

STOP TERROR-FINANCING AND TAX PENALTIES ON
 AMERICAN HOSTAGES ACT

NOVEMBER 8, 2024.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
 submitted the following

R E P O R T

[To accompany H.R. 9495]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 9495) to amend the Internal Revenue Code of 1986 to postpone tax deadlines and reimburse paid late fees for United States nationals who are unlawfully or wrongfully detained or held hostage abroad, to terminate the tax-exempt status of terrorist supporting organizations, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Terror-Financing and Tax Penalties on American Hostages Act”.

SEC. 2. POSTPONEMENT OF TAX DEADLINES FOR HOSTAGES AND INDIVIDUALS WRONGFULLY DETAINED ABROAD.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by inserting after section 7510 the following new section:

“SEC. 7511. TIME FOR PERFORMING CERTAIN ACTS POSTPONED FOR HOSTAGES AND INDIVIDUALS WRONGFULLY DETAINED ABROAD.

“(a) TIME TO BE DISREGARDED.—

“(1) IN GENERAL.—The period during which an applicable individual was unlawfully or wrongfully detained abroad, or held hostage abroad, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such individual—

“(A) whether any of the acts described in section 7508(a)(1) were performed within the time prescribed thereof (determined without regard to extension under any other provision of this subtitle for periods after the initial date (as determined by the Secretary) on which such individual was unlawfully or wrongfully detained abroad or held hostage abroad),

“(B) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

“(C) the amount of any credit or refund.

“(2) APPLICATION TO SPOUSE.—The provisions of paragraph (1) shall apply to the spouse of any individual entitled to the benefits of such paragraph.

“(b) APPLICABLE INDIVIDUAL.—

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable individual’ means any individual who is—

“(A) a United States national unlawfully or wrongfully detained abroad, as determined under section 302 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741), or

“(B) a United States national taken hostage abroad, as determined pursuant to the findings of the Hostage Recovery Fusion Cell (as described in section 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741b)).

“(2) INFORMATION PROVIDED TO TREASURY.—For purposes of identifying individuals described in paragraph (1), not later than January 1, 2025, and annually thereafter—

“(A) the Secretary of State shall provide the Secretary with a list of the individuals described in paragraph (1)(A), as well as any other information necessary to identify such individuals, and

“(B) the Attorney General, acting through the Hostage Recovery Fusion Cell, shall provide the Secretary with a list of the individuals described in paragraph (1)(B), as well as any other information necessary to identify such individuals.

“(c) MODIFICATION OF TREASURY DATABASES AND INFORMATION SYSTEMS.—The Secretary shall ensure that databases and information systems of the Department of the Treasury are updated as necessary to ensure that statute expiration dates, interest and penalty accrual, and collection activities are suspended consistent with the application of subsection (a).

“(d) REFUND AND ABATEMENT OF PENALTIES AND FINES IMPOSED PRIOR TO IDENTIFICATION AS APPLICABLE INDIVIDUAL.—In the case of any applicable individual—

“(1) for whom any interest, penalty, additional amount, or addition to the tax in respect to any tax liability for any taxable year ending during the period described in subsection (a)(1) was assessed or collected, and

“(2) who was, subsequent to such assessment or collection, determined to be an individual described in subparagraph (A) or (B) of subsection (b)(1), the Secretary shall abate any such assessment and refund any amount collected to such applicable individual in the same manner as any refund of an overpayment of tax under section 6402.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 7510 the following new item:

“Sec. 7511. Time for performing certain acts postponed for hostages and individuals wrongfully detained abroad.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 3. REFUND AND ABATEMENT OF PENALTIES AND FINES PAID BY ELIGIBLE INDIVIDUALS.

(a) **IN GENERAL.**—Section 7511 of the Internal Revenue Code of 1986, as added by section 2, is amended by adding at the end the following new subsection:

“(e) **REFUND AND ABATEMENT OF PENALTIES AND FINES PAID BY ELIGIBLE INDIVIDUALS WITH RESPECT TO PERIODS PRIOR TO DATE OF ENACTMENT OF THIS SECTION.**—

“(1) **IN GENERAL.**—

“(A) **ESTABLISHMENT.**—Not later than January 1, 2025, the Secretary (in consultation with the Secretary of State and the Attorney General) shall establish a program to allow any eligible individual (or the spouse or any dependent (as defined in section 152) of such individual) to apply for a refund or an abatement of any amount described in paragraph (2) (including interest) to the extent such amount was attributable to the applicable period.

“(B) **IDENTIFICATION OF INDIVIDUALS.**—Not later than January 1, 2025, the Secretary of State and the Attorney General, acting through the Hostage Recovery Fusion Cell (as described in section 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741b)), shall—

“(i) compile a list, based on such information as is available, of individuals who were applicable individuals during the applicable period, and

“(ii) provide the list described in clause (i) to the Secretary.

“(C) **NOTICE.**—For purposes of carrying out the program described in subparagraph (A), the Secretary (in consultation with the Secretary of State and the Attorney General) shall, with respect to any individual identified under subparagraph (B), provide notice to such individual—

“(i) in the case of an individual who has been released on or before the date of enactment of this subsection, not later than 90 days after the date of enactment of this subsection, or

“(ii) in the case of an individual who is released after the date of enactment of this subsection, not later than 90 days after the date on which such individual is released,

that such individual may be eligible for a refund or an abatement of any amount described in paragraph (2) pursuant to the program described in subparagraph (A).

“(D) **AUTHORIZATION.**—

“(i) **IN GENERAL.**—Subject to clause (ii), in the case of any refund described in subparagraph (A), the Secretary shall issue such refund to the eligible individual in the same manner as any refund of an overpayment of tax.

“(ii) **EXTENSION OF LIMITATION ON TIME FOR REFUND.**—With respect to any refund under subparagraph (A)—

“(I) the 3-year period of limitation prescribed by section 6511(a) shall be extended until the end of the 1-year period beginning on the date that the notice described in subparagraph (C) is provided to the eligible individual, and

“(II) any limitation under section 6511(b)(2) shall not apply.

“(2) **ELIGIBLE INDIVIDUAL.**—For purposes of this subsection, the term ‘eligible individual’ means any applicable individual who, for any taxable year ending during the applicable period, paid or incurred any interest, penalty, additional amount, or addition to the tax in respect to any tax liability for such year of such individual based on a determination that an act described in section 7508(a)(1) which was not performed by the time prescribed therefor (without regard to any extensions).

“(3) **APPLICABLE PERIOD.**—For purposes of this subsection, the term ‘applicable period’ means the period—

“(A) beginning on January 1, 2021, and

“(B) ending on the date of enactment of this subsection.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending on or before the date of enactment of this Act.

SEC. 4. TERMINATION OF TAX-EXEMPT STATUS OF TERRORIST SUPPORTING ORGANIZATIONS.

(a) **IN GENERAL.**—Section 501(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(8) **APPLICATION TO TERRORIST SUPPORTING ORGANIZATIONS.**—

“(A) **IN GENERAL.**—For purposes of this subsection, in the case of any terrorist supporting organization—

“(i) such organization (and the designation of such organization under subparagraph (B)) shall be treated as described in paragraph (2), and

“(ii) the period of suspension described in paragraph (3) with respect to such organization shall be treated as beginning on the date that the Secretary designates such organization under subparagraph (B) and ending on the date that the Secretary rescinds such designation under subparagraph (D).

“(B) TERRORIST SUPPORTING ORGANIZATION.—For purposes of this paragraph, the term ‘terrorist supporting organization’ means any organization which is designated by the Secretary as having provided, during the 3-year period ending on the date of such designation, material support or resources (within the meaning of section 2339B of title 18, United States Code) to an organization described in paragraph (2) (determined after the application of this paragraph to such organization) in excess of a de minimis amount.

“(C) DESIGNATION PROCEDURE.—

“(i) NOTICE REQUIREMENT.—Prior to designating any organization as a terrorist supporting organization under subparagraph (B), the Secretary shall mail to the most recent mailing address provided by such organization on the organization’s annual return or notice under section 6033 (or subsequent form indicating a change of address) a written notice which includes—

“(I) a statement that the Secretary will designate such organization as a terrorist supporting organization unless the organization satisfies the requirements of subclause (I) or (II) of clause (ii),

“(II) the name of the organization or organizations with respect to which the Secretary has determined such organization provided material support or sources as described in subparagraph (B), and

“(III) a description of such material support or resources to the extent consistent with national security and law enforcement interests.

