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Last Updated: 12/12/2023

THE WHITE HOUSE

WASHINGTON

June 22, 1983

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF

FROM: RICHARD A. HAUSER *RHA*
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Claim of Executive Privilege in
Selective Service Cases

Selective prosecution has again been raised as a defense in the prosecution of a selective service non-registrant, U.S. vs. Rutt, Case Number 83-60033 (E.D. MI), and the court has again ordered the production of those documents previously produced for ex parte, in camera review in U.S. vs. Wayte plus one additional document -- a report to the President dated December 15, 1981. The Department of Justice recommends that a new claim of privilege be executed in order to clearly preserve the government's position on the executive privilege issue. The attached "Statement and Claim," which is patterned after that previously executed, has been prepared for your signature.

Attachment

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 83-60033
)	
DANIEL A. RUTT,)	
)	
Defendant.)	

STATEMENT AND CLAIM OF PRIVILEGE BY THE WHITE HOUSE
CHIEF OF STAFF AND ASSISTANT TO THE PRESIDENT

I, JAMES A. BAKER, III, state as follows:

1. I am White House Chief of Staff and Assistant to the President of the United States.

2. It has been brought to my attention that on May 26, 1983, the United States District Court for the Eastern District of Michigan ordered that the Government perfect any assertion of privilege it might wish to make concerning the defense request for documents which the defendant described as follows:

A. A document, dated December 10, 1981, identified as Memorandum for Military Manpower Task Force Members; Subject: Report on Selective Service Registration.

B. A document, dated August 18, 1982, identified as White House Memorandum, For: Edwin L. Harper, From: Stephen H. Galebach, Subject: Government Initiated Registration of Persons who Refuse to Register for Draft.

C. A document, undated, identified as "Costs of Compliance" (5 page document).

D. A document, dated June 25, 1982, identified as Senior Staff Meeting Action Items (2 pages).

E. A document, dated May 20, 1982, identified as Senior Staff Meeting Action Items.

F. A document, dated February 22, 1982, identified as Minutes of Management Meeting.

G. A document, dated September 11, 1981, identified as White House Memo -- Note to Ken Cribb from Craig Fuller.

H. A document attached to the document referenced in G above, dated September 9, 1981, identified as Senior Staff Meeting Action Items.

I. A document attached to the document referenced in G above, dated July 27, 1981, identified as Senior Staff Meeting Action Items.

J. A document attached to the document referenced in G above, dated July 23, 1981, identified as Senior Staff Meeting Action Items.

K. A document attached to the document referenced in G above, dated July 22, 1981, identified as Senior Staff Meeting Action Items.

L. A document, undated, identified as Memorandum for the Chairman of the Military Manpower Task Force--Subject: Draft Report to the President on Selective Service Registration from Thomas K. Turnage.

M. A document, dated April 12, 1982, identified as Military Manpower Task Force Meeting, 12 April, 1982.

N. A document, undated, identified as Selective Service Registration -- President Approved Continuation of Peacetime Registration.

O. A document, dated December 4, 1981, identified as Memo to: Ed Meese, Martin Anderson, From: Doug Bandow, Re: Prosecution of Draft Registration Nonregistrants.

P. A document, dated October 30, 1981, identified as "Questions Raised in October 30, 1981 Task Force Meeting."

Q. A document, dated October 1982, identified as Military Manpower Task Force: A Report to the President on the Status and Prospects of the All Volunteer Force (include all recommendations that came out of this report).

R. A document, undated, identified as Military Manpower Task Force: Second Draft of Final Report (include all recommendations from that draft).

S. A transcript, dated October 1, 1982, identified as Military Manpower Task Force Conference.

T. A transcript, dated January 29, 1982, identified as Meeting of the Military Manpower Task Force.

U. A transcript, dated November 30, 1981, identified as Military Manpower Task Force.

V. A transcript, dated March 10, 1982, identified as Military Manpower Task Force Briefing.

W. A transcript, dated October 30, 1981, identified as Military Manpower Task Force Meeting.

X. A document, dated March 10, 1982, identified as Military Manpower Task Force Briefing by Dr. Korb, 10 March 1982.

Y. A document, dated March 4, 1982, identified as "Increasing Selective Service Registration Compliance" (including recommendations).

3. It is my understanding that these documents, although several differ slightly from the defendant's descriptions, were submitted by the Government for ex parte, in camera judicial review in the cases of United States v. David Alan Wayte, No. 82-630-TJH (C.D. Cal.), United States v. Russell Ford, Criminal Case No. 82-1059 (D. Conn.), and United States v. Gillam Kerley, Case No. 82-CR-47. They are White House staff documents and Presidential Military Manpower Task Force documents which concern, in a general sense, the identification and prosecution of alleged Selective Service nonregistrants. These documents were the subject of formal claims of privilege in the Wayte, Ford, and Kerley cases. Copies of the former statements and claims of privilege are attached.

4. It has also been brought to my attention that on May 26, 1983, the United States District Court for the Eastern District of Michigan ordered that the Government perfect any assertion of privilege it might wish to make concerning defendant's request for the "President's Military Manpower Task Force study and report on continuation of the registration program, issued in or about December, 1981."

5. The Military Manpower Task Force was created by the President on July 8, 1981, to review all aspects of manpower requirements and conditions in the armed forces, including such matters as the adequacy of military compensation and incentives; educational benefits; current manpower readiness of the armed forces; effectiveness of training, leadership and discipline;

enlistment standards; recruiting and retention efforts; and Selective Service registration. The Task Force was chaired by Secretary of Defense Caspar W. Weinberger, and its members included Edwin Meese, III, Counsellor to the President; David A. Stockman, Director of the Office of Management and Budget; John O. Marsh, Secretary of the Army; John F. Lehman, Secretary of the Navy; Verne Orr, Secretary of the Air Force; William P. Clark, Assistant to the President for National Security Affairs; Edwin Harper, Assistant to the President for Policy Development; Martin Feldstien, Chairman of the Council of Economic Advisors; and General David Jones, Chairman of the Joint Chiefs of Staff. Major General Thomas K. Turnage served as the Executive Officer of the Task Force. The Task Force issued its report in October of 1982.

6. The documents which were the subject of former claims of privilege in the Wayte case were reviewed at that time as indicated in the attached copies of former statements and claims of privilege. In addition, I have reviewed the 1981 Military Manpower Task Force report.

7. The documents reflect the deliberations, considerations, analyses, and recommendations of White House staff and members of the Presidential Military Manpower Task Force and its staff in their preparation and implementation of Government policy.

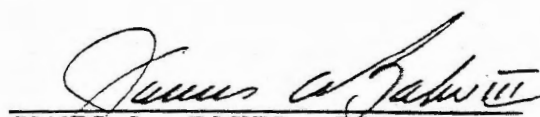
8. An essential requirement of the governmental decision-making process is that Government policy-makers be able to engage in a free and candid exchange of views concerning policy and its implementation. This is particularly critical

when the exchange of views involves a matter of such vital importance to the nation as military manpower. The efficiency of the decision-making process would be severely impaired if officials involved in that process must face the prospect that their exchanges of views, as well as the very process of decision-making, may be disclosed, either during the making of policy or thereafter.

9. In my judgment, disclosure of these documents would be injurious to the United States Government's discharge of its responsibilities and would be contrary to the public interest. Therefore, I assert, as authorized by the President, a formal claim of privilege concerning these documents.

10. I have authorized that the documents covered by this formal claim of privilege be provided to the Court, if the Court so requests, solely for its ex parte, in camera review.

Signed this 22nd day of June, 1983.


JAMES A. BAKER, III

THE WHITE HOUSE

WASHINGTON

March 8, 1983

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Claim of Executive Privilege in
Selective Service Cases

Selective prosecution has again been raised as a defense in the prosecution of a selective service non-registrant, U.S. vs. Kerley, Case Number 82-CR-47 (W.D. Wis.), and the court has again ordered the production of those documents previously produced for ex parte, in camera review in U.S. vs. Wayte. The Department of Justice recommends that a new claim of privilege be executed in order to clearly preserve the government's position on the executive privilege issue. The attached "Statement and Claim," which is the same as that previously executed, has been prepared for your signature.

In a related case, U.S. vs. Ford, the court, after reviewing the privileged documents, concluded that they did not support the defense of selective prosecution and denied the defendant's motion to dismiss.

Attachment

RAH:gm - 3/8/83
1-subj.
2-chron

THE WHITE HOUSE

WASHINGTON

March 8, 1983

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CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Claim of Executive Privilege in
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THE WHITE HOUSE

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Attachment

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

_____))
UNITED STATES OF AMERICA))
))
Plaintiff,))
))
v.))
))
GILLAM KERLEY,))
))
Defendant.))
_____)

CASE NO. 82-CR-47

STATEMENT AND CLAIM OF PRIVILEGE BY THE WHITE HOUSE
CHIEF OF STAFF AND ASSISTANT TO THE PRESIDENT

I, JAMES A. BAKER, III, state as follows:

1. I am White House Chief of Staff and Assistant to the President of the United States.

2. It has been brought to my attention that the United States District Court for the Western District of Wisconsin has ordered that White House staff documents and Presidential Military Manpower Task Force documents which were disclosed by the Government for ex parte, in camera judicial review in United States v. David Alan Wayte, 82-630-TJH (C.D. Cal.), be disclosed to the United States District Court for the Western District of Wisconsin for its own ex parte, in camera review. These documents concern, in a general sense, the identification and prosecution of alleged Selective Service nonregistrants and were the subject of formal claims of privilege in the Wayte case and in the case of United States v. Russell Ford, Criminal Case No. 82-1059 (D. Conn.). Copies of the former statements and claims of privilege are attached.

3. I am informed that, in response to the discovery orders in the Wayte case, Richard Hauser, Deputy Counsel to the President, caused a search to be run of the central file system (a computer indexed subject file) maintained by the White House Office of Records Management and the files of Edwin Meese, III, Counsellor to the President, who was the senior policy advisor to the President with oversight responsibility for the Presidential Military Manpower Task Force. I am further informed that those searches resulted in the gathering of documents, some of which were generated by the Presidential Military Manpower Task Force, containing material that may be within the scope of the court's orders.

4. Additionally, I am informed that, in response to the court's discovery orders in the Wayte case, searches were conducted within Selective Service and the Department of Defense which resulted in the gathering of Presidential Military Manpower Task Force documents that may be within the scope of the court's orders.

