



U.S. Department of Justice
Executive Office for United States Attorneys

United States Attorneys' Bulletin

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EXECUTIVE OFFICE FOR U. S. ATTORNEYS
William P. Tyson, DirectorPOINTS TO REMEMBERPassage of Tax Disclosure Amendments

This is to confirm that the tax disclosure amendments to facilitate law enforcement access to federal tax information for use in nontax criminal cases were approved by the Congress as Sections 356 and 357 of the tax bill and signed by the President on September 3, 1982. These tax disclosure amendments have been listed by United States Attorneys as one of our most important criminal justice legislative initiatives.

In summary, these amendments decentralize disclosure application authority for taxpayer return information to United States Attorneys and Strike Force Chiefs; lower the standards for a disclosure order; authorize disclosure orders in fugitive cases; broaden the scope of a disclosure order to cover both taxpayer return and third-party information; authorize IRS initiated disclosures in circumstances involving imminent threat to life or flight from prosecution; decentralize request authority for third-party information to the United States Attorneys and Strike Force Chiefs plus the Director of the Federal Bureau of Investigation and Administrator of DEA; provide for issuance of disclosure orders by Magistrates as well as district judges; and substitute federal agencies for individual federal employees in any civil damage actions involving tax disclosures.

Other sections of the tax bill, Sections 331-333, makes the improvements in IRS Summons authority proposed by the Department. Section 329 of the bill increases fines for various tax crimes to new levels of \$100,000 for individuals and \$500,000 for corporations. Finally, Section 351 of the bill disallows tax deductions for expenditures related to the illegal sale of narcotics. This Congressionally initiated provision was supported by the Department.

The various provisions described above, copies of which are attached as an Appendix to this Bulletin, took effect September 4, 1982. The Criminal Division will be issuing a memorandum to United States Attorneys in the near future to explain the procedures to be followed in seeking tax disclosure orders.

Revised provisions of the United States Attorneys' Manual are also being prepared by the Criminal Division to implement the revisions in tax disclosure procedures. In addition, the Criminal Division is preparing a packet of forms to be used in requesting information from the IRS.

The Criminal Division, through its Office of Legal Support Services will be available to lend assistance and to answer questions. The FTS telephone number for the Office of Legal Support Services is FTS 724-6672.

(Executive Office)

Pornography Prosecution Policy

It has come to our attention that the Department's policies for prosecuting criminal activity involving pornography are not fully understood by all United States Attorneys and Assistant United States Attorneys who may be called upon to render a prosecutive opinion in this area. As a reminder, the Department's priorities as set forth in United States Attorneys' Manual 9-75.140 are reprinted below:

Prosecutive priority should be given to cases involving large-scale distributors who realize substantial income from multi-state operations and cases in which there is evidence of involvement by known organized crime figures. However, prosecution of cases involving relatively small distributors of especially offensive material or who are the subjects of numerous citizen complaints, can have a deterrent effect and would dispel any notion that obscenity distributors are insulated from prosecution if their operations fail to exceed a predetermined size or if they fragment their business into small-scale operations. Therefore, the occasional prosecution of such distributors may be appropriate.

Special priority should be given to cases involving the use of minors engaging in sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct or cases involving the mailing or interstate or foreign shipment of obscene material depicting minors engaging in sexually explicit conduct (18 U.S.C. 2251-2253).

(Executive Office)

Processing Adverse District Court Judgments
In Civil Division Cases

In his August 2, 1982, memorandum to all United States Attorneys, the Assistant Attorney General of the Civil Division expressed his concern regarding the transmittal of adverse district court decisions. As stated in this memorandum, although appeal recommendations need not be submitted as soon as an adverse judgment is entered, a copy of the adverse decision itself should be forwarded to the Appellate Staff immediately. This is necessary to enable the Civil Division and the Solicitor General's office to process recommendations for or against appeal prior to the time for filing a protective notice of appeal. Copies of the adverse decisions should be sent to the Appellate Staff, P.O. Box 978, Ben Franklin Station, Washington, D.C. 20044.

A copy of the August 2, 1982, memorandum from the Civil Division is attached as an appendix to this issue of the United States Attorneys' Bulletin.

(Civil Division)

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Woodward v. Moore, D.C. Cir. No. 81-2017 (July 28, 1982). D.J.
#145-6-1708.

Military Discharges/Tucker Act Jurisdiction:
D.C. Circuit Holds That One Seeking Back Pay
From The Navy Must Waive Claim In Excess Of
\$10,000 Or Proceed In The Court of Claims.

A former Navy lieutenant brought suit challenging his removal from active duty to a reserve status. He asserted that the Navy inappropriately relied upon his homosexual tendencies in removing him. He sought back pay and reinstatement on active duty. We argued that because the lieutenant's claim for back pay exceeded \$10,000 and he had not waived a claim in excess of that amount, the district court and thus the court of appeals had no jurisdiction, as the Tucker Act provides for exclusive jurisdiction in such cases in the Court of Claims. If the claim was in excess of \$10,000 and the lieutenant did not waive the amount in excess, the D.C. Circuit held that the district court was without jurisdiction over the case. Accordingly, the court of appeals remanded for those determinations.

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CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Hayes v. GPO, D.C. Cir. No. 80-2425 (July 30, 1982). D.J. #35-218.

Civil Service Reform Act/Jurisdiction In
"Mixed Cases": D.C. Circuit Holds That
Initial Jurisdiction In A "Mixed Case" -- One
In Which The Petitioner Alleges Discrimination
And A Merit Principle Claim -- Lies In The
District Court.

In this government employee removal case, petitioner, a non-probationary employee, contended before the MSPB that his removal was not supported by substantial evidence, was procedurally defective, and was the product of race discrimination. The MSPB held against him on all issues. At that point petitioner split his claims, taking his discrimination claim to the EEOC and taking his non-discrimination claims to the court of appeals. We moved to dismiss his petition in the court of appeals arguing that it is inappropriate to split claims and that any case involving discrimination is initially reviewable in its entirety in the district court not the court of appeals. The D.C.Circuit, in a comprehensive decision, agreed with our position and dismissed petitioner's non-discrimination claim.