“(ii) OPPORTUNITY TO CURE.—In the case of any notice provided to an organization under clause (i), the Secretary shall, at the close of the 90-day period beginning on the date that such notice was sent, designate such organization as a terrorist supporting organization under subparagraph (B) if (and only if) such organization has not (during such period)—

“(I) demonstrated to the satisfaction of the Secretary that such organization did not provide the material support or resources referred to in subparagraph (B), or

“(II) made reasonable efforts to have such support or resources returned to such organization and certified in writing to the Secretary that such organization will not provide any further support or resources to organizations described in paragraph (2).

A certification under subclause (II) shall not be treated as valid if the organization making such certification has provided any other such certification during the preceding 5 years.

“(D) RESCISSION.—The Secretary shall rescind a designation under subparagraph (B) if (and only if)—

“(i) the Secretary determines that such designation was erroneous,

“(ii) after the Secretary receives a written certification from an organization that such organization did not receive the notice described in subparagraph (C)(i)—

“(I) the Secretary determines that it is reasonable to believe that such organization did not receive such notice, and

“(II) such organization satisfies the requirements of subclause (I) or (II) of subparagraph (C)(ii) (determined after taking into account the last sentence thereof), or

“(iii) the Secretary determines, with respect to all organizations to which the material support or resources referred to in subparagraph (B) were provided, the periods of suspension under paragraph (3) have ended.

A certification described in the matter preceding subclause (I) of clause (II) shall not be treated as valid if the organization making such certification has provided any other such certification during the preceding 5 years.

“(E) ADMINISTRATIVE REVIEW BY INTERNAL REVENUE SERVICE INDEPENDENT OFFICE OF APPEALS.—In the case of the designation of an organization by the Secretary as a terrorist supporting organization under subparagraph (B), a dispute regarding such designation shall be subject to resolu-

tion by the Internal Revenue Service Independent Office of Appeals under section 7803(e) in the same manner as if such designation were made by the Internal Revenue Service and paragraph (5) of this subsection did not apply.

“(F) JURISDICTION OF UNITED STATES COURTS.—Notwithstanding paragraph (5), the United States district courts shall have exclusive jurisdiction to review a final determination with respect to an organization’s designation as a terrorist supporting organization under subparagraph (B). In the case of any such determination which was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act), such information may be submitted to the reviewing court ex parte and in camera. For purposes of this subparagraph, a determination with respect to an organization’s designation as a terrorist supporting organization shall not fail to be treated as a final determination merely because such organization fails to utilize the dispute resolution process of the Internal Revenue Service Independent Office of Appeals provided under subparagraph (E).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to designations made after the date of the enactment of this Act in taxable years ending after such date.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 9495, the “Stop Terror-Financing and Tax Penalties on American Hostages Act,” as ordered reported by the Committee on Ways and Means on September 11, 2024, aids Americans wrongfully held abroad, as well as their families by providing the Internal Revenue Service (“IRS”) with the tools to ensure that American citizens who have been taken hostage or wrongfully detained abroad do not incur penalties for late tax payments while they are in captivity.

This legislation also addresses abuse of the U.S. tax-exempt sector by prohibiting organizations from maintaining tax-exempt status if they are found to have provided material support or resources to a terrorist or terrorist-supporting organization within a three-year period. As part of this process, the bill establishes procedures for the Secretary of the U.S. Department of the Treasury to provide notice to such organizations, for organizations to refute the designation, or for the designation to be rescinded.

B. BACKGROUND AND NEED FOR LEGISLATION

On October 7, 2023, Israel was invaded and attacked by Hamas, a U.S. designated terrorist organization which killed more than 1,000 people, wounded thousands more, and took hundreds hostage—including American citizens who remain in the tunnels underneath Gaza. Despite Israel being an ally of the U.S., antisemitic protests broke out across the U.S. after October 7, many of which resulted in violence and included the chanting of genocidal slogans and carrying of flags of designated terrorist organizations. A Ways and Means Committee investigation identified the use of domestic tax-exempt organizations to finance and support these efforts, including efforts on American college campuses. Based on these findings, the Committee is concerned that groups may be providing material support for chaos and illegality domestically, and terrorism

abroad. Recent history demonstrates that this risk is serious.¹ While hostage families have suffered immensely, they have been flooded with antisemitism and support for the hostage takers rather than unconditional support. This legislation seeks to help the hostages and their families, along with other Americans wrongfully detained abroad.

Under current law, the IRS can provide tax relief to American citizens who are held hostage or wrongfully detained abroad, but that authority is limited in several ways that adversely impacts hostages or individuals wrongfully detained abroad and their families. Specifically, under current law, the IRS does not have the authority to extend relief to taxpayers beyond one year, nor does it have a basis for proactively suspending or abating interest for taxpayers who have been wrongfully detained abroad. These limitations also apply to a hostage's spouse.

Additionally, current law is inadequate to sufficiently cut off tax-exempt status for U.S. tax-exempt organizations that are materially supporting terrorism. Under current law, an entity's tax-exempt status may be suspended if it is designated by the U.S. Department of State as a terrorist organization, but current law does not allow the IRS to suspend the tax-exempt status of organizations identified as having provided material support or resources to a designated terrorist or terrorist-supporting organization.

C. LEGISLATIVE HISTORY

Background

H.R. 9495 was introduced on September 9, 2024, and was referred to the Committee on Ways and Means.

Committee Hearings

On November 15, 2023, the Committee held a hearing entitled, "From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing."²

On June 13, 2024, the Committee held a hearing entitled, "Crisis on Campus: Antisemitism, Radical Faculty, and Failure of University Leadership."³

On July 23, 2024, the Committee held a hearing entitled, "Fueling Chaos: Tracing the Flow of Tax-Exempt Dollars to Antisemitism."⁴

¹U.S. Department of Justice Press Release, *Federal Judge Hands Down Sentences in Holy Land Foundation Case*, U.S. DEPARTMENT OF JUSTICE OFFICE OF PUBLIC AFFAIRS (May 27, 2009), <https://www.justice.gov/opa/pr/federal-judge-hands-downs-sentences-holy-land-foundation-case>.

²H. Comm. on Ways and Means, *Hearing: From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing* (Nov. 15, 2023), <https://waysandmeans.house.gov/event/hearing-from-ivory-towers-to-dark-corners-investigating-the-nexus-between-antisemitism-tax-exempt-universities-and-terror-financing/>.

³H. Comm. on Ways and Means, *Hearing on the Crisis on Campus: Antisemitism, Radical Faculty, and the Failure of University Leadership* (June 13, 2024), <https://waysandmeans.house.gov/event/hearing-on-the-crisis-on-campus-antisemitism-radical-faculty-and-the-failure-of-university-leadership/>.

⁴H. Comm. on Ways and Means, *Hearing on Fueling Chaos: Tracking the Flow of Tax-Exempt Dollars to Antisemitism* (July 23, 2024), <https://waysandmeans.house.gov/event/oversight-subcommittee-hearing-on-fueling-chaos-tracing-the-flow-of-tax-exempt-dollars-to-antisemitism/>.

Committee Action

The Committee on Ways and Means marked up H.R. 9495, the “Stop Terror-Financing and Tax Penalties on American Hostages Act,” on September 11, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 9495:

On November 15, 2023, the Committee held a hearing entitled, “From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing.”⁵

On June 13, 2024, the Committee held a hearing entitled, “Crisis on Campus: Antisemitism, Radical Faculty, and Failure of University Leadership.”⁶

On July 23, 2024, the Committee held a hearing entitled, “Fueling Chaos: Tracing the Flow of Tax-Exempt Dollars to Antisemitism.”⁷

II. EXPLANATION OF THE BILL

A. POSTPONEMENT OF TAX DEADLINES AND ABATEMENT AND REFUND PROCEDURES FOR HOSTAGES AND INDIVIDUALS WRONGFULLY DETAINED ABROAD (SECS. 2 AND 3 OF THE BILL AND NEW SECTION 7511 OF THE CODE)

PRESENT LAW

General rules establishing Code deadlines

The U.S. tax system generally relies upon self-reporting and assessment. For most individuals, that self-reporting is in the form of an income tax return. Persons required to file income tax returns⁸ must file such returns in the manner prescribed by the Secretary of the U.S. Department of the Treasury, with any payment due, in compliance with due dates established in the Internal Revenue Code (“IRC”), if any, or by regulations. The IRC includes a general rule that requires income tax returns of individuals to be filed on or before the fifteenth day of the fourth month following the end of the taxable year, but certain exceptions are provided both in the IRC and in regulations.⁹

The IRC also establishes the limitation periods within which the IRS must perform its various administrative duties, such as assess-

⁵H. Comm. on Ways and Means, *Hearing: From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing* (Nov. 15, 2023), <https://waysandmeans.house.gov/event/hearing-from-ivory-towers-to-dark-corners-investigating-the-nexus-between-antisemitism-tax-exempt-universities-and-terror-financing/>.

