or to a plan that consists  
3 of individual retirement accounts de-  
4 scribed in section 408 of such Code  
5 (including by reason of subsection (c)  
6 thereof), whichever is applicable; and

7 “(II) each employer in the plan  
8 takes such actions as the Secretary or  
9 pooled plan provider determines are  
10 necessary for the plan to meet the re-  
11 quirements described in subclause (I),  
12 including providing the disclosures  
13 and information described in para-  
14 graph (43)(B)(v)(II);

15 “(ii) registers as a pooled plan pro-  
16 vider with the Secretary, and provides to  
17 the Secretary such other information as  
18 the Secretary may require, before begin-  
19 ning operations as a pooled plan provider;

20 “(iii) acknowledges in writing that  
21 such person is a named fiduciary, and the  
22 plan administrator, with respect to the  
23 pooled employer plan; and

24 “(iv) is responsible for ensuring that  
25 all persons who handle assets of, or who

1           are fiduciaries of, the pooled employer plan  
2           are bonded in accordance with section 412.

3           “(B) AUDITS, EXAMINATIONS AND INVESTIGATIONS.—The Secretary may perform au-  
4           dits, examinations, and investigations of pooled  
5           plan providers as may be necessary to enforce  
6           and carry out the purposes of this paragraph  
7           and paragraph (43).

8           “(C) GUIDANCE.—The Secretary shall  
9           issue such guidance as the Secretary determines  
10          appropriate to carry out this paragraph and  
11          paragraph (43), including guidance—  
12

13                 “(i) to identify the administrative du-  
14                 ties and other actions required to be per-  
15                 formed by a pooled plan provider under ei-  
16                 ther such paragraph; and

17                 “(ii) which requires in appropriate  
18                 cases that if an employer in the plan fails  
19                 to take the actions required under sub-  
20                 paragraph (A)(i)(II)—

21                         “(I) the assets of the plan attrib-  
22                         utable to employees of such employer  
23                         (or beneficiaries of such employees)  
24                         are transferred to a plan maintained  
25                         only by such employer (or its suc-

1           cessor), to an eligible retirement plan  
2           as defined in section 402(c)(8)(B) of  
3           the Internal Revenue Code of 1986  
4           for each individual whose account is  
5           transferred, or to any other arrange-  
6           ment that the Secretary determines is  
7           appropriate in such guidance; and

8                         “(II) such employer (and not the  
9                         plan with respect to which the failure  
10                        occurred or any other employer in  
11                        such plan) shall, except to the extent  
12                        provided in such guidance, be liable  
13                        for any liabilities with respect to such  
14                        plan attributable to employees of such  
15                        employer (or beneficiaries of such em-  
16                        ployees).

17           The Secretary shall take into account under  
18           clause (ii) whether the failure of an employer or  
19           pooled plan provider to provide any disclosures  
20           or other information, or to take any other ac-  
21           tion, necessary to administer a plan or to allow  
22           a plan to meet requirements described in sub-  
23           paragraph (A)(i)(II) has continued over a pe-  
24           riod of time that demonstrates a lack of com-  
25           mitment to compliance. The Secretary may



1 waive the requirements of subclause (ii)(I) in  
2 appropriate circumstances if the Secretary de-  
3 termines it is in the best interests of the em-  
4 ployees of the employer referred to in such  
5 clause (and the beneficiaries of such employees)  
6 to retain the assets in the plan with respect to  
7 which the employer’s failure occurred.

8 “(D) AGGREGATION RULES.—For purposes  
9 of this paragraph, in determining whether a  
10 person meets the requirements of this para-  
11 graph to be a pooled plan provider with respect  
12 to any plan, all persons who perform services  
13 for the plan and who are treated as a single  
14 employer under subsection (b), (c), (m), or (o)  
15 of section 414 of the Internal Revenue Code of  
16 1986 shall be treated as one person.”

17 (2) BONDING REQUIREMENTS FOR POOLED EM-  
18 PLOYER PLANS.—The last sentence of section 412(a)  
19 of the Employee Retirement Income Security Act of  
20 1974 (29 U.S.C. 1112(a)) is amended by inserting  
21 “or in the case of a pooled employer plan (as defined  
22 in section 3(43))” after “section 407(d)(1)”.

23 (3) CONFORMING AND TECHNICAL AMEND-  
24 MENTS.—Section 3 of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1002) is  
2 amended—

3 (A) in paragraph (16)(B)—

4 (i) by striking “or” at the end of  
5 clause (ii); and

6 (ii) by striking the period at the end  
7 and inserting “, or (iv) in the case of a  
8 pooled employer plan, the pooled plan pro-  
9 vider.”; and

10 (B) by striking the second paragraph (41).

11 (d) POOLED EMPLOYER AND MULTIPLE EMPLOYER  
12 PLAN REPORTING.—

13 (1) ADDITIONAL INFORMATION.—Section 103  
14 of the Employee Retirement Income Security Act of  
15 1974 (29 U.S.C. 1023) is amended—

16 (A) in subsection (a)(1)(B), by striking  
17 “applicable subsections (d), (e), and (f)” and  
18 inserting “applicable subsections (d), (e), (f),  
19 and (g)”; and

20 (B) by amending subsection (g) to read as  
21 follows:

22 “(g) ADDITIONAL INFORMATION WITH RESPECT TO  
23 POOLED EMPLOYER AND MULTIPLE EMPLOYER  
24 PLANS.—An annual report under this section for a plan  
25 year shall include—

1           “(1) with respect to any plan to which section  
2           210(a) applies (including a pooled employer plan), a  
3           list of employers in the plan, a good faith estimate  
4           of the percentage of total contributions made by  
5           such employers during the plan year, and the aggregate  
6           account balances attributable to each employer  
7           in the plan (determined as the sum of the account  
8           balances of the employees of such employer (and the  
9           beneficiaries of such employees)); and

10           “(2) with respect to a pooled employer plan, the  
11           identifying information for the person designated  
12           under the terms of the plan as the pooled plan pro-  
13           vider.”.

14           (2) SIMPLIFIED ANNUAL REPORTS.—Section  
15           104(a) of the Employee Retirement Income Security  
16           Act of 1974 (29 U.S.C. 1024(a)) is amended by  
17           striking paragraph (2)(A) and inserting the fol-  
18           lowing:

19           “(2)(A) With respect to annual reports required  
20           to be filed with the Secretary under this part, the  
21           Secretary may by regulation prescribe simplified an-  
22           nual reports for any pension plan that—

23                   “(i) covers fewer than 100 participants; or

24                   “(ii) is a plan described in section 210(a)

25                   that covers fewer than 1,000 participants, but

1           only if no single employer in the plan has 100  
2           or more participants covered by the plan.”.

3           (e) EFFECTIVE DATE.—

4           (1) IN GENERAL.—The amendments made by  
5           this section shall apply to plan years beginning after  
6           December 31, 2019.

7           (2) RULE OF CONSTRUCTION.—Nothing in the  
8           amendments made by subsection (a) shall be con-  
9           strued as limiting the authority of the Secretary of  
10          the Treasury or the Secretary’s delegate (determined  
11          without regard to such amendments) to provide for  
12          the proper treatment of a failure to meet any re-  
13          quirement applicable under the Internal Revenue  
14          Code of 1986 with respect to one employer (and its  
15          employees) in a multiple employer plan.

16   **SEC. 302. RULES RELATING TO ELECTION OF SAFE HARBOR**  
17                           **401(k) STATUS.**

18          (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE  
19          TO MATCHING CONTRIBUTION PLANS.—

20           (1) IN GENERAL.—Section 401(k)(12)(A) is  
21           amended by striking “if such arrangement” and all  
22           that follows and inserting “if such arrangement—  
23                           “(i) meets the contribution require-  
24                           ments of subparagraph (B) and the notice  
25                           requirements of subparagraph (D), or

1 “(ii) meets the contribution require-  
2 ments of subparagraph (C).”.

3 (2) AUTOMATIC CONTRIBUTION ARRANGE-  
4 MENTS.—Section 401(k)(13)(B) is amended by  
5 striking “means” and all that follows and inserting  
6 “means a cash or deferred arrangement—

7 “(i) which is described in subpara-  
8 graph (D)(i)(I) and meets the applicable  
9 requirements of subparagraphs (C)  
10 through (E), or

11 “(ii) which is described in subpara-  
12 graph (D)(i)(II) and meets the applicable  
13 requirements of subparagraphs (C) and  
14 (D).”.

15 (b) NONELECTIVE CONTRIBUTIONS.—Section  
16 401(k)(12) is amended by redesignating subparagraph (F)  
17 as subparagraph (G), and by inserting after subparagraph  
18 (E) the following new subparagraph:

19 “(F) TIMING OF PLAN AMENDMENT FOR  
20 EMPLOYER MAKING NONELECTIVE CONTRIBU-  
21 TIONS.—

22 “(i) IN GENERAL.—Except as pro-  
23 vided in clause (ii), a plan may be amend-  
24 ed after the beginning of a plan year to  
25 provide that the requirements of subpara-

1 graph (C) shall apply to the arrangement  
2 for the plan year, but only if the amend-  
3 ment is adopted—

4 “(I) at any time before the 30th  
5 day before the close of the plan year,  
6 or

7 “(II) at any time before the last  
8 day under paragraph (8)(A) for dis-  
9 tributing excess contributions for the  
10 plan year.

11 “(ii) EXCEPTION WHERE PLAN PRO-  
12 VIDED FOR MATCHING CONTRIBUTIONS.—  
13 Clause (i) shall not apply to any plan year  
14 if the plan provided at any time during the  
15 plan year that the requirements of sub-  
16 paragraph (B) or paragraph (13)(D)(i)(I)  
17 applied to the plan year.

18 “(iii) 4-PERCENT CONTRIBUTION RE-  
19 QUIREMENT.—Clause (i)(II) shall not  
20 apply to an arrangement unless the  
21 amount of the contributions described in  
22 subparagraph (C) which the employer is  
23 required to make under the arrangement  
24 for the plan year with respect to any em-

1                   ployee is an amount equal to at least 4  
2                   percent of the employee’s compensation.”.

3           (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

4 Section 401(k)(13) is amended by adding at the end the  
5 following:

6                   “(F) TIMING OF PLAN AMENDMENT FOR  
7                   EMPLOYER MAKING NONELECTIVE CONTRIBU-  
8                   TIONS.—

9                   “(i) IN GENERAL.—Except as pro-  
10                   vided in clause (ii), a plan may be amend-  
11                   ed after the beginning of a plan year to  
12                   provide that the requirements of subpara-  
13                   graph (D)(i)(II) shall apply to the arrange-  
14                   ment for the plan year, but only if the  
15                   amendment is adopted—

16                   “(I) at any time before the 30th  
17                   day before the close of the plan year,  
18                   or

19                   “(II) at any time before the last  
20                   day under paragraph (8)(A) for dis-  
21                   tributing excess contributions for the  
22                   plan year.

23                   “(ii) EXCEPTION WHERE PLAN PRO-  
24                   VIDED FOR MATCHING CONTRIBUTIONS.—

25                   Clause (i) shall not apply to any plan year

1 if the plan provided at any time during the  
2 plan year that the requirements of sub-  
3 paragraph (D)(i)(I) or paragraph (12)(B)  
4 applied to the plan year.

5 “(iii) 4-PERCENT CONTRIBUTION RE-  
6 QUIREMENT.—Clause (i)(II) shall not  
7 apply to an arrangement unless the  
8 amount of the contributions described in  
9 subparagraph (D)(i)(II) which the em-  
10 ployer is required to make under the ar-  
11 rangement for the plan year with respect  
12 to any employee is an amount equal to at  
13 least 4 percent of the employee’s com-  
14 pensation.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to plan years beginning after De-  
17 cember 31, 2018.

18 **SEC. 303. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**  
19 **AND STIPEND PAYMENTS TREATED AS COM-**  
20 **PENSATION FOR IRA PURPOSES.**

21 (a) IN GENERAL.—Section 219(f)(1) is amended by  
22 adding at the end the following: “The term ‘compensation’  
23 shall include any amount included in gross income and  
24 paid to an individual to aid the individual in the pursuit  
25 of graduate or postdoctoral study.”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2018.

4 **SEC. 304. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**  
5 **CONTRIBUTIONS.**

6 (a) IN GENERAL.—Section 219(d) is amended by  
7 striking paragraph (1).

8 (b) CONFORMING AMENDMENT.—Section 408A(c) is  
9 amended by striking paragraph (4) and by redesignating  
10 paragraphs (5), (6), and (7) as paragraphs (4), (5), and  
11 (6), respectively.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to contributions made for taxable  
14 years beginning after December 31, 2018.

15 **SEC. 305. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**  
16 **MAKING LOANS THROUGH CREDIT CARDS**  
17 **AND OTHER SIMILAR ARRANGEMENTS.**

18 (a) IN GENERAL.—Section 72(p)(2) is amended by  
19 redesignating subparagraph (D) as subparagraph (E) and  
20 by inserting after subparagraph (C) the following new sub-  
21 paragraph:

22 “(D) PROHIBITION OF LOANS THROUGH  
23 CREDIT CARDS AND OTHER SIMILAR ARRANGE-  
24 MENTS.—Notwithstanding subparagraph (A),  
25 paragraph (1) shall apply to any loan which is

1           made through the use of any credit card or any  
2           other similar arrangement.”.

3           (b) **EFFECTIVE DATE.**—The amendments made by  
4 subsection (a) shall apply to loans made after the date  
5 of the enactment of this Act.

6 **SEC. 306. PORTABILITY OF LIFETIME INCOME INVEST-**  
7 **MENTS.**

8           (a) **IN GENERAL.**—Section 401(a) is amended by in-  
9 serting after paragraph (37) the following new paragraph:

10           “(38) **PORTABILITY OF LIFETIME INCOME IN-**  
11 **VESTMENTS.**—

12           “(A) **IN GENERAL.**—Except as may be oth-  
13 erwise provided by regulations, a trust forming  
14 part of a defined contribution plan shall not be  
15 treated as failing to constitute a qualified trust  
16 under this section solely by reason of allowing—

17           “(i) qualified distributions of a life-  
18 time income investment, or

19           “(ii) distributions of a lifetime income  
20 investment in the form of a qualified plan  
21 distribution annuity contract,

22 on or after the date that is 90 days prior to the  
23 date on which such lifetime income investment  
24 is no longer authorized to be held as an invest-  
25 ment option under the plan.

1                   “(B) DEFINITIONS.—For purposes of this  
2 subsection—

3                   “(i) the term ‘qualified distribution’  
4 means a direct trustee-to-trustee transfer  
5 described in paragraph (31)(A) to an eligi-  
6 ble retirement plan (as defined in section  
7 402(c)(8)(B)),

8                   “(ii) the term ‘lifetime income invest-  
9 ment’ means an investment option which is  
10 designed to provide an employee with elec-  
11 tion rights—

12                   “(I) which are not uniformly  
13 available with respect to other invest-  
14 ment options under the plan, and

15                   “(II) which are to a lifetime in-  
16 come feature available through a con-  
17 tract or other arrangement offered  
18 under the plan (or under another eli-  
19 gible retirement plan (as so defined),  
20 if paid by means of a direct trustee-  
21 to-trustee transfer described in para-  
22 graph (31)(A) to such other eligible  
23 retirement plan),

24                   “(iii) the term ‘lifetime income fea-  
25 ture’ means—

1                   “(I) a feature which guarantees a  
2                   minimum level of income annually (or  
3                   more frequently) for at least the re-  
4                   mainder of the life of the employee or  
5                   the joint lives of the employee and the  
6                   employee’s designated beneficiary, or

7                   “(II) an annuity payable on be-  
8                   half of the employee under which pay-  
9                   ments are made in substantially equal  
10                  periodic payments (not less frequently  
11                  than annually) over the life of the em-  
12                  ployee or the joint lives of the em-  
13                  ployee and the employee’s designated  
14                  beneficiary, and

15                  “(iv) the term ‘qualified plan distribu-  
16                  tion annuity contract’ means an annuity  
17                  contract purchased for a participant and  
18                  distributed to the participant by a plan or  
19                  contract described in subparagraph (B) of  
20                  section 402(c)(8) (without regard to  
21                  clauses (i) and (ii) thereof).”.

22                  (b) CASH OR DEFERRED ARRANGEMENT.—

23                  (1) IN GENERAL.—Section 401(k)(2)(B)(i) is  
24                  amended by striking “or” at the end of subclause  
25                  (IV), by striking “and” at the end of subclause (V)

1 and inserting “or”, and by adding at the end the fol-  
2 lowing new subclause:

3 “(VI) except as may be otherwise  
4 provided by regulations, with respect  
5 to amounts invested in a lifetime in-  
6 come investment (as defined in sub-  
7 section (a)(38)(B)(ii)), the date that  
8 is 90 days prior to the date that such  
9 lifetime income investment may no  
10 longer be held as an investment option  
11 under the arrangement, and”.

12 (2) DISTRIBUTION REQUIREMENT.—Section  
13 401(k)(2)(B), as amended by paragraph (1), is  
14 amended by striking “and” at the end of clause (i),  
15 by striking the semicolon at the end of clause (ii)  
16 and inserting “, and”, and by adding at the end the  
17 following new clause:

18 “(iii) except as may be otherwise pro-  
19 vided by regulations, in the case of  
20 amounts described in clause (i)(VI), will be  
21 distributed only in the form of a qualified  
22 distribution (as defined in subsection  
23 (a)(38)(B)(i)) or a qualified plan distribu-  
24 tion annuity contract (as defined in sub-  
25 section (a)(38)(B)(iv)).”.

1 (c) SECTION 403(b) PLANS.—

2 (1) ANNUITY CONTRACTS.—Section 403(b)(11)  
3 is amended by striking “or” at the end of subpara-  
4 graph (B), by striking the period at the end of sub-  
5 paragraph (C) and inserting “, or”, and by inserting  
6 after subparagraph (C) the following new subpara-  
7 graph:

8 “(D) except as may be otherwise provided  
9 by regulations, with respect to amounts invested  
10 in a lifetime income investment (as defined in  
11 section 401(a)(38)(B)(ii))—

12 “(i) on or after the date that is 90  
13 days prior to the date that such lifetime  
14 income investment may no longer be held  
15 as an investment option under the con-  
16 tract, and

17 “(ii) in the form of a qualified dis-  
18 tribution (as defined in section  
19 401(a)(38)(B)(i)) or a qualified plan dis-  
20 tribution annuity contract (as defined in  
21 section 401(a)(38)(B)(iv)).”.

22 (2) CUSTODIAL ACCOUNTS.—Section  
23 403(b)(7)(A) is amended by striking “if—” and all  
24 that follows and inserting “if the amounts are to be  
25 invested in regulated investment company stock to

1 be held in that custodial account, and under the cus-  
2 todial account—

3 “(i) no such amounts may be paid or  
4 made available to any distributee (unless  
5 such amount is a distribution to which sec-  
6 tion 72(t)(2)(G) applies) before—

7 “(I) the employee dies,

8 “(II) the employee attains age  
9 59½,

10 “(III) the employee has a sever-  
11 ance from employment,

12 “(IV) the employee becomes dis-  
13 abled (within the meaning of section  
14 72(m)(7)),

15 “(V) in the case of contributions  
16 made pursuant to a salary reduction  
17 agreement (within the meaning of sec-  
18 tion 3121(a)(5)(D)), the employee en-  
19 counters financial hardship, or

20 “(VI) except as may be otherwise  
21 provided by regulations, with respect  
22 to amounts invested in a lifetime in-  
23 come investment (as defined in section  
24 401(a)(38)(B)(ii)), the date that is 90  
25 days prior to the date that such life-

1 time income investment may no longer  
2 be held as an investment option under  
3 the contract, and

4 “(ii) in the case of amounts described  
5 in clause (i)(VI), such amounts will be dis-  
6 tributed only in the form of a qualified dis-  
7 tribution (as defined in section  
8 401(a)(38)(B)(i)) or a qualified plan dis-  
9 tribution annuity contract (as defined in  
10 section 401(a)(38)(B)(iv)).”.

11 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

12 (1) IN GENERAL.—Section 457(d)(1)(A) is  
13 amended by striking “or” at the end of clause (ii),  
14 by inserting “or” at the end of clause (iii), and by  
15 adding after clause (iii) the following:

16 “(iv) except as may be otherwise pro-  
17 vided by regulations, in the case of a plan  
18 maintained by an employer described in  
19 subsection (e)(1)(A), with respect to  
20 amounts invested in a lifetime income in-  
21 vestment (as defined in section  
22 401(a)(38)(B)(ii)), the date that is 90  
23 days prior to the date that such lifetime  
24 income investment may no longer be held  
25 as an investment option under the plan.”.



1           (2) DISTRIBUTION REQUIREMENT.—Section  
2           457(d)(1) is amended by striking “and” at the end  
3           of subparagraph (B), by striking the period at the  
4           end of subparagraph (C) and inserting “, and”, and  
5           by inserting after subparagraph (C) the following  
6           new subparagraph:

7                     “(D) except as may be otherwise provided  
8                     by regulations, in the case of amounts described  
9                     in subparagraph (A)(iv), such amounts will be  
10                    distributed only in the form of a qualified dis-  
11                    tribution (as defined in section  
12                    401(a)(38)(B)(i)) or a qualified plan distribu-  
13                    tion annuity contract (as defined in section  
14                    401(a)(38)(B)(iv)).”.

15       (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to plan years beginning after De-  
17 cember 31, 2018.

18 **SEC. 307. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**  
19 **MINATION OF SECTION 403(b) PLANS.**

20       Not later than six months after the date of enactment  
21 of this Act, the Secretary of the Treasury shall issue guid-  
22 ance to provide that, if an employer terminates the plan  
23 under which amounts are contributed to a custodial ac-  
24 count under subparagraph (A) of section 403(b)(7), the  
25 plan administrator or custodian may distribute an indi-

1 vidual custodial account in kind to a participant or bene-  
2 ficiary of the plan and the distributed custodial account  
3 shall be maintained by the custodian on a tax-deferred  
4 basis as a section 403(b)(7) custodial account, similar to  
5 the treatment of fully-paid individual annuity contracts  
6 under Revenue Ruling 2011–7, until amounts are actually  
7 paid to the participant or beneficiary. The guidance shall  
8 provide further (i) that the section 403(b)(7) status of the  
9 distributed custodial account is generally maintained if the  
10 custodial account thereafter adheres to the requirements  
11 of section 403(b) that are in effect at the time of the dis-  
12 tribution of the account and (ii) that a custodial account  
13 would not be considered distributed to the participant or  
14 beneficiary if the employer has any material retained  
15 rights under the account (but the employer would not be  
16 treated as retaining material rights simply because the  
17 custodial account was originally opened under a group  
18 contract). Such guidance shall apply to plan terminations  
19 occurring after December 31, 2018.

20 **SEC. 308. CLARIFICATION OF RETIREMENT INCOME AC-**  
21 **COUNT RULES RELATING TO CHURCH-CON-**  
22 **TROLLED ORGANIZATIONS.**

23 (a) IN GENERAL.—Section 403(b)(9)(B) is amended  
24 by inserting “(including an employee described in section

1 414(e)(3)(B))” after “employee described in paragraph  
2 (1)”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to plan years beginning after De-  
5 cember 31, 2008.

6 **SEC. 309. INCREASE IN 10 PERCENT CAP FOR AUTOMATIC**  
7 **ENROLLMENT SAFE HARBOR AFTER 1ST**  
8 **PLAN YEAR.**

9 (a) IN GENERAL.—Section 401(k)(13)(C)(iii) is  
10 amended by striking “does not exceed 10 percent” and  
11 inserting “does not exceed 15 percent (10 percent during  
12 the period described in subclause (I))”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to plan years beginning after De-  
15 cember 31, 2018.

16 **SEC. 310. INCREASE IN CREDIT LIMITATION FOR SMALL**  
17 **EMPLOYER PENSION PLAN STARTUP COSTS.**

18 (a) IN GENERAL.—Paragraph (1) of section 45E(b)  
19 is amended to read as follows:

20 “(1) for the first credit year and each of the 2  
21 taxable years immediately following the first credit  
22 year, the greater of—

23 “(A) \$500, or

24 “(B) the lesser of—

1                   “(i) \$250 for each employee of the eli-  
2                   gible employer who is not a highly com-  
3                   pensated employee (as defined in section  
4                   414(q)) and who is eligible to participate  
5                   in the eligible employer plan maintained by  
6                   the eligible employer, or

7                   “(ii) \$1,500, and”.

8           (b) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2018.

11 **SEC. 311. SMALL EMPLOYER AUTOMATIC ENROLLMENT**  
12                   **CREDIT.**

13           (a) **IN GENERAL.**—Section 45E is amended by add-  
14 ing at the end the following new subsection:”.

15           “(f) **CREDIT FOR AUTO-ENROLLMENT OPTION FOR**  
16 **RETIREMENT SAVINGS OPTIONS.**—

17                   “(1) **IN GENERAL.**—The credit allowed under  
18 subsection (a) for any taxable year during an eligible  
19 employer’s retirement auto-enrollment credit period  
20 shall be increased (without regard to subsection (b))  
21 by \$500.

22                   “(2) **RETIREMENT AUTO-ENROLLMENT CREDIT**  
23 **PERIOD.**—

24                   “(A) **IN GENERAL.**—The retirement auto-  
25 enrollment credit period with respect to any eli-

1           gible employer is the 3-taxable-year period be-  
2           ginning with the first taxable year for which the  
3           employer includes an eligible automatic con-  
4           tribution arrangement (as defined in section  
5           414(w)(3)) in a qualified employer plan (as de-  
6           fined in section 4972(d)) sponsored by the em-  
7           ployer.

8           “(B) MAINTENANCE OF ARRANGEMENT.—  
9           No taxable year with respect to an employer  
10          shall be treated as occurring within the retire-  
11          ment auto-enrollment credit period unless the  
12          arrangement described in subparagraph (A) is  
13          included in the plan for such year.

14          “(3) NOT LIMITED TO NEW PLANS.—This sub-  
15          section shall be applied without regard to subsection  
16          (c)(2).”.

17          (b) EFFECTIVE DATE.—The amendments made by  
18          this section shall apply to taxable years beginning after  
19          December 31, 2018.

20   **SEC. 312. EXEMPTION FROM REQUIRED MINIMUM DIS-**  
21                   **TRIBUTION RULES FOR INDIVIDUALS WITH**  
22                   **CERTAIN ACCOUNT BALANCES.**

23          (a) IN GENERAL.—Section 401(a)(9) is amended by  
24          adding at the end the following new subparagraph:

1           “(H) EXCEPTION FROM REQUIRED MIN-  
2           IMUM DISTRIBUTIONS DURING LIFE OF EM-  
3           PLOYEE WHERE ASSETS DO NOT EXCEED  
4           \$50,000.—

5           “(i) IN GENERAL.—If on the last day  
6           of any calendar year the aggregate value of  
7           an employee’s entire interest under all ap-  
8           plicable eligible retirement plans does not  
9           exceed \$50,000, then the requirements of  
10          subparagraph (A) with respect to any dis-  
11          tribution relating to such year shall not  
12          apply with respect to such employee.