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CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Normile v. McFague, 1st Cir. No. 81-1908 (August 6, 1982). D.J.
#35-36-99.

Civil Service/Removal of Government
Employee: First Circuit Holds That A Higher
Ranking Official of the MSPB May Appropriately
Reverse The Findings, Including Those Based On
Credibility, Of The Officer Who Conducted The
Hearing.

In this employee removal case the MSPB held that the removal was procedurally sound based in part on its assessment of credibility. The district court upheld that determination. Thereafter, through a chance meeting with the official who conducted the MSPB hearing, petitioner discovered that the hearing official's superior had, off the record, required the official to reverse his ruling of a procedural error. The hearing official's finding of an error had been based in part on findings as to credibility. Petitioner argued that such a reversal of a credibility determination was inappropriate and at a minimum must be accompanied by an articulation of the reasons for the reversal. After conducting further proceedings, the district court still upheld the MSPB decision.

On petitioner's appeal the First Circuit affirmed, adopting our argument. The court first noted that by intra-agency practice in effect at that time the official who conducted the hearing had no authority to issue any decision; he was only authorized to conduct the hearing and communicate his views to his superior. The court then held that the official who reversed the hearing officer's credibility findings had authority to do so and had acted appropriately in doing so. The court also rejected petitioner's argument that the superior official must articulate in his decision the reason for his disagreement with the hearing official's findings. Requiring such a disclosure, the court held, would inhibit candid discussion within MSPB.

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CIVIL DIVISION
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Kathleen Newby v. Marlin W. Johnston, 5th Cir. No. 81-1308
(August 5, 1982). D.J. #145-17-2416.

Civil Procedure/Class Actions: Fifth Circuit
Upholds District Court's Discretion To Deny
Class Certification Where Action Would Be
Duplicative.

In this unusual case, plaintiff challenged certain welfare practices of HUD, the state of Texas, and City of Austin housing officials. She sought to represent a class of Texas welfare recipients, but after one year of inaction by the district court, her status improved and she was no longer aggrieved by the HUD or the AFDC practices involved. Also, Austin changed its practices on a community-wide basis. The government moved to dismiss the action as moot. Opposing counsel responded with a mirror-image lawsuit with a plaintiff from San Marcos, Texas. The second plaintiff moved to intervene in the first case and to consolidate the two proceedings. The district court, however, granted our motion to dismiss the first case.

The Fifth Circuit has just affirmed. The court acknowledged that the first plaintiff could proceed as a class representative even after her own claims had mooted. However, even though all the requirements of Fed.R.Civ.P. 23 were satisfied, the district court nevertheless had discretion to reject the class certification here because it was unnecessary to protect the absent potential class members.

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LAND AND NATURAL RESOURCES DIVISION
Assistant Attorney General Carol E. Dinkins

City of Houston and American Airlines, Inc. v. FAA, Nos. 80-2030, 80-2251 and 81-4194, 5th Circuit (July 9, 1982).
D.J. # 90-1-4-2242.

ADMINISTRATIVE LAW: FAA'S 1,000-MILE PERIMETER RULE SUSTAINED.

The City of Houston and American Airlines filed petitions for review of Department of Transportation regulations which prohibited air carriers from operating nonstop flights between National Airport and any airport more than 1,000 miles away. Also challenged were DOT regulations which imposed an interim 650-mile perimeter rule at National. These perimeter rules were envisioned by FAA as a means of controlling the steadily-increasing traffic at National Airport. Prior to the jet age, the 650-mile perimeter rule on nonstop flights was the subject of an agreement between air carriers serving National Airport and the FAA. This agreement expired on July 1, 1967, but was adhered to by the carriers until May 1981, when three carriers announced plans to fly nonstop to National from cities outside the perimeter. The interim 650-mile perimeter rule was promulgated to meet the situation created by the airlines' announcement until final regulations were in force. The Fifth Circuit denied the petitions for review, upholding the 1,000-mile perimeter rule and dismissed the challenge to the interim 650-mile rule as null. The court found that the FAA's decision to administratively impose a perimeter rule on flights to and from National to protect Dulles Airport and to preserve the short-haul status of National was not arbitrary and capricious and, therefore, was not in violation of the Administrative Procedure Act. In rejecting Houston and American's argument that the FAA lacked the statutory authority to impose a perimeter restriction, the court cited the Federal Aviation Act and the FAA's status as proprietor of National and Dulles as authority for the FAA's decision. The court also disposed of American and Houston's protest that the CAB rather than the FAA bears the responsibility for economic regulation of aviation, noting that the CAB lost its regulatory authority with the passage of the Airline Deregulation Act, and that only the FAA, under the terms of the Federal Aviation Act, can assume responsibility over National and Dulles.

In addition, the Fifth Circuit rejected the claims of American and Houston that the FAA's perimeter rule violated the Port Preference Clause of the U.S. Constitution. The court

stated that the "accident of geography" and not any deliberate discrimination, underlies the FAA's rule, and the rule does not discriminate against any named state or states.

Finally, the court found no merit in Houston and American's "unlikely contention" that the perimeter rule violates passengers' constitutional right to travel.

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United States v. 8.41 Acres of Land (Orange County, Texas),
No. 81-2136, 5th Circuit (July 14, 1980). D.J. # 33-45-1547-3.

CONDEMNATION: AWARD OF SEVERANCE
DAMAGES TO EASEMENT REVERSED.

The United States appealed from the district court's affirmance of a commission award of compensation for pipeline easements. Fifty-foot wide easements were taken out of three large tracts of land. The taken easements adjoined the north side of an existing "pipeline corridor." At the time of taking the fifty-foot wide strip was used as pasture, as was the land lying north of it. The Commission and the district court refused to use the "before and after" method of valuation, finding that the fifty-foot strip had been severed from the parent tracts. By basing its award on "comparable" sales of pipeline easements, the Commission arrived at an award which was almost six times higher than the Government's estimate.

