

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4849

To amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2010

Mr. LEVIN (for himself, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. POMEROY, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, Mr. CROWLEY, Mr. VAN HOLLEN, Ms. SCHWARTZ, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. ETHERIDGE, Ms. LINDA T. SÁNCHEZ of California, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Small Business and Infrastructure Jobs Tax Act of  
 4 2010”.

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

11 (c) **TABLE OF CONTENTS.**—The table of contents for  
 12 this Act is as follows:

Sec. 1. Short title; etc.

**TITLE I—SMALL BUSINESS TAX INCENTIVES**

**Subtitle A—General Provisions**

Sec. 101. Temporary exclusion of 100 percent of gain on certain small business stock.

**Subtitle B—Limitations and Reporting on Certain Penalties**

Sec. 111. Limitation on penalty for failure to disclose certain information.  
 Sec. 112. Annual reports on penalties and certain other enforcement actions.

**Subtitle C—Other Provisions**

Sec. 121. Nonrecourse small business investment company loans from the Small Business Administration treated as amounts at risk.  
 Sec. 122. Increase in amount allowed as deduction for start-up expenditures.

**TITLE II—INFRASTRUCTURE INCENTIVES**

Sec. 201. Extension of Build America Bonds.  
 Sec. 202. Exempt-facility bonds for sewage and water supply facilities.  
 Sec. 203. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.  
 Sec. 204. Elective payments in lieu of low-income housing credits.  
 Sec. 205. Extension and additional allocations of recovery zone bond authority.  
 Sec. 206. Allowance of new markets tax credit against alternative minimum tax.

**TITLE III—REVENUE PROVISIONS**

- Sec. 301. Limitation on treaty benefits for certain deductible payments.
- Sec. 302. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
- Sec. 303. Repeal of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
- Sec. 304. Information reporting for rental property expense payments.
- Sec. 305. Application of levy to payments to Federal vendors relating to property.
- Sec. 306. Application of continuous levy to employment tax liability of certain Federal contractors.
- Sec. 307. Required minimum 10-year term, etc., for grantor retained annuity trusts.
- Sec. 308. Increase in information return penalties.

1     **TITLE I—SMALL BUSINESS TAX**  
 2                     **INCENTIVES**

3             **Subtitle A—General Provisions**

4     **SEC. 101. TEMPORARY EXCLUSION OF 100 PERCENT OF**  
 5                     **GAIN ON CERTAIN SMALL BUSINESS STOCK.**

6             (a) IN GENERAL.—Subsection (a) of section 1202 is  
 7 amended by adding at the end the following new para-  
 8 graph:

9                     “(4) SPECIAL 100 PERCENT EXCLUSION.—In  
 10 the case of qualified small business stock acquired  
 11 after March 15, 2010, and before January 1,  
 12 2012—

13                     “(A) paragraph (1) shall be applied by  
 14 substituting ‘100 percent’ for ‘50 percent’,

15                     “(B) paragraph (2) shall not apply, and

16                     “(C) paragraph (7) of section 57(a) shall  
 17 not apply.”.

18             (b) CONFORMING AMENDMENTS.—Paragraph (3) of  
 19 section 1202(a) is amended—

1 (1) by striking “after the date of the enactment  
2 of this paragraph and before January 1, 2011” and  
3 inserting “after February 17, 2009, and before  
4 March 16, 2010”, and

5 (2) by striking “SPECIAL RULE FOR 2009 AND  
6 2010” in the heading and inserting “SPECIAL 75  
7 PERCENT EXCLUSION”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to stock acquired after March 15,  
10 2010.

## 11 **Subtitle B—Limitations and** 12 **Reporting on Certain Penalties**

### 13 **SEC. 111. LIMITATION ON PENALTY FOR FAILURE TO DIS-** 14 **CLOSE CERTAIN INFORMATION.**

15 (a) IN GENERAL.—Subsection (b) of section 6707A  
16 is amended to read as follows:

17 “(b) AMOUNT OF PENALTY.—

18 “(1) IN GENERAL.—Except as otherwise pro-  
19 vided in this subsection, the amount of the penalty  
20 under subsection (a) with respect to any reportable  
21 transaction shall be 75 percent of the decrease in  
22 tax shown on the return as a result of such trans-  
23 action (or which would have resulted from such  
24 transaction if such transaction were respected for  
25 Federal tax purposes).

1           “(2) MAXIMUM PENALTY.—The amount of the  
2           penalty under subsection (a) with respect to any re-  
3           portable transaction for any taxable year shall not  
4           exceed—

5                   “(A) in the case of a listed transaction,  
6                   \$200,000 (\$100,000 in the case of a natural  
7                   person), or

8                   “(B) in the case of any other reportable  
9                   transaction, \$50,000 (\$10,000 in the case of a  
10                  natural person).

11           “(3) MINIMUM PENALTY.—The amount of the  
12           penalty under subsection (a) with respect to any  
13           transaction for any taxable year shall not be less  
14           than \$10,000 (\$5,000 in the case of a natural per-  
15           son).”.

16           (b) EFFECTIVE DATE.—The amendment made by  
17           this section shall apply to penalties assessed after Decem-  
18           ber 31, 2006.

