

**INTERNAL REVENUE SERVICE
RESTRUCTURING AND REFORM
ACT OF 1998**

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Outline of the Internal Revenue Service Restructuring and Reform Act of 1998

Title I - Reorganization of the Structure and Management of the IRS

1. IRS Restructuring.

1.1 *References and Effective Dates:*

- A. Section of Act: 1001
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

1.2 *Summary of Law:*

- A. The IRS is to be restructured by the Commissioner by replacing the existing three-tier geographic structure (National Office, Regional Offices, and District Offices) with an organizational structure that features operating units serving particular groups of taxpayers with similar needs.
- B. The restructuring is also to ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

2. IRS Revised Mission Statement

2.1 *References and Effective Dates:*

- A. Section of Act: 1002
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

2.2 *Summary of Law:*

- A. IRS must revise its mission statement to provide greater emphasis on:
 - (1) serving the public, and
 - (2) meeting the needs of taxpayers.

3. Office of Employee Plans and Exempt Organizations Eliminated.

3.1 *References and Effective Dates:*

- A. Section of Act: 1101
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7802

3.2 *Summary of Law:*

- A. To facilitate the reorganization of the IRS into operational units, the Reform Act eliminates the present-law statutory requirement contained in section 7802(b) of the Code that there be an "Office of Employee Plans and Exempt Organizations" under the supervision and direction of an Assistant Commissioner. This is accomplished by

merely leaving existing Code section 7802(b) out of the new Code §7802. Nothing in the Reform Act otherwise mentions the repeal of existing code §7802(b).

4. IRS Oversight Board.

4.1 References and Effective Dates:

- A. Section of Act: 1101(a) and (b)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7802 and 6103(h)

4.2 Summary of Law:

- A. Establishes the Internal Revenue Service Oversight Board within the Department of the Treasury.
- B. The nine-member Oversight Board will consist of the Secretary of Treasury or his delegate, the Commissioner, an individual who is a full-time Federal employee or a representative of the employees, and six "private-life" members who are not otherwise Federal officers or employees.
 - (1) The private-life members of the Board will be appointed by the President based solely on their expertise in the following areas: (1) management of large service organizations, (2) customer service, (3) the Federal tax laws, including tax administration and compliance, (4) information technology, (5) organization development, (6) the needs and concerns of taxpayers, and (7) the needs and concerns of small business.
 - (2) The private live members will be paid \$30,000 per year plus travel expenses, will serve for no more than two 5-year terms, and will be prohibited from representing anyone before the IRS during their term of services.
 - (3) The Board will meet at least quarterly, and more often as determined by the chairperson of the board.
- C. The Oversight Board does not have any responsibilities or authority with respect to:
 - (1) The development and formulation of federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,
 - (2) Specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,
 - (3) Specific procurement activities of the Internal Revenue Service, or
 - (4) Specific personnel actions.
- D. The Oversight Board will have authority and responsibility to:
 - (1) Review and approve strategic plans of the IRS including, mission, objectives, standards of performance, and annual and long-range strategic plans.
 - (2) Review the operational functions of the IRS, including, modernization of the tax system, outsourcing or managed competition, training and education.
 - (3) Recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,
 - (4) Review the Commissioner's selection, evaluation, and compensation of IRS senior executives who have program management responsibility over significant functions of the IRS, and

- (5) Review and approve the Commissioner's plans for any major reorganization of the IRS.
- (6) Review and approve the budget request of the IRS prepared by the Commissioner,
- (7) Ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

5. Appointment of Commissioner.

5.1 References and Effective Dates:

- A. Section of Act: 1102(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7803(a)

5.2 Summary of Law:

- A. The Commissioner will be appointed by the President, with the advice and consent of the Senate, for an unlimited number of 5-year terms, and may be removed at will by the President.
- B. The Reform act requires that the Commissioner have a demonstrated ability in management.

6. Appointment of IRS Chief Counsel.

6.1 References and Effective Dates:

- A. Section of Act: 1102(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7803(b)

6.2 Summary of Law:

- A. The IRS Chief Counsel is no longer an Assistant General Counsel of the Treasury.
- B. The IRS Chief Counsel will now generally report to the Commissioner, with two exceptions.
 - (1) First, the IRS Chief Counsel will report to both the Commissioner and the Treasury General Counsel with respect to legal advice or interpretation of the tax law not relating solely to tax policy and tax litigation.
 - (2) Second, the IRS Chief Counsel will report only to the Treasury General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

7. National Taxpayer Advocate.

7.1 References and Effective Dates:

- A. Section of Act: 1102(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7803(c)

7.2 Summary of Law:

- A. The Office of Taxpayer Advocate (created in 1996 to replace the Office of Taxpayer Ombudsman, which was created in 1979) is replaced by the Office of "National Taxpayer Advocate."

- B. The National Taxpayer Advocate will be appointed by the Secretary of the Treasury after consultation with the Commissioner and the Board. (The old Taxpayer Advocate was appointed by the Commissioner.)
- C. An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the IRS during the 2-year period before such appointment and such individual agrees not to accept any employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate.
- D. The National Taxpayer Advocate shall:
 - (1) assist taxpayers in resolving problems with the IRS,
 - (2) identify areas in which taxpayers have problems in dealings with the IRS,
 - (3) Propose changes in the administrative practices of the IRS to mitigate identified problems,
 - (4) Identify potential legislative changes which may be appropriate to mitigate such problems.
- E. The annual reports to Congress to be filed by the National Taxpayer Advocate are expanded to include:
 - (1) A list of areas of the tax law that impose significant compliance burdens on taxpayers or the IRS, including specific recommendations for remedying such problems; and
 - (2) A list of the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes.
- F. The National Taxpayer Advocate shall also replace the existing problem resolution system with a system of local Taxpayer Advocates who report directly to the National Taxpayer Advocate.
 - (1) The local Taxpayer Advocates will be independent of the IRS examination, collection, and appeals functions.
 - (2) Each local office of the Taxpayer Advocate is to maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address, all of which are to be published for public information.
 - (3) The National Taxpayer Advocate is required to develop a career path for Taxpayer Advocates within the Office of Taxpayer Advocate.

8. Expansion of Taxpayer Assistance Orders.

8.1 References and Effective Dates:

- A. Section of Act: 1102(c)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7811(a)

8.2 Summary of Law:

- A. The Reform Act expands the circumstances under which a Taxpayer Assistance Order may be issued by expanding the current regulatory definition of "significant hardship" to legislatively include:
 - (1) An immediate threat of adverse action,
 - (2) A delay of more than 30 days in resolving taxpayer account problems,
 - (3) The incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted, or

- (4) Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.
- (5) If any IRS employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.

9. Treasury Office of Inspector General for Tax Administration.

9.1 References and Effective Dates:

- A. Section of Act: 1102(a) and 1103(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7803(d). Also Section 2 of the Inspector General Act of 1978.

9.2 Summary of Law:

- A. A new, independent Treasury Inspector General (IG) for Tax Administration is established within the Treasury Department.
- B. The IRS Office of the Chief Inspector is eliminated, and all of its powers and responsibilities are transferred to the Treasury IG for Tax Administration.
- C. The Treasury IG for Tax Administration is charged with:
 - (1) Conducting audits, investigations, and evaluations of IRS programs and operations (including the Oversight Board) to promote the economic, efficient and effective administration of the nation's tax laws and to detect and deter fraud and abuse in IRS programs and operations.
 - (2) Investigating allegations of criminal misconduct (e.g., Code sections 7212, 7213, 7214, 7216 and new section 7217), as well as administrative misconduct (e.g., violations of the Taxpayer Bill of Rights and the Taxpayer Bill of Rights 2, the Office of Government Ethics Standards of Ethical Conduct and the IRS Supplemental Standards of Ethical Conduct).
 - (3) Implementing a program periodically to audit at least one percent of all determinations (identified through a random selection process) where the IRS has asserted either section 6103 (directly or in connection with the Freedom of Information Act or the Privacy Act) or law enforcement considerations (i.e., executive privilege) as a rationale for refusing to disclose requested information.

10. Prohibition on Executive Branch Influence Over Taxpayer Audits.

10.1 References and Effective Dates:

- A. Section of Act: 1105
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7217

10.2 Summary of Law:

- A. It is now a crime for the President, the Vice President, employees of the Executive Offices of the President or the Vice President, as well as any individual (other than the Attorney General) serving in a Cabinet-level position to request that any officer or employee of the IRS conduct or terminate an audit or otherwise investigate or terminate the investigation of any particular taxpayer with respect to the tax liability of that taxpayer.
- B. Anyone convicted of violating this provision is punishable by imprisonment of not more than five years or a fine not exceeding \$5,000, (or both).

11. IRS Personnel Rules.

11.1 *References and Effective Dates:*

- A. Section of Act: 1201 through 1205
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

11.2 *Summary of Law:*

- A. Adds and revises provisions regarding employment by the IRS. The two most important provisions to taxpayers interacting with the IRS are:

(1) Act section 1203 allows the Commissioner of Internal Revenue to terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed, in the performance of the employee's official duties, any of the following acts or omissions:

- a. Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;
- b. Providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;
- c. With respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of: any right under the Constitution of the United States; or any civil right established under: Title VI or VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the Age Discrimination in Employment Act of 1967; the Age Discrimination Act of 1975; section 501 or 504 of the Rehabilitation Act of 1973; or Title I of the Americans with Disabilities Act of 1990;
- d. Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;
- e. Assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;
- f. Violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;
- g. Willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry,
- h. Willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,
- i. Willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and
- j. Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

- (2) Act section 1204 which provides, with respect to evaluation of IRS employees that:
- a. The IRS shall not use records of tax enforcement results to:
 - evaluate employees; or
 - impose or suggest production quotas or goals with respect to such employees.
 - b. The IRS shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.
 - c. Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by the Act.

Title II -- Electronic Filing

12. Electronic Filing of Tax and Information Returns.

12.1 *References and Effective Dates:*

- A. Section of Act: 2001
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6011(f)

12.2 *Summary of Law:*

- A. Sets forth a policy to promote paperless filing, with a long-range goal of providing for the filing of at least 80 percent of all tax returns in electronic form by the year 2007 and, to the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.
- B. Creates an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

13. Extended due Date for Electronic filing of Information Returns.

13.1 *References and Effective Dates:*

- A. Section of Act: 2002
- B. Effective Date: Information returns required to be filed after December 31, 1999.
- C. IRC Sections: 6071(b)

13.2 *Summary of Law:*

- A. Provides an incentive to filers of information returns to use electronic filing by extending the due date for filing such returns with the IRS from February 28 (under present law) to March 31 of the year following the calendar year to which the return relates.

14. Paperless Electronic Filing and Internet Access.

14.1 *References and Effective Dates:*

- A. Section of Act: 2003
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6061 and 7502(c)

14.2 *Summary of Law:*

- A. To facilitate the filing of electronic returns, the Secretary is required to develop procedures that will eliminate the need to file a paper form relating to signature information.
- B. The Secretary will have to establish procedures, to the extent practicable, to receive all forms electronically for taxable periods beginning after December 31, 1999.
- C. For taxable periods beginning after December 31, 1998, the Secretary shall establish procedures for all tax forms, instructions, and publications created in the most recent 5- year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form.
- D. The Secretary shall establish procedures for any taxpayer to authorize, on an elec-

tronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 to the preparer of the return.