The court of appeals held that the district court's finding of a severance was clearly erroneous, since the strip burdened by the easement had the same use (pasture) as the land lying to the north of it. Since there had been no severance, the case had to be treated as a typical partial taking case. The court found that applicable Fifth Circuit precedent "requires" the use of the "before and after" method in partial taking cases. This method in turn requires that the fact-finder consider the highest and best use of the entire tract before and after the taking. It was impermissible for the landowners to rely upon sales of pipeline easements to establish the value of the taking, since there was no evidence that the entire parcel had a highest and best use for pipeline rights-of-way. Only the Government had presented valuation evidence which related to the entire parcels both before and after the taking. The court thus remanded to the district court with instructions not to hold a new evidentiary hearing but to base its award upon the evidence of comparable sales already submitted by the Government.

The court of appeals also noted that the district court erred in making provision for the landowners to return for additional compensation should the Government exercise its right to place additional pipelines in its easement in the future. The court said that the "damage" to be compensated occurred with the placement of the first pipeline, and that no additional compensation was possible.

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United States v. 6,162.78 Acres of Land in Concordia Parish,
Louisiana, No. 81-3183, 5th Circuit (July 14, 1982). D.J. #
33-19-357-4.

CONDEMNATION: ALLEGATION OF BAD FAITH
AN ISSUE FOR COURT, NOT JURY.

Landowners appealed from a judgment awarding just compensation in an eminent domain proceeding. They argued that the jury verdict was not supported by the evidence and that the United States had engaged in bad faith by requiring its appraisers to meet a predetermined value for the condemned land. Additionally, the landowners asserted that the district court erred by refusing to allow them to present evidence of the Government's bad faith to the jury. The court of appeals rejected each of the landowners' arguments. It held that the jury verdict was within the range of the evidence and that appellants' claim that the Government engaged in bad faith by allegedly requiring its appraisers to reach a predetermined value, for the subject tract was not supported by the record. Finally, the court of appeals concluded that the district court did not err in refusing to allow the landowners to present evidence of the Government's supposed bad faith to the jury since the question was for the court and, moreover, the landowners' claims were insubstantial and conclusory.

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Attorney: Edward J. Shawaker (Land and
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LAND AND NATURAL RESOURCES DIVISION
Assistant Attorney General Carol E. Dinkins

Potomac Alliance v. NRC, No. 80-1862, D.C. Circuit (July 20, 1982). D.J. # 90-1-4-2212.

NEPA: NRC FAILED TO EXPLORE DANGERS
PRESENTED BY CONTINUING EXISTENCE OF
STORAGE POOL FOR NUCLEAR WASTE AFTER
PLANT WOULD BE SHUT DOWN.

Potomac Alliance petitioned for review of NRC's decision to permit VEPCO to increase the storage capacity of the spent fuel pool at its North Anna nuclear power plant. Petitioner claimed that NRC violated NEPA by failing to consider, prior to permitting the capacity increase, the long-range future effects of permitting the increase, including the situation as it will exist on the date of the plant's permanent closing in 2011. The court of appeals, in a per curiam opinion, held that NRC failed to explore the dangers presented by the continuing existence of the storage pool after the final closing date of the plant, and failed to find either that (1) there is a satisfactory solution presently available, or that (2) there is a reasonable probability of such availability by the shutdown date. The court, following Minnesota v. NRC, 602 F.2d 412 (D.C. Cir. 1979), declined to vacate or stay the license amendments permitting the capacity increase; instead, it remanded the case to NRC in light of NRC's "Waste Confidence" generic proceeding now being conducted to reassess the outlook for the availability of safe nuclear waste disposal methods. The court stated that NRC's failure to issue a decision in the generic proceeding by June 30, 1983, "will place in jeopardy the expanded authority at issue in this case." Judge Bazelon filed a concurring opinion.

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Attorney: Anne S. Almy (Land and
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Foundation for North America Wild Sheep v. U.S. Department of Agriculture No. 81-5044, 9th Circuit (July 22, 1982).
D.J. # 90-1-4-2227.

NEPA: FOREST SERVICE GRANT OF SPECIAL USE PERMIT FOR USE OF A ROAD IN A NATIONAL FOREST WITHOUT AN EIS WAS UNREASONABLE.

The Ninth Circuit reversed the district court and held that a Forest Service decision to grant a special use permit for use of a road in the Angeles National Forest without preparing an EIS was unreasonable. The Forest Service had prepared an Environmental Assessment (EA) which indicated that the only possible significant impact of the permit would be on a herd of Desert Bighorn Sheep which inhabit the area. It then imposed conditions on the special use permit (closure of the road during lambing season, revocation of the permit if the sheep's use of the area is reduced) to mitigate any effect on the sheep and issued the permit on the basis of the EA. The court of appeals ruled that the Forest Service did not reasonably determine that the permit would not significantly affect the quality of the human environment. It pointed to possible effects on the sheep that the mitigation measures would not cure; the controversy over what affects might develop; and the absence of necessary information to make a reasoned decision.

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Attorney: Edward J. Shawaker (Land and
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Sweeten v. Department of Agriculture, No. 80-1670, 10th Circuit (July 27, 1982). D.J. # 90-1-5-1664.

PUBLIC LAND: DISTRICT COURT'S FINDINGS IN BOUNDARY DISPUTE NOT CLEARLY ERRONEOUS.

Appellants sued the Government in this boundary dispute case, to quiet title to 6.69 acres of land claimed by the Forest Service. The court of appeals affirmed the district court's denial of appellants' claim, and held that (1) the trial court's findings regarding the boundary location were not clearly erroneous; (2) appellants' rights were not impaired by a Government resurvey which, appellants contended,

reduced the amount of acreage specified in their patent; (3) the rules of adverse possession, laches and boundary by acquiescence could not be used against the Government; and (4) the Government was not equitably estopped from contesting appellants' claim. Judge Barrett concurred in part and dissented in part.