⁶H. Comm. on Ways and Means, *Hearing on the Crisis on Campus: Antisemitism, Radical Faculty, and the Failure of University Leadership* (June 13, 2024), <https://waysandmeans.house.gov/event/hearing-on-the-crisis-on-campus-antisemitism-radical-faculty-and-the-failure-of-university-leadership/>.

⁷H. Comm. on Ways and Means, *Hearing on Fueling Chaos: Tracking the Flow of Tax-Exempt Dollars to Antisemitism* (July 23, 2024), <https://waysandmeans.house.gov/event/oversight-subcommittee-hearing-on-fueling-chaos-tracing-the-flow-of-tax-exempt-dollars-to-antisemitism/>.

⁸Section 6012 provides general rules identifying who must file an income tax return.

⁹Secs. 6072 (prescribing deadlines for filing income tax returns) and 6081 (authorization of extensions of time to file, provided tax estimated to be due is paid with the application for extension).

ment of taxes, interest, and any additions to tax or penalties related to the taxes and collection of such taxes, interest, and additions to tax. Taxes are generally required to be assessed within three years after a taxpayer's return is filed, regardless of whether it was timely filed.¹⁰ Several exceptions may prevent the three-year limitation period from beginning, including failure to file a return or filing a false or fraudulent return with the intent to evade tax. In those cases, the tax may be assessed, or a proceeding in court for collection of such tax may commence without assessment, at any time.¹¹ After the taxes are finally determined, whether it is through alternative payment methods, or enforced collection activity, the IRS must collect within 10 years from the date of assessment of tax.¹² A refund or credit is authorized for a taxable year only if an overpayment exists, that is, if the amounts paid or deemed paid exceed the tax liability for that year and a claim for such amount is timely made.¹³

Special rules authorizing extensions of time for required events in the IRC

In computing the time within which they must complete an action required or prescribed by the IRC, persons who serve in the U.S. Armed Forces or in support of the Armed Forces are entitled to disregard their period of service while in designated combat zones¹⁴ or serving overseas in a contingency operation designated as such by the Secretary of Defense,¹⁵ and the 180 days succeeding such period. For this purpose, periods of hospitalization that result from such service are included in the time that may be disregarded. The period that may be disregarded by the taxpayer is also disregarded in determinations by the IRS of the amount of any underpayment interest, penalty, additional amount, or addition to tax, and the amount of any credit or refund. Special rules apply for the period a person is in missing status,¹⁶ for certain limitations on refunds or collection actions,¹⁷ as well as application of this provision to the spouse of the taxpayer.¹⁸

The IRC specifies a number of actions for which the specified periods of time may generally be disregarded by persons who serve in the U.S. Armed Forces or in support of the Armed Forces described above. These actions include those required of taxpayers as well as those performed by the IRS. The former includes actions such as the filing any return of income, estate, gift, employment, or excise tax; filing a petition with the Tax Court for redetermination of a deficiency or for review of a decision rendered by the Tax Court; and actions related to refunds, such as filing a claim or bringing suit upon such claim. Actions by the IRS for which a deadline is extended include the assessment of any tax and related notices, such as notice and demand for payment or collection of the

¹⁰ Sec. 6501(a). Returns that are filed before the date they are due are deemed filed on the due date. See sec. 6501(b)(1) and (2).

¹¹ Sec. 6501(c)(1), (2)c, and (3).

¹² Sec. 6502.

¹³ Secs. 6402 (authority for refunding an overpayment) and 6511 (limitations period for filing a claim, including both a timely filing requirement and a lookback period to determine amounts eligible to be refunded).

¹⁴ Sec. 112.

¹⁵ Sec. 7508.

¹⁶ Sec. 7508(d).

¹⁷ Secs. 7508(b) and (e).

¹⁸ Sec. 7508(c).

tax; the allowance of a refund; and bringing suit by the U.S. in respect of any liability in respect of any tax. In addition, the statute includes a residuary clause that permits the Secretary of the Treasury to designate any other act required or permitted under the internal revenue laws as within the scope of section 7508(a).¹⁹ Finally, special rules ensure that a taxpayer to whom the extension is available remains entitled to overpayment interest rates.²⁰

Another provision of the IRC, relating to disasters, mandates a 60-day extension and authorizes the Secretary of the Treasury to specify a period of up to one year that may be disregarded for performing various acts under the IRC, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for eligible taxpayers. The limited relief from deadlines under this disaster extension applies to the same list of actions for which the specified time is disregarded for persons in combat zones. The provision adopts by cross reference to section 7508(b) the special rules regarding overpayment interest for affected taxpayers. To qualify for this extension, an eligible taxpayer must be affected by a Federally declared disaster, a significant fire, or a terroristic or military action.²¹

Persons held hostage or wrongfully detained

Neither the provision on service in a combat zone nor the rules on disaster relief address persons who fail to meet a tax filing or payment deadline that arises while they are unlawfully or wrongfully detained abroad. Federal law provides a set of criteria for determining whether a U.S. national²² is a wrongfully detained person. Such determination requires the involvement of the Hostage Recovery Fusion Cell, a multi-agency entity that addresses coordination of efforts to identify and recover those held hostage or wrongfully detained. Generally, if the person detained is held by a sovereign entity, determination of whether such person is wrongfully detained rests with the Secretary of State using prescribed criteria. Hostage status is determined by the Hostage Recovery Fusion Cell, under the leadership of the Federal Bureau of Investigation.²³

REASONS FOR CHANGE

In recent years, the incidence of U.S. citizens or residents abroad being wrongfully detained or held hostage has been increasingly frequent. When they are released from detention, they face many challenges in adjusting to a return to their normal, daily life. That adjustment upon a return home is made more difficult when they must face notices that they were subject to tax inquiries, penalties or interest based on delinquencies accruing in their absence they were unable to avoid. The Committee learned that, while the IRS

¹⁹ Sec. 7508(a)(1). In addition, Revenue Procedure 2018-58 supplements the list of postponed acts in section 7508(a)(1) and Treasury Regulation section 301.7508A-1(c)(1) with an additional list of time-sensitive acts.

²⁰ Sec. 7508(b).

²¹ Sec. 7508A.

²² 22 U.S.C. 1741e defines “United States national” to mean citizens and certain noncitizens within the scope of 8 U.S.C. secs. 1102(a)(22) and 1408 and lawful permanent residents with significant ties to the United States.

²³ Sections 302 and 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, Pub. L. 116-260, div. FF, title III, § 301, Dec. 27, 2020, 134 Stat. 3091, codified at 22 U.S.C. 1741 through 1741f.

may work with the released hostage or detainee to abate or reverse some of those notices, the authority of the IRS may be limited to do so, especially in cases in which the period of detention was lengthy. Most penalties based on delinquency can be abated based upon reasonable cause, for example, unless the limitations period for making corrections to a year has lapsed. Even if the limitations period is open, the IRC narrowly restricts IRS authority to abate any interest that may have accrued for failure to pay income tax timely. In response, the Committee supports enactment of this bill to provide relief similar in scope and type to those deployed to combat zones or affected by a Federally declared disaster. It will require reporting by agencies involved in monitoring status of U.S. citizens or residents held abroad to the IRS to enable the IRS to avoid sending notices during the period of detention, and to correct any missteps in that regard with a minimum administrative burden on the former detainee. It also requires a limited retroactive program to extend relief to persons whose detention was prior to enactment.

EXPLANATION OF PROVISION

The provision adds a new IRC section that extends due dates for certain Federal tax matters for hostages and persons wrongfully detained by providing that the period of detention is disregarded in determining deadlines, interest, and penalties for the person, comparable to the rules applicable to a person deployed in a combat zone. Similar to those rules, it extends such relief to the spouse of the hostage or detainee. The class of applicable persons is defined by reference to provisions of Title 22 on wrongfully detained persons or hostages.

Under the provision, the period that may be disregarded in re-determining time limits is the entire period during which the person was held hostage or wrongfully detained during any taxable year ending after date of enactment. The list in present-law section 7508 identifying events for which a deadline is extended is used for the new provision.