19           **SEC. 112. ANNUAL REPORTS ON PENALTIES AND CERTAIN**  
20                                   **OTHER ENFORCEMENT ACTIONS.**

21           (a) IN GENERAL.—The Commissioner of Internal  
22           Revenue, in consultation with the Secretary of the Treas-  
23           ury, shall submit to the Committee on Ways and Means  
24           of the House of Representatives and the Committee on  
25           Finance of the Senate an annual report on the penalties

1 assessed by the Internal Revenue Service during the pre-  
2 ceding year under each of the following provisions of the  
3 Internal Revenue Code of 1986:

4 (1) Section 6662A (relating to accuracy-related  
5 penalty on understatements with respect to report-  
6 able transactions).

7 (2) Section 6700(a) (relating to promoting abu-  
8 sive tax shelters).

9 (3) Section 6707 (relating to failure to furnish  
10 information regarding reportable transactions).

11 (4) Section 6707A (relating to failure to include  
12 reportable transaction information with return).

13 (5) Section 6708 (relating to failure to main-  
14 tain lists of advisees with respect to reportable  
15 transactions).

16 (b) ADDITIONAL INFORMATION.—The report re-  
17 quired under subsection (a) shall also include information  
18 on the following with respect to each year:

19 (1) Any action taken under section 330(b) of  
20 title 31, United States Code, with respect to any re-  
21 portable transaction (as defined in section 6707A(c)  
22 of the Internal Revenue Code of 1986).

23 (2) Any extension of the time for assessment of  
24 tax enforced, or assessment of any amount under

1 such an extension, under paragraph (10) of section  
2 6501(e) of the Internal Revenue Code of 1986.

3 (c) DATE OF REPORT.—The first report required  
4 under subsection (a) shall be submitted not later than De-  
5 cember 31, 2010.

## 6 **Subtitle C—Other Provisions**

### 7 **SEC. 121. NONRECOURSE SMALL BUSINESS INVESTMENT** 8 **COMPANY LOANS FROM THE SMALL BUSI-** 9 **NESS ADMINISTRATION TREATED AS** 10 **AMOUNTS AT RISK.**

11 (a) IN GENERAL.—Subparagraph (B) of section  
12 465(b)(6) is amended to read as follows:

13 “(B) QUALIFIED NONRECOURSE FINANC-  
14 ING.—For purposes of this paragraph—

15 “(i) IN GENERAL.—The term ‘quali-  
16 fied nonrecourse financing’ means any fi-  
17 nancing—

18 “(I) which is qualified real prop-  
19 erty financing or qualified SBIC fi-  
20 nancing,

21 “(II) except to the extent pro-  
22 vided in regulations, with respect to  
23 which no person is personally liable  
24 for repayment, and

1                   “(III) which is not convertible  
2                   debt.

3                   “(ii) QUALIFIED REAL PROPERTY FI-  
4                   NANCING.—The term ‘qualified real prop-  
5                   erty financing’ means any financing  
6                   which—

7                   “(I) is borrowed by the taxpayer  
8                   with respect to the activity of holding  
9                   real property,

10                   “(II) is secured by real property  
11                   used in such activity, and

12                   “(III) is borrowed by the tax-  
13                   payer from a qualified person or rep-  
14                   resents a loan from any Federal,  
15                   State, or local government or instru-  
16                   mentality thereof, or is guaranteed by  
17                   any Federal, State, or local govern-  
18                   ment.

19                   “(iii) QUALIFIED SBIC FINANCING.—  
20                   The term ‘qualified SBIC financing’ means  
21                   any financing which—

22                   “(I) is borrowed by a small busi-  
23                   ness investment company (within the  
24                   meaning of section 301 of the Small



1 Business Investment Act of 1958),  
2 and

3 “(II) is borrowed from, or guar-  
4 anteed by, the Small Business Admin-  
5 istration under the authority of sec-  
6 tion 303(b) of such Act.”.

7 (b) CONFORMING AMENDMENTS.—Subparagraph (A)  
8 of section 465(b)(6) is amended—

9 (1) by striking “in the case of an activity of  
10 holding real property,” and

11 (2) by striking “which is secured by real prop-  
12 erty used in such activity”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to loans and guarantees made after  
15 the date of the enactment of this Act.

16 **SEC. 122. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**  
17 **FOR START-UP EXPENDITURES.**

18 (a) IN GENERAL.—Subsection (b) of section 195 is  
19 amended by adding at the end the following new para-  
20 graph:

21 “(3) INCREASED LIMITATION FOR TAXABLE  
22 YEARS BEGINNING IN 2010 OR 2011.—In the case of  
23 any taxable year beginning in 2010 or 2011, para-  
24 graph (1)(A)(ii) shall be applied—

1           “(A) by substituting ‘\$20,000’ for  
2           ‘\$5,000’, and

3           “(B) by substituting ‘\$75,000’ for  
4           ‘\$50,000’.”.

5           (b) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2009.

8           **TITLE II—INFRASTRUCTURE**  
9           **INCENTIVES**

10 **SEC. 201. EXTENSION OF BUILD AMERICA BONDS.**

11           (a) IN GENERAL.—Subparagraph (B) of section  
12 54AA(d)(1) is amended by striking “January 1, 2011”  
13 and inserting “July 1, 2013”.