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No.17

OFFICE OF LEGISLATIVE AFFAIRS
Assistant Attorney General Robert A. McConnell
SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES
AUGUST 18, 1982 - SEPTEMBER 1, 1982

Congressional Recess. Both the House and the Senate will reconvene on September 8, 1982, following the Labor Day recess.

Federal Rules of Criminal Procedure

Rule 6(e)(3)(C)(i). The Grand Jury. Recording and
Disclosure of Proceedings.
Exceptions.

The United States Attorney petitioned the court for an order permitting him to disclose certain documents acquired by a federal grand jury to the State Attorney General for review and presentation to a Rhode Island grand jury. The United States Attorney argued that mere disclosure of documents subpoenaed by a grand jury did not constitute disclosure of matters occurring before the grand jury and thus was not governed by the secrecy provisions of Rule 6(e).

The court denied the Government's petition in a lengthy opinion discussing its reasons and reviewing prior conflicting caselaw regarding grand jury secrecy. The court held that the petition must be denied because: (1) the State Attorney General had not requested production of the documents or shown a legal right thereto, regardless of whether such documents were within the scope of Rule 6(e); (2) the United States Attorney sought to proceed ex parte and did not serve notice on the owners of the documents that were the subject of the petition; and (3) the petition called for the release of a large number of documents, as opposed to specific documents identified independently of any reference to the grand jury, and disclosure probably would have revealed the pattern of the grand jury's entire investigation, thus constituting disclosure of matters occurring before the grand jury which could not be authorized absent a showing of particularized need by the party to whom disclosure was to be made. The court remained willing to entertain a petition from the State Attorney General if proper notice and an opportunity to object was given to the owners of the documents, but cautioned the United States Attorney not to disclose matters occurring before the grand jury to assist the State Attorney General in preparing his petition.

(Ordered accordingly.)

In re John Doe Grand Jury Proceedings, 537 F. Supp.
1038 (D. R.I., April 27, 1982).

Federal Rules of Criminal Procedure

Rule 35. Correction or Reduction of Sentence.

Defendant was sentenced to three years imprisonment and filed a motion under Rule 35[b] for a reduction in sentence. The motion was unopposed by the Government but denied by the court. Defendant appealed, claiming that under United States v. Sokel, 368 F. Supp. 97, an unopposed Rule 35 motion must be granted automatically.

The court of appeals rejected this interpretation of Sokel and held that sentencing remains a discretionary function of the court regardless of any position taken by the Government.

(Judgment Affirmed.)

United States v. Robert William Eddy, 677 F.2d 656 (8th Cir., May 10, 1982).

U.S. ATTORNEY'S LIST AS OF September 3, 1982

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Alabama, N	Frank W. Donaldson
Alabama, M	John C. Bell
Alabama, S	J. B. Sessions, III
Alaska	Michael R. Spaan
Arizona	A. Melvin McDonald
Arkansas, E	George W. Proctor
Arkansas, W	W. Asa Hutchinson
California, N	Joseph P. Russoniello
California, E	Donald B. Ayer
California, C	Stephen S. Trott
California, S	Peter K. Nunez
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Florida, M	Robert W. Merkle, Jr.
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Georgia, S	Hinton R. Pierce
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Idaho	Guy G. Hurlbutt
Illinois, N	Dan K. Webb
Illinois, S	Frederick J. Hess
Illinois, C	Gerald D. Fines
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Indiana, S	Sarah Evans Barker
Iowa, N	Evan L. Hultman
Iowa, S	Richard C. Turner
Kansas	Jim J. Marquez
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Kentucky, W	Ronald E. Meredith
Louisiana, E	John Volz
Louisiana, M	Stanford O. Bardwell, Jr.
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Maryland	J. Fredrick Motz
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Michigan, W	John A. Smietanka
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Mississippi, S	George L. Phillips
Missouri, E	Thomas E. Dittmeier
Missouri, W	Robert G. Ulrich

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New Jersey	W. Hunt Dumont
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New York, S	John S. Martin, Jr.
New York, E	Raymond J. Dearie
New York, W	Salvatore R. Martoche
North Carolina, E	Samuel T. Currin
North Carolina, M	Kenneth W. McAllister
North Carolina, W	Charles R. Brewer
North Dakota	Rodney S. Webb
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Ohio, S	Christopher K. Barnes
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Oklahoma, W	William S. Price
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South Carolina	Henry Dargan McMaster
South Dakota	Philip N. Hogen
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Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
Texas, N	James A. Rolfe
Texas, S	Daniel K. Hedges
Texas, E	Robert J. Wortham
Texas, W	Edward C. Prado
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Vermont	George W.F. Cook
Virgin Islands	Hugh P. Mabe, III
Virginia, E	Elsie L. Munsell
Virginia, W	John P. Alderman
Washington, E	John E. Lamp
Washington, W	Gene S. Anderson
West Virginia, N	William A. Kolibash
West Virginia, S	David A. Faber
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	David T. Wood

"(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

"(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and preparation forms, see section 6703 of the Internal Revenue Code of 1954, as amended by section 333 of this Act.

SEC. 325. FRAUD PENALTY.

(a) GENERAL RULE.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO FRAUD.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and

"(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(3) NO NEGLIGENCE ADDITION WHEN THERE IS ADDITION FOR FRAUD.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).

"(4) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act.

SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is

amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

"(a) CIVIL PENALTY.—If—

"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1) is due to—

"(A) a position which is frivolous, or

"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws, then such individual shall pay a penalty of \$500.

(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and preparation forms, see section 6703 of the Internal Revenue Code of 1954, as amended by section 333 of this Act.

SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure."

SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

(a) WAIVER OF PENALTY WHERE INDIVIDUAL DID NOT HAVE TAX LIABILITIES FOR PRECEDING TAXABLE YEAR.—

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXCEPTION WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(1) the individual did not have any liability for tax for the preceding taxable year,

"(2) the preceding taxable year was a taxable year of 12 months, and

"(3) the individual was a citizen or resident of the United States throughout the preceding taxable year."

(2) Subsection (g) of section 6654 is amended by striking out "and (f)" and inserting in lieu thereof "(f) and (h)".

(b) ELIMINATION OF REQUIREMENTS TO FILE DECLARATIONS OF ESTIMATED TAX.—

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982."

(2) Section 8073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1982."

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) SPECIAL RULES FOR TAXABLE YEARS BEGINNING AFTER 1982.—In the case of taxable years beginning after 1982—

"(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

"(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

(a) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out "\$10,000" and inserting in lieu thereof "\$100,000 (\$500,000 in the case of a corporation)".

(b) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out "\$10,000" and inserting in lieu thereof "\$25,000 (\$100,000 in the case of a corporation)".

(c) FINED AND FALSE STATEMENTS.—Section 7208 (relating to fraud and false statements) is amended by striking out "\$5,000" and inserting in lieu thereof "\$100,000 (\$500,000 in the case of a corporation)".

(d) FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "\$1,000" each place it appears and inserting in lieu thereof "\$10,000 (\$50,000 in the case of a corporation)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) IN GENERAL.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

"Sec. 6867. Presumptions where owner of large amount of cash is not identified.

"SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.

"(a) GENERAL RULE.—If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash—

"(1) as his, or

"(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6852, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) RULES FOR ASSESSING.—In the case of any assessment resulting from the application of subsection (a)—

"(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

"(2) such income shall be treated as taxable at a 50-percent rate, and

"(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

(c) EFFECT OF LATER SUBSTITUTION OF TRUE OWNER.—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

(d) DEFINITIONS.—For purposes of this section—

"(1) **CASH.**—The term 'cash' includes any cash equivalent.

"(2) **CASH EQUIVALENT.**—The term 'cash equivalent' means—

"(A) foreign currency,
"(B) any bearer obligation, and
"(C) any medium of exchange which—
"(i) is of a type which has been frequently used in illegal activities, and
"(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

"(3) **VALUE OF CASH EQUIVALENT.**—Any cash equivalent shall be taken into account—

"(A) in the case of a bearer obligation, at its face amount, and
"(B) in the case of any other cash equivalent, at its fair market value."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part III. Special rules with respect to certain cash."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE D—ADMINISTRATIVE SUMMONS
SEC. 311. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) PROCEEDING TO QUASH.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) **PROCEEDING TO QUASH.**—

"(A) **IN GENERAL.**—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) **REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.**—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) **INTERVENTION; ETC.**—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in the proceeding under subparagraph (A). The person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding)."

(b) RESTRICTION ON EXAMINATION.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) **RESTRICTION ON EXAMINATION OF RECORDS.**—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash."

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district courts) is amended to read as follows:

"(h) **JURISDICTION OF DISTRICT COURT; ETC.**—

"(1) **JURISDICTION.**—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) **SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).**—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) **PRIORITY.**—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons."

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) **RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.**—"

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982.

SEC. 312. DUTY OF THIRD-PARTY RECORD-KEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection:

"(1) **DUTY OF THIRD-PARTY RECORD-KEEPER.**—

"(i) **RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.**—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(ii) **SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.**—The Secretary may issue a cer-

tificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

"(3) **PROTECTION FOR RECORDKEEPER WHO DISCLOSES.**—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 313. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) **AUTHORITY TO SUMMON, ETC.**—For the purpose" and by adding at the end thereof the following new subsections:

"(b) **PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.**—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) **NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.**—

"(1) **LIMITATION OF AUTHORITY.**—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) **JUSTICE DEPARTMENT REFERRAL IN EFFECT.**—For purposes of this subsection—

"(A) **IN GENERAL.**—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) **TERMINATION.**—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(1) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(2) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(3) he will discontinue such a grand jury investigation,

"(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) **TAXABLE YEARS, ETC., TREATED SEPARATELY.**—For purposes of this subsection, each taxable period (or, if there is no taxable

period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE E—WITHHOLDING ON PENSIONS AND OTHER RETIREMENT INCOME

SEC. 304. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) **IN GENERAL.**—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

"(a) **PENSIONS, ANNUITIES, ETC.—**

"(1) **WITHHOLDING AS IF PAYMENT WERE WAGES.**—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

"(2) **ELECTION OF NO WITHHOLDING.**—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

"(3) **WHEN ELECTION TAKES EFFECT.**—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

"(4) **AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.**—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

"(b) **NONPERIODIC DISTRIBUTION.—**

"(1) **WITHHOLDING.**—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) **AMOUNT OF WITHHOLDING.—**

"(A) **DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.**—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

"(B) **QUALIFIED TOTAL DISTRIBUTIONS.**—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be determined under tables for other computational procedures prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

"(C) **SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.**—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) **ELECTION OF NO WITHHOLDING.—**

"(A) **IN GENERAL.**—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

"(B) **SCOPE OF ELECTION.**—An election under subparagraph (A)—

"(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

"(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

"(c) **LIABILITY FOR WITHHOLDING.—**

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) **PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—**

"(A) **IN GENERAL.**—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

"(i) directs the payor to withhold such tax, and

"(ii) provides the payor with such information as the Secretary may require by regulations.

"(B) **PLANS TO WHICH PARAGRAPH APPLIES.**—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

"(i) section 401(a),

"(ii) section 403(a), or

"(iii) section 301(d) of the Tax Reduction Act of 1975.

"(d) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

"(1) **DESIGNATED DISTRIBUTION.—**

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

"(i) an employer deferred compensation plan,

"(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

"(iii) a commercial annuity.

