

**LEGISLATIVE BACKGROUND OF SELECTED
FEDERAL TAX PROVISIONS SCHEDULED
TO EXPIRE IN 2011 OR 2012**

Scheduled for a Public Hearing
Before the
SUBCOMMITTEE ON SELECT REVENUE MEASURES
of the
HOUSE COMMITTEE ON WAYS AND MEANS
on April 26, 2012

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



April 25, 2012
JCX-39-12

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INTRODUCTION

The Subcommittee on Select Revenue Measures of the House Committee on Ways and Means has scheduled a hearing on April 26, 2012, on certain expiring tax provisions. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides legislative background for selected expiring Federal tax provisions (other than those providing time-limited transition relief after the repeal of an underlying rule) that are expiring in 2011 or 2012 (with references to the applicable section of the Internal Revenue Code of 1986 (the “Code”) or other applicable law).

For purposes of compiling this list, the staff of the Joint Committee on Taxation considers a provision to be expiring if, at a statutorily specified date, the provision expires completely or reverts to the law in effect before the present-law version of the provision. Certain provisions terminate on dates that refer to a taxpayer’s taxable year and not a calendar year. For these provisions, the expiration dates listed in this document apply with respect to calendar year taxpayers. The expiration dates of such provisions may differ, however, with respect to fiscal year taxpayers or taxpayers with short taxable years.

The legislative background provided for each expiring provision includes:

- A brief description of the provision,
- The public law in which the provision was originally enacted with the original expiration date,
- A brief description of substantial modifications to the provision, if any, and
- The public law in which the provision was most recently extended, if any, with the current expiration date.

Part I of this document lists provisions extended in Title VII of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. No. 112-312). As in that Act, these provisions are divided into three sections: energy provisions, individual tax relief provisions, and business tax relief provisions. Part II of this document lists Federal tax provisions expiring December 31, 2011 through December 31, 2012, other than those included in Titles I-VI of that Act and other than those that relate to any transportation trust fund.² Expiring Federal tax provisions providing temporary disaster relief are not listed in this document.

¹ This document may be cited as follows: Joint Committee on Taxation, *Legislative Background of Selected Federal Tax Provisions Scheduled to Expire in 2011 or 2012* (JCX-39-12), April 25, 2012. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

² See House Committee on Ways and Means, Subcommittee on Select Revenue Measures, Hearing Advisory, “Chairman Tiberi Announces Hearing on Certain Expiring Tax Provisions,” April 23, 2012, describing these categories of expiring tax provisions as the subject of the hearing.

**I. EXPIRING FEDERAL TAX PROVISIONS EXTENDED IN TITLE VII
OF THE TAX RELIEF, UNEMPLOYMENT
INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010**

A. Energy Provisions

1. Incentives for biodiesel and renewable diesel (secs. 40A, 6426(c)(6), and 6427(e)(6)(B))

- a. Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers (sec. 40A)
- b. Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture (sec. 40A)
- c. Excise tax credits and outlay payments for biodiesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))
- d. Excise tax credits and outlay payments for renewable diesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))

Biodiesel

- The biodiesel fuels credit is the sum of three credits: (1) the biodiesel mixture credit (\$1.00 per gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture), (2) the biodiesel credit (\$1.00 per gallon of biodiesel that is not in a mixture with diesel fuel), and (3) the small agri-biodiesel producer credit (10 cents per gallon for up to 15 million gallons of agri-biodiesel produced by small producers). The credits may be taken as income tax credits and the biodiesel mixture credit may be taken as an excise tax payment or credit.
- The biodiesel provision was enacted in the American Jobs Creation Act, Pub. L. No. 108-357, and originally expired on December 31, 2006.
- The provision was subsequently modified and extended by Energy Tax Incentives Act of 2005, Pub. L. No. 109-58, which added small agri-biodiesel producer income tax credit and extended the incentives through December 31, 2008. The provision was amended by the Energy Improvement and Extension Act of 2008, Division B of Pub. L. No. 110-343, which equalized credit for biodiesel and agri-biodiesel at \$1.00, clarified that fuel produced outside the U.S. for use outside the U.S. was ineligible for the credit, and extended the incentives through December 31, 2009.
- The biodiesel provisions were most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

Renewable diesel

- Renewable diesel is treated the same as biodiesel for purposes of the Code, except there is no small producer credit.

- The renewable diesel provision was added by the Energy Tax Incentives Act of 2005, Pub. L. No. 109-58, and was limited to fuel made using a thermal depolymerization process and was originally to expire December 31, 2008.
- The Energy Improvement and Extension Act of 2008, Division B of Pub. L. No. 110-343, removed the requirement that renewable diesel be made using a thermal depolymerization process, gave the Secretary to approve fuel standards equivalent to the requirements of American Society of Testing Materials (“ASTM”) D975 or D396 for purpose of renewable diesel, provided that military jet fuel and ASTM aviation turbine fuel qualified as renewable diesel and provided that renewable diesel could not be coprocessed with a feedstock that is not biomass as defined in section 45K(c)(3) (e.g., crude oil) and extended the incentive through December 31, 2009.
- The renewable diesel provisions were most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

2. Placed-in-service date for facilities eligible to claim the refined coal production credit (other than refined coal facilities that produce steel industry fuel) (sec. 45(d)(8))

- A \$4.375-per-ton credit (adjusted for inflation from 1992; \$6.475 per ton for 2012) is available for the production of refined coal, defined as a synthetic fuel produced from coal (including lignite) or high-carbon fly ash that when burned emits 20 percent less nitrogen oxide and 40 percent less sulfur dioxide or mercury compared to feedstock coal available in 2003. The credit is available during the 10-year period from the date the facility was placed in service. For facilities placed in service prior to January 1, 2009, qualifying refined coal is a fuel that, when burned, emits 20 percent less nitrogen oxides and either sulfur dioxide or mercury than the burning of feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003, but only if the fuel sells at prices at least 50 percent greater than the prices of the feedstock coal or comparable coal. To be qualified refined coal, the taxpayer must sell the fuel with the reasonable expectation that it will be used for the primary purpose of producing steam. Qualified facilities may not be placed in service after 2011.
- The provision was enacted as part of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, and was originally set to expire for facilities placed in service after December 31, 2008.
- From October 2, 2008 through December 31, 2009, a separate refined coal credit equal to \$2 per barrel-of-oil equivalent (adjusted for inflation from 1992; \$2.77 for 2008) was available for certain qualified facilities that produced steel industry fuel (defined as a fuel produced through a process of liquefying coal waste sludge, distributing the liquefied product on coal, and using the resulting mixture as a feedstock for the manufacture of coke). The steel industry fuel credit was added by the Energy Improvement and Extension Act of 2008, Pub. L. No. 110-343.

- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act 2010, Pub. L. No. 111-312, through December 31, 2011.