5. The Military Manpower Task Force was created by the President on July 8, 1981, to review all aspects of manpower requirements and conditions in the armed forces, including such matters as the adequacy of military compensation and incentives; educational benefits; current manpower readiness of the armed forces; effectiveness of training, leadership and discipline; enlistment standards; recruiting and retention efforts; and

Selective Service registration. The Task Force was chaired by Secretary of Defense Casper W. Weinberger, and its members included Edwin Meese, III, Counsellor to the President; David A. Stockman, Director of the Office of Management and Budget; John O. Marsh, Secretary of the Army; John F. Lehman, Secretary of the Navy; Verne Orr, Secretary of the Air Force; William P. Clark, Assistant to the President for National Security Affairs; Edwin Harper, Assistant to the President for Policy Development; Martin Feldstien, Chairman of the Council of Economic Advisors; and General David Jones, Chairman of the Joint Chiefs of Staff. Major General Thomas K. Turnage served as the Executive Officer of the Task Force. The Task Force issued its report in October of 1982.

6. The documents which were the subject of former claims of privilege in the Wayte case were reviewed at that time as indicated in the attached copies of former statements and claims of privilege.

7. The documents reflect the deliberations, considerations, analyses, and recommendations of White House staff and members of the Presidential Military Manpower Task Force and its staff in their preparation and implementation of Government policy.

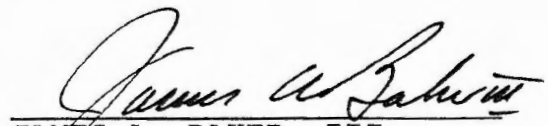
8. An essential requirement of the governmental decision-making process is that Government policy-makers be able to engage in a free and candid exchange of views concerning policy and its implementation. This is particularly critical

when the exchange of views involves a matter of such vital importance to the nation as military manpower. The efficiency of the decision-making process would be severely impaired if officials involved in that process must face the prospect that their exchanges of views, as well as the very process of decision-making, may be disclosed, either during the making of policy or thereafter.

9. In my judgment, disclosure of these documents would be injurious to the United States Government's discharge of its responsibilities and would be contrary to the public interest. Therefore, I assert, as authorized by the President, a formal claim of privilege concerning these documents.

10. I have authorized that the documents covered by this formal claim of privilege be provided to the Court solely for its ex parte, in camera review.

Signed this 10th day of March, 1983.


JAMES A. BAKER, III

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

RUSSELL F. FORD)

Defendant.)

CRIMINAL CASE NO. 82-1059 (MJB)

STATEMENT AND CLAIM OF PRIVILEGE BY THE WHITE HOUSE
CHIEF OF STAFF AND ASSISTANT TO THE PRESIDENT

I, JAMES A. BAKER, III, state as follows:

1. I am White House Chief of Staff and Assistant to the President of the United States.

2. It has been brought to my attention that the United States District Court for the District of Connecticut has ordered, in part, that White House staff documents and Presidential Military Manpower Task Force documents which were disclosed by the Government for ex parte, in camera judicial review in United States v. David Alan Wayte, 82-630-TJH (C.D. Cal.), be disclosed to the United States District Court for the District of Connecticut for its own ex parte, in camera review. These documents concern, in a general sense, the identification and prosecution of alleged Selective Service nonregistrants and were the subject of formal claims of privilege in the Wayte case. Copies of the former statements and claims of privilege are attached.

3. I am informed that, in response to the discovery orders in the Wayte case, Richard Hauser, Deputy Counsel to the President, caused a search to be run of the central file system (a computer indexed subject file) maintained by the White House Office of Records Management and the files of Edwin Meese, III, Counsellor to the President, who was the senior policy advisor to the President with oversight responsibility for the Presidential Military Manpower Task Force. I am further informed that those searches resulted in the gathering of documents, some of which were generated by the Presidential Military Manpower Task Force, containing material that may be within the scope of the court's orders.

4. Additionally, I am informed that, in response to the court's discovery orders in the Wayte case, searches were conducted within Selective Service and the Department of Defense which resulted in the gathering of Presidential Military Manpower Task Force documents that may be within the scope of the court's orders.

5. The Military Manpower Task Force was created by the President on July 8, 1981, to review all aspects of manpower requirements and conditions in the armed forces, including such matters as the adequacy of military compensation and incentives; educational benefits; current manpower readiness of the armed forces; effectiveness of training, leadership and discipline; enlistment standards; recruiting and retention efforts; and

Selective Service registration. The Task Force was chaired by Secretary of Defense Casper W. Weinberger, and its members included Edwin Meese, III, Counsellor to the President; David A. Stockman, Director of the Office of Management and Budget; John O. Marsh, Secretary of the Army; John F. Lehman, Secretary of the Navy; Verne Orr, Secretary of the Air Force; William P. Clark, Assistant to the President for National Security Affairs; Edwin Harper, Assistant to the President for Policy Development; Martin Feldstien, Chairman of the Council of Economic Advisors; and General David Jones, Chairman of the Joint Chiefs of Staff. Major General Thomas K. Turnage served as the Executive Officer of the Task Force. The Task Force issued its report in October of 1982.

6. The documents which were the subject of former claims of privilege in the Wayte case were reviewed at that time as indicated in the attached copies of former statements and claims of privilege.

7. The documents reflect the deliberations, considerations, analyses, and recommendations of White House staff and members of the Presidential Military Manpower Task Force and its staff in their preparation and implementation of Government policy.

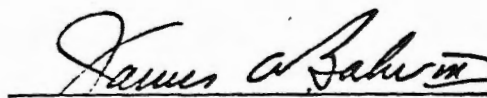
8. An essential requirement of the governmental decision-making process is that Government policy-makers be able to engage in a free and candid exchange of views concerning policy and its implementation. This is particularly critical

when the exchange of views involves a matter of such vital importance to the nation as military manpower. The efficiency of the decision-making process would be severely impaired if officials involved in that process must face the prospect that their exchanges of views, as well as the very process of decision-making, may be disclosed, either during the making of policy or thereafter.

9. In my judgment, disclosure of these documents would be injurious to the United States Government's discharge of its responsibilities and would be contrary to the public interest. Therefore, I assert, as authorized by the President, a formal claim of privilege concerning these documents.

10. I have authorized that the documents covered by this formal claim of privilege be provided to the Court solely for its ex parte, in camera review.

Signed this 24th day of February, 1983.


JAMES A. BAKER, III

1 STEPHEN S. TROTT
United States Attorney
2 ALEXANDER H. WILLIAMS III
Chief Assistant U.S. Attorney
3 RICHARD R. ROMERO
Assistant U.S. Attorney
4 312 North Spring Street
Los Angeles, California 92189
5 Telephone: 213-688-6527

6 Attorneys for Plaintiff
United States of America
7

8 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA)
11 Plaintiff,)
12 v.)
13 DAVID ALAN WAYTE)
14 Defendant.)

CRIMINAL CASE NO. 82-630

15 STATEMENT AND CLAIM OF PRIVILEGE BY THE WHITE HOUSE
16 CHIEF OF STAFF AND ASSISTANT TO THE PRESIDENT

17 I, JAMES A. BAKER, III, state as follows:

18 1. I am White House Chief of Staff and Assistant to the
19 President of the United States.

20 2. It has been brought to my attention that the United
21 States District Court for the Central District of California has
22 ordered discovery of White House staff documents and Presidential
23 Military Manpower Task Force documents which concern, in a
24 general sense, the identification and prosecution of alleged
25 Selective Service non-registrants.
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1 3. I am informed that, in response to those discovery
2 orders, Richard Hauser, Deputy Counsel to the President, caused a
3 search to be run of the central file system (a computer indexed
4 subject file) maintained by the White House Office of Records
5 Management and the files of Edwin Meese, III, Counsellor to the
6 President, who is the senior policy advisor to the President with
7 oversight responsibility for the Presidential Military Manpower
8 Task Force. I am further informed that those searches resulted
9 in the gathering of documents, some of which were generated by
10 the Presidential Military Manpower Task Force, containing
11 material that may be within the scope of the court's orders. The
12 pertinent portions of such documents have been provided to me,
13 and a copy of that material is attached to this declaration under
14 Tab A.

15 4. Additionally, I am informed that, in response to the
16 court's discovery orders, searches were conducted within
17 Selective Service and the Department of Defense which resulted in
18 the gathering of Presidential Military Manpower Task Force
19 documents that may be within the scope of the court's orders.
20 The pertinent portions of such documents have been provided to
21 me, and copies of those materials are attached to this
22 declaration under Tabs B and C respectively.

23 5. I have personally reviewed the materials contained under
24 Tabs A, B, and C.

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1 6. It is my judgment that the materials contained in
2 Subpart 1 of Tab A, some of which are public in nature, do not
3 impinge on the governmental decision-making process, and may
4 therefore be released pursuant to the court's discovery order.

5 7. It is my judgment that the material contained in Subpart
6 2 of Tab A involves privileged deliberations. I am advised,
7 however, that this material has already been disclosed publicly.
8 Accordingly, I have concluded that it may be released pursuant to
9 the court's discovery order.

10 8. The remaining materials (i.e., those contained in
11 Subpart 3 of Tab A and under Tabs B and C) reflect the
12 deliberations, considerations, analyses, and recommendations of
13 White House staff and members of the Presidential Military
14 Manpower Task Force and its staff in their preparation and
15 implementation of Government policy.

16 9. The Military Manpower Task Force was created by the
17 President on July 8, 1981, to review all aspects of manpower
18 requirements and conditions in the armed forces, including such
19 matters as the adequacy of military compensation and incentives;
20 educational benefits; current manpower readiness of the armed
21 forces; effectiveness of training, leadership and discipline;
22 enlistment standards; recruiting and retention efforts; and
23 Selective Service registration. The Task Force is chaired by
24 Secretary of Defense Casper W. Weinberger, and its members
25 include Edwin Meese, III, Counsellor to the President; David A.
26 Stockman, Director of the Office of Management and Budget; John
27 O. Marsh, Secretary of the Army; John F. Lehman, Secretary of the

1 Navy; Verne Orr, Secretary of the Air Force; William P. Clark,
2 Assistant to the President for National Security Affairs; Edwin
3 Harper, Assistant to the President for Policy Development; Martin
4 Feldstien, Chairman of the Council of Economic Advisors; and
5 General David Jones, Chairman of the Joint Chiefs of Staff.
6 Major General Thomas K. Turnage serves as the Executive Officer
7 of the Task Force.

8 10. An essential requirement of the governmental
9 decision-making process is that Government policy-makers be able
10 to engage in a free and candid exchange of views concerning
11 policy and its implementation. This is particularly critical
12 when the exchange of views involves a matter of such vital
13 importance to the nation as military manpower. The efficiency of
14 the decision-making process would be severely impaired if
15 officials involved in that process must face the prospect that
16 their exchanges of views, as well as the very process of
17 decision-making, may be disclosed, either during the making of
18 policy or thereafter.

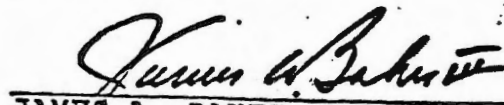
19 11. It is my judgment that, except for the materials which
20 I have authorized be released (i.e., Subparts 1 and 2 of Tab A),
21 disclosure of materials sought in this case would be injurious to
22 the United States Government's discharge of its responsibilities
23 and would be contrary to the public interest. Therefore, I
24 assert, as authorized by the President, a formal claim of
25 privilege concerning these materials (i.e., the materials
26 contained in Subpart 3 of Tab A and under Tabs B and C).