The provision uses the term “applicable individual” to describe a person entitled to the extension. A person is an applicable individual if that person is either determined to be wrongfully detained under section 302 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act or is determined to be a hostage under findings of the Hostage Recovery Fusion Cell. The class of applicable individuals consists of persons who are identified on reports provided to the Secretary of the Treasury. The provision requires the Secretary of State to provide a list of persons wrongfully detained, together with any identifying information available. The Attorney General, through the Hostage Recovery Fusion Cell, is required to provide a comparable list of persons believed to be hostages. The initial report is due January 1, 2025, with further reports due annually.

In addition to establishing a basis for relief from certain deadlines prescribed by the IRC, the provision also extends relief to persons who were assessed interest, penalties, or additional amounts with respect to a tax liability for a failure to meet a deadline that arose during the period of detention for which extension is authorized. If the interest, penalties, or fines were assessed before the

person was identified as an applicable individual, the Secretary of the Treasury is directed to abate and refund any such amounts as overpayments in the same manner as would apply under section 6402.

The provision also directs the Secretary of the Treasury, in consultation with Secretary of State and the Hostage Recovery Fusion Cell, to initiate a program under which persons who were detained during an applicable period beginning January 1, 2021, and ending before date of enactment may seek refund of interest and penalties assessed with respect to tax years ending during the applicable period. This program is to be available to eligible individuals (persons who would have been applicable individuals but for the taxable years involved and their dependent or spouse), to be identified by the Secretary of State and Attorney General in reports similar to those required with respect to applicable individuals. A person may be both an applicable individual with respect to a taxable year ending after date of enactment and an eligible individual with respect to an earlier taxable year within the applicable period. Once such persons are identified, they are entitled to notice of the potential relief within 90 days from their release from captivity, or, if released prior to date of enactment, within 90 days after enactment.

After receiving notice of the program, eligible individuals are permitted to seek abatement or claim a refund for additions to tax and interest assessed or collected in respect of a tax liability attributable to the applicable period. The limitations period for filing a claim for refund or seeking abatement is extended, so that it expires no earlier than one year from the notice issued to the eligible individual. Furthermore, the look-back period for determining payments that may be within the scope of a refund claim is not applicable.

The provision also requires the Secretary of the Treasury to make necessary updates to databases and information systems to ensure that expiration dates, interest and penalty accrual, and collection activities are suspended consistent with this provision.

EFFECTIVE DATE

The provision is generally effective for applicable individuals for taxable years ending after the date of enactment. The special program for notifications, refunds or abatements to eligible individuals for the applicable period from January 1, 2021, through date of enactment, is effective only for taxable years ending before the date of enactment.

B. TERMINATION OF TAX-EXEMPT STATUS OF TERRORIST SUPPORTING ORGANIZATIONS (SEC. 4 OF THE BILL AND SEC. 501(p) OF THE CODE)

PRESENT LAW

Revocation of tax-exempt status, in general

Under present law, the IRS generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organi-

zation described in section 501(c) or (d), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption.

Suspension of tax-exempt status of terrorist organizations (section 501(p))

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

The tax-exempt status of an organization that is exempt from tax under section 501(a) is suspended for the period during which the organization is designated or identified by Federal authorities as a terrorist organization or supporter of terrorism. An organization so designated or identified is also ineligible to apply for tax-exempt status under section 501(a).²⁴ The period of suspension begins on the later of (1) the date the organization is first designated or identified or (2) November 11, 2003,²⁵ and ends on the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive Order under which the designation or identification was made.²⁶

For this purpose, a terrorist organization is an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive Order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive Order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive Order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).²⁷ During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.²⁸

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the following: the suspension of tax-exempt status, the ineligibility to apply for tax-exempt status, a designation or identification (described above), the timing of the period of

²⁴ Sec. 501(p)(1).

²⁵ The date of enactment of section 501(p)). Pub. L. No. 108–121.

²⁶ Sec. 501(p)(3).

²⁷ Sec. 501(p)(2).

²⁸ Sec. 501(p)(4).

suspension, or a denial of deduction (described above).²⁹ The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive Order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including *res judicata*) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.³⁰

The IRS is directed to update the listings of tax-exempt organizations to take account of an organization that has had its tax-exempt status suspended and to publish appropriate notice to taxpayers of the suspension of such organization's tax-exempt status and the fact that contributions to such organization are not deductible during the period of suspension.³¹

As of this writing, there are nine organizations on the IRS's list of organizations suspended under section 501(p).³²

REASONS FOR CHANGE

The Committee recently received testimony about links between domestic organizations with tax-exempt status and international terrorist organizations and believes the IRC should not be used to subsidize or finance violent terrorism around the world. The provision addresses this concern by providing for the suspension of the tax-exempt status of certain organizations that provide material support or resources to terrorist organizations, prohibiting such organizations from applying for tax-exempt status, and disallowing charitable deductions for contributions to such organizations.

The provision is carefully crafted to protect organizations from erroneous designation as a terrorist supporting organization through various due-process mechanisms, including a requirement that the Secretary of the Treasury provide written notice 90 days before such a designation, during which time the organization has an opportunity to demonstrate that it did not provide the material support or resources or to undertake other specified curative actions. The provision allows an organization to challenge a designation as a terrorist supporting organization before the IRS Independent Office of Appeals and to seek review of a final determination with respect to such a designation in a U.S. district court.

²⁹ Sec. 501(p)(5).

³⁰ Sec. 501(p)(6).

³¹ Sec. 501(p)(7).

³² See [https://www.irs.gov/charities-non-profits/charitable-organizations/suspensions-pursuant-to-code-section-501p#:~:text=Under%20section%20501\(p\)%20of,under%20section%20501\(p\)](https://www.irs.gov/charities-non-profits/charitable-organizations/suspensions-pursuant-to-code-section-501p#:~:text=Under%20section%20501(p)%20of,under%20section%20501(p)) (last accessed on September 5, 2024).

EXPLANATION OF PROVISION

In General

The provision extends section 501(p) such that it applies not only to terrorist organizations (as under present law) but also to terrorist supporting organizations. The provision treats a terrorist supporting organization as a terrorist organization described in section 501(p)(2). The effect of this treatment is that the tax-exempt status of a terrorist supporting organization, and the eligibility of such organization to apply for tax-exempt status, are suspended. The period of suspension of a terrorist supporting organization is treated as beginning on the date the Secretary of the Treasury designates the organization as a terrorist supporting organization and ending on the date the Secretary of the Treasury rescinds the designation, as described below.

A terrorist supporting organization is any organization that is designated by the Secretary of the Treasury as having provided, during the three-year period ending on the date of such designation, material support or resources to a terrorist organization or terrorist supporting organization described in section 501(p) in excess of a *de minimis* amount. For this purpose, the term “material support or resources” is defined by reference to section 2339B of Title 18 of the U.S. Code.³³

Notice Requirement

Before designating an organization as a terrorist supporting organization, the Secretary of the Treasury is required to mail to the most recent mailing address provided to the IRS on its most recent annual information return or notice filed with the IRS (or subsequently submitted form indicating a change of address) a written notice. The notice must include: (1) a statement that the Secretary of the Treasury will designate the organization as a terrorist supporting organization unless the organization satisfies the requirements outlined in the following paragraph (relating to opportunity to cure), (2) the name of the organization or organizations with respect to which the Secretary of the Treasury has determined such organization provided material support or resources, and (3) a description of such material support or resources, to the extent consistent with national security and law enforcement interests.

Opportunity to Cure

In the case of such a notice, the Secretary of the Treasury shall, at the end of the 90-day period beginning on the date the notice was sent, designate the organization as a terrorist supporting organization if, and only if, the organization has not during such period: (1) demonstrated to the satisfaction of the Secretary that the organization did not provide the material support or resources, or

³³ Section 2339B defines “material support or resources” by reference to section 2339A of Title 18 of the U.S. Code. Section 2339A, in turn, provides that material support or resources means “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.” The term “training” is defined as “instruction or teaching designed to impart a specific skill, as opposed to general knowledge.” The term “expert advice or assistance” is defined as “advice or assistance derived from scientific, technical or other specialized knowledge.”

(2) made reasonable efforts to have such support or resources returned to such organization and certified in writing to the Secretary that such organization will not provide any further support or resources to a terrorist organization or terrorist supporting organization described in section 501(p)(2). Such a certification is not valid if the organization making the certification has provided any other such certification during the preceding five years.