15. Return-Free Tax System.

15.1 References and Effective Dates:

- A. Section of Act: 2004
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

15.2 Summary of Law:

- A. The Reform Act requires that the Secretary study the feasibility of, and develop procedures for, the implementation of a return-free tax system for appropriate individuals for taxable years beginning after 2007.

16. Access to Account Information.

16.1 References and Effective Dates:

- A. Section of Act: 2005
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

16.2 Summary of Law:

- A. Under the Reform Act, the Secretary is required to develop procedures not later than December 31, 2006, under which a taxpayer filing returns electronically could review the taxpayer's own account electronically, but only if all necessary privacy safeguards are in place by that date.

Title III -- Taxpayer Rights and Protections - Taxpayer Bill of Rights 3.

17. Burden of Proof.

17.1 *References and Effective Dates:*

- A. Section of Act: 3001
- B. Effective Date: Applies to court proceedings arising in connection with examinations commencing after July 22, 1998. In any case in which there is no examination, applies to court proceedings arising in connection with taxable periods or events beginning or occurring after July 22, 1998
- C. IRC Sections: 7491

17.2 *Summary of Law:*

- A. The Act shifts the burden of persuasion, (but not the burden of production), to the IRS:
 - (1) for any tax imposed by subtitle A or B of the Code (includes income, estate, gift and generation skipping transfer taxes);
 - (2) in any court proceeding,
 - (3) with respect to a factual issue.
 - (4) If the taxpayer:
 - a. introduces credible evidence with respect to the factual issue relevant to ascertaining the taxpayer's tax liability.
 - Credible evidence is the quality of evidence which, after critical analysis, the court would find sufficient upon which to base a decision on the issue if no contrary evidence were submitted (without regard to the judicial presumption of IRS correctness).
 - A taxpayer has not produced credible evidence for these purposes if the taxpayer merely makes implausible factual assertions, frivolous claims, or tax protester-type arguments.
 - The introduction of evidence will not meet this standard if the court is not convinced that it is worthy of belief. See Quock Ting v. United States, 140 U.S. 417 (1891).
 - b. Has complied with the requirements under the Code for substantiation of any item,
 - c. Has maintained all records required under the Code,
 - d. Has cooperated with reasonable requests by the IRS for witnesses, information, documents, meetings, and interviews
 - A necessary element of fully cooperating with the IRS is that the taxpayer must exhaust his or her administrative remedies (including any appeal rights provided by the IRS).
 - The taxpayer is not required to agree to extend the statute of limitations to be considered to have fully cooperated with the IRS.
- B. The taxpayer has the burden of proving compliance with the foregoing criteria.
- C. The burden of proof rule applies to a partnership, corporation, or trust, only if the entity meets the criteria of IRC section 7430(c)(4)(A)(ii), which specifies net worth limita-

tions that apply for awarding attorney's fees. In general, corporations, trusts, and partnerships whose net worth exceeds \$7 million are not eligible for the benefits of the provision.

- D. The new burden of proof rule does not apply to any issue if any other provision of the Code provides for a specific burden of proof with respect to such issue. For example, the IRS will continue to have the burden of production and the burden of persuasion with regard to imposition of the fraud penalty.
- E. For individual taxpayers, the IRS will have the burden of production and the burden of persuasion in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.
- F. The IRS will have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by the Code.

18. Expansion of Authority to Award Costs and Certain Fees.

18.1 *References and Effective Dates:*

- A. Section of Act: 3101
- B. Effective Date: Costs incurred and services performed more than 180 days after July 22, 1998.
- C. IRC Sections: 7430(c) and 7431

18.2 *Summary of Law:*

- A. Changes with regard to amount of fees and costs:
 - (1) Administrative costs can be awarded as of the date of the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review by IRS Appeals.
 - (2) The hourly rate cap for attorneys' fees is raised to \$125 per hour and remains indexed for inflation.
 - (3) An award can exceed the hourly rate cap based on "the difficulty of the issues presented in the case, or the local availability of tax expertise".
 - (4) Fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.
 - (5) The court may award reasonable attorneys fees in excess of the attorneys fees paid or incurred if such fees are less than a reasonable amount for attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee.
- B. For purposes of determining whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.
- C. A party shall be treated as a "prevailing party" if the liability of the taxpayer determined by the court (without regard to interest) is equal to or less than the amount set forth in a qualified offer of the party.
 - (1) A "qualified offer" is a:
 - a. written offer
 - b. made by the taxpayer to the United States during the qualified offer period;

- c. specifying the offered amount of the taxpayer's liability (without regard to interest);
 - d. designated at the time it is made as a qualified offer for purposes of this section, and
 - e. remaining open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.
- (2) "Qualified offer period" means the period:
- a. beginning on the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and
 - b. ending on the date which is 30 days before the date the case is first set for trial.
- (3) An award under the "qualified offer" provision can include only reasonable administrative and litigation costs incurred on and after the date of the qualified offer.
- (4) The "qualified offer" provision does not apply to:
- a. a party that is a prevailing party under any other provision of the IRC §7430(c)(4).
 - b. any judgment issued pursuant to a settlement,
 - c. any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

19. Civil Damages for Collection Actions.

19.1 *References and Effective Dates:*

- A. Section of Act: 3102
- B. Effective Date: Applies to actions of officers or employees of the Internal Revenue Service after July 22, 1998
- C. IRC Sections: 7433

19.2 *Summary of Law:*

- A. The Reform Act permits up to \$100,000 in civil damages caused by an officer or employee of the IRS who negligently disregards provisions of the Code or Treasury regulations in connection with the collection of Federal tax with respect to the taxpayer.
- B. The Reform permits up to \$1 million in civil damages caused by an officer or employee of the IRS who willfully violates provisions of the Bankruptcy Code relating to automatic stays or discharges.
- C. The Reform Act allows persons other than a taxpayer to recover for civil damages for negligent (up to \$100,000), reckless (up to \$1 million), or intentional (up to \$1 million) disregard of the provisions of the Code or regulations by and officer or employee of the IRS in connection with the collection of Federal tax

20. Increase in Size of Cases Permitted on Small Case Calendar.

20.1 *References and Effective Dates:*

- A. Section of Act: 3103
- B. Effective Date: Applies to proceedings commenced after July 22, 1998.
- C. IRC Sections: 7463

20.2 Summary of Law:

- A. The Reform Act increases the maximum amount for small case treatment in the Tax Court from \$10,000 to \$50,000.

21. Refund Actions by Estates Electing the Installment Method of Payment.

21.1 References and Effective Dates:

- A. Section of Act: 3104
- B. Effective Date: Applies to any claim for refund filed after the date of the enactment of this Act
- C. IRC Sections: 7422 and 7479

21.2 Summary of Law:

- A. The Reform Act grants the U.S. Court of Federal Claims and the U.S. district courts jurisdiction to determine the correct amount of estate tax liability (or refund) in refund actions brought by estates that have elected to pay an administratively determined deficiency by installments even though the full amount of the deficiency has not yet been paid.
- B. An estate can file an action for determination or refund under this new provision if, as of the date the action is filed:
 - (1) no portion of the installments payable under section 6166 have been accelerated,
 - (2) all such installments the due date for which is on or before the date the action is filed have been paid,
 - (3) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired, and
 - (4) no proceeding for declaratory judgment under section 7479 is pending.
- C. The Reform Act provides that once a final judgment has been entered by a district court or the U.S. Court of Federal Claims, the IRS will not be permitted to collect any amount disallowed by the court, and any amounts paid by the taxpayer in excess of the amount the court finds to be currently due and payable is to be refunded to the taxpayer, with interest.
- D. The two-year statute of limitations for filing a refund action is suspended during the pendency of any action brought by a taxpayer pursuant to section 7479 for a declaratory judgment as to an estate's eligibility for section 6166

22. Review of Adverse IRS Determination of a Bond Issue's Tax-Exempt Status.

22.1 References and Effective Dates:

- A. Section of Act: 3105
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

22.2 Summary of Law:

- A. The Reform Act directs the IRS to modify its administrative procedures to allow tax-

exempt bond issuers examined by the IRS to appeal adverse examination determinations to the Appeals Division of the IRS as a matter of right.

23. Tax Liens - Right to Substitute Value for Release of Lien

23.1 References and Effective Dates:

- A. Section of Act: 3106(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6325(b)

23.2 Summary of Law:

- A. The IRS must issue a certificate of discharge of property from a federal tax lien upon the request of the owner of the property if:
 - (1) The owner is not the taxpayer whose tax liability gave rise to the lien; and
 - (2) The owner either:
 - a. Deposits with the IRS an amount equal to the value of the interest of the United States (as determined by the IRS) in the property, or
 - b. Furnishes a bond acceptable to the IRS in a like amount.
- B. The IRS must refund the amount deposited (with interest), or release the bond, to the extent that the IRS determines that:
 - (1) The unsatisfied liability giving rise to the lien can be satisfied from a source other than such property, or
 - (2) The value of the interest of the United States in the property is less than the IRS's prior determination of such value.
- C. If no action is filed under section 7426(a)(4) within the period prescribed therefor, the IRS shall, within 60 days after the expiration of such period:
 - (1) Apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien, and
 - (2) Refund (with interest) any portion of the amount deposited which is not used to satisfy such liability.

24. Civil Action for Release of Erroneous Lien.

24.1 References and Effective Dates:

- A. Section of Act: 3106(b)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7426

24.2 Summary of Law:

- A. A property owner who obtains a certificate of discharge by depositing cash or providing a bond under IRC §6325(b) may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the IRS. No other action may be brought by such person for such a determination.
- B. If the court determines that the IRS's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the

amounts thereof exceeds such value determined by the court.

25. Relief for Innocent Spouses - Overview of New Rules.

25.1 References and Effective Dates:

- A. Section of Act: 3201
- B. Effective Date: July 22, 1998 but see special rules below.
- C. IRC Sections: 6015, and repeal of 6013(e).

25.2 Summary of Law:

- A. The Reform Act repeals the existing innocent spouse provision under IRC §6013(e) and replaces it with a more lenient general innocent spouse rule and an apportionment of liability rule.
- B. Act section 3201(a) enacts IRC §6015:
 - (1) IRC §6015(a) states that an individual who has made a joint return may elect to seek relief under IRC §6015(b) (the more lenient general innocent spouse rule) and may also seek relief under IRC §6015(c) (the apportionment rule).
 - (2) IRC §6015(b) contains the new general innocent spouse rule.
 - (3) IRC §6015(c) contains the new apportionment of liability rules.
 - (4) IRC §6015(d) contains rules for allocating the joint liability to each spouse under the new apportionment rule.
 - (5) IRC §6015(e) contains procedural rules.
 - (6) IRC §6015(f) gives the IRS authority to grant innocent spouse relief on equitable grounds even if such spouse can't qualify under the new rules.
 - (7) IRC 6015(g) directs the IRS to prescribe regulations, including regulations providing the non-electing spouse with notice of an election filed by the other spouse and an opportunity to participate in any administrative proceeding with respect to the election.
- C. Act section 3201(b) enacts comparable rules under IRC §66.
- D. Act section 3201(c) directs the IRS to develop a separate form with instructions for use by taxpayers applying for relief under IRC §6015 within 180 days of the enactment date.
- E. Act section 3201(d) directs the IRS to send separate notices relating to joint returns to each individual.
- F. Act section 3201(e) repeals IRC 6013(e).
- G. Act section 3201(f) contains clerical amendments.
- H. Act section 3201(g) contains the effective dates.