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1 12. I have authorized that the materials covered by this
2 formal claim of privilege be provided to the court solely for its
3 ex parte, in camera review.

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5 Signed this 13th day of October, 1982.

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8 JAMES A. BAKER, III
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1 STEPHEN S. TROTT
United States Attorney
2 ALEXANDER H. WILLIAMS, III
Chief Assistant U.S. Attorney
3 RICHARD R. ROMERO
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4 1407C United States Courthouse
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5 Los Angeles, California 90012
Telephone: 213-688-6527

6 Attorneys for Plaintiff
7 United States of America

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10	UNITED STATES OF AMERICA)	CRIMINAL CASE NO. 82-630-TJH
11	Plaintiff,)	
12	V.)	STATEMENT AND CLAIM OF
13	DAVID ALAN WAYTE)	PRIVILEGE BY THE WHITE HOUSE
14	Defendant.)	CHIEF OF STAFF AND ASSISTANT
15		TO THE PRESIDENT

16 I, JAMES A. BAKER, III, state as follows:

- 17 1. I am White House Chief of Staff and Assistant to the
18 President of the United States.
- 19 2. Earlier this month, the Court ordered discovery of White
20 House staff documents and Presidential Military Manpower Task
21 Force documents which concern, in a general sense, the policies
22 of the United States relative to prosecution of persons who have
23 failed to register with the Selective Service System.
- 24 3. The ensuing records searches resulted in the gathering
25 of documents containing information that might be within the
26 scope of the Court's discovery orders. The pertinent portions of
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1 such documents were provided to me and were attached to my
2 Statement, dated October 13, 1982, which has been filed with the
3 Court.. As reflected in that Statement, I authorized disclosure
4 to the Defendant of certain of those materials and asserted a
5 formal claim of privilege relative to the remaining materials,
6 which were submitted to the Court solely for its ex parte, in
7 camera review. A copy of my October 13, 1982, Statement is
8 attached.

9 4. I am informed that the Court has now ordered the
10 Government to submit for ex parte, in camera review complete,
11 unexpurgated versions of the privileged documents previously
12 provided to the Court in redacted form.

13 5. As a result, those documents have again been gathered
14 and have been provided to me. At my request, they have been
15 reviewed by Richard Hauser, Deputy Counsel to the President. I
16 have discussed the content of the documents with Mr. Hauser and
17 have personally reviewed representative portions of the
18 documents.

19 6.. The documents reflect the deliberations, considerations,
20 analyses, and recommendations of White House staff and members of
21 the Presidential Military Manpower Task Force and its staff in
22 their preparation and implementation of Government policy.

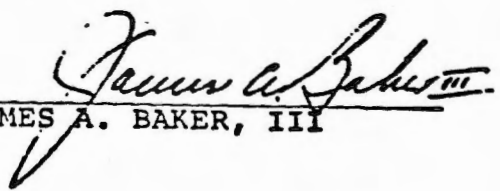
23 7. An essential requirement of the governmental
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2 importance to the nation as military manpower. The efficiency of
3 the decision-making process would be severely impaired if
4 officials involved in that process must face the prospect that
5 their exchanges of views, as well as the very process of
6 decision-making, may be disclosed, either during the making of
7 policy or thereafter.

8 8. In my judgment, disclosure of these documents would be
9 injurious to the United States Government's discharge of its
10 responsibilities and would be contrary to the public interest.
11 Therefore, I assert, as authorized by the President, a formal
12 claim of privilege concerning these documents.

13 9. I have authorized that the documents covered by this
14 formal claim of privilege ^{be} provided to the Court solely for its
15 ex parte, in camera review.

16
17 Signed this 26th day of October, 1982.

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19 
20 JAMES A. BAKER, III
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CLERK
U.S. DISTRICT COURT
HARTFORD, CONN.
UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :
v. : CRIMINAL NO. 82-1059
RUSSELL FORD :

RULING ON DEFENDANT'S REQUEST FOR DISCOVERY
MATERIAL RELATED TO SELECTIVE PROSECUTION DEFENSE

In order to obtain discovery on a selective prosecution defense a defendant must produce some evidence tending to show the essential elements of the defense and that the desired documents would be probative of these elements. United States v. Berrios, 501 F.2d 1207, 1211-12 (2d Cir. 1974). It is the finding of this court that the defendant has not shown any evidence establishing the second essential element of the Berrios test, i.e. "that the government's discriminatory selection of him for prosecution has been invidious or in bad faith" Id. at 1211.

Nevertheless, in light of the recent decision of the Central District of California in United States v. David Alan Wayte, No. 82-630-TJH, this court has examined, in camera, all of the documents turned over either to the defendant or to the court, in camera, in that case. These documents are virtually identical with those sought by defendant Ford. This preliminary in camera review has not persuaded the court that the documents are relevant to the specific defense for which they are sought. Given this


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finding, it is not necessary to rule on the government's claim of executive privilege regarding these documents.

Accordingly, all of the defendant's requests for discovery of documents allegedly related to a defense of selective prosecution are denied. All of the material examined, in camera, by this court will be placed under seal with an order that the seal is not to be broken except by further order of this court.

SO ORDERED.

Dated at Hartford, Connecticut, this 2nd day of March, 1983.


M. Joseph Blumenfeld
Senior United States District Judge

9/29/82
C. men
Tara
Wanna
et al

1,750,000

free period

491 \$3/28/82

took 6/2/82

539

9/26/82

1960-1963 - 95.2% compliance

1964 - 94.2%

20% registration after receiving letter
from DRS (but only 44% hits on see see #).

DMV all out 6 states.

1809

341 cases referred

174 dropped

167

61 indictments.

re DRS

took more letters to be sent.

Also want names
addresses

legislative package:

to provide incentives

failure to reg. - ineligible for fed. assistance
eg student loans. (in 1990 and bill)
jobs training bill (3:1)
(place on forms)
employment insurance
food stamps

reg. in reverse = registration.

AUG 25 1982



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 25 August 1982

TO: Richard A. Hauser

FROM: LEGISLATIVE AFFAIRS

Sent in accordance with your request.

GM

① make copy of pp 62-6258 and 62-6259 and place in my file on Sel. Service provisions.

② Add the attached to materials on the Tax Bill.

RBS

Subpart B—Other Financing Provisions
 Sec. 272. Credit reduction not to apply when State makes certain repayments.
 Sec. 273. Limitation of fifth year credit reduction.
 Sec. 274. Deferral of interest in case of certain States with high unemployment rates.
 Sec. 275. Required repayments from extended unemployment compensation account.
 Sec. 276. Treatment of certain services performed by students.
 Sec. 277. Treatment of certain alien farm workers.

PART III—MEDICARE COVERAGE

Sec. 278. Medicare coverage of, and application of hospital insurance tax to, Federal employment.

Subtitle F—Excise Taxes.

PART I—AIRPORT AND AIRWAY

Sec. 279. Tax on fuel used in noncommercial aviation.
 Sec. 280. Tax on transportation by air.
 Sec. 281. Extension of Airport and Airway Trust Fund.

PART II—COMMUNICATIONS SERVICES

Sec. 282. Extension of excise tax on communications services.

PART III—CIGARETTES

Sec. 283. Increase in tax on cigarettes.

PART IV—TAPS ADJUSTMENT ELIMINATED

Sec. 284. Elimination of the TAPS adjustment.

Subtitle G—Miscellaneous.

Sec. 285. Two-year extension of exclusion from gross income of national research service awards.
 Sec. 286. Special rules for certain amateur sports organizations.
 Sec. 287. New Jersey general revenue sharing allocation.
 Sec. 283. Illegal payments to government officials or employees.
 Sec. 289. Debt management provisions.
 Sec. 290. Jefferson County mental health center.
 Sec. 291. Alaska native corporations.
 Sec. 292. Awarding of costs and certain fees.
 Sec. 293. Treatment of certain lending of finance businesses for purposes of the tax on personal holding companies.
 Sec. 294. Additional refunds relating to repeal of excise tax on buses.

TITLE III—TAXPAYER COMPLIANCE

Subpart A—Withholding on Interest and Dividends

Sec. 301. Withholding on interest and dividends.
 Sec. 302. Credit against tax.
 Sec. 303. Returns regarding payments of dividends and payments of interest.
 Sec. 304. Returns regarding payments of patronage dividends.
 Sec. 305. Denial of deduction for certain taxes.
 Sec. 306. Penalties.
 Sec. 307. Conforming and clerical amendments.
 Sec. 308. Effective dates; special rules.

Subtitle B—Improved Information Reporting

PART I—EXPANDED REPORTING

Sec. 309. Reporting of interest.
 Sec. 310. Obligations required to be registered.
 Sec. 311. Returns of brokers.
 Sec. 312. Information reporting requirements for payments of remuneration for services and direct sales.

Sec. 313. State and local income tax refunds.

Sec. 314. Employer reporting with respect to tips.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

Sec. 315. Increased penalties for failure to file information return or to furnish statement.

Sec. 316. Increased in civil penalty on failure to supply identifying numbers.

Sec. 317. Extension of withholding to certain payments where identifying number not furnished or inaccurate.

Sec. 318. Minimum penalty for extended failure to file.

Sec. 319. Information returns.

Subtitle C—Abusive Tax Shelters, Etc.; Substantial Underpayments; False Documents; Frivolous Returns

PART I—ABUSIVE TAX SHELTERS, ETC.

Sec. 320. Penalty for promoting abusive tax shelters, etc.

Sec. 321. Action to enjoin promoters of abusive tax shelters, etc.

Sec. 322. Procedural rules applicable to penalties under sections 6700, 6701 and 6702.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS, ETC.

Sec. 323. Penalty for substantial understatement.

Sec. 324. Penalties for documents understating tax liability.

Sec. 325. Fraud penalty.

Sec. 326. Penalty for frivolous returns.

Sec. 327. Relief from criminal penalty for failure to file estimated tax where taxpayer falls within statutory exceptions.

Sec. 328. Adjustments to estimated tax provisions.

Sec. 329. Increases in certain criminal fines.

Sec. 330. Special rules with respect to certain cash.

Subtitle D—Administrative Summons.

Sec. 331. Special procedures for third-party summons.

Sec. 332. Duty of third-party recordkeeper.

Sec. 333. Limitation on use of administrative summons.

Subtitle E—Withholding on Pensions and Other Retirement Income

Sec. 334. Withholding on pensions, annuities, and certain other deferred income.

Sec. 335. Partial rollovers of IRA distributions permitted.

Subtitle F—Transactions Outside the United States or Involving Foreign Persons

Sec. 336. Jurisdiction of court and enforcement of summons in case of persons residing outside the United States.