Rescission of Designation

The Secretary of the Treasury shall rescind a designation if and only if: (1) the Secretary of the Treasury determines that the designation was erroneous; (2) after the Secretary of the Treasury receives a certification from an organization that it did not receive the notice described above, (a) the Secretary of the Treasury determines that it is reasonable to believe that the organization did not receive the notice, and (b) the organization satisfies the above requirements relating to curing a deficiency (that is, the organization demonstrates that it did not provide material support or resources or made reasonable efforts to have such support or resources returned and makes the required certification); or (3) the Secretary of the Treasury determines that the periods of suspension for all organizations to which the material support or resources were provided have ended. The certification described in (2) above is not treated as valid if the organization making the certification has provided any other such certification during the preceding five years.

Administration and Judicial Review of Designation

Notwithstanding the present-law rule that disallows a challenge to a designation as a terrorist organization in certain administrative or judicial proceedings (section 501(p)(5)), in the case of the designation of an organization as a terrorist supporting organization, a dispute regarding such designation is subject to resolution by the IRS Independent Office of Appeals (“IRS Appeals”) under section 7803(e) (which describes IRS Appeals). The dispute is subject to IRS Appeals resolution in the same manner as if the designation were made by the IRS. In addition, notwithstanding section 501(p)(5), the U.S. district courts shall have exclusive jurisdiction to review a final determination with respect to an organization’s designation as a terrorist supporting organization. In the case of a determination that was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act), such information may be submitted to the reviewing court *ex parte* and *in camera*. For purposes of such judicial review, a determination shall not fail to be treated as a final determination merely because the organization fails to utilize the dispute resolution process of IRS Appeals described above.

EFFECTIVE DATE

The provision is effective for designations made after the date of enactment in taxable years ending after such date.

III. VOTE OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9495, the “Stop Terror-Financing and Tax Penalties on American Hostages Act,” on September 11, 2024.

H.R. 9495 was ordered favorably reported to the U.S. House of Representatives as amended, by a roll call vote of 38 yeas to 0 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X			Mr. Neal	X		
Mr. Buchanan	X			Mr. Doggett	X		
Mr. Smith (NE)	X			Mr. Thompson	X		
Mr. Kelly	X			Mr. Larson	X		
Mr. Schweikert	X			Mr. Blumenauer	X		
Mr. LaHood	X			Mr. Davis	X		
Dr. Wenstrup	X			Ms. Sánchez	X		
Mr. Arrington	X			Ms. Sewell			
Dr. Ferguson	X			Ms. DelBene	X		
Mr. Estes				Ms. Chu	X		
Mr. Smucker	X			Ms. Moore	X		
Mr. Hern	X			Mr. Kildee	X		
Ms. Miller	X			Mr. Beyer	X		
Dr. Murphy				Mr. Evans			
Mr. Kustoff	X			Mr. Schneider	X		
Mr. Fitzpatrick	X			Mr. Panetta	X		
Mr. Steube	X			Mr. Gomez	X		
Ms. Tenney	X			Mr. Horsford	X		
Mrs. Fischbach	X			Mr. Moore	X		
Mrs. Steel	X						
Ms. Van Duyne	X						
Mr. Feenstra	X						
Ms. Malliotakis	X						
Mr. Carey	X						

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 9495, as reported.

The bill is estimated to have a negligible effect on Federal fiscal year budget receipts.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

H.R. 9495, Stop Terror-Financing and Tax Penalties on American Hostages Act			
As ordered reported by the House Committee on Ways and Means on September 11, 2024			
By Fiscal Year, Millions of Dollars	2025	2025-2029	2025-2034
Direct Spending (Outlays)	0	0	0
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 9495 would modify the Internal Revenue Code to extend deadlines for certain tax matters for hostages, people wrongfully detained abroad, and their spouses, and would suspend the tax-exempt status of organizations that support terrorism.

Similar to the rules for service members in combat zones, the bill would direct the Secretary of the Treasury, in consultation with the Secretary of State and the Federal Bureau of Investigation's Hostage Recovery Fusion Cell, to create a program to allow people who were detained between 2021 and the date of enactment to seek refunds of interest and penalties assessed during that time.

The bill also would suspend the tax-exempt status of organizations that support terrorism. Under current law, an entity's tax-exempt status is suspended if the Department of State designates it as a terrorist organization. The bill would extend that prohibition to organizations identified as having provided material support or resources to a terrorist or terrorist-supporting organization within the three years prior to being so designated. The bill also would establish procedures for the department to provide notice to those organizations, for organizations to refute the designation, and for designations to be rescinded.

H.R. 9495, as ordered reported by the House Committee on Ways and Means The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) will be the official estimates for all tax legislation considered by the Congress. As such, CBO incorporates those estimates into its cost estimates of the effects of legislation. The estimates for the revenue provisions of H.R. 9495 were provided by JCT.¹

JCT estimates that enacting H.R. 9495 would result in a negligible change in revenues over the 2024–2034 period.

CBO estimates that implementing the bill would increase federal costs by less than \$500,000 over the 2025–2029 period for the De-

¹Joint Committee on Taxation, *Description of H.R. 9495, the "Stop Terror-Financing and Tax Penalties on American Hostages Act,"* JCX-37-24 (September 9, 2024), <https://www.jct.gov/publications/2024/jcx-37-24>.

partment of the Treasury and for the Department of State; any related spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Nathaniel Frentz. The estimate was reviewed by John McClelland, Director of Tax Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the IRS and the U.S. Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the IRC and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

F. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

Pursuant to clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * *

Subtitle A—Income Taxes

* * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * *

Subchapter F—EXEMPT ORGANIZATIONS

* * * * *

PART I—GENERAL RULE

* * * * *

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) **EXEMPTION FROM TAXATION.**—An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(b) **TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.**—An organization exempt from taxation under subsection

(a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III, and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (l).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual. For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term "dependent" shall include any individual who is a child (as defined in section 152(f)(1)) of a member who as of the end of the calendar year has not attained age 27.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from any provision or sale of electric energy transmission services or ancillary services if such services are provided on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),

(iii) from the provision or sale of electric energy distribution services or ancillary services if such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the mutual or electric cooperative company—

(I) to end-users who are served by distribution facilities not owned by such company or any of its members (other than income received or accrued directly or indirectly from a member), or

(II) generated by a generation facility not owned or leased by such company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member),

(iv) from any nuclear decommissioning transaction, or

(v) from any asset exchange or conversion transaction.

(D) For purposes of this paragraph, the term “qualified pole rental” means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term “rental” includes any sale of the right to use the pole (or other structure).

(E) For purposes of subparagraph (C)(ii), the term “FERC” means—

(i) the Federal Energy Regulatory Commission, or

(ii) in the case of any utility with respect to which all of the electricity generated, transmitted, or distributed by such utility is generated, transmitted, distributed, and consumed in the same State, the State agency of such State with the authority to regulate electric utilities.

(F) For purposes of subparagraph (C)(iv), the term “nuclear decommissioning transaction” means—

- (i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,
 - (ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or
 - (iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.
- (G) For purposes of subparagraph (C)(v), the term "asset exchange or conversion transaction" means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—
- (i) generating, transmitting, distributing, or selling electric energy, or
 - (ii) producing, transmitting, distributing, or selling natural gas.
- (H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.
- (ii) For purposes of clause (i), the term "load loss transaction" means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.
- (iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.
- (iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—
- (I) the megawatt hours of electric energy sold during such year to members of such electric company are less than
 - (II) the megawatt hours of electric energy sold during the base year to such members.
- (v) For purposes of clause (iv)(II), the term "base year" means—
- (I) the calendar year preceding the start-up year, or
 - (II) at the election of the mutual or cooperative electric company, the second or third calendar years preceding the start-up year.
- (vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.
- (vii) For purposes of this subparagraph, the start-up year is the first year that the mutual or cooperative electric company offers nondiscriminatory open access or the calendar year

which includes the date of the enactment of this subparagraph, if later, at the election of such company.

(viii) A company shall not fail to be treated as a mutual or cooperative electric company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

(ix) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2), income received or accrued in connection with an election under section 45J(e)(1) shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(J) In the case of a mutual or cooperative telephone or electric company described in this paragraph, subparagraph (A) shall be applied without taking into account any income received or accrued from—

(i) any grant, contribution, or assistance provided pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any similar grant, contribution, or assistance by any local, State, or regional governmental entity for the purpose of relief, recovery, or restoration from, or preparation for, a disaster or emergency, or

(ii) any grant or contribution by any governmental entity (other than a contribution in aid of construction or any other contribution as a customer or potential customer) the purpose of which is substantially related to providing, constructing, restoring, or relocating electric, communication, broadband, internet, or other utility facilities or services.

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings banks described in section 591(b).