26. Relief for Innocent Spouses - More Lenient General Rule.

26.1 References and Effective Dates:

- A. Section of Act: 3201(a) and 3201(e)
- B. Effective Date: July 22, 1998 but see special rules below.
- C. IRC Sections: 6015(a) and (b), repeal of 6013(e).

26.2 Summary of Law:

- A. New IRC §6015(b) replaces existing IRC §6013(e) and makes the following changes

to the general innocent spouse rule:

- (1) A taxpayer can now apply for innocent spouse status for any understatement. (Section 6013(e) required that the understatement exceed \$500.)
 - (2) The understatement need not be attributable to a "grossly" erroneous item, any erroneous item is now sufficient, and;
 - (3) The "specified percentage of income" rule that applied to an understatement attributable to a deduction has been eliminated.
- B. Section 6015(b) also allows for partial relief if the taxpayer fails the innocent spouse criteria solely because he or she had knowledge, or had a reason to know, that there was an understatement, if the taxpayer can show that he or she did not know or have reason to know the extent of the understatement.
- (1) In such a case, innocent spouse relief is available for the portion of the understatement of which the taxpayer did not know and had no reason to know.
- C. The innocent spouse relief afforded by new IRC 6015(b) is claimed by making an election within 2 years after the date the IRS has begun collection activities against the spouse claiming the relief.

27. Relief for Innocent Spouses - Election for Apportioned Liability.

27.1 References and Effective Dates:

- A. Section of Act: 3201(a)
- B. Effective Date: July 22, 1998. But see special rule below.
- C. IRC Sections: 6015(a), 6015(c), and 6015(d).

27.2 Summary of Law:

- A. An "eligible individual" can elect to limit his or her liability for a deficiency assessed with respect to a joint return to "the portion of such deficiency properly allocable to the individual".
- B. The individual making the election has the burden of proving the portion of any deficiency allocable to such individual.
- C. An "eligible individual" includes only individuals who, at the time of making the election:
 - (1) are no longer married to, or are legally separated from, the other person on the joint return, or
 - (2) have not been a member of the same household as the other person on the joint return for the previous 12 months.
- D. The election must be made no later than 2 years after the date on which the IRS begins collection activities against the individual making the election.
- E. Exception - Fraudulent transfers: The election is not valid if the IRS demonstrates that assets were transferred between the individuals filing the joint return as part of a fraudulent scheme by those individuals.
- F. Exception - Actual Knowledge: The election is not valid for any deficiency or portion of deficiency not otherwise allocable to the electing individual if the IRS demonstrates that the electing individual had actual knowledge at the time of signing the return of any item giving rise to such deficiency or such portion of the deficiency, unless the electing individual establishes that he or she signed the return under duress.
- G. Exception - Non-Fraudulent Transfers of Property: An electing individual will nevertheless be liable for any portion of a deficiency not otherwise allocable to the electing

individual to the extent of the value of any “disqualified assets” transferred to the electing individual.

- (1) “Disqualified Assets” means:
 - a. property or rights to property
 - b. transferred to the individual making the election
 - c. by the other individual on the joint return
 - d. if the principal purpose of the transfer was
 - the avoidance of tax, or
 - the payment of tax

- (2) A transfer will be presumed to have had a principal purpose of avoidance of tax or avoidance of payment of tax if:
 - a. the transfer was made within one year before
 - b. the date of the first letter of proposed deficiency
 - c. that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.

- (3) The presumption does not apply to:
 - a. transfers made pursuant to a decree of divorce, decree of separate maintenance, or written instrument incident to such decrees, or
 - b. any transfer which an individual establishes did not have a principal purpose of avoidance of tax or avoidance of payment of tax.

28. Relief for Innocent Spouses - Allocation Rules.

28.1 References and Effective Dates:

- A. Section of Act: 3201(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6015(d)

28.2 Summary of Law:

- A. General rule - the portion of any deficiency on a joint return allocable to an individual equals:
 - (1) the amount of the deficiency multiplied by
 - (2) the net amount of items taken into account in computing the deficiency that are allocable to the individual divided by the net amount of items taken into account in computing the deficiency.

- B. Special rules apply for allocation of credits and taxes other than taxes under sections 1 or 55 of the Code.

- C. Generally, the net amount of items allocable to an individual is determined in the same manner that the items would have been allocated if the individuals had filed separate returns, with exceptions for tax benefit items or items due to fraud of either or both parties to the joint return.

29. Relief for Innocent Spouses - Tax Court Jurisdiction.

29.1 References and Effective Dates:

- A. Section of Act: 3201(a)

- B. Effective Date: July 22, 1998
- C. IRC Sections: 6015(e)

29.2 Summary of Law:

- A. The Tax Court has jurisdiction over disputes involving elections under the general innocent spouse rule (IRC §6015(b) elections) or the apportionment of liability rule (IRC §6015(c).
- B. The petition must be filed within 90 days after the IRS sends, by certified or registered mail, a notice to the individual of the IRS's determination of the relief available to the individual.
- C. A petition can also be filed at any time after the date that is 6 months after the date of filing the election if the IRS has not sent the required determination.
- D. The Tax Court will lose jurisdiction to whatever extent jurisdiction is acquired by a district court or the court of claims over taxable years that are the subject of a refund action in such courts, and such court will then acquire jurisdiction over the petition that was filed in the Tax Court.
- E. The Tax Court is directed to establish rules that will provide the other individual to the joint return with adequate notice and an opportunity to become a party to the Tax court proceeding involving the electing spouse.

30. Relief for Innocent Spouses - Restrictions on Collection of Assessment.

30.1 References and Effective Dates:

- A. Section of Act: 3201(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6015(e)(1)(b)

30.2 Summary of Law:

- A. Except for jeopardy and termination assessments, the IRS is prohibited from attempting to collect any assessment against an individual who has made an election for innocent spouse relief under either IRC §6015(b) or §6015(c):
 - (1) Until the expiration of the 90-day period following the mailing, by certified or registered mail, of the IRS's determination with respect to the election, or
 - (2) if a petition has been filed with the Tax court, until the decision of the Tax Court has become final.
- B. Notwithstanding the anti-injunction provisions of IRC §7421(a), a district court or the Tax Court can enjoin the IRS from attempting to collect a deficiency while the prohibition on collection is in effect.
- C. The statute of limitations on collection is suspended for the period during which the IRS is prohibited from taking collection action, and for 60 days thereafter.

31. Relief for Innocent Spouses - Equitable Relief.

31.1 References and Effective Dates:

- A. Section of Act: 3201(a)
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6015(f)

31.2 Summary of Law:

- A. IRC §6015(f) authorizes the IRS to grant innocent spouse relief even if the individual

applying for such relief does not qualify under either §6015(b) or §6015(c).

- B. The conference committee reports states that such equitable relief applies to cases where the liability is based on an amount of tax shown on a return but not paid in addition to any other situations where it is inequitable to hold the electing individual liable for the amount in dispute.

32. Relief for Innocent Spouses - Special Rules for Effective Date.

32.1 References and Effective Dates:

- A. Section of Act: 3201(g)
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

32.2 Summary of Law:

- A. The new rules apply to:
 - (1) any liability for tax arising after the date enactment, and
 - (2) any liability for tax arising on or before July 22, 1998 but remaining unpaid as of July 22, 1998.
- B. The 2-year period for making an election does not begin to run until the date of the first collection activity occurring after July 22, 1998.

33. Suspension of Statute of Limitations on Filing Refund Claims during Periods of Disability.

33.1 References and Effective Dates:

- A. Section of Act: 3201
- B. Effective Date: Applies to periods of disability before, on, or after July 22, 1998 but does not apply to any claim for refund or credit that (without regard to the provision) is barred by the operation of any law, including the statute of limitations, as of July 22, 1998.
- C. IRC Sections: 6511(h)

33.2 Summary of Law:

- A. The Reform Act permits equitable tolling of the statute of limitations for refund claims of an individual taxpayer during any period of the individual's life in which he or she is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than 12 months.
- B. Tolling does not apply during periods in which the taxpayer's spouse or another person is authorized to act on the taxpayer's behalf in financial matters.

34. Elimination of Interest Differential on Overlapping Periods of Interest on Income Tax Overpayments and Underpayments.

34.1 References and Effective Dates:

- A. Section of Act: 3301
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6621(d)

34.2 Summary of Law:

- A. The Reform Act establishes a net interest rate of zero when interest is payable and allowable on equivalent amounts of overpayment and underpayment of any taxes imposed by the Code that exist for any period.
- B. The provision applies to interest for periods beginning before July 22, 1998 if: (1) the statute of limitations has not expired with respect to either the underpayment or overpayment, (2) the taxpayer identifies the periods of underpayment and overpayment for which the zero rate applies, and (3) on or before December 31, 1999, the taxpayer asks the Secretary to apply the zero rate.

35. Increase in Overpayment Rate Payable to Taxpayers Other than Corporations.

35.1 References and Effective Dates:

- A. Section of Act: 3302
- B. Effective Date: Applies to interest for the second and succeeding calendar quarters beginning after July 22, 1998
- C. IRC Sections: 6621(a)(1)(B)

35.2 Summary of Law:

- A. The Reform Act increases the overpayment interest rate from the existing two percentage points above the applicable Federal rate (AFR) to three percentage points above the AFR.
- B. The overpayment rate for corporations remains at the AFR plus two percentage points.

36. Mitigation of Penalty for Individual's Failure to Pay during Period of Installment Agreement.

36.1 References and Effective Dates:

- A. Section of Act: 3303
- B. Effective Date: Applies for purposes of determining additions to the tax for months beginning after December 31, 1999.
- C. IRC Sections: 6651(h).

36.2 Summary of Law:

- A. The Reform Act provides that the penalty for failure to pay taxes is one half of the usual rate (.25 percent instead of .50 percent) imposed with respect to the tax liability of an individual for any month in which an installment payment agreement with the IRS is in effect.
- B. The reduced rate of penalty applies only if the return was timely filed.

37. Mitigation of Failure to Deposit Penalty for Payroll Taxes.

37.1 References and Effective Dates:

- A. Section of Act: 3304
- B. Effective Date: Applies to deposits required to be made after the 180th day after July 22, 1998 (i.e. January 18, 1999) of this Act.
- C. IRC Sections: 6656(e) and 6656(c)(2)

37.2 Summary of Law:

- A. The Reform Act allows the taxpayer to designate the period to which each deposit of

payroll taxes is to be applied.