Sec. 337. Admissibility of evidence maintained in foreign countries.

Sec. 338. Penalty for failure to furnish information with respect to certain foreign corporations.

Sec. 339. Information requirements with respect to certain foreign-owned corporations.

Sec. 340. Returns with respect to foreign personal holding companies.

Sec. 341. Authority to delay date for filing certain returns relating to foreign corporations and foreign trusts.

Sec. 342. Withholding of tax on nonresident aliens and foreign corporations.

Sec. 343. Technical amendment relating to penalty under section 905(c).

Subtitle G—Modification of Interest Provisions

Sec. 344. Interest compounded daily.

Sec. 345. Determination of rate of interest to be made semiannually.

Sec. 346. Restrictions on payment of interest for certain periods.

Subtitle H—Taxpayer Safeguard Amendments

Sec. 347. Increase in certain exemptions from levy.

Sec. 348. Required release of lien.

Sec. 349. Requirement of timely notice of levy.

Sec. 350. Amount of damages in case of wrongful levy.

Subtitle I—Other Provisions

Sec. 351. Disallowance of deductions relating to narcotics trafficking.

Sec. 352. Sense of Congress with respect to providing of additional funds to Internal Revenue Service.

Sec. 353. Report on forms.

Sec. 354. Exemption of veterans' organizations.

Sec. 355. Amendment to Communications Act of 1934.

Sec. 356. Confidentiality and disclosure of returns and return information.

Sec. 357. Civil damages against United States for unauthorized disclosures by an employee.

Sec. 358. Disclosure for use in certain audits by General Accounting Office.

TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

Sec. 401. Short title.

Sec. 402. Tax treatment of partnership items.

Sec. 403. Requirement that statement be furnished to partner.

Sec. 404. Returns required from all partnerships with United States partners.

Sec. 405. Return requirement for United States persons having interest in foreign partnerships.

Sec. 406. Special rule for certain international satellite partnerships.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

Sec. 501. Short title.

Sec. 502. Declaration of policy.

Sec. 503. Definitions.

Sec. 504. National airport and airway system plans.

Sec. 505. Airport improvement program.

Sec. 506. Airway improvement program.

Sec. 507. Apportionment of funds.

Sec. 508. Use of apportioned and discretionary funds; miscellaneous conditions.

Sec. 509. Submission and approval of project grant applications.

Sec. 510. United States share of project costs.

Sec. 511. Project sponsorship.

Sec. 512. Grant agreements.

Sec. 513. Project costs.

Sec. 514. Payments under grant agreements.

Sec. 515. Performance of construction work.

Sec. 516. Use of Government-owned lands.

Sec. 517. False statements.

Sec. 518. Access to records.

Sec. 519. General powers.

Sec. 520. Civil rights.

Sec. 521. Reports to Congress.

Sec. 522. Report on ability of airports to finance airport development needs.

shall be subject to appeal in the same manner as the decision or judgment.

"(f) TERMINATION.—This section shall not apply to any proceeding commenced after December 31, 1985."

(b) PENALTY FOR USING TAX CHART PROCEEDINGS FOR DELAY. PENALTY FOR FRIVOLOUS OR GROUNDLESS PROCEEDING.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: "Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of \$5,000 shall be awarded to the United States by the Tax Court in its decision."

(c) APPLICATION WITH TITLE 28.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f)). Nothing in the preceding sentence shall prevent the awarding under subsection (a) of section 2412 of title 28, United States Code, of costs enumerated in section 1920 of such title (as in effect on October 1, 1981)."

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

"Sec. 7430. Awarding of court costs and certain fees.

"Sec. 7431. Cross references."

(2)(A) The section heading of section 6673 is amended by striking out "MERELY FOR DELAY" and inserting in lieu thereof "PRIMARILY FOR DELAY, ETC."

(B) The table of sections for subchapter B of chapter 68 is amended by striking out "merely for delay" in the item relating to section 6673 and inserting in lieu thereof "primarily for delay, etc."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to civil actions or proceedings commenced after February 28, 1983.

(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1982.

SEC. 293. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) REMOVAL OF LIMITATION ON AMOUNT OF ORDINARY GROSS INCOME FROM LENDING OR FINANCE BUSINESS TAKEN INTO ACCOUNT.—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out "but not \$1,000,000".

(b) CHANGES IN DEFINITION OF LENDING OR FINANCE BUSINESS.—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the

sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or"

(c) INDEFINITE MATURITY CREDIT TRANSACTIONS.—Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) INDEFINITE MATURITY CREDIT TRANSACTIONS.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) SUBSECTIONS (b) and (c). The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 294. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.

(a) TIME FOR FILING CLAIM.—Subparagraph (C) of section 231(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out "the first day of such 10th calendar month" and inserting in lieu thereof "December 31, 1982".

(b) PROCEDURE FOR PASSING THROUGH REFUND.—Subparagraph (A) of section 231(c)(2) of such Act is amended by inserting before the semicolon ", or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement".

TITLE III—TAXPAYER COMPLIANCE

SUBTITLE A—WITHHOLDING ON INTEREST AND DIVIDENDS

SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Withholding From Interest and Dividends

"Sec. 3451. Income tax collected at source on interest, dividends, and patronage dividends.

"Sec. 3452. Exemptions from withholding.

"Sec. 3453. Payor defined.

"Sec. 3454. Definitions of interest, dividend, and patronage dividend.

"Sec. 3455. Other definitions and special rules.

"Sec. 3456. Administrative provisions.

"SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this subchapter, the payor of any interest, dividend, or patronage dividend shall withhold a tax equal to 10 percent of the amount of the payment.

"(b) SPECIAL RULES.—

"(1) TIME OF WITHHOLDING.—Except as otherwise provided in this subchapter, for purposes of this subchapter—

"(A) any payment of interest, dividend, or patronage dividend shall be treated as made, and

"(B) the tax imposed by this section shall be withheld,

at the time such interest, dividend, or patronage dividend is paid or credited.

"(2) PAYEE UNKNOWN.—If a payor is unable to determine the person to whom any interest, dividend, or patronage dividend is payable or creditable, the tax under this section shall be withheld at the time withholding would be required under paragraph (1) if the payee were known and were an individual.

"(3) AMOUNT OF DIVIDEND, ETC., UNKNOWN.—

"(A) IN GENERAL.—If the payor is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution. To the extent provided in regulations, a similar rule shall apply in the case of interest and patronage dividends.

"(B) DISTRIBUTIONS WHICH ARE NOT DIVIDENDS.—To the extent provided in regulations, this section shall not apply to the extent that the portion of a distribution which is not a dividend may reasonably be estimated.

"(4) WITHHOLDING FROM ALTERNATIVE SOURCE.—The Secretary shall prescribe regulations setting forth the circumstances under which the tax imposed by this section may be paid from an account or source other than the payment which gives rise to the liability for tax.

"(c) LIABILITY FOR PAYMENT.—

"(1) PAYOR LIABLE.—Except as otherwise provided in this subchapter, the payor—

"(A) shall be liable for the payment of the tax imposed by this section which such payor is required to withhold under this section, and

"(B) shall not be liable to any person (other than the United States) for the amount of any such payment.

"(2) RELIANCE ON EXEMPTION CERTIFICATES.—The payor shall not be liable for the payment of tax imposed by this section which such payor is required to withhold under this section if—

"(A) such payor fails to withhold such tax, and

"(B) such failure is due to reasonable reliance on an exemption certificate delivered to such payor under section 3452(f) which is in effect with respect to the payee at the time such tax is required to be withheld under this section.

"SEC. 3452. EXEMPTIONS FROM WITHHOLDING.

"(a) IN GENERAL.—Section 3451 shall not apply with respect to—

"(1) any payment to an exempt individual,

"(2) any payment to an exempt recipient,

"(3) any minimal interest payment, or

"(4) any qualified consumer cooperative payment.

"(b) EXEMPT INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt individual' means any individual—

"(A) who is described in paragraph (2), and

"(B) with respect to whom an exemption certificate is in effect.

"(2) INDIVIDUALS DESCRIBED IN THIS PARAGRAPH.—An individual is described in this paragraph if—

"(A) such individual's income tax liability for the preceding taxable year did not exceed \$600 (\$1,000 in the case of a joint return under section 6013), or

"(B)(i) such individual is 65 or older, and

"(ii) such individual's income tax liability for the preceding taxable year did not exceed \$1,500 (\$2,500 in the case of a joint return under section 6013).

"(3) SPECIAL RULE FOR MARRIED PERSONS.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

"(A) either spouse is 65 or older, and

"(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

"(4) SPECIAL RULE FOR CERTAIN TRUSTS DISTRIBUTING CURRENTLY.—Under regulations, a trust—

"(A) the terms of which provide that all of its income is required to be distributed currently, and

"(B) all the beneficiaries of which are individuals described in paragraph (2) or organizations described in subsection (c)(2)(B), shall be treated as an individual described in paragraph (2).

"(5) INCOME TAX LIABILITY.—For purposes of this subsection, the term "income tax liability" means the amount of the tax imposed by subtitle A for the taxable year, reduced by the sum of the credits allowable against such tax (other than credits allowable by sections 31, 39, and 43).

"(c) EXEMPT RECIPIENTS.—

"(1) IN GENERAL.—For purposes of this section, the term "exempt recipient" means any person described in paragraph (2)—

"(A) with respect to whom an exemption certificate is in effect, or

"(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without certification.

"(2) PERSONS DESCRIBED IN THIS PARAGRAPH.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

"(C) the United States or a State,

"(D) a foreign government or international organization,

"(E) a foreign central bank of issue,

"(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

"(G) a real estate investment trust (as defined in section 856),

"(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

"(I) a common trust fund (as defined in section 584(a)),

"(J) a nominee or custodian (except as otherwise provided in regulations),

"(K) to the extent provided in regulations—

"(i) a financial institution,

"(ii) a broker, or

"(iii) any other person specified in such regulations, who collects any interest, dividend, or patronage dividend for the payee or otherwise acts as a middleman between the payor and payee, or

"(L) any trust which—

"(i) is exempt from tax under section 664(c), or

"(ii) is described in section 4947(a)(1).

"(3) PAYOR MAY REQUIRE CERTIFICATION.—A person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if—

"(A) an exemption certificate is not in effect with respect to such person, and

"(B) the payor does not treat such person as an exempt recipient.

"(d) MINIMAL INTEREST PAYMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term "minimal interest payment" means any payment of interest—

"(A) with respect to which an election by the payor made under paragraph (3) is in effect, and

"(B) which—

"(i) does not exceed \$150, and

"(ii) if determined for a 1-year period would not exceed \$150.

"(2) AGGREGATION OF PAYMENTS TO SAME PAYEE.—To the extent provided in regulations prescribed by the Secretary, payments of interest by a payor to the same payee shall be aggregated for purposes of applying paragraph (1)(B).