3. Credit for construction of new energy efficient homes (sec. 45L(g))

- A credit of \$1,000 or \$2,000 per home (depending on efficiency standard met) is provided to the contractor or manufacturer for each certified energy efficient new home acquired from the contractor or manufacturer before January 1, 2012.
- The provision was first enacted in the Energy Policy Act of 2005, Pub. L. No. 109-58, for new homes constructed in 2006 and 2007.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

4. Incentives for alternative fuel and alternative fuel mixtures (other than liquefied hydrogen)

- a. Excise tax credits and outlay payments for alternative fuel (secs. 6426(d)(5) and 6427(e)(6)(C))
 - b. Excise tax credits and outlay payments for alternative fuel mixtures (secs. 6426(e)(3) and 6427(e)(6)(C))
- The provision provides for a 50-cents-per gallon excise tax credit or payment for certain alternative fuel used as fuel in a motor vehicle, motor boat or airplane and a 50-cents-per gallon credit for alternative fuel mixed with a traditional fuel (gasoline, diesel or kerosene) for use as a fuel (not limited to transportation applications).
 - The provision was enacted in the Safe, Accountable, Flexible, Efficient, Transportation Equity Act of 2005, Pub. L. No. 109-59, and expired on September 30, 2009 (September 30, 2014, in the case of hydrogen fuel). The provision was subsequently modified in the Tax Technical Corrections Act of 2007, Pub. L. No. 110-172. The original provision provided a credit for fuel that was a “liquid hydrocarbon derived from biomass.” The credit was intended to cover fish oil, which contains oxygen, and is not exclusively composed of hydrogen and carbon. Provision changed “liquid hydrocarbon” to “liquid fuel.”
 - The provision was modified in the Energy Improvement and Extension Act of 2008, Division B of Pub. L. No. 110-343, which extended the non-hydrogen incentives through December 31, 2009, clarified that fuel produced outside the U.S. for use outside the U.S. was ineligible for the credit, added compressed or liquefied biomass gas to the list of alternative fuels, allowed credit for aviation use and added a carbon capture requirement for liquid fuel derived from coal through the Fischer-Tropsch process (coal to liquids).
 - The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312,

through December 31, 2011 (for non-hydrogen fuel) and was modified to exclude alternative fuel made from the paper or pulp process (such as black liquor) for fuel used or sold after December 31, 2009.³

5. Special rule for sales or dispositions to implement Federal Energy Regulatory Commission (“FERC”) or State electric restructuring policy (sec. 451(i))

- The provision allows a taxpayer who is a qualified electric utility to elect to recognize gain from a qualifying electric transmission transaction ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase exempt utility property within the applicable period.
- The provision was enacted as part of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, and was effective for transactions occurring between October 23, 2004 and December 31, 2007.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for transactions occurring on or before December 31, 2011.

6. Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells (sec. 613A(c)(6)(H)(ii))

- In general, the percentage depletion method of cost recovery for oil and gas property is limited to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer’s gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the taxable income from that property in any year. The provision suspends the 100-percent of taxable income limitation for marginal production for taxable years that began after December 31, 1997, and before January 1, 2012. Marginal production is defined as domestic crude oil and natural gas production from stripper well property or from property substantially all of the production from which during the calendar year is heavy oil. Stripper well property is property from which the average daily production is 15 barrel-of-oil equivalents or less, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on the property for the calendar year by the number of wells. Heavy oil is domestic crude oil with a weighted average gravity of 20 degrees American Petroleum Institute gravity (“API”) or less (corrected to 60 degrees Fahrenheit).
- The provision was enacted as part of the Tax Relief Act of 1997, Pub. L. No. 105-34, and was originally scheduled to expire after December 31, 1999. The provision has been extended six times but was allowed to expire for one year (2008).

³ The related provisions for liquefied hydrogen fuel expire September 30, 2014.

- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through taxable years beginning before January 1, 2012.

7. Grants for specified energy property in lieu of tax credits (sec. 48(d) and sec. 1603 of Pub. L. No. 111-5)

- A production tax credit is available for electricity produced certain renewable resources during the 10-year period beginning after a qualified wind power facility has been placed in service. The credit rate for 2011 is 2.2 cents per kilowatt-hour of power produced at qualified closed-loop and geothermal facilities, and 1.1 cents per kilowatt-hour for power produced at open-loop biomass, small irrigation power, municipal solid waste, marine/hydrokinetic, and certain hydropower facilities. A 10-percent investment credit is available for equipment placed in service that produces, uses, or distributes energy from geothermal deposit. A 10-percent credit is also available through 2016 for geothermal heat pump, microturbine, and combined heat and power property placed in service. A 30-percent investment credit is available through 2016 for solar electric/solar hot water (drops to 10 percent after 2016), fuel cell, and small wind property. In general, taxpayers may elect to claim a grant in lieu of these credits equal to 30 percent of the capital costs in the case of property eligible for the production credit or the 30-percent investment tax credit and 10 percent of the capital costs in the case of property eligible for the 10-percent investment credit. To be eligible to make this election, construction on a qualified facility must have begun before January 1, 2012.
- The election to claim a grant in lieu of certain energy tax credits was enacted as part of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, and was originally scheduled to expire after December 31, 2010.
- The election to claim a grant in lieu of certain energy tax was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act 2010, Pub. L. No. 111-312, to include qualified facilities the construction of which began before January 1, 2012.

8. Incentives for alcohol fuels (secs. 40(e)(1)(A), (h)(1), and (h)(2), and secs. 6426(b)(6) and 6427(e)(6)(A))

- a. Alcohol fuels income tax credit (alcohol fuel, alcohol used to produce a qualified mixture, and small ethanol producers) (secs. 40(e)(1)(A), (h)(1), and (h)(2))
 - b. Alcohol fuel mixture excise tax credit and outlay payments (secs. 6426(b)(6) and 6427(e)(6)(A))
- The alcohol fuels credit is the sum of four credits: (1) the alcohol mixture credit (\$0.60 per gallon of alcohol that is not ethanol (\$0.45 for ethanol) used by the taxpayer in the production of a qualified alcohol mixture), (2) the alcohol credit (\$0.60 per gallon of alcohol that is not ethanol (\$0.45 for ethanol) for alcohol that is not in a mixture with gasoline or a special fuel), (3) the small ethanol producer credit

(10 cents per gallon for up to 15 million gallons of ethanol produced by small producers) and (4) the cellulosic biofuel producer credit (a provision expiring December 31, 2012 that is discussed separately). The alcohol mixture credit also may be taken as an excise tax payment or credit.

- The Energy Tax Act of 1978, Pub. L. No. 95-618, provided that gasohol (a blend of gasoline and ethanol) was eligible to receive a partial excise tax exemption. The Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, introduced an income tax credit for small ethanol producers and reduced the credit for ethanol to 54 cents per gallon. The Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, provided for a reduction in the ethanol-related credits (other than small ethanol producer) starting at 53 cents per gallon in 2001 and declining to 51 cents per gallon by 2005. The American Jobs Creation Act of 2004, Pub. L. No. 108-357, eliminated the partial exemption from the gas tax for various gasohol blends and replaced it with the Volumetric Ethanol Excise Tax Credit (“VEETC”) and payment provisions based on the gallons of ethanol used. The incentives were to expire December 31, 2010. The Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, reduced the ethanol-related credits (other than small ethanol producer) to 45 cents per gallon beginning in calendar year 2009.
- The alcohol fuel incentives were most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

9. Credit for energy efficient appliances (sec. 45M(b))

- A credit ranging from \$25 to \$225 (depending on year, type of appliance and efficiency standard met) is provided to the producer of energy efficient dishwashers, clothes washers, and refrigerators produced by January 1, 2012.
- The provision was originally enacted in the Energy Policy Act of 2005, Pub. L. No. 109-58, for appliances produced in 2006, 2007, and 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

10. Credit for certain nonbusiness energy property (sec. 25C(g))

- This provision allows a credit of 10 percent of the expenditures on energy efficient improvements to the building envelope (windows, doors, skylights, roofs) of principal residences, and credits of fixed dollar amounts ranging from \$50 to \$300 for energy efficient property including furnaces, boilers, biomass stoves, heat pumps, water heaters, central air conditioners and circulating fans is available for property placed in service before January 1, 2012. It is subject to a lifetime cap of \$500.
- The provision was first enacted in the Energy Policy Act of 2005, Pub. L. No. 109-58, for property placed in service after December 31, 2005 and before January 1, 2008.