13          “(ii) APPLICABLE ELIGIBLE RETIRE-  
14          MENT PLAN.—For purposes of this sub-  
15          paragraph, the term ‘applicable eligible re-  
16          tirement plan’ means an eligible retirement  
17          plan (as defined in section 402(c)(8)(B))  
18          other than a defined benefit plan.

19          “(iii) LIMIT ON REQUIRED MINIMUM  
20          DISTRIBUTION.—The required minimum  
21          distribution determined under subpara-  
22          graph (A) for an employee under all appli-  
23          cable eligible retirement plans shall not ex-  
24          ceed an amount equal to the excess of—

1           “(I) the aggregate value of an  
2           employee’s entire interest under such  
3           plans on the last day of the calendar  
4           year to which such distribution re-  
5           lates, over

6           “(II) the dollar amount in effect  
7           under clause (i) for such calendar  
8           year.

9           The Secretary in regulations or other guid-  
10          ance may provide how such amount shall  
11          be distributed in the case of an individual  
12          with more than one applicable eligible re-  
13          tirement plan.

14          “(iv) INFLATION ADJUSTMENT.—In  
15          the case of any calendar year beginning  
16          after 2019, the \$50,000 amount in clause  
17          (i) shall be increased by an amount equal  
18          to—

19                 “(I) such dollar amount, multi-  
20                 plied by

21                 “(II) the cost of living adjust-  
22                 ment determined under section 1(f)(3)  
23                 for the calendar year, determined by  
24                 substituting ‘calendar year 2018’ for

1 ‘calendar year 2016’ in subparagraph  
2 (A)(ii) thereof.

3 Any increase determined under this clause  
4 shall be rounded to the next lowest mul-  
5 tiple of \$5,000.

6 “(v) PLAN ADMINISTRATOR RELIANCE  
7 ON EMPLOYEE CERTIFICATION.—An appli-  
8 cable eligible retirement plan described in  
9 clause (iii), (iv), (v), or (vi) of section  
10 402(c)(8)(B) shall not be treated as failing  
11 to meet the requirements of this paragraph  
12 in the case of any failure to make a re-  
13 quired minimum distribution for a cal-  
14 endar year if—

15 “(I) the aggregate value of an  
16 employee’s entire interest under all  
17 applicable eligible retirement plans of  
18 the employer on the last day of the  
19 calendar year to which such distribu-  
20 tion relates does not exceed the dollar  
21 amount in effect for such year under  
22 clause (i), and

23 “(II) the employee certifies that  
24 the aggregate value of the employee’s  
25 entire interest under all applicable eli-



1           gible retirement plans on the last day  
2           of the calendar year to which such  
3           distribution relates did not exceed the  
4           dollar amount in effect for such year  
5           under clause (i).

6           “(vi) AGGREGATION RULE.—All em-  
7           ployers treated as a single employer under  
8           subsection (b), (c), (m), or (o) of section  
9           414 shall be treated as a single employer  
10          for purposes of clause (v).”.

11          (b) PLAN ADMINISTRATOR REPORTING.—Section  
12          6047 is amended by redesignating subsection (h) as sub-  
13          section (i) and by inserting after subsection (g) the fol-  
14          lowing new subsection:

15          “(h) ACCOUNT BALANCE FOR PARTICIPANTS WHO  
16          HAVE ATTAINED AGE 69.—

17                 “(1) IN GENERAL.—Not later than January 31  
18                 of each year, the plan administrator (as defined in  
19                 section 414(g)) of each applicable eligible retirement  
20                 plan (as defined in section 401(a)(9)(H)) shall make  
21                 a return to the Secretary with respect to each par-  
22                 ticipant of such plan who has attained age 69 as of  
23                 the end of the preceding calendar year which  
24                 states—

1           “(A) the name and plan number of the  
2           plan,

3           “(B) the name and address of the plan ad-  
4           ministrator,

5           “(C) the name, address, and taxpayer  
6           identification number of the participant, and

7           “(D) the account balance of such partici-  
8           pant as of the end of the preceding calendar  
9           year.

10          “(2) STATEMENT FURNISHED TO PARTICI-  
11          PANT.—Every person required to make a return  
12          under paragraph (1) with respect to a participant  
13          shall furnish a copy of such return to such partici-  
14          pant.

15          “(3) APPLICATION TO INDIVIDUAL RETIREMENT  
16          PLANS AND ANNUITIES.—In the case of an applica-  
17          ble eligible retirement plan described in clause (i) or  
18          (ii) of section 402(c)(8)(B)—

19                 “(A) any reference in this subsection to  
20                 the plan administrator shall be treated as a ref-  
21                 erence to the trustee or issuer, as the case may  
22                 be, and

23                 “(B) any reference in this subsection to  
24                 the participant shall be treated as a reference

1 to the individual for whom such account or an-  
2 nuity is maintained.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to distributions required to be  
5 made in calendar years beginning more than 120 days  
6 after the date of the enactment of this Act.

7 **SEC. 313. ELECTIVE DEFERRALS BY MEMBERS OF THE**  
8 **READY RESERVE OF A RESERVE COMPONENT**  
9 **OF THE ARMED FORCES.**

10 (a) IN GENERAL.—Section 402(g) is amended by  
11 adding at the end the following new paragraph:

12 “(9) ELECTIVE DEFERRALS BY MEMBERS OF  
13 READY RESERVE.—

14 “(A) IN GENERAL.—In the case of a quali-  
15 fied ready reservist for any taxable year, the  
16 limitations of subparagraphs (A) and (C) of  
17 paragraph (1) shall be applied separately with  
18 respect to—

19 “(i) elective deferrals of such qualified  
20 ready reservist with respect to compensa-  
21 tion described in subparagraph (B), and

22 “(ii) all other elective deferrals of  
23 such qualified ready reservist.

24 “(B) QUALIFIED READY RESERVIST.—For  
25 purposes of this paragraph, the term ‘qualified

1 ready reservist’ means any individual for any  
2 taxable year if such individual received com-  
3 pensation for service as a member of the Ready  
4 Reserve of a reserve component (as defined in  
5 section 101 of title 37, United States Code)  
6 during such taxable year.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2018.

## 10 **Subtitle B—Administrative** 11 **Improvements**

### 12 **SEC. 321. PLAN ADOPTED BY FILING DUE DATE FOR YEAR** 13 **MAY BE TREATED AS IN EFFECT AS OF CLOSE** 14 **OF YEAR.**

15 (a) IN GENERAL.—Section 401(b) is amended—

16 (1) by striking “RETROACTIVE CHANGES IN  
17 PLAN.—A stock bonus” and inserting “PLAN  
18 AMENDMENTS.—

19 “(1) CERTAIN RETROACTIVE CHANGES IN  
20 PLAN.—A stock bonus”, and

21 (2) by adding at the end the following new  
22 paragraph:

23 “(2) ADOPTION OF PLAN.—If an employer  
24 adopts a stock bonus, pension, profit-sharing, or an-  
25 nuity plan after the close of a taxable year but be-

1 fore the time prescribed by law for filing the employ-  
2 er's return of tax for the taxable year (including ex-  
3 tensions thereof), the employer may elect to treat  
4 the plan as having been adopted as of the last day  
5 of the taxable year.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to plans adopted for taxable years  
8 beginning after December 31, 2018.

9 **SEC. 322. MODIFICATION OF NONDISCRIMINATION RULES**  
10 **TO PROTECT OLDER, LONGER SERVICE PAR-**  
11 **TICIPANTS.**

12 (a) IN GENERAL.—Section 401 is amended—

13 (1) by redesignating subsection (o) as sub-  
14 section (p), and

15 (2) by inserting after subsection (n) the fol-  
16 lowing new subsection:

17 “(o) SPECIAL RULES FOR APPLYING NON-  
18 DISCRIMINATION RULES TO PROTECT OLDER, LONGER  
19 SERVICE AND GRANDFATHERED PARTICIPANTS.—

20 “(1) TESTING OF DEFINED BENEFIT PLANS  
21 WITH CLOSED CLASSES OF PARTICIPANTS.—

22 “(A) BENEFITS, RIGHTS, OR FEATURES  
23 PROVIDED TO CLOSED CLASSES.—A defined  
24 benefit plan which provides benefits, rights, or  
25 features to a closed class of participants shall

1 not fail to satisfy the requirements of sub-  
2 section (a)(4) by reason of the composition of  
3 such closed class or the benefits, rights, or fea-  
4 tures provided to such closed class, if—

5 “(i) for the plan year as of which the  
6 class closes and the 2 succeeding plan  
7 years, such benefits, rights, and features  
8 satisfy the requirements of subsection  
9 (a)(4) (without regard to this subpara-  
10 graph but taking into account the rules of  
11 subparagraph (I)),

12 “(ii) after the date as of which the  
13 class was closed, any plan amendment  
14 which modifies the closed class or the ben-  
15 efits, rights, and features provided to such  
16 closed class does not discriminate signifi-  
17 cantly in favor of highly compensated em-  
18 ployees, and

19 “(iii) the class was closed before April  
20 5, 2017, or the plan is described in sub-  
21 paragraph (C).

22 “(B) AGGREGATE TESTING WITH DEFINED  
23 CONTRIBUTION PLANS PERMITTED ON A BENE-  
24 FITS BASIS.—

1           “(i) IN GENERAL.—For purposes of  
2           determining compliance with subsection  
3           (a)(4) and section 410(b), a defined benefit  
4           plan described in clause (iii) may be aggre-  
5           gated and tested on a benefits basis with  
6           1 or more defined contribution plans, in-  
7           cluding with the portion of 1 or more de-  
8           fined contribution plans which—

9                   “(I) provides matching contribu-  
10                  tions (as defined in subsection  
11                  (m)(4)(A)),

12                  “(II) provides annuity contracts  
13                  described in section 403(b) which are  
14                  purchased with matching contribu-  
15                  tions or nonelective contributions, or

16                  “(III) consists of an employee  
17                  stock ownership plan (within the  
18                  meaning of section 4975(e)(7)) or a  
19                  tax credit employee stock ownership  
20                  plan (within the meaning of section  
21                  409(a)).

22           “(ii) SPECIAL RULES FOR MATCHING  
23           CONTRIBUTIONS.—For purposes of clause  
24           (i), if a defined benefit plan is aggregated

1 with a portion of a defined contribution  
2 plan providing matching contributions—

3 “(I) such defined benefit plan  
4 must also be aggregated with any por-  
5 tion of such defined contribution plan  
6 which provides elective deferrals de-  
7 scribed in subparagraph (A) or (C) of  
8 section 402(g)(3), and

9 “(II) such matching contribu-  
10 tions shall be treated in the same  
11 manner as nonelective contributions,  
12 including for purposes of applying the  
13 rules of subsection (l).

14 “(iii) PLANS DESCRIBED.—A defined  
15 benefit plan is described in this clause if—

16 “(I) the plan provides benefits to  
17 a closed class of participants,

18 “(II) for the plan year as of  
19 which the class closes and the 2 suc-  
20 ceeding plan years, the plan satisfies  
21 the requirements of section 410(b)  
22 and subsection (a)(4) (without regard  
23 to this subparagraph but taking into  
24 account the rules of subparagraph  
25 (I)),



1                   “(III) after the date as of which  
2                   the class was closed, any plan amend-  
3                   ment which modifies the closed class  
4                   or the benefits provided to such closed  
5                   class does not discriminate signifi-  
6                   cantly in favor of highly compensated  
7                   employees, and

8                   “(IV) the class was closed before  
9                   April 5, 2017, or the plan is described  
10                  in subparagraph (C).

11                  “(C) PLANS DESCRIBED.—A plan is de-  
12                  scribed in this subparagraph if, taking into ac-  
13                  count any predecessor plan—

14                  “(i) such plan has been in effect for  
15                  at least 5 years as of the date the class is  
16                  closed, and

17                  “(ii) during the 5-year period pre-  
18                  ceding the date the class is closed, there  
19                  has not been a substantial increase in the  
20                  coverage or value of the benefits, rights, or  
21                  features described in subparagraph (A) or  
22                  in the coverage or benefits under the plan  
23                  described in subparagraph (B)(iii) (which-  
24                  ever is applicable).

1           “(D) DETERMINATION OF SUBSTANTIAL  
2 INCREASE FOR BENEFITS, RIGHTS, AND FEA-  
3 TURES.—In applying subparagraph (C)(ii) for  
4 purposes of subparagraph (A)(iii), a plan shall  
5 be treated as having had a substantial increase  
6 in coverage or value of the benefits, rights, or  
7 features described in subparagraph (A) during  
8 the applicable 5-year period only if, during such  
9 period—

10           “(i) the number of participants cov-  
11 ered by such benefits, rights, or features  
12 on the date such period ends is more than  
13 50 percent greater than the number of  
14 such participants on the first day of the  
15 plan year in which such period began, or

16           “(ii) such benefits, rights, and fea-  
17 tures have been modified by 1 or more  
18 plan amendments in such a way that, as of  
19 the date the class is closed, the value of  
20 such benefits, rights, and features to the  
21 closed class as a whole is substantially  
22 greater than the value as of the first day  
23 of such 5-year period, solely as a result of  
24 such amendments.

1           “(E) DETERMINATION OF SUBSTANTIAL  
2 INCREASE FOR AGGREGATE TESTING ON BENE-  
3 FITS BASIS.—In applying subparagraph (C)(ii)  
4 for purposes of subparagraph (B)(iii)(IV), a  
5 plan shall be treated as having had a substan-  
6 tial increase in coverage or benefits during the  
7 applicable 5-year period only if, during such pe-  
8 riod—

9           “(i) the number of participants bene-  
10 fitting under the plan on the date such pe-  
11 riod ends is more than 50 percent greater  
12 than the number of such participants on  
13 the first day of the plan year in which such  
14 period began, or

15           “(ii) the average benefit provided to  
16 such participants on the date such period  
17 ends is more than 50 percent greater than  
18 the average benefit provided on the first  
19 day of the plan year in which such period  
20 began.

21           “(F) CERTAIN EMPLOYEES DIS-  
22 REGARDED.—For purposes of subparagraphs  
23 (D) and (E), any increase in coverage or value  
24 or in coverage or benefits, whichever is applica-  
25 ble, which is attributable to such coverage and

1 value or coverage and benefits provided to em-  
2 ployees—

3 “(i) who became participants as a re-  
4 sult of a merger, acquisition, or similar  
5 event which occurred during the 7-year pe-  
6 riod preceding the date the class is closed,  
7 or

8 “(ii) who became participants by rea-  
9 son of a merger of the plan with another  
10 plan which had been in effect for at least  
11 5 years as of the date of the merger,  
12 shall be disregarded, except that clause (ii)  
13 shall apply for purposes of subparagraph (D)  
14 only if, under the merger, the benefits, rights,  
15 or features under 1 plan are conformed to the  
16 benefits, rights, or features of the other plan  
17 prospectively.

18 “(G) RULES RELATING TO AVERAGE BEN-  
19 EFIT.—For purposes of subparagraph (E)—

20 “(i) the average benefit provided to  
21 participants under the plan will be treated  
22 as having remained the same between the  
23 2 dates described in subparagraph (E)(ii)  
24 if the benefit formula applicable to such

1 participants has not changed between such  
2 dates, and

3 “(ii) if the benefit formula applicable  
4 to 1 or more participants under the plan  
5 has changed between such 2 dates, then  
6 the average benefit under the plan shall be  
7 considered to have increased by more than  
8 50 percent only if—

9 “(I) the total amount determined  
10 under section 430(b)(1)(A)(i) for all  
11 participants benefitting under the  
12 plan for the plan year in which the 5-  
13 year period described in subparagraph  
14 (E) ends, exceeds

15 “(II) the total amount deter-  
16 mined under section 430(b)(1)(A)(i)  
17 for all such participants for such plan  
18 year, by using the benefit formula in  
19 effect for each such participant for  
20 the first plan year in such 5-year pe-  
21 riod, by more than 50 percent.

22 In the case of a CSEC plan (as defined in  
23 section 414(y)), the normal cost of the  
24 plan (as determined under section  
25 433(j)(1)(B)) shall be used in lieu of the

1 amount determined under section  
2 430(b)(1)(A)(i).

3 “(H) TREATMENT AS SINGLE PLAN.—For  
4 purposes of subparagraphs (E) and (G), a plan  
5 described in section 413(e) shall be treated as  
6 a single plan rather than as separate plans  
7 maintained by each employer in the plan.

8 “(I) SPECIAL RULES.—For purposes of  
9 subparagraphs (A)(i) and (B)(iii)(II), the fol-  
10 lowing rules shall apply:

11 “(i) In applying section 410(b)(6)(C),  
12 the closing of the class of participants shall  
13 not be treated as a significant change in  
14 coverage under section 410(b)(6)(C)(i)(II).

15 “(ii) 2 or more plans shall not fail to  
16 be eligible to be aggregated and treated as  
17 a single plan solely by reason of having dif-  
18 ferent plan years.

19 “(iii) Changes in the employee popu-  
20 lation shall be disregarded to the extent at-  
21 tributable to individuals who become em-  
22 ployees or cease to be employees, after the  
23 date the class is closed, by reason of a  
24 merger, acquisition, divestiture, or similar  
25 event.

1           “(iv) Aggregation and all other testing  
2           methodologies otherwise applicable under  
3           subsection (a)(4) and section 410(b) may  
4           be taken into account.

5           The rule of clause (ii) shall also apply for pur-  
6           poses of determining whether plans to which  
7           subparagraph (B)(i) applies may be aggregated  
8           and treated as 1 plan for purposes of deter-  
9           mining whether such plans meet the require-  
10          ments of subsection (a)(4) and section 410(b).

11          “(J) SPUN-OFF PLANS.—For purposes of  
12          this paragraph, if a portion of a defined benefit  
13          plan described in subparagraph (A) or (B)(iii)  
14          is spun off to another employer and the spun-  
15          off plan continues to satisfy the requirements  
16          of—

17                 “(i) subparagraph (A)(i) or  
18                 (B)(iii)(II), whichever is applicable, if the  
19                 original plan was still within the 3-year pe-  
20                 riod described in such subparagraph at the  
21                 time of the spin off, and

22                 “(ii) subparagraph (A)(ii) or  
23                 (B)(iii)(III), whichever is applicable,

1 the treatment under subparagraph (A) or (B)  
2 of the spun-off plan shall continue with respect  
3 to such other employer.

4 “(2) TESTING OF DEFINED CONTRIBUTION  
5 PLANS.—

6 “(A) TESTING ON A BENEFITS BASIS.—A  
7 defined contribution plan shall be permitted to  
8 be tested on a benefits basis if—

9 “(i) such defined contribution plan  
10 provides make-whole contributions to a  
11 closed class of participants whose accruals  
12 under a defined benefit plan have been re-  
13 duced or eliminated,

14 “(ii) for the plan year of the defined  
15 contribution plan as of which the class eli-  
16 gible to receive such make-whole contribu-  
17 tions closes and the 2 succeeding plan  
18 years, such closed class of participants sat-  
19 isfies the requirements of section  
20 410(b)(2)(A)(i) (determined by applying  
21 the rules of paragraph (1)(I)),

22 “(iii) after the date as of which the  
23 class was closed, any plan amendment to  
24 the defined contribution plan which modi-  
25 fies the closed class or the allocations, ben-



1           efits, rights, and features provided to such  
2           closed class does not discriminate signifi-  
3           cantly in favor of highly compensated em-  
4           ployees, and

5                   “(iv) the class was closed before April  
6           5, 2017, or the defined benefit plan under  
7           clause (i) is described in paragraph (1)(C)  
8           (as applied for purposes of paragraph  
9           (1)(B)(iii)(IV)).

10                   “(B) AGGREGATION WITH PLANS INCLUD-  
11           ING MATCHING CONTRIBUTIONS.—

12                           “(i) IN GENERAL.—With respect to 1  
13           or more defined contribution plans de-  
14           scribed in subparagraph (A), for purposes  
15           of determining compliance with subsection  
16           (a)(4) and section 410(b), the portion of  
17           such plans which provides make-whole con-  
18           tributions or other nonelective contribu-  
19           tions may be aggregated and tested on a  
20           benefits basis with the portion of 1 or  
21           more other defined contribution plans  
22           which—

23                           “(I) provides matching contribu-  
24           tions (as defined in subsection  
25           (m)(4)(A)),

1                   “(II) provides annuity contracts  
2                   described in section 403(b) which are  
3                   purchased with matching contribu-  
4                   tions or nonelective contributions, or

5                   “(III) consists of an employee  
6                   stock ownership plan (within the  
7                   meaning of section 4975(e)(7)) or a  
8                   tax credit employee stock ownership  
9                   plan (within the meaning of section  
10                  409(a)).

11                  “(ii) SPECIAL RULES FOR MATCHING  
12                  CONTRIBUTIONS.—Rules similar to the  
13                  rules of paragraph (1)(B)(ii) shall apply  
14                  for purposes of clause (i).

15                  “(C) SPECIAL RULES FOR TESTING DE-  
16                  FINED CONTRIBUTION PLAN FEATURES PRO-  
17                  VIDING MATCHING CONTRIBUTIONS TO CERTAIN  
18                  OLDER, LONGER SERVICE PARTICIPANTS.—In  
19                  the case of a defined contribution plan which  
20                  provides benefits, rights, or features to a closed  
21                  class of participants whose accruals under a de-  
22                  fined benefit plan have been reduced or elimi-  
23                  nated, the plan shall not fail to satisfy the re-  
24                  quirements of subsection (a)(4) solely by reason  
25                  of the composition of the closed class or the

1 benefits, rights, or features provided to such  
2 closed class if the defined contribution plan and  
3 defined benefit plan otherwise meet the require-  
4 ments of subparagraph (A) but for the fact that  
5 the make-whole contributions under the defined  
6 contribution plan are made in whole or in part  
7 through matching contributions.

8 “(D) SPUN-OFF PLANS.—For purposes of  
9 this paragraph, if a portion of a defined con-  
10 tribution plan described in subparagraph (A) or  
11 (C) is spun off to another employer, the treat-  
12 ment under subparagraph (A) or (C) of the  
13 spun-off plan shall continue with respect to the  
14 other employer if such plan continues to comply  
15 with the requirements of clauses (ii) (if the  
16 original plan was still within the 3-year period  
17 described in such clause at the time of the spin  
18 off) and (iii) of subparagraph (A), as deter-  
19 mined for purposes of subparagraph (A) or (C),  
20 whichever is applicable.

21 “(3) DEFINITIONS.—For purposes of this sub-  
22 section—

23 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-  
24 cept as otherwise provided in paragraph (2)(C),  
25 the term ‘make-whole contributions’ means non-

1 elective allocations for each employee in the  
2 class which are reasonably calculated, in a con-  
3 sistent manner, to replace some or all of the re-  
4 tirement benefits which the employee would  
5 have received under the defined benefit plan  
6 and any other plan or qualified cash or deferred  
7 arrangement under subsection (k)(2) if no  
8 change had been made to such defined benefit  
9 plan and such other plan or arrangement. For  
10 purposes of the preceding sentence, consistency  
11 shall not be required with respect to employees  
12 who were subject to different benefit formulas  
13 under the defined benefit plan.

14 “(B) REFERENCES TO CLOSED CLASS OF  
15 PARTICIPANTS.—References to a closed class of  
16 participants and similar references to a closed  
17 class shall include arrangements under which 1  
18 or more classes of participants are closed, ex-  
19 cept that 1 or more classes of participants  
20 closed on different dates shall not be aggre-  
21 gated for purposes of determining the date any  
22 such class was closed.

23 “(C) HIGHLY COMPENSATED EMPLOYEE.—  
24 The term ‘highly compensated employee’ has

1           the meaning given such term in section  
2           414(q).”.

3           (b)    PARTICIPATION    REQUIREMENTS.—Section  
4 401(a)(26) is amended by adding at the end the following  
5 new subparagraph:

6                   “(I) PROTECTED PARTICIPANTS.—

7                           “(i) IN GENERAL.—A plan shall be  
8                           deemed to satisfy the requirements of sub-  
9                           paragraph (A) if—

10                                   “(I) the plan is amended—

11   “(aa) to cease all benefit ac-  
12   cruals, or

13   “(bb) to provide future ben-  
14   efit accruals only to a closed  
15   class of participants,

16                                   “(II) the plan satisfies subpara-  
17                                   graph (A) (without regard to this sub-  
18                                   paragraph) as of the effective date of  
19                                   the amendment, and

20                                   “(III) the amendment was adopt-  
21                                   ed before April 5, 2017, or the plan is  
22                                   described in clause (ii).

23                           “(ii) PLANS DESCRIBED.—A plan is  
24                           described in this clause if the plan would  
25                           be described in subsection (o)(1)(C), as ap-

1           plied for purposes of subsection  
2           (o)(1)(B)(iii)(IV) and by treating the effec-  
3           tive date of the amendment as the date the  
4           class was closed for purposes of subsection  
5           (o)(1)(C).

6           “(iii) SPECIAL RULES.—For purposes  
7           of clause (i)(II), in applying section  
8           410(b)(6)(C), the amendments described in  
9           clause (i) shall not be treated as a signifi-  
10          cant change in coverage under section  
11          410(b)(6)(C)(i)(II).

12          “(iv) SPUN-OFF PLANS.—For pur-  
13          poses of this subparagraph, if a portion of  
14          a plan described in clause (i) is spun off to  
15          another employer, the treatment under  
16          clause (i) of the spun-off plan shall con-  
17          tinue with respect to the other employer.”.

18          (c) EFFECTIVE DATE.—

19               (1) IN GENERAL.—Except as provided in para-  
20               graph (2), the amendments made by this section  
21               shall take effect on the date of the enactment of this  
22               Act, without regard to whether any plan modifica-  
23               tions referred to in such amendments are adopted or  
24               effective before, on, or after such date of enactment.

25               (2) SPECIAL RULES.—

1 (A) ELECTION OF EARLIER APPLICA-  
2 TION.—At the election of the plan sponsor, the  
3 amendments made by this section shall apply to  
4 plan years beginning after December 31, 2013.

5 (B) CLOSED CLASSES OF PARTICIPANTS.—  
6 For purposes of paragraphs (1)(A)(iii),  
7 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)  
8 of the Internal Revenue Code of 1986 (as added  
9 by this section), a closed class of participants  
10 shall be treated as being closed before April 5,  
11 2017, if the plan sponsor's intention to create  
12 such closed class is reflected in formal written  
13 documents and communicated to participants  
14 before such date.

15 (C) CERTAIN POST-ENACTMENT PLAN  
16 AMENDMENTS.—A plan shall not be treated as  
17 failing to be eligible for the application of sec-  
18 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or  
19 401(a)(26) of such Code (as added by this sec-  
20 tion) to such plan solely because in the case  
21 of—

22 (i) such section 401(o)(1)(A), the plan  
23 was amended before the date of the enact-  
24 ment of this Act to eliminate 1 or more  
25 benefits, rights, or features, and is further

1 amended after such date of enactment to  
2 provide such previously eliminated benefits,  
3 rights, or features to a closed class of par-  
4 ticipants, or

5 (ii) such section 401(o)(1)(B)(iii) or  
6 section 401(a)(26), the plan was amended  
7 before the date of the enactment of this  
8 Act to cease all benefit accruals, and is  
9 further amended after such date of enact-  
10 ment to provide benefit accruals to a closed  
11 class of participants. Any such section  
12 shall only apply if the plan otherwise meets  
13 the requirements of such section and in ap-  
14 plying such section, the date the class of  
15 participants is closed shall be the effective  
16 date of the later amendment.