14           (b) EXTENSION OF PAYMENTS TO ISSUERS.—

15                 (1) IN GENERAL.—Subsection (a) of section  
16 6431 is amended by striking “January 1, 2011” and  
17 inserting “July 1, 2013”.

18                 (2) CONFORMING AMENDMENTS.—Subsection  
19 (g) of section 54AA is amended—

20                         (A) by striking “January 1, 2011” and in-  
21 serting “July 1, 2013”, and

22                         (B) by striking “QUALIFIED BONDS  
23 ISSUED BEFORE 2011” in the heading and in-  
24 serting “CERTAIN QUALIFIED BONDS”.

1 (c) REDUCTION IN PERCENTAGE OF PAYMENTS TO  
 2 ISSUERS.—Subsection (b) of section 6431 is amended—

3 (1) by striking “The Secretary” and inserting  
 4 the following:

5 “(1) IN GENERAL.—The Secretary”,

6 (2) by striking “35 percent” and inserting “the  
 7 applicable percentage”, and

8 (3) by adding at the end the following new  
 9 paragraph:

10 “(2) APPLICABLE PERCENTAGE.—For purposes  
 11 of this subsection, the term ‘applicable percentage’  
 12 means the percentage determined in accordance with  
 13 the following table:

“In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2009 or 2010 .....	35 percent
2011 .....	33 percent
2012 .....	31 percent
2013 .....	30 percent”.

14 (d) CURRENT REFUNDINGS PERMITTED.—Sub-  
 15 section (g) of section 54AA is amended by adding at the  
 16 end the following new paragraph:

17 “(3) TREATMENT OF CURRENT REFUNDING  
 18 BONDS.—

19 “(A) IN GENERAL.—For purposes of this  
 20 subsection, the term ‘qualified build America  
 21 bond’ includes any bond (or series of bonds)

1 issued to refund a qualified build America bond  
2 if—

3 “(i) the average maturity date of the  
4 issue of which the refunding bond is a part  
5 is not later than the average maturity date  
6 of the bonds to be refunded by such issue,

7 “(ii) the amount of the refunding  
8 bond does not exceed the outstanding  
9 amount of the refunded bond, and

10 “(iii) the refunded bond is redeemed  
11 not later than 90 days after the date of the  
12 issuance of the refunding bond.

13 “(B) APPLICABLE PERCENTAGE.—In the  
14 case of a refunding bond referred to in subpara-  
15 graph (A), the applicable percentage with re-  
16 spect to such bond under section 6431(b) shall  
17 be the lowest percentage specified in paragraph  
18 (2) of such section.

19 “(C) DETERMINATION OF AVERAGE MATU-  
20 RITY.—For purposes of subparagraph (A)(i),  
21 average maturity shall be determined in accord-  
22 ance with section 147(b)(2)(A).”.

1 **SEC. 202. EXEMPT-FACILITY BONDS FOR SEWAGE AND**  
2 **WATER SUPPLY FACILITIES.**

3 (a) BONDS FOR WATER AND SEWAGE FACILITIES  
4 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY  
5 BONDS.—Paragraph (3) of section 146(g) is amended by  
6 inserting “(4), (5),” after “(2),”.

7 (b) CONFORMING CHANGE.—Paragraphs (2) and  
8 (3)(B) of section 146(k) are both amended by striking  
9 “(4), (5), (6),” and inserting “(6)”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to obligations issued after the date  
12 of the enactment of this Act.

13 **SEC. 203. EXTENSION OF EXEMPTION FROM ALTERNATIVE**  
14 **MINIMUM TAX TREATMENT FOR CERTAIN**  
15 **TAX-EXEMPT BONDS.**

16 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)  
17 is amended—

18 (1) by striking “January 1, 2011” in subclause  
19 (I) and inserting “January 1, 2012”, and

20 (2) by striking “AND 2010” in the heading and  
21 inserting “, 2010, AND 2011”.

22 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of  
23 section 56(g)(4)(B) is amended—

24 (1) by striking “January 1, 2011” in subclause  
25 (I) and inserting “January 1, 2012”, and

1           (2) by striking “AND 2010” in the heading and  
2           inserting “, 2010, AND 2011”.

3           (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to obligations issued after Decem-  
5 ber 31, 2010.

6 **SEC. 204. ELECTIVE PAYMENTS IN LIEU OF LOW-INCOME**  
7 **HOUSING CREDITS.**

8           (a) IN GENERAL.—Chapter 65 (relating to abate-  
9 ments, credits, and refunds) is amended by adding at the  
10 end the following new subchapter:

11 **“Subchapter C—Direct Payment Provisions**

“Sec. 6451. Elective payments in lieu of low-income housing credit for bond-  
financed buildings.

12 **“SEC. 6451. ELECTIVE PAYMENTS IN LIEU OF LOW-INCOME**  
13 **HOUSING CREDIT FOR BOND-FINANCED**  
14 **BUILDINGS.**

15           “(a) IN GENERAL.—Any person making an election  
16 under this section with respect to any qualified bond-fi-  
17 nanced low-income building originally placed in service by  
18 such person during the taxable year shall be treated as  
19 making a payment, against the tax imposed by subtitle  
20 A for the taxable year, equal to the direct payment amount  
21 with respect to such building. Such payment shall be treat-  
22 ed as made on the later of the due date of the return of  
23 such tax or the date on which such return is filed.