- B. The designation must be made within 90 days after the date of a notice that a payroll deposit penalty has been imposed for the specified tax period to which the deposit relates.
- C. The provision also extends the authorization to waive the failure to deposit penalty to the first deposit a taxpayer is required to make after the taxpayer is required to change the frequency of the taxpayer's deposits.
- D. For deposits required to be made after December 31, 2001, any deposit is to be applied to the most recent period to which the deposit relates, unless the taxpayer explicitly designates otherwise.

38. Suspension of Interest and Certain Penalties if the Secretary Fails to Contact Individual Taxpayer.

38.1 References and Effective Dates:

- A. Section of Act: 3305
- B. Effective Date: Applies to taxable years ending after July 22, 1998
- C. IRC Sections: None

38.2 Summary of Law:

- A. The Reform Act suspends the accrual of penalties and interest after 1 year if the IRS has not sent the taxpayer a notice of deficiency within 1 year following the date which is the later of (1) the original due date of the return or (2) the date on which the individual taxpayer timely filed the return.
- B. With respect to taxable years beginning before January 1, 2004, the 1-year period is increased to 18 months.
- C. The suspension only applies to taxpayers who file a timely tax return.
- D. The suspension applies only to individuals and does not apply to the failure to pay penalty, in the case of fraud, or with respect to criminal penalties.
- E. Interest and penalties resume 21 days after the IRS sends a notice and demand for payment to the taxpayer.

39. Procedural Requirements for Imposition of Penalties and Additions to Tax.

39.1 References and Effective Dates:

- A. Section of Act: 3306
- B. Effective Date: Applies to notices issued, and penalties assessed, after December 31, 2000.
- C. IRC Sections: 6751

39.2 Summary of Law:

- A. The Reform Act requires that each notice imposing a penalty include the penalty name, the Code section imposing the penalty, and a computation of the penalty.
- B. Penalties under the Code cannot be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate, except for:
 - (1) any addition to tax under section 6651, 6654, or 6655, (the failure to file penalties, failure to pay penalties, and failure to pay estimated tax penalty), or

(2) any other penalty automatically calculated through electronic means.

40. Personal Delivery of Notice of Penalty under Section 6672.

40.1 References and Effective Dates:

- A. Section of Act: 3307
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6672(b)(1)

40.2 Summary of Law:

- A. The Reform Act permits in-person delivery, as an alternative to delivery by mail, of a preliminary notice that the IRS intends to assess a 100-percent penalty.

41. Notice of Interest Charges.

41.1 References and Effective Dates:

- A. Section of Act: 3308
- B. Effective Date: Applies to notices issued after December 31, 2000.
- C. IRC Sections: 6631

41.2 Summary of Law:

- A. The Reform Act requires every IRS notice that includes an amount of interest required to be paid by the taxpayer that is sent to an individual taxpayer to include a detailed computation of the interest charged and a citation to the Code section under which such interest is imposed.

42. Abatement of Interest on Underpayments by Taxpayers in Presidentially Declared Disaster Areas.

42.1 References and Effective Dates:

- A. Section of Act: 3309
- B. Effective Date: Applies to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.
- C. IRC Sections: 6404(h)

42.2 Summary of Law:

- A. The Reform Act provides that taxpayers located in a Presidentially declared disaster area will not have to pay interest on taxes due for the length of any extension for filing their tax returns.

43. Due Process in IRS Collection Actions - Notice of Filing of Lien.

43.1 References and Effective Dates:

- A. Section of Act: 3401(a)
- B. Effective Date: Applies to collection actions initiated after the date which is 180 days after July 22, 1998 (i.e. January 18, 1999)
- C. IRC Sections: 6320

43.2 Summary of Law:

- A. The IRS must give written notice to a taxpayer of the filing of a Notice of Federal Tax Lien.
- B. The required notice must be given within 5 business days after the day of the filing of

the notice of lien.

- C. The required notice must be:
 - (1) given in person,
 - (2) left at the dwelling or usual place of business of such person, or
 - (3) sent by certified or registered mail to such person's last known address.
- D. The required notice must set forth:
 - (1) the amount of unpaid tax,
 - (2) the right of the person to request a hearing during the 30-day period beginning on the day after the fifth business day after the day of the filing of the notice of lien,
 - (3) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals, and
 - (4) the provisions of the Code and procedures relating to the release of liens on property.

44. Due Process in IRS Collection Actions - Notice of Intent to Levy.

44.1 References and Effective Dates:

- A. Section of Act: 3401(c)
- B. Effective Date: Applies to collection actions initiated after the date which is 180 days after July 22, 1998 (i.e. January 18, 1999)
- C. IRC Sections: 6330

44.2 Summary of Law:

- A. The IRS must give written notice to a taxpayer of a right to a hearing before the IRS can levy on any property or rights to property.
- B. The required notice must be given not less than 30 days before the day of the levy.
- C. The required notice must be:
 - (1) given in person,
 - (2) left at the dwelling or usual place of business of such person, or
 - (3) sent by certified or registered mail to such person's last known address.
- D. The required notice must set forth:
 - (1) the amount of unpaid tax,
 - (2) the right of the person to request a hearing during the 30-day period preceding the levy,
 - (3) the proposed action by the IRS and the rights of the taxpayer with respect to such action, including a brief statement of:
 - (4) the provisions of the Code relating to levy and sale of property;
 - (5) the procedures applicable to the levy and sale of property under the Code;
 - (6) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;
 - (7) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159), and
 - (8) the provisions of the Code and procedures relating to the redemption of property

and release of liens on property.

45. Due Process in IRS Collection Actions - Hearings.

45.1 References and Effective Dates:

- A. Section of Act: 3401(a) and (b)
- B. Effective Date: Applies to collection actions initiated after the date which is 180 days after July 22, 1998 (i.e. January 18, 1999)
- C. IRC Sections: 6320 and 6330

45.2 Summary of Law:

- A. The taxpayer can request a hearing with respect to either a notice of filing of a lien or a notice of intent to levy.
- B. The hearing shall be held by the Internal Revenue Service Office of Appeals.
- C. The taxpayer is entitled to only one hearing with respect to the taxable period to which the unpaid tax relates.
- D. Unless waived by the taxpayer, the hearing shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax at issue before the first hearing regarding a lien or a levy.
- E. To the extent practicable, a hearing with regard to a lien under §6320 shall be held in conjunction with a hearing under §6330 with regard to levies.
- F. The following sections of IRC §6330 (hearings regarding levies) are applicable to hearings under IRC §6320 (hearings regarding liens):
 - (1) §6330(c) (matters considered at the hearing),
 - (2) §6330(d) (proceedings after hearing), except for §6330(d)(2)(B) (the "changed circumstances" issue), and
- G. At the hearing, the appeals officer shall obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.
- H. The taxpayer may raise at the hearing any relevant issue relating to the unpaid tax or lien, including
 - (1) appropriate spousal defenses
 - (2) challenges to the appropriateness of collection actions, and
 - (3) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.
- I. The taxpayer may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.
- J. Except for the "change in circumstances" issue under 6320(d)(2)(B), an issue may not be raised at the hearing if:
 - (1) the issue was raised and considered at a previous hearing under section 6320 (except for the "change in circumstances" issue under 6320) or in any other previous administrative or judicial proceeding, and
 - (2) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.
- K. The determination by an appeals officer shall take into consideration:

- (1) the verification from the Secretary
 - (2) the issues raised by the taxpayer, and
 - (3) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.
- L. The determination of the appeals officer may be appealed to:
 - (1) the Tax Court, or
 - (2) a district court if the Tax Court does not have jurisdiction of the underlying tax liability.
 - M. The appeal must be taken within 30 days of the determination.
 - N. If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.
 - O. The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination, including subsequent hearings requested by the person who requested the original hearing on issues regarding:
 - (1) collection actions taken or proposed with respect to such determination (for both lien and levy hearings), and
 - (2) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination (for levy hearings but not for lien hearings).

46. Due Process in IRS Collection Actions - Suspension of Collections and Statute of Limitations.

46.1 References and Effective Dates:

- A. Section of Act: 3401(b)
- B. Effective Date: Applies to collection actions initiated after the date which is 180 days after July 22, 1998 (i.e. January 18, 1999)
- C. IRC Sections: 6320(c) and 6330(e)

46.2 Summary of Law:

- A. If a hearing is requested then the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending.
- B. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.
- C. The foregoing suspension provisions shall not apply to a levy action while an appeal is pending if
 - (1) the underlying tax liability is not at issue in the appeal, and
 - (2) the court determines that the Secretary has shown good cause not to suspend the levy.
- D. The foregoing suspension provisions shall not apply to a levy action while an appeal is pending, except that the taxpayer shall be given the opportunity for the hearing within a reasonable period of time after the levy, if:
 - (1) the Secretary has made a finding under the last sentence of section 6331(a) that

the collection of tax is in jeopardy, or

- (2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund

47. Uniform Application of Confidentiality Privilege to Taxpayer Communications with Federally Authorized Practitioners.

47.1 References and Effective Dates:

- A. Section of Act: 3411
- B. Effective Date: Applies to communications made on or after July 22, 1998
- C. IRC Sections: 7525

47.2 Summary of Law:

- A. The common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner:
 - (1) with respect to tax advice; and
 - (2) to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.
- B. The privilege may only be asserted in:
 - (1) any non-criminal tax matter before the IRS, and
 - (2) any non-criminal tax proceeding in Federal court brought by or against the United States.
- C. The term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of Title 31, United States Code
- D. The term 'tax advice' means advice given by an individual with respect to a matter that is within the scope of the individual's authority to practice under section 330 of Title 31, United States Code.
- E. The privilege shall not apply to:
 - (1) any written communication
 - (2) between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation
 - (3) in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii))

47.3 Notes:

- A. Under the doctrine of *U.S. v. Kovel*, 296 F.2d 918 (2d Cir. 1961) if the non-attorney tax practitioner was hired by either the client or the attorney to aid the attorney in giving legal advice to the client then communication with the non-lawyer tax practitioner fell within the protection of the attorney-client privilege. However, the Kovel doctrine has its limitations, as exemplified by the case of *U.S. v. Adlman*, 68 F.3d 1495 (2d Cir. 1995)

48. Limitation on Financial Status Audit Techniques.

48.1 References and Effective Dates:

- A. Section of Act: 3412

- B. Effective Date: July 22, 1998
- C. IRC Sections: 7602(d)

48.2 Summary of Law:

- A. The IRS is prohibited from using financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the IRS has a reasonable indication that there is a likelihood of unreported income.

49. Software Trade Secrets Protection.

49.1 References and Effective Dates:

- A. Section of Act: 3413
- B. Effective Date: Applies to summonses issued, and software acquired, after July 22, 1998.
- C. IRC Sections: 7612

49.2 Summary of Law:

- A. The IRS is prohibited from issuing (or beginning an action to enforce) a summons to produce or analyze any tax-related computer software source code.
- B. The prohibition does not apply to:
 - (1) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,
 - (2) any tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution,
 - (3) any communications between the owner of the tax-related computer software source code and the taxpayer or related persons, or
 - (4) any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this title.
- C. The prohibition does not apply to any portion, item, or component of tax-related computer software source code if:
 - (1) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from
 - a. the taxpayer's books, papers, records, or other data, or
 - b. the computer software executable code (and any modifications thereof) to which such source code relates
 - (2) and any associated data which, when executed, produces the output to ascertain the correctness of the item, and
 - (3) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return, and
 - (4) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.
- D. The Secretary shall be treated as meeting the requirements of the immediately preceding exception if:
 - (1) the Secretary determines that it is not feasible to determine the correctness of an

item without access to the computer software executable code and associated data,

(2) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code, and

(3) such code and data is not provided within 180 days of such request.

