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H. R. 4351

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AN ACT

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, 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 “AMT Relief Act of 2007”.

4 (b) **REFERENCE.**—Except as otherwise expressly pro-
5 vided, whenever in this Act an amendment or repeal is
6 expressed in terms of an amendment to, or repeal of, a
7 section or other provision, the reference shall be consid-
8 ered to be made to a section or other provision of the In-
9 ternal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 102. Extension of increased alternative minimum tax exemption amount.

Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

Sec. 104. Refundable child credit.

TITLE II—REVENUE PROVISIONS

Subtitle A—Nonqualified Deferred Compensation From Certain Tax Indifferent Parties

Sec. 201. Nonqualified deferred compensation from certain tax indifferent parties.

Subtitle B—Codification of Economic Substance Doctrine

Sec. 211. Codification of economic substance doctrine.

Sec. 212. Penalties for underpayments.

Subtitle C—Other Provisions

Sec. 221. Delay in application of worldwide allocation of interest.

Sec. 222. Modification of penalty for failure to file partnership returns.

Sec. 223. Penalty for failure to file S corporation returns.

Sec. 224. Increase in minimum penalty on failure to file a return of tax.

Sec. 225. Time for payment of corporate estimated taxes.

1 **TITLE I—INDIVIDUAL TAX**
2 **RELIEF**

3 **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
4 **LIEF FOR NONREFUNDABLE PERSONAL**
5 **CREDITS.**

6 (a) **IN GENERAL.**—Paragraph (2) of section 26(a)
7 (relating to special rule for taxable years 2000 through
8 2006) is amended—

9 (1) by striking “or 2006” and inserting “2006,
10 or 2007”, and

11 (2) by striking “2006” in the heading thereof
12 and inserting “2007”.

13 (b) **EFFECTIVE DATE.**—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2006.

16 **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**
17 **IMUM TAX EXEMPTION AMOUNT.**

18 (a) **IN GENERAL.**—Paragraph (1) of section 55(d)
19 (relating to exemption amount) is amended—

20 (1) by striking “(\$62,550 in the case of taxable
21 years beginning in 2006)” in subparagraph (A) and
22 inserting “(\$66,250 in the case of taxable years be-
23 ginning in 2007)”, and

24 (2) by striking “(\$42,500 in the case of taxable
25 years beginning in 2006)” in subparagraph (B) and

1 inserting “(\$44,350 in the case of taxable years be-
2 ginning in 2007)”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2006.

6 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT**
7 **AMOUNT FOR INDIVIDUALS WITH LONG-**
8 **TERM UNUSED CREDITS FOR PRIOR YEAR**
9 **MINIMUM TAX LIABILITY, ETC.**

10 (a) IN GENERAL.—Paragraph (2) of section 53(e) is
11 amended to read as follows:

12 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
13 For purposes of paragraph (1), the term ‘AMT re-
14 fundable credit amount’ means, with respect to any
15 taxable year, the amount (not in excess of the long-
16 term unused minimum tax credit for such taxable
17 year) equal to the greater of—

18 “(A) 50 percent of the long-term unused
19 minimum tax credit for such taxable year, or

20 “(B) the amount (if any) of the AMT re-
21 fundable credit amount determined under this
22 paragraph for the taxpayer’s preceding taxable
23 year.”.

24 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
25 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-

1 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is
2 amended by adding at the end the following new sub-
3 section:

4 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
5 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
6 MENT OF INCENTIVE STOCK OPTIONS.—

7 “(1) ABATEMENT.—Any underpayment of tax
8 outstanding on the date of the enactment of this
9 subsection which is attributable to the application of
10 section 56(b)(3) for any taxable year ending before
11 January 1, 2007 (and any interest or penalty with
12 respect to such underpayment which is outstanding
13 on such date of enactment), is hereby abated. No
14 credit shall be allowed under this section with re-
15 spect to any amount abated under this paragraph.

16 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
17 EST AND PENALTIES ALREADY PAID.—Any interest
18 or penalty paid before the date of the enactment of
19 this subsection which would (but for such payment)
20 have been abated under paragraph (1) shall be treat-
21 ed for purposes of this section as an amount of ad-
22 justed net minimum tax imposed for the taxable
23 year of the underpayment to which such interest or
24 penalty relates.”.

25 (c) 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, 2006.