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies (as defined in section 816(a) other than life (including interinsurers and reciprocal underwriters) if—

(i)(I) the gross receipts for the taxable year do not exceed \$600,000, and

(II) more than 50 percent of such gross receipts consist of premiums, or

(ii) in the case of a mutual insurance company—

(I) the gross receipts of which for the taxable year do not exceed \$150,000, and

(II) more than 35 percent of such gross receipts consist of premiums.

Clause (ii) shall not apply to a company if any employee of the company, or a member of the employee's family (as defined in section 2032A(e)(2)), is an employee of another company exempt from taxation by reason of this paragraph (or would be so exempt but for this sentence).

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii),¹ except that in applying section 831(b)(2)(B)(ii) ¹ for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded.

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities, with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term “supplemental unemployment compensation benefits” means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible—

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions,

(iii) such contributions are treated as elective deferrals for purposes of section 402(g), and

(iv) the requirements of section 401(a)(30) are met.

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or soci-

ety of, or a trust or foundation for, any such post or organization—

- (A) organized in the United States or any of its possessions,
- (B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the Armed Forces of the United States or of cadets, and
- (C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

- (i) the purpose of such trust or trusts is exclusively—
 - (I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,
 - (II) to pay premiums for insurance exclusively covering such liability,
 - (III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and
 - (IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

- (I) the purposes described in clause (i),
- (II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or
- (III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

- (i) the fair market value of the assets of the trust, over
- (ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

(D) For purposes of this paragraph:

(i) The term “Black Lung Acts” means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

(ii) The term “qualified investments” means—

(I) public debt securities of the United States,

(II) obligations of a State or local government which are not in default as to principal or interest, and

(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(7) of the Federal Credit Union Act, 12 U.S.C. 1752(7)) located in the United States.

(iii) The term “miner” has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

(iv) The term “incidental expenses” includes legal, accounting, actuarial, and trustee expenses.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

(A) the purpose of such trust is exclusively—

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(D),

(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

- (25)(A) Any corporation or trust which—
- (i) has no more than 35 shareholders or beneficiaries,
 - (ii) has only 1 class of stock or beneficial interest, and
 - (iii) is organized for the exclusive purposes of—
 - (I) acquiring real property and holding title to, and collecting income from, such property, and
 - (II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term “real property” shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is—

- (i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),
- (ii) a governmental plan (within the meaning of section 414(d)),
- (iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or
- (iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—

- (i) to dismiss the corporation’s or trust’s investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and
- (ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E)(i) For purposes of this title—

- (I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

(ii) For purposes of this subparagraph, the term “qualified subsidiary” means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock.

(F) For purposes of subparagraph (A), the term “real property” includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization’s gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.

(26) Any membership organization if—

(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

(i) insurance issued by the organization, or

(ii) a health maintenance organization under an arrangement with the organization,

(B) the only individuals receiving such coverage through the organization are individuals—

(i) who are residents of such State, and

(ii) who, by reason of the existence or history of a medical condition—

(I) are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization, or

(II) are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

(C) the composition of the membership in such organization is specified by such State, and
 (D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.
 A spouse and any qualifying child (as defined in section 24(c)) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).

(27)(A) Any membership organization if—

(i) such organization is established before June 1, 1996, by a State exclusively to reimburse its members for losses arising under workmen's compensation acts,

(ii) such State requires that the membership of such organization consist of—

(I) all persons who issue insurance covering workmen's compensation losses in such State, and

(II) all persons and governmental entities who self-insure against such losses, and

(iii) such organization operates as a non-profit organization by—

(I) returning surplus income to its members or workmen's compensation policyholders on a periodic basis, and

(II) reducing initial premiums in anticipation of investment income.

(B) Any organization (including a mutual insurance company) if—

(i) such organization is created by State law and is organized and operated under State law exclusively to—

(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

(II) provide related coverage which is incidental to workmen's compensation insurance,

(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to the initial debt of such organization or by providing the initial operating capital of such organization, and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution or State law does not permit the dissolution of such organization, and

(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.

(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.

(29) CO-OP HEALTH INSURANCE ISSUERS.—

(A) IN GENERAL.—A qualified nonprofit health insurance issuer (within the meaning of section 1322 of the Patient Protection and Affordable Care Act) which has received a loan or grant under the CO-OP program under such section, but only with respect to periods for which the issuer is in compliance with the requirements of such section and any agreement with respect to the loan or grant.

(B) CONDITIONS FOR EXEMPTION.—Subparagraph (A) shall apply to an organization only if—

(i) the organization has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of its status under this paragraph,

(ii) except as provided in section 1322(c)(4) of the Patient Protection and Affordable Care Act, no part of the net earnings of which inures to the benefit of any private shareholder or individual,

(iii) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and

(iv) the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) RELIGIOUS AND APOSTOLIC ORGANIZATIONS.—The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes, if—

(1) such organization is organized and operated solely—

(A) to perform, on a centralized basis, one or more of the following services which, if performed on its own behalf by a hospital which is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption: data processing, purchasing (including the purchasing of insurance on a group basis), warehousing, billing and collection (including the purchase of patron accounts receivable on a recourse basis), food, clinical, industrial engineering, laboratory, printing, communications, record cen-

ter, and personnel (including selection, testing, training, and education of personnel) services; and

(B) to perform such services solely for two or more hospitals each of which is—

(i) an organization described in subsection (c)(3) which is exempt from taxation under subsection (a),

(ii) a constituent part of an organization described in subsection (c)(3) which is exempt from taxation under subsection (a) and which, if organized and operated as a separate entity, would constitute an organization described in subsection (c)(3), or

(iii) owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing;

(2) such organization is organized and operated on a cooperative basis and allocates or pays, within 8½ months after the close of its taxable year, all net earnings to patrons on the basis of services performed for them; and

(3) if such organization has capital stock, all of such stock outstanding is owned by its patrons.

For purposes of this title, any organization which, by reason of the preceding sentence, is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), shall be treated as a hospital and as an organization referred to in section 170(b)(1)(A)(iii).

(f) COOPERATIVE SERVICE ORGANIZATIONS OF OPERATING EDUCATIONAL ORGANIZATIONS.—For purposes of this title, if an organization is—

(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members,

(2) organized and controlled by one or more such members, and

(3) comprised solely of members that are organizations described in clause (ii) or (iv) of section 170(b)(1)(A)—

(A) which are exempt from taxation under subsection (a),

or

(B) the income of which is excluded from taxation under section 115,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

(g) DEFINITION OF AGRICULTURAL.—For purposes of subsection (c)(5), the term “agricultural” includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

(h) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the ac-

tivities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

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

(A) LOBBYING EXPENDITURES.—The term “lobbying expenditures” means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

(C) GRASS ROOTS EXPENDITURES.—The term “grass roots expenditures” means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

(3) ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

(A) is described in paragraph (4), and

(B) is not a disqualified organization under paragraph (5).

(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

(E) section 170(b)(1)(A)(ix) (relating to agricultural research organizations),

(F) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

(G) section 509(a)(3) (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, section 509(a)(3) shall be

- applied without regard to the last sentence of section 509(a).
- (5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3) an organization is a disqualified organization if it is—
- (A) described in section 170(b)(1)(A)(i) (relating to churches),
 - (B) an integrated auxiliary of a church or of a convention or association of churches, or
 - (C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).
- (6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—
- (A) end after the date the election is made, and
 - (B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).
- (7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—
- (A) such organization is a disqualified organization (within the meaning of paragraph (5)), or
 - (B) an election under this subsection is not in effect for such organization,
- nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,” under subsection (c)(3).
- (8) AFFILIATED ORGANIZATIONS.—For rules regarding affiliated organizations, see section 4911(f).
- (i) PROHIBITION OF DISCRIMINATION BY CERTAIN SOCIAL CLUBS.—Notwithstanding subsection (a), an organization which is described in subsection (c)(7) shall not be exempt from taxation under subsection (a) for any taxable year if, at any time during such taxable year, the charter, bylaws, or other governing instrument, of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion. The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to—
- (1) an auxiliary of a fraternal beneficiary society if such society—
 - (A) is described in subsection (c)(8) and exempt from tax under subsection (a), and
 - (B) limits its membership to the members of a particular religion, or
 - (2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.
- (j) SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.—

(1) IN GENERAL.—In the case of a qualified amateur sports organization—

(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

(2) QUALIFIED AMATEUR SPORTS ORGANIZATION DEFINED.—For purposes of this subsection, the term “qualified amateur sports organization” means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

(k) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term “educational purposes” includes the providing of care of children away from their homes if—

(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

(2) the services provided by the organization are available to the general public.