"(B) **EXCEPTIONS.**—The term 'designated distribution' shall not include—

"(i) any amount which is wages without regard to this section, and

"(ii) the portion of a distribution or payment which it is reasonable to believe is not includable in gross income.

"(2) **PERIODIC PAYMENT.**—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

"(3) **NONPERIODIC DISTRIBUTION.**—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

"(4) **QUALIFIED TOTAL DISTRIBUTION.—**

"(A) **IN GENERAL.**—The term 'qualified total distribution' means any distribution which—

"(i) is a designated distribution,

"(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

"(iii) is made under a plan described in section 401(a), or 403(a), and

"(iv) consists of the balance to the credit of the employee under such plan.

"(B) **SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.**—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

"(5) **EMPLOYER DEFERRED COMPENSATION PLAN.**—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

"(6) **COMMERCIAL ANNUITY.**—The term 'commercial annuity' means an annuity, endow-

ment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

"(7) **PLAN ADMINISTRATOR.**—The term 'plan administrator' has the meaning given such term by section 414(g).

"(8) **MAXIMUM AMOUNT WITHHELD.**—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

"(9) **SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.**—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) **TIME AND MANNER OF ELECTION.—**

"(A) **IN GENERAL.**—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) **PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—**

"(1) **PERIODIC PAYMENTS.**—The payor of any periodic payment—

"(i) shall transmit to the payee notice of the right to make an election under subsection (a) not earlier than 8 months before the first of such payments and not later than when making the first of such payments,

"(ii) is such a notice is not transmitted under subclause (i) when making such first payment, shall transmit such a notice when making such first payment, and

"(iii) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

"(4) **NONPERIODIC DISTRIBUTIONS.**—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

"(iii) **NOTICE.**—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

"(11) **WITHHOLDING INCLUDES DEDUCTION.**—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

"(e) **WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.**—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

"(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero."

(b) **FILING OF REPORTS.**—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) **REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.—**

"(1) **IN GENERAL.**—The Secretary shall by forms or regulations require that—

"(A) the employer maintaining, or the plan administrator (within the meaning of

section 614(g) of a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) FORM, ETC., OF REPORTS.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations."

"(c) PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).—

"(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e).

"(a) LIABILITY FOR PENALTY.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(c), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed \$50,000.

"(c) EXCEPTIONS.—

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

"(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (a) of section 3602 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph:

"(8) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) EFFECTIVE DATES.—

"(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

"(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

"(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

"(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

"(5) DELAY IN APPLICATION.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

"(6) WAIVER OF PENALTY.—No penalty shall be assessed under section 6772 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

"(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

"(2) Paragraph (3) of section 609(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

SUBTITLE F—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

(a) GENERAL RULE.—Subsection (b) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for

purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or
"(B) enforcement of summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart I—Admissibility of Documentation Maintained in Foreign Countries

"Sec. 982. Admissibility of documentation maintained in foreign countries.

"SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES.

"(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the 'examined item') before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

"(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

"(1) FORMAL DOCUMENT REQUEST.—The term 'formal document request' means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth—

"(A) the time and place for the production of the documentation,

"(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

"(C) a description of the documentation being sought, and

"(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order

denying the petition shall be deemed a final order which may be appealed.

"(C) SUSPENSION OF 90-DAY PERIOD.—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN-BASED DOCUMENTATION.—The term 'foreign-based documentation' means any documentation which is outside the United States and which may be relevant or material to the tax treatment of the examined item.

"(2) DOCUMENTATION.—The term 'documentation' includes books and records.

"(3) FOREIGN-CONNECTED.—An item shall be treated as foreign-connected if—

"(A) such item is directly or indirectly from a source outside the United States, or

"(B) such item (in whole or in part)—

"(i) purports to arise outside the United States, or

"(ii) is otherwise dependent on transactions occurring outside the United States.

"(4) AUTHORITY TO EXTEND 90-DAY PERIOD.—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending."

"(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter I is amended by adding at the end thereof the following new item:

"Subpart I. Admissibility of documentation maintained in foreign countries."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

"(a) IN GENERAL.—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of \$1,000 for each annual accounting period with respect to which such failure exists.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof)

during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000."

"(b) COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

"(1) by inserting "and subsection (b)" after "subsection" in paragraph (3)(B), and

"(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (b).—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period."

"(c) TECHNICAL AMENDMENTS.—

"(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

"(c) PENALTY OF REDUCING FOREIGN TAX CREDIT.—"

"(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in lieu thereof "within the meaning of subsection (e)(1)".

"(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

"SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) REQUIREMENT.—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person, such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONTROL.—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent'

shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) CONTROLLED GROUP.—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(i) for 'at least 30 percent' each place it appears in section 1563(a)(1), and

"(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of \$1,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

"(e) CROSS REFERENCE.—

"For provisions relating to criminal penalties for violation of this section, see section 7201."

"(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

"Sec. 6038A. Information with respect to certain foreign-owned corporations."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

"(a) GENERAL RULE.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

"SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.

"(a) GENERAL RULE.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corpora-

which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

- (1) the shareholder information required by subsection (b),
- (2) the income information required by subsection (c), and
- (3) such other information with respect to such corporation as the Secretary shall by regulations prescribe as necessary for carrying out the purposes of this title.

(b) SHAREHOLDER INFORMATION.—The shareholder information required by this section with respect to any taxable year shall be—

- (1) the name and address of each person at any time during such taxable year who owned any share in the corporation,
- (2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,
- (3) the number of shares of each class owned by each person, and
- (4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term "share" includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

(c) INCOME INFORMATION.—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

(d) TIME AND MANNER FOR FURNISHING INFORMATION.—The information required by this subsection (a) shall be furnished at the time and in such manner as the Secretary shall by forms and regulations prescribe.

(e) DEFINITION AND SPECIAL RULES.—

(1) 10-PERCENT SHAREHOLDER.—For purposes of this section, the term "10-percent shareholder" means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more of the outstanding stock of a foreign corporation.