- The provision was substantially modified in the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, with the principal change being an increase in the credit amounts to 30 percent of expenditures on all qualifying property, up to a \$1,500 aggregate credit over two years for 2009 and 2010. This modification was not included in the most recent extension of the provision.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for property placed in service through December 31, 2011.

11. Credit for alternative fuel vehicle refueling property (non-hydrogen refueling property) (sec. 30C(g)(2))⁴

- A 30-percent credit is available through 2011 (2014 for hydrogen refueling property) for property that dispenses alternative fuels, including ethanol, biodiesel, natural gas, hydrogen, and electricity. The credit may not exceed \$30,000 per location for business property and \$1,000 for property installed at a principal residence.
- The provision was enacted as part of the Energy Policy Act of 2005, Pub. L. No. 109-58, and was originally set to expire after December 31, 2009.
- For 2009 and 2010, the credit rate for non-hydrogen refueling property was increased to 50 percent. During this period, the maximum credit amount was increased to \$50,000 per location for business property and \$2,000 for property installed at a principal residence. The changes were made by the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act 2010, Pub. L. No. 111-312, for property placed in service on or before December 31, 2011.

⁴ The related provision of section 30C for hydrogen refueling property expires December 31, 2014.

B. Individual Tax Relief Provisions

1. Deduction for certain expenses of elementary and secondary school teachers (sec. 62(a)(2)(D))

- Eligible educators are allowed an above-the-line deduction of up to \$250 for unreimbursed amounts paid or incurred in connection with books, certain supplies, computer equipment (including related software and services) and other equipment, and supplementary materials used in the classroom.
- The provision was enacted in the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, and originally expired on December 31, 2003.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for costs incurred through December 31, 2011.

2. Deduction for State and local general sales taxes (sec. 164(b)(5))

- At the election of a taxpayer, an itemized deduction may be taken for State and local sales taxes in lieu of the itemized deduction for State and local income taxes.
- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, and originally expired December 31, 2005.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, to State and local general sales taxes paid or incurred in taxable years beginning before January 1, 2012.

3. Special rules for contributions of capital gain property made for conservation purposes (secs. 170(b)(1)(E) and 170(b)(2)(B))

- Contributions of capital gain property to charitable organizations described in section 170(b)(1)(A) (e.g., public charities, private foundations other than private non-operating foundations, and certain governmental units) generally are deductible up to 30 percent of an individual taxpayer's contribution base and up to 10 percent of a corporate taxpayer's taxable income (as defined in section 170(b)(2)(C)). The provision generally increases the applicable percentage limit to 100 percent in the case of a qualified conservation contribution by a qualified farmer or rancher and permits taxpayers to carry forward excess contributions for up to 15 years. For an individual taxpayer who is not a qualified farmer or rancher, the provision generally permits an increase in the applicable percentage limit to 50 percent.
- The provision was enacted in the Pension Protection Act of 2006, Pub. L. No. 109-280, for taxable years beginning before January 1, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for taxable years beginning before January 1, 2012.

4. Above-the-line deduction for qualified tuition and related expenses (sec. 222(e))

- An individual is allowed an above-the-line deduction for qualified tuition and related expenses for higher education paid by the individual during the taxable year. The maximum deduction is \$4,000 for taxpayers with adjusted gross income of \$65,000 or less (\$130,000 for joint filers) and \$2,000 for taxpayers with adjusted gross income above \$65,000 (\$130,000 for joint filers) but less than or equal to \$80,000 (\$160,000 for joint filers). No deduction is allowed for taxpayers with adjusted gross income above \$80,000 (\$160,000 for joint filers).
- The provision was enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, and originally expired on December 31, 2005.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

5. Tax-free distributions from individual retirement plans for charitable purposes (sec. 408(d)(8))

- In general, the provision allows an exclusion from gross income for otherwise taxable distributions from a traditional or Roth individual retirement arrangement (“IRA”) in the case of qualified charitable distributions. The exclusion may not exceed \$100,000 per taxpayer per taxable year. A qualified charitable distribution generally is any distribution from an IRA made directly by the IRA trustee to an organization described in section 170(b)(1)(A) (generally, public charities), other than a supporting organization or a donor advised fund. Distributions are eligible for the exclusion only if made on or after the date the IRA owner attains age 70-1/2 and only to the extent the distribution would be includible in gross income (without regard to the provision). Other statutory requirements apply.
- The provision was enacted in the Pension Protection Act of 2006, Pub. L. No. 109-280, for distributions made in taxable years beginning before January 1, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for distributions made in taxable years beginning before January 1, 2012. The 2010 Act included a special rule permitting taxpayers to elect to have qualified charitable distributions made in January 2011 treated as having been made on December 31, 2010, for certain purposes.

6. Definition of gross estate for regulated investment company (“RIC”) stock owned by a nonresident not a citizen of the United States (sec. 2105(d))

- The gross estate of a nonresident non-citizen decedent generally includes only property that at the time of the decedent’s death is situated within the United States. Although stock issued by a domestic corporation generally is treated as property within the United States, under the provision, the stock of a RIC that was owned by a nonresident non-citizen is not deemed property within the United States in the

proportion that, at the end of the quarter of the RIC's taxable year immediately before a decedent's date of death, the assets held by the RIC are debt obligations, deposits, or other property that would be treated as situated outside the United States if held directly by the estate (the "estate tax look-through rule for RIC stock").

- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, for decedents dying after December 31, 2004, and before January 1, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for decedents dying before January 1, 2012.

7. Parity for exclusion from income for employer-provided mass transit and parking benefits (sec. 132(f))

- Qualified transportation fringe benefits provided by an employer through transit passes and vanpooling can be excluded from an employee's income up to a statutory maximum of \$100 a month (\$125 for 2012, as adjusted for inflation). The amount that can be excluded for transit passes and vanpooling has been temporarily raised to provide parity for these benefits with employer-provided parking benefits, which are excludable up to an amount of \$175 a month (\$240 for 2012, as adjusted for inflation).
- The provision was enacted in the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, effective for months beginning on or after the date of enactment (February 12, 2009) and before January 1, 2011.
- The provision was extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for months beginning before January 1, 2012.

8. Refunds disregarded in the administration of Federal programs and Federally assisted programs (sec. 6409)

- Under present law, any tax refund (or advance payment with respect to a refundable credit) received by an individual after December 31, 2009 begins a period of 12 months during which such refund may not be taken into account as a resource for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.
- The provision was enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2012.

C. Business Tax Relief Provisions

1. Tax credit for research and experimentation expenses (sec. 41(h)(1)(B))

- Under the provision, a taxpayer can claim a research credit equal to 20 percent of the amount by which the taxpayer's qualified research expenses exceeded a base amount. The base amount reflects past research expenditures incurred during a fixed period, so the research credit is generally available with respect to incremental increases in qualified research. Under the provision, an alternative simplified credit calculation is available in lieu of the traditional research credit at a 14 percent credit rate. The alternative simplified credit uses a three-year rolling base period and is only partially incremental. With some limitations, the research credit is available for both in-house and contract research expenses. Generally, qualified research comprises processes of experimentation conducted in the United States (including U.S. possessions) aimed at developing new or improved business components of the taxpayer. Research does not qualify if it relates to style, taste, cosmetic, or seasonal design factors. In addition, research does not qualify if it (1) was conducted after the beginning of commercial production of a business component, (2) related to the adaptation or duplication of certain existing business components, or (3) related to certain efficiency surveys, market research, management techniques, routine data collection, or routine quality control. Under the provision, additional research credits are available with respect to qualified energy research and university basic research under different credit structures.
- The provision was enacted in the Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, and provided for a research tax credit for amounts paid or incurred on or before December 31, 1985. The credit has been extended fourteen times since then, although it was allowed to expire from July 1, 1995, through June 30, 1996.
- The most recent major modification was the creation of the alternative simplified credit by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for amounts paid or incurred on or before December 31, 2011.