1       “(b) QUALIFIED BOND-FINANCED LOW-INCOME  
2 BUILDING.—For purposes of this section, the term ‘quali-  
3 fied bond-financed low-income building’ means any quali-  
4 fied low-income building to which paragraph (1) of section  
5 42(h) does not apply by reason of paragraph (4)(B) of  
6 such section.

7       “(c) DIRECT PAYMENT AMOUNT.—For purposes of  
8 this section, the term ‘direct payment amount’ means,  
9 with respect to any building, 25.5 percent of the qualified  
10 basis of such building.

11       “(d) SPECIAL RULES FOR CERTAIN NON-TAX-  
12 PAYERS.—

13               “(1) DENIAL OF PAYMENT.—Subsection (a)  
14 shall not apply with respect to any building placed  
15 in service by—

16                       “(A) any governmental entity, or

17                       “(B) any organization described in section  
18 501(c) or 401(a) and exempt from tax under  
19 section 501(a).

20               “(2) SPECIAL RULES FOR PARTNERSHIPS AND  
21 S CORPORATIONS.—In the case of property originally  
22 placed in service by a partnership or an S corpora-  
23 tion—

1           “(A) the election under subsection (a) may  
2           be made only by such partnership or S corpora-  
3           tion,

4           “(B) such partnership or S corporation  
5           shall be treated as making the payment referred  
6           to in subsection (a) only to the extent of the  
7           proportionate share of such partnership or S  
8           corporation as is owned by persons who would  
9           be treated as making such payment if the build-  
10          ing were placed in service by such persons, and

11          “(C) the return required to be made by  
12          such partnership or S corporation under section  
13          6031 or 6037 (as the case may be) shall be  
14          treated as a return of tax for purposes of sub-  
15          section (a).

16 For purposes of subparagraph (B), rules similar to the  
17 rules of section 168(h)(6) (other than subparagraph (F)  
18 thereof) shall apply.

19          “(e) COORDINATION WITH LOW-INCOME HOUSING  
20 CREDIT.—In the case of any property with respect to  
21 which an election is made under this section, no credit  
22 shall be determined under section 42 with respect to such  
23 building for any taxable year.

24          “(f) OTHER DEFINITIONS AND SPECIAL RULES.—  
25 For purposes of this section—



1           “(1) OTHER DEFINITIONS.—Terms used in this  
2 section which are also used in section 42 shall have  
3 the same meaning for purposes of this section as  
4 when used in such section.

5           “(2) APPLICATION OF RECAPTURE RULES,  
6 ETC.—Except as otherwise provided by the Sec-  
7 retary, rules similar to the rules of section 42 shall  
8 apply, including the recapture rules of section 42(j).

9           “(3) PROVISION OF INFORMATION.—A person  
10 shall not be treated as having elected the application  
11 of this section unless the taxpayer provides such in-  
12 formation as the Secretary may require for purposes  
13 of verifying the proper amount to be treated as a  
14 payment under subsection (a) and evaluating the ef-  
15 fectiveness of this section.

16           “(4) EXCLUSION FROM GROSS INCOME.—Any  
17 credit or refund allowed or made by reason of this  
18 section shall not be includible in gross income or al-  
19 ternative minimum taxable income.

20           “(g) TERMINATION.—Subsection (a) shall not apply  
21 with respect to any building placed in service during a tax-  
22 able year beginning after December 31, 2010.”.

23           (b) CONFORMING AMENDMENTS.—

24           (1) Subparagraph (A) of section 6211(b)(4)(A)  
25 is amended by inserting “and subchapter C of chap-

1 ter 65 (including any payment treated as made  
2 under such subchapter)” after “6431”.

3 (2) Subparagraph (B) of section 6425(c)(1) is  
4 amended—

5 (A) by striking “the credits” and inserting

6 “the sum of—

7 “(i) the credits”,

8 (B) by striking the period at the end of

9 clause (i) thereof (as amended by this para-  
10 graph) and inserting “, plus”, and

11 (C) by adding at the end the following new

12 clause:

13 “(ii) the credits allowed (and pay-

14 ments treated as made) under subchapter

15 C of chapter 65.”.

16 (3) Paragraph (3) of section 6654(f) is amend-  
17 ed—

18 (A) by striking “the credits” and inserting

19 “the sum of—

20 “(A) the credits”,

21 (B) by striking the period at the end of

22 subparagraph (A) thereof (as amended by this  
23 paragraph) and inserting “, and”, and

24 (C) by adding at the end the following new

25 subparagraph:

1           “(B) the credits allowed (and payments  
2           treated as made) under subchapter C of chapter  
3           65.”.

4           (4) Subparagraph (B) of section 6655(g)(1) is  
5           amended—

6                   (A) by striking “the credits” and inserting  
7           “the sum of—

8                           “(i) the credits”,

9                   (B) by striking the period at the end of  
10           clause (i) thereof (as amended by this para-  
11           graph) and inserting “, plus”, and

12                   (C) by adding at the end the following new  
13           clause:

14                           “(ii) the credits allowed (and pay-  
15           ments treated as made) under subchapter  
16           C of chapter 65.”.

17           (5) Paragraph (2) of section 1324(b) of title  
18           31, United States Code, is amended by inserting “,  
19           or from the provisions of subchapter C of chapter 65  
20           of such Code” before the period at the end.