E. In any proceeding brought under IRC §7604 to enforce a summons issued under the authority of IRC §7612, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of §7612 have been met.

F. Software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer is subject to several provisions to safeguard the software from improper use or disclosure.

50. Threat of Audit Prohibited to Coerce Tip Reporting Alternative Commitment Agreements.

50.1 References and Effective Dates:

- A. Section of Act: 3414
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

50.2 Summary of Law:

A. The IRS is directed to instruct its employees that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer to enter into a tip reporting alternative commitment agreement.

51. Taxpayers Allowed Motion to Quash All Third-Party Summonses.

51.1 References and Effective Dates:

- A. Section of Act: 3415
- B. Effective Date: Applies to summonses served after July 22, 1998
- C. IRC Sections: 7809

51.2 Summary of Law:

A. The Reform Act expands the current "third-party recordkeeper" procedures to apply to summonses issued to persons other than the taxpayer rather than just "third-party recordkeepers".

B. Under the Reform Act, the IRS must notify the person identified in a summons about the issuance of the summons within 3 days of the date the summons is served and no later than the 23rd day before the date of response to the summons for any summonses (new items in *italics*):

(1) *that requires the giving of testimony on or relating to any person identified in the summons;* or

(2) that requires the production of any portion of records made or kept on or relating to the person identified in the summons; or

(3) *that requires the production of any computer software source code as defined in IRC §7612(d)(2) with respect to the person identified in the summons.*

C. Notice is not required, however, for any summonses (new exceptions in *italics*):

(1) served on the taxpayer;

- (2) issued to determine whether or not records of the business transactions or affairs of the taxpayer have been made or kept,
- (3) issued solely to determine the identity of any person having a numbered account or similar arrangement with a bank or other institution;
- (4) Issued in aid of the collection of:
 - a. an assessment made or judgment rendered against taxpayer, or
 - b. the liability of any transferee or fiduciary of the taxpayer;
- (5) *issued by a criminal investigator of the IRS:*
 - a. with respect to the investigation of tax crimes and
 - b. served on a person who is not a third party recordkeeper as described in 7603(b);
- (6) obtained in accordance with the John Doe Summons procedures under IRC §7609(f), or
- (7) obtained in accordance with the “jeopardy summons” procedures under IRC §7609(g).
- (8) Note that new IRC §7609(j) states that nothing in §7609 shall be construed to limit the IRS’s ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.

52. Service of Summonses to Third-Party Recordkeepers Permitted by Mail.

52.1 References and Effective Dates:

- A. Section of Act: 3416
- B. Effective Date: Applies to summonses served after July 22, 1998.
- C. IRC Sections: 7603(b)

52.2 Summary of Law:

- A. The Reform Act allows the IRS the option of serving a third-party recordkeeper summons by certified or registered mail rather than in person.

53. Notice of IRS Contact of Third Parties.

53.1 References and Effective Dates:

- A. Section of Act: 3417
- B. Effective Date: Applies to contacts made after the 180th day after July 22, 1998 (i.e., January 18, 1999).
- C. IRC Sections: 7602

53.2 Summary of Law:

- A. General Notice: The IRS may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of the taxpayer without providing reasonable notice to the taxpayer that contacts with persons other than the taxpayer may be made.
- B. Specific Notice: The IRS shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.
- C. Neither the general notice nor the specific notice requirements apply:

- (1) to any contact which the taxpayer has authorized,
- (2) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person, or
- (3) with respect to any pending criminal investigation.

54. Approval Process for Liens, Levies, and Seizures.

54.1 References and Effective Dates:

- A. Section of Act: 3421
- B. Effective Date: Applies to actions under an automated collection system initiated after December 31, 2000, and applies to all other actions as of July 22, 1998.
- C. IRC Sections: None

54.2 Summary of Law:

- A. The Reform Act requires the IRS to implement an approval process under which any lien, levy, or seizure will, when appropriate, be approved by a supervisor, who will review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy, or seizure is appropriate under the circumstances.
- B. The Reform Act, however, does not specify the circumstances of when such review would be appropriate.

55. Modifications to Certain Levy Exemption Amounts.

55.1 References and Effective Dates:

- A. Section of Act: 3431
- B. Effective Date: Applies with respect to levies issued after July 22, 1998
- C. IRC Sections: 6334(a)

55.2 Summary of Law:

- A. The Reform Act increases the value of personal effects exempt from levy from \$2,500 to \$6,250 and the value of books and tools exempt from levy to \$1,250 to \$3,125. These amounts are indexed for inflation.

56. Release of Levy Upon Agreement that Amount is Uncollectible.

56.1 References and Effective Dates:

- A. Section of Act: 3432
- B. Effective Date: Applies to levies imposed after December 31, 1999
- C. IRC Sections: 6343(e)

56.2 Summary of Law:

- A. The Reform Act requires the IRS to release a wage levy as soon as practicable upon agreement with the taxpayer that the tax is not collectible.

57. Levy Prohibited During Pendency of Refund Proceedings.

57.1 References and Effective Dates:

- A. Section of Act: 3433
- B. Effective Date: Applies to refund suits brought with respect to tax years begin

ing after December 31, 1998.

C. IRC Sections: 6331(i)

57.2 Summary of Law:

- A. Prohibits the IRS from attempting to collect by levy from a person unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if
 - (1) the decision in such proceeding would be res judicata with respect to such unpaid tax, or
 - (2) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.
- B. The term 'divisible tax' means:
 - (1) any tax imposed by subtitle C of the Code, and
 - (2) the penalty imposed by section 6672 with respect to any such tax.
- C. The prohibition does not apply with respect to any unpaid tax if:
 - (1) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax, or
 - (2) the Secretary finds that the collection of such tax is in jeopardy.
- D. The prohibition does not apply:
 - (1) any levy to carry out an offset under section 6402, and
 - (2) any levy which was first made before the date that the applicable proceeding was commenced.
- E. The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.
- F. A proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.

58. Approval Required for Jeopardy and Termination Assessments and Jeopardy Levies.

58.1 References and Effective Dates:

- A. Section of Act: 3434
- B. Effective Date: Applies to taxes assessed and levies made after July 22, 1998
- C. IRC Sections: 7429(a)(1)

58.2 Summary of Law:

- A. The Reform Act requires IRS Chief Counsel review and approval before the IRS can make a jeopardy assessment, a termination assessment, or a jeopardy levy.

59. Increase in Amount of Certain Property on which Lien not Valid.

59.1 References and Effective Dates:

- A. Section of Act: 3435
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6323

59.2 Summary of Law:

- A. The Reform Act increase the dollar limit for purchasers at a casual sale from \$250 to \$1,000, and increases the dollar limit from \$1,000 to \$5,000 for mechanics lienors providing home improvement work for owner-occupied personal residences and indexes these dollar amounts for inflation.

60. Waiver of Early Withdrawal Tax for IRS Levies on Employer-Sponsored Retirement Plans or IRAs.

60.1 References and Effective Dates:

- A. Section of Act: 3436
- B. Effective Date: Applies to distributions after December 31, 1999.
- C. IRC Sections: 72(t)(2)(A)

60.2 Summary of Law:

- A. The Reform Act provides an exception from the 10-percent early withdrawal tax for amounts withdrawn from an employer-sponsored retirement plan or an IRA that were subject to a levy by the IRS.

60.3 Notes:

- A. In 1987, the Tax Court held that the 10 per cent penalty for early withdrawal of an IRA did not apply to withdrawals attributable to and IRS levy. See *Larotonda v. Commissioner*, 89 T.C. 287 (1987).
- B. The legislative history of the Act does not mention the *Larotonda* case. The new statutory provision, however, is not effective until January 1, 2000. Thus it is not clear whether Congress intended to repeal *Larotonda* for a levy of an IRA before January 1, 2000, or merely meant to impose the statutory exception in addition to the common law exception for a levy of an IRA after December 31, 1999.

61. Prohibition of Sales of Seized Property at Less than Minimum Bid.

61.1 References and Effective Dates:

- A. Section of Act: 3441
- B. Effective Date: Applies to sales made after July 22, 1998
- C. IRC Sections: 6335(e)(1)(A)(i)

61.2 Summary of Law:

- A. The Reform Act prohibits the IRS from selling seized property for less than the minimum bid price.

62. Accounting of Sales of Seized Property.

62.1 References and Effective Dates:

- A. Section of Act: 3442
- B. Effective Date: Applies to seizures occurring after July 22, 1998.
- C. IRC Sections: 6340

62.2 Summary of Law:

- A. The Reform Act requires the IRS to provide a written accounting of all sales of seized property, whether real or personal, to the taxpayer. The accounting must include a receipt for the amount credited to the taxpayer's account. The provision is effective for seizures occurring after July 22, 1998.

63. Uniform Asset Disposal Mechanism.

63.1 References and Effective Dates:

- A. Section of Act: 3443
- B. Effective Date: To be implemented within two years from July 22, 1998.
- C. IRC Sections: None

63.2 Summary of Law:

- A. The Reform Act requires the IRS to implement a uniform asset disposal mechanism for sales of seized property and directs that the mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

64. Codification of IRS Administrative Procedures for Seizure of Taxpayer's Property.

64.1 References and Effective Dates:

- A. Section of Act: 3444
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6331(i)

64.2 Summary of Law:

- A. The IRS cannot levy on any property or rights to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.
- B. An investigation of the status of any property shall include
 - (1) a verification of the taxpayer's liability,
 - (2) the completion of an analysis under subsection (f),
 - (3) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability, and
 - (4) a thorough consideration of alternative collection methods.

65. Exemptions and Procedures for Levy of Residences and Business Property.

65.1 References and Effective Dates:

- A. Section of Act: 3445
- B. Effective Date: July 22, 1998.
- C. IRC Sections: 6334(a)(13), 6334(e)

65.2 Summary of Law:

- A. For unpaid tax liabilities of \$5,000 or less, the IRS is prohibited from seizing:
 - (1) any real property used as a residence by the taxpayer or,
 - (2) any non-rental real property of the taxpayer used by any other individual as a residence.
- B. Except as provided by IRC 6334(e), the IRS is also prohibited from seizing:
 - (1) the principal residence of the taxpayer (within the meaning of IRC §121), and

- (2) tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.
- C. IRC §6334(e)(1) allows seizure of a principal residence of the taxpayer a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.
- D. IRC §6334(e)(2) allows seizure of tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer if:
 - (1) the Secretary finds that the collection of tax is in jeopardy, or
 - (2) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, and
 - (3) prior to such approval, the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.
 - (4) future income that may be derived by a taxpayer from the commercial sale of fish or wildlife under a specified State permit must be considered in evaluating other payment options before seizing the taxpayer's business assets.