(2) TIME FOR MAKING DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in paragraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the end of the taxable year in which the return is required to be filed.

(B) SPECIAL RULE.—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the day of such taxable year on which there was such a person who was a United States citizen or resident.

(3) TWO OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SHAREHOLDERS OF FOREIGN CORPORATION.—If, but for this paragraph, two or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for any taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person.

(4) DETERMINATION OF PENALTY.—

Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or

section 6046" and the section heading for section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046."

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046."

(e) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

SEC. 341. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.

(a) **FOREIGN CORPORATIONS.**—Subsection (d) of section 6046 (relating to time for filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: "(or on or before such later day as the Secretary may by forms or regulations prescribe)".

(b) **FOREIGN TRUSTS.**—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting "(or on or before such later day as the Secretary may by regulations prescribe)" after "the 90th day".

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

SEC. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.

SEC. 343. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 9061a.

(a) **GENERAL RULE.**—Subsection (e) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted.

SUBTITLE G—MODIFICATION OF INTEREST PROVISIONS

SEC. 344. INTEREST COMPOUNDED DAILY.

(a) **IN GENERAL.**—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED DAILY.

(a) **GENERAL RULE.**—In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of Title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

(b) **EXCEPTION FOR PENALTY FOR FAILURE TO FILE ESTIMATED TAX.**—Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655."

(c) **CONFORMING AMENDMENTS.**—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded daily."

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "compounding of interest" after "rate".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 345. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMIANNUALLY.

(a) **IN GENERAL.**—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) ADJUSTMENT OF INTEREST RATE.—

"(1) ESTABLISHMENT OF ADJUSTED RATE.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 4-month period ending on September 30 of any calendar year, or

"(B) during the 8-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) EFFECTIVE DATE OF ADJUSTMENT.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B)."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to adjustments taking effect on January 1, 1983.

SEC. 346. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

(a) **INTEREST WITH RESPECT TO DELINQUENT RETURNS.**—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) LATE RETURNS.—Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed."

(b) **NO INTEREST IF RETURN NOT IN PROCESSIBLE FORM.**—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (f) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) NO INTEREST UNTIL RETURN IN PROCESSIBLE FORM.—

"(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

"(2) For purposes of paragraph (1), a return is in a processible form if—

"(A) such return is filed on a permitted form, and

"(B) such return contains—

"(i) the taxpayer's name, address, and identifying number and the required signature, and

"(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return."

(c) **MODIFICATION OF INTEREST IN THE CASE OF CARRYBACKS.—**

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(2) OVERPAYMENTS.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for unused deductions) is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6611(f)(2) is amended by striking out "the close of" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (f) of section 6611 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR PARAGRAPHS (1) AND (2)—

"(A) FILING DATE.—For purposes of this subsection, the term 'filing date' means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

"(B) COORDINATION WITH SUBSECTION (e).—

"(I) IN GENERAL.—FOR PURPOSES OF SUBSECTION (E)—

"(1) any overpayment described in paragraph (1) or (2) shall be treated as an overpayment for the loss year, and

"(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

"(III) LOSS YEAR.—For purposes of this subparagraph, the term 'loss year' means—

"(1) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises, and

"(II) in the case of a credit carryback, the taxable year in which such credit carryback arises for, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year."

(D) Subsection (g) of section 6611 is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date (as defined in subsection (f)(3)) for the taxable year".

(2) UNDERPAYMENTS.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out "the last day of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out "the last day of the" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

"(4) FILING DATE.—For purposes of this subsection, the term 'filing date' has the meaning given to such term by section 6611(f)(3)(A)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to interest accruing after the 30th day after the date of the enactment of this Act.

SUBTITLE H—TAXPAYER SAFEGUARD AMENDMENTS**SEC. 347. INCREASE IN CERTAIN EXEMPTIONS FROM LEVY.****(a) GENERAL RULE.—**

(1) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) (relating to property exempt from tax) is amended by striking out "\$500" and inserting in lieu thereof "\$1,500".

(2) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION.—Paragraph (3) of section 6334(a) is amended by striking out "\$250" and inserting in lieu thereof "\$1,000".

(3) WAGES, SALARY, OR OTHER INCOME.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended—

(A) by striking out "\$50" and inserting in lieu thereof "\$75", and

(B) by striking out "\$15" and inserting in lieu thereof "\$25".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 348. REQUIRED RELEASE OF LIEN.

(a) GENERAL RULE.—So much of subsection (a) of section 6325 (relating to release of lien) as precedes paragraph (1) thereof is amended to read as follows:

"(a) RELEASE OF LIEN.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to liens—

(1) which are filed after December 31, 1982,

(2) which are satisfied after December 31, 1982, or

(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

SEC. 349. REQUIREMENT OF TIMELY NOTICE OF LEVY.

(a) GENERAL RULE.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

"(2) 10-DAY REQUIREMENT.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address, no less than 10 days before the day of the levy.

"(3) JEOPARDY.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

"(e) CONTINUING LEVY ON SALARY AND WAGES.—

"(1) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(2) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in paragraph (1), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 349A. EXTENSION OF PERIOD FOR REDEMPTION OF REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 6337(b) (relating to period for redemption of real estate after sale) is amended by striking out "120 days" and inserting in lieu thereof "180 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property sold after the date of the enactment of this Act.

SEC. 350. AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY.

(a) GENERAL RULE.—Subparagraph (C) of section 7428(b)(2) (relating to amount of damages) is amended to read as follows:

"(C) If such property was sold, grant a judgment for an amount not exceeding the greater of—

"(i) the amount received by the United States from the sale of such property, or

"(ii) the fair market value of such property immediately before the levy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to levies made after December 31, 1982.

SUBTITLE I—OTHER PROVISIONS**SEC. 351. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.**

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business for the activities which comprise such trade or business consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted."