2. Indian employment tax credit (sec. 45A(f))

- The provision allows a credit to employers against income tax liability for the first \$20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees. The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs incurred during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to \$20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No

deduction is allowed for the portion of the wages equal to the amount of the credit or for amounts incurred after December 31, 2011.

- The provision was enacted in the Omnibus Reconciliation Act of 1993, Pub. L. No. 103-66, and did not apply to taxable years beginning after December 31, 2003.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

3. New markets tax credit (sec. 45D(f)(1))

- A federal income tax credit is allowed in the aggregate amount of 39 percent of qualified investments in order to attract private capital to promote economic and community development in low-income communities. The credit is allowed over seven years, five percent in each of the first three years and six percent in each of the next four years. In general, the credit is allowed to a taxpayer who makes a “qualified equity investment” in a “qualified community development entity” (“CDE”) which further invests in a “qualified active low-income community business. The credit is recaptured if the entity fails to continue to be a CDE or the interest is redeemed within seven years.
- The provision was originally enacted in the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, for investments made after December 31, 2000, and \$15 billion of new market tax credit authority was allocated through 2007.
- In 2005, an additional \$1 billion of credits was allocated for qualified areas affected by Hurricane Katrina over a period of three years in the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135. In 2006 and again in 2008, another \$3.5 billion was allocated in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, and in the Tax Extenders and Alternative Minimum Tax Relief, Div. C of Pub. L. No. 110-343. In 2009, an additional \$3 billion of credits was allocated to be split equally between the 2008 (retroactively) and 2009 allocations in the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312. This act provided for an allocation limit of \$3.5 billion in each of 2010 and 2011 and extended for two years, through 2016, the carryover period for unused new markets tax credits.

4. Credit for certain expenditures for maintaining railroad tracks (sec. 45G(f))

- A business tax credit is allowed for 50 percent of qualified railroad track maintenance expenditures paid or incurred in the taxable year by an eligible taxpayer. The credit is limited to the product of \$3,500 times the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of its taxable year. An eligible taxpayer is (1) any Class II or Class III railroad and (2) any person that transports property

using the rail facilities of a Class II or Class III railroad or that furnishes railroad-related property or services to such person.

- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, for qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.
- The provision was most recently extended in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified railroad track maintenance expenditures paid or incurred during taxable years beginning before January 1, 2012.

5. Mine rescue team training credit (sec. 45N)

- The mine rescue training credit is a general business credit available with respect to each qualified mine rescue team employee employed by the taxpayer equal to the lesser of: (1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including the wages of the employee while attending the program); or (2) \$10,000.
- The provision was enacted in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, and was effective for tax years beginning after December 31, 2005 and on or before December 31, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for taxable years beginning on or before December 31, 2011.

6. Employer wage credit for activated military reservists (sec. 45P)

- Qualified small business employers may take a credit against their income tax liability for up to 20 percent of certain wage payments made to active duty members of the uniformed services of the United States.
- The provision was enacted in the Heroes Earnings Assistance and Relief Tax Act of 2008, Pub. L. No. 110-245, effective for amounts paid after date of enactment (June 17, 2008) through December 31, 2009.
- The provision was extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for eligible wages paid through December 31, 2011.

7. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements (secs. 168(e)(3)(E)(iv), (v), (ix), 168(e)(7)(A) and (e)(8))

- a. Qualified leasehold improvements (sec. 168(e)(3)(E)(iv))

- This provision provides a statutory 15-year recovery period (using the straight-line method and a half-year convention) for qualified leasehold improvement property. Qualified leasehold improvement property is defined as any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the lessee (or sublessee), or by the lessor, of that portion of the building to be occupied exclusively by the lessee (or sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service. Qualified leasehold improvement property does not include any improvement for which the expenditure was attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building. Qualified leasehold improvement property is eligible for bonus depreciation.
 - The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, for qualified leasehold improvement property placed in service after the effective date of the Act (October 22, 2004) and before January 1, 2006.
 - The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified leasehold improvement property placed in service before January 1, 2012.
- b. Qualified restaurant buildings and improvements (secs. 168(e)(3)(E)(v) and (e)(7)(A))
- This provision provides a statutory 15-year recovery period (using the straight-line method and a half-year convention) for qualified restaurant property. Qualified restaurant property is defined as any section 1250 property that is a building or an improvement to a building, if more than 50 percent of the building's square footage is devoted to the preparation of, and seating for on-premises consumption of, prepared meals. Additionally, qualified restaurant property is not eligible for bonus depreciation, unless it also meets the definition of qualified leasehold improvement property (see Rev. Proc. 2011-26).
 - The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, for qualified restaurant property placed in service after the effective date of the Act (October 22, 2004) and before January 1, 2006.
 - The provision was extended and modified by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. No. 110-343, which repealed the rule for qualified improvements made to restaurant property within the first three years of the life of the building and excluded qualified restaurant property from bonus depreciation for property placed in service after December 31, 2008 and before January 1, 2010.
 - The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified restaurant property placed in service after the effective date of the Act and before January 1, 2012.

c. Qualified retail improvements (secs. 168(e)(3)(E)(ix) and (e)(8))

- This provision provides a statutory 15-year recovery period (using the straight-line method and a half-year convention) for qualified retail improvement property. Qualified retail improvement property is defined as any improvement to an interior portion of a building which is nonresidential real property if such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and such improvement is placed in service more than three years after the date the building was first placed in service. Qualified retail improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, or the internal structural framework of the building. In the case of an improvement made by the owner of such improvement, the improvement is a qualified retail improvement only so long as the improvement is held by such owner. Additionally, qualified retail improvement property is not eligible for bonus depreciation, unless it also meets the definition of qualified leasehold improvement property (see Rev. Proc. 2011-26).
- The provision was enacted in the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. No. 110-343, for qualified retail improvements placed in service after December 31, 2008 and before January 1, 2010.
- The provision was extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified retail improvement property placed in service before January 1, 2012.

8. Seven-year recovery period for motorsports entertainment complexes (sec. 168(i)(15) and 168(e)(3)(C)(ii))

- The provision assigns a recovery period of seven years for a motorsports entertainment complex placed in service prior to January 1, 2012. A motorsports entertainment complex is a racing track facility (including ancillary facilities, land improvements, support facilities, and appurtenances associated with such facilities) which is permanently situated on land and which hosts a racing event within 36 months of its placed-in-service date.
- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, and expired for property placed in service after December 31, 2007.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for property placed in service on or before December 31, 2011.

9. Accelerated depreciation for business property on an Indian reservation (sec. 168(j)(8))

- This provision provides accelerated depreciation for “qualified Indian reservation property” defined as property: (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation; (2) not used or located outside the reservation on a regular basis; (3) not acquired (directly or indirectly) by

the taxpayer from a person who is related to the taxpayer; and (4) not property placed in service for purposes of conducting gaming activities. Certain “qualified infrastructure property” may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities). The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax.

- The provision was enacted in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, for property placed in service after December 31, 1993 and before January 1, 2004.
- The provision was modified by the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, which clarified the definition of “Indian reservation” and made such language generally effective as if included in the Omnibus Budget Reconciliation Act of 1993.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for business property on an Indian reservation placed in service before January 1, 2012.

10. Enhanced charitable deduction for contributions of food inventory (sec. 170(e)(3)(C))

- A taxpayer’s deduction for a charitable contribution of inventory generally is limited to the lesser of the taxpayer’s basis (typically, cost) in the inventory and the fair market value of the inventory. For certain contributions of inventory that satisfy various statutory requirements, C corporations (but not other taxpayers engaged in a trade or business) may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item’s appreciation or (2) two times basis. Under the provision, any taxpayer, whether or not a C corporation, engaged in a trade or business generally is eligible to claim the enhanced deduction for certain contributions of food inventory.
- The provision was enacted in the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, for contributions made before January 1, 2006.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for contributions made before January 1, 2012.