"(3) ELECTION.—

"(A) IN GENERAL.—Any payor may make an election under this paragraph with respect to any type of interest payments.

"(B) EFFECTIVE UNTIL REVOKED.—Except as provided in regulations prescribed by the Secretary, an election made by any person under this paragraph shall remain in effect until revoked by such person.

"(C) TIME AND MANNER.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

"(e) QUALIFIED CONSUMER COOPERATIVE PAYMENT.—For purposes of this section, the term "qualified consumer cooperative payment" means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

"(f) EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—

"(A) DELIVERY.—An exempt individual or exempt recipient may deliver an exemption certificate to a payor at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

"(B) CHANGE OF STATUS.—Any person who ceases to be an exempt individual or exempt recipient shall, not later than the close of the 10th day after the date of such cessation, notify each payor with whom such person has an exemption certificate of such change in status. No notice shall be required under the preceding sentence with respect to any payor if it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from such payor.

"(2) EFFECTIVENESS OF CERTIFICATES.—

"(A) GENERAL RULE.—Except as otherwise provided in regulations prescribed by the Secretary, an exemption certificate shall be effective until—

"(i) revoked, or

"(ii) notice of change in status is provided pursuant to paragraph (1)(B).

"(B) WHEN CERTIFICATE TAKES EFFECT.—The Secretary shall prescribe regulations setting forth—

"(i) the day on which a filed exemption certificate shall be considered effective, and

"(ii) the circumstances under which a payor shall treat an exemption certificate as having ceased to be effective where the Secretary has determined that the person described therein is not an exempt individual or exempt recipient.

"SEC. 3453. PAYOR DEFINED.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term "payor" means the person paying or crediting the interest, dividend, or patronage dividend.

"(b) CERTAIN MIDDLEMEN TREATED AS PAYORS.—For purposes of this subchapter—

"(1) IN GENERAL.—To the extent provided in regulations—

"(A) any custodian for, or nominee of, the payee,

"(B) any corporate trustee of a trust which is the payee, or

"(C) any person which collects the payment for the payee or otherwise acts as a middleman between the payor and the payee, shall be treated as a payor with respect to the payment.

"(2) RECEIPT TREATED AS PAYMENT.—To the extent provided in regulations, any person treated as a payor under paragraph (1) shall be treated as having paid the interest, dividend, or patronage dividend when such person received such amount.

"(c) AGENTS, ETC.—In the case of—

"(1) a fiduciary or agent with respect to the payment or crediting of any interest, dividend, or patronage dividend, or

"(2) any other person who has the control, receipt, custody, or disposal of, or pays or credits any interest, dividend, or patronage dividend for any payor,

the Secretary, under regulations prescribed by him, may designate such fiduciary, agent, or other person as a payor with respect to such payment or crediting for purposes of this subchapter.

"(d) TREATMENT OF PERSONS TO WHOM SUBSECTION (b) OR (c) APPLIES.—Any person treated as a payor under subsection (b) or (c)—

"(1) shall perform such acts as are required of a payor (within the meaning of subsection (a)) and as may be specified by the Secretary, and

"(2) shall be treated as a payor for all provisions of law (including penalties) applicable in respect to a payor (within the meaning of subsection (a)).

"(e) RELIEF FROM DOUBLE WITHHOLDING.—The Secretary may by regulations provide that where any person is treated as a payor under subsection (b) or (c) with respect to any payment, any other person who (but for this subsection) would be treated as a payor with respect to such payment shall be relieved from the requirements of this subchapter to the extent provided in such regulations.

"(f) LIABILITY OF THIRD PARTIES PAYING OR PROVIDING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—To the extent provided in regulations prescribed by the Secretary, rules similar to the rules of section 3505 (relating to liability of third parties paying or providing for wages) shall apply for purposes of this subchapter. For purposes of the preceding sentence, the last sentence of subsection (b) of section 3505 shall be applied by substituting "10 percent" for "25 percent".

"SEC. 3454. DEFINITIONS OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND.

"(a) INTEREST DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term "interest" means—

"(A) interest on any obligation in registered form or of a type offered to the public,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, home-stead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045(c)), and

"(F) interest paid on amounts held by investment companies (as defined in section 3

of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts.

"(2) EXCEPTIONS.—The term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from taxation under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for taxable years beginning before January 1, 1985)),

"(D) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount,

"(E) any amount which would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

"(i) such amount is income from sources outside the United States,

"(ii) the payor thereof is exempted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)),

"(F) any amount which is exempt from tax under—

"(i) section 892 (relating to income of foreign governments and of international organizations), or

"(ii) section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States or from bank deposits),

"(G) except to the extent otherwise provided in regulations, any amount paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident aliens, individuals and persons described in clause (i), (ii), or (iii),

"(H) any amount on which the person making payment is required to withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions), and

"(I) except to the extent otherwise provided in regulations, any amount not described in the foregoing provisions of this paragraph which is paid outside the United States and is income from sources outside the United States.

"(3) ADJUSTMENT FOR PENALTY BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—To the extent provided in regulations, the amount of any interest on a time savings account, certificate of deposit, or similar class of deposits shall be appropriately reduced for purposes of this subchapter by the amount of any penalty imposed for the premature withdrawal of funds.

"(b) DIVIDEND DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'dividend' means—

"(A) any distribution by a corporation which is a dividend (as defined in section 316), and

"(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

"(2) SUBCHAPTER S DISTRIBUTIONS AFTER CLOSE OF YEAR.—The term 'dividend' includes any distribution described in section 1375(f) (relating to distributions by electing small business corporations after the close of the taxable year).

"(3) EXCEPTIONS.—The term 'dividend' shall not include—

"(A) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities),

"(B) any amount which is treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), 306 (relating to disposition of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

"(C) any amount described in subparagraph (D), (E), or (F) of subsection (a)(2),

"(D) to the extent provided in regulations, any amount paid by a foreign corporation not engaged in a trade or business in the United States,

"(E) any amount which is a capital gain dividend distributed by—

"(i) a regulated investment company (as defined in section 852(b)(3)(C)), or

"(ii) a real estate investment trust (as defined in section 857(b)(3)(C)),

"(F) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

"(G) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) will be exempt-interest dividends, and

"(H) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

"(c) PATRONAGE DIVIDEND.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'patronage dividend' means—

"(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except a nonqualified written notice of allocation),

"(B) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

"(C) any amount paid in money or other property (except written notice of allocation) in redemption of a nonqualified written notice of allocation attributable to any source described in subparagraph (A) or (B).

"(2) EXCEPTIONS.—The term 'patronage dividend' shall not include any amount described in subparagraph (D), (E), or (F) of subsection (a)(2).

"(3) SPECIAL RULES.—In determining the amount of any patronage dividend—

"(A) property (other than a written notice of allocation) shall be taken into account at its fair market value,

"(B) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

"(C) a patronage dividend part of which is a qualified written notice of allocation de-

scribed in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such dividend is paid in money or by a qualified check, and any such qualified written notice of allocation which is taken into account after the application of this subparagraph shall be taken into account at its stated dollar amount.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'qualified written notice of allocation' has the meaning given to such term by section 1388(c).

"(B) NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'nonqualified written notice of allocation' has the meaning given to such term by section 1388(d).

"(C) QUALIFIED CHECK.—The term 'qualified check' has the meaning given to such term by section 1388(c)(4).

"SEC. 3455. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization.

"(2) STATE.—The term 'State' means a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(3) UNITED STATES.—The term 'United States' means the United States and any wholly owned agency or instrumentality thereof.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(5) INTERNATIONAL ORGANIZATION.—The term 'international organization' means an international organization and any wholly owned agency or instrumentality thereof.

"(6) NONRESIDENT ALIEN.—The term 'nonresident alien individual' includes an alien resident of Puerto Rico.

"(7) WITHHOLD, ETC., INCLUDE DEDUCT.—The terms 'withhold', 'withholding', and 'withheld' include deduct, deducting, and deducted.

"(b) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) the tax imposed by section 3451 shall apply to the amount of original issue discount on any obligation which is includable in the gross income of the holder during the calendar year. Any such amount shall be treated as a payment for purposes of this subchapter.

"(2) TRANSFERRED OBLIGATIONS.—

"(A) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by section 3451 shall apply to such original issue discount as if the subsequent holder were the original holder.

"(B) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—In the case of any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder, if any subsequent purchaser establishes the date on which, and the purchase price at which, he acquired such obligation, the amount of original issue discount on such obligation shall be determined (subject to such regulations as the Secretary may prescribe) as if it were issued on the date such subsequent purchaser acquired such obligation for an issue

price equal to the purchase price at which such subsequent purchaser acquired such obligation.

"(3) LIMITATION ON AMOUNT WITHHELD.—

"(A) IN GENERAL.—The amount of tax imposed by section 3451 on the original issue discount on any obligation which is required to be withheld under section 3451(a) in any calendar year shall not exceed the amount of cash paid with respect to such obligation during such calendar year.

"(B) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid the purposes of this subchapter, subparagraph (A) shall not apply with respect to original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

"(C) PAYMENTS FROM WHICH WITHHOLDING IS TO BE MADE.—Except to the extent otherwise provided in regulations, the tax imposed by section 3451 with respect to original issue discount for any calendar year shall be withheld from each cash payment made with respect to such obligation during such calendar year in the proportion which the amount of such payment bears to the aggregate of such payments.

"(4) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this subsection, the term 'original issue discount' has the meaning given such term by section 1232(b)(1).

"SEC. 3456. ADMINISTRATIVE PROVISIONS.

"(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the payor of any payment subject to withholding under section 3451 is the United States or a State, or an agency or instrumentality thereof, the return of the tax withheld under this subchapter shall be made by the officer or employee having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

"(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 3454(a)(1) may elect to defer withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date which is not later than the last day of such year.

"(2) CONDITION FOR ELECTION.—The regulations prescribed under paragraph (1) shall provide that an election under such paragraph is conditional on agreement by the person making the election—

"(A) that the balance in any account subject to such election shall at no time be less than an amount equal to the tax under section 3451 which would have been withheld as of such time if such election were not in effect, and

"(B) that if an account subject to such election is closed before the date on which the tax under section 3451 would (but for this subparagraph) be withheld as a result of such an election, the tax shall be withheld before the time of closing such account.

"(c) TAX PAID BY RECIPIENT.—If a payor, in violation of the provisions of this subchapter, fails to withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be withheld shall not be collected from the payor; but this subsection shall in no case relieve the payor from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter."

SEC. 302. CREDIT AGAINST TAX.

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended to read as follows:

"SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) WAGE WITHHOLDING.—The amount withheld under section 3402 as tax on the wages of any individual shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(b) WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—The amount withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(c) CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.—The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as otherwise provided in paragraph (2), any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.—The amount withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(b)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends."