66. Procedures Relating to Extensions of Statute of Limitations by Agreement.

66.1 References and Effective Dates:

- A. Section of Act: 3461
- B. Effective Date: Applies to requests to extend the period of limitations made after December 31, 1999. See below for agreements to extend made on or before December 31, 1999
- C. IRC Sections: 6502

66.2 Summary of Law:

- A. The Reform Act eliminates the present law provision that allows the statute of limitations on collections to be extended by agreement between the taxpayer and the IRS.
- B. Extensions of the statute of limitations on collection may be made as part of an installment agreement provided the extension is only for the period for which the installment agreement by its terms extends beyond the end of the otherwise applicable 10-year period, plus 90 days.
- C. The Reform Act also requires that, on each occasion on which the taxpayer is requested by the IRS to extend the statute of limitations on assessment, the IRS will have to notify the taxpayer of the taxpayer's right to refuse to extend the statute of limitations or to limit the extension to particular issues.
- D. If a taxpayer agreed, on or before December 31, 1999, to extend the period of limitations period beyond the 10-year period referred to in IRC §6502(a) such extension shall expire on the latest of:
 - (1) the last day of such 10-year period,
 - (2) December 31, 2002, or
 - (3) in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.

67. Offers-in-Compromise.

67.1 References and Effective Dates:

- A. Section of Act: 3462
- B. Effective Date: Applies to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, except the provisions with respect to the prohibition on levy apply to offers-in-compromise pending on or made after December 31, 1999.
- C. IRC Sections: 7122 and 6331

67.2 Summary of Law:

- A. The Reform Act requires the IRS to develop and publish schedules of national and local allowances that provides taxpayers entering into an offer-in-compromise with adequate means to provide for basic living expenses.
- B. The Reform Act directs that the guidelines:
 - (1) provide that officers and employees of the IRS shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the published schedules is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.
 - (2) provide that an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer, and
 - (3) provide that for offers based solely on doubt as to liability
 - a. such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability, and
 - b. the taxpayer shall not be required to provide a financial statement.
- C. The Reform Act directs the IRS to establish procedures
 - (1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under §7122 or §6159 before such rejection is communicated to the taxpayer, and
 - (2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.
- D. The Reform Act prohibits the IRS from collecting a tax liability by levy
 - (1) during any period that a taxpayer's offer-in-compromise for that liability is being processed,
 - (2) during the 30 days following rejection of an offer,
 - (3) during any period in which an appeal of the rejection of an offer is being considered, and
 - (4) while an installment agreement is pending.

68. Notice of Deficiency to Specify Deadlines for Filing Tax Court Petition.

68.1 References and Effective Dates:

- A. Section of Act: 3463
- B. Effective Date: Applies to notices mailed after December 31, 1998.
- C. IRC Sections: 6213

68.2 Summary of Law:

- A. The IRS must include on each deficiency notice the date determined by the IRS as the last day on which the taxpayer may file a petition with the Tax Court.
- B. A petition filed with the Tax Court by the date set forth in the notice will be treated as timely filed.

69. Refund or Credit of Overpayments Before Final Determination.

69.1 References and Effective Dates:

- A. Section of Act: 3464
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6213 and 6512

69.2 Summary of Law:

- A. A proper court (including the Tax Court) may order a refund of any amount that was collected within the period during which the Secretary is prohibited from collecting the deficiency by levy or other proceeding.
- B. The provision allows the refund of any overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.

70. IRS Procedures Relating to Appeal of Examinations and Collections.

70.1 References and Effective Dates:

- A. Section of Act: 3465
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7123

70.2 Summary of Law:

- A. The Reform Act directs the IRS to:
 - (1) prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Office of Appeals.
 - (2) prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of
 - a. appeals procedures, or
 - b. unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122
 - (3) establish a pilot program under which a taxpayer and the IRS Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of
 - a. appeals procedures, or
 - b. unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

71. Application of Certain Fair Debt Collection Practices.

71.1 References and Effective Dates:

- A. Section of Act: 3466
- B. Effective Date: July 22, 1998

- C. IRC Sections: 6304

71.2 Summary of Law:

- A. The IRS is subject to certain restrictions relating to communication with taxpayers similar to those contained in the Fair Debt Collections Practices Act.
- B. Unless it has the prior written consent of the taxpayer or the express permission of a court of competent jurisdiction, the IRS shall not, with regard to the collection of any unpaid tax, communicate with the taxpayer:
- (1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;
 - (2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or
 - (3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication. In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.
- C. The IRS is also prohibited from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax, including, but not limited to, the following:
- (1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
 - (2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
 - (3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
 - (4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.
- D. IRC §7433 contains provisions for civil actions for violations of IRC §6304.

72. Guaranteed Availability of Installment Agreements.

72.1 References and Effective Dates:

- A. Section of Act: 3467
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6159

72.2 Summary of Law:

- A. The Reform Act requires the Secretary to enter an installment agreement, at the taxpayer's option, if:
- (1) the liability is \$10,000, or less (excluding penalties and interest),
 - (2) within the previous five years, the taxpayer:

- a. has not failed to file a return,
 - b. has not failed to pay a tax, and
 - c. has not entered an installment agreement,
- (3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination),
- (4) the installment agreement provides for full payment of the liability within three years, and
- (5) the taxpayer agrees to continue to comply with the tax laws and the terms of the agreement for the period (up to three years) that the agreement is in place.

73. Prohibition on Requests to Taxpayers to Waive Rights to Bring Actions.

73.1 References and Effective Dates:

- A. Section of Act: 3468
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

73.2 Summary of Law:

- A. The Reform Act provides that officers and employees of the United States may not request a taxpayer to waive the taxpayer's right to sue the United States or one of its employees for any action taken in connection with the tax laws unless:
 - (1) the taxpayer knowingly and voluntarily waives that right
 - (2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner is present,
 - (3) or the request is made in writing to the taxpayer's attorney or other representative.

74. Explanation of Joint and Several Liability.

74.1 References and Effective Dates:

- A. Section of Act: 3501
- B. Effective Date: As soon as practicable, but not later than 180 days after July 22, 1998 (i.e., January 18, 1999)
- C. IRC Sections: None

74.2 Summary of Law:

- A. The IRS must establish procedures and provide statements on all appropriate notices, publications, and instructions that to clearly alert:
 - (1) married taxpayers about their joint and several liability,
 - (2) the availability of electing separate liability, and
 - (3) an individual's right to relief under IRC §6015 of the Code.

75. Explanation of Taxpayers' Rights in Interviews with the IRS.

75.1 References and Effective Dates:

- A. Section of Act: 3502
- B. Effective Date: As soon as practicable, but not later than 180 days after July 22,

1998 (i.e., January 18, 1999).

C. IRC Sections: None

75.2 Summary of Law:

- A. The IRS is directed to rewrite Publication 1, Your Rights as a Taxpayer, to:
- (1) inform taxpayers more clearly of their rights to be represented by a representative, and
 - (2) if the taxpayer is so represented, to inform taxpayers that interviews with the IRS will not have to proceed without the presence of the representative unless the taxpayer consents.

76. Disclosure of Criteria for Examination Selection.

76.1 References and Effective Dates:

- A. Section of Act: 3503
- B. Effective Date: As soon as practicable, but not later than 180 days after July 22, 1998 (i.e., January 18, 1999)
- C. IRC Sections: None

76.2 Summary of Law:

- A. The IRS is directed to add to Publication 1, Your Rights as a Taxpayer, a statement which sets forth in simple and non-technical terms the criteria and procedures for selecting taxpayers for examination.

77. Explanation of the Appeals and Collection Process.

77.1 References and Effective Dates:

- A. Section of Act: 3504
- B. Effective Date: As soon as practicable, but not later than 180 days after July 22, 1998 (i.e., January 18, 1999)
- C. IRC Sections: None

77.2 Summary of Law:

- A. The Reform Act requires that a description of the entire process from examination through collections, including the assistance available to taxpayers from the Taxpayer Advocate at various points in the process, be provided with the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals.

78. Explanation of Reason for Refund Disallowance.

78.1 References and Effective Dates:

- A. Section of Act: 3505
- B. Effective Date: Applies to disallowances after the 180th day after July 22, 1998 (i.e. January 18, 1999).
- C. IRC Sections: 6402(j)

78.2 Summary of Law:

- A. The Reform Act requires the IRS to notify the taxpayer of the specific reasons for the disallowance (or partial disallowance) of a refund claim.

79. Statements to Taxpayers with Installment Agreements.

79.1 References and Effective Dates:

- A. Section of Act: 3506
- B. Effective Date: July 1, 2000
- C. IRC Sections: None

79.2 Summary of Law:

- A. The Reform Act requires the IRS to send every taxpayer in an installment agreement an annual statement of the initial balance owed, the payments made during the year, and the remaining balance.

80. Notification of Change in Tax Matters Partner.

80.1 References and Effective Dates:

- A. Section of Act: 3507
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6231(a)(7)

80.2 Summary of Law:

- A. The Reform Act requires the IRS to notify all notice partners of the selection of a tax matters partner made by the Secretary within 30 days after such selection.

81. Conditions under which Taxpayers' Returns May Be Disclosed.

81.1 References and Effective Dates:

- A. Section of Act: 3508
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

81.2 Summary of Law:

- A. The Reform Act requires that general tax forms instruction booklets include a description of conditions under which tax return information may be disclosed outside the IRS (including to States).

82. Disclosure of IRS Chief Counsel Advice.

82.1 References and Effective Dates:

- A. Section of Act: 3509
- B. Effective Date: Applies to any Chief Counsel advice issued more than 90 days after July 22, 1998, with staggered effective dates for Chief Counsel advice issued between December 31, 1985 and the 91st day after July 22, 1998.
- C. IRC Sections: 6110

82.2 Summary of Law:

- A. The Reform Act amends section 6110 of the Code, establishing a structured process by which the IRS will make certain work products, designated as "Chief Counsel Advice," open to public inspection on an ongoing basis.

83. Information to be Collected Regarding Allegations of Misconduct

83.1 References and Effective Dates:

- A. Section of Act: 3701

- B. Effective Date: January 1, 2000
- C. IRC Sections: None

83.2 Summary of Law:

- A. Under existing law, the IRS is required to make an annual report to the Congress on all categories of instances involving allegations of misconduct by IRS employees, arising either from internally identified cases or from taxpayer or third-party initiated complaints. The report must identify the nature of the misconduct or complaint, the number of instances received by category, and the disposition of the complaints.
- B. The Reform Act requires that, in collecting data for this report, records of taxpayer complaints of misconduct by IRS employees must be maintained on an individual employee basis. These individual records are not to be listed in the report.

84. Archive of Records of IRS

84.1 References and Effective Dates:

- A. Section of Act: 3702
- B. Effective Date: Applies to requests made by the Archivist of the United States after July 22, 1998.
- C. IRC Sections: 6103(I)

84.2 Summary of Law:

- A. The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention.

85. Payment of Taxes to US Treasury

85.1 References and Effective Dates:

- A. Section of Act: 3703
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6311

85.2 Summary of Law:

- A. The IRC §6311 provides that it is lawful for the Secretary to accept checks or money orders as payment for taxes, to the extent and under the conditions provided in regulations prescribed by the Secretary. Existing regulations state that checks or money orders should be made payable to the Internal Revenue Service. The Reform Act requires the Secretary or his delegate to establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order to be made payable to the United States Treasury.