11. Enhanced charitable deduction for contributions of book inventories to public schools (sec. 170(e)(3)(D))

- A taxpayer’s deduction for a charitable contribution of inventory generally is limited to the lesser of the taxpayer’s basis (typically, cost) in the inventory and the fair market value of the inventory. For certain contributions of inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item’s appreciation or (2) two times basis. To qualify, the property generally must be inventory of the taxpayer contributed to a charitable organization described in section

501(c)(3) (except for private nonoperating foundations), and must meet certain other statutory requirements. Under the provision, a corporate taxpayer may claim the enhanced deduction for a qualified book contribution to a public school, regardless of whether the school is described in section 501(c)(3). A qualified book contribution means a charitable contribution of books to a public school that provides elementary education or secondary education (kindergarten through grade 12) and that meets certain other statutory requirements.

- The provision was enacted in the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73, for contributions made before January 1, 2006.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for contributions made before January 1, 2012.

12. Enhanced charitable deduction for corporate contributions of computer equipment for educational purposes (sec. 170(e)(6))

- A taxpayer's deduction for a charitable contribution of inventory generally is limited to the taxpayer's basis (typically, cost) in the inventory, or if less the fair market value of the inventory. For certain contributions of inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciation or (2) two times basis. To qualify, the property generally must be inventory of the taxpayer contributed to a charitable organization described in section 501(c)(3) (except for private non-operating foundations), and must meet certain other statutory requirements. Under the provision, a corporate taxpayer may claim the enhanced deduction for a qualified computer contribution, regardless of whether the donee organization is described in section 501(c)(3). A qualified computer contribution means a charitable contribution of computer technology or equipment that meets several statutory requirements, including that the contribution must be to certain education organizations or public libraries and must be made not later than three years after the taxpayer acquired the property (or if the taxpayer constructed or assembled the property, the date construction or assembly of the property is substantially completed).
- The provision was enacted in the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, for contributions made in taxable years beginning before January 1, 2000.
- The provision was subsequently modified and extended by the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, which added public libraries as eligible donees, added a special rule for donations of property reacquired by a manufacturer, and made other modifications. The provision was further modified by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, which provided that contributions of property assembled by the taxpayer, in addition to property constructed by the taxpayer, is eligible for the enhanced deduction for qualified computer contributions.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for contributions made in taxable years beginning before January 1, 2012.

13. Election to expense advanced mine safety equipment (sec. 179E(a))

- The provision allows a taxpayer to elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense in the taxable year in which the equipment is placed in service.
- The provision was enacted by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, for costs paid or incurred after December 20, 2006 and before December 31, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for property placed in service before January 1, 2012.

14. Special expensing rules for certain film and television productions (sec. 181(f))

- This provision allows taxpayers to elect to deduct up to \$15 million of the aggregate cost (\$20 million if a significant amount of the production expenditures are incurred in areas eligible for designation as a low-income community or eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress) of any qualifying film and television production in the year the expenditure was incurred in lieu of capitalizing the cost and recovering it through depreciation allowances. A qualified film or television production means any production of a motion picture (whether released theatrically or directly to video cassette or any other format) or television program if at least 75 percent of the total compensation expended on the production was for services performed in the United States by (as originally enacted) actors, directors, producers, and other relevant production personnel.
- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, for qualified film and television productions that commenced after the effective date of the Act and before January 1, 2009.
- The Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. No. 110-343, modified the definition of qualified compensation to apply to the services of actors, production personnel, directors, and producers, and extended the provision through December 31, 2009.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified film and television productions that commenced before January 1, 2012.

15. Expensing of environmental remediation costs (sec. 198(h))

- The provision allows a taxpayer to elect to treat certain environmental remediation expenditures incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site that would otherwise be chargeable to capital account as deductible in the year paid or incurred.

- The provision was enacted in the Tax Relief Act of 1997, Pub. L. No. 105-34, for eligible expenditures paid or incurred after August 5, 1997 and before January 1, 2001.
- The provision was amended to expand the definition of qualified contaminated site to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency in 2000, Pub. L. No. 106-554.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for expenditures paid or incurred on or before December 31, 2011.

16. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico (sec. 199(d)(8))

- The provision provides that for a taxpayer with gross receipts from sources within the Commonwealth of Puerto Rico, all of which receipts are taxable under the U.S. individual or corporate income tax, the section 199 deduction for income attributable to domestic production activities is available in respect of otherwise qualifying activities undertaken in Puerto Rico.
- The provision was enacted in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, and originally expired on December 31, 2007.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

17. Modification of tax treatment of certain payments to controlling exempt organizations (sec. 512(b)(13)(E))

- In general, organizations exempt from Federal income tax are subject to tax on income derived from a regularly carried on trade or business that is not substantially related to the performance of the organization's tax-exempt functions ("unrelated business taxable income" or "UBTI"). In general, UBTI does not include interest, rents, royalties, and annuities. Section 512(b)(13), however, provides special rules regarding the UBTI treatment of income derived by an exempt organization from a controlled subsidiary. In general, section 512(b)(13) treats otherwise excluded rent, royalty, annuity, and interest income as UBTI if such income is received from a subsidiary that is 50-percent or more controlled by the parent exempt organization to the extent the payment reduces the net unrelated income (or increases any net unrelated loss) of the controlled entity, determined as if that entity were tax-exempt. Under a temporary provision, for payments made pursuant to a binding written contract in effect on August 17, 2006 (or renewal of such a contract on substantially similar terms), the general rule of section 512(b)(13) generally applies only to the portion of payments received or accrued in a taxable year that exceeds the amount of the payment that would have been paid under the principles of section 482 (i.e., at arm's length).

- The provision was enacted in the Pension Protection Act of 2006, Pub. L. No. 109-280, for payments received or accrued before January 1, 2008.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for payments received or accrued before January 1, 2012. To qualify, payments must be made pursuant to a binding written contract in effect on August 17, 2006 (or a renewal of such a contract on substantially similar terms).

18. Treatment of certain dividends of RICs (secs. 871(k)(1)(C) and (2)(C), and 881(e)(1)(A) and (2))

- Certain interest-related dividends and certain short-term capital gain dividends of RICs are not subject to tax when received by a nonresident alien individual or a foreign corporation.
- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, and originally expired December 31, 2006.
- The provision was modified in the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. No. 109-222.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

19. RIC qualified investment entity treatment under the Foreign Investment in Real Property Tax Act (“FIRPTA”) (sec. 897(h)(4))

- Certain RICs that are largely invested in the stock of real property holding companies such as REITs are treated in the same manner as REITs for purposes of FIRPTA. That is, certain sales of stock of such entities are not subject to FIRPTA tax or withholding; however, certain distributions by such entities of the proceeds of the sale of U.S. real property interests are subject to FIRPTA tax and withholding.
- The provision was enacted in the American Jobs Creation Act of 2004, Pub. L. No. 108-357, effective after December 31, 2004 and before January 1, 2008.
- The provision was modified in 2006 by the Tax Increase Prevention and Reconciliation Act of 2006, Pub. L. No. 109-222, to limit the class of RICs that are covered, generally effective as if included in the American Jobs Creation Act of 2004.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

20. Exceptions under subpart F for active financing income (secs. 953(e), 954(h)(9) and 954(i))

- The provision provides exceptions from treatment as subpart F income for certain income derived in the active conduct of a banking, financing, or similar business, as a

securities dealer, or in the conduct of an insurance business (known as active financing income). Without the exceptions, 10-percent-or-greater U.S. shareholders of a controlled foreign corporation (CFC) would be subject to U.S. tax currently on such active financing income earned by the CFC, whether or not the income is distributed to shareholders.