21           (6) The table of subchapters for chapter 65 is  
22           amended by adding at the end the following new  
23           item:

SUBCHAPTER C. DIRECT PAYMENT PROVISIONS.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to buildings placed in service after  
3 the date of the enactment of this Act.

4 **SEC. 205. EXTENSION AND ADDITIONAL ALLOCATIONS OF**  
5 **RECOVERY ZONE BOND AUTHORITY.**

6       (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-  
7 ITY.—Section 1400U–2(b)(1) and section 1400U–  
8 3(b)(1)(B) are each amended by striking “January 1,  
9 2011” and inserting “January 1, 2012”.

10       (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE  
11 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section  
12 1400U–1 is amended by adding at the end the following  
13 new subsection:

14       “(c) ALLOCATION OF 2010 RECOVERY ZONE BOND  
15 LIMITATIONS BASED ON UNEMPLOYMENT.—

16               “(1) IN GENERAL.—The Secretary shall allo-  
17 cate the 2010 national recovery zone economic devel-  
18 opment bond limitation and the 2010 national recov-  
19 ery zone facility bond limitation among the States in  
20 the proportion that each such State’s 2009 unem-  
21 ployment number bears to the aggregate of the 2009  
22 unemployment numbers for all of the States.

23               “(2) MINIMUM ALLOCATION.—The Secretary  
24 shall adjust the allocations under paragraph (1) for  
25 each State to the extent necessary to ensure that no

1 State (prior to any reduction under paragraph (3))  
2 receives less than 0.9 percent of the 2010 national  
3 recovery zone economic development bond limitation  
4 and 0.9 percent of the 2010 national recovery zone  
5 facility bond limitation.

6 “(3) ALLOCATIONS BY STATES.—

7 “(A) IN GENERAL.—Each State with re-  
8 spect to which an allocation is made under  
9 paragraph (1) shall reallocate such allocation  
10 among the counties and large municipalities (as  
11 defined in subsection (a)(3)(B)) in such State  
12 in the proportion that each such county’s or  
13 municipality’s 2009 unemployment number  
14 bears to the aggregate of the 2009 unemploy-  
15 ment numbers for all the counties and large  
16 municipalities (as so defined) in such State.

17 “(B) 2010 ALLOCATION REDUCED BY  
18 AMOUNT OF PREVIOUS ALLOCATION.—Each  
19 State shall reduce (but not below zero)—

20 “(i) the amount of the 2010 national  
21 recovery zone economic development bond  
22 limitation allocated to each county or large  
23 municipality (as so defined) in such State  
24 by the amount of the national recovery  
25 zone economic development bond limitation

1 allocated to such county or large municipi-  
2 pality under subsection (a)(3)(A) (deter-  
3 mined without regard to any waiver there-  
4 of), and

5 “(ii) the amount of the 2010 national  
6 recovery zone facility bond limitation allo-  
7 cated to each county or large municipality  
8 (as so defined) in such State by the  
9 amount of the national recovery zone facil-  
10 ity bond limitation allocated to such county  
11 or large municipality under subsection  
12 (a)(3)(A) (determined without regard to  
13 any waiver thereof).

14 “(C) WAIVER OF SUBALLOCATIONS.—A  
15 county or municipality may waive any portion  
16 of an allocation made under this paragraph. A  
17 State may by law treat a county or municipality  
18 as waiving any portion of an allocation made  
19 under this paragraph if there is a reasonable  
20 expectation that such allocation would not oth-  
21 erwise be used.

22 “(D) SPECIAL RULE FOR A MUNICIPALITY  
23 IN A COUNTY.—In the case of any large municipi-  
24 pality any portion of which is in a county, such

1           portion shall be treated as part of such municipi-  
2           pality and not part of such county.

3           “(4) 2009 UNEMPLOYMENT NUMBER.—For  
4           purposes of this subsection, the term ‘2009 unem-  
5           ployment number’ means, with respect to any State,  
6           county or municipality, the number of individuals in  
7           such State, county, or municipality who were deter-  
8           mined to be unemployed by the Bureau of Labor  
9           Statistics for December 2009.

10           “(5) 2010 NATIONAL LIMITATIONS.—

11           “(A) RECOVERY ZONE ECONOMIC DEVEL-  
12           OPMENT BONDS.—The 2010 national recovery  
13           zone economic development bond limitation is  
14           \$10,000,000,000. Any allocation of such limita-  
15           tion under this subsection shall be treated for  
16           purposes of section 1400U–2 in the same man-  
17           ner as an allocation of national recovery zone  
18           economic development bond limitation.

19           “(B) RECOVERY ZONE FACILITY BONDS.—  
20           The 2010 national recovery zone facility bond  
21           limitation is \$15,000,000,000. Any allocation of  
22           such limitation under this subsection shall be  
23           treated for purposes of section 1400U–3 in the  
24           same manner as an allocation of national recov-  
25           ery zone facility bond limitation.”.

1 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009  
2 ALLOCATIONS.—Subparagraph (A) of section 1400U—  
3 1(a)(3) is amended by adding at the end the following:  
4 “A State may by law treat a county or municipality as  
5 waiving any portion of an allocation made under this sub-  
6 paragraph if there is a reasonable expectation that such  
7 allocation would not otherwise be used.”.

