ENACTED BY THE STATE OF HAWAII

Digest of Tax Measures

TWENTY-FOURTH LEGISLATURE – REGULAR SESSION OF 2007

Prepared by the State of Hawaii
Department of Taxation
Issued: July 23, 2007

NOTE: This Digest is issued solely as a guide and is not intended to be complete.

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Introduction

The following is a digest of bills passed by the 2007 Legislature and enacted into law. The Governor did not veto any substantive tax measures. The digest includes only those measures that affect Hawaii's tax laws and is provided for your information. It is issued solely as a guide and is not intended to be either authoritative or complete. Copies of the bills passed by the Legislature may be obtained from the Senate and House print shops. Bills and Acts are also accessible via the Internet on the State Capitol website at http://www.capitol.hawaii.gov, or on the Department of Taxation's website at http://www.state.hi.us/tax.

KEY TO ABBREVIATIONS

SB	**=**	**Senate Bill**
SD	**=**	**Senate Draft**
HB	**=**	**House Bill**
HD	**=**	**House Draft**
CD	**=**	**Conference Draft**
SCR	**=**	**Senate Concurrent Resolution**
HCR	**=**	**House Concurrent Resolution**
SSCR	**=**	**Senate Standing Committee Report**
HSCR	**=**	**House Standing Committee Report**
CCR	**=**	**Conference Committee Report**
SECT AFF	**=**	**Section(s) of the Hawaii Revised Statutes Affected by the Bill's Provisions**
HRS	**=**	**Hawaii Revised Statutes**
HAR	**=**	**Hawaii Administrative Rules**
SLH	**=**	**Session Laws of Hawaii**

ADMINISTRATIVE TAX MEASURES

ACT 45
HB 1414 HD 1, SD 2
MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF TAXATION COUNTY SURCHARGE IMPLEMENTATION COSTS
HSCR 300-07; HSCR 1109-07; SSCR 1052; SSCR 1069; SSCR 1446
SECT AFF: Not Applicable

Appropriates $5,041,691 to the Department of Taxation as reimbursement for unbudgeted implementation costs incurred by the Department in administering the City & County of Honolulu county surcharge on state general excise tax.

EFFECTIVE: April 27, 2007.

ACT 154
HB 1256 HD 1, SD 1
RELATING TO PERFECTION OF APPEALS TO THE TAX APPEAL COURT
HSCR 565-07; HSCR 848-07; SSCR 1075; SSCR 1551
SECT AFF: 232-16; 232-17

Requires, as a condition for jurisdiction to be conferred upon the Tax Appeal Court, service of a Notice of Appeal on the Director of Taxation and, in the instance of an appeal from a decision involving a County, service upon the Real Property Assessment Division of the County involved.

EFFECTIVE: June 8, 2007, and applies to any Notice of Appeal filed after this date.

ACT 206
HB 1631 HD 2, SD 2, CD 1
RELATING TO HIGH TECHNOLOGY BUSINESS INVESTMENT TAX CREDIT
HSCR 604-07; HSCR 1111-07; SSCR 1317; SSCR 1506; CCR 199-07
SECT AFF: 235-20.5; 235-110.9

Requires a qualified high technology business (QHTB) that accepts an investment for which the High Technology Business Investment Tax Credit may be claimed to complete and file an information survey with the Department of Taxation before June 30 of each calendar year for which the credit may be claimed over the five-year credit schedule.

Includes in the survey the following information:

- Identification of the QHTB's industry sector of qualified research set forth at HRS § 235-7.3;
- Investment credit data, including the amount of investment received;

- Revenue and expense data;
- Hawaii employment data;
- Any other additional information the Department of Taxation deems necessary.

Subjects any QHTB that fails to timely file the required survey to a $1,000 penalty per month for each month the survey is unfiled, not to exceed $6,000.

Requires any QHTB receiving an investment for which a credit may be claimed to waive confidentiality and to allow the Department to disclose that the QHTB is a beneficiary of the High Technology Business Investment Tax Credit.

Requires the Department of Taxation to prepare a report to the Legislature summarizing the data obtained from the survey. The information is to be reported at the aggregate level to avoid disclosure of any specific QHTB's identity. Requires the Department to identify the QHTBs that benefit from the High Technology Business Investment Tax Credit. The report must be submitted by September 1 of each year.

Requires the Department of Taxation to study the information contained in the survey to discern the effectiveness and impact of the High Technology Business Investment Tax Credit. The report must be submitted to the Legislature by December 1 of each year.

Requires the Department of Taxation to report to the Legislature aggregate information regarding all Form N-317s in the Department's possession for all previous years available. The report must be submitted to the Legislature by October 31, 2007.

Broadens the Department of Taxation's Tax Administration Special Fund to allow use of funds for administering the High Technology Business Investment Tax Credit.

EFFECTIVE: July 1, 2007, applying to investments received after June 30, 2007; provided that the Act shall repeal on January 1, 2011 and sections 235-20.5 and 235-110.9(b), HRS, are to be reenacted in the form in which they read the day before enactment.

ACT 240
HB 1207 SD 1
RELATING TO DISHONORED PAYMENTS
HSCR 762-07; SSCR 1487
SECT AFF: 40-35.5

Increases the service charge fee for dishonored payments received by the State to $25.

Precludes the Department of Taxation from assessing interest on the $25 dishonored payment service charge fee.

EFFECTIVE: July 2, 2007.

ACT 272
HB 122 HD 1, SD 1, CD 1
RELATING TO STATE FUNDS
HSCR 765-07; SSCR 1525; CCR 128-07
SECT AFF: 36-___

Requires Internet disclosure of entities receiving "state awards," as defined. State award includes, among other things, potential tax benefits (credits) in excess of $25,000. Clarifies that the searching of taxation benefits on the Internet, except for information in the aggregate, shall be entitled to confidentiality protection in accordance with Title 14, HRS.

CIGARETTE TAX/RENTAL MOTOR VEHICLE SURCHARGE TAX/GENERAL EXCISE & USE TAX MEASURES

ACT 102
SB 139 SD 1, HD 1, CD 1
RELATING TO HEALTH
SSCR 2; SSCR 10; HSCR 1337-07; HSCR 1826-07; CCR 9-07
SECT AFF: 245-15; 304A-2168

Clarifies the disposition of revenues collected under Chapter 245, HRS, relating to cigarette taxes. Makes clarifying amendments to provide for deposit of cigarette tax revenues to various special funds on a per-cigarette basis.

Allows for interest earned on deposits to the Hawaii Cancer Research Special Fund to be deposited into the special fund.

EFFECTIVE: May 28, 2007.

ACT 103
SB 992 SD 1, HD 2, CD 1
RELATING TO ENERGY
SSCR 759; HSCR 1439-07; HSCR 1894-07; CCR 119-07
SECT AFF: 243-1; 243-4

Adds a new definition to Chapter 243