(b) TREATMENT OF ESTATES AND TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to estates and trusts) is amended by adding at the end thereof the following new subsection:

"(d) COORDINATION WITH WITHHOLDING ON INTEREST AND DIVIDENDS.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under subchapter B of chapter 24—

"(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b) (on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under this subchapter),

"(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit had been paid to him by the estate or trust, and

"(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 661 (relating to deduction for estates and trusts accumulating income or distributing corpus) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), the amount

of distributable net income shall be computed without the deduction allowed by section 642(c)."

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 6413(c) is amended by striking out "section 31(b)" and inserting in lieu thereof "section 31(c)".

SEC. 303. RETURNS REGARDING PAYMENTS OF INTEREST, DIVIDENDS AND PAYMENTS OF INTEREST.

(a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B),

(C) by inserting after subparagraph (1) the following new subparagraph:

"(C) who is required to withhold tax under section 3451 on any payment of dividends,

(D) by striking out the period at the end thereof, and

(E) by inserting the following at the end thereof: "and, in the case of a payment upon which tax is withheld, the amount of tax withheld."

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "and",

(C) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451," and

(D) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (C) of subsection (a)(1), no statement".

(3) DUPLICATE FILED WITH SECRETARY.—Section 6042 is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative which part I of subchapter T of chapter 135 applies which—

"(A) makes payments of amounts described in subsection (b) aggregating \$10 or more to any person during any calendar year, or

"(B) is required to withhold any tax under section 3451,

shall make a return according to the form or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, the name and address of the

person to whom paid, and the amount of tax withheld."

(b) AMOUNTS SUBJECT TO REPORTING.—Paragraph (1) of section 6044(b) (relating to amounts subject to reporting) is amended by striking out "under subsection (a)", and by inserting "under paragraph (1)(A) or (2) of subsection (a)".

(c) STATEMENTS.—Section 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting ", and" in lieu thereof,

(3) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(4) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (B) of subsection (a)(1), no statement".

(d) DUPLICATE FILED WITH SECRETARY.—Section 6044 is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE OF SUBSECTION (e) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (e) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 305. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

(a) NO DEDUCTION FOR TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451."

(b) NO DEDUCTION OF TAXES WITHHELD ON INTEREST AND DIVIDENDS IN DETERMINING TAXABLE INCOME.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended—

(1) by striking out "under chapter 24" and inserting in lieu thereof "under subchapter A of chapter 24", and

(2) by adding at the end thereof the following new subsection:

"(c) The tax withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person withholding the tax or to the recipient of the amounts subject to withholding."

SEC. 306. PENALTIES.

(a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting "or section 3452(f)(1)(A)" after "section 3402".

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

(1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) WITHHOLDING OF INTEREST AND DIVIDENDS.—Any person who—

"(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or

"(2) is required to furnish notice under section 3452(f)(1)(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than \$500, or imprisoned not more than 1 year, or both."

SEC. 307. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24".

(2) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter".

(3) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24".

(4) Subchapter (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(5) Paragraph (1) of section 6013(h) is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(6) Paragraph (1) of section 6015(f) (relating to declaration of estimated income tax by individuals) is amended by striking out ", as defined in section 3401(a)", and inserting in lieu thereof "(as defined in section 3401(a)), or to the interest, dividends, and patronage dividends (as defined in section 3454)".

(7) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24".

(8) Paragraph (2) of section 6365(c) (relating to definitions and special rules for purposes of the collection of State individual income taxes) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date".

(9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages".

(10) Paragraph (1) of section 6413(a) (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts".

(11) Subsection (b) of section 6413 is amended—

(A) by striking from the heading of such subsection the words "OF CERTAIN EMPLOYMENT TAXES", and

(B) by striking out "or 3402 is paid or deducted with respect to any payment of remuneration," and inserting in lieu thereof "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount".

(12) The heading for section 6413 is amended to read as follows:

"SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C."

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

"Sec. 6413. Special rules applicable to certain taxes under subtitle C."

(14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld at source on wages".

(15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: "For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person."

(16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting "subchapter A of" before "chapter 24".

(17) Section 7701(a)(16) (defining the term "withholding agent") is amended by striking out "or 1461" and inserting in lieu thereof "1461 or 3451".

(b) CLERICAL AMENDMENTS.—

(1) The heading of subtitle C is amended to read as follows:

"SUBTITLE C—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE"

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

"SUBTITLE C. Employment taxes and collection of income tax at source."

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends."

(4) Chapter 24 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE"

"SUBCHAPTER A. Withholding from wages.

"SUBCHAPTER B. Withholding from interest and dividends.

"Subchapter A—Withholding From Wages".

(5) The heading for chapter 25 is amended to read as follows:

"CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE"

(6) The table of chapters for subtitle C is amended by striking out the items relating to chapters 24 and 25 and inserting in lieu thereof the following:

"CHAPTER 24. Collection of income tax at source.

"CHAPTER 25. General provisions relating to employment taxes and collection of income taxes at source."

SEC. 308. EFFECTIVE DATES; SPECIAL RULES.

(a) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by this part shall apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983.

(b) **DELAY IN APPLICATION TO CERTAIN PAYORS.**—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond December 31, 1983) the application of some or all of the provisions of subchapter B of chapter 24 of the Internal Revenue Code of 1954 to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(c) **TEMPORARY RULE FOR CERTAIN WITHHOLDING EXEMPTIONS.**—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient.

(d) **DELAY IN MAKING DEPOSITS.**—The time for making deposits under section 6302 of the Internal Revenue Code of 1954 of the tax imposed by section 3451 of such Code which is withheld by any person shall, to the extent provided in regulations, take into account the cost to such person of instituting a withholding system in order to comply with subchapter B of chapter 24 of such Code.

SUBTITLE B—IMPROVED INFORMATION REPORTING

PART I—EXPANDED REPORTING

SEC. 309. REPORTING OF INTEREST.

(a) **GENERAL RULE.**—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) **REQUIREMENT OF REPORTING.**—Every person—

"(1) who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year,

"(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received, or

"(3) who is required under subchapter B of chapter 24 to withhold tax on the payment of any interest, shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld.

"(b) **INTEREST DEFINED.**—

"(1) **GENERAL RULE.**—For purposes of subsection (a), the term 'interest' means—

"(A) interest on any obligation—

"(i) issued in registered form, or

"(ii) of a type offered to the public, other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, home-stead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045 (c)),

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and

"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

"(2) **EXCEPTIONS.**—For purposes of subsection (a), the term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) except to the extent otherwise provided in regulations—

"(i) any amount paid to any person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or

"(ii) any amount described in section 3454(a)(2)(D) or (E),

"(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in a trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii), and

"(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

"(3) **PAYMENTS BY UNITED STATES NOMINEES ETC., OF UNITED STATES PERSON.**—If, within the United States, a United States person—

"(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

"(B) makes payments of such interest to such second United States person, notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

"(c) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—

"(1) **IN GENERAL.**—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(A) the name and address of the person making such return,

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

"(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

"(2) **STATEMENT MUST BE FURNISHED ON OR BEFORE JANUARY 31.**—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(3) **NO STATEMENT REQUIRED WHERE INTEREST IS LESS THAN \$10.**—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than \$10.

"(d) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **PERSON.**—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

"(2) **OBLIGATION.**—The term 'obligation' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

"(3) **PAYMENTS BY GOVERNMENTAL UNITS.**—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

"(4) **FINANCIAL INSTITUTIONS, BROKERS, ETC., COLLECTING INTEREST MAY BE SUBSTITUTED FOR PAYOR.**—To the extent and in the manner provided by regulations, in the case of any obligation—

"(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

"(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

"(5) **INTEREST ON CERTAIN OBLIGATIONS MAY BE TREATED ON A TRANSACTIONAL BASIS.**—

"(A) **IN GENERAL.**—To the extent and in the manner provided in regulations, this section shall apply with respect to—

"(i) any person described in paragraph (4)(A), and

"(ii) in the case of any United States savings bonds, any Federal agency making payments thereon, on any transactional basis rather than on an annual aggregation basis.

"(B) **SEPARATE RETURNS AND STATEMENTS.**—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

"(C) **STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING \$10 OR MORE.**—In the case of any transaction to which this paragraph applies which involves the payment of \$10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

"(6) **TREATMENT OF ORIGINAL ISSUE DISCOUNT.**—

"(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

"(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

"(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

"(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term 'original issue discount' has the meaning given to such term by section 1232(b)(1)."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6041 (relating to information at source) is amended—

(A) by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)", and

(B) by striking out "6045, 6049(a)(2), or 6049(a)(3)" and inserting in lieu thereof "or 6045".

(2) Subsection (b) of section 6652 (relating to failure to file certain information returns) is amended by adding "or" at the end of paragraph (1) and by striking out paragraphs (3) and (4).

(3) Paragraph (1) of section 6678 is amended by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid (or treated as paid) after December 31, 1982.

SEC. 310. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form.

"(b) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

or

"(B) has a maturity (at issue) of not more than 1 year.

"(2) The term 'registration-required obligation' shall not include any obligation if—

"(A) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(B) in the case of an obligation not in registered form—

"(i) interest on such obligation is payable only outside the United States and its possessions, and

"(ii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

"(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees."

(b) OTHER OBLIGATIONS.—

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relat-

ing to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(f)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees."

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

"(A) IN GENERAL.—The term 'registration-required obligation' means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

"(i) is issued by a natural person,

"(ii) is not of a type offered to the public,

"(iii) has a maturity (at issue) of not more than 1 year, or

"(iv) is described in subparagraph (B).

"(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

"(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(ii) in the case of an obligation not in registered form—

"(1) interest on such obligation is payable only outside the United States and its possessions, and

"(2) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A), and subparagraph (B), shall not apply to any obligation if—

"(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and

"(ii) such obligation is issued after the date on which the regulations referred to in clause (i) take effect.

"(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply."

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

"(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not or would not be allowable by reason of section 163(f), unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(f) or this subsection."

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

"CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

"Sec. 4701. Tax on issuer of registration-required obligation not in registered form.

"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.

"(a) IMPOSITION OF TAX.—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(B) CONFORMING AMENDMENT.—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"CHAPTER 39. Registration-required obligations."

(5) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 165 (as amended by this Act) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"(3) EXCEPTIONS.—The Secretary may, by regulations, provide that this subsection and subsection (d) of section 1232 shall not apply with respect to obligations held by any person if—

"(A) such person holds such obligations in connection with a trade or business outside the United States,

"(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

"(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

"(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C)."

(6) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and".

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "MUST BE IN REGISTERED FORM AND NOT" and inserting in lieu thereof "MUST NOT BE".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage

issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 1982.

(2) LONG-TERM U.S. OBLIGATIONS.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act under the first section of the Second Liberty Bond Act.