17 **SEC. 323. FIDUCIARY SAFE HARBOR FOR SELECTION OF**  
18 **LIFETIME INCOME PROVIDER.**

19 Section 404 of the Employee Retirement Income Se-  
20 curity Act of 1974 (29 U.S.C. 1104) is amended by adding  
21 at the end the following:

22 “(e) SAFE HARBOR FOR ANNUITY SELECTION.—

23 “(1) IN GENERAL.—With respect to the selec-  
24 tion of an insurer for a guaranteed retirement in-  
25 come contract, the requirements of subsection



1 (a)(1)(B) will be deemed to be satisfied if a fidu-  
2 ciary—

3 “(A) engages in an objective, thorough,  
4 and analytical search for the purpose of identi-  
5 fying insurers from which to purchase such con-  
6 tracts;

7 “(B) with respect to each insurer identified  
8 under subparagraph (A)—

9 “(i) considers the financial capability  
10 of such insurer to satisfy its obligations  
11 under the guaranteed retirement income  
12 contract; and

13 “(ii) considers the cost (including fees  
14 and commissions) of the guaranteed retire-  
15 ment income contract offered by the in-  
16 surer in relation to the benefits and prod-  
17 uct features of the contract and adminis-  
18 trative services to be provided under such  
19 contract; and

20 “(C) on the basis of such consideration,  
21 concludes that—

22 “(i) at the time of the selection, the  
23 insurer is financially capable of satisfying  
24 its obligations under the guaranteed retire-  
25 ment income contract; and

1                   “(ii) the relative cost of the selected  
2                   guaranteed retirement income contract as  
3                   described in subparagraph (B)(ii) is rea-  
4                   sonable.

5                   “(2) FINANCIAL CAPABILITY OF THE IN-  
6                   SURER.—A fiduciary will be deemed to satisfy the  
7                   requirements of paragraphs (1)(B)(i) and (1)(C)(i)  
8                   if—

9                   “(A) the fiduciary obtains written rep-  
10                  resentations from the insurer that—

11                  “(i) the insurer is licensed to offer  
12                  guaranteed retirement income contracts;

13                  “(ii) the insurer, at the time of selec-  
14                  tion and for each of the immediately pre-  
15                  ceding 7 plan years—

16                  “(I) operates under a certificate  
17                  of authority from the insurance com-  
18                  missioner of its domiciliary State  
19                  which has not been revoked or sus-  
20                  pended;

21                  “(II) has filed audited financial  
22                  statements in accordance with the  
23                  laws of its domiciliary State under ap-  
24                  plicable statutory accounting prin-  
25                  ciples;

1                   “(III) maintains (and has main-  
2                   tained) reserves which satisfies all the  
3                   statutory requirements of all States  
4                   where the insurer does business; and

5                   “(IV) is not operating under an  
6                   order of supervision, rehabilitation, or  
7                   liquidation;

8                   “(iii) the insurer undergoes, at least  
9                   every 5 years, a financial examination  
10                  (within the meaning of the law of its domi-  
11                  ciliary State) by the insurance commis-  
12                  sioner of the domiciliary State (or rep-  
13                  resentative, designee, or other party ap-  
14                  proved by such commissioner); and

15                  “(iv) the insurer will notify the fidu-  
16                  ciary of any change in circumstances oc-  
17                  curring after the provision of the represen-  
18                  tations in clauses (i), (ii), and (iii) which  
19                  would preclude the insurer from making  
20                  such representations at the time of  
21                  issuance of the guaranteed retirement in-  
22                  come contract; and

23                  “(B) after receiving such representations  
24                  and as of the time of selection, the fiduciary  
25                  has not received any notice described in sub-

1 paragraph (A)(iv) and is in possession of no  
2 other information which would cause the fidu-  
3 ciary to question the representations provided.

4 “(3) NO REQUIREMENT TO SELECT LOWEST  
5 COST.—Nothing in this subsection shall be construed  
6 to require a fiduciary to select the lowest cost con-  
7 tract. A fiduciary may consider the value of a con-  
8 tract, including features and benefits of the contract  
9 and attributes of the insurer (including, without lim-  
10 itation, the insurer’s financial strength) in conjunc-  
11 tion with the cost of the contract.

12 “(4) TIME OF SELECTION.—

13 “(A) IN GENERAL.—For purposes of this  
14 subsection, the time of selection is—

15 “(i) the time that the insurer and the  
16 contract are selected for distribution of  
17 benefits to a specific participant or bene-  
18 ficiary; or

19 “(ii) if the fiduciary periodically re-  
20 views the continuing appropriateness of the  
21 conclusion described in paragraph (1)(C)  
22 with respect to a selected insurer, taking  
23 into account the considerations described  
24 in such paragraph, the time that the in-  
25 surer and the contract are selected to pro-

1           vide benefits at future dates to participants  
2           or beneficiaries under the plan.

3           Nothing in the preceding sentence shall be con-  
4           strued to require the fiduciary to review the ap-  
5           propriateness of a selection after the purchase  
6           of a contract for a participant or beneficiary.

7           “(B) PERIODIC REVIEW.—A fiduciary will  
8           be deemed to have conducted the periodic re-  
9           view described in subparagraph (A)(ii) if the fi-  
10          diciary obtains the written representations de-  
11          scribed in clauses (i), (ii), and (iii) of paragraph  
12          (2)(A) from the insurer on an annual basis, un-  
13          less the fiduciary receives any notice described  
14          in paragraph (2)(A)(iv) or otherwise becomes  
15          aware of facts that would cause the fiduciary to  
16          question such representations.

17          “(5) LIMITED LIABILITY.—A fiduciary which  
18          satisfies the requirements of this subsection shall not  
19          be liable following the distribution of any benefit, or  
20          the investment by or on behalf of a participant or  
21          beneficiary pursuant to the selected guaranteed re-  
22          tirement income contract, for any losses that may  
23          result to the participant or beneficiary due to an in-  
24          surer’s inability to satisfy its financial obligations  
25          under the terms of such contract.

1           “(6) DEFINITIONS.—For purposes of this sub-  
2           section—

3           “(A) INSURER.—The term ‘insurer’ means  
4           an insurance company, insurance service, or in-  
5           surance organization, including affiliates of  
6           such companies.

7           “(B) GUARANTEED RETIREMENT INCOME  
8           CONTRACT.—The term ‘guaranteed retirement  
9           income contract’ means an annuity contract for  
10          a fixed term or a contract (or provision or fea-  
11          ture thereof) which provides guaranteed bene-  
12          fits annually (or more frequently) for at least  
13          the remainder of the life of the participant or  
14          the joint lives of the participant and the partici-  
15          pant’s designated beneficiary as part of an indi-  
16          vidual account plan.”.

17 **SEC. 324. DISCLOSURE REGARDING LIFETIME INCOME.**

18          (a) IN GENERAL.—Subparagraph (B) of section  
19 105(a)(2) of the Employee Retirement Income Security  
20 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

21           (1) in clause (i), by striking “and” at the end;

22           (2) in clause (ii), by striking “diversification.”

23          and inserting “diversification, and”; and

24           (3) by inserting at the end the following:

1                   “(iii) the lifetime income disclosure  
2                   described in subparagraph (D)(i).

3                   In the case of pension benefit statements de-  
4                   scribed in clause (i) of paragraph (1)(A), a life-  
5                   time income disclosure under clause (iii) of this  
6                   subparagraph shall be required to be included  
7                   in only one pension benefit statement during  
8                   any one 12-month period.”.

9                   (b) LIFETIME INCOME.—Paragraph (2) of section  
10 105(a) of the Employee Retirement Income Security Act  
11 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the  
12 end the following new subparagraph:

13                   “(D) LIFETIME INCOME DISCLOSURE.—

14                   “(i) IN GENERAL.—

15                   “(I) DISCLOSURE.—A lifetime in-  
16                   come disclosure shall set forth the life-  
17                   time income stream equivalent of the  
18                   total benefits accrued with respect to  
19                   the participant or beneficiary.

20                   “(II) LIFETIME INCOME STREAM  
21                   EQUIVALENT OF THE TOTAL BENE-  
22                   FITS ACCRUED.—For purposes of this  
23                   subparagraph, the term ‘lifetime in-  
24                   come stream equivalent of the total  
25                   benefits accrued’ means the amount of

1 monthly payments the participant or  
2 beneficiary would receive if the total  
3 accrued benefits of such participant or  
4 beneficiary were used to provide life-  
5 time income streams described in sub-  
6 clause (III), based on assumptions  
7 specified in rules prescribed by the  
8 Secretary.

9 “(III) LIFETIME INCOME  
10 STREAMS.—The lifetime income  
11 streams described in this subclause  
12 are a qualified joint and survivor an-  
13 nuity (as defined in section 205(d)),  
14 based on assumptions specified in  
15 rules prescribed by the Secretary, in-  
16 cluding the assumption that the par-  
17 ticipant or beneficiary has a spouse of  
18 equal age, and a single life annuity.  
19 Such lifetime income streams may  
20 have a term certain or other features  
21 to the extent permitted under rules  
22 prescribed by the Secretary.

23 “(ii) MODEL DISCLOSURE.—Not later  
24 than 1 year after the date of the enact-  
25 ment of the Retirement Enhancement and



1 Savings Act of 2018, the Secretary shall  
2 issue a model lifetime income disclosure,  
3 written in a manner so as to be understood  
4 by the average plan participant, which—

5 “(I) explains that the lifetime in-  
6 come stream equivalent is only pro-  
7 vided as an illustration;

8 “(II) explains that the actual  
9 payments under the lifetime income  
10 stream described in clause (i)(III)  
11 which may be purchased with the  
12 total benefits accrued will depend on  
13 numerous factors and may vary sub-  
14 stantially from the lifetime income  
15 stream equivalent in the disclosures;

16 “(III) explains the assumptions  
17 upon which the lifetime income stream  
18 equivalent was determined; and

19 “(IV) provides such other similar  
20 explanations as the Secretary con-  
21 siders appropriate.

22 “(iii) ASSUMPTIONS AND RULES.—  
23 Not later than 1 year after the date of the  
24 enactment of the Retirement Enhancement

1 and Savings Act of 2018, the Secretary  
2 shall—

3 “(I) prescribe assumptions which  
4 administrators of individual account  
5 plans may use in converting total ac-  
6 crued benefits into lifetime income  
7 stream equivalents for purposes of  
8 this subparagraph; and

9 “(II) issue interim final rules  
10 under clause (i).

11 In prescribing assumptions under sub-  
12 clause (I), the Secretary may prescribe a  
13 single set of specific assumptions (in which  
14 case the Secretary may issue tables or fac-  
15 tors which facilitate such conversions), or  
16 ranges of permissible assumptions. To the  
17 extent that an accrued benefit is or may be  
18 invested in a lifetime income stream de-  
19 scribed in clause (i)(III), the assumptions  
20 prescribed under subclause (I) shall, to the  
21 extent appropriate, permit administrators  
22 of individual account plans to use the  
23 amounts payable under such lifetime in-  
24 come stream as a lifetime income stream  
25 equivalent.

1           “(iv) LIMITATION ON LIABILITY.—No  
2 plan fiduciary, plan sponsor, or other per-  
3 son shall have any liability under this title  
4 solely by reason of the provision of lifetime  
5 income stream equivalents which are de-  
6 rived in accordance with the assumptions  
7 and rules described in clause (iii) and  
8 which include the explanations contained in  
9 the model lifetime income disclosure de-  
10 scribed in clause (ii). This clause shall  
11 apply without regard to whether the provi-  
12 sion of such lifetime income stream equiva-  
13 lent is required by subparagraph (B)(iii).

14           “(v) EFFECTIVE DATE.—The require-  
15 ment in subparagraph (B)(iii) shall apply  
16 to pension benefit statements furnished  
17 more than 12 months after the latest of  
18 the issuance by the Secretary of—

19                   “(I) interim final rules under  
20 clause (i);

21                   “(II) the model disclosure under  
22 clause (ii); or

23                   “(III) the assumptions under  
24 clause (iii).”.

1 **SEC. 325. MODIFICATION OF PBGC PREMIUMS FOR CSEC**  
2 **PLANS.**

3 (a) **FLAT RATE PREMIUM.**—Subparagraph (A) of  
4 section 4006(a)(3) of the Employee Retirement Income  
5 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-  
6 ed—

7 (1) in clause (i), by striking “plan,” and insert-  
8 ing “plan other than a CSEC plan (as defined in  
9 section 210(f)(1))”;

10 (2) in clause (v), by striking “or” at the end;

11 (3) in clause (vi), by striking the period at the  
12 end and inserting “, or”; and

13 (4) by adding at the end the following new  
14 clause:

15 “(vii) in the case of a CSEC plan (as  
16 defined in section 210(f)(1)), for plan  
17 years beginning after December 31, 2018,  
18 for each individual who is a participant in  
19 such plan during the plan year an amount  
20 equal to the sum of—

21 “(I) the additional premium (if  
22 any) determined under subparagraph  
23 (E), and

24 “(II) \$19.”.

25 (b) **VARIABLE RATE PREMIUM.**—

26 (1) **UNFUNDED VESTED BENEFITS.**—

1 (A) IN GENERAL.—Subparagraph (E) of  
2 section 4006(a)(3) of the Employee Retirement  
3 Income Security Act of 1974 (29 U.S.C.  
4 1306(a)(3)) is amended by adding at the end  
5 the following new clause:

6 “(v) For purposes of clause (ii), in the  
7 case of a CSEC plan (as defined in section  
8 210(f)(1)), the term ‘unfunded vested ben-  
9 efits’ means, for plan years beginning after  
10 December 31, 2018, the excess (if any)  
11 of—

12 “(I) the funding liability of the  
13 plan as determined under section  
14 306(j)(5)(C) for the plan year by only  
15 taking into account vested benefits,  
16 over

17 “(II) the fair market value of  
18 plan assets for the plan year which  
19 are held by the plan on the valuation  
20 date.”.

21 (B) CONFORMING AMENDMENT.—Clause  
22 (iii) of section 4006(a)(3)(E) of such Act (29  
23 U.S.C. 1306(a)(3)(E)) is amended by striking  
24 “For purposes” and inserting “Except as pro-  
25 vided in clause (v), for purposes”.

1 (2) APPLICABLE DOLLAR AMOUNT.—

2 (A) IN GENERAL.—Paragraph (8) of sec-  
3 tion 4006(a) of such Act (29 U.S.C. 1306(a))  
4 is amended by adding at the end the following  
5 new subparagraph:

6 “(E) CSEC PLANS.—In the case of a  
7 CSEC plan (as defined in section 210(f)(1)),  
8 the applicable dollar amount shall be \$9.”.

9 (B) CONFORMING AMENDMENT.—Subpara-  
10 graph (A) of section 4006(a)(8) of such Act (29  
11 U.S.C. 1306(a)(8)) is amended by striking “(B)  
12 and (C)” and inserting “(B), (C), and (E)”.

## 13 **Subtitle C—Other Savings**

### 14 **Provisions**

#### 15 **SEC. 331. PENALTY-FREE WITHDRAWALS FROM RETIRE-**

#### 16 **MENT PLANS FOR INDIVIDUALS IN CASE OF**

#### 17 **BIRTH OF CHILD OR ADOPTION.**

18 (a) IN GENERAL.—Section 72(t)(2) is amended by  
19 adding at the end the following new subparagraph:

20 “(H) DISTRIBUTIONS FROM RETIREMENT  
21 PLANS IN CASE OF BIRTH OF CHILD OR ADOP-  
22 TION.—

23 “(i) IN GENERAL.—Any qualified  
24 birth or adoption distribution.

1           “(ii) LIMITATION.—The aggregate  
2 amount which may be treated as qualified  
3 birth or adoption distributions by any indi-  
4 vidual with respect to any birth or adop-  
5 tion shall not exceed \$7,500.

6           “(iii) QUALIFIED BIRTH OR ADOPTION  
7 DISTRIBUTION.—For purposes of this sub-  
8 paragraph—

9           “(I) IN GENERAL.—The term  
10 ‘qualified birth or adoption distribu-  
11 tion’ means any distribution from an  
12 applicable eligible retirement plan to  
13 an individual if made during the 1-  
14 year period beginning on the date on  
15 which a child of the individual is born  
16 or on which the legal adoption by the  
17 individual of an eligible child is final-  
18 ized.

19           “(II) ELIGIBLE CHILD.—The  
20 term ‘eligible child’ means any indi-  
21 vidual (other than a child of the tax-  
22 payer’s spouse) who has not attained  
23 age 18 or is physically or mentally in-  
24 capable of self-support.

1                   “(iv) TREATMENT OF PLAN DISTRIBUTU-  
2                   TIONS.—

3                   “(I) IN GENERAL.—If a distribu-  
4                   tion to an individual would (without  
5                   regard to clause (ii)) be a qualified  
6                   birth or adoption distribution, a plan  
7                   shall not be treated as failing to meet  
8                   any requirement of this title merely  
9                   because the plan treats the distribu-  
10                  tion as a qualified birth or adoption  
11                  distribution, unless the aggregate  
12                  amount of such distributions from all  
13                  plans maintained by the employer  
14                  (and any member of any controlled  
15                  group which includes the employer) to  
16                  such individual exceeds \$7,500.

17                  “(II) CONTROLLED GROUP.—For  
18                  purposes of subclause (I), the term  
19                  ‘controlled group’ means any group  
20                  treated as a single employer under  
21                  subsection (b), (c), (m), or (o) of sec-  
22                  tion 414.

23                  “(v) AMOUNT DISTRIBUTED MAY BE  
24                  REPAID.—



1           “(I) IN GENERAL.—Any indi-  
2           vidual who receives a qualified birth  
3           or adoption distribution may make  
4           one or more contributions in an ag-  
5           gregate amount not to exceed the  
6           amount of such distribution to an ap-  
7           plicable eligible retirement plan of  
8           which such individual is a beneficiary  
9           and to which a rollover contribution of  
10          such distribution could be made under  
11          section 402(c), 403(a)(4), 403(b)(8),  
12          408(d)(3), or 457(e)(16), as the case  
13          may be.

14           “(II) LIMITATION ON CONTRIBU-  
15          TIONS TO APPLICABLE ELIGIBLE RE-  
16          TIREMENT PLANS OTHER THAN  
17          IRAS.—The aggregate amount of con-  
18          tributions made by an individual  
19          under subclause (I) to any applicable  
20          eligible retirement plan which is not  
21          an individual retirement plan shall not  
22          exceed the aggregate amount of quali-  
23          fied birth or adoption distributions  
24          which are made from such plan to  
25          such individual. Subclause (I) shall

1 not apply to contributions to any ap-  
2 plicable eligible retirement plan which  
3 is not an individual retirement plan  
4 unless the individual is eligible to  
5 make contributions (other than those  
6 described in subclause (I)) to such ap-  
7 plicable eligible retirement plan.

8 “(III) TREATMENT OF REPAY-  
9 MENTS OF DISTRIBUTIONS FROM AP-  
10 PPLICABLE ELIGIBLE RETIREMENT  
11 PLANS OTHER THAN IRAS.—If a con-  
12 tribution is made under subclause (I)  
13 with respect to a qualified birth or  
14 adoption distribution from an applica-  
15 ble eligible retirement plan other than  
16 an individual retirement plan, then  
17 the taxpayer shall, to the extent of the  
18 amount of the contribution, be treated  
19 as having received such distribution in  
20 an eligible rollover distribution (as de-  
21 fined in section 402(c)(4)) and as  
22 having transferred the amount to the  
23 applicable eligible retirement plan in a  
24 direct trustee to trustee transfer with-  
25 in 60 days of the distribution.

1                   “(IV) TREATMENT OF REPAY-  
2                   MENTS FOR DISTRIBUTIONS FROM  
3                   IRAS.—If a contribution is made  
4                   under subclause (I) with respect to a  
5                   qualified birth or adoption distribution  
6                   from an individual retirement plan,  
7                   then, to the extent of the amount of  
8                   the contribution, such distribution  
9                   shall be treated as a distribution de-  
10                  scribed in section 408(d)(3) and as  
11                  having been transferred to the appli-  
12                  cable eligible retirement plan in a di-  
13                  rect trustee to trustee transfer within  
14                  60 days of the distribution.

15                  “(vi) DEFINITION AND SPECIAL  
16                  RULES.—For purposes of this subpara-  
17                  graph—

18                         “(I) APPLICABLE ELIGIBLE RE-  
19                         TIREMENT PLAN.—The term ‘applica-  
20                         ble eligible retirement plan’ means an  
21                         eligible retirement plan (as defined in  
22                         section 402(c)(8)(B)) other than a de-  
23                         fined benefit plan.

24                         “(II) EXEMPTION OF DISTRIBUTI-  
25                         ONS FROM TRUSTEE TO TRUSTEE

1 TRANSFER AND WITHHOLDING  
2 RULES.—For purposes of sections  
3 401(a)(31), 402(f), and 3405, a quali-  
4 fied birth or adoption distribution  
5 shall not be treated as an eligible roll-  
6 over distribution.

7 “(III) TAXPAYER MUST INCLUDE  
8 TIN.—A distribution shall not be  
9 treated as a qualified birth or adop-  
10 tion distribution with respect to any  
11 child or eligible child unless the tax-  
12 payer includes the name, age, and  
13 TIN of such child or eligible child on  
14 the taxpayer’s return of tax for the  
15 taxable year.

16 “(IV) DISTRIBUTIONS TREATED  
17 AS MEETING PLAN DISTRIBUTION RE-  
18 QUIREMENTS.—Any qualified birth or  
19 adoption distribution shall be treated  
20 as meeting the requirements of sec-  
21 tions 401(k)(2)(B)(i),  
22 403(b)(7)(A)(ii), 403(b)(11), and  
23 457(d)(1)(A).”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions made after Decem-  
3 ber 31, 2018.

4 **TITLE IV—AMERICAN**  
5 **INNOVATION**

6 **SEC. 401. SIMPLIFICATION AND EXPANSION OF DEDUCTION**  
7 **FOR START-UP AND ORGANIZATIONAL EX-**  
8 **PENDITURES.**

9 (a) IN GENERAL.—Section 195 is amended by redес-  
10 ignating subsections (c) and (d) as subsections (d) and  
11 (e), respectively, and by striking all that precedes sub-  
12 section (d) (as so redesignated) and inserting the fol-  
13 lowing:

14 **“SEC. 195. START-UP AND ORGANIZATIONAL EXPENDI-**  
15 **TURES.**

16 “(a) CAPITALIZATION OF EXPENDITURES.—Except  
17 as otherwise provided in this section, no deduction shall  
18 be allowed for start-up or organizational expenditures.

19 “(b) ELECTION TO DEDUCT.—

20 “(1) IN GENERAL.—If a taxpayer elects the ap-  
21 plication of this subsection with respect to any active  
22 trade or business—

23 “(A) the taxpayer shall be allowed a deduc-  
24 tion for the taxable year in which such active

1 trade or business begins in an amount equal to  
2 the lesser of—

3 “(i) the aggregate amount of start-up  
4 and organizational expenditures paid or in-  
5 curred in connection with such active trade  
6 or business, or

7 “(ii) \$20,000, reduced (but not below  
8 zero) by the amount by which such aggre-  
9 gate amount exceeds \$120,000, and

10 “(B) the remainder of such start-up and  
11 organizational expenditures shall be charged to  
12 capital account and allowed as an amortization  
13 deduction determined by amortizing such ex-  
14 penditures ratably over the 180-month period  
15 beginning with the month in which the active  
16 trade or business begins.

17 “(2) APPLICATION TO ORGANIZATIONAL EX-  
18 PENDITURES.—In the case of organizational expend-  
19 itures with respect to any corporation or partner-  
20 ship, the active trade or business referred to in para-  
21 graph (1) means the first active trade or business  
22 carried on by such corporation or partnership.

23 “(3) INFLATION ADJUSTMENT.—In the case of  
24 any taxable year beginning after December 31,  
25 2019, the \$20,000 and \$120,000 amounts in para-

1 graph (1)(A)(ii) shall each be increased by an  
2 amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3) for the calendar  
6 year in which the taxable year begins, deter-  
7 mined by substituting ‘calendar year 2018’ for  
8 ‘calendar year 2016’ in subparagraph (A)(ii)  
9 thereof.

10 If any amount as increased under the preceding sen-  
11 tence is not a multiple of \$1,000, such amount shall  
12 be rounded to the nearest multiple of \$1,000.

13 “(c) ALLOWANCE OF DEDUCTION UPON LIQUIDA-  
14 TION OR DISPOSITION.—

15 “(1) LIQUIDATION OF PARTNERSHIP OR COR-  
16 PORATION.—If any partnership or corporation is  
17 completely liquidated by the taxpayer, any start-up  
18 or organizational expenditures paid or incurred in  
19 connection with such partnership or corporation  
20 which were not allowed as a deduction by reason of  
21 this section may be deducted to the extent allowable  
22 under section 165.

23 “(2) DISPOSITION OF TRADE OR BUSINESS.—If  
24 any trade or business is completely disposed of or  
25 discontinued by the taxpayer, any start-up expendi-

1       tures paid or incurred in connection with such trade  
2       or business which were not allowed as a deduction  
3       by reason of this section (and not taken into account  
4       in connection with a liquidation to which paragraph  
5       (1) applies) may be deducted to the extent allowable  
6       under section 165. For purposes of this paragraph,  
7       in the case of any deduction allowed under sub-  
8       section (b)(1) with respect to both start-up and or-  
9       ganizational expenditures, the amount treated as so  
10      allowed with respect to start-up expenditures shall  
11      bear the same ratio to such deduction as the start-  
12      up expenditures taken into account in determining  
13      such deduction bears to the aggregate of the start-  
14      up and organizational expenditures so taken into ac-  
15      count.”.

16      (b)   ORGANIZATIONAL   EXPENDITURES.—Section  
17 195(d), as redesignated by subsection (a), is amended by  
18 adding at the end the following new paragraphs:

19           “(3)   ORGANIZATIONAL   EXPENDITURES.—The  
20      term ‘organizational expenditures’ means any ex-  
21      penditure which—

22                   “(A) is incident to the creation of a cor-  
23                   poration or a partnership,

24                   “(B) is chargeable to capital account, and



1           “(C) is of a character which, if expended  
2           incident to the creation of a corporation or a  
3           partnership having an ascertainable life, would  
4           be amortizable over such life.

5           “(4) APPLICATION TO CERTAIN DISREGARDED  
6           ENTITIES.—In the case of any entity with a single  
7           owner that is disregarded as an entity separate from  
8           its owner, this section shall be applied in the same  
9           manner as if such entity were a corporation.”.

10          (c) ELECTION.—Section 195(e)(2), as redesignated  
11         by subsection (a), is amended to read as follows:

12           “(2) PARTNERSHIPS AND S CORPORATIONS.—In  
13           the case of any partnership or S corporation, the  
14           election under subsection (b) shall be made (and this  
15           section shall be applied) at the entity level.”.

16          (d) CONFORMING AMENDMENTS.—

17           (1)(A) Part VIII of subchapter B of chapter 1  
18           is amended by striking section 248 (and by striking  
19           the item relating to such section in the table of sec-  
20           tions of such part).

21           (B) Section 170(b)(2)(D)(ii) is amended by  
22           striking “(except section 248)”.