86. Clarification of Authority Of Secretary Relating To The Making Of Elections

86.1 References and Effective Dates:

- A. Section of Act: 3704
- B. Effective Date: July 22, 1998
- C. IRC Sections: 7805

86.2 Summary of Law:

- A. Allows the IRS to prescribe by any reasonable means (rather than only by regulation

or forms) the method of making elections.

87. IRS Employee Contact Information

87.1 References and Effective Dates:

- A. Section of Act: 3705
- B. Effective Date: Effective effect 60 days July 22, 1998, except the requirement to provide a unique identifying number shall take effect 6 months July 22, 1998.
- C. IRC Sections: None

87.2 Summary of Law:

- A. Any manually generated correspondence received by a taxpayer from the IRS shall include in a prominent manner the name, telephone number, and unique identifying number of an IRS employee the taxpayer may contact with respect to the correspondence.
- B. Any other correspondence or notice received by a taxpayer from the IRS shall include in a prominent manner a telephone number that the taxpayer may contact, and
- C. An IRS employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number.

88. Use of Pseudonyms by IRS Employees

88.1 References and Effective Dates:

- A. Section of Act: 3706
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

88.2 Summary of Law:

- A. Any employee of the Internal Revenue Service may use a pseudonym only if
 - (1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety, and
 - (2) such use is approved by the employee's supervisor before the pseudonym is used.

89. Illegal Tax Protester Designation

89.1 References and Effective Dates:

- A. Section of Act: 3707
- B. Effective Date: Effective on the date of the enactment, except that the removal of
any designation as an illegal tax protester shall not be required to begin before January 1, 1999.
- C. IRC Sections: None

89.2 Summary of Law:

- A. The officers and employees of the IRS
 - (1) shall not designate taxpayers as illegal tax protesters (or any similar designation), and
 - (2) In the case of any such designation made on or before July 22, 1998

- a. shall remove such designation from the individual master file, and
 - b. shall disregard any such designation not located in the individual master file.
- B. An officer or employee of the IRS may designate any appropriate taxpayer as a non-filer, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

90. Provision of Confidential Information to Congress by Whistleblowers

90.1 References and Effective Dates:

- A. Section of Act: 3708
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6103(f)

90.2 Summary of Law:

- A. Allows any person who otherwise has or had access to any return or return information under section 6103 to disclose such return or return information to the House Ways and Means Committee, the Senate Finance Committee, or the Joint Committee on Taxation or to any individual authorized by one of those committees to receive or inspect any return or return information if such person believes such return or return information may relate to evidence of possible misconduct, maladministration, or taxpayer abuse.

91. Listing of Local IRS Telephone Numbers and Addresses

91.1 References and Effective Dates:

- A. Section of Act: 3709
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

91.2 Summary of Law:

- A. The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in a telephone book for that area.

92. Identification of Return Preparers

92.1 References and Effective Dates:

- A. Section of Act: 3710
- B. Effective Date: July 22, 1998
- C. IRC Sections: 6109(a)

92.2 Summary of Law:

- A. The Reform Act authorizes the IRS to approve alternatives to social security numbers to identify tax return preparers.

93. Offset of Past-Due, Legally Enforceable State Income Tax Obligations Against Overpayments.

93.1 References and Effective Dates:

- A. Section of Act: 3711
- B. Effective Date: Effective for federal income tax refunds payable after December

31, 1999

C. IRC Sections: 6402

93.2 Summary of Law:

A. The Reform Act permits States to participate in the IRS refund offset program for specified past-due, legally enforceable state income tax debts, providing the person making the federal tax overpayment has shown on the federal return for the taxable year of the overpayment an address that is within the state seeking the tax offset.

94. Reporting Requirements in Connection with Education Tax Credit

94.1 References and Effective Dates:

A. Section of Act: 3712

B. Effective Date: Applies to returns required to be filed with respect to taxable years beginning after December 31, 1998

C. IRC Sections: 6050S(b)(2)(C)

94.2 Summary of Law:

A. Modifies the information reporting requirements under section 6050S with respect to any grant amount received by the student and processed through the institution during the applicable calendar year.

95. Studies to be Conducted

95.1 References and Effective Dates:

A. Section of Act: 3801-3804

B. Effective Date: July 22, 1998

C. IRC Sections: None

95.2 Summary of Law:

A. The IRS, Congress, and or the Treasury Department are directed to conduct studies of the:

- (1) Administration of penalties and interest.
- (2) Confidentiality of tax return information.
- (3) Noncompliance with internal revenue laws by taxpayers.
- (4) Payments made for detection of underpayments and fraud.

Title IV -- Congressional Accountability for the IRS

96. Review of Requests for U.S. General Accounting Office (GAO) Investigations of the IRS.

96.1 *References and Effective Dates:*

- A. Section of Act: 4001
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

96.2 *Summary of Law:*

- A. Under the Reform Act, the Joint Committee on Taxation (JCT) will have to review all requests (other than requests by the chair or ranking member of a Committee or Subcommittee of the Congress) for investigations of the IRS by the GAO and approve such requests when appropriate. In reviewing such requests, the JCT will have to eliminate overlapping investigations, ensure that the GAO has the capacity to handle the investigation, and ensure that investigations focus on areas of primary importance to tax administration.

97. Joint Congressional Review and Coordinated Oversight Reports.

97.1 *References and Effective Dates:*

- A. Section of Act: 4002
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

97.2 *Summary of Law:*

- A. Under the Reform Act, there is one annual joint review conducted by two majority and one minority Members of each of the Senate Committees on Finance, Appropriations, and Government Affairs and the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight. The review will have to determine the progress of the IRS in meeting its objectives under the strategic and business plans, the progress of the IRS in improving taxpayer service and compliance, and progress of the IRS on technology modernization, and the annual filing season.
- B. The Reform Act provides that the JCT make a report once during each Congress to the Senate Committee on Finance and the House Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

98. Budget Matters.

98.1 *References and Effective Dates:*

- A. Section of Act: 4003
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

98.2 *Summary of Law:*

- A. The Reform Act provides that it is the sense of the Congress that the IRS efforts to resolve the century date change computing problems should be fully funded to provide for certain resolution of such problems, and it is the sense of the Congress that

the IRS should place resolving the century date change computing problems as a high priority.

99. Tax Law Complexity Analysis.

99.1 References and Effective Dates:

- A. Section of Act: 4004
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

99.2 Summary of Law:

- A. The Reform Act requires the JCT (in consultation with the IRS and the Treasury Department) to provide an analysis of complexity or administrability concerns raised by tax legislation provisions of widespread applicability to individuals or small businesses.

Title V -- Additional Provisions

100. Elimination of 18-Month Holding Period for Capital Gains.

100.1 *References and Effective Dates:*

- A. Section of Act: 5001
- B. Effective Date: Applies to amounts properly taken into account on or after January 1, 1998
- C. IRC Sections: 1(h)

100.2 *Summary of Law:*

- A. The Taxpayer Relief Act of 1997 (the 1997 Act) (P.L. 105-34) provided lower capital gains rates for individuals. Generally, the 1997 Act reduced the maximum rate on the adjusted net capital gain of an individual from 28 percent to 20 percent and provided a 10-percent rate for the adjusted net capital gain otherwise taxed at a 15- percent rate. Under the Reform Act, property held more than one year (rather than more than 18 months) is eligible for the lower capital gain rates provided by the 1997 Act. The provision will apply to amounts properly taken into account on or after January 1, 1998.

101. Deductibility of Meals Provided for the Convenience of the Employer.

101.1 *References and Effective Dates:*

- A. Section of Act: 5002
- B. Effective Date: Applies to taxable years beginning before, on, or after July 22, 1998.
- C. IRC Sections: 119

101.2 *Summary of Law:*

- A. The Reform Act provides that all meals furnished to employees at a place of business for the convenience of the employer is treated as provided for the convenience of the employer under section 119 if more than one half of employees to whom such meals are furnished on the premises are furnished such meals for the convenience of the employer under section 119. If these conditions are satisfied, the value of all such meals is excludable from the employee's income and fully deductible to the employer.

102. Normal Trade Relations.

102.1 *References and Effective Dates:*

- A. Section of Act: 5003
- B. Effective Date: July 22, 1998
- C. IRC Sections: None

102.2 *Summary of Law:*

- A. The Reform Act will change the terminology used in U.S. trade statutes from "most-favored-nation" to "normal trade relations" in order more accurately to reflect the nature of the trade relationship in question. The Reform Act does not change the tariff treatment received by any country.

Title VI Technical Provisions

103. Amendments related to Title I of 1997 Act.

- 103.1 Act Section 6003(a) Stacking rules for the child credit under the limitations based on tax liability.
- 103.2 Act Section 6003(b) Treatment of a portion of the child credit as a supplemental child credit.

104. Sec. 6004. Title II of the 1997 Act - Education Incentives.

- 104.1 Clarifications to HOPE and Lifetime Learning tax credits. Act - §6004(a)
- 104.2 Information Returns for Qualified Tuition and Fees - §6004(a)
- 104.3 Deduction on student loan interest. Act §6004(b)
- 104.4 Qualified State tuition programs. Act §6004(c)
- 104.5 Education IRAs. Act §6004(d)
- 104.6 Enhanced deduction for corporate contributions of computer technology and equipment. Act §6004(e)
- 104.7 Treatment of cancellation of certain student loans. Act §6004(f)
- 104.8 Qualified zone academy bonds. Act §6004(g)

105. Sec. 6005. Title III of 1997 Act - Savings Incentives and Capital Gains.

- 105.1 Contribution limitations for active participants in an IRA - §6005(a)
- 105.2 Conversions of IRAs into Roth IRAs §6005(b)
- 105.3 Penalty-free distributions from IRAs for education expenses and purchase of first homes §6005(c)
- 105.4 Individual capital gain rate reductions §6005(d)
- 105.5 Exclusion of gain on the sale of a principal residence owned and used less than two years §6005(e)(1) and (2)
- 105.6 Effective date of the exclusion of gain on the sale of a principal residence §6005(e)(3)
- 105.7 Rollover of gain from sale of qualified stock §6005(f)

106. Sec. 6006. Title IV of 1997 Act - Alternative Minimum Tax

- 106.1 Clarification of small business exemption §6006(a)
- 106.2 Election to use AMT depreciation for regular tax purposes §6006(b)

107. Sec. 6007. Title V of 1997 Act - Estate and Gift Taxes

- 107.1 Clarification of phaseout range for 5-percent surtax to phase out benefits of the unified credit and graduated rates §6007(a)(1)
- 107.2 Clarification of effective date for indexing of generation-skipping exemption §6007(a)(2)
- 107.3 Conversion of qualified family-owned business exclusion into a deduction §6007(b)(1)(A)
- 107.4 Coordination between unified credit and family-owned business provision §6007(b)(1)(B) and 6007(b)(4)
- 107.5 Clarification of businesses eligible for family-owned business provision §6007(b)(2)