(3) EXCEPTION FOR CERTAIN WARRANTS, ETC.—The amendments made by subsection (b) shall not apply to any obligations issued after December 31, 1982, on the exercise of a warrant for the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. A rule similar to the rule of the preceding sentence shall also apply in the case of any regulations issued under section 163(f)(2)(C) of the Internal Revenue Code of 1954 (as added by this section) except that the date on which such regulations take effect shall be substituted for "August 10, 1982".

SEC. 311. RETURNS OF BROKERS.

(a) GENERAL RULE.—

(1) RETURNS.—Section 6045 (relating to returns of brokers) is amended to read as follows:

"SEC. 6045. RETURNS OF BROKERS.

"(a) GENERAL RULE.—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) DEFINITIONS.—For purposes of this section—

"(1) BROKER.—The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

"(2) CUSTOMER.—The term 'customer' means any person for whom the broker has transacted any business.

"(3) BARTER EXCHANGE.—The term 'barter exchange' means any organization of members providing property or services who jointly contract to trade or barter such property or services."

(2) PENALTY.—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

(A) by inserting "6045(b)," after "6044(e)," and

(B) by inserting "6045(a)," after "6044(a)(1)."

(b) BARTER EXCHANGE TREATED AS THIRD-PARTY RECORDKEEPER.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(G) any barter exchange (as defined in section 6045(c)(3))."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to summons served after December 31, 1982.

SEC. 312. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

"(a) RETURNS REGARDING REMUNERATION FOR SERVICES.—If—

"(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

"(2) the aggregate of such remuneration paid to such person during such calendar year is \$600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term 'service-recipient' means the person for whom the service is performed.

"(b) DIRECT SALES OF \$5,000 OR MORE.—

"(1) IN GENERAL.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

"(B) the aggregate amount of the sales to such buyer during such calendar year is \$5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) **BUY-SELL BASIS.**—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

"(B) **DEPOSIT-COMMISSION BASIS.**—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

"(C) **CERTAIN SERVICES NOT INCLUDED.**—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

"(d) **APPLICATIONS TO GOVERNMENTAL UNITS.**—

"(1) **TREATED AS PERSONS.**—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) **SPECIAL RULES.**—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.**—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) **RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.**—

"(1) **FURNISHING OF INFORMATION.**—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) **INCLUSION ON RETURN.**—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates."

(b) **PENALTY FOR FAILURE TO FILE STATEMENT.**—Section 6678(1) (relating to failure to file statement) is amended—

(1) by inserting "6041A(e)," after "6041(d)," and

(2) by inserting "6041A(a) or (b)," after "6041(a)."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments and sales made after December 31, 1982.

SEC. 313. STATE AND LOCAL INCOME TAX REFUNDS.

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.

"(a) **REQUIREMENT OF REPORTING.**—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating \$10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

"(b) **STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(c) **PERSON DEFINED.**—For purposes of this section, the term 'person' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section."

(b) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 314. EMPLOYER REPORTING WITH RESPECT TO TIPS.

(a) **IN GENERAL.**—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection:

"(c) **REPORTING REQUIREMENTS RELATING TO CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS.**—

"(1) **REPORT TO SECRETARY.**—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

"(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

"(B) The aggregate amount of charge receipts (other than nonallocable receipts).

"(C) The aggregate amount of charged tips shown on such charge receipts.

"(D) The sum of—

"(i) the aggregate amount reported by employees to the employer under subsection (a), plus

"(ii) the amount the employer is required to report under section 6041 with respect to service charges of less than 10 percent.

"(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

"(2) **FURNISHING OF STATEMENT TO EMPLOYEES.**—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

"(A) The name and address of such employer.

"(B) The name of the employee.

"(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

"(3) **EMPLOYEE ALLOCATION OF 8 PERCENT OF GROSS RECEIPTS.**—

"(A) **IN GENERAL.**—For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

"(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

"(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

"(B) **METHOD OF ALLOCATION.**—The employer shall allocate the amount under subparagraph (A)—

"(i) on the basis of a good faith agreement by the employer and the employees, or

"(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

"(C) **THE SECRETARY MAY LOWER THE PERCENTAGE REQUIRED TO BE ALLOCATED.**—The Secretary may reduce (but not below 5 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

"(4) **LARGE FOOD OR BEVERAGE ESTABLISHMENT.**—For purposes of this subsection, the term 'large food or beverage establishment' means any trade or business (or portion thereof)—

"(A) which provides food or beverages,

"(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

"(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

"(5) **EMPLOYER NOT TO BE LIABLE FOR WRONG ALLOCATIONS.**—The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(A)(i) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(A)(ii).

"(6) **NONALLOCABLE RECEIPTS DEFINED.**—For purposes of this subsection, the term 'nonallocable receipts' means receipts which are allocable to—

"(A) carryout sales, or

"(B) services with respect to which a service charge of 10 percent or more is added.

"(7) **APPLICATION TO NEW BUSINESSES.**—The Secretary shall prescribe regulations for the application of this subsection to new businesses."

(b) **PENALTY FOR FAILURE TO FURNISH STATEMENT.**—Subparagraph (D) of section 6678(3) is amended by striking out "section 6053(b)" and inserting in lieu thereof "subsection (b) or (c) of section 6053(c)."

(c) **STUDY OF TIP COMPLIANCE.**—The Secretary of the Treasury or his delegate shall submit before January 1, 1987, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report with respect to tip compliance in the food and beverage service industry. Such study shall include,

but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

(d) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting “, records necessary to comply with section 6053(c),” after “charge receipts”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

(2) SPECIAL RULE FOR 1983.—For purposes of section 60543(c) of the Internal Revenue Code of 1954, in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

SEC. 315. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURN OR TO FURNISH STATEMENT.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows:

“(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

“(1) IN GENERAL.—In the case of each failure—

“(A) to file a statement of the amount of payments to another person required by—

“(i) section 6041 (a) or (b) (relating to certain information at source),

“(ii) section 6042(a)(1) (relating to payments of dividends),

“(iii) section 6044(a)(1) (relating to payments of patronage dividends),

“(iv) section 6049(a) (relating to payments of interest),

“(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

“(vi) section 6042(e), 6044(f), 6049(e), or 6051(d) (relating to information returns with respect to income tax withheld), or

“(B) to make a return required by—

“(i) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

“(ii) section 6045 (relating to returns of brokers),

“(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

“(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), \$50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$50,000.

(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

“(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

“(i) in the case of a return not described in clauses (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

“(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

“(iii) in the case of a return required to be filed by section 6041A(b), \$100 for each such failure, and

“(B) the \$50,000 limitation under paragraph (1) shall not apply.”

(b) INCREASE IN ADDITION TO TAX FOR FAILURE TO FILE CERTAIN RETURNS OR STATEMENTS IN CONNECTION WITH PLANS OF DEFERRED COMPENSATION.—Subsection (f) of section 6652 (relating to information required in connection with certain plans of deferred compensation) is amended—

(1) by striking out “\$10” and inserting in lieu thereof “\$25”, and

(2) by striking out “\$5,000” and inserting in lieu thereof “\$15,000”.

(c) INCREASE IN CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended—

(1) by striking out “\$10” and inserting in lieu thereof “\$50”, and

(2) by striking out “\$25,000” and inserting in lieu thereof “\$50,000”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 316. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

“(a) CIVIL PENALTIES.—

“(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

“(A) to include his taxpayer identification number in any return, statement, or other document,

“(B) to furnish his taxpayer identification number to another person, or

“(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of \$5 for each such failure described in subparagraph (A) and \$50 for each such failure described in subparagraph (B) or (C), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(2) TAXPAYER IDENTIFICATION NUMBER DEFINED.—The term “taxpayer identification number” means the identifying number assigned to a person under section 6109.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 317. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.

(a) IN GENERAL.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

“(s) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.—

“(1) IN GENERAL.—If, in the case of any backup withholding payment—

“(A) the payee fails to furnish his taxpayer identification number to the payor, or

“(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

“(2) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

“(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which the taxpayer identification number has not been furnished.

“(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

“(i) after the close of the 15th day after the day on which the payor was so notified, and

“(ii) before the payee furnishes another taxpayer identification number.

“(C) 15-DAY GRACE PERIODS.—

“(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 16th day after the close of such period.

“(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 15-day period described in clause (i) of subparagraph (B).

“(3) BACKUP WITHHOLDING PAYMENTS.—

“(A) IN GENERAL.—For purposes of this subsection, the term “backup withholding payment” means any payment of a kind, and to a payee, required to be shown on a return required under—

“(i) section 6041 (a) or (b) (relating to certain information at source),

“(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

“(iii) section 6042(a) (relating to payments of dividends),

“(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

“(v) section 6045 (relating to returns of brokers),

“(vi) section 6049(a) (relating to payments of interest), or

“(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

“(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

“(4) PAYMENTS MUST AGGREGATE \$600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041(A) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

“(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds \$600,

“(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

"(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished does not contain the proper number of digits.

"(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

"(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

"(i) the United States (as defined in section 3455(a)(3)),

"(ii) any State (as defined in section 3455(a)(2)),

"(iii) an organization which is exempt from taxation under section 501(a),

"(iv) any foreign government (as defined in section 3455(a)(4)) or international organization (as defined in section 3455(a)(5)), or

"(v) any other person specified in regulations.

"(D) TAXPAYER IDENTIFICATION NUMBER.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.

"(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

"(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

"(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

"(J) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

SEC. 318. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence:

"In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return."

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by adding at the end of subparagraph (A) the following new sentence: "In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.", and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (c)" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 319. INFORMATION RETURNS.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account (among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement."

SUBTITLE C—ABUSIVE TAX SHELTERS, ETC.; SUBSTANTIAL UNDERPAYMENTS; FALSE DOCUMENTS; FRIVOLOUS RETURNS

PART I—ABUSIVE TAX SHELTERS, ETC.

SEC. 320. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC.

"(a) IMPOSITION OF PENALTY.—Any person who—

"(1)(A) organizes (or assists in the organization of)—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement,

or

"(iii) any other plan or arrangement, or

"(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

"(2) makes or furnishes (in connection with such organization or sale)—

"(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person

knows or has reason to know is false or fraudulent as to any material matter, or

"(B) a gross valuation overstatement as to any material matter, shall pay a penalty equal to the greater of \$1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

"(b) RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.—

"(1) GROSS VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, the term 'gross valuation overstatement' means any statement as to the value of any property or services if—

"(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

"(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

"(2) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6700. Promoting abusive tax shelters, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 321. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct, the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

"(c) CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.—If any citizen or resident of the United States does not reside in, and

does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.

"Sec. 7409. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 322. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

"(a) BURDEN OF PROOF.—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.

SEC. 323. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section:

"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) DEFINITION AND SPECIAL RULE.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) \$5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '\$10,000' for '\$5,000'.