8 **SEC. 206. ALLOWANCE OF NEW MARKETS TAX CREDIT**  
9 **AGAINST ALTERNATIVE MINIMUM TAX.**

10 (a) IN GENERAL.—Subparagraph (B) of section  
11 38(c)(4) is amended by designating clauses (v) through  
12 (viii) as clauses (vi) through (ix), respectively, and by in-  
13 serting after clause (iv) the following new clause:

14 “(v) the credit determined under sec-  
15 tion 45D, but only with respect to credits  
16 determined with respect to qualified equity  
17 investments (as defined in section 45D(b))  
18 initially made before January 1, 2012,”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to qualified equity investments (as  
21 defined in section 45D(b) of the Internal Revenue Code  
22 of 1986) initially made after March 15, 2010.



1                   **TITLE III—REVENUE**  
2                   **PROVISIONS**

3 **SEC. 301. LIMITATION ON TREATY BENEFITS FOR CERTAIN**  
4                   **DEDUCTIBLE PAYMENTS.**

5           (a) **IN GENERAL.**—Section 894 (relating to income  
6 affected by treaty) is amended by adding at the end the  
7 following new subsection:

8           “(d) **LIMITATION ON TREATY BENEFITS FOR CER-**  
9 **TAIN DEDUCTIBLE PAYMENTS.**—

10                   “(1) **IN GENERAL.**—In the case of any deduct-  
11 ible related-party payment, any withholding tax im-  
12 posed under chapter 3 (and any tax imposed under  
13 subpart A or B of this part) with respect to such  
14 payment may not be reduced under any treaty of the  
15 United States unless any such withholding tax would  
16 be reduced under a treaty of the United States if  
17 such payment were made directly to the foreign par-  
18 ent corporation.

19                   “(2) **DEDUCTIBLE RELATED-PARTY PAY-**  
20 **MENT.**—For purposes of this subsection, the term  
21 ‘deductible related-party payment’ means any pay-  
22 ment made, directly or indirectly, by any person to  
23 any other person if the payment is allowable as a de-  
24 duction under this chapter and both persons are

1 members of the same foreign controlled group of en-  
2 tities.

3 “(3) FOREIGN CONTROLLED GROUP OF ENTI-  
4 TIES.—For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘foreign  
6 controlled group of entities’ means a controlled  
7 group of entities the common parent of which  
8 is a foreign corporation.

9 “(B) CONTROLLED GROUP OF ENTITIES.—  
10 The term ‘controlled group of entities’ means a  
11 controlled group of corporations as defined in  
12 section 1563(a)(1), except that—

13 “(i) ‘more than 50 percent’ shall be  
14 substituted for ‘at least 80 percent’ each  
15 place it appears therein, and

16 “(ii) the determination shall be made  
17 without regard to subsections (a)(4) and  
18 (b)(2) of section 1563.

19 A partnership or any other entity (other than a  
20 corporation) shall be treated as a member of a  
21 controlled group of entities if such entity is con-  
22 trolled (within the meaning of section  
23 954(d)(3)) by members of such group (includ-  
24 ing any entity treated as a member of such  
25 group by reason of this sentence).

1           “(4) FOREIGN PARENT CORPORATION.—For  
2 purposes of this subsection, the term ‘foreign parent  
3 corporation’ means, with respect to any deductible  
4 related-party payment, the common parent of the  
5 foreign controlled group of entities referred to in  
6 paragraph (3)(A).

7           “(5) REGULATIONS.—The Secretary may pre-  
8 scribe such regulations or other guidance as are nec-  
9 essary or appropriate to carry out the purposes of  
10 this subsection, including regulations or other guid-  
11 ance which provide for—

12                   “(A) the treatment of two or more persons  
13 as members of a foreign controlled group of en-  
14 tities if such persons would be the common par-  
15 ent of such group if treated as one corporation,  
16 and

17                   “(B) the treatment of any member of a  
18 foreign controlled group of entities as the com-  
19 mon parent of such group if such treatment is  
20 appropriate taking into account the economic  
21 relationships among such entities.”.

22           (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall apply to payments made after the date  
24 of the enactment of this Act.

1 **SEC. 302. TREATMENT OF SECURITIES OF A CONTROLLED**  
2 **CORPORATION EXCHANGED FOR ASSETS IN**  
3 **CERTAIN REORGANIZATIONS.**

4 (a) IN GENERAL.—Section 361 (relating to non-  
5 recognition of gain or loss to corporations; treatment of  
6 distributions) is amended by adding at the end the fol-  
7 lowing new subsection:

8 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING  
9 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-  
10 nization described in section 368(a)(1)(D) with respect to  
11 which stock or securities of the corporation to which the  
12 assets are transferred are distributed in a transaction  
13 which qualifies under section 355—

14 “(1) this section shall be applied by substituting  
15 ‘stock other than nonqualified preferred stock (as  
16 defined in section 351(g)(2))’ for ‘stock or securities’  
17 in subsections (a) and (b)(1), and

18 “(2) the first sentence of subsection (b)(3) shall  
19 apply only to the extent that the sum of the money  
20 and the fair market value of the other property  
21 transferred to such creditors does not exceed the ad-  
22 justed bases of such assets transferred (reduced by  
23 the amount of the liabilities assumed (within the  
24 meaning of section 357(c)).”.