5 (2) ABATEMENT.—Section 53(f)(1) of the In-
6 ternal Revenue Code of 1986, as added by sub-
7 section (b), shall take effect on the date of the en-
8 actment of this Act.

9 **SEC. 104. REFUNDABLE CHILD CREDIT.**

10 (a) MODIFICATION OF THRESHOLD AMOUNT.—
11 Clause (i) of section 24(d)(1)(B) is amended by inserting
12 “(\$8,500 in the case of taxable years beginning in 2008)”
13 after “\$10,000”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to taxable years beginning after
16 December 31, 2007.

17 **TITLE II—REVENUE PROVISIONS**
18 **Subtitle A—Nonqualified Deferred**
19 **Compensation From Certain**
20 **Tax Indifferent Parties**

21 **SEC. 201. NONQUALIFIED DEFERRED COMPENSATION**
22 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

23 (a) IN GENERAL.—Subpart B of part II of sub-
24 chapter E of chapter 1 (relating to taxable year for which

1 items of gross income included) is amended by inserting
2 after section 457 the following new section:

3 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**
4 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

5 “(a) IN GENERAL.—Any compensation which is de-
6 ferred under a nonqualified deferred compensation plan of
7 a nonqualified entity shall be taken into account for pur-
8 poses of this chapter when there is no substantial risk of
9 forfeiture of the rights to such compensation.

10 “(b) NONQUALIFIED ENTITY.—For purposes of this
11 section, the term ‘nonqualified entity’ means—

12 “(1) any foreign corporation unless substan-
13 tially all of its income is—

14 “(A) effectively connected with the conduct
15 of a trade or business in the United States, or

16 “(B) subject to a comprehensive foreign in-
17 come tax, and

18 “(2) any partnership unless substantially all of
19 its income is allocated to persons other than—

20 “(A) foreign persons with respect to whom
21 such income is not subject to a comprehensive
22 foreign income tax, and

23 “(B) organizations which are exempt from
24 tax under this title.

1 “(c) ASCERTAINABILITY OF AMOUNTS OF COM-
2 PENSATION.—

3 “(1) IN GENERAL.—If the amount of any com-
4 pensation is not ascertainable at the time that such
5 compensation is otherwise to be taken into account
6 under subsection (a)—

7 “(A) such amount shall be so taken into
8 account when ascertainable, and

9 “(B) the tax imposed under this chapter
10 for the taxable year in which such compensation
11 is taken into account under subparagraph (A)
12 shall be increased by the sum of—

13 “(i) the amount of interest determined
14 under paragraph (2), and

15 “(ii) an amount equal to 20 percent of
16 the amount of such compensation.

17 “(2) INTEREST.—For purposes of paragraph
18 (1)(B)(i), the interest determined under this para-
19 graph for any taxable year is the amount of interest
20 at the underpayment rate under section 6621 plus
21 1 percentage point on the underpayments that would
22 have occurred had the deferred compensation been
23 includible in gross income for the taxable year in
24 which first deferred or, if later, the first taxable year

1 in which such deferred compensation is not subject
2 to a substantial risk of forfeiture.

3 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

6 “(A) IN GENERAL.—The rights of a person
7 to compensation shall be treated as subject to
8 a substantial risk of forfeiture only if such per-
9 son’s rights to such compensation are condi-
10 tioned upon the future performance of substan-
11 tial services by any individual.

12 “(B) EXCEPTION FOR COMPENSATION
13 BASED ON GAIN RECOGNIZED ON AN INVEST-
14 MENT ASSET.—

15 “(i) IN GENERAL.—To the extent pro-
16 vided in regulations prescribed by the Sec-
17 retary, if compensation is determined solely
18 by reference to the amount of gain recog-
19 nized on the disposition of an investment
20 asset, such compensation shall be treated
21 as subject to a substantial risk of for-
22 feiture until the date of such disposition.

23 “(ii) INVESTMENT ASSET.—For pur-
24 poses of clause (i), the term ‘investment

1 asset’ means any single asset (other than
2 an investment fund or similar entity)—

3 “(I) acquired directly by an in-
4 vestment fund or similar entity,

5 “(II) with respect to which such
6 entity does not (nor does any person
7 related to such entity) participate in
8 the active management of such asset
9 (or if such asset is an interest in an
10 entity, in the active management of
11 the activities of such entity), and

12 “(III) substantially all of any
13 gain on the disposition of which (other
14 than such deferred compensation) is
15 allocated to investors in such entity.