23           (C) Section 312(n)(3) is amended by striking  
24           “Sections 173 and 248” and inserting “Sections 173  
25           and 195”.

1 (D) Section 535(b)(3) is amended by striking  
2 “(except section 248)”.

3 (E) Section 545(b)(3) is amended by striking  
4 “(except section 248)”.

5 (F) Section 545(b)(4) is amended by striking  
6 “(except section 248)”.

7 (G) Section 834(c)(7) is amended by striking  
8 “(except section 248)”.

9 (H) Section 852(b)(2)(C) is amended by strik-  
10 ing “(except section 248)”.

11 (I) Section 857(b)(2)(A) is amended by striking  
12 “(except section 248)”.

13 (J) Section 1363(b) is amended by adding  
14 “and” at the end of paragraph (2), by striking para-  
15 graph (3), and by redesignating paragraph (4) as  
16 paragraph (3).

17 (K) Section 1375(b)(1)(B)(i) is amended by  
18 striking “(other than the deduction allowed by sec-  
19 tion 248, relating to organization expenditures)”.

20 (2)(A) Section 709 is amended to read as fol-  
21 lows:

22 **“SEC. 709. TREATMENT OF SYNDICATION FEES.**

23 “No deduction shall be allowed under this chapter to  
24 a partnership or to any partner of the partnership for any

1 amounts paid or incurred to promote the sale of (or to  
2 sell) an interest in the partnership.”.

3 (B) The item relating to section 709 in the  
4 table of sections for part I of subchapter K of chap-  
5 ter 1 is amended to read as follows:

“Sec. 709. Treatment of syndication fees.”.

6 (3) Section 1202(e)(2)(A) is amended by strik-  
7 ing “section 195(c)(1)(A)” and inserting “section  
8 195(d)(1)(A)”.

9 (4) The item relating to section 195 in the table  
10 of contents of part VI of subchapter B of chapter 1  
11 is amended to read as follows:

“Sec. 195. Start-up and organizational expenditures.”.

12 (e) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to expenditures paid or incurred  
14 in connection with active trades or businesses which begin  
15 in taxable years beginning after December 31, 2018.

16 **SEC. 402. PRESERVATION OF START-UP NET OPERATING**  
17 **LOSSES AND TAX CREDITS AFTER OWNER-**  
18 **SHIP CHANGE.**

19 (a) APPLICATION TO NET OPERATING LOSSES.—  
20 Section 382(d) is amended by adding at the end the fol-  
21 lowing new paragraph:

22 “(4) EXCEPTION FOR START-UP LOSSES.—

23 “(A) IN GENERAL.—In the case of any net  
24 operating loss carryforward described in para-

1 graph (1)(A) which arose in a start-up period  
2 taxable year, the amount of such net operating  
3 loss carryforward otherwise taken into account  
4 under such paragraph shall be reduced by the  
5 net start-up loss determined with respect to the  
6 trade or business referred to in subparagraph  
7 (B)(i) for such start-up period taxable year.

8 “(B) START-UP PERIOD TAXABLE YEAR.—  
9 The term ‘start-up period taxable year’ means  
10 any taxable year of the old loss corporation  
11 which—

12 “(i) begins before the close of the 3-  
13 year period beginning on the date on which  
14 any trade or business of such corporation  
15 begins as an active trade or business (as  
16 determined under section 195(d)(2) with-  
17 out regard to subparagraph (B) thereof),  
18 and

19 “(ii) ends after September 10, 2018.

20 “(C) NET START-UP LOSS.—

21 “(i) IN GENERAL.—The term ‘net  
22 start-up loss’ means, with respect to any  
23 trade or business referred to in subpara-  
24 graph (B)(i) for any start-up period tax-  
25 able year, the amount which bears the

1 same ratio (but not greater than 1) to the  
2 net operating loss carryforward which  
3 arose in such start-up period taxable year  
4 as—

5 “(I) the net operating loss (if  
6 any) which would have been deter-  
7 mined for such start-up period taxable  
8 year if only items of income, gain, de-  
9 duction, and loss properly allocable to  
10 such trade or business were taken into  
11 account, bears to

12 “(II) the amount of the net oper-  
13 ating loss determined for such start-  
14 up period taxable year.

15 “(ii) SPECIAL RULE FOR LAST TAX-  
16 ABLE YEAR IN START-UP PERIOD.—In the  
17 case of any start-up period taxable year  
18 which ends after the close of the 3-year pe-  
19 riod described in subparagraph (B)(i) with  
20 respect to any trade or business, the net  
21 start-up loss with respect to such trade or  
22 business for such start-up period taxable  
23 year shall be the same proportion of such  
24 loss (determined without regard to this  
25 clause) as the proportion of such start-up

1           period taxable year which is on or before  
2           the last day of such period.

3           “(D) APPLICATION TO NET OPERATING  
4           LOSS ARISING IN YEAR OF OWNERSHIP  
5           CHANGE.—Subparagraph (A) shall apply to any  
6           net operating loss described in paragraph  
7           (1)(B) in the same manner as such subpara-  
8           graph applies to net operating loss  
9           carryforwards described in paragraph (1)(A),  
10          but by only taking into account the amount of  
11          such net operating loss (and the amount of the  
12          net start-up loss) which is allocable under para-  
13          graph (1)(B) to the period described in such  
14          paragraph. Proper adjustment in the allocation  
15          of the net start-up loss under the preceding  
16          sentence shall be made in the case of a taxable  
17          year to which subparagraph (C)(ii) applies.

18          “(E) APPLICATION TO TAXABLE YEARS  
19          WHICH ARE START-UP PERIOD TAXABLE YEARS  
20          WITH RESPECT TO MORE THAN 1 TRADE OR  
21          BUSINESS.—In the case of any net operating  
22          loss carryforward which arose in a taxable year  
23          which is a start-up period taxable year with re-  
24          spect to more than 1 trade or business—

1           “(i) this paragraph shall be applied  
2           separately with respect to each such trade  
3           or business, and

4           “(ii) the aggregate reductions under  
5           subparagraph (A) shall not exceed such net  
6           operating loss carryforward.

7           “(F) CONTINUITY OF BUSINESS REQUIRE-  
8           MENT.—If the new loss corporation does not  
9           continue the trade or business referred to in  
10          subparagraph (B)(i) at all times during the 2-  
11          year period beginning on the change date, this  
12          paragraph shall not apply with respect to such  
13          trade or business.

14          “(G) CERTAIN TITLE 11 OR SIMILAR  
15          CASES.—

16                 “(i) MULTIPLE OWNERSHIP  
17                 CHANGES.—In the case of a 2nd ownership  
18                 change to which subsection (l)(5)(D) ap-  
19                 plies, this paragraph shall not apply for  
20                 purposes of determining the pre-change  
21                 loss with respect to such 2nd ownership  
22                 change.

23                 “(ii) CERTAIN INSOLVENCY TRANS-  
24                 ACTIONS.—If subsection (l)(6) applies for  
25                 purposes of determining the value of the

1           old loss corporation under subsection (e),  
2           this paragraph shall not apply.

3           “(H) NOT APPLICABLE TO DISALLOWED  
4           INTEREST.—This paragraph shall not apply for  
5           purposes of applying the rules of paragraph (1)  
6           to the carryover of disallowed interest under  
7           paragraph (3).

8           “(I) TRANSITION RULE.—This paragraph  
9           shall not apply with respect to any trade or  
10          business if the date on which such trade or  
11          business begins as an active trade or business  
12          (as determined under section 195(d)(2) without  
13          regard to subparagraph (B) thereof) is on or  
14          before September 10, 2018.”.

15          (b) APPLICATION TO EXCESS CREDITS.—Section 383  
16          is amended by redesignating subsection (e) as subsection  
17          (f) and by inserting after subsection (d) the following new  
18          subsection:

19          “(e) EXCEPTION FOR START-UP EXCESS CREDITS.—

20                 “(1) IN GENERAL.—In the case of any unused  
21                 general business credit of the corporation under sec-  
22                 tion 39 which arose in a start-up period taxable  
23                 year, the amount of such unused general business  
24                 credit otherwise taken into account under subsection  
25                 (a)(2)(A) shall be reduced by the start-up excess



1 credit determined with respect to any trade or busi-  
2 ness referred to in section 382(d)(4)(B)(i) for such  
3 start-up period taxable year.

4 “(2) START-UP PERIOD TAXABLE YEAR.—For  
5 purposes of this subsection, the term ‘start-up pe-  
6 riod taxable year’ has the meaning given such term  
7 in section 382(d)(4)(B).

8 “(3) START-UP EXCESS CREDIT.—For purposes  
9 of this subsection, the term ‘start-up excess credit’  
10 means, with respect to any trade or business re-  
11 ferred to in section 382(d)(4)(B)(i) for any start-up  
12 period taxable year, the amount which bears the  
13 same ratio to the unused general business credit  
14 which arose in such start-up period taxable year  
15 as—

16 “(A) the amount of the general business  
17 credit which would have been determined for  
18 such start-up period taxable year if only credits  
19 properly allocable to such trade or business  
20 were taken into account, bears to

21 “(B) the amount of the general business  
22 credit determined for such start-up period tax-  
23 able year.

24 “(4) APPLICATION OF CERTAIN RULES.—Rules  
25 similar to the rules of subparagraphs (C)(ii), (D),

1 (E), and (F) of section 382(d)(4) shall apply for  
2 purposes of this subsection.

3 “(5) TRANSITION RULE.—This subsection shall  
4 not apply with respect to any trade or business if  
5 the date on which such trade or business begins as  
6 an active trade or business (as determined under  
7 section 195(d)(2) without regard to subparagraph  
8 (B) thereof) is on or before September 10, 2018.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years ending after Sep-  
11 tember 10, 2018.

12 **TITLE V—CERTAIN TAX TECH-**  
13 **NICAL CORRECTIONS AND**  
14 **CLARIFICATIONS**

15 **SEC. 501. TECHNICAL AMENDMENTS RELATING TO PUBLIC**

16 **LAW 115-97.**

17 (a) AMENDMENT RELATING TO SECTION 11011.—  
18 Section 852(b) is amended by adding at the end the fol-  
19 lowing:

20 “(10) TREATMENT BY SHAREHOLDERS OF  
21 QUALIFIED REIT DIVIDENDS AND QUALIFIED PUB-  
22 LICLY TRADED PARTNERSHIP INCOME.—

23 “(A) IN GENERAL.—A shareholder of a  
24 regulated investment company shall take into

1 account for purposes of section  
2 199A(b)(1)(B)—

3 “(i) as a qualified REIT dividend the  
4 amount which is reported by the company  
5 (in written statements furnished to its  
6 shareholders) as being attributable to  
7 qualified REIT dividends received by the  
8 company, and

9 “(ii) as qualified publicly traded part-  
10 nership income the amount which is re-  
11 ported by the company (in written state-  
12 ments furnished to its shareholders) as  
13 being attributable to qualified publicly  
14 traded partnership income of the company.

15 “(B) EXCESS REPORTED AMOUNTS.—  
16 Rules similar to the rules of clauses (ii) and  
17 (iii) of paragraph (5)(A) shall apply for pur-  
18 poses of this paragraph.

19 “(C) NEGATIVE QUALIFIED PUBLICLY  
20 TRADED PARTNERSHIP INCOME REQUIRED TO  
21 BE TAKEN INTO ACCOUNT.—If the qualified  
22 publicly traded partnership income of the com-  
23 pany is less than zero, such income shall be re-  
24 ported by the company under subparagraph  
25 (A)(ii).

1           “(D) REGULATIONS.—The Secretary shall  
2           issue such regulations or other guidance as may  
3           be necessary or appropriate to carry out the  
4           purposes of this paragraph.”.

5           (b) AMENDMENTS RELATING TO SECTION 13204.—

6           (1) Section 168(e)(3)(E) is amended by striking  
7           “and” at the end of clause (v), by striking the pe-  
8           riod at the end of clause (vi) and inserting “, and”,  
9           and by adding at the end the following new clause:

10                   “(vii) any qualified improvement prop-  
11                   erty.”.

12           (2) The table contained in subparagraph (B) of  
13           section 168(g)(3) is amended—

14                   (A) by striking the item relating to sub-  
15                   paragraph (D)(v), and

16                   (B) by inserting after the item relating to  
17                   subparagraph (E)(vi) the following new item:

“(E)(vii) ..... 20”.

18           (c) AMENDMENT RELATING TO SECTION 13302.—

19           Section 13302(e)(2) of Public Law 115-97 is amended by  
20           striking “ending” and inserting “beginning”.

21           (d) AMENDMENT RELATING TO SECTION 13307.—

22           Section 162(q)(2) is amended by inserting “in the case  
23           of the taxpayer for whom a deduction is disallowed by rea-  
24           son of paragraph (1),” before “attorney’s fees”.

1 (e) AMENDMENT RELATING TO SECTION 14103.—  
2 Section 965(h) is amended by adding at the end the fol-  
3 lowing new paragraphs:

4 “(7) EXCESS REMITTANCE OF INSTALLMENT  
5 SUBJECT TO CREDIT OR REFUND.—

6 “(A) IN GENERAL.—In the case of a re-  
7 quest to credit or refund any excess remittance  
8 with respect to an installment under this sub-  
9 section—

10 “(i) the Secretary, within the applica-  
11 ble period of limitations, may credit the  
12 amount of any excess remittance, without  
13 interest, against any liability in respect of  
14 an internal revenue tax on the part of the  
15 person who made the excess remittance  
16 and may refund the excess remittance,  
17 without interest, to such person in the  
18 same manner as if it were an overpayment  
19 of tax for purposes of section 6402, and

20 “(ii) the first sentence of section 6403  
21 shall not apply with respect to such install-  
22 ment.

23 “(B) EXCESS REMITTANCE.—For purposes  
24 of this paragraph, the term ‘excess remittance’

1 means a payment, including an estimated in-  
2 come tax payment, that exceeds the sum of—

3 “(i) the net income tax liability de-  
4 scribed under section 965(h)(6)(A)(ii), plus

5 “(ii) the sum of all installments for  
6 which the payment due date under this  
7 subsection has passed.

8 “(8) INSTALLMENTS NOT TO PREVENT ADJUST-  
9 MENT OF OVERPAYMENT OF ESTIMATED INCOME  
10 TAX BY CORPORATION.—In the case of any tax due  
11 as an installment under this subsection, the tax in-  
12 stallment shall not be taken into account as a tax  
13 for purposes of section 6425(c)(1)(A) until the date  
14 on which the tax installment is due.”.

15 (f) EFFECTIVE DATES.—Except as otherwise pro-  
16 vided in this section, the amendments made by this section  
17 shall take effect as if included in the provision of Public  
18 Law 115-97 to which they relate.

19 **SEC. 502. CLARIFICATION OF TREATMENT OF VETERANS AS**  
20 **SPECIFIED GROUP FOR PURPOSES OF THE**  
21 **LOW-INCOME HOUSING TAX CREDIT.**

22 For purposes of section 42(g)(9)(B) of the Internal  
23 Revenue Code of 1986, veterans shall not fail to be treated  
24 as a specified group under a Federal program.

1 **SEC. 503. CLARIFICATION OF GENERAL PUBLIC USE RE-**  
2 **QUIREMENT FOR QUALIFIED RESIDENTIAL**  
3 **RENTAL PROJECTS.**

4 (a) IN GENERAL.—Section 142(d)(2) is amended by  
5 adding at the end the following new subparagraph:

6 “(F) CLARIFICATION OF GENERAL PUBLIC USE  
7 REQUIREMENT.—Rules similar to the rules of sec-  
8 tion 42(g)(9) shall apply for purposes of this sub-  
9 section.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to bonds issued before, on, or after  
12 the date of enactment of this Act.

13 **DIVISION B—TAXPAYER FIRST**  
14 **ACT OF 2018**

15 **SECTION 1. SHORT TITLE; ETC.**

16 (a) SHORT TITLE.—This division may be cited as the  
17 “Taxpayer First Act of 2018”.

18 (b) AMENDMENT OF 1986 CODE.—Except as other-  
19 wise expressly provided, whenever in this division an  
20 amendment or repeal is expressed in terms of an amend-  
21 ment to, or repeal of, a section or other provision, the ref-  
22 erence shall be considered to be made to a section or other  
23 provision of the Internal Revenue Code of 1986.

24 (c) TABLE OF CONTENTS.—The table of contents for  
25 this division is as follows:

Sec. 1. Short title; etc.

TITLE I—PUTTING TAXPAYERS FIRST

Subtitle A—Independent Appeals Process

Sec. 1001. Establishment of Internal Revenue Service Independent Office of Appeals.

Subtitle B—Improved Service

Sec. 1101. Comprehensive customer service strategy.  
Sec. 1102. IRS Free File Program.  
Sec. 1103. Low-income exception for payments otherwise required in connection with a submission of an offer-in-compromise.

Subtitle C—Sensible Enforcement

Sec. 1201. Internal Revenue Service seizure requirements with respect to structuring transactions.  
Sec. 1202. Exclusion of interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.  
Sec. 1203. Clarification of equitable relief from joint liability.  
Sec. 1204. Modification of procedures for issuance of third-party summons.  
Sec. 1205. Private debt collection and special compliance personnel program.  
Sec. 1206. Reform of notice of contact of third parties.  
Sec. 1207. Modification of authority to issue designated summons.  
Sec. 1208. Limitation on access of non-Internal Revenue Service employees to returns and return information.

Subtitle D—Organizational Modernization

Sec. 1301. Office of the National Taxpayer Advocate.  
Sec. 1302. Modernization of Internal Revenue Service organizational structure.

Subtitle E—Other Provisions

Sec. 1401. Return preparation programs for applicable taxpayers.  
Sec. 1402. Provision of information regarding low-income taxpayer clinics.  
Sec. 1403. Notice from IRS regarding closure of taxpayer assistance centers.  
Sec. 1404. Rules for seizure and sale of perishable goods restricted to only perishable goods.  
Sec. 1405. Whistleblower reforms.  
Sec. 1406. Customer service information.  
Sec. 1407. Misdirected tax refund deposits.

TITLE II—21ST CENTURY IRS

Subtitle A—Cybersecurity and Identity Protection

Sec. 2001. Public-private partnership to address identity theft refund fraud.  
Sec. 2002. Recommendations of Electronic Tax Administration Advisory Committee regarding identity theft refund fraud.  
Sec. 2003. Information sharing and analysis center.  
Sec. 2004. Compliance by contractors with confidentiality safeguards.  
Sec. 2005. Report on electronic payments.  
Sec. 2006. Identity protection personal identification numbers.  
Sec. 2007. Single point of contact for tax-related identity theft victims.  
Sec. 2008. Notification of suspected identity theft.  
Sec. 2009. Guidelines for stolen identity refund fraud cases.



Sec. 2010. Increased penalty for improper disclosure or use of information by preparers of returns.

Subtitle B—Development of Information Technology

Sec. 2101. Management of Internal Revenue Service information technology.  
Sec. 2102. Development of online accounts and portals.  
Sec. 2103. Internet platform for Form 1099 filings.  
Sec. 2104. Streamlined critical pay authority for information technology positions.

Subtitle C—Modernization of Consent-based Income Verification System

Sec. 2201. Disclosure of taxpayer information for third-party income verification.  
Sec. 2202. Limit redisclosures and uses of consent-based disclosures of tax return information.

Subtitle D—Expanded Use of Electronic Systems

Sec. 2301. Electronic filing of returns.  
Sec. 2302. Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners.  
Sec. 2303. Payment of taxes by debit and credit cards.  
Sec. 2304. Requirement that electronically prepared paper returns include scannable code.  
Sec. 2305. Authentication of users of electronic services accounts.

Subtitle E—Other Provisions

Sec. 2401. Repeal of provision regarding certain tax compliance procedures and reports.  
Sec. 2402. Comprehensive training strategy.

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Reform of Laws Governing Internal Revenue Service Employees

Sec. 3001. Electronic record retention.  
Sec. 3002. Prohibition on rehiring any employee of the Internal Revenue Service who was involuntarily separated from service for misconduct.  
Sec. 3003. Notification of unauthorized inspection or disclosure of returns and return information.

Subtitle B—Provisions Relating to Exempt Organizations

Sec. 3101. Mandatory e-filing by exempt organizations.  
Sec. 3102. Notice required before revocation of tax exempt status for failure to file return.

Subtitle C—Tax Court

Sec. 3301. Disqualification of judge or magistrate judge of the Tax Court.  
Sec. 3302. Opinions and judgments.  
Sec. 3303. Title of special trial judge changed to magistrate judge of the Tax Court.  
Sec. 3304. Repeal of deadwood related to Board of Tax Appeals.

1     **TITLE I—PUTTING TAXPAYERS**  
2                     **FIRST**  
3     **Subtitle A—Independent Appeals**  
4                     **Process**

5     **SEC. 1001. ESTABLISHMENT OF INTERNAL REVENUE SERV-**  
6                     **ICE INDEPENDENT OFFICE OF APPEALS.**

7             (a) IN GENERAL.—Section 7803 is amended by add-  
8     ing at the end the following new subsection:

9             “(e) INDEPENDENT OFFICE OF APPEALS.—

10                 “(1) ESTABLISHMENT.—There is established in  
11     the Internal Revenue Service an office to be known  
12     as the ‘Internal Revenue Service Independent Office  
13     of Appeals’.

14                 “(2) CHIEF OF APPEALS.—

15                     “(A) IN GENERAL.—The Internal Revenue  
16     Service Independent Office of Appeals shall be  
17     under the supervision and direction of an offi-  
18     cial to be known as the ‘Chief of Appeals’. The  
19     Chief of Appeals shall report directly to the  
20     Commissioner of the Internal Revenue Service  
21     and shall be entitled to compensation at the  
22     same rate as the highest rate of basic pay es-  
23     tablished for the Senior Executive Service under  
24     section 5382 of title 5, United States Code.

1           “(B) APPOINTMENT.—The Chief of Ap-  
2           peals shall be appointed by the Commissioner of  
3           the Internal Revenue Service without regard to  
4           the provisions of title 5, United States Code, re-  
5           lating to appointments in the competitive serv-  
6           ice or the Senior Executive Service.

7           “(C) QUALIFICATIONS.—An individual ap-  
8           pointed under subparagraph (B) shall have ex-  
9           perience and expertise in—

10                   “(i) administration of, and compliance  
11                   with, Federal tax laws,

12                   “(ii) a broad range of compliance  
13                   cases, and

14                   “(iii) management of large service or-  
15                   ganizations.

16           “(3) PURPOSES AND DUTIES OF OFFICE.—It  
17           shall be the function of the Internal Revenue Service  
18           Independent Office of Appeals to resolve Federal tax  
19           controversies without litigation on a basis which—

20                   “(A) is fair and impartial to both the Gov-  
21                   ernment and the taxpayer,

22                   “(B) promotes a consistent application and  
23                   interpretation of, and voluntary compliance  
24                   with, the Federal tax laws, and

1           “(C) enhances public confidence in the in-  
2           tegrity and efficiency of the Internal Revenue  
3           Service.

4           “(4) RIGHT OF APPEAL.—The resolution proc-  
5           ess described in paragraph (3) shall be generally  
6           available to all taxpayers.

7           “(5) LIMITATION ON DESIGNATION OF CASES  
8           AS NOT ELIGIBLE FOR REFERRAL TO INDEPENDENT  
9           OFFICE OF APPEALS.—

10           “(A) IN GENERAL.—If any taxpayer which  
11           is in receipt of a notice of deficiency authorized  
12           under section 6212 requests referral to the In-  
13           ternal Revenue Service Independent Office of  
14           Appeals and such request is denied, the Com-  
15           missioner of the Internal Revenue Service shall  
16           provide such taxpayer a written notice which—

17           “(i) provides a detailed description of  
18           the facts involved, the basis for the deci-  
19           sion to deny the request, and a detailed ex-  
20           planation of how the basis of such decision  
21           applies to such facts, and

22           “(ii) describes the procedures pre-  
23           scribed under subparagraph (C) for pro-  
24           testing the decision to deny the request.

1           “(B) REPORT TO CONGRESS.—The Com-  
2           missioner of the Internal Revenue Service shall  
3           submit a written report to Congress on an an-  
4           nual basis which includes the number of re-  
5           quests described in subparagraph (A) which  
6           were denied and the reasons (described by cat-  
7           egory) that such requests were denied.

8           “(C) PROCEDURES FOR PROTESTING DE-  
9           NIAL OF REQUEST.—The Commissioner of the  
10          Internal Revenue Service shall prescribe proce-  
11          dures for protesting to the Commissioner of the  
12          Internal Revenue Service a denial of a request  
13          described in subparagraph (A).

14          “(D) NOT APPLICABLE TO FRIVOLOUS PO-  
15          SITIONS.—This paragraph shall not apply to a  
16          request for referral to the Internal Revenue  
17          Service Independent Office of Appeals which is  
18          denied on the basis that the issue involved is a  
19          frivolous position (within the meaning of section  
20          6702(c)).

21          “(6) STAFF.—

22          “(A) IN GENERAL.—All personnel in the  
23          Internal Revenue Service Independent Office of  
24          Appeals shall report to the Chief of Appeals.

1           “(B) ACCESS TO STAFF OF OFFICE OF  
2 THE CHIEF COUNSEL.—The Chief of Appeals  
3 shall have authority to obtain legal assistance  
4 and advice from the staff of the Office of the  
5 Chief Counsel. The Chief Counsel shall ensure  
6 that such assistance and advice is provided by  
7 staff of the Office of the Chief Counsel who  
8 were not involved in the case with respect to  
9 which such assistance and advice is sought and  
10 who are not involved in preparing such case for  
11 litigation.

12           “(7) ACCESS TO CASE FILES.—

13           “(A) IN GENERAL.—In any case in which  
14 a conference with the Internal Revenue Service  
15 Independent Office of Appeals has been sched-  
16 uled upon request of a specified taxpayer, the  
17 Chief of Appeals shall ensure that such tax-  
18 payer is provided access to the nonprivileged  
19 portions of the case file on record regarding the  
20 disputed issues (other than documents provided  
21 by the taxpayer to the Internal Revenue Serv-  
22 ice) not later than 10 days before the date of  
23 such conference.

24           “(B) TAXPAYER ELECTION TO EXPEDITE  
25 CONFERENCE.—If the taxpayer so elects, sub-

1 paragraph (A) shall be applied by substituting  
2 ‘the date of such conference’ for ‘10 days before  
3 the date of such conference’.

4 “(C) SPECIFIED TAXPAYER.—For pur-  
5 poses of this paragraph—

6 “(i) IN GENERAL.—The term ‘speci-  
7 fied taxpayer’ means—

8 “(I) in the case of any taxpayer  
9 who is a natural person, a taxpayer  
10 whose adjusted gross income does not  
11 exceed \$400,000 for the taxable year  
12 to which the dispute relates, and

13 “(II) in the case of any other  
14 taxpayer, a taxpayer whose gross re-  
15 ceipts do not exceed \$5,000,000 for  
16 the taxable year to which the dispute  
17 relates.

18 “(ii) AGGREGATION RULE.—Rules  
19 similar to the rules of section 448(c)(2)  
20 shall apply for purposes of clause (i)(II).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The following provisions are each amended  
23 by striking “Internal Revenue Service Office of Ap-  
24 peals” and inserting “Internal Revenue Service  
25 Independent Office of Appeals”:

1 (A) Section 6015(c)(4)(B)(ii)(I).