- The provision was enacted in the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, effective for taxable years beginning in 1998.
- The provision was substantially modified and extended for one year in the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277. The 1998 Act modified the definition of income derived in the active conduct of a banking, financing, or similar business to add substantial activity and nexus requirements, to change the test for whether a CFC is predominantly engaged in such active conduct, to change the treatment of cross-border transactions, to change the determination of where a customer is located, and to eliminate a look-through rule for determining eligible income. The 1998 Act modified the definition of income derived in the conduct of an insurance business to change the determination of reserves and to provide additional exceptions for certain income of a qualifying branch with respect to risks located within the home country of the branch, and for certain CFCs or branches located in any country other than the United States. The provision was substantially modified and extended for five years in the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147. The 2002 Act modification, which relates to income derived in the conduct of an insurance business, permits the use of foreign statement reserves subject to IRS approval. In 2004, a definition of “direct conduct of activities” was added to section 954(h)(9) by the American Jobs Creation Act of 2004, Pub. L. No. 108-357.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for taxable years beginning before 2012.

21. Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules (sec. 954(c)(6))

- Certain payments of dividends, interest, rents, and royalties that would otherwise be included in foreign personal holding company income may be excepted if the payments are received from a related controlled foreign corporation and are properly attributable and allocable to income of the payor that is neither subpart F income nor treated as effectively connected to a U.S. trade or business.
- The provision was enacted in the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. No. 109-222, for taxable years beginning after December 31, 2005, and before January 1, 2009.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

22. Basis adjustment to stock of S corporations making charitable contributions of property (sec. 1367(a))

- The basis of a shareholder's stock in an S corporation is reduced by losses and deductions of the S corporation. The provision adjusts the basis of stock in an S corporation by the adjusted basis of property contributed to charity.
- The provision was enacted in the Pension Protection Act of 2006, Pub. L. No. 109-280, for contributions made in taxable years beginning before 2008.
- The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, extended the provision for taxable years beginning before 2012.

23. Empowerment zone tax incentives (secs. 1202(a)(2), 1391(d)(1)(A)(i) and (h)(2), 1394, 1396, 1397A, and 1397B)

- a. Designation of an empowerment zone and of additional empowerment zones (secs. 1391(d)(1)(A)(i) and (h)(2))
 - b. Increased exclusion of gain (attributable to periods through 12/31/16) on the sale of qualified business stock of an empowerment zone business (secs. 1202(a)(2) and 1391(d)(1)(A)(i))
 - c. Empowerment zone tax-exempt bonds (secs. 1394 and 1391(d)(1)(A)(i))
 - d. Empowerment zone employment credit (secs. 1396 and 1391(d)(1)(A)(i))
 - e. Increased expensing under sec. 179 (secs. 1397A and 1391(d)(1)(A)(i))
 - f. Nonrecognition of gain on rollover of empowerment zone investments (secs. 1397B and 1391(d)(1)(A)(i))
- The empowerment zone tax incentives are intended to encourage economic growth and investment in distressed communities by providing Federal tax incentives to businesses located within the designated boundaries. There are 40 areas designated as empowerment zones per the rules provided in section 1391 of the Code. The tax incentives available within the designated empowerment zones include a Federal income tax credit for employers who hire qualifying employees (sec. 1396), accelerated depreciation deductions on qualifying equipment (sec. 1397A), tax-exempt bond financing (sec. 1394), deferral of capital gains tax on sale of qualified assets sold and replaced (sec. 1397B), and, generally, partial exclusion of capital gains tax on certain sales of qualified small business stock (sec. 1202).
 - The empowerment zone tax incentives were enacted in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, which authorized the designation of nine empowerment zones ("Round I empowerment zones") to be designated by the Secretaries of the Department of Housing and Urban Development and the U.S. Department of Agriculture. These designations were to be made after 1993 and

before 1996 and terminated upon the earliest of (i) the close of the 10th calendar year beginning on or after such date of designation, (ii) the termination date designated by the State and local governments as provided for in their nomination, or (iii) the date the appropriate Secretary revoked the designation.

- The Taxpayer Relief Act of 1997, Pub. L. No. 105-34, authorized the designation of two additional Round I urban empowerment zones, and 20 additional empowerment zones (“Round II empowerment zones”). These designations were to be made after the date of the enactment and before January 1, 1999. The Community Renewal Tax Relief Act of 2000 (“Renewal Act”), Pub. L. No. 106-554, authorized a total of 10 new empowerment zones (“Round III empowerment zones”). These designations were to be made after the date of the enactment and before January 1, 2002. The designations were generally to remain in effect during the period beginning on January 1, 2002, and ending on December 31, 2009. In addition, the Renewal Act conformed the tax incentives that are available to businesses in the Round I, Round II, and Round III empowerment zones, added some additional tax incentives (deferral of capital gains tax on sale of qualified assets sold and replaced under sec. 1397B and partial exclusion of capital gains tax on certain sales of qualified small business stock), raised the expensing limitation on qualifying equipment under sec. 1397, and generally extended all of the empowerment zone incentives through December 31, 2009.
- The empowerment zone tax benefits were most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312. This law extends for two years, through December 31, 2011, the period for which the designation of an empowerment zone is in effect, thus extending for two years the empowerment zone tax incentives, including the wage credit, accelerated depreciation deductions on qualifying equipment, tax-exempt bond financing, and deferral of capital gains tax on sale of qualified assets sold and replaced.⁵ In the case of a designation of an empowerment zone the nomination for which included a termination date which is December 31, 2009, termination shall not apply with respect to such designation if the entity that made such nomination amends the nomination to provide for a new termination date in such manner as the Secretary may provide. The law also extends for two years, through December 31, 2016, the period for which the percentage exclusion for qualified small business stock (of a corporation which is a qualified business entity) acquired on or before February 17, 2009 is 60 percent. Gain attributable to periods after December 31, 2016 for qualified small business stock acquired on or before February 17, 2009 or after December 31, 2011 is subject to the general rule which provides for a percentage exclusion of 50 percent.

⁵ The empowerment zone tax incentives may expire earlier than December 31, 2011 if a State or local government provided for an expiration date in the nomination of an empowerment zone, or the appropriate Secretary revokes an empowerment zone’s designation. The State or local government may, however, amend the nomination to provide for a new termination date.