16 “(iii) COORDINATION WITH SPECIAL
17 RULE FOR SHORT-TERM DEFERRALS OF
18 COMPENSATION.—Paragraph (3)(B) shall
19 not apply to any compensation to which
20 clause (i) applies.

21 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

22 The term ‘comprehensive foreign income tax’ means,
23 with respect to any foreign person, the income tax
24 of a foreign country if—

1 “(A) such person is eligible for the benefits
2 of a comprehensive income tax treaty between
3 such foreign country and the United States, or

4 “(B) such person demonstrates to the sat-
5 isfaction of the Secretary that such foreign
6 country has a comprehensive income tax.

7 Such term shall not include any tax unless such tax
8 includes rules for the deductibility of deferred com-
9 pensation which are similar to the rules of this title.

10 “(3) NONQUALIFIED DEFERRED COMPENSA-
11 TION PLAN.—

12 “(A) IN GENERAL.—The term ‘non-
13 qualified deferred compensation plan’ has the
14 meaning given such term under section
15 409A(d), except that such term shall include
16 any plan that provides a right to compensation
17 based on the appreciation in value of a specified
18 number of equity units of the service recipient.

19 “(B) EXCEPTION FOR SHORT-TERM DE-
20 FERRALS.—Compensation shall not be treated
21 as deferred for purposes of this section if the
22 service provider receives payment of such com-
23 pensation not later than 12 months after the
24 end of the taxable year of the service recipient
25 during which the right to the payment of such

1 compensation is no longer subject to a substan-
2 tial risk of forfeiture.

3 “(4) EXCEPTION FOR CERTAIN COMPENSATION
4 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
5 COME.—In the case a foreign corporation with in-
6 come which is taxable under section 882, this section
7 shall not apply to compensation which, had such
8 compensation had been paid in cash on the date that
9 such compensation ceased to be subject to a sub-
10 stantial risk of forfeiture, would have been deduct-
11 ible by such foreign corporation against such income.

12 “(5) APPLICATION OF RULES.—Rules similar to
13 the rules of paragraphs (5) and (6) of section
14 409A(d) shall apply.

15 “(e) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section, including regula-
18 tions disregarding a substantial risk of forfeiture in cases
19 where necessary to carry out the purposes of this sec-
20 tion.”.

21 (b) CONFORMING AMENDMENT.—Section 26(b)(2) is
22 amended by striking “and” at the end of subparagraph
23 (S), by striking the period at the end of subparagraph (T)
24 and inserting “, and”, and by adding at the end the fol-
25 lowing new subparagraph:

1 “(U) section 457A(c)(1)(B) (relating to as-
2 certainty of amounts of compensation).”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 of subpart B of part II of subchapter E of chapter 1 is
5 amended by inserting after the item relating to section
6 457 the following new item:

 “Sec. 457A. Nonqualified deferred compensation from certain tax indifferent
 parties.”.

7 (d) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the amendments made by
10 this section shall apply to amounts deferred which
11 are attributable to services performed after Decem-
12 ber 31, 2007.

13 (2) APPLICATION TO EXISTING DEFERRALS.—
14 In the case of any amount deferred to which the
15 amendments made by this section do not apply solely
16 by reason of the fact that the amount is attributable
17 to services performed before January 1, 2008, to the
18 extent such amount is not includible in gross income
19 in a taxable year beginning before 2017, such
20 amounts shall be includible in gross income in the
21 later of—

22 (A) the last taxable year beginning before
23 2017, or

1 (B) the taxable year in which there is no
2 substantial risk of forfeiture of the rights to
3 such compensation (determined in the same
4 manner as determined for purposes of section
5 457A of the Internal Revenue Code of 1986, as
6 added by this section).

7 (3) ACCELERATED PAYMENTS.—No later than
8 60 days after the date of the enactment of this Act,
9 the Secretary shall issue guidance providing a lim-
10 ited period of time during which a nonqualified de-
11 ferred compensation arrangement attributable to
12 services performed on or before December 31, 2007,
13 may, without violating the requirements of section
14 409A(a) of the Internal Revenue Code of 1986, be
15 amended to conform the date of distribution to the
16 date the amounts are required to be included in in-
17 come.

18 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
19 If the taxpayer is also a service recipient and main-
20 tains one or more nonqualified deferred compensa-
21 tion arrangements for its service providers under
22 which any amount is attributable to services per-
23 formed on or before December 31, 2007, the guid-
24 ance issued under paragraph (3) shall permit such
25 arrangements to be amended to conform the dates of

1 distribution under such arrangement to the date
2 amounts are required to be included in the income
3 of such taxpayer under this subsection.