(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (C)(1).—For purposes of subsection (c)(1), the following organizations are described in this subsection:

(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

(2) The Resolution Trust Corporation established under section 21A¹ of the Federal Home Loan Bank Act.

(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act.

(4) The Patient-Centered Outcomes Research Institute established under section 1181(b) of the Social Security Act.

(m) CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE NOT EXEMPT FROM TAX.—

(1) DENIAL OF TAX EXEMPTION WHERE PROVIDING COMMERCIAL-TYPE INSURANCE IS SUBSTANTIAL PART OF ACTIVITIES.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

(2) OTHER ORGANIZATIONS TAXED AS INSURANCE COMPANIES ON INSURANCE BUSINESS.—In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an

insurance company for purposes of applying subchapter L with respect to such activity.

(3) COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the term “commercial-type insurance” shall not include—

(A) insurance provided at substantially below cost to a class of charitable recipients,

(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations,

(C) property or casualty insurance provided (directly or through an organization described in section 414(e)(3)(B)(ii)) by a church or convention or association of churches for such church or convention or association of churches,

(D) providing retirement or welfare benefits (or both) by a church or a convention or association of churches (directly or through an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii)) for the employees (including employees described in section 414(e)(3)(B)) of such church or convention or association of churches or the beneficiaries of such employees, and

(E) charitable gift annuities.

(4) INSURANCE INCLUDES ANNUITIES.—For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term “charitable gift annuity” means an annuity if—

(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property).

(n) CHARITABLE RISK POOLS.—

(1) IN GENERAL.—For purposes of this title—

(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

(B) subsection (m) shall not apply to a qualified charitable risk pool.

(2) QUALIFIED CHARITABLE RISK POOL.—For purposes of this subsection, the term “qualified charitable risk pool” means any organization—

(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

(C) which meets the organizational requirements of paragraph (3).

(3) ORGANIZATIONAL REQUIREMENTS.—An organization (hereinafter in this subsection referred to as the “risk pool”) meets the organizational requirements of this paragraph if—

(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

(C) such risk pool has obtained at least \$1,000,000 in startup capital from nonmember charitable organizations,

(D) such risk pool is controlled by a board of directors elected by its members, and

(E) the organizational documents of such risk pool require that—

(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (E)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

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

(A) STARTUP CAPITAL.—The term “startup capital” means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

(B) NONMEMBER CHARITABLE ORGANIZATION.—The term “nonmember charitable organization” means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.

(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1855(d) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any

person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.

(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

(ii) such Executive order refers to this subsection.

(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

(A) begins on the later of—

(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

(ii) the date of the enactment of this subsection, and

(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the

period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

(6) **ERRONEOUS DESIGNATION.**—

(A) **IN GENERAL.**—If—

(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

(B) **WAIVER OF LIMITATIONS.**—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including *res judicata*), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

(7) **NOTICE OF SUSPENSIONS.**—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(8) **APPLICATION TO TERRORIST SUPPORTING ORGANIZATIONS.**—

(A) **IN GENERAL.**—*For purposes of this subsection, in the case of any terrorist supporting organization—*

(i) such organization (and the designation of such organization under subparagraph (B)) shall be treated as described in paragraph (2), and

(ii) the period of suspension described in paragraph (3) with respect to such organization shall be treated as beginning on the date that the Secretary designates such organization under subparagraph (B) and ending on the date that the Secretary rescinds such designation under subparagraph (D).

(B) **TERRORIST SUPPORTING ORGANIZATION.**—*For purposes of this paragraph, the term “terrorist supporting organization” means any organization which is designated by the Secretary as having provided, during the 3-year period ending on the date of such designation, material support or resources (within the meaning of section 2339B of title 18, United States Code) to an organization described in paragraph (2) (determined after the application of this para-*

graph to such organization) in excess of a de minimis amount.

(C) DESIGNATION PROCEDURE.—

(i) **NOTICE REQUIREMENT.**—Prior to designating any organization as a terrorist supporting organization under subparagraph (B), the Secretary shall mail to the most recent mailing address provided by such organization on the organization's annual return or notice under section 6033 (or subsequent form indicating a change of address) a written notice which includes—

(I) a statement that the Secretary will designate such organization as a terrorist supporting organization unless the organization satisfies the requirements of subclause (I) or (II) of clause (i),

(II) the name of the organization or organizations with respect to which the Secretary has determined such organization provided material support or sources as described in subparagraph (B), and

(III) a description of such material support or resources to the extent consistent with national security and law enforcement interests.

(ii) **OPPORTUNITY TO CURE.**—In the case of any notice provided to an organization under clause (i), the Secretary shall, at the close of the 90-day period beginning on the date that such notice was sent, designate such organization as a terrorist supporting organization under subparagraph (B) if (and only if) such organization has not (during such period)—

(I) demonstrated to the satisfaction of the Secretary that such organization did not provide the material support or resources referred to in subparagraph (B), or

(II) made reasonable efforts to have such support or resources returned to such organization and certified in writing to the Secretary that such organization will not provide any further support or resources to organizations described in paragraph (2).

A certification under subclause (II) shall not be treated as valid if the organization making such certification has provided any other such certification during the preceding 5 years.

(D) RESCISSION.—The Secretary shall rescind a designation under subparagraph (B) if (and only if)—

(i) the Secretary determines that such designation was erroneous,

(ii) after the Secretary receives a written certification from an organization that such organization did not receive the notice described in subparagraph (C)(i)—

(I) the Secretary determines that it is reasonable to believe that such organization did not receive such notice, and

(II) such organization satisfies the requirements of subclause (I) or (II) of subparagraph (C)(ii) (de-

terminated after taking into account the last sentence thereof), or

(iii) the Secretary determines, with respect to all organizations to which the material support or resources referred to in subparagraph (B) were provided, the periods of suspension under paragraph (3) have ended.

A certification described in the matter preceding subclause (I) of clause (II) shall not be treated as valid if the organization making such certification has provided any other such certification during the preceding 5 years.

(E) ADMINISTRATIVE REVIEW BY INTERNAL REVENUE SERVICE INDEPENDENT OFFICE OF APPEALS.—In the case of the designation of an organization by the Secretary as a terrorist supporting organization under subparagraph (B), a dispute regarding such designation shall be subject to resolution by the Internal Revenue Service Independent Office of Appeals under section 7803(e) in the same manner as if such designation were made by the Internal Revenue Service and paragraph (5) of this subsection did not apply.

(F) JURISDICTION OF UNITED STATES COURTS.—Notwithstanding paragraph (5), the United States district courts shall have exclusive jurisdiction to review a final determination with respect to an organization's designation as a terrorist supporting organization under subparagraph (B). In the case of any such determination which was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act), such information may be submitted to the reviewing court ex parte and in camera. For purposes of this subparagraph, a determination with respect to an organization's designation as a terrorist supporting organization shall not fail to be treated as a final determination merely because such organization fails to utilize the dispute resolution process of the Internal Revenue Service Independent Office of Appeals provided under subparagraph (E).

(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

(A) The organization—

(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

(iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

(iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

(C) The organization establishes and implements a fee policy which—

(i) requires that any fees charged to a consumer for services are reasonable,

(ii) allows for the waiver of fees if the consumer is unable to pay, and

(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

(D) At all times the organization has a board of directors or other governing body—

(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

(E) The organization does not own more than 35 percent of—

(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

(2) ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (C)(3).—

(A) IN GENERAL.—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

(B) APPLICABLE PERCENTAGE.—

(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

(ii) TRANSITION RULE.—Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is—

(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

(II) 70 percent for the second such taxable year beginning after such date, and

(III) 60 percent for the third such taxable year beginning after such date.

(3) ADDITIONAL REQUIREMENT FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (C)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary

may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

(4) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

(A) CREDIT COUNSELING SERVICES.—The term “credit counseling services” means—

(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

(iii) a combination of the activities described in clauses (i) and (ii).

(B) DEBT MANAGEMENT PLAN SERVICES.—The term “debt management plan services” means services related to the repayment, consolidation, or restructuring of a consumer’s debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.

(r) ADDITIONAL REQUIREMENTS FOR CERTAIN HOSPITALS.—

(1) IN GENERAL.—A hospital organization to which this subsection applies shall not be treated as described in subsection

(c)(3) unless the organization—

(A) meets the community health needs assessment requirements described in paragraph (3),

(B) meets the financial assistance policy requirements described in paragraph (4),

(C) meets the requirements on charges described in paragraph (5), and

(D) meets the billing and collection requirement described in paragraph (6).