24. Tax incentives for investment in the District of Columbia (secs. 1400(f)(1), 1400A(b), 1400B(b)(2)(A)(i), (b)(3)(A), (b)(4)(A)(i), (b)(4)(B)(i)(I), (e)(2), and (g)(2), and 1400C(i))

- a. Designation of DC Zone, employment tax credit, and additional expensing (sec. 1400(f)(1))
 - b. DC Zone tax-exempt bonds (sec. 1400A(b))
 - c. Acquisition date for eligibility for zero percent capital gains rate for investment in DC for gains through 12/31/16 (secs. 1400B(b)(2)(A)(i), (b)(3)(A), (b)(4)(A)(i), (b)(4)(B)(i)(I), (e)(2), and (g)(2))
 - d. Tax credit for first-time DC homebuyers (sec. 1400C(i))
- Tax incentives are available for businesses located in certain economically depressed census tracts within the District of Columbia designated as the “District of Columbia Enterprise Zone,” or “DC Zone.” The tax incentives are: (1) 20-percent wage credit (sec. 1400(d), 1396), (2) an additional \$35,000 of section 179 expensing for qualified zone property (1397A, 1400), and (3) expanded tax-exempt financing for certain zone facilities (sec. 1400A). In addition, a zero-percent capital gains rate applies to capital gains from the sale of certain qualified DC Zone assets held for more than five years (sec. 1400B). Present law also provides for a nonrefundable tax credit for first-time homebuyers of a principal residence in the District of Columbia (sec. 1400C).
 - The provisions were enacted in the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, which designates the District of Columbia Enterprise Zone generally for taxable years beginning after December 31, 1997 and before January 1, 2003 (purchases on or after date of enactment and before January 1, 2001, for the D.C. first-time homebuyer credit).
 - The District of Columbia Enterprise Zone benefits were most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312. That Act extends for two years, through December 31, 2011, the designation of the District of Columbia Enterprise Zone. The Act also extends for two years through December 31, 2011, the special \$15 million per-user bond limitation and the relief from resident and employee requirements for certain tax-exempt bonds issued in the District of Columbia Enterprise Zone. The Act extends for two years the zero-percent capital gains rate applicable to capital gains from the sale or exchange of any DC Zone asset held for more than five years (and, as amended, acquired or substantially improved before January 1, 2012). The Act also extends for two years the period to which the term “qualified capital gain” refers. As amended, the term “qualified capital gain” shall not include any gain attributable to periods before January 1, 1998, or after December 31, 2016. The Act extends the first-time D.C. homebuyer credit for two years (as amended), to apply to property purchased before January 1, 2012.

25. Temporary increase in limit on cover over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sec. 7652(f))

- The limitation on the amount of tax on rum imported into the United States covered over to the Virgin Islands and Puerto Rico was increased from \$10.50 to \$13.25 per proof gallon.
- The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, increased the cover over amount to \$11.30 per proof gallon for spirits brought into the United States during the five-year period beginning on October 1, 1993.
- The Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. No. 106-170, increased the cover over amount to \$13.25 for rum brought into the United States after June 30, 1999 and before January 1, 2002.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, which extended the \$13.25 cover over amount for rum brought into the United States before January 1, 2012.

26. American Samoa economic development credit (sec. 119 of Pub. L. No. 109-432 as amended by sec. 756 of Pub. L. No. 111-312)

- The American Samoa economic development credit is a credit against U.S. corporate income tax in an amount equal to the sum of certain percentages of a domestic corporation's employee wages, employee fringe benefit expenses, and tangible property depreciation allowances for the taxable year in respect of the active conduct of a trade or business within American Samoa. The credit is available only to a domestic corporation that, among other requirements, claimed the now-expired section 936 possession tax credit with respect to American Samoa for its last taxable year beginning before January 1, 2006.
- The provision was enacted in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, and originally expired on December 31, 2007.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011.

27. Work opportunity tax credit (sec. 51(c)(4))⁶

- The work opportunity tax credit was enacted to replace the Targeted Jobs Tax Credit, and it provides a credit to employers for wages paid or incurred in a taxable year to individuals who are members of a targeted group.

⁶ The work opportunity tax credit targeted to hiring qualified veterans expires December 31, 2012.

- The provision was enacted in the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, for wages paid or incurred to a qualified individual who began work for an employer before October 1, 1997.
- The provision was most recently extended, in part, by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, through December 31, 2011. However, the VOW to Hire Heroes Act of 2011, Pub. L. No. 112-56 extended and modified the work opportunity tax credit with respect only to certain unemployed veterans through December 31, 2012.

28. Qualified zone academy bonds: allocation of bond limitation (sec. 54E(c)(1))

- Qualified zone academy bonds (“QZABs”) are tax credit bonds issued by State or local governments. At least 95 percent of the proceeds of these bonds must be used in a qualified public school for the following purposes: renovating, providing equipment, developing course materials for use at, or training teachers or other personnel. Private entities must have promised to contribute property or services equal to at least 10 percent of the bond proceeds for the bonds to be qualified.
- QZABs were enacted in the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, and were extended several times to provide \$400 million annual authorizations from 1998 through 2007.
- The American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, increased the annual allocation by \$1 billion (from \$400 million to \$1.4 billion) for allocations in 2009 and 2010, and the Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, added a direct subsidy payment option for these allocations.
- The provision was most recently extended in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for an allocation of \$400 million in 2011, with no direct subsidy payment option.

29. Premiums for mortgage insurance deductible as interest that is qualified residence interest (sec. 163(h)(3))

- Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness on a principal residence or second home of the taxpayer is treated as if it were deductible qualified residence interest. The deduction is phased out for taxpayers with adjusted gross income over \$100,000 (\$50,000 if married filing separately).
- The provision was enacted in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, with respect to mortgage contracts issued after December 31, 2006, effective for amounts paid or accrued after December 31, 2006, through December 31, 2007, that are properly allocable to periods on or before that date.
- The provision was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for amounts paid or accrued on or before December 31, 2011, that are properly allocable to periods on or before that date.

30. Special rules for qualified small business stock (sec. 1202(a)(4))

- Gross income does not include all or a portion of any gain from the sale or exchange of qualified small business stock held for more than five years. The amount excluded is 50 percent of the gain for qualified stock issued before 2009 or after 2011, 75 percent of the gain for qualified stock issued after February 17, 2009, and before September 28, 2010, and 100 percent for qualified stock issued after September 27, 2010, and before January 1, 2012.
- The provision was enacted as part of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, as a permanent provision excluding 50 percent of such gain.
- The provision was modified twice to temporarily increase the percentage of gain excluded from gross income. The American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, increased the percentage of gain excluded on certain stock to 75 percent. The Small Business Jobs Act of 2010, Pub. L. No. 111-240, increased the percentage of gain excluded on certain stock to 100 percent.
- The 100 percent exclusion was most recently extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, for qualified stock issued before January 1, 2012.

II. CERTAIN OTHER PROVISIONS EXPIRING IN 2011 AND 2012

1. Credit for electric drive motorcycles, three-wheeled vehicles, and low-speed vehicles (sec. 30(f))

- A 10 percent credit (up to \$2,500) is available through 2011 for vehicles otherwise qualifying as plug-in electric-drive vehicles, but for the fact that they have limited speed or less than four wheels. Two- and three-wheeled vehicles must have a battery capacity of at least 2.5 kilowatt-hours.
- The provision was enacted as part of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, through December 31, 2011.
- The provision has never been extended.

2. Conversion credit for plug-in electric vehicles (sec. 30B(i)(4))

- A 10-percent credit (up to \$4,000) is available through 2011 for used vehicles that have been converted into plug-in electric drive motor vehicles.
- The provision was enacted as part of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, through December 31, 2011.
- The provision has never been extended.

3. Expansion of adoption credit and adoption assistance programs (secs. 36C and 137 and sec. 10909(c) of Pub. L. No. 111-148 as amended by section 101(b) of Pub. L. No. 111-312)

- Generally a taxpayer is allowed a credit against tax for qualified adoption expenses paid or incurred by a taxpayer subject to a maximum credit amount per eligible child.⁷ Additionally, an exclusion (phased-out for high-income taxpayers) from the gross income of an employee is allowed for qualified adoption expenses paid or reimbursed by an employer under an adoption assistance program. For taxable years beginning in 2010 and 2011, the adoption credit was refundable under the expansion. For 2011, the maximum exclusion was \$13,360, and in 2012 it is reduced to \$12,650.
- The expansion was enacted in the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 as amended by section 101(b) of Pub. L. No. 111-312, and expired on December 31, 2011.
- The provision has never been extended.

⁷ The related provisions for the adoption credit and adoption assistance exclusion (secs. 23 and 137 and sec. 901 of Pub. L. No. 107-16) expire December 31, 2012.