4 (5) ACCELERATED PAYMENT NOT TREATED AS
5 MATERIAL MODIFICATION.—Any amendment to a
6 nonqualified deferred compensation arrangement
7 made pursuant to paragraph (3) or (4) shall not be
8 treated as a material modification of the arrange-
9 ment for purposes of section 409A of the Internal
10 Revenue Code of 1986.

11 **Subtitle B—Codification of** 12 **Economic Substance Doctrine**

13 **SEC. 211. CODIFICATION OF ECONOMIC SUBSTANCE DOC-** 14 **TRINE.**

15 (a) IN GENERAL.—Section 7701 is amended by re-
16 designating subsection (p) as subsection (q) and by insert-
17 ing after subsection (o) the following new subsection:

18 “(p) CLARIFICATION OF ECONOMIC SUBSTANCE
19 DOCTRINE.—

20 “(1) APPLICATION OF DOCTRINE.—In the case
21 of any transaction to which the economic substance
22 doctrine is relevant, such transaction shall be treated
23 as having economic substance only if—

1 “(A) the transaction changes in a mean-
2 ingful way (apart from Federal income tax ef-
3 fects) the taxpayer’s economic position, and

4 “(B) the taxpayer has a substantial pur-
5 pose (apart from Federal income tax effects)
6 for entering into such transaction.

7 “(2) SPECIAL RULE WHERE TAXPAYER RELIES
8 ON PROFIT POTENTIAL.—

9 “(A) IN GENERAL.—The potential for
10 profit of a transaction shall be taken into ac-
11 count in determining whether the requirements
12 of subparagraphs (A) and (B) of paragraph (1)
13 are met with respect to the transaction only if
14 the present value of the reasonably expected
15 pre-tax profit from the transaction is substan-
16 tial in relation to the present value of the ex-
17 pected net tax benefits that would be allowed if
18 the transaction were respected.

19 “(B) TREATMENT OF FEES AND FOREIGN
20 TAXES.—Fees and other transaction expenses
21 and foreign taxes shall be taken into account as
22 expenses in determining pre-tax profit under
23 subparagraph (A).

24 “(3) STATE AND LOCAL TAX BENEFITS.—For
25 purposes of paragraph (1), any State or local income

1 tax effect which is related to a Federal income tax
2 effect shall be treated in the same manner as a Fed-
3 eral income tax effect.

4 “(4) FINANCIAL ACCOUNTING BENEFITS.—For
5 purposes of paragraph (1)(B), achieving a financial
6 accounting benefit shall not be taken into account as
7 a purpose for entering into a transaction if such
8 transaction results in a Federal income tax benefit.

9 “(5) DEFINITIONS AND SPECIAL RULES.—For
10 purposes of this subsection—

11 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
12 The term ‘economic substance doctrine’ means
13 the common law doctrine under which tax bene-
14 fits under subtitle A with respect to a trans-
15 action are not allowable if the transaction does
16 not have economic substance or lacks a business
17 purpose.

18 “(B) EXCEPTION FOR PERSONAL TRANS-
19 ACTIONS OF INDIVIDUALS.—In the case of an
20 individual, paragraph (1) shall apply only to
21 transactions entered into in connection with a
22 trade or business or an activity engaged in for
23 the production of income.

24 “(C) OTHER COMMON LAW DOCTRINES
25 NOT AFFECTED.—Except as specifically pro-

1 vided in this subsection, the provisions of this
2 subsection shall not be construed as altering or
3 supplanting any other rule of law, and the re-
4 quirements of this subsection shall be construed
5 as being in addition to any such other rule of
6 law.

7 “(D) DETERMINATION OF APPLICATION OF
8 DOCTRINE NOT AFFECTED.—The determination
9 of whether the economic substance doctrine is
10 relevant to a transaction shall be made in the
11 same manner as if this subsection had never
12 been enacted.

13 “(6) REGULATIONS.—The Secretary shall pre-
14 scribe such regulations as may be necessary or ap-
15 propriate to carry out the purposes of this sub-
16 section. Such regulations may include exemptions
17 from the application of this subsection.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to transactions entered into after
20 the date of the enactment of this Act.