2 (B) Section 6320(b)(1).

3 (C) Subsections (b)(1) and (d)(3) of sec-  
4 tion 6330.

5 (D) Section 6603(d)(3)(B).

6 (E) Section 6621(c)(2)(A)(i).

7 (F) Section 7122(e)(2).

8 (G) Subsections (a), (b)(1), (b)(2), and  
9 (c)(1) of section 7123.

10 (H) Subsections (c)(7)(B)(i), and (g)(2)(A)  
11 of section 7430.

12 (I) Section 7522(b)(3).

13 (J) Section 7612(c)(2)(A).

14 (2) Section 7430(c)(2) is amended by striking  
15 “Internal Revenue Service Office of Appeals” each  
16 place it appears and inserting “Internal Revenue  
17 Service Independent Office of Appeals”.

18 (3) The heading of section 6330(d)(3) is  
19 amended by inserting “INDEPENDENT” after “IRS”.

20 (c) OTHER REFERENCES.—Any reference in any pro-  
21 vision of law, or regulation or other guidance, to the Inter-  
22 nal Revenue Service Office of Appeals shall be treated as  
23 a reference to the Internal Revenue Service Independent  
24 Office of Appeals.



1 (d) SAVINGS PROVISIONS.—Rules similar to the rules  
2 of paragraphs (2) through (6) of section 1001(b) of the  
3 Internal Revenue Service Restructuring and Reform Act  
4 of 1998 shall apply for purposes of this section (and the  
5 amendments made by this section).

6 (e) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as otherwise pro-  
8 vided in this subsection, the amendments made by  
9 this section shall take effect on the date of the en-  
10 actment of this Act.

11 (2) ACCESS TO CASE FILES.—Section  
12 7803(e)(7) of the Internal Revenue Code of 1986, as  
13 added by subsection (a), shall apply to conferences  
14 occurring after the date which is 1 year after the  
15 date of the enactment of this Act.

## 16 **Subtitle B—Improved Service**

### 17 **SEC. 1101. COMPREHENSIVE CUSTOMER SERVICE STRAT-** 18 **EGY.**

19 (a) IN GENERAL.—Not later than the date which is  
20 1 year after the date of the enactment of this Act, the  
21 Secretary of the Treasury shall submit to Congress a writ-  
22 ten comprehensive customer service strategy for the Inter-  
23 nal Revenue Service. Such strategy shall include—

24 (1) a plan to provide assistance to taxpayers  
25 that is secure, designed to meet reasonable taxpayer

1 expectations, and adopts appropriate best practices  
2 of customer service provided in the private sector,  
3 including online services, telephone call back serv-  
4 ices, and training of employees providing customer  
5 services,

6 (2) a thorough assessment of the services that  
7 the Internal Revenue Service can co-locate with  
8 other Federal services or offer as self-service op-  
9 tions,

10 (3) proposals to improve Internal Revenue Serv-  
11 ice customer service in the short term (the current  
12 and following fiscal year), medium term (approx-  
13 imately 3 to 5 fiscal years), and long term (approx-  
14 imately 10 fiscal years),

15 (4) a plan to update guidance and training ma-  
16 terials for customer service employees of the Internal  
17 Revenue Service, including the Internal Revenue  
18 Manual, to reflect such strategy, and

19 (5) identified metrics and benchmarks for quan-  
20 titatively measuring the progress of the Internal  
21 Revenue Service in implementing such strategy.

22 (b) UPDATED GUIDANCE AND TRAINING MATE-  
23 RIALS.—Not later than 2 years after the date of the enact-  
24 ment of this Act, the Secretary of the Treasury (or the  
25 Secretary's delegate) shall make available the updated

1 guidance and training materials described in subsection  
2 (a)(4) (including the Internal Revenue Manual). Such up-  
3 dated guidance and training materials (including the In-  
4 ternal Revenue Manual) shall be written in a manner so  
5 as to be easily understood by customer service employees  
6 of the Internal Revenue Service and shall provide clear  
7 instructions.

8 **SEC. 1102. IRS FREE FILE PROGRAM.**

9 (a) IN GENERAL.—

10 (1) The Secretary of the Treasury, or the Sec-  
11 retary's delegate, shall continue to operate the IRS  
12 Free File Program as established by the Internal  
13 Revenue Service and published in the Federal Reg-  
14 ister on November 4, 2002 (67 Fed. Reg. 67247),  
15 including any subsequent agreements and governing  
16 rules established pursuant thereto.

17 (2) The IRS Free File Program shall continue  
18 to provide free commercial-type online individual in-  
19 come tax preparation and electronic filing services to  
20 the lowest 70 percent of taxpayers by adjusted gross  
21 income. The number of taxpayers eligible to receive  
22 such services each year shall be calculated by the In-  
23 ternal Revenue Service annually based on prior year  
24 aggregate taxpayer adjusted gross income data.

1           (3) In addition to the services described in  
2           paragraph (2), and in the same manner, the IRS  
3           Free File Program shall continue to make available  
4           to all taxpayers (without regard to income) a basic,  
5           online electronic fillable forms utility.

6           (4) The IRS Free File Program shall continue  
7           to work cooperatively with the private sector to pro-  
8           vide the free individual income tax preparation and  
9           the electronic filing services described in paragraphs  
10          (2) and (3).

11          (5) The IRS Free File Program shall work co-  
12          operatively with State government agencies to en-  
13          hance and expand the use of the program to provide  
14          needed benefits to the taxpayer while reducing the  
15          cost of processing returns.

16          (b) INNOVATIONS.—The Secretary of the Treasury,  
17          or the Secretary's delegate, shall work with the private  
18          sector through the IRS Free File Program to identify and  
19          implement, consistent with applicable law, innovative new  
20          program features to improve and simplify the taxpayer's  
21          experience with completing and filing individual income  
22          tax returns through voluntary compliance.

1 **SEC. 1103. LOW-INCOME EXCEPTION FOR PAYMENTS OTH-**  
2 **ERWISE REQUIRED IN CONNECTION WITH A**  
3 **SUBMISSION OF AN OFFER-IN-COMPROMISE.**

4 (a) IN GENERAL.—Section 7122(e) is amended by  
5 adding at the end the following new paragraph:

6 “(3) EXCEPTION FOR LOW-INCOME TAX-  
7 PAYERS.—Paragraph (1), and any user fee otherwise  
8 required in connection with the submission of an  
9 offer-in-compromise, shall not apply to any offer-in-  
10 compromise with respect to a taxpayer who is an in-  
11 dividual with adjusted gross income, as determined  
12 for the most recent taxable year for which such in-  
13 formation is available, which does not exceed 250  
14 percent of the applicable poverty level (as deter-  
15 mined by the Secretary).”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to offers-in-compromise submitted  
18 after the date of the enactment of this Act.

19 **Subtitle C—Sensible Enforcement**

20 **SEC. 1201. INTERNAL REVENUE SERVICE SEIZURE RE-**  
21 **QUIREMENTS WITH RESPECT TO STRUC-**  
22 **TURING TRANSACTIONS.**

23 Section 5317(c)(2) of title 31, United States Code,  
24 is amended—

25 (1) by striking “Any property” and inserting  
26 the following:

1                   “(A) IN GENERAL.—Any property”; and  
2                   (2) by adding at the end the following:

3                   “(B) INTERNAL REVENUE SERVICE SEI-  
4                   ZURE REQUIREMENTS WITH RESPECT TO  
5                   STRUCTURING TRANSACTIONS.—

6                   “(i) PROPERTY DERIVED FROM AN IL-  
7                   LEGAL SOURCE.—Property may only be  
8                   seized by the Internal Revenue Service  
9                   pursuant to subparagraph (A) by reason of  
10                  a claimed violation of section 5324 if the  
11                  property to be seized was derived from an  
12                  illegal source or the funds were structured  
13                  for the purpose of concealing the violation  
14                  of a criminal law or regulation other than  
15                  section 5324.

16                  “(ii) NOTICE.—Not later than 30  
17                  days after property is seized by the Inter-  
18                  nal Revenue Service pursuant to subpara-  
19                  graph (A), the Internal Revenue Service  
20                  shall—

21                               “(I) make a good faith effort to  
22                               find all persons with an ownership in-  
23                               terest in such property; and

24                               “(II) provide each such person so  
25                               found with a notice of the seizure and

1 of the person's rights under clause  
2 (iv).

3 “(iii) EXTENSION OF NOTICE UNDER  
4 CERTAIN CIRCUMSTANCES.—The Internal  
5 Revenue Service may apply to a court of  
6 competent jurisdiction for one 30-day ex-  
7 tension of the notice requirement under  
8 clause (ii) if the Internal Revenue Service  
9 can establish probable cause of an immi-  
10 nent threat to national security or personal  
11 safety necessitating such extension.

12 “(iv) POST-SEIZURE HEARING.—If a  
13 person with an ownership interest in prop-  
14 erty seized pursuant to subparagraph (A)  
15 by the Internal Revenue Service requests a  
16 hearing by a court of competent jurisdic-  
17 tion within 30 days after the date on which  
18 notice is provided under subclause (ii),  
19 such property shall be returned unless the  
20 court holds an adversarial hearing and  
21 finds within 30 days of such request (or  
22 such longer period as the court may pro-  
23 vide, but only on request of an interested  
24 party) that there is probable cause to be-  
25 lieve that there is a violation of section

1           5324 involving such property and probable  
2           cause to believe that the property to be  
3           seized was derived from an illegal source or  
4           the funds were structured for the purpose  
5           of concealing the violation of a criminal  
6           law or regulation other than section  
7           5324.”.

8   **SEC. 1202. EXCLUSION OF INTEREST RECEIVED IN ACTION**  
9                   **TO RECOVER PROPERTY SEIZED BY THE IN-**  
10                   **TERNAL REVENUE SERVICE BASED ON**  
11                   **STRUCTURING TRANSACTION.**

12       (a) IN GENERAL.—Part III of subchapter B of chap-  
13   ter 1 is amended by inserting before section 140 the fol-  
14   lowing new section:

15   **“SEC. 139H. INTEREST RECEIVED IN ACTION TO RECOVER**  
16                   **PROPERTY SEIZED BY THE INTERNAL REV-**  
17                   **ENUE SERVICE BASED ON STRUCTURING**  
18                   **TRANSACTION.**

19       “Gross income shall not include any interest received  
20   from the Federal Government in connection with an action  
21   to recover property seized by the Internal Revenue Service  
22   pursuant to section 5317(c)(2) of title 31, United States  
23   Code, by reason of a claimed violation of section 5324 of  
24   such title.”.



1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for part III of subchapter B of chapter 1 is amended by  
3 inserting before the item relating to section 140 the fol-  
4 lowing new item:

“Sec. 139H. Interest received in action to recover property seized by the Inter-  
nal Revenue Service based on structuring transaction.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to interest received on or after the  
7 date of the enactment of this Act.

8 **SEC. 1203. CLARIFICATION OF EQUITABLE RELIEF FROM**  
9 **JOINT LIABILITY.**

10 (a) IN GENERAL.—Section 6015 is amended—

11 (1) in subsection (e), by adding at the end the  
12 following new paragraph:

13 “(7) STANDARD AND SCOPE OF REVIEW.—Any  
14 review of a determination made under this section  
15 shall be reviewed de novo by the Tax Court and shall  
16 be based upon—

17 “(A) the administrative record established  
18 at the time of the determination, and

19 “(B) any additional newly discovered or  
20 previously unavailable evidence.”, and

21 (2) by amending subsection (f) to read as fol-  
22 lows:

23 “(f) EQUITABLE RELIEF.—

1           “(1) IN GENERAL.—Under procedures pre-  
2           scribed by the Secretary, if—

3                   “(A) taking into account all the facts and  
4                   circumstances, it is inequitable to hold the indi-  
5                   vidual liable for any unpaid tax or any defi-  
6                   ciency (or any portion of either), and

7                   “(B) relief is not available to such indi-  
8                   vidual under subsection (b) or (c),  
9           the Secretary may relieve such individual of such li-  
10           ability.

11           “(2) LIMITATION.—A request for equitable re-  
12           lief under this subsection may be made with respect  
13           to any portion of any liability that—

14                   “(A) has not been paid, provided that such  
15                   request is made before the expiration of the ap-  
16                   plicable period of limitation under section 6502,  
17                   or

18                   “(B) has been paid, provided that such re-  
19                   quest is made during the period in which the  
20                   individual could submit a timely claim for re-  
21                   fund or credit of such payment.”.

22           (b) EFFECTIVE DATE.—The amendments made by  
23           this section shall apply to petitions or requests filed or  
24           pending on or after the date of the enactment of this Act.

1 **SEC. 1204. MODIFICATION OF PROCEDURES FOR ISSUANCE**  
2 **OF THIRD-PARTY SUMMONS.**

3 (a) **IN GENERAL.**—Section 7609(f) is amended by  
4 adding at the end the following flush sentence:

5 “The Secretary shall not issue any summons described in  
6 the preceding sentence unless the information sought to  
7 be obtained is narrowly tailored to information that per-  
8 tains to the failure (or potential failure) of the person or  
9 group or class of persons referred to in paragraph (2) to  
10 comply with one or more provisions of the internal revenue  
11 law which have been identified for purposes of such para-  
12 graph.”.

13 (b) **EFFECTIVE DATE.**—The amendments made by  
14 this section shall apply to summonses served after the date  
15 of the enactment of this Act.

16 **SEC. 1205. PRIVATE DEBT COLLECTION AND SPECIAL COM-**  
17 **PLIANCE PERSONNEL PROGRAM.**

18 (a) **CERTAIN TAX RECEIVABLES NOT ELIGIBLE FOR**  
19 **COLLECTION UNDER TAX COLLECTION CONTRACTS.**—  
20 Section 6306(d)(3) is amended by striking “or” at the end  
21 of subparagraph (C) and by inserting after subparagraph  
22 (D) the following new subparagraphs:

23 “(E) a taxpayer substantially all of whose  
24 income consists of disability insurance benefits  
25 under section 223 of the Social Security Act or  
26 supplemental security income benefits under

1 title XVI of the Social Security Act (including  
2 supplemental security income benefits of the  
3 type described in section 1616 of such Act or  
4 section 212 of Public Law 93-66), or

5 “(F) a taxpayer who is an individual with  
6 adjusted gross income, as determined for the  
7 most recent taxable year for which such infor-  
8 mation is available, which does not exceed 200  
9 percent of the applicable poverty level (as deter-  
10 mined by the Secretary),”.

11 (b) DETERMINATION OF INACTIVE TAX RECEIV-  
12 ABLES ELIGIBLE FOR COLLECTION UNDER TAX COLLEC-  
13 TION CONTRACTS.—Section 6306(c)(2)(A)(ii) is amended  
14 by striking “more than  $\frac{1}{3}$  of the period of the applicable  
15 statute of limitation has lapsed” and inserting “more than  
16 2 years has passed since assessment”.

17 (c) MAXIMUM LENGTH OF INSTALLMENT AGREE-  
18 MENTS OFFERED UNDER TAX COLLECTION CON-  
19 TRACTS.—Section 6306(b)(1)(B) is amended by striking  
20 “5 years” and inserting “7 years”.

21 (d) CLARIFICATION THAT SPECIAL COMPLIANCE  
22 PERSONNEL PROGRAM ACCOUNT MAY BE USED FOR  
23 PROGRAM COSTS.—

24 (1) IN GENERAL.—Section 6307(b) is amend-  
25 ed—

1 (A) in paragraph (2), by striking all that  
2 follows “under such program” and inserting a  
3 period, and

4 (B) in paragraph (3), by striking all that  
5 follows “out of such account” and inserting  
6 “for other than program costs”.

7 (2) COMMUNICATIONS, SOFTWARE, AND TECH-  
8 NOLOGY COSTS TREATED AS PROGRAM COSTS.—Sec-  
9 tion 6307(d)(2)(B) is amended by striking “tele-  
10 communications” and inserting “communications,  
11 software, technology”.

12 (3) CONFORMING AMENDMENT.—Section  
13 6307(d)(2) is amended by striking “and” at the end  
14 of subparagraph (A), by striking the period at the  
15 end of subparagraph (B) and inserting “, and”, and  
16 by inserting after subparagraph (B) the following  
17 new subparagraph:

18 “(C) reimbursement of the Internal Rev-  
19 enue Service or other government agencies for  
20 the cost of administering qualified tax collection  
21 contracts under section 6306.”.

22 (e) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as otherwise pro-  
24 vided in this subsection, the amendments made by  
25 this section shall apply to tax receivables identified

1 by the Secretary (or the Secretary's delegate) after  
2 December 31, 2019.

3 (2) MAXIMUM LENGTH OF INSTALLMENT  
4 AGREEMENTS.—The amendment made by subsection  
5 (c) shall apply to contracts entered into after the  
6 date of the enactment of this Act.

7 (3) USE OF SPECIAL COMPLIANCE PERSONNEL  
8 PROGRAM ACCOUNT.—The amendment made by sub-  
9 section (d) shall apply to amounts expended from  
10 the special compliance personnel program account  
11 after the date of the enactment of this Act.

12 **SEC. 1206. REFORM OF NOTICE OF CONTACT OF THIRD**  
13 **PARTIES.**

14 (a) IN GENERAL.—Section 7602(c)(1) is amended to  
15 read as follows:

16 “(1) GENERAL NOTICE.—An officer or em-  
17 ployee of the Internal Revenue Service may not con-  
18 tact any person other than the taxpayer with respect  
19 to the determination or collection of the tax liability  
20 of such taxpayer unless such contact occurs during  
21 a period (not greater than 1 year) which is specified  
22 in a notice which—

23 “(A) informs the taxpayer that contacts  
24 with persons other than the taxpayer are in-  
25 tended to be made during such period, and



1 gram” and inserting “coordinated industry case pro-  
2 gram”.

3 (b) REQUIREMENTS FOR SUMMONS.—Clause (i) of  
4 section 6503(j)(2)(A) is amended to read as follows:

5 “(i) the issuance of such summons is  
6 preceded by a review and written approval  
7 of such issuance by the Commissioner of  
8 the relevant operating division of the Inter-  
9 nal Revenue Service and the Chief Counsel  
10 which—

11 “(I) states facts clearly estab-  
12 lishing that the Secretary has made  
13 reasonable requests for the informa-  
14 tion that is the subject of the sum-  
15 mons, and

16 “(II) is attached to such sum-  
17 mons,”.

18 (c) ESTABLISHMENT THAT REASONABLE REQUESTS  
19 FOR INFORMATION WERE MADE.—Subsection (j) of sec-  
20 tion 6503 is amended by adding at the end the following  
21 new paragraph:

22 “(4) ESTABLISHMENT THAT REASONABLE RE-  
23 QUESTS FOR INFORMATION WERE MADE.—In any  
24 court proceeding described in paragraph (3), the  
25 Secretary shall establish that reasonable requests





1           (1) shall take effect on the date of the enact-  
2           ment of this Act, and

3           (2) shall not fail to apply to a contract in effect  
4           under section 6103(n) of the Internal Revenue Code  
5           of 1986 merely because such contract was in effect  
6           before the date of the enactment of this Act.

## 7           **Subtitle D—Organizational** 8           **Modernization**

### 9   **SEC. 1301. OFFICE OF THE NATIONAL TAXPAYER ADVOCATE.** 10           **CATE.**

11           (a) TAXPAYER ADVOCATE DIRECTIVES.—

12           (1) IN GENERAL.—Section 7803(c) is amended  
13           by adding at the end the following new paragraph:

14           “(5) TAXPAYER ADVOCATE DIRECTIVES.—In  
15           the case of any Taxpayer Advocate Directive issued  
16           by the National Taxpayer Advocate pursuant to a  
17           delegation of authority from the Commissioner of  
18           the Internal Revenue Service—

19           “(A) the Commissioner or a Deputy Com-  
20           missioner shall modify, rescind, or ensure com-  
21           pliance with such directive not later than 90  
22           days after the issuance of such directive, and

23           “(B) in the case of any directive which is  
24           modified or rescinded by a Deputy Commis-  
25           sioner, the National Taxpayer Advocate may

1 (not later than 90 days after such modification  
2 or rescission) appeal to the Commissioner and  
3 the Commissioner shall (not later than 90 days  
4 after such appeal is made) ensure compliance  
5 with such directive as issued by the National  
6 Taxpayer Advocate or provide the National  
7 Taxpayer Advocate with a detailed description  
8 of the reasons for any modification or rescission  
9 made or upheld by the Commissioner pursuant  
10 to such appeal.”.

11 (2) REPORT TO CERTAIN COMMITTEES OF CON-  
12 GRESS REGARDING DIRECTIVES.—Section  
13 7803(c)(2)(B)(ii) is amended by redesignating sub-  
14 clauses (VIII) through (XI) as subclauses (IX)  
15 through (XII), respectively, and by inserting after  
16 subclause (VII) the following new subclause:

17 “(VIII) identify any Taxpayer  
18 Advocate Directive which was not  
19 honored by the Internal Revenue  
20 Service in a timely manner, as speci-  
21 fied under paragraph (5);”.

22 (b) NATIONAL TAXPAYER ADVOCATE ANNUAL RE-  
23 PORTS TO CONGRESS.—

24 (1) INCLUSION OF MOST SERIOUS TAXPAYER  
25 PROBLEMS.—Section 7803(c)(2)(B)(ii)(III) is

1 amended by striking “at least 20 of the” and insert-  
2 ing “the 10”.

3 (2) COORDINATION WITH TREASURY INSPECTOR  
4 GENERAL FOR TAX ADMINISTRATION.—Section  
5 7803(e)(2) is amended by adding at the end the fol-  
6 lowing new subparagraph:

7 “(E) COORDINATION WITH TREASURY IN-  
8 SPECTOR GENERAL FOR TAX ADMINISTRA-  
9 TION.—Before beginning any research or study,  
10 the National Taxpayer Advocate shall coordi-  
11 nate with the Treasury Inspector General for  
12 Tax Administration to ensure that the National  
13 Taxpayer Advocate does not duplicate any ac-  
14 tion that the Treasury Inspector General for  
15 Tax Administration has already undertaken or  
16 has a plan to undertake.”.

17 (3) STATISTICAL SUPPORT.—

18 (A) IN GENERAL.—Section 6108 is amend-  
19 ed by adding at the end the following new sub-  
20 section:

21 “(d) STATISTICAL SUPPORT FOR NATIONAL TAX-  
22 PAYER ADVOCATE.—The Secretary shall, upon request of  
23 the National Taxpayer Advocate, provide the National  
24 Taxpayer Advocate with statistical support in connection  
25 with the preparation by the National Taxpayer Advocate

1 of the annual report described in section  
2 7803(c)(2)(B)(ii). Such statistical support shall include  
3 statistical studies, compilations, and the review of infor-  
4 mation provided by the National Taxpayer Advocate for  
5 statistical validity and sound statistical methodology.”.

6 (B) DISCLOSURE OF REVIEW.—Section  
7 7803(c)(2)(B)(ii), as amended by subsection  
8 (a), is amended by redesignating subclause  
9 (XII) as subclause (XIII) and by inserting after  
10 subclause (XI) the following new subclause:

11 “(XII) with respect to any statis-  
12 tical information included in such re-  
13 port, include a statement of whether  
14 such statistical information was re-  
15 viewed or provided by the Secretary  
16 under section 6108(d) and, if so,  
17 whether the Secretary determined  
18 such information to be statistically  
19 valid and based on sound statistical  
20 methodology.”.

21 (C) CONFORMING AMENDMENT.—Section  
22 7803(c)(2)(B)(iii) is amended by adding at the  
23 end the following: “The preceding sentence  
24 shall not apply with respect to statistical infor-  
25 mation provided to the Secretary for review, or

1 received from the Secretary, under section  
2 6108(d).”.

3 (c) SALARY OF NATIONAL TAXPAYER ADVOCATE.—  
4 Section 7803(c)(1)(B)(i) is amended by striking “, or, if  
5 the Secretary of the Treasury so determines, at a rate  
6 fixed under section 9503 of such title”.

7 (d) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as otherwise pro-  
9 vided in this subsection, the amendments made by  
10 this section shall take effect on the date of the en-  
11 actment of this Act.

12 (2) SALARY OF NATIONAL TAXPAYER ADVO-  
13 CATE.—The amendment made by subsection (c)  
14 shall apply to compensation paid to individuals ap-  
15 pointed as the National Taxpayer Advocate after the  
16 date of the enactment of this Act.

17 **SEC. 1302. MODERNIZATION OF INTERNAL REVENUE SERV-**  
18 **ICE ORGANIZATIONAL STRUCTURE.**

19 (a) IN GENERAL.—Not later than September 30,  
20 2020, the Commissioner of the Internal Revenue Service  
21 shall submit to Congress a comprehensive written plan to  
22 redesign the organization of the Internal Revenue Service.  
23 Such plan shall—

24 (1) ensure the successful implementation of the  
25 priorities specified by Congress in this Act,

1           (2) prioritize taxpayer services to ensure that  
2           all taxpayers easily and readily receive the assistance  
3           that they need,

4           (3) streamline the structure of the agency in-  
5           cluding minimizing the duplication of services and  
6           responsibilities within the agency,

7           (4) best position the Internal Revenue Service  
8           to combat cybersecurity and other threats to the In-  
9           ternal Revenue Service, and

10          (5) address whether the Criminal Investigation  
11          Division of the Internal Revenue Service should re-  
12          port directly to the Commissioner.

13          (b) REPEAL OF RESTRICTION ON ORGANIZATIONAL  
14          STRUCTURE OF INTERNAL REVENUE SERVICE.—Para-  
15          graph (3) of section 1001(a) of the Internal Revenue Serv-  
16          ice Restructuring and Reform Act of 1998 shall cease to  
17          apply beginning 1 year after the date on which the Com-  
18          missioner of the Internal Revenue Service submits to Con-  
19          gress the plan described in subsection (a).

## 20           **Subtitle E—Other Provisions**

### 21          **SEC. 1401. RETURN PREPARATION PROGRAMS FOR APPLI-** 22   **CABLE TAXPAYERS.**

23          (a) IN GENERAL.—Chapter 77 is amended by insert-  
24          ing after section 7526 the following new section:

1 **“SEC. 7526A. RETURN PREPARATION PROGRAMS FOR AP-**  
2 **PLICABLE TAXPAYERS.**

3 “(a) ESTABLISHMENT OF VOLUNTEER INCOME TAX  
4 ASSISTANCE MATCHING GRANT PROGRAM.—The Sec-  
5 retary shall establish a Community Volunteer Income Tax  
6 Assistance Matching Grant Program under which the Sec-  
7 retary may, subject to the availability of appropriated  
8 funds, make grants to provide matching funds for the de-  
9 velopment, expansion, or continuation of qualified return  
10 preparation programs assisting applicable taxpayers and  
11 members of underserved populations.