(2) HOSPITAL ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to—

(i) an organization which operates a facility which is required by a State to be licensed, registered, or similarly recognized as a hospital, and

(ii) any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection (c)(3) (determined without regard to this subsection).

(B) ORGANIZATIONS WITH MORE THAN 1 HOSPITAL FACILITY.—If a hospital organization operates more than 1 hospital facility—

(i) the organization shall meet the requirements of this subsection separately with respect to each such facility, and

(ii) the organization shall not be treated as described in subsection (c)(3) with respect to any such facility for which such requirements are not separately met.

(3) COMMUNITY HEALTH NEEDS ASSESSMENTS.—

- (A) IN GENERAL.—An organization meets the requirements of this paragraph with respect to any taxable year only if the organization—
- (i) has conducted a community health needs assessment which meets the requirements of subparagraph (B) in such taxable year or in either of the 2 taxable years immediately preceding such taxable year, and
 - (ii) has adopted an implementation strategy to meet the community health needs identified through such assessment.
- (B) COMMUNITY HEALTH NEEDS ASSESSMENT.—A community health needs assessment meets the requirements of this paragraph if such community health needs assessment—
- (i) takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health, and
 - (ii) is made widely available to the public.
- (4) FINANCIAL ASSISTANCE POLICY.—An organization meets the requirements of this paragraph if the organization establishes the following policies:
- (A) FINANCIAL ASSISTANCE POLICY.—A written financial assistance policy which includes—
- (i) eligibility criteria for financial assistance, and whether such assistance includes free or discounted care,
 - (ii) the basis for calculating amounts charged to patients,
 - (iii) the method for applying for financial assistance,
 - (iv) in the case of an organization which does not have a separate billing and collections policy, the actions the organization may take in the event of non-payment, including collections action and reporting to credit agencies, and
 - (v) measures to widely publicize the policy within the community to be served by the organization.
- (B) POLICY RELATING TO EMERGENCY MEDICAL CARE.—A written policy requiring the organization to provide, without discrimination, care for emergency medical conditions (within the meaning of section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals regardless of their eligibility under the financial assistance policy described in subparagraph (A).
- (5) LIMITATION ON CHARGES.—An organization meets the requirements of this paragraph if the organization—
- (A) limits amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the financial assistance policy described in paragraph (4)(A) to not more than the amounts generally billed to individuals who have insurance covering such care, and
 - (B) prohibits the use of gross charges.
- (6) BILLING AND COLLECTION REQUIREMENTS.—An organization meets the requirement of this paragraph only if the orga-

nization does not engage in extraordinary collection actions before the organization has made reasonable efforts to determine whether the individual is eligible for assistance under the financial assistance policy described in paragraph (4)(A).

(7) REGULATORY AUTHORITY.—The Secretary shall issue such regulations and guidance as may be necessary to carry out the provisions of this subsection, including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a financial assistance policy for purposes of paragraph (6).

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Subtitle F—Procedure and Administration

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CHAPTER 77—MISCELLANEOUS PROVISIONS

Sec. 7501. Liability for taxes withheld or collected.

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Sec. 7511. *Time for performing certain acts postponed for hostages and individuals wrongfully detained abroad.*

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SEC. 7511. TIME FOR PERFORMING CERTAIN ACTS POSTPONED FOR HOSTAGES AND INDIVIDUALS WRONGFULLY DETAINED ABROAD.

(a) *TIME TO BE DISREGARDED.*—

(1) *IN GENERAL.*—*The period during which an applicable individual was unlawfully or wrongfully detained abroad, or held hostage abroad, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such individual—*

(A) *whether any of the acts described in section 7508(a)(1) were performed within the time prescribed thereof (determined without regard to extension under any other provision of this subtitle for periods after the initial date (as determined by the Secretary) on which such individual was unlawfully or wrongfully detained abroad or held hostage abroad),*

(B) *the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and*

(C) *the amount of any credit or refund.*

(2) *APPLICATION TO SPOUSE.*—*The provisions of paragraph (1) shall apply to the spouse of any individual entitled to the benefits of such paragraph.*

(b) *APPLICABLE INDIVIDUAL.*—

(1) *IN GENERAL.*—*For purposes of this section, the term “applicable individual” means any individual who is—*

(A) *a United States national unlawfully or wrongfully detained abroad, as determined under section 302 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741), or*

(B) a United States national taken hostage abroad, as determined pursuant to the findings of the Hostage Recovery Fusion Cell (as described in section 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741b)).

(2) INFORMATION PROVIDED TO TREASURY.—For purposes of identifying individuals described in paragraph (1), not later than January 1, 2025, and annually thereafter—

(A) the Secretary of State shall provide the Secretary with a list of the individuals described in paragraph (1)(A), as well as any other information necessary to identify such individuals, and

(B) the Attorney General, acting through the Hostage Recovery Fusion Cell, shall provide the Secretary with a list of the individuals described in paragraph (1)(B), as well as any other information necessary to identify such individuals.

(c) MODIFICATION OF TREASURY DATABASES AND INFORMATION SYSTEMS.—The Secretary shall ensure that databases and information systems of the Department of the Treasury are updated as necessary to ensure that statute expiration dates, interest and penalty accrual, and collection activities are suspended consistent with the application of subsection (a).

(d) REFUND AND ABATEMENT OF PENALTIES AND FINES IMPOSED PRIOR TO IDENTIFICATION AS APPLICABLE INDIVIDUAL.—In the case of any applicable individual—

(1) for whom any interest, penalty, additional amount, or addition to the tax in respect to any tax liability for any taxable year ending during the period described in subsection (a)(1) was assessed or collected, and

(2) who was, subsequent to such assessment or collection, determined to be an individual described in subparagraph (A) or (B) of subsection (b)(1),

the Secretary shall abate any such assessment and refund any amount collected to such applicable individual in the same manner as any refund of an overpayment of tax under section 6402.

(e) REFUND AND ABATEMENT OF PENALTIES AND FINES PAID BY ELIGIBLE INDIVIDUALS WITH RESPECT TO PERIODS PRIOR TO DATE OF ENACTMENT OF THIS SECTION

(1) IN GENERAL

(A) ESTABLISHMENT Not later than January 1, 2025, the Secretary (in consultation with the Secretary of State and the Attorney General) shall establish a program to allow any eligible individual (or the spouse or any dependent (as defined in section 152) of such individual) to apply for a refund or an abatement of any amount described in paragraph (2) (including interest) to the extent such amount was attributable to the applicable period.

(B) IDENTIFICATION OF INDIVIDUALS Not later than January 1, 2025, the Secretary of State and the Attorney General, acting through the Hostage Recovery Fusion Cell (as described in section 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act (22 U.S.C. 1741b)), shall—

(i) compile a list, based on such information as is available, of individuals who were applicable individuals during the applicable period, and

(ii) provide the list described in clause (i) to the Secretary.

(C) *NOTICE* For purposes of carrying out the program described in subparagraph (A), the Secretary (in consultation with the Secretary of State and the Attorney General) shall, with respect to any individual identified under subparagraph (B), provide notice to such individual—

(i) in the case of an individual who has been released on or before the date of enactment of this subsection, not later than 90 days after the date of enactment of this subsection, or

(ii) in the case of an individual who is released after the date of enactment of this subsection, not later than 90 days after the date on which such individual is released,

that such individual may be eligible for a refund or an abatement of any amount described in paragraph (2) pursuant to the program described in subparagraph (A).

(D) *AUTHORIZATION*

(i) *IN GENERAL* Subject to clause (ii), in the case of any refund described in subparagraph (A), the Secretary shall issue such refund to the eligible individual in the same manner as any refund of an overpayment of tax.

(ii) *EXTENSION OF LIMITATION ON TIME FOR REFUND* With respect to any refund under subparagraph (A)—

(I) the 3-year period of limitation prescribed by section 6511(a) shall be extended until the end of the 1-year period beginning on the date that the notice described in subparagraph (C) is provided to the eligible individual, and

(II) any limitation under section 6511(b)(2) shall not apply.

(2) *ELIGIBLE INDIVIDUAL* For purposes of this subsection, the term “eligible individual” means any applicable individual who, for any taxable year ending during the applicable period, paid or incurred any interest, penalty, additional amount, or addition to the tax in respect to any tax liability for such year of such individual based on a determination that an act described in section 7508(a)(1) which was not performed by the time prescribed therefor (without regard to any extensions).

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

(A) beginning on January 1, 2021, and

(B) ending on the date of enactment of this subsection.

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