21 **SEC. 212. PENALTIES FOR UNDERPAYMENTS.**

22 (a) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE
23 TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

1 (1) IN GENERAL.—Subsection (b) of section
2 6662 is amended by inserting after paragraph (5)
3 the following new paragraph:

4 “(6) Any disallowance of claimed tax benefits
5 by reason of a transaction lacking economic sub-
6 stance (within the meaning of section 7701(p)) or
7 failing to meet the requirements of any similar rule
8 of law.”.

9 (2) INCREASED PENALTY FOR NONDISCLOSED
10 TRANSACTIONS.—Section 6662 is amended by add-
11 ing at the end the following new subsection:

12 “(i) INCREASE IN PENALTY IN CASE OF NONDIS-
13 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

14 “(1) IN GENERAL.—To the extent that a por-
15 tion of the underpayment to which this section ap-
16 plies is attributable to one or more nondisclosed non-
17 economic substance transactions, subsection (a) shall
18 be applied with respect to such portion by sub-
19 stituting ‘40 percent’ for ‘20 percent’.

20 “(2) NONDISCLOSED NONECONOMIC SUB-
21 STANCE TRANSACTIONS.—For purposes of this sub-
22 section, the term ‘nondisclosed noneconomic sub-
23 stance transaction’ means any portion of a trans-
24 action described in subsection (b)(6) with respect to
25 which the relevant facts affecting the tax treatment

1 are not adequately disclosed in the return nor in a
2 statement attached to the return.

3 “(3) SPECIAL RULE FOR AMENDED RE-
4 TURNS.—Except as provided in regulations, in no
5 event shall any amendment or supplement to a re-
6 turn of tax be taken into account for purposes of
7 this subsection if the amendment or supplement is
8 filed after the earlier of the date the taxpayer is first
9 contacted by the Secretary regarding the examina-
10 tion of the return or such other date as is specified
11 by the Secretary.”.

12 (3) CONFORMING AMENDMENT.—Subparagraph
13 (B) of section 6662A(e)(2) is amended—

14 (A) by striking “section 6662(h)” and in-
15 serting “subsection (h) or (i) of section 6662”,
16 and

17 (B) by striking “GROSS VALUATION
18 MISSTATEMENT PENALTY” in the heading and
19 inserting “CERTAIN INCREASED UNDER-
20 PAYMENT PENALTIES”.

21 (b) REASONABLE CAUSE EXCEPTION NOT APPLICA-
22 BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS, TAX
23 SHELTERS, AND CERTAIN LARGE CORPORATIONS.—Sub-
24 section (c) of section 6664 is amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (3) and (4), respectively,

3 (2) by striking “paragraph (2)” in paragraph
4 (4), as so redesignated, and inserting “paragraph
5 (3)”, and

6 (3) by inserting after paragraph (1) the fol-
7 lowing new paragraph:

8 “(2) EXCEPTION FOR NONECONOMIC SUB-
9 STANCE TRANSACTIONS, TAX SHELTERS, AND CER-
10 TAIN LARGE CORPORATIONS.—Paragraph (1) shall
11 not apply—

12 “(A) to any portion of an underpayment
13 which is attributable to one or more tax shelters
14 (as defined in section 6662(d)(2)(C)) or trans-
15 actions described in section 6662(b)(6), and

16 “(B) to any taxpayer if such taxpayer is a
17 specified large corporation (as defined in section
18 6662(d)(2)(D)(ii)).”.

19 (c) APPLICATION OF PENALTY FOR ERRONEOUS
20 CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-
21 STANCE TRANSACTIONS.—Section 6676 is amended by re-
22 designating subsection (c) as subsection (d) and inserting
23 after subsection (b) the following new subsection:

24 “(c) NONECONOMIC SUBSTANCE TRANSACTIONS
25 TREATED AS LACKING REASONABLE BASIS.—For pur-

1 poses of this section, any excessive amount which is attrib-
2 utable to any transaction described in section 6662(b)(6)
3 shall not be treated as having a reasonable basis.”.

4 (d) SPECIAL UNDERSTATEMENT REDUCTION RULE
5 FOR CERTAIN LARGE CORPORATIONS.—

6 (1) IN GENERAL.—Paragraph (2) of section
7 6662(d) is amended by adding at the end the fol-
8 lowing new subparagraph:

9 “(D) SPECIAL REDUCTION RULE FOR CER-
10 TAIN LARGE CORPORATIONS.—

11 “(i) IN GENERAL.—In the case of any
12 specified large corporation—

13 “(I) subparagraph (B) shall not
14 apply, and

15 “(II) the amount of the under-
16 statement under subparagraph (A)
17 shall be reduced by that portion of the
18 understatement which is attributable
19 to any item with respect to which the
20 taxpayer has a reasonable belief that
21 the tax treatment of such item by the
22 taxpayer is more likely than not the
23 proper tax treatment of such item.