12 “(b) USE OF FUNDS.—

13 “(1) IN GENERAL.—Qualified return prepara-  
14 tion programs may use grants received under this  
15 section for—

16 “(A) ordinary and necessary costs associ-  
17 ated with program operation in accordance with  
18 cost principles under the applicable Office of  
19 Management and Budget circular, including—

20 “(i) wages or salaries of persons co-  
21 ordinating the activities of the program,

22 “(ii) developing training materials,  
23 conducting training, and performing qual-  
24 ity reviews of the returns prepared under  
25 the program,

26 “(iii) equipment purchases, and



1                   “(iv) vehicle-related expenses associ-  
2                   ated with remote or rural tax preparation  
3                   services,

4                   “(B) outreach and educational activities  
5                   described in subsection (c)(2)(B), and

6                   “(C) services related to financial education  
7                   and capability, asset development, and the es-  
8                   tablishment of savings accounts in connection  
9                   with tax return preparation.

10                  “(2) REQUIREMENT OF MATCHING FUNDS.—A  
11                  qualified return preparation program must provide  
12                  matching funds on a dollar-for-dollar basis for all  
13                  grants provided under this section. Matching funds  
14                  may include—

15                         “(A) the salary (including fringe benefits)  
16                         of individuals performing services for the pro-  
17                         gram,

18                         “(B) the cost of equipment used in the  
19                         program, and

20                         “(C) other ordinary and necessary costs  
21                         associated with the program.

22                  Indirect expenses, including general overhead of any  
23                  entity administering the program, shall not be  
24                  counted as matching funds.

25                  “(c) APPLICATION.—

1           “(1) IN GENERAL.—Each applicant for a grant  
2           under this section shall submit an application to the  
3           Secretary at such time, in such manner, and con-  
4           taining such information as the Secretary may rea-  
5           sonably require.

6           “(2) PRIORITY.—In awarding grants under this  
7           section, the Secretary shall give priority to applica-  
8           tions which demonstrate—

9                   “(A) assistance to applicable taxpayers,  
10                   with emphasis on outreach to, and services for,  
11                   such taxpayers,

12                   “(B) taxpayer outreach and educational  
13                   activities relating to eligibility and availability  
14                   of income supports available through this title,  
15                   including the earned income tax credit, and

16                   “(C) specific outreach and focus on one or  
17                   more underserved populations.

18           “(3) AMOUNTS TAKEN INTO ACCOUNT.—In de-  
19           termining matching grants under this section, the  
20           Secretary shall only take into account amounts pro-  
21           vided by the qualified return preparation program  
22           for expenses described in subsection (b).

23           “(d) PROGRAM ADHERENCE.—

24                   “(1) IN GENERAL.—The Secretary shall estab-  
25                   lish procedures for, and shall conduct not less fre-

1       quently than once every 5 calendar years during  
2       which a qualified return preparation program is op-  
3       erating under a grant under this section, periodic  
4       site visits—

5               “(A) to ensure the program is carrying out  
6       the purposes of this section, and

7               “(B) to determine whether the program  
8       meets such program adherence standards as the  
9       Secretary shall by regulation or other guidance  
10      prescribe.

11              “(2) ADDITIONAL REQUIREMENTS FOR GRANT  
12      RECIPIENTS NOT MEETING PROGRAM ADHERENCE  
13      STANDARDS.—In the case of any qualified return  
14      preparation program which—

15              “(A) is awarded a grant under this section,  
16      and

17              “(B) is subsequently determined—

18              “(i) not to meet the program adher-  
19      ence standards described in paragraph  
20      (1)(B), or

21              “(ii) not to be otherwise carrying out  
22      the purposes of this section,

23      such program shall not be eligible for any additional  
24      grants under this section unless such program pro-  
25      vides sufficient documentation of corrective meas-

1 ures established to address any such deficiencies de-  
2 termined.

3 “(e) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFIED RETURN PREPARATION PRO-  
5 GRAM.—The term ‘qualified return preparation pro-  
6 gram’ means any program—

7 “(A) which provides assistance to individ-  
8 uals, not less than 90 percent of whom are ap-  
9 plicable taxpayers, in preparing and filing Fed-  
10 eral income tax returns,

11 “(B) which is administered by a qualified  
12 entity,

13 “(C) in which all volunteers who assist in  
14 the preparation of Federal income tax returns  
15 meet the training requirements prescribed by  
16 the Secretary, and

17 “(D) which uses a quality review process  
18 which reviews 100 percent of all returns.

19 “(2) QUALIFIED ENTITY.—

20 “(A) IN GENERAL.—The term ‘qualified  
21 entity’ means any entity which—

22 “(i) is an eligible organization,

23 “(ii) is in compliance with Federal tax  
24 filing and payment requirements,

1           “(iii) is not debarred or suspended  
2           from Federal contracts, grants, or coopera-  
3           tive agreements, and

4           “(iv) agrees to provide documentation  
5           to substantiate any matching funds pro-  
6           vided pursuant to the grant program under  
7           this section.

8           “(B) ELIGIBLE ORGANIZATION.—The term  
9           ‘eligible organization’ means—

10           “(i) an institution of higher education  
11           which is described in section 102 (other  
12           than subsection (a)(1)(C) thereof) of the  
13           Higher Education Act of 1965 (20 U.S.C.  
14           1002), as in effect on the date of the en-  
15           actment of this section, and which has not  
16           been disqualified from participating in a  
17           program under title IV of such Act,

18           “(ii) an organization described in sec-  
19           tion 501(c) and exempt from tax under  
20           section 501(a),

21           “(iii) a local government agency, in-  
22           cluding—

23           “(I) a county or municipal gov-  
24           ernment agency, and

1                   “(II) an Indian tribe, as defined  
2                   in section 4(13) of the Native Amer-  
3                   ican Housing Assistance and Self-De-  
4                   termination Act of 1996 (25 U.S.C.  
5                   4103(13)), including any tribally des-  
6                   ignated housing entity (as defined in  
7                   section 4(22) of such Act (25 U.S.C.  
8                   4103(22))), tribal subsidiary, subdivi-  
9                   sion, or other wholly owned tribal en-  
10                  tity,

11                  “(iv) a local, State, regional, or na-  
12                  tional coalition (with one lead organization  
13                  which meets the eligibility requirements of  
14                  clause (i), (ii), or (iii) acting as the appli-  
15                  cant organization), or

16                  “(v) in the case of applicable tax-  
17                  payers and members of underserved popu-  
18                  lations with respect to which no organiza-  
19                  tions described in the preceding clauses are  
20                  available—

21                  “(I) a State government agency,  
22                  or

23                  “(II) an office providing Cooper-  
24                  ative Extension services (as estab-  
25                  lished at the land-grant colleges and

1                   universities under the Smith-Lever  
2                   Act of May 8, 1914).

3                   “(3) APPLICABLE TAXPAYERS.—The term ‘ap-  
4                   plicable taxpayer’ means a taxpayer whose income  
5                   for the taxable year does not exceed an amount  
6                   equal to the completed phaseout amount under sec-  
7                   tion 32(b) for a married couple filing a joint return  
8                   with three or more qualifying children, as deter-  
9                   mined in a revenue procedure or other published  
10                  guidance.

11                  “(4) UNDERSERVED POPULATION.—The term  
12                  ‘underserved population’ includes populations of per-  
13                  sons with disabilities, persons with limited English  
14                  proficiency, Native Americans, individuals living in  
15                  rural areas, members of the Armed Forces and their  
16                  spouses, and the elderly.

17                  “(f) SPECIAL RULES AND LIMITATIONS.—

18                  “(1) DURATION OF GRANTS.—Upon application  
19                  of a qualified return preparation program, the Sec-  
20                  retary is authorized to award a multi-year grant not  
21                  to exceed 3 years.

22                  “(2) AGGREGATE LIMITATION.—Unless other-  
23                  wise provided by specific appropriation, the Sec-  
24                  retary shall not allocate more than \$30,000,000 per

1 fiscal year (exclusive of costs of administering the  
2 program) to grants under this section.

3 “(g) PROMOTION OF PROGRAMS.—

4 “(1) IN GENERAL.—The Secretary shall pro-  
5 mote tax preparation through qualified return prepa-  
6 ration programs through the use of mass commu-  
7 nications and other means.

8 “(2) PROVISION OF INFORMATION REGARDING  
9 QUALIFIED RETURN PREPARATION PROGRAMS.—The  
10 Secretary may provide taxpayers information regard-  
11 ing qualified return preparation programs receiving  
12 grants under this section.

13 “(3) VITA GRANTEE REFERRAL.—Qualified re-  
14 turn preparation programs receiving a grant under  
15 this section are encouraged, in appropriate cases,  
16 to—

17 “(A) advise taxpayers of the availability of,  
18 and eligibility requirements for receiving, advice  
19 and assistance from qualified low-income tax-  
20 payer clinics receiving funding under section  
21 7526, and

22 “(B) provide information regarding the lo-  
23 cation of, and contact information for, such  
24 clinics.”.



1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 77 is amended by inserting after the item re-  
3 lating to section 7526 the following new item:

“Sec. 7526A. Return preparation programs for applicable taxpayers.”.

4 **SEC. 1402. PROVISION OF INFORMATION REGARDING LOW-**  
5 **INCOME TAXPAYER CLINICS.**

6 (a) IN GENERAL.—Section 7526(c) of the Internal  
7 Revenue Code of 1986 is amended by adding at the end  
8 the following new paragraph:

9 “(6) PROVISION OF INFORMATION REGARDING  
10 QUALIFIED LOW-INCOME TAXPAYER CLINICS.—Not-  
11 withstanding any other provision of law, officers and  
12 employees of the Department of the Treasury may—

13 “(A) advise taxpayers of the availability of,  
14 and eligibility requirements for receiving, advice  
15 and assistance from one or more specific quali-  
16 fied low-income taxpayer clinics receiving fund-  
17 ing under this section, and

18 “(B) provide information regarding the lo-  
19 cation of, and contact information for, such  
20 clinics.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall take effect on the date of the enactment  
23 of this Act.

1 **SEC. 1403. NOTICE FROM IRS REGARDING CLOSURE OF**  
2 **TAXPAYER ASSISTANCE CENTERS.**

3 Not later than 90 days before the date that a pro-  
4 posed closure of a Taxpayer Assistance Center would take  
5 effect, the Secretary of the Treasury (or the Secretary's  
6 delegate) shall—

7 (1) make publicly available (including by non-  
8 electronic means) a notice which—

9 (A) identifies the Taxpayer Assistance  
10 Center proposed for closure and the date of  
11 such proposed closure, and

12 (B) identifies the relevant alternative  
13 sources of taxpayer assistance which may be  
14 utilized by taxpayers affected by such proposed  
15 closure, and

16 (2) submit to Congress a written report that in-  
17 cludes—

18 (A) the information included in the notice  
19 described in paragraph (1),

20 (B) the reasons for such proposed closure,  
21 and

22 (C) such other information as the Sec-  
23 retary may determine appropriate.

1 **SEC. 1404. RULES FOR SEIZURE AND SALE OF PERISHABLE**  
2 **GOODS RESTRICTED TO ONLY PERISHABLE**  
3 **GOODS.**

4 (a) **IN GENERAL.**—Section 6336 of the Internal Rev-  
5 enue Code of 1986 is amended by striking “or become  
6 greatly reduced in price or value by keeping, or that such  
7 property cannot be kept without great expense”.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall apply to property seized after the date  
10 of the enactment of this Act.

11 **SEC. 1405. WHISTLEBLOWER REFORMS.**

12 (a) **MODIFICATIONS TO DISCLOSURE RULES FOR**  
13 **WHISTLEBLOWERS.**—

14 (1) **IN GENERAL.**—Section 6103(k) is amended  
15 by adding at the end the following new paragraph:

16 “(13) **DISCLOSURE TO WHISTLEBLOWERS.**—

17 “(A) **IN GENERAL.**—The Secretary may  
18 disclose, to any individual providing information  
19 relating to any purpose described in paragraph  
20 (1) or (2) of section 7623(a), return informa-  
21 tion related to the investigation of any taxpayer  
22 with respect to whom the individual has pro-  
23 vided such information, but only to the extent  
24 that such disclosure is necessary in obtaining  
25 information, which is not otherwise reasonably  
26 available, with respect to the correct determina-

1           tion of tax liability for tax, or the amount to be  
2           collected with respect to the enforcement of any  
3           other provision of this title.

4           “(B) UPDATES ON WHISTLEBLOWER IN-  
5           VESTIGATIONS.—The Secretary shall disclose to  
6           an individual providing information relating to  
7           any purpose described in paragraph (1) or (2)  
8           of section 7623(a) the following:

9                   “(i) Not later than 60 days after a  
10                   case for which the individual has provided  
11                   information has been referred for an audit  
12                   or examination, a notice with respect to  
13                   such referral.

14                   “(ii) Not later than 60 days after a  
15                   taxpayer with respect to whom the indi-  
16                   vidual has provided information has made  
17                   a payment of tax with respect to tax liabil-  
18                   ity to which such information relates, a no-  
19                   tice with respect to such payment.

20                   “(iii) Subject to such requirements  
21                   and conditions as are prescribed by the  
22                   Secretary, upon a written request by such  
23                   individual—

1                   “(I) information on the status  
2                   and stage of any investigation or ac-  
3                   tion related to such information, and

4                   “(II) in the case of a determina-  
5                   tion of the amount of any award  
6                   under section 7623(b), the reasons for  
7                   such determination.

8                   Clause (iii) shall not apply to any information  
9                   if the Secretary determines that disclosure of  
10                  such information would seriously impair Fed-  
11                  eral tax administration. Information described  
12                  in clauses (i), (ii), and (iii) may be disclosed to  
13                  a designee of the individual providing such in-  
14                  formation in accordance with guidance provided  
15                  by the Secretary.”.

16                  (2) CONFORMING AMENDMENTS.—

17                  (A) CONFIDENTIALITY OF INFORMA-  
18                  TION.—Section 6103(a)(3) is amended by strik-  
19                  ing “subsection (k)(10)” and inserting “para-  
20                  graph (10) or (13) of subsection (k)”.

21                  (B) PENALTY FOR UNAUTHORIZED DIS-  
22                  CLOSURE.—Section 7213(a)(2) is amended by  
23                  striking “(k)(10)” and inserting “(k)(10) or  
24                  (13)”.

1 (C) COORDINATION WITH AUTHORITY TO  
2 DISCLOSE FOR INVESTIGATIVE PURPOSES.—  
3 Section 6103(k)(6) is amended by adding at the  
4 end the following new sentence: “This para-  
5 graph shall not apply to any disclosure to an in-  
6 dividual providing information relating to any  
7 purpose described in paragraph (1) or (2) of  
8 section 7623(a) which is made under paragraph  
9 (13)(A).”.

10 (b) PROTECTION AGAINST RETALIATION.—Section  
11 7623 is amended by adding at the end the following new  
12 subsection:

13 “(d) CIVIL ACTION TO PROTECT AGAINST RETALIA-  
14 TION CASES.—

15 “(1) ANTI-RETALIATION WHISTLEBLOWER PRO-  
16 TECTION FOR EMPLOYEES.—No employer, or any of-  
17 ficer, employee, contractor, subcontractor, or agent  
18 of such employer, may discharge, demote, suspend,  
19 threaten, harass, or in any other manner discrimi-  
20 nate against an employee in the terms and condi-  
21 tions of employment (including through an act in the  
22 ordinary course of such employee’s duties) in re-  
23 prisal for any lawful act done by the employee—

24 “(A) to provide information, cause infor-  
25 mation to be provided, or otherwise assist in an

1 investigation regarding underpayment of tax or  
2 any conduct which the employee reasonably be-  
3 lieves constitutes a violation of the internal rev-  
4 enue laws or any provision of Federal law relat-  
5 ing to tax fraud, when the information or as-  
6 sistance is provided to the Internal Revenue  
7 Service, the Secretary of Treasury, the Treas-  
8 ury Inspector General for Tax Administration,  
9 the Comptroller General of the United States,  
10 the Department of Justice, the United States  
11 Congress, a person with supervisory authority  
12 over the employee, or any other person working  
13 for the employer who has the authority to inves-  
14 tigate, discover, or terminate misconduct, or

15 “(B) to testify, participate in, or otherwise  
16 assist in any administrative or judicial action  
17 taken by the Internal Revenue Service relating  
18 to an alleged underpayment of tax or any viola-  
19 tion of the internal revenue laws or any provi-  
20 sion of Federal law relating to tax fraud.

21 “(2) ENFORCEMENT ACTION.—

22 “(A) IN GENERAL.—A person who alleges  
23 discharge or other reprisal by any person in vio-  
24 lation of paragraph (1) may seek relief under  
25 paragraph (3) by—

1           “(i) filing a complaint with the Sec-  
2           retary of Labor, or

3           “(ii) if the Secretary of Labor has not  
4           issued a final decision within 180 days of  
5           the filing of the complaint and there is no  
6           showing that such delay is due to the bad  
7           faith of the claimant, bringing an action at  
8           law or equity for de novo review in the ap-  
9           propriate district court of the United  
10          States, which shall have jurisdiction over  
11          such an action without regard to the  
12          amount in controversy.

13          “(B) PROCEDURE.—

14                 “(i) IN GENERAL.—An action under  
15                 subparagraph (A)(i) shall be governed  
16                 under the rules and procedures set forth in  
17                 section 42121(b) of title 49, United States  
18                 Code.

19                 “(ii) EXCEPTION.—Notification made  
20                 under section 42121(b)(1) of title 49,  
21                 United States Code, shall be made to the  
22                 person named in the complaint and to the  
23                 employer.

24                 “(iii) BURDENS OF PROOF.—An ac-  
25                 tion brought under subparagraph (A)(ii)



1 shall be governed by the legal burdens of  
2 proof set forth in section 42121(b) of title  
3 49, United States Code, except that in ap-  
4 plying such section—

5 “(I) ‘behavior described in para-  
6 graph (1)’ shall be substituted for ‘be-  
7 havior described in paragraphs (1)  
8 through (4) of subsection (a)’ each  
9 place it appears in paragraph (2)(B)  
10 thereof, and

11 “(II) ‘a violation of paragraph  
12 (1)’ shall be substituted for ‘a viola-  
13 tion of subsection (a)’ each place it  
14 appears.

15 “(iv) STATUTE OF LIMITATIONS.—A  
16 complaint under subparagraph (A)(i) shall  
17 be filed not later than 180 days after the  
18 date on which the violation occurs.

19 “(v) JURY TRIAL.—A party to an ac-  
20 tion brought under subparagraph (A)(ii)  
21 shall be entitled to trial by jury.

22 “(3) REMEDIES.—

23 “(A) IN GENERAL.—An employee pre-  
24 vailing in any action under paragraph (2)(A)

1           shall be entitled to all relief necessary to make  
2           the employee whole.

3           “(B) COMPENSATORY DAMAGES.—Relief  
4           for any action under subparagraph (A) shall in-  
5           clude—

6                   “(i) reinstatement with the same se-  
7                   niority status that the employee would  
8                   have had, but for the reprisal,

9                   “(ii) the sum of 200 percent of the  
10                  amount of back pay and 100 percent of all  
11                  lost benefits, with interest, and

12                  “(iii) compensation for any special  
13                  damages sustained as a result of the re-  
14                  prisal, including litigation costs, expert wit-  
15                  ness fees, and reasonable attorney fees.

16           “(4) RIGHTS RETAINED BY EMPLOYEE.—Noth-  
17           ing in this section shall be deemed to diminish the  
18           rights, privileges, or remedies of any employee under  
19           any Federal or State law, or under any collective  
20           bargaining agreement.

21           “(5) NONENFORCEABILITY OF CERTAIN PROVI-  
22           SIONS WAIVING RIGHTS AND REMEDIES OR REQUIR-  
23           ING ARBITRATION OF DISPUTES.—

24                   “(A) WAIVER OF RIGHTS AND REM-  
25                  EDIES.—The rights and remedies provided for

1 in this subsection may not be waived by any  
2 agreement, policy form, or condition of employ-  
3 ment, including by a predispute arbitration  
4 agreement.

5 “(B) PREDISPUTE ARBITRATION AGREE-  
6 MENTS.—No predispute arbitration agreement  
7 shall be valid or enforceable, if the agreement  
8 requires arbitration of a dispute arising under  
9 this subsection.”.

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by  
12 subsection (a) shall apply to disclosures made after  
13 the date of the enactment of this Act.

14 (2) CIVIL PROTECTION.—The amendment made  
15 by subsection (b) shall take effect on the date of the  
16 enactment of this Act.

17 **SEC. 1406. CUSTOMER SERVICE INFORMATION.**

18 The Secretary of the Treasury (or the Secretary’s  
19 delegate) shall provide helpful information to taxpayers  
20 placed on hold during a telephone call to any Internal Rev-  
21 enue Service help line, including the following:

22 (1) Information about common tax scams.

23 (2) Information on where and how to report tax  
24 scams.

1           (3) Additional advice on how taxpayers can pro-  
2           tect themselves from identity theft and tax scams.

3 **SEC. 1407. MISDIRECTED TAX REFUND DEPOSITS.**

4           Section 6402 is amended by adding at the end the  
5 following new subsection:

6           “(n) MISDIRECTED DIRECT DEPOSIT REFUND.—Not  
7 later than the date which is 6 month after the date of  
8 the enactment of the Taxpayer First Act of 2018, the Sec-  
9 retary shall prescribe regulations to establish procedures  
10 to allow for—

11           “(1) taxpayers to report instances in which a  
12 refund made by the Secretary by electronic funds  
13 transfer was erroneously delivered to an account at  
14 a financial institution for which the taxpayer is not  
15 the owner;

16           “(2) coordination with financial institutions for  
17 the purpose of—

18           “(A) identifying erroneous payments de-  
19 scribed in paragraph (1); and

20           “(B) recovery of the erroneously trans-  
21 ferred amounts; and

22           “(3) the refund to be delivered to the correct  
23 account of the taxpayer.”.

1       **TITLE II—21ST CENTURY IRS**  
2       **Subtitle A—Cybersecurity and**  
3       **Identity Protection**

4       **SEC. 2001. PUBLIC-PRIVATE PARTNERSHIP TO ADDRESS**  
5       **IDENTITY THEFT REFUND FRAUD.**

6       The Secretary of the Treasury (or the Secretary's  
7 delegate) shall work collaboratively with the public and  
8 private sectors to protect taxpayers from identity theft re-  
9 fund fraud.

10       **SEC. 2002. RECOMMENDATIONS OF ELECTRONIC TAX AD-**  
11       **MINISTRATION ADVISORY COMMITTEE RE-**  
12       **GARDING IDENTITY THEFT REFUND FRAUD.**

13       The Secretary of the Treasury shall ensure that the  
14 advisory group convened by the Secretary pursuant to sec-  
15 tion 2001(b)(2) of the Internal Revenue Service Restruc-  
16 turing and Reform Act of 1998 (commonly known as the  
17 Electronic Tax Administration Advisory Committee) stud-  
18 ies (including by providing organized public forums) and  
19 makes recommendations to the Secretary regarding meth-  
20 ods to prevent identity theft and refund fraud.

21       **SEC. 2003. INFORMATION SHARING AND ANALYSIS CENTER.**

22       (a) IN GENERAL.—The Secretary of the Treasury (or  
23 the Secretary's delegate) may participate in an informa-  
24 tion sharing and analysis center to centralize, standardize,  
25 and enhance data compilation and analysis to facilitate

1 sharing actionable data and information with respect to  
2 identity theft tax refund fraud.

3 (b) DEVELOPMENT OF PERFORMANCE METRICS.—

4 The Secretary of the Treasury (or the Secretary’s dele-  
5 gate) shall develop metrics for measuring the success of  
6 such center in detecting and preventing identity theft tax  
7 refund fraud.

8 (c) DISCLOSURE.—

9 (1) IN GENERAL.—Section 6103(k), as amend-  
10 ed by this Act, is amended by adding at the end the  
11 following new paragraph:

12 “(14) DISCLOSURE OF RETURN INFORMATION  
13 FOR PURPOSES OF CYBERSECURITY AND THE PRE-  
14 VENTION OF IDENTITY THEFT TAX REFUND  
15 FRAUD.—

16 “(A) IN GENERAL.—Under such proce-  
17 dures and subject to such conditions as the Sec-  
18 retary may prescribe, the Secretary may dis-  
19 close specified return information to specified  
20 ISAC participants to the extent that the Sec-  
21 retary determines such disclosure is in further-  
22 ance of effective Federal tax administration re-  
23 lating to the detection or prevention of identity  
24 theft tax refund fraud, validation of taxpayer

1 identity, authentication of taxpayer returns, or  
2 detection or prevention of cybersecurity threats.

3 “(B) SPECIFIED ISAC PARTICIPANTS.—For  
4 purposes of this paragraph—

5 “(i) IN GENERAL.—The term ‘speci-  
6 fied ISAC participant’ means—

7 “(I) any person designated by  
8 the Secretary as having primary re-  
9 sponsibility for a function performed  
10 with respect to the information shar-  
11 ing and analysis center described in  
12 section 2003(a) of the Taxpayer First  
13 Act of 2018, and

14 “(II) any person subject to the  
15 requirements of section 7216 and  
16 which is a participant in such infor-  
17 mation sharing and analysis center.

18 “(ii) INFORMATION SHARING AGREE-  
19 MENT.—Such term shall not include any  
20 person unless such person has entered into  
21 a written agreement with the Secretary  
22 setting forth the terms and conditions for  
23 the disclosure of information to such per-  
24 son under this paragraph, including re-  
25 quirements regarding the protection and

1           safeguarding of such information by such  
2           person.

3           “(C) SPECIFIED RETURN INFORMATION.—

4           For purposes of this paragraph, the term ‘spec-  
5           ified return information’ means—

6                   “(i) in the case of a return which is  
7                   in connection with a case of potential iden-  
8                   tity theft refund fraud—

9                           “(I) in the case of such return  
10                           filed electronically, the internet pro-  
11                           tocol address, device identification,  
12                           email domain name, speed of comple-  
13                           tion, method of authentication, refund  
14                           method, and such other return infor-  
15                           mation related to the electronic filing  
16                           characteristics of such return as the  
17                           Secretary may identify for purposes of  
18                           this subclause, and

19                                   “(II) in the case of such return  
20                                   prepared by a tax return preparer,  
21                                   identifying information with respect to  
22                                   such tax return preparer, including  
23                                   the preparer taxpayer identification  
24                                   number and electronic filer identifica-  
25                                   tion number of such preparer,



1           “(ii) in the case of a return which is  
2           in connection with a case of a identity  
3           theft refund fraud which has been con-  
4           firmed by the Secretary (pursuant to such  
5           procedures as the Secretary may provide),  
6           the information referred to in subclauses  
7           (I) and (II) of clause (i), the name and  
8           taxpayer identification number of the tax-  
9           payer as it appears on the return, and any  
10          bank account and routing information pro-  
11          vided for making a refund in connection  
12          with such return, and

13           “(iii) in the case of any cybersecurity  
14          threat to the Internal Revenue Service, in-  
15          formation similar to the information de-  
16          scribed in subclauses (I) and (II) of clause  
17          (i) with respect to such threat.

18           “(D) RESTRICTION ON USE OF DISCLOSED  
19          INFORMATION.—

20           “(i) DESIGNATED THIRD PARTIES.—  
21          Any return information received by a per-  
22          son described in subparagraph (B)(i)(I)  
23          shall be used only for the purposes of and  
24          to the extent necessary in—

1                   “(I) performing the function such  
2                   person is designated to perform under  
3                   such subparagraph,

4                   “(II) facilitating disclosures au-  
5                   thorized under subparagraph (A) to  
6                   persons described in subparagraph  
7                   (B)(i)(II), and

8                   “(III) facilitating disclosures au-  
9                   thorized under subsection (d) to par-  
10                  ticipants in such information sharing  
11                  and analysis center.