25 (b) CONFORMING AMENDMENT.—Paragraph (3) of  
26 section 361(b) is amended by striking the last sentence.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-  
3 graph (2), the amendments made by this section  
4 shall apply to exchanges after the date of the enact-  
5 ment of this Act.

6 (2) TRANSITION RULE.—The amendments  
7 made by this section shall not apply to any exchange  
8 pursuant to a transaction which is—

9 (A) made pursuant to an agreement which  
10 was binding on March 15, 2010, and at all  
11 times thereafter,

12 (B) described in a ruling request submitted  
13 to the Internal Revenue Service on or before  
14 such date, or

15 (C) described on or before such date in a  
16 public announcement or in a filing with the Se-  
17 curities and Exchange Commission.

18 **SEC. 303. REPEAL OF SPECIAL RULES FOR INTEREST AND**  
19 **DIVIDENDS RECEIVED FROM PERSONS MEET-**  
20 **ING THE 80-PERCENT FOREIGN BUSINESS RE-**  
21 **QUIREMENTS.**

22 (a) REPEAL OF SPECIAL RULE TREATING INTEREST  
23 AS UNITED STATES SOURCE.—Paragraph (1) of section  
24 861(a) is amended by striking subparagraph (A) and by

1 redesignating subparagraphs (B) and (C) as subpara-  
2 graphs (A) and (B), respectively.

3 (b) REPEAL OF EXCEPTION TO TAX ON DIVIDENDS  
4 RECEIVED BY NONRESIDENT ALIENS.—Paragraph (2) of  
5 section 871(i) is amended by striking subparagraph (B)  
6 and by redesignating subparagraphs (C) and (D) as sub-  
7 paragraphs (B) and (C), respectively.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 861 is amended by striking sub-  
10 section (c) and by redesignating subsections (d), (e),  
11 and (f) as subsections (c), (d), and (e), respectively.

12 (2) Paragraph (9) of section 904(h) is amended  
13 to read as follows:

14 “(9) TREATMENT OF CERTAIN DOMESTIC COR-  
15 PORATIONS.—In the case of any dividend treated as  
16 not from sources with the United States under sec-  
17 tion 861(a)(2)(A), the corporation paying such divi-  
18 dend shall be treated for purposes of this subsection  
19 as a United States-owned foreign corporation.”.

20 (3) Subsection (c) of section 2104 is amended  
21 in the last sentence by striking “or to a debt obliga-  
22 tion of a domestic corporation” and all that follows  
23 and inserting a period.

24 (d) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in para-  
2 graph (2), the amendments made by this section  
3 shall apply to taxable years beginning after Decem-  
4 ber 31, 2010.

5           (2) GRANDFATHER RULE FOR OUTSTANDING  
6 DEBT OBLIGATIONS.—

7           (A) IN GENERAL.—The amendments made  
8 by this section shall not apply to payments of  
9 interest on obligations issued before the date of  
10 the enactment of this Act.

11           (B) EXCEPTION FOR RELATED PARTY  
12 DEBT.—Subparagraph (A) shall not apply to  
13 any interest which is payable to a related per-  
14 son (determined under rules similar to the rules  
15 of section 954(d)(3)).

16           (C) SIGNIFICANT MODIFICATIONS TREAT-  
17 ED AS NEW ISSUES.—For purposes of subpara-  
18 graph (A), a significant modification of the  
19 terms of any obligation (including any extension  
20 of the term of such obligation) shall be treated  
21 as a new issue.

22 **SEC. 304. INFORMATION REPORTING FOR RENTAL PROP-**  
23 **ERTY EXPENSE PAYMENTS.**

24           (a) IN GENERAL.—Section 6041 is amended by add-  
25 ing at the end the following new subsection:

1       “(h) TREATMENT OF RENTAL PROPERTY EXPENSE  
2 PAYMENTS.—

3           “(1) IN GENERAL.—For purposes of subsection  
4 (a), a person receiving rental income from real es-  
5 tate (other than a qualified residence) shall be con-  
6 sidered to be engaged in a trade or business of rent-  
7 ing property.

8           “(2) QUALIFIED RESIDENCE.—For purposes of  
9 paragraph (1), the term ‘qualified residence’  
10 means—

11           “(A) the principal residence (within the  
12 meaning of section 121) of the taxpayer, and

13           “(B) 1 other residence of the taxpayer  
14 which is selected by the taxpayer for purposes  
15 of this subsection for the taxable year and  
16 which is used by the taxpayer as a residence  
17 (within the meaning of section 280A(d)(1)).”.

18       (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to payments made after December  
20 31, 2010.

21 **SEC. 305. APPLICATION OF LEVY TO PAYMENTS TO FED-**  
22 **ERAL VENDORS RELATING TO PROPERTY.**

23       (a) IN GENERAL.—Section 6331(h)(3) is amended by  
24 striking “goods or services” and inserting “property,  
25 goods, or services”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to levies approved after the date  
3 of the enactment of this Act.