24 “(ii) SPECIFIED LARGE CORPORA-
25 TION.—

1 “(I) IN GENERAL.—For purposes
2 of this subparagraph, the term ‘speci-
3 fied large corporation’ means any cor-
4 poration with gross receipts in excess
5 of \$100,000,000 for the taxable year
6 involved.

7 “(II) AGGREGATION RULE.—All
8 persons treated as a single employer
9 under section 52(a) shall be treated as
10 one person for purposes of subclause
11 (I).”.

12 (2) CONFORMING AMENDMENT.—Subparagraph
13 (C) of section 6662(d)(2) is amended by striking
14 “Subparagraph (B)” and inserting “Subparagraphs
15 (B) and (D)(i)(II)”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **Subtitle C—Other Provisions**

20 **SEC. 221. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-** 21 **TION OF INTEREST.**

22 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
23 tion 864(f) are each amended by striking “December 31,
24 2008” and inserting “December 31, 2017”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2008.

4 **SEC. 222. MODIFICATION OF PENALTY FOR FAILURE TO**
5 **FILE PARTNERSHIP RETURNS.**

6 (a) EXTENSION OF TIME LIMITATION.—Subsection
7 (a) of section 6698 (relating to general rule) is amended
8 by striking “5 months” and inserting “12 months”.

9 (b) INCREASE IN PENALTY AMOUNT.—Paragraph
10 (1) of section 6698(b) is amended by striking “\$50” and
11 inserting “\$100”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to returns required to be filed after
14 the date of the enactment of this Act.

15 **SEC. 223. PENALTY FOR FAILURE TO FILE S CORPORATION**
16 **RETURNS.**

17 (a) IN GENERAL.—Part I of subchapter B of chapter
18 68 (relating to assessable penalties) is amended by adding
19 at the end the following new section:

20 **“SEC. 6699A. FAILURE TO FILE S CORPORATION RETURN.**

21 “(a) GENERAL RULE.—In addition to the penalty im-
22 posed by section 7203 (relating to willful failure to file
23 return, supply information, or pay tax), if any S corpora-
24 tion required to file a return under section 6037 for any
25 taxable year—

1 “(1) fails to file such return at the time pre-
2 scribed therefor (determined with regard to any ex-
3 tension of time for filing), or

4 “(2) files a return which fails to show the infor-
5 mation required under section 6037,

6 such S corporation shall be liable for a penalty determined
7 under subsection (b) for each month (or fraction thereof)
8 during which such failure continues (but not to exceed 12
9 months), unless it is shown that such failure is due to rea-
10 sonable cause.

11 “(b) AMOUNT PER MONTH.—For purposes of sub-
12 section (a), the amount determined under this subsection
13 for any month is the product of—

14 “(1) \$100, multiplied by

15 “(2) the number of persons who were share-
16 holders in the S corporation during any part of the
17 taxable year.

18 “(c) ASSESSMENT OF PENALTY.—The penalty im-
19 posed by subsection (a) shall be assessed against the S
20 corporation.

21 “(d) DEFICIENCY PROCEDURES NOT TO APPLY.—
22 Subchapter B of chapter 63 (relating to deficiency proce-
23 dures for income, estate, gift, and certain excise taxes)
24 shall not apply in respect of the assessment or collection
25 of any penalty imposed by subsection (a).”.

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

“Sec. 6699A. Failure to file S corporation return.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to returns required to be filed after
6 the date of the enactment of this Act.

7 **SEC. 224. INCREASE IN MINIMUM PENALTY ON FAILURE TO**
8 **FILE A RETURN OF TAX.**

9 (a) IN GENERAL.—Subsection (a) of section 6651 is
10 amended by striking “\$100” in the last sentence and in-
11 serting “\$150”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to returns the due date for the
14 filing of which (including extensions) is after December
15 31, 2007.

16 **SEC. 225. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
17 **TAXES.**

18 The percentage under subparagraph (B) of section
19 401(1) of the Tax Increase Prevention and Reconciliation