12                  “(ii) RETURN PREPARERS.—Any re-  
13                  turn information received by a person de-  
14                  scribed in subparagraph (B)(i)(II) shall be  
15                  treated for purposes of section 7216 as in-  
16                  formation furnished to such person for, or  
17                  in connection with, the preparation of a re-  
18                  turn of the tax imposed under chapter 1.

19                  “(E) DATA PROTECTION AND SAFE-  
20                  GUARDS.—Return information disclosed under  
21                  this paragraph shall be subject to such protec-  
22                  tions and safeguards as the Secretary may re-  
23                  quire in regulations or other guidance or in the  
24                  written agreement referred to in subparagraph  
25                  (B)(ii). Such written agreement shall include a

1 requirement that any unauthorized access to in-  
2 formation disclosed under this paragraph, and  
3 any breach of any system in which such infor-  
4 mation is held, be reported to the Treasury In-  
5 spector General for Tax Administration.”.

6 (2) APPLICATION OF CIVIL AND CRIMINAL PEN-  
7 ALTIES.—

8 (A) Section 6103(a)(3), as amended by  
9 this Act, is amended by striking “or (13)” and  
10 inserting “(13), or (14)”.

11 (B) Section 7213(a)(2), as amended by  
12 this Act, is amended by striking “or (13)” and  
13 inserting “(13), or (14)”.

14 **SEC. 2004. COMPLIANCE BY CONTRACTORS WITH CON-**  
15 **FIDENTIALITY SAFEGUARDS.**

16 (a) IN GENERAL.—Section 6103(p) is amended by  
17 adding at the end the following new paragraph:

18 “(9) DISCLOSURE TO CONTRACTORS AND  
19 OTHER AGENTS.—Notwithstanding any other provi-  
20 sion of this section, no return or return information  
21 shall be disclosed to any contractor or other agent  
22 of a Federal, State, or local agency unless such  
23 agency, to the satisfaction of the Secretary—

24 “(A) has requirements in effect which re-  
25 quire each such contractor or other agent which

1 would have access to returns or return informa-  
2 tion to provide safeguards (within the meaning  
3 of paragraph (4)) to protect the confidentiality  
4 of such returns or return information,

5 “(B) agrees to conduct an on-site review  
6 every 3 years (or a mid-point review in the case  
7 of contracts or agreements of less than 3 years  
8 in duration) of each contractor or other agent  
9 to determine compliance with such require-  
10 ments,

11 “(C) submits the findings of the most re-  
12 cent review conducted under subparagraph (B)  
13 to the Secretary as part of the report required  
14 by paragraph (4)(E), and

15 “(D) certifies to the Secretary for the most  
16 recent annual period that such contractor or  
17 other agent is in compliance with all such re-  
18 quirements.

19 The certification required by subparagraph (D) shall  
20 include the name and address of each contractor or  
21 other agent, a description of the contract or agree-  
22 ment with such contractor or other agent, and the  
23 duration of such contract or agreement. The require-  
24 ments of this paragraph shall not apply to dislo-

1       sures pursuant to subsection (n) for purposes of  
2       Federal tax administration.”.

3       (b)       CONFORMING        AMENDMENT.—Section  
4       6103(p)(8)(B) is amended by inserting “or paragraph  
5       (9)” after “subparagraph (A)”.

6       (c) EFFECTIVE DATE.—The amendments made by  
7       this section shall apply to disclosures made after Decem-  
8       ber 31, 2022.

9       **SEC. 2005. REPORT ON ELECTRONIC PAYMENTS.**

10       Not later than 2 years after the date of the enact-  
11       ment of this Act, the Secretary of the Treasury (or the  
12       Secretary’s delegate), in coordination with the Bureau of  
13       Fiscal Service and the Internal Revenue Service, and in  
14       consultation with private sector financial institutions, shall  
15       submit a written report to Congress describing how the  
16       government can utilize new payment platforms to increase  
17       the number of tax refunds paid by electronic funds trans-  
18       fer. Such report shall weigh the interests of reducing iden-  
19       tity theft tax refund fraud, reducing the Federal Govern-  
20       ment’s costs in delivering tax refunds, the costs and any  
21       associated fees charged to taxpayers (including monthly  
22       and point-of-service fees) to access their tax refunds, the  
23       impact on individuals who do not have access to financial  
24       accounts or institutions, and ensuring payments are made  
25       to accounts at a financial institution that complies with

1 section 21 of the Federal Deposit Insurance Act, chapter  
2 2 of title I of Public Law 91–508, and subchapter II of  
3 chapter 53 of title 31, United States Code (commonly re-  
4 ferred to collectively as the “Bank Secrecy Act”) and the  
5 USA PATRIOT Act. Such report shall include any legisla-  
6 tive recommendations necessary to accomplish these goals.

7 **SEC. 2006. IDENTITY PROTECTION PERSONAL IDENTIFICA-**  
8 **TION NUMBERS.**

9 Not later than 5 years after the date of the enact-  
10 ment of this Act, the Secretary of the Treasury or the  
11 Secretary’s delegate (hereafter referred to in this section  
12 as the “Secretary”) shall establish a program to issue,  
13 upon the request of any individual, a number which may  
14 be used in connection with such individual’s social security  
15 number (or other identifying information with respect to  
16 such individual as determined by the Secretary) to assist  
17 the Secretary in verifying such individual’s identity.

18 **SEC. 2007. SINGLE POINT OF CONTACT FOR TAX-RELATED**  
19 **IDENTITY THEFT VICTIMS.**

20 (a) IN GENERAL.—The Secretary of the Treasury (or  
21 the Secretary’s delegate) shall establish and implement  
22 procedures to ensure that any taxpayer whose return has  
23 been delayed or otherwise adversely affected due to tax-  
24 related identity theft has a single point of contact at the  
25 Internal Revenue Service throughout the processing of the

1 taxpayer's case. The single point of contact shall track the  
2 taxpayer's case to completion and coordinate with other  
3 Internal Revenue Service employees to resolve case issues  
4 as quickly as possible.

5 (b) SINGLE POINT OF CONTACT.—

6 (1) IN GENERAL.—For purposes of subsection  
7 (a), the single point of contact shall consist of a  
8 team or subset of specially trained employees who—

9 (A) have the ability to work across func-  
10 tions to resolve the issues involved in the tax-  
11 payer's case; and

12 (B) shall be accountable for handling the  
13 case until its resolution.

14 (2) TEAM OR SUBSET.—The employees included  
15 within the team or subset described in paragraph (1)  
16 may change as required to meet the needs of the In-  
17 ternal Revenue Service, provided that procedures  
18 have been established to—

19 (A) ensure continuity of records and case  
20 history; and

21 (B) notify the taxpayer when appropriate.

22 **SEC. 2008. NOTIFICATION OF SUSPECTED IDENTITY THEFT.**

23 (a) IN GENERAL.—Chapter 77 is amended by adding  
24 at the end the following new section:

1 **“SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY**  
2 **THEFT.**

3 “(a) IN GENERAL.—If the Secretary determines that  
4 there has been or may have been an unauthorized use of  
5 the identity of any individual, the Secretary shall, without  
6 jeopardizing an investigation relating to tax administra-  
7 tion—

8 “(1) as soon as practicable, notify the indi-  
9 vidual of such determination and provide—

10 “(A) instructions on how to file a report  
11 with law enforcement regarding the unauthor-  
12 ized use of the identity of the individual,

13 “(B) the identification of any forms nec-  
14 essary for the individual to complete and submit  
15 to law enforcement to permit access to personal  
16 information of the individual during the inves-  
17 tigation,

18 “(C) information regarding actions the in-  
19 dividual may take in order to protect the indi-  
20 vidual from harm relating to such unauthorized  
21 use, and

22 “(D) an offer of identity protection meas-  
23 ures to be provided to the individual by the In-  
24 ternal Revenue Service, such as the use of an  
25 identity protection personal identification num-  
26 ber, and



1           “(2) at the time the information described in  
2 paragraph (1) is provided (or, if not available at  
3 such time, as soon as practicable thereafter), issue  
4 additional notifications to such individual (or such  
5 individual’s designee) regarding—

6           “(A) whether an investigation has been ini-  
7 tiated in regards to such unauthorized use,

8           “(B) whether the investigation substan-  
9 tiated an unauthorized use of the identity of the  
10 individual, and

11           “(C) whether—

12           “(i) any action has been taken against  
13 a person relating to such unauthorized use,  
14 or

15           “(ii) any referral has been made for  
16 criminal prosecution of such person and, to  
17 the extent such information is available,  
18 whether such person has been criminally  
19 charged by indictment or information.

20           “(b) EMPLOYMENT-RELATED IDENTITY THEFT.—

21           “(1) IN GENERAL.—For purposes of this sec-  
22 tion, the unauthorized use of the identity of an indi-  
23 vidual includes the unauthorized use of the identity  
24 of the individual to obtain employment.

1           “(2) DETERMINATION OF EMPLOYMENT-RE-  
2           LATED IDENTITY THEFT.—For purposes of this sec-  
3           tion, in making a determination as to whether there  
4           has been or may have been an unauthorized use of  
5           the identity of an individual to obtain employment,  
6           the Secretary shall review any information—

7                   “(A) obtained from a statement described  
8                   in section 6051 or an information return relat-  
9                   ing to compensation for services rendered other  
10                  than as an employee, or

11                  “(B) provided to the Internal Revenue  
12                  Service by the Social Security Administration  
13                  regarding any statement described in section  
14                  6051,

15                  which indicates that the social security account num-  
16                  ber provided on such statement or information re-  
17                  turn does not correspond with the name provided on  
18                  such statement or information return or the name  
19                  on the tax return reporting the income which is in-  
20                  cluded on such statement or information return.”.

21           (b) ADDITIONAL MEASURES.—

22                  (1) EXAMINATION OF BOTH PAPER AND ELEC-  
23                  TRONIC STATEMENTS AND RETURNS.—The Sec-  
24                  retary of the Treasury (or the Secretary’s delegate)  
25                  shall examine the statements, information returns,

1 and tax returns described in section 7529(b)(2) of  
2 the Internal Revenue Code of 1986 (as added by  
3 subsection (a)) for any evidence of employment-re-  
4 lated identity theft, regardless of whether such state-  
5 ments or returns are submitted electronically or on  
6 paper.

7 (2) IMPROVEMENT OF EFFECTIVE RETURN  
8 PROCESSING PROGRAM WITH SOCIAL SECURITY AD-  
9 MINISTRATION.—Section 232 of the Social Security  
10 Act (42 U.S.C. 432) is amended by inserting after  
11 the third sentence the following: “For purposes of  
12 carrying out the return processing program de-  
13 scribed in the preceding sentence, the Commissioner  
14 of Social Security shall request, not less than annu-  
15 ally, such information described in section  
16 7529(b)(2) of the Internal Revenue Code of 1986 as  
17 may be necessary to ensure the accuracy of the  
18 records maintained by the Commissioner of Social  
19 Security related to the amounts of wages paid to,  
20 and the amounts of self-employment income derived  
21 by, individuals.”.

22 (3) UNDERREPORTING OF INCOME.—The Sec-  
23 retary (or the Secretary’s delegate) shall establish  
24 procedures to ensure that income reported in con-  
25 nection with the unauthorized use of a taxpayer’s

1 identity is not taken into account in determining any  
2 penalty for underreporting of income by the victim  
3 of identity theft.

4 (c) CLERICAL AMENDMENT.—The table of sections  
5 for chapter 77 is amended by adding at the end the fol-  
6 lowing new item:

“Sec. 7529. Notification of suspected identity theft.”.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to determinations made after the  
9 date that is 6 months after the date of the enactment of  
10 this Act.

11 **SEC. 2009. GUIDELINES FOR STOLEN IDENTITY REFUND**  
12 **FRAUD CASES.**

13 (a) IN GENERAL.—Not later than 1 year after the  
14 date of the enactment of this Act, the Secretary (or the  
15 Secretary’s delegate), in consultation with the National  
16 Taxpayer Advocate, shall develop and implement publicly  
17 available guidelines for management of cases involving sto-  
18 len identity refund fraud in a manner that reduces the  
19 administrative burden on taxpayers who are victims of  
20 such fraud.

21 (b) STANDARDS AND PROCEDURES TO BE CONSID-  
22 ERED.—The guidelines described in subsection (a) may in-  
23 clude—

24 (1) standards for—

1 (A) the average length of time in which a  
2 case involving stolen identity refund fraud  
3 should be resolved;

4 (B) the maximum length of time, on aver-  
5 age, a taxpayer who is a victim of stolen iden-  
6 tity refund fraud and is entitled to a tax refund  
7 which has been stolen should have to wait to re-  
8 ceive such refund; and

9 (C) the maximum number of offices and  
10 employees within the Internal Revenue Service  
11 with whom a taxpayer who is a victim of stolen  
12 identity refund fraud should be required to  
13 interact in order to resolve a case;

14 (2) standards for opening, assigning, reas-  
15 signing, or closing a case involving stolen identity re-  
16 fund fraud; and

17 (3) procedures for implementing and accom-  
18 plishing the standards described in paragraphs (1)  
19 and (2), and measures for evaluating such proce-  
20 dures and determining whether such standards have  
21 been successfully implemented.

22 **SEC. 2010. INCREASED PENALTY FOR IMPROPER DISCLO-**  
23 **SURE OR USE OF INFORMATION BY PRE-**  
24 **PARERS OF RETURNS.**

25 (a) IN GENERAL.—Section 6713 is amended—

1 (1) by redesignating subsections (b) and (c) as  
2 subsections (c) and (d), respectively; and

3 (2) by inserting after subsection (a) the fol-  
4 lowing new subsection:

5 “(b) ENHANCED PENALTY FOR IMPROPER USE OR  
6 DISCLOSURE RELATING TO IDENTITY THEFT.—

7 “(1) IN GENERAL.—In the case of a disclosure  
8 or use described in subsection (a) that is made in  
9 connection with a crime relating to the misappropriation of another person’s taxpayer identity (as defined in section 6103(b)(6)), whether or not such  
10 crime involves any tax filing, subsection (a) shall be  
11 applied—  
12

13  
14 “(A) by substituting ‘\$1,000’ for ‘\$250’,  
15 and

16 “(B) by substituting ‘\$50,000’ for  
17 ‘\$10,000’.

18 “(2) SEPARATE APPLICATION OF TOTAL PEN-  
19 ALTY LIMITATION.—The limitation on the total  
20 amount of the penalty under subsection (a) shall be  
21 applied separately with respect to disclosures or uses  
22 to which this subsection applies and to which it does  
23 not apply.”.

24 (b) CRIMINAL PENALTY.—Section 7216(a) is amend-  
25 ed by striking “\$1,000” and inserting “\$1,000 (\$100,000

1 in the case of a disclosure or use to which section 6713(b)  
2 applies)”.  
3

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to disclosures or uses on or after  
6 the date of the enactment of this Act.

## 7 **Subtitle B—Development of** 8 **Information Technology**

### 9 **SEC. 2101. MANAGEMENT OF INTERNAL REVENUE SERVICE** 10 **INFORMATION TECHNOLOGY.**

11 (a) DUTIES AND RESPONSIBILITIES OF INTERNAL  
12 REVENUE SERVICE CHIEF INFORMATION OFFICER.—Sec-  
13 tion 7803, as amended by section 1001, is amended by  
14 adding at the end the following new subsection:

15 “(f) INTERNAL REVENUE SERVICE CHIEF INFORMA-  
16 TION OFFICER.—

17 “(1) IN GENERAL.—There shall be in the Inter-  
18 nal Revenue Service an Internal Revenue Service  
19 Chief Information Officer (hereafter referred to in  
20 this subsection as the ‘IRS CIO’) who shall be ap-  
21 pointed by the Commissioner of the Internal Rev-  
22 enue Service.

23 “(2) CENTRALIZED RESPONSIBILITY FOR IN-  
24 TERNAL REVENUE SERVICE INFORMATION TECH-  
25 NOLOGY.—The Commissioner of the Internal Rev-  
26 enue Service (and the Secretary) shall act through

1 the IRS CIO with respect to all development, imple-  
2 mentation, and maintenance of information tech-  
3 nology for the Internal Revenue Service. Any ref-  
4 erence in this subsection to the IRS CIO which di-  
5 rects the IRS CIO to take any action, or to assume  
6 any responsibility, shall be treated as a reference to  
7 the Commissioner of the Internal Revenue Service  
8 acting through the IRS CIO.

9 “(3) GENERAL DUTIES AND RESPONSIBIL-  
10 ITIES.—The IRS CIO shall—

11 “(A) be responsible for the development,  
12 implementation, and maintenance of informa-  
13 tion technology for the Internal Revenue Serv-  
14 ice,

15 “(B) ensure that the information tech-  
16 nology of the Internal Revenue Service is secure  
17 and integrated,

18 “(C) maintain operational control of all in-  
19 formation technology for the Internal Revenue  
20 Service,

21 “(D) be the principal advocate for the in-  
22 formation technology needs of the Internal Rev-  
23 enue Service, and

24 “(E) consult with the Chief Procurement  
25 Officer of the Internal Revenue Service to en-



1           sure that the information technology acquired  
2           for the Internal Revenue Service is consistent  
3           with—

4                   “(i) the goals and requirements speci-  
5                   fied in subparagraphs (A) through (D),  
6                   and

7                   “(ii) the strategic plan developed  
8                   under paragraph (4).

9           “(4) STRATEGIC PLAN.—

10                   “(A) IN GENERAL.—The IRS CIO shall  
11                   develop and implement a multiyear strategic  
12                   plan for the information technology needs of the  
13                   Internal Revenue Service. Such plan shall—

14                           “(i) include performance measure-  
15                           ments of such technology and of the imple-  
16                           mentation of such plan,

17                           “(ii) include a plan for an integrated  
18                           enterprise architecture of the information  
19                           technology of the Internal Revenue Service,

20                           “(iii) include and take into account  
21                           the resources needed to accomplish such  
22                           plan,

23                           “(iv) take into account planned major  
24                           acquisitions of information technology by  
25                           the Internal Revenue Service, including

1 Customer Account Data Engine 2 and the  
2 Enterprise Case Management System, and

3 “(v) align with the needs and stra-  
4 tegic plan of the Internal Revenue Service.

5 “(B) PLAN UPDATES.—The IRS CIO  
6 shall, not less frequently than annually, review  
7 and update the strategic plan under subpara-  
8 graph (A) (including the plan for an integrated  
9 enterprise architecture described in subpara-  
10 graph (A)(ii)) to take into account the develop-  
11 ment of new information technology and the  
12 needs of the Internal Revenue Service.

13 “(5) SCOPE OF AUTHORITY.—

14 “(A) INFORMATION TECHNOLOGY.—For  
15 purposes of this subsection, the term ‘informa-  
16 tion technology’ has the meaning given such  
17 term by section 11101 of title 40, United States  
18 Code.

19 “(B) INTERNAL REVENUE SERVICE.—Any  
20 reference in this subsection to the Internal Rev-  
21 enue Service includes a reference to all compo-  
22 nents of the Internal Revenue Service, includ-  
23 ing—

24 “(i) the Office of the Taxpayer Advoca-  
25 cate,

1                   “(ii) the Criminal Investigation Divi-  
2                   sion of the Internal Revenue Service, and  
3                   “(iii) except as otherwise provided by  
4                   the Secretary with respect to information  
5                   technology related to matters described in  
6                   subsection (b)(3)(B), the Office of the  
7                   Chief Counsel.”.

8           (b) INDEPENDENT VERIFICATION AND VALIDATION  
9 OF THE CUSTOMER ACCOUNT DATA ENGINE 2 AND EN-  
10 TERPRISE CASE MANAGEMENT SYSTEM.—

11           (1) IN GENERAL.—The Commissioner of the In-  
12           ternal Revenue Service shall enter into a contract  
13           with an independent reviewer to verify and validate  
14           the implementation plans (including the performance  
15           milestones and cost estimates included in such  
16           plans) developed for the Customer Account Data  
17           Engine 2 and the Enterprise Case Management Sys-  
18           tem.

19           (2) DEADLINE FOR COMPLETION.—Such con-  
20           tract shall require that such verification and valida-  
21           tion be completed not later than the date which is  
22           1 year after the date of the enactment of this Act.

23           (3) APPLICATION TO PHASES OF CADE 2.—

24           (A) IN GENERAL.—Paragraphs (1) and (2)  
25           shall not apply to phase 1 of the Customer Ac-

1 count Data Engine 2 and shall apply separately  
2 to each other phase.

3 (B) DEADLINE FOR COMPLETING  
4 PLANS.—Not later than 1 year after the date of  
5 the enactment of this Act, the Commissioner of  
6 the Internal Revenue Service shall complete the  
7 development of plans for all phases of the Cus-  
8 tomer Account Data Engine 2.

9 (C) DEADLINE FOR COMPLETION OF  
10 VERIFICATION AND VALIDATION OF PLANS.—In  
11 the case of any phase after phase 2 of the Cus-  
12 tomer Account Data Engine 2, paragraph (2)  
13 shall be applied by substituting “the date on  
14 which the plan for such phase was completed”  
15 for “the date of the enactment of this Act”.

16 (c) COORDINATION OF IRS CIO AND CHIEF PRO-  
17 CUREMENT OFFICER OF THE INTERNAL REVENUE SERV-  
18 ICE.—

19 (1) IN GENERAL.—The Chief Procurement Offi-  
20 cer of the Internal Revenue Service shall—

21 (A) identify all significant IRS information  
22 technology acquisitions and provide written no-  
23 tification to the Internal Revenue Service Chief  
24 Information Officer (hereafter referred to in

1           this subsection as the “IRS CIO”) of each such  
2           acquisition in advance of such acquisition, and

3                   (B) regularly consult with the IRS CIO re-  
4           garding acquisitions of information technology  
5           for the Internal Revenue Service, including  
6           meeting with the IRS CIO regarding such ac-  
7           quisitions upon request.

8           (2) SIGNIFICANT IRS INFORMATION TECH-  
9           NOLOGY ACQUISITIONS.—For purposes of this sub-  
10          section, the term “significant IRS information tech-  
11          nology acquisitions” means—

12                   (A) any acquisition of information tech-  
13          nology for the Internal Revenue Service in ex-  
14          cess of \$1,000,000, and

15                   (B) such other acquisitions of information  
16          technology for the Internal Revenue Service (or  
17          categories of such acquisitions) as the IRS CIO,  
18          in consultation with the Chief Procurement Of-  
19          ficer of the Internal Revenue Service, may iden-  
20          tify.

21           (3) SCOPE.—Terms used in this subsection  
22          which are also used in section 7803(f) of the Inter-  
23          nal Revenue Code of 1986 (as amended by sub-  
24          section (a)) shall have the same meaning as when  
25          used in such section.

1 **SEC. 2102. DEVELOPMENT OF ONLINE ACCOUNTS AND POR-**  
2 **TALS.**

3 (a) IN GENERAL.—The Secretary of the Treasury or  
4 the Secretary’s delegate (hereafter referred to in this sec-  
5 tion as the “Secretary”) shall—

6 (1) develop secure individualized online ac-  
7 counts to provide services to taxpayers and their  
8 designated return preparers, including obtaining tax-  
9 payer information, making payment of taxes, shar-  
10 ing documentation, and (to the extent feasible) ad-  
11 dressing and correcting issues, and

12 (2) develop a process for the acceptance of tax  
13 forms, and supporting documentation, in digital or  
14 other electronic format.

15 (b) ELECTRONIC SERVICES TREATED AS SUPPLE-  
16 MENTAL; APPLICATION OF SECURITY STANDARDS.—The  
17 Secretary shall ensure that the processes described in sub-  
18 section (a)—

19 (1) are a supplement to, and not a replacement  
20 for, other services provided by the Internal Revenue  
21 Service to taxpayers, including face-to-face taxpayer  
22 assistance and services provided by phone, and

23 (2) comply with applicable security standards  
24 and guidelines.

25 (c) PROCESS FOR DEVELOPING ONLINE AC-  
26 COUNTS.—

1           (1) DEVELOPMENT OF PLAN.—Not later than 1  
2           year after the date of the enactment of this Act, the  
3           Secretary shall submit to Congress a written report  
4           describing the Secretary’s plan for developing the se-  
5           cure individualized online accounts described in sub-  
6           section (a)(1). Such plan shall address the feasibility  
7           of taxpayers addressing and correcting issues  
8           through such accounts and whether access to such  
9           accounts should be restricted and in what manner.

10          (2) DEADLINE.—The Secretary shall make  
11          every reasonable effort to make the secure individ-  
12          ualized online accounts described in subsection  
13          (a)(1) available to taxpayers by December 31, 2023.

14 **SEC. 2103. INTERNET PLATFORM FOR FORM 1099 FILINGS.**

15          (a) IN GENERAL.—Not later than January 1, 2023,  
16          the Secretary of the Treasury or the Secretary’s delegate  
17          (hereafter referred to in this section as the “Secretary”)  
18          shall make available an Internet website or other elec-  
19          tronic media, with a user interface and functionality simi-  
20          lar to the Business Services Online Suite of Services pro-  
21          vided by the Social Security Administration, that will pro-  
22          vide access to resources and guidance provided by the In-  
23          ternal Revenue Service and will allow persons to—

24                 (1) prepare and file Forms 1099,

1           (2) prepare Forms 1099 for distribution to re-  
2           cipients other than the Internal Revenue Service,  
3           and

4           (3) maintain a record of completed and sub-  
5           mitted Forms 1099.

6           (b) **ELECTRONIC SERVICES TREATED AS SUPPLE-**  
7 **MENTAL; APPLICATION OF SECURITY STANDARDS.**—The  
8 Secretary shall ensure that the services described in sub-  
9 section (a)—

10           (1) are a supplement to, and not a replacement  
11           for, other services provided by the Internal Revenue  
12           Service to taxpayers, and

13           (2) comply with applicable security standards  
14           and guidelines.

15 **SEC. 2104. STREAMLINED CRITICAL PAY AUTHORITY FOR**  
16 **INFORMATION TECHNOLOGY POSITIONS.**

17           (a) **IN GENERAL.**—Subchapter A of chapter 80 is  
18 amended by adding at the end the following new section:

19 **“SEC. 7812. STREAMLINED CRITICAL PAY AUTHORITY FOR**  
20 **INFORMATION TECHNOLOGY POSITIONS.**

21           “In the case of any position which is critical to the  
22 functionality of the information technology operations of  
23 the Internal Revenue Service—

24           “(1) section 9503 of title 5, United States  
25           Code, shall be applied—



1           “(A) by substituting ‘during the period be-  
2           ginning on the date of the enactment of section  
3           7812 of the Internal Revenue Code of 1986,  
4           and ending on September 30, 2023’ for ‘Before  
5           September 30, 2013 in subsection (a)’,

6           “(B) without regard to subparagraph (B)  
7           of subsection (a)(1), and

8           “(C) by substituting ‘the date of the enact-  
9           ment of the Taxpayer First Act of 2018’ for  
10          ‘June 1, 1998’ in subsection (a)(6),

11          “(2) section 9504 of such title 5 shall be ap-  
12          plied by substituting ‘During the period beginning  
13          on the date of the enactment of section 7812 of the  
14          Internal Revenue Code of 1986, and ending on Sep-  
15          tember 30, 2023’ for ‘Before September 30, 2013’  
16          each place it appears in subsections (a) and (b), and

17          “(3) section 9505 of such title shall be ap-  
18          plied—

19                 “(A) by substituting ‘During the period be-  
20                 ginning on the date of the enactment of section  
21                 7812 of the Internal Revenue Code of 1986,  
22                 and ending on September 30, 2023’ for ‘Before  
23                 September 30, 2013’ in subsection (a), and



1 1986 of returns or return information by the Secretary  
2 to a person seeking to verify the income or creditworthi-  
3 ness of a taxpayer who is a borrower in the process of  
4 a loan application.