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 352. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) such amounts in excess of the amount requested for such purpose in the President's proposed budgets as may be necessary to provide sufficient improved enforcement to increase revenues by \$1 billion in fiscal year 1984 and \$2 billion in fiscal year 1985.

SEC. 353. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by

chapter 1 of the Internal Revenue Code of 1954.

SEC. 354. EXEMPTION OF VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (19) of section 501(c) (relating to exemption of veterans' organizations) is amended—

(1) by striking out "war veterans" the first place it appears and inserting in lieu thereof "past or present members of the Armed Forces of the United States"; and

(2) by amending subparagraph (B) to read as follows:

"(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and"

(b) ASSOCIATION ORGANIZED BEFORE 1880.—Subsection (c) of section 501 (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) any association organized before 1880 more than 25 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 355. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

"VERY HIGH FREQUENCY STATIONS"

"SEC. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which license of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934."

SEC. 358. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (U) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, offi-

cers and employees of any Federal agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

"(ii) any investigation which may result in such a proceeding, or

"(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

"(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

"(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

"(ii) any investigation which may result in such a proceeding, or

"(iii) any grand jury proceeding described in paragraph (1)(A)(iii), solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

"(i) the name and address of the taxpayer with respect to whom the requested return information relates;

"(ii) the taxable period or periods to which such return information relates;

"(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

"(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

"(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

"(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

"(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

"(B) EMERGENCY CIRCUMSTANCES.—

"(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

"(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

"(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

"(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (c), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

"(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant to establishing the commission of a crime or the guilt or liability of a party, or

"(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

"(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to

enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

"(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

"(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

"(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

"(A) IN GENERAL.—Except as provided in paragraph (8), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an *ex parte* order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

"(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

"(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

"(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

"(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 6103 (relating to procedure and recordkeeping) is amended—

(A) by striking out "(6)(A)(ii)" in paragraph (3)(A) and inserting in lieu thereof "(7)(A)(ii)";

(B) by striking out "(d)" in paragraph (3)(C)(i) and inserting in lieu thereof "(d), (4)(3)(B)(i)";

(C) by striking out "such requests" in paragraph (3)(C)(i)(iii) and inserting in lieu thereof "such requests or otherwise";

(D) by striking out "(4)(1), (2), or (5)" each place it appears in paragraph (4) and inserting in lieu thereof "(i)(1), (2), (3), or (5)";

(E) by striking out "(d)" each place it appears in paragraph (4) and inserting in lieu thereof "(d), (4)(3)(B)(i)"; and

(F) by striking out "subsection (4)(6)(A)(ii)" in paragraph (6)(B)(i) and inserting in lieu thereof "subsection (4)(7)(A)(ii)".

(2) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "(d)" and inserting in lieu thereof "(d), (4)(3)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 357. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7431 as section 7432 and inserting after section 7430 the following new section:

"SEC. 7430. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) IN GENERAL.—

"(1) DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(2) DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

"(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) \$1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

"(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

"(2) the costs of the action.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

"(e) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b).

(b) CONFORMING AMENDMENTS.—

(1) Section 7217 (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7431 and inserting in lieu thereof the following:

"Sec. 7431. Civil damages for unauthorized disclosure of returns and return information.

"Sec. 7432. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to disclosures made after the date of enactment of this Act.

SEC. 358. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—Paragraph (7) of section 6103(i) (relating to disclosure to Comptroller General), as redesignated by section 398(a), is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) AUDITS OF OTHER AGENCIES.—

"(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

"(1) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

"(ii) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

"(4) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (i) or (m)) to be made available to the Federal agency for use in such program or activity shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

"(10) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

"(1) a description of the use of the returns and return information by the Federal agency involved,

"(2) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

"(3) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

"(b) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return informa-

MEMORANDUM

TO: All U. S. Attorneys

FROM: J. Paul McGrath
Assistant Attorney General
Civil Division

SUBJECT: Processing Adverse District Court Judgments
in Civil Division Cases

As you know, under the Department's regulations the Solicitor General determines whether an appeal will be taken from an adverse judgment. Until the Solicitor General makes his determination, which is based upon recommendations received from the U. S. Attorney, the Civil Division, and the concerned agency, the government's right to appeal must be preserved. Your offices ordinarily bear the burden of taking the necessary steps to protect the government's right to appeal, i.e., filing notices of appeal, ordering transcripts, etc. This process is frequently time consuming and very frustrating to all concerned, since the government in fact ultimately appeals only a small portion of the adverse judgments entered against it.

The Solicitor General and I agree it is thus crucial that we make every effort to reduce the time period necessary for appeal determinations. Our goal is to reduce this time in the ordinary case to a period of no greater than 60 days following the final judgment. Attainment of this goal would mean that the Solicitor General normally would make his decision as to whether the government will appeal prior to the time when a notice of appeal is due.

The Solicitor General and I have instituted various actions within the Department to expedite the decision-making process. However, we need your cooperation in instituting what the statistics indicate should produce the greatest acceleration of this process -- the immediate submission of adverse district court judgments directly to the Appellate Staff. In particular, we request that each of you instruct your attorneys that when an adverse judgment is entered against the government, they immediately mail a copy of the adverse decision to the Appellate Staff's special post office box, P.O. Box 978, Benjamin Franklin Station, Washington, D.C. 20044.

This does not mean that we expect your appeal recommendations immediately after you receive an adverse district court decision. We understand that you must have adequate time to formulate your recommendations, but it is vital that we get copies of adverse decisions immediately following the entry of judgment so that we are alerted to them and can commence our processing pending arrival of your recommendations.

It currently takes an average of thirty to forty days before the Appellate Staff receives the adverse district court judgment. If we can significantly reduce this time period, then the Civil Division and the Solicitor General's office should ordinarily be able to reach our goal of processing recommendations for or against appeal prior to the time for filing a protective notice of appeal. If this goal is achieved, it will greatly benefit all our offices.

(Civil Division)