4. Treatment of military basic housing allowances under low-income housing credit (sec. 142(d))

- In order to be financed with exempt facility bonds or to be eligible for the low-income housing credit, a qualified low-income building must be part of a qualified low-income housing project. Under the provision, for certain buildings located in certain countries, the basic housing allowance provided by the military (i.e., payments under 37 U.S.C. sec. 403) is not included in income for the low-income credit income eligibility rule.
- The provision was enacted in the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, for determinations made after July 30, 2008, and through December 31, 2011.
- The provision has never been extended.

5. Reduction in S corporation recognition period for built-in gains tax (sec. 1374(d)(7))

- Net recognized built-in gain attributable to C corporation years is taxable to an S corporation during the first 10-year period as an S corporation.
- The 10-year period was reduced to seven years by the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, for taxable years beginning in 2009 and 2010.
- The Small Business Jobs Act of 2010, Pub. L. No. 111-240, reduced the 10-year period to five years for taxable years beginning in 2011.

6. Disclosure of prisoner return information to certain prison officials (sec. 6103(k)(10))

- The provision permits the disclosure of return information regarding the filing of false or fraudulent returns to the Federal Bureau of Prisons and to State prison officials.
- The provision was enacted by the Inmate Tax Fraud Prevention Act of 2008, Pub. L. No. 110-428, and the disclosure authority extended only to officials of the Federal Bureau of Prisons. The provision expired on December 31, 2011.
- The provision was amended by the Homebuyer Assistance and Improvement Act of 2010, Pub. L. No. 111-198, to expand the disclosure authority to include State prison officials.
- The provision has never been extended.

7. Qualified green buildings and sustainable design project bonds (sec. 142(l)(8))

- The provision provides for tax-exempt financing for building projects that meet certain requirements for energy efficiency/conservation, size, acreage, and State support. The Treasury is authorized to allocate \$2 billion of bond issuance authority among qualified projects.

- The provision was enacted as part of the American Jobs Creation Act of 2004, Pub. L. No. 108-357. The Secretary of the Treasury’s authority to issue tax-exempt bonds under this provision originally was to expire September 30, 2009.
- The authority to issue qualified green building and sustainable design project bonds was extended by the Energy Improvement and Extension Act of 2008, Pub. L. No. 110-343, through September 30, 2012.

8. Cellulosic biofuel producer credit (sec. 40(b)(6)(H))

- The provision provides for a \$1.01 per gallon income tax credit (nonrefundable) for cellulosic biofuel sold into the fuel tank of a buyer’s vehicle or cellulosic biofuel mixed with gasoline or a special fuel and sold or used as a fuel (not limited to transportation fuel).
- The provision was enacted as part of the Heartland, Habitat, Harvest, and Horticulture Act of 2008, Pub. L. No. 110-246, for qualified cellulosic biofuel production after December 31, 2008 and before January 1, 2013.
- The Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, amended the cellulosic biofuel production credit to exclude fuels exceeding certain water and/or sediment content (such as black liquor). In addition, the Creating Small Business Jobs Act of 2010, Pub. L. No. 111-240, amended the provision to exclude certain fuels exceeding certain acidity levels (such as crude tall oil).
- The provision has never been extended.

9. Placed-in-service date for wind facilities eligible to claim electricity production credit (sec. 45(d))

- A production tax credit is available for electricity produced from wind during the 10-year period beginning after a qualified wind power facility has been placed in service. The credit rate for 2012 is 2.2 cents per kilowatt-hour of power produced at a qualified wind facility.
- The provision was enacted as part of the Energy Policy Act of 1992, Pub. L. No. 102-386. It was originally scheduled to expire for facilities placed in service after June 30, 1999.
- The provision was most recently extended by the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, to include facilities placed in service before January 1, 2013.⁸

⁸ The placed-in-service date for renewable power facilities other than wind facilities is December 31, 2013.

10. Credit for production of Indian coal (sec. 45(e)(10)(A)(i))

- A \$2-per-ton credit (adjusted for inflation from 2005; \$2.267 per ton for 2012) is available through 2012 for coal produced at facilities placed in service before 2009 that produce coal from reserves that on June 14, 2005, were owned by (or held in trust on behalf of) an Indian tribe.
- The provision was enacted as part of the Energy Policy Act of 2005, Pub. L. No. 109-58 through December 31, 2012.
- The provision has never been extended.

11. Election to claim the energy credit in lieu of the electricity production credit for wind facilities (sec. 48(a)(5))

- A production tax credit is available for electricity produced from wind during the 10-year period beginning after a qualified wind power facility has been placed in service. The credit rate for 2012 is 2.2 cents per kilowatt-hour of power produced at a qualified wind facility. A taxpayer may elect to claim a 30-percent investment credit in lieu of the production credit for qualified wind power property.
- The provision permitting an election to claim an investment credit in lieu of the production credit was enacted as part of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, through December 31, 2012.⁹
- The provision has never been extended.

12. Work opportunity tax credit targeted to hiring qualified veterans (sec. 51(c)(4)(B))¹⁰

- The work opportunity tax credit was enacted to replace the targeted jobs tax credit, and it provides a credit to employers for wages paid or incurred in a taxable year to individuals who are members of a targeted group. Certain veterans compose one of the targeted groups.
- The provision was enacted in the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, for wages paid or incurred to a qualified individual who began work for an employer before October 1, 1997.
- The provision was most recently extended by the VOW to Hire Heroes Act of 2011, Pub. L. No. 112-56, through December 31, 2012.

⁹ The expiration date with respect to renewable power facilities other than wind facilities is December 31, 2013.

¹⁰ The work opportunity tax credit generally expired December 31, 2011.

13. Credit for prior year minimum tax liability made refundable after period of years (sec. 53(e))

- Long-term unused minimum tax credits of individuals are partially refundable.
- The provision was enacted by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, for taxable years beginning before January 1, 2013.
- The provision has never been extended.

14. Discharge of indebtedness on principal residence excluded from gross income of individuals (sec. 108(a)(1)(E))

- A maximum exclusion from gross income of \$2,000,000 is provided for any discharge of indebtedness income by reason of a discharge (in whole or in part) of qualified principal residence indebtedness. In general, the discharged indebtedness eligible for the exclusion must be indebtedness incurred in the acquisition, construction, or substantial improvement of the principal residence of the individual and secured by the residence. The provision is effective for discharges of indebtedness before January 1, 2013.
- The provision was originally enacted in the Mortgage Forgiveness Debt Relief Act of 2007, Pub. L. No. 110-142, and applied for discharges of indebtedness on or after January 1, 2007, and before January 1, 2010.
- The provision was most recently extended (for three years) to discharges of indebtedness before January 1, 2013, as part of the Emergency Economic Stabilization Act of 2008 (Div. A. of Pub. L. No. 110-343).

15. Special depreciation allowance for cellulosic biofuel plant property (sec. 168(l))

- The provision allows an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified cellulosic biofuel plant property that is used in the U.S. solely to produce cellulosic biofuel and where (1) the original use of the property commences with the taxpayer on or after December 20, 2006, (2) the property is acquired by purchase by the taxpayer after the date of enactment, but only if no written binding contract for the acquisition was in effect on or before such date, (3) the property is placed in service before January 1, 2013, and (4) no portion of the property is financed with the proceeds of a tax-exempt bond obligation. For this purpose, cellulosic biofuel means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.
- The provision was enacted in the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, for cellulosic biomass ethanol plant property placed in service after the effective date of the Act and before January 1, 2013.
- The provision was modified by the Energy Improvement and Extension Act of 2008, Pub. L. No. 110-343 which expanded the definition of qualifying property to include

any cellulosic biofuel plant property, not only ethanol, for property placed in service after October 3, 2008.

- The provision has never been extended.