5 (c) APPLICATION OF SECURITY STANDARDS.—The  
6 Secretary shall ensure that the program described in sub-  
7 section (a) complies with applicable security standards and  
8 guidelines.

9 (d) USER FEE.—

10 (1) IN GENERAL.—During the 2-year period be-  
11 ginning on the first day of the 6th calendar month  
12 beginning after the date of the enactment of this  
13 Act, the Secretary shall assess and collect a fee for  
14 qualified disclosures (in addition to any other fee as-  
15 sessed and collected for such disclosures) at such  
16 rates as the Secretary determines are sufficient to  
17 cover the costs related to implementing the program  
18 described in subsection (a), including the costs of  
19 any necessary infrastructure or technology.

20 (2) DEPOSIT OF COLLECTIONS.—Amounts re-  
21 ceived from fees assessed and collected under para-  
22 graph (1) shall be deposited in, and credited to, an  
23 account solely for the purpose of carrying out the  
24 activities described in subsection (a). Such amounts  
25 shall be available to carry out such activities without

1       need of further appropriation and without fiscal year  
2       limitation.

3       **SEC. 2202. LIMIT REDISCLOSURES AND USES OF CONSENT-**  
4                   **BASED DISCLOSURES OF TAX RETURN INFOR-**  
5                   **MATION.**

6       (a) IN GENERAL.—Section 6103(c) is amended by  
7       adding at the end the following: “Persons designated by  
8       the taxpayer under this subsection to receive return infor-  
9       mation shall not use the information for any purpose other  
10      than the express purpose for which consent was granted  
11      and shall not disclose return information to any other per-  
12      son without the express permission of, or request by, the  
13      taxpayer.”.

14      (b) APPLICATION OF PENALTIES.—Section  
15      6103(a)(3) is amended by inserting “subsection (c),” after  
16      “return information under”.

17      (c) EFFECTIVE DATE.—The amendments made by  
18      this section shall apply to disclosures made after the date  
19      of the enactment of this Act.

20                   **Subtitle D—Expanded Use of**  
21                   **Electronic Systems**

22       **SEC. 2301. ELECTRONIC FILING OF RETURNS.**

23      (a) IN GENERAL.—Section 6011(e)(2)(A) is amended  
24      by striking “250” and inserting “the applicable number  
25      of”.

1 (b) APPLICABLE NUMBER.—Section 6011(e) is  
2 amended by striking paragraph (5) and inserting the fol-  
3 lowing new paragraphs:

4 “(5) APPLICABLE NUMBER.—

5 “(A) IN GENERAL.—For purposes of para-  
6 graph (2)(A), the applicable number shall be—

7 “(i) except as provided in subpara-  
8 graph (B), in the case of calendar years  
9 before 2020, 250,

10 “(ii) in the case of calendar year  
11 2020, 100, and

12 “(iii) in the case of calendar years  
13 after 2020, 10.

14 “(B) SPECIAL RULE FOR PARTNERSHIPS  
15 FOR 2018 AND 2019.—In the case of a partner-  
16 ship, for any calendar year before 2020, the ap-  
17 plicable number shall be—

18 “(i) in the case of calendar year 2018,  
19 200, and

20 “(ii) in the case of calendar year  
21 2019, 150.

22 “(6) PARTNERSHIPS REQUIRED TO FILE ON  
23 MAGNETIC MEDIA.—Notwithstanding paragraph  
24 (2)(A), the Secretary shall require partnerships hav-

1       ing more than 100 partners to file returns on mag-  
2       netic media.”.

3       (c) RETURNS FILED BY A TAX RETURN PRE-  
4       PARER.—Section 6011(e)(3) is amended by adding at the  
5       end the following new subparagraph:

6               “(D) EXCEPTION FOR CERTAIN PRE-  
7               PARERS LOCATED IN AREAS WITHOUT INTER-  
8               NET ACCESS.—The Secretary may waive the re-  
9               quirement of subparagraph (A) if the Secretary  
10              determines, on the basis of an application by  
11              the tax return preparer, that the preparer can-  
12              not meet such requirement by reason of being  
13              located in a geographic area which does not  
14              have access to internet service (other than dial-  
15              up or satellite service).”.

16       (d) EFFECTIVE DATE.—The amendments made by  
17       this section shall take effect on the date of the enactment  
18       of this Act.

19       **SEC. 2302. UNIFORM STANDARDS FOR THE USE OF ELEC-**  
20               **TRONIC SIGNATURES FOR DISCLOSURE AU-**  
21               **THORIZATIONS TO, AND OTHER AUTHORIZA-**  
22               **TIONS OF, PRACTITIONERS.**

23       Section 6061(b)(3) is amended to read as follows:

24               “(3) PUBLISHED GUIDANCE.—

1           “(A) IN GENERAL.—The Secretary shall  
2           publish guidance as appropriate to define and  
3           implement any waiver of the signature require-  
4           ments or any method adopted under paragraph  
5           (1).

6           “(B) ELECTRONIC SIGNATURES FOR DIS-  
7           CLOSURE AUTHORIZATIONS TO, AND OTHER AU-  
8           THORIZATIONS OF, PRACTITIONERS.—Not later  
9           than 6 months after the date of the enactment  
10          of this subparagraph, the Secretary shall pub-  
11          lish guidance to establish uniform standards  
12          and procedures for the acceptance of taxpayers’  
13          signatures appearing in electronic form with re-  
14          spect to any request for disclosure of a tax-  
15          payer’s return or return information under sec-  
16          tion 6103(c) to a practitioner or any power of  
17          attorney granted by a taxpayer to a practi-  
18          tioner.

19          “(C) PRACTITIONER.—For purposes of  
20          subparagraph (B), the term ‘practitioner’  
21          means any individual in good standing who is  
22          regulated under section 330 of title 31, United  
23          States Code.”.

1 **SEC. 2303. PAYMENT OF TAXES BY DEBIT AND CREDIT**  
2 **CARDS.**

3 Section 6311(d)(2) is amended by adding at the end  
4 the following: “The preceding sentence shall not apply to  
5 the extent that the Secretary ensures that any such fee  
6 or other consideration is fully recouped by the Secretary  
7 in the form of fees paid to the Secretary by persons paying  
8 taxes imposed under subtitle A with credit, debit, or  
9 charge cards pursuant to such contract. Notwithstanding  
10 the preceding sentence, the Secretary shall seek to mini-  
11 mize the amount of any fee or other consideration that  
12 the Secretary pays under any such contract.”.

13 **SEC. 2304. REQUIREMENT THAT ELECTRONICALLY PRE-**  
14 **PARED PAPER RETURNS INCLUDE SCAN-**  
15 **NABLE CODE.**

16 (a) IN GENERAL.—Subsection (e) of section 6011, as  
17 amended by this Act, is amended by adding at the end  
18 the following new paragraph:

19 “(7) SPECIAL RULE FOR RETURNS PREPARED  
20 ELECTRONICALLY AND SUBMITTED ON PAPER.—The  
21 Secretary shall require that any return of tax which  
22 is prepared electronically, but is printed and filed on  
23 paper, bear a code which can, when scanned, convert  
24 such return to electronic format.”.



1 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
2 section 6011(e) is amended by striking “paragraph (3)”  
3 and inserting “paragraphs (3) and (7)”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to returns of tax the due date for  
6 which (determined without regard to extensions) is after  
7 December 31, 2020.

8 **SEC. 2305. AUTHENTICATION OF USERS OF ELECTRONIC**  
9 **SERVICES ACCOUNTS.**

10 Beginning 180 days after the date of the enactment  
11 of this Act, the Secretary of the Treasury (or the Sec-  
12 retary’s delegate) shall verify the identity of any individual  
13 opening an e-Services account with the Internal Revenue  
14 Service before such individual is able to use the e-Services  
15 tools.

16 **Subtitle E—Other Provisions**

17 **SEC. 2401. REPEAL OF PROVISION REGARDING CERTAIN**  
18 **TAX COMPLIANCE PROCEDURES AND RE-**  
19 **PORTS.**

20 Section 2004 of the Internal Revenue Service Re-  
21 structuring and Reform Act of 1998 (26 U.S.C. 6012  
22 note) is repealed.

23 **SEC. 2402. COMPREHENSIVE TRAINING STRATEGY.**

24 Not later than 1 year after the date of the enactment  
25 of this Act, the Commissioner of Internal Revenue shall

1 submit to Congress a written report providing a com-  
2 prehensive training strategy for employees of the Internal  
3 Revenue Service, including—

4           (1) a plan to streamline current training proc-  
5           esses, including an assessment of the utility of fur-  
6           ther consolidating internal training programs, tech-  
7           nology, and funding,

8           (2) a plan to develop annual training regarding  
9           taxpayer rights, including the role of the Office of  
10          the Taxpayer Advocate, for employees that interface  
11          with taxpayers and their managers,

12          (3) a plan to improve technology-based training,

13          (4) proposals to—

14                (A) focus employee training on early, fair,  
15                and efficient resolution of taxpayer disputes for  
16                employees that interface with taxpayers and  
17                their managers, and

18                (B) ensure consistency of skill development  
19                and employee evaluation throughout the Inter-  
20                nal Revenue Service, and

21          (5) a thorough assessment of the funding nec-  
22          essary to implement such strategy.

1           **TITLE III—MISCELLANEOUS**  
2                           **PROVISIONS**  
3   **Subtitle A—Reform of Laws Gov-**  
4   **erning Internal Revenue Serv-**  
5   **ice Employees**

6   **SEC. 3001. ELECTRONIC RECORD RETENTION.**

7           (a) RETENTION OF RECORDS.—

8                   (1) IN GENERAL.—Email records of the Inter-  
9           nal Revenue Service shall be retained in an appro-  
10          priate electronic system that supports records man-  
11          agement and litigation requirements, including the  
12          capability to identify, retrieve, and retain the  
13          records, in accordance with the requirements de-  
14          scribed in paragraph (2).

15                  (2) REQUIREMENTS.—

16                          (A) PRIOR TO CERTIFICATION.—The Com-  
17                          missioner of Internal Revenue and the Chief  
18                          Counsel for the Internal Revenue Service shall  
19                          retain all email records generated on or after  
20                          the date of the enactment of this Act and be-  
21                          fore the date on which the Treasury Inspector  
22                          General for Tax Administration makes the cer-  
23                          tification under subsection (c)(1).

24                          (B) PRINCIPAL OFFICERS AND SPECIFIED  
25                          EMPLOYEES.—Not later than December 31,

1           2019, the Commissioner of Internal Revenue  
2           and the Chief Counsel for the Internal Revenue  
3           Service shall maintain email records of all prin-  
4           cipal officers and specified employees of the In-  
5           ternal Revenue Service for a period of not less  
6           than 15 years beginning on the date such  
7           record was generated.

8           (b) TRANSMISSION OF RECORDS TO THE NATIONAL  
9    ARCHIVES.—Not later than 15 years after the date on  
10   which an email record of a principal officer or specified  
11   employee of the Internal Revenue Service is generated, the  
12   Commissioner of Internal Revenue and the Chief Counsel  
13   for the Internal Revenue Service shall transfer such email  
14   record to the Archivist of the United States.

15          (c) COMPLIANCE.—

16           (1) CERTIFICATION.—On the date that the  
17    Treasury Inspector General for Tax Administration  
18    determines that the Internal Revenue Service has a  
19    program in place that complies with the require-  
20    ments of subsections (a)(2)(B) and (b), the Treas-  
21    ury Inspector General for Tax Administration shall  
22    certify to the Committee on Ways and Means of the  
23    House of Representatives and the Committee on Fi-  
24    nance of the Senate that the Internal Revenue Serv-  
25    ice is in compliance with such requirements.

1 (2) REPORTS.—

2 (A) INTERIM REPORT.—Not later than De-  
3 cember 31, 2019, the Treasury Inspector Gen-  
4 eral for Tax Administration shall submit a re-  
5 port to the Committee on Ways and Means of  
6 the House of Representatives and the Com-  
7 mittee on Finance of the Senate on the steps  
8 being taken by the Commissioner of Internal  
9 Revenue and the Chief Counsel for the Internal  
10 Revenue Service to comply with the require-  
11 ments of subsections (a)(2)(B) and (b).

12 (B) FINAL REPORT.—Not later than April  
13 1, 2020, the Treasury Inspector General for  
14 Tax Administration shall submit a report to the  
15 Committee on Ways and Means of the House of  
16 Representatives and the Committee on Finance  
17 of the Senate describing whether the Internal  
18 Revenue Service is in compliance with the re-  
19 quirements of subsections (a)(2)(B) and (b).

20 (d) DEFINITIONS.—For purposes of this section—

21 (1) PRINCIPAL OFFICER.—The term “principal  
22 officer” means, with respect to the Internal Revenue  
23 Service—

24 (A) any employee whose position is listed  
25 under the Internal Revenue Service in the most

1 recent version of the United States Government  
2 Manual published by the Office of the Federal  
3 Register;

4 (B) any employee who is a senior staff  
5 member reporting directly to the Commissioner  
6 of Internal Revenue or the Chief Counsel for  
7 the Internal Revenue Service; and

8 (C) any associate counsel, deputy counsel,  
9 or division head in the Office of the Chief  
10 Counsel for the Internal Revenue Service.

11 (2) SPECIFIED EMPLOYEE.—The term “speci-  
12 fied employee” means, with respect to the Internal  
13 Revenue Service, any employee who—

14 (A) holds a Senior Executive Service posi-  
15 tion (as defined in section 3132 of title 5,  
16 United States Code) in the Internal Revenue  
17 Service or the Office of Chief Counsel for the  
18 Internal Revenue Service; and

19 (B) is not a principal officer of the Inter-  
20 nal Revenue Service.

1 **SEC. 3002. PROHIBITION ON REHIRING ANY EMPLOYEE OF**  
2 **THE INTERNAL REVENUE SERVICE WHO WAS**  
3 **INVOLUNTARILY SEPARATED FROM SERVICE**  
4 **FOR MISCONDUCT.**

5 (a) IN GENERAL.—Section 7804 is amended by add-  
6 ing at the end the following new subsection:

7 “(d) PROHIBITION ON REHIRING EMPLOYEES INVOL-  
8 UNTARILY SEPARATED.—The Commissioner may not hire  
9 any individual previously employed by the Commissioner  
10 who was removed for misconduct under this subchapter  
11 or chapter 43 or chapter 75 of title 5, United States Code,  
12 or whose employment was terminated under section 1203  
13 of the Internal Revenue Service Restructuring and Reform  
14 Act of 1998 (26 U.S.C. 7804 note).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply with respect to the hiring of em-  
17 ployees after the date of the enactment of this Act.

18 **SEC. 3003. NOTIFICATION OF UNAUTHORIZED INSPECTION**  
19 **OR DISCLOSURE OF RETURNS AND RETURN**  
20 **INFORMATION.**

21 (a) IN GENERAL.—Subsection (e) of section 7431 is  
22 amended by adding at the end the following new sen-  
23 tences: “The Secretary shall also notify such taxpayer if  
24 the Internal Revenue Service or a Federal or State agency  
25 (upon notice to the Secretary by such Federal or State  
26 agency) proposes an administrative determination as to

1 disciplinary or adverse action against an employee arising  
2 from the employee's unauthorized inspection or disclosure  
3 of the taxpayer's return or return information. The notice  
4 described in this subsection shall include the date of the  
5 unauthorized inspection or disclosure and the rights of the  
6 taxpayer under such administrative determination.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to determinations proposed after  
9 the date which is 180 days after the date of the enactment  
10 of this Act.

## 11 **Subtitle B—Provisions Relating to** 12 **Exempt Organizations**

### 13 **SEC. 3101. MANDATORY E-FILING BY EXEMPT ORGANIZA-** 14 **TIONS.**

15 (a) IN GENERAL.—Section 6033 is amended by re-  
16 designating subsection (n) as subsection (o) and by insert-  
17 ing after subsection (m) the following new subsection:

18 “(n) MANDATORY ELECTRONIC FILING.—Any orga-  
19 nization required to file a return under this section shall  
20 file such return in electronic form.”.

21 (b) CONFORMING AMENDMENT.—Paragraph (7) of  
22 section 527(j) is amended by striking “if the organization  
23 has” and all that follows through “such calendar year”.

24 (c) INSPECTION OF ELECTRONICALLY FILED AN-  
25 NUAL RETURNS.—Subsection (b) of section 6104 is



1 amended by adding at the end the following: “Any annual  
2 return required to be filed electronically under section  
3 6033(n) shall be made available by the Secretary to the  
4 public as soon as practicable in a machine readable for-  
5 mat.”.

6 (d) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), the amendments made by this section  
9 shall apply to taxable years beginning after the date  
10 of the enactment of this Act.

11 (2) TRANSITIONAL RELIEF.—

12 (A) SMALL ORGANIZATIONS.—

13 (i) IN GENERAL.—In the case of any  
14 small organizations, or any other organiza-  
15 tions for which the Secretary of the Treas-  
16 ury or the Secretary’s delegate (hereafter  
17 referred to in this paragraph as the “Sec-  
18 retary”) determines the application of the  
19 amendments made by this section would  
20 cause undue burden without a delay, the  
21 Secretary may delay the application of  
22 such amendments, but such delay shall not  
23 apply to any taxable year beginning on or  
24 after the date 2 years after of the enact-  
25 ment of this Act.

1 (ii) SMALL ORGANIZATION.—For pur-  
2 poses of clause (i), the term “small organi-  
3 zation” means any organization—

4 (I) the gross receipts of which for  
5 the taxable year are less than  
6 \$200,000; and

7 (II) the aggregate gross assets of  
8 which at the end of the taxable year  
9 are less than \$500,000.

10 (B) ORGANIZATIONS FILING FORM 990-  
11 T.—In the case of any organization described  
12 in section 511(a)(2) of the Internal Revenue  
13 Code of 1986 which is subject to the tax im-  
14 posed by section 511(a)(1) of such Code on its  
15 unrelated business taxable income, or any orga-  
16 nization required to file a return under section  
17 6033 of such Code and include information  
18 under subsection (e) thereof, the Secretary may  
19 delay the application of the amendments made  
20 by this section, but such delay shall not apply  
21 to any taxable year beginning on or after the  
22 date 2 years after of the enactment of this Act.

1 **SEC. 3102. NOTICE REQUIRED BEFORE REVOCATION OF**  
2 **TAX EXEMPT STATUS FOR FAILURE TO FILE**  
3 **RETURN.**

4 (a) IN GENERAL.—Section 6033(j)(1) is amended by  
5 striking “If an organization” and inserting the following:

6 “(A) NOTICE.—

7 “(i) IN GENERAL.—After an organiza-  
8 tion described in subsection (a)(1) or (i)  
9 fails to file the annual return or notice re-  
10 quired under either subsection for 2 con-  
11 secutive years, the Secretary shall notify  
12 the organization—

13 “(I) that the Internal Revenue  
14 Service has no record of such a return  
15 or notice from such organization for 2  
16 consecutive years, and

17 “(II) about the revocation that  
18 will occur under subparagraph (B) if  
19 the organization fails to file such a re-  
20 turn or notice by the due date for the  
21 next such return or notice required to  
22 be filed.

23 The notification under the preceding sen-  
24 tence shall include information about how  
25 to comply with the filing requirements  
26 under subsection (a)(1) and (i).

1 “(B) REVOCATION.—If an organization”.

2 (b) EFFECTIVE DATE.—The amendment made by  
3 this section shall apply to failures to file returns or notices  
4 for 2 consecutive years if the return or notice for the sec-  
5 ond year is required to be filed after December 31, 2018.

## 6 **Subtitle C—Tax Court**

### 7 **SEC. 3301. DISQUALIFICATION OF JUDGE OR MAGISTRATE**

#### 8 **JUDGE OF THE TAX COURT.**

9 (a) IN GENERAL.—Part II of subchapter C of chap-  
10 ter 76 is amended by adding at the end the following new  
11 section:

### 12 **“SEC. 7467. DISQUALIFICATION OF JUDGE OR MAGISTRATE**

#### 13 **JUDGE OF THE TAX COURT.**

14 “Section 455 of title 28, United States Code, shall  
15 apply to judges and magistrate judges of the Tax Court  
16 and to proceedings of the Tax Court.”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
18 for such part is amended by adding at the end the fol-  
19 lowing new item:

“Sec. 7467. Disqualification of judge or magistrate judge of the Tax Court.”.

### 20 **SEC. 3302. OPINIONS AND JUDGMENTS.**

21 (a) IN GENERAL.—Section 7459 is amended by strik-  
22 ing all the precedes subsection (c) and inserting the fol-  
23 lowing:

1 **“SEC. 7459. OPINIONS AND JUDGMENTS.**

2       “(a) REQUIREMENT.—An opinion upon any pro-  
3 ceeding instituted before the Tax Court and a judgment  
4 thereon shall be made as quickly as practicable. The judg-  
5 ment shall be made by a judge in accordance with the  
6 opinion of the Tax Court, and such judgment so made  
7 shall, when entered, be the judgment of the Tax Court.

8       “(b) INCLUSION OF FINDINGS OF FACT IN OPIN-  
9 ION.—It shall be the duty of the Tax Court and of each  
10 division to include in its opinion or memorandum opinion  
11 upon any proceeding, its findings of fact. The Tax Court  
12 shall issue in writing all of its findings of fact, opinions,  
13 and memorandum opinions. Subject to such conditions as  
14 the Tax Court may by rule provide, the requirements of  
15 this subsection and of section 7460 are met if findings  
16 of fact or opinion are stated orally and recorded in the  
17 transcript of the proceedings.

18       “(c) REFERENCES.—Any reference in this title to a  
19 decision or report of the Tax Court shall be treated as  
20 a reference to a judgement or opinion of the Tax Court,  
21 respectively.”.

22       (b) CONFORMING AMENDMENT.—The item relating  
23 to section 7459 in the table of sections for part II of sub-  
24 chapter C of chapter 76 is amended to read as follows:

“Sec. 7459. Opinions and judgments.”.

1 (c) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

2 All orders, decisions, reports, rules, permits, agreements,  
3 grants, contracts, certificates, licenses, registrations, privi-  
4 leges, and other administrative actions, in connection with  
5 the Tax Court, which are in effect at the time this section  
6 takes effect, or were final before the effective date of this  
7 section and are to become effective on or after the effective  
8 date of this section, shall continue in effect according to  
9 their terms until modified, terminated, superseded, set  
10 aside, or revoked in accordance with law by the Tax Court.

11 **SEC. 3303. TITLE OF SPECIAL TRIAL JUDGE CHANGED TO**  
12 **MAGISTRATE JUDGE OF THE TAX COURT.**

13 (a) IN GENERAL.—Section 7443A is amended—

14 (1) by striking “special trial judges” in sub-  
15 sections (a) and (e) and inserting “magistrate  
16 judges of the Tax Court”,

17 (2) by striking “special trial judges of the  
18 court” in subsection (b) and inserting “magistrate  
19 judges of the Tax Court”, and

20 (3) by striking “special trial judge” in sub-  
21 sections (c) and (d) and inserting “magistrate judge  
22 of the Tax Court”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) The heading of section 7443A is amended  
25 by striking “**SPECIAL TRIAL JUDGES**” and insert-

1 ing **“MAGISTRATE JUDGES OF THE TAX**  
2 **COURT”**.

3 (2) The heading of section 7443A(b) is amend-  
4 ed by striking “SPECIAL TRIAL JUDGES” and insert-  
5 ing “MAGISTRATE JUDGES OF THE TAX COURT”.

6 (3) The item relating to section 7443A in the  
7 table of sections for part I of subchapter C of chap-  
8 ter 76 is amended to read as follows:

“Sec. 7443A. Magistrate judges of the Tax Court.”.

9 (4) The heading of section 7448 is amended by  
10 striking **“SPECIAL TRIAL JUDGES”** and inserting  
11 **“MAGISTRATE JUDGES OF THE TAX COURT”**.

12 (5) Section 7448 is amended—

13 (A) by striking “special trial judge’s” each  
14 place it appears in subsections (a)(6), (c)(1),  
15 (d), and (m)(1) and inserting “magistrate judge  
16 of the Tax Court’s”, and

17 (B) by striking “special trial judge” each  
18 place it appears other than in subsection (n)  
19 and inserting “magistrate judge of the Tax  
20 Court”.

21 (6) Section 7448(n) is amended—

22 (A) by striking “special trial judge which  
23 are allowable” and inserting “magistrate judge  
24 of the Tax Court which are allowable”, and

1 (B) by striking “special trial judge of the  
2 Tax Court” both places it appears and inserting  
3 “magistrate judge of the Tax Court”.

4 (7) The heading of section 7448(b)(2) is  
5 amended by striking “SPECIAL TRIAL JUDGES” and  
6 inserting “MAGISTRATE JUDGES OF THE TAX  
7 COURT”.

8 (8) The item relating to section 7448 in the  
9 table of sections for part I of subchapter C of chap-  
10 ter 76 is amended to read as follows:

“Sec. 7448. Annuities to surviving spouses and dependent children of judges  
and magistrate judges of the Tax Court.”.

11 (9) Section 7456(a) is amended—

12 (A) by striking “special trial judge” each  
13 place it appears and inserting “magistrate  
14 judge”, and

15 (B) by striking “(or by the clerk” and in-  
16 serting “of the Tax Court (or by the clerk”.

17 (10) Section 7466(a) is amended by striking  
18 “special trial judge” and inserting “magistrate  
19 judge”.

20 (11) Section 7470A is amended by striking  
21 “special trial judges” both places it appears in sub-  
22 sections (a) and (b) and inserting “magistrate  
23 judges”.



1           (12) Section 7471(a)(2)(A) is amended by  
2 striking “special trial judges” and inserting “mag-  
3 istrate judges”.

4           (13) Section 7471(c) is amended—

5                 (A) by striking “SPECIAL TRIAL JUDGES”  
6 in the heading and inserting “MAGISTRATE  
7 JUDGES OF THE TAX COURT”, and

8                 (B) by striking “special trial judges” and  
9 inserting “magistrate judges”.

10 **SEC. 3304. REPEAL OF DEADWOOD RELATED TO BOARD OF**  
11 **TAX APPEALS.**

12           (a) Section 7459 is amended by striking subsection  
13 (f) and redesignating subsection (g) as subsection (f).

14           (b) Section 7447(a)(3) is amended to read as follows:

15                 “(3) In any determination of length of service  
16 as judge or as a judge of the Tax Court of the  
17 United States there shall be included all periods  
18 (whether or not consecutive) during which an indi-  
19 vidual served as judge.”.