4 **SEC. 306. APPLICATION OF CONTINUOUS LEVY TO EMPLOY-**  
5 **MENT TAX LIABILITY OF CERTAIN FEDERAL**  
6 **CONTRACTORS.**

7 (a) IN GENERAL.—Section 6330(h) is amended by  
8 inserting “or if the person subject to the levy (or any pred-  
9 ecessor thereof) is a Federal contractor that was identified  
10 as owing such employment taxes through the Federal Pay-  
11 ment Levy Program” before the period at the end of the  
12 first sentence.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to levies issued after December 31,  
15 2010.

16 **SEC. 307. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**  
17 **GRANTOR RETAINED ANNUITY TRUSTS.**

18 (a) IN GENERAL.—Subsection (b) of section 2702 is  
19 amended—

20 (1) by redesignating paragraphs (1), (2) and  
21 (3) as subparagraphs (A), (B), and (C), respectively,  
22 and by moving such subparagraphs (as so redesign-  
23 nated) 2 ems to the right,

24 (2) by striking “For purposes of” and inserting  
25 the following:

1           “(1) IN GENERAL.—For purposes of”, and  
2           (3) by striking “paragraph (1) or (2)” in para-  
3           graph (1)(C) (as so redesignated) and inserting  
4           “subparagraph (A) or (B)”, and  
5           (4) by adding at the end the following new  
6           paragraph:

7           “(2) ADDITIONAL REQUIREMENTS WITH RE-  
8           SPECT TO GRANTOR RETAINED ANNUITIES.—For  
9           purposes of subsection (a), in the case of an interest  
10          described in paragraph (1)(A) (determined without  
11          regard to this paragraph) which is retained by the  
12          transferor, such interest shall be treated as de-  
13          scribed in such paragraph only if—

14                 “(A) the right to receive the fixed amounts  
15                 referred to in such paragraph is for a term of  
16                 not less than 10 years,

17                 “(B) such fixed amounts, when determined  
18                 on an annual basis, do not decrease relative to  
19                 any prior year during the first 10 years of the  
20                 term referred to in subparagraph (A), and

21                 “(C) the remainder interest has a value  
22                 greater than zero determined as of the time of  
23                 the transfer.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transfers made after the date  
3 of the enactment of this Act.

4 **SEC. 308. INCREASE IN INFORMATION RETURN PENALTIES.**

5 (a) FAILURE TO FILE CORRECT INFORMATION RE-  
6 TURNS.—

7 (1) IN GENERAL.—Subsections (a)(1),  
8 (b)(1)(A), and (b)(2)(A) of section 6721 are each  
9 amended by striking “\$50” and inserting “\$100”.

10 (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
11 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section  
12 6721 are each amended by striking “\$250,000” and  
13 inserting “\$1,500,000”.

14 (b) REDUCTION WHERE CORRECTION WITHIN 30  
15 DAYS.—

16 (1) IN GENERAL.—Subparagraph (A) of section  
17 6721(b)(1) is amended by striking “\$15” and insert-  
18 ing “\$30”.

19 (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
20 sections (b)(1)(B) and (d)(1)(B) of section 6721 are  
21 each amended by striking “\$75,000” and inserting  
22 “\$250,000”.

23 (c) REDUCTION WHERE CORRECTION ON OR BE-  
24 FORE AUGUST 1.—

1           (1) IN GENERAL.—Subparagraph (A) of section  
2           6721(b)(2) is amended by striking “\$30” and insert-  
3           ing “\$60”.

4           (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
5           sections (b)(2)(B) and (d)(1)(C) of section 6721 are  
6           each amended by striking “\$150,000” and inserting  
7           “\$500,000”.

8           (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-  
9           SONS WITH GROSS RECEIPTS OF NOT MORE THAN  
10          \$5,000,000.—Paragraph (1) of section 6721(d) is amend-  
11          ed—

12           (1) by striking “\$100,000” in subparagraph  
13           (A) and inserting “\$500,000”,

14           (2) by striking “\$25,000” in subparagraph (B)  
15           and inserting “\$75,000”, and

16           (3) by striking “\$50,000” in subparagraph (C)  
17           and inserting “\$200,000”.

18           (e) PENALTY IN CASE OF INTENTIONAL DIS-  
19           REGARD.—Paragraph (2) of section 6721(e) is amended  
20           by striking “\$100” and inserting “\$250”.

21           (f) ADJUSTMENT FOR INFLATION.—Section 6721 is  
22           amended by adding at the end the following new sub-  
23           section:

24           “(f) ADJUSTMENT FOR INFLATION.—

1           “(1) IN GENERAL.—For each fifth calendar  
2 year beginning after 2012, each of the dollar  
3 amounts under subsections (a), (b), (d) (other than  
4 paragraph (2)(A) thereof), and (e) shall be increased  
5 by such dollar amount multiplied by the cost-of-liv-  
6 ing adjustment determined under section 1(f)(3) de-  
7 termined by substituting ‘calendar year 2011’ for  
8 ‘calendar year 1992’ in subparagraph (B) thereof.

9           “(2) ROUNDING.—If any amount adjusted  
10 under paragraph (1)—

11                   “(A) is not less than \$75,000 and is not  
12 a multiple of \$500, such amount shall be  
13 rounded to the next lowest multiple of \$500,  
14 and

15                   “(B) is not described in subparagraph (A)  
16 and is not a multiple of \$10, such amount shall  
17 be rounded to the next lowest multiple of \$10.”.

18           (g) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply with respect to information returns  
20 required to be filed on or after January 1, 2011.

○