- 107.6 Clarification of "trade or business" requirement for family-owned business provision §6007(b)(5)
- 107.7 Clarification that interests eligible for family-owned business provision must be passed to a qualified heir §6007(b)(1)(B)
- 107.8 Other modifications to the qualified family-owned business provision §6007(b)(3), §6007(b)(6), and §6007(b)(7)
- 107.9 Clarification of interest on installment payment of estate tax on holding companies §6007(c)
- 107.10 Clarification on declaratory judgment jurisdiction of U.S. Tax Court regarding installment payment of estate tax §6007(d)
- 107.11 Clarification of rules governing revaluation of gifts §6007(e)
- 107.12 Clarification with respect to post-mortem conservation easements §6007(g)

108. Sec. 6008. Title VII of 1997 Act District of Columbia.

109. Sec. 6009. Title IX of 1997 Act Miscellaneous Provisions.

- 109.1 Clarification of effect on certain transfers to Highway Trust Fund §6009(a)
- 109.2 Clarification of Mass Transit Account portions of highway motor fuels taxes §6009(b)
- 109.3 Clarification of qualification for reduced rate of tax on certain hard ciders §6009(c)
- 109.4 Election for 1987 partnerships to continue exception from treatment of publicly traded partnerships as corporations §6009(d)
- 109.5 Depreciation limitations for electric vehicles §6009(e)
- 109.6 Combined employment tax reporting demonstration project §6009(f)
- 109.7 Modification of operation of elective carryback of existing net operating losses of ("Amtrak") §6009(g)

110. Sec. 6010. Title X of 1997 Act Revenue-Raising Provisions

- 110.1 Exemption from constructive sales rules for certain debt positions §6010(a)(1)
- 110.2 Special effective date for constructive sale rules §6010(a)(4)
- 110.3 Gain recognition for certain extraordinary dividends §6010(b)
- 110.4 Treatment of certain corporate distributions §6010(c)
- 110.5 Certain preferred stock treated as "boot" -- statute of limitations §6010(e)(2)
- 110.6 Certain preferred stock treated as "boot" -- treatment of transferor §6010(e)(1)
- 110.7 Application of section 304 to certain international transactions §6010(d)
- 110.8 Establish IRS continuous levy and improve debt collection §6010(f)
- 110.9 Clarification regarding aviation gasoline excise tax §6010(g)
- 110.10 Clarification of requirement that registered fuel terminals offer dyed fuel §6010(h)
- 110.11 Clarification of treatment of prepaid telephone cards §6010(i)
- 110.12 Modify UBIT rules applicable to second-tier subsidiaries §6010(j)
- 110.13 Application of foreign tax credit holding period rule to RICs §6010(k)
- 110.14 Clarification of provision expanding the limitations on deductibility of premiums and interest with respect to life insurance, endowment and annuity contracts §6010(o)

- 110.15 Clarification of allocation of basis of properties distributed by a partnership §6010(m)
- 110.16 Clarification to the definition of modified adjusted gross income for purposes of the earned income credit phaseout §6010(p)
- 111. Sec. 6011. Title XI of 1997 Act - Foreign Provisions.**
 - 111.1 Application of attribution rules under PFIC provisions §6011(b)(2)
 - 111.2 Treatment of PFIC option holders §6011(b)(1)
 - 111.3 Application of PFIC mark-to-market rules to RICs §6011(c)(3)
 - 111.4 Interaction between the PFIC provisions and other mark-to-market rules §6011(c)(2)
- 112. Sec. 6012. Title XII of 1997 Act - Simplification Provisions.**
 - 112.1 Travel expenses of Federal employees participating in a Federal criminal investigation §6012(a)
 - 112.2 Effective date for provisions relating to electing large partnerships, partnership returns required on magnetic media, and treatment of partnership items of individual retirement arrangements §6012(d)
 - 112.3 Modification of distribution rule for REITS §6012(f)
- 113. Sec. 6013. Title XIII of 1997 Act - Estate, Gift and Trust Simplification.**
 - 113.1 Clarification of treatment of revocable trusts for purposes of the generation-skipping transfer tax §6013(a)
 - 113.2 Provision of regulatory authority for simplified reporting of funeral trusts terminated during taxable year §6013(b)
- 114. Sec. 6014. Title XIV of 1997 Act - Excise Tax Simplification.**
 - 114.1 Clarification of provision allowing wine imported in bulk to be transferred to a U. S. winery without payment of tax §6014
- 115. Sec. 6015. Title XV of 1997 Act - Pensions and Employee Benefits.**
 - 115.1 Treatment of certain disability payments to public safety employees §6015(c)
- 116. Sec. 6016. Title XVI of 1997 Act - Technical Corrections.**
 - 116.1 Application of requirements for SIMPLE IRAs in the case of mergers and acquisitions §6016(a)
 - 116.2 Treatment of Indian tribal governments under section 403(b) §6016(a)
 - 116.3 Sec. 6017 - Treatment of Adoption Tax Credit Carryovers
 - 116.4 Sec. 6018 - Disclosure Requirements for Apostolic Organizations
 - 116.5 Sec 6019 - Allow Deduction for Unused Employer Social Security Credit
 - 116.6 Earned Income Credit Qualification Rules (sec. 6020)
- 117. Sec. 6017. Amendment related to Transportation Equity Act for the 21st Century.**
 - 117.1 Omitted from outline
- 118. Sec. 6018. Amendments related to Small Business Job Protection Act of 1996.**
 - 118.1 Adoption Credit §6018(f)

119. Sec. 6019. Amendments related to Taxpayer Bill of Rights 2.

- 119.1 Apostolic organizations are not required to disclose Schedules K-1 - §6019(a), (b)
- 119.2 Disclosure of return information to taxpayer representative - §6019(c)

120. Sec. 6020. Amendment related to Omnibus Budget Reconciliation Act of 1993.

- 120.1 Allow Deduction for Unused Employer Social Security Credit.

121. Sec. 6021. Amendment related to Revenue Reconciliation Act of 1990.

- 121.1 Identification requirement for individuals eligible for earned income credit §6021(a)
- 121.2 Identification requirement for children under earned income credit §6020(b)

122. Sec. 6022. Amendment related to Tax Reform Act of 1986.

- 122.1 Expansion of excess refundable credits treated as overpayments

123. Sec. 6023. Miscellaneous clerical and deadwood changes.

124. Sec. 6024. Effective date.

Title VII Revenue Offsets

125. Employer Deductions for Vacation and Severance Pay.

125.1 References and Effective Dates:

- A. Section of Act: 7001
- B. Effective Date: Effective generally for taxable years ending after July 22, 1998.
- C. IRC Sections: 404(a)

125.2 Summary of Law:

- A. The Reform Act provides that, for purposes of determining whether an item of compensation is deferred compensation, the compensation will not be considered to be paid or received until actually received by the employee. The Reform Act is intended to overrule the result in Schmidt Baking. The provision is effective for taxable years ending after July 22, 1998, with a three-year spread under section 481.

126. Freeze Grandfathered Status of Stapled Real Estate Investment Trusts (REITs).

126.1 References and Effective Dates:

- A. Section of Act: 7002
- B. Effective Date: Applies to taxable years ending after March 26, 1998.
- C. IRC Sections: None

126.2 Summary of Law:

- A. The Reform Act will treat activities and gross income of a stapled REIT group with respect to real property interests acquired after March 26, 1998, by any member of a stapled REIT group as activities and income of the REIT for certain purposes. There is an exception to this treatment for certain grandfathered real property interests. The provision is effective for taxable years ending after March 26, 1998.

127. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment.

127.1 References and Effective Dates:

- A. Section of Act: 7003
- B. Effective Date: Generally be effective for taxable years ending after July 22, 1998, with a four-year spread under section 481.
- C. IRC Sections: 475(c)

127.2 Summary of Law:

- A. The Reform Act provides that certain trade receivables will not be eligible for mark-to-market treatment under section 475.

128. Exclusion of Minimum Required Distributions from Adjusted Gross Income (AGI) for Roth Individual Retirement Account (IRA) Conversions.

128.1 References and Effective Dates:

- A. Section of Act: 7004
- B. Effective Date: Effective for taxable years beginning after December 31, 2004.
- C. IRC Sections: None

128.2 Summary of Law:

- A. The Reform Act will exclude minimum required distributions from IRAs from the definition of AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA.

Title VIII-Limited Tax Benefits Under the Line Item Veto Act

129. Limited Tax Benefit Provisions:

129.1 Pursuant to section 1027(a) of the Congressional Budget and Impoundment Act of 1974 (as amended by the Line Item Veto Act), the JCT has determined that the following two provisions of the Reform Act will constitute limited tax benefits within the meaning of the Line Item Veto Act:

- A. Section 3105 (relating to administrative appeal of adverse IRS determination of tax-exempt status of bond issue), and
- B. Section 3445(c) (relating to State fish and wildlife permits).

Title IX. Corrections to the Transportation Equity Act for the 21st Century

130. Not included in this outline.

LIST OF SECTIONS OF THE ACT

- TITLE I REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE**
- SUBTITLE A REORGANIZATION OF THE INTERNAL REVENUE SERVICE**
- Sec. 1001. Reorganization of the Internal Revenue Service.
 Sec. 1002. IRS mission to focus on taxpayers' needs.
- SUBTITLE B EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT**
- Sec. 1101. Internal Revenue Service Oversight Board.
 Sec. 1102. Commissioner of Internal Revenue; other officials.
 Sec. 1103. Treasury Inspector General for Tax Administration.
 Sec. 1104. Other personnel.
 Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.
- SUBTITLE C PERSONNEL FLEXIBILITIES**
- Sec. 1201. Improvements in personnel flexibilities.
 Sec. 1202. Voluntary separation incentive payments.
 Sec. 1203. Termination of employment for misconduct.
 Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
 Sec. 1205. Employee training program.
- TITLE II ELECTRONIC FILING**
- Sec. 2001. Electronic filing of tax and information returns.
 Sec. 2002. Due date for certain information returns.
 Sec. 2003. Paperless electronic filing.
 Sec. 2004. Return-free tax system.
 Sec. 2005. Access to account information.
- TITLE III TAXPAYER PROTECTION AND RIGHTS**
- Sec. 3000. Short title.
- SUBTITLE A BURDEN OF PROOF**
- Sec. 3001. Burden of proof.
- SUBTITLE B PROCEEDINGS BY TAXPAYERS**
- Sec. 3101. Expansion of authority to award costs and certain fees.
 Sec. 3102. Civil damages for collection actions.
 Sec. 3103. Increase in size of cases permitted on small case calendar.
 Sec. 3104. Actions for refund with respect to certain estates which have elected the installment method of payment.
 Sec. 3105. Administrative appeal of adverse IRS determination of tax exempt status of bond issue.
 Sec. 3106. Civil action for release of erroneous lien.
- SUBTITLE C RELIEF FOR INNOCENT SPOUSES AND FOR TAXPAYERS UNABLE TO MANAGE THEIR FINANCIAL AFFAIRS DUE TO DISABILITIES**
- Sec. 3201. Relief from joint and several liability on joint return.
 Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.
- SUBTITLE D PROVISIONS RELATING TO INTEREST AND PENALTIES**

- Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on tax overpayments and underpayments.
- Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
- Sec. 3303. Mitigation of penalty on individual's failure to pay for months during period of installment agreement.
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