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return.

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(i) shall not apply, and

"(II) subparagraph (B)(ii) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(4) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement, if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(3) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under section 6659 (relating to addition to tax in the case of valuation overstatements).

"(c) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6661. Substantial understatement of liability.

"Sec. 6662. Applicable rules."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982.

SEC. 324. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

"SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

"(a) IMPOSITION OF PENALTY.—Any person—

"(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

"(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(3) who knows that such portion (if so used) will result in an understatement of the liability for tax of another person, shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

"(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

"(3) ONLY 1 PENALTY PER PERSON PER PERIOD.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

"(c) ACTIVITIES OF SUBORDINATES.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'procures' includes—

"(A) ordering (or otherwise causing) a subordinate to do an act, and

"(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

"(2) SUBORDINATE.—For purposes of paragraph (1), the term 'subordinate' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

"(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

"(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

"(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment form, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 325. FRAUD PENALTY.

(a) GENERAL RULE.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO FRAUD.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and

"(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(3) NO NEGLIGENCE ADDITION WHEN THERE IS ADDITION FOR FRAUD.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).

"(4) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act.

SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is

amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

"(a) CIVIL PENALTY.—If—

"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1) is due to—

"(A) a position which is frivolous, or

"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws, then such individual shall pay a penalty of \$500.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment form, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure."

SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

(a) WAIVER OF PENALTY WHERE INDIVIDUAL DID NOT HAVE TAX LIABILITIES FOR PRECEDING TAXABLE YEAR.—

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXCEPTION WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(1) the individual did not have any liability for tax for the preceding taxable year,

"(2) the preceding taxable year was a taxable year of 12 months, and

"(3) the individual was a citizen or resident of the United States throughout the preceding taxable year."

(2) Subsection (g) of section 6654 is amended by striking out "and (f)" and inserting in lieu thereof "(f), and (h)."

(b) ELIMINATION OF REQUIREMENTS TO FILE DECLARATIONS OF ESTIMATED TAX.—

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982."

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1982."

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) SPECIAL RULES FOR TAXABLE YEARS BEGINNING AFTER 1982.—In the case of taxable years beginning after 1982—

"(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

"(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

(a) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out "\$10,000" and inserting in lieu thereof "\$100,000 (\$500,000 in the case of a corporation)".

(b) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out "\$10,000" and inserting in lieu thereof "\$25,000 (\$100,000 in the case of a corporation)".

(c) FRAUD AND FALSE STATEMENTS.—Section 7206 (relating to fraud and false statements) is amended by striking out "\$5,000" and inserting in lieu thereof "\$100,000 (\$500,000 in the case of a corporation)".

(d) FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "\$1,000" each place it appears and inserting in lieu thereof "\$10,000 (\$50,000 in the case of a corporation)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) IN GENERAL.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

"Sec. 6867. Presumptions where owner of large amount of cash is not identified.

"SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.

"(a) GENERAL RULE.—If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash—

"(1) as his, or

"(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

"(b) RULES FOR ASSESSING.—In the case of any assessment resulting from the application of subsection (a)—

"(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

"(2) such income shall be treated as taxable at a 50-percent rate, and

"(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

"(c) EFFECT OF LATER SUBSTITUTION OF TRUE OWNER.—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CASH.—The term 'cash' includes any cash equivalent.

"(2) CASH EQUIVALENT.—The term 'cash equivalent' means—

"(A) foreign currency,

"(B) any bearer obligation, and

"(C) any medium of exchange which—

"(i) is of a type which has been frequently used in illegal activities, and

"(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

"(3) VALUE OF CASH EQUIVALENT.—Any cash equivalent shall be taken into account—

"(A) in the case of a bearer obligation, at its face amount, and

"(B) in the case of any other cash equivalent, at its fair market value."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part III. Special rules with respect to certain cash."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE D—ADMINISTRATIVE SUMMONS

SEC. 331. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) PROCEEDING TO QUASH.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) INTERVENTION; ETC.—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding)."

(b) RESTRICTION ON EXAMINATION.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash."

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows:

"(h) JURISDICTION OF DISTRICT COURT, ETC.—

"(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons."

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—"

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982.

SEC. 332. DUTY OF THIRD-PARTY RECORD-KEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection:

"(4) DUTY OF THIRD-PARTY RECORD-KEEPER.—

"(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(2) SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.—The Secretary may issue a cer-

tificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

"(3) PROTECTION FOR RECORDKEEPER WHO DISCLOSES.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 333. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) AUTHORITY TO SUMMON, ETC.—For the purpose" and by adding at the end thereof the following new subsections:

"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(4) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable

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"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

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"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(4) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

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"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(4) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable

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"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE E—WITHHOLDING ON PENSIONS AND OTHER RETIREMENT INCOME

SEC. 334. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

"(a) PENSIONS, ANNUITIES, ETC.—

(1) WITHHOLDING AS IF PAYMENT WERE WAGES.—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

(2) ELECTION OF NO WITHHOLDING.—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

(3) WHEN ELECTION TAKES EFFECT.—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

(4) AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

"(b) NONPERIODIC DISTRIBUTION.—

(1) WITHHOLDING.—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) AMOUNT OF WITHHOLDING.—

(A) DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

(B) QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) ELECTION OF NO WITHHOLDING.—

(A) IN GENERAL.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

(B) SCOPE OF ELECTION.—An election under subparagraph (A)—

(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

"(c) LIABILITY FOR WITHHOLDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

(i) directs the payor to withhold such tax, and

(ii) provides the payor with such information as the Secretary may require by regulations.

(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

(i) section 401(a),

(ii) section 403(a), or

(iii) section 301(d) of the Tax Reduction Act of 1975.

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED DISTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

(i) an employer deferred compensation plan,

(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

(iii) a commercial annuity.

(B) EXCEPTIONS.—The term 'designated distribution' shall not include—

(i) any amount which is wages without regard to this section, and

(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

(2) PERIODIC PAYMENT.—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

(3) NONPERIODIC DISTRIBUTION.—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

(4) QUALIFIED TOTAL DISTRIBUTION.—

(A) IN GENERAL.—The term 'qualified total distribution' means any distribution which—

(i) is a designated distribution,

(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

(iii) is made under a plan described in section 401(a), or 403(a), and

(iv) consists of the balance to the credit of the employee under such plan.

(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

(5) EMPLOYER DEFERRED COMPENSATION PLAN.—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

(6) COMMERCIAL ANNUITY.—The term 'commercial annuity' means an annuity, endow-

ment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

(7) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

(9) SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) TIME AND MANNER OF ELECTION.—

(A) IN GENERAL.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—

(i) PERIODIC PAYMENTS.—The payor of any periodic payment—

(I) shall transmit to the payee notice of the right to make an election under subsection (a) not earlier than 6 months before the first of such payments and not later than when making the first of such payments,

(II) is such a notice is not transmitted under subclause (I) when making such first payment, shall transmit such a notice when making such first payment, and

(III) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

(ii) NONPERIODIC DISTRIBUTIONS.—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

(iii) NOTICE.—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

(11) WITHHOLDING INCLUDES DEDUCTION.—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

(e) WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero."

(b) FILING OF REPORTS.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.—

(1) IN GENERAL.—The Secretary shall by forms or regulations require that—

(A) the employer maintaining, or the plan administrator (within the meaning of

section 414(g) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made, make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) FORM, ETC., OF REPORTS.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations."

(c) PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e).

"(a) LIABILITY FOR PENALTY.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting, shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed \$50,000.

"(c) EXCEPTIONS.—

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (c) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) EFFECTIVE DATES.—

(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

(5) DELAY IN APPLICATION.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(6) WAIVER OF PENALTY.—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) IN GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

SUBTITLE F—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for

purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or

"(B) enforcement of summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart I—Admissibility of Documentation Maintained in Foreign Countries.

"Sec. 982. Admissibility of documentation maintained in foreign countries.

"SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES.

"(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the 'examined item') before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

"(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

"(1) FORMAL DOCUMENT REQUEST.—The term 'formal document request' means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which set forth—

"(A) the time and place for the production of the documentation,

"(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

"(C) a description of the documentation being sought, and

"(D) the consequences to the taxpayer the failure to produce the documentation described in subparagraph (C).

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

"(B) JURISDICTION.—The United States district court for the district in which person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An a

denying the petition shall be deemed a final order which may be appealed.

"(C) **SUSPENSION OF 90-DAY PERIOD.**—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

"(d) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **FOREIGN-BASED DOCUMENTATION.**—The term 'foreign-based documentation' means any documentation which is outside the United States and which may be relevant or material to the tax treatment of the examined item.

"(2) **DOCUMENTATION.**—The term 'documentation' includes books and records.

"(3) **FOREIGN-CONNECTED.**—An item shall be treated as foreign-connected if—

"(A) such item is directly or indirectly from a source outside the United States, or

"(B) such item (in whole or in part)—

"(i) purports to arise outside the United States, or

"(ii) is otherwise dependent on transactions occurring outside the United States.

"(4) **AUTHORITY TO EXTEND 90-DAY PERIOD.**—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

"(e) **SUSPENSION OF STATUTE OF LIMITATIONS.**—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending."

"(b) **CLERICAL AMENDMENT.**—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart I. Admissibility of documentation maintained in foreign countries."

"(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

"(a) **IN GENERAL.**—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) **DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.**—

"(1) **IN GENERAL.**—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of \$1,000 for each annual accounting period with respect to which such failure exists.

"(2) **INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.**—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof)

during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000."

"(b) **COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.**—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting, "and subsection (b)" after "subsection" in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) **COORDINATION WITH SUBSECTION (b).**—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period."

"(c) **TECHNICAL AMENDMENTS.**—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

"(c) **PENALTY OF REDUCING FOREIGN TAX CREDIT.**—

(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in lieu thereof "within the meaning of subsection (e)(1)".

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) **GENERAL RULE.**—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

"**SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.**

"(a) **REQUIREMENT.**—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person, such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

"(b) **REQUIRED INFORMATION.**—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

"(c) **DEFINITIONS.**—For purposes of this section—

"(1) **CONTROL.**—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent'

shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) **CONTROLLED GROUP.**—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(4) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(4) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) **FOREIGN PERSON.**—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(d) **PENALTY FOR FAILURE TO FURNISH INFORMATION.**—

"(1) **IN GENERAL.**—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of \$1,000 for each taxable year with respect to which such failure occurs.

"(2) **INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.**—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000.

"(3) **REASONABLE CAUSE.**—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

"(e) **CROSS REFERENCE.**—

"For provisions relating to criminal penalties for violation of this section, see section 7203."

"(b) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

"Sec. 6038A. Information with respect to certain foreign-owned corporations."

"(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

"(a) **GENERAL RULE.**—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

"**SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.**

"(a) **GENERAL RULE.**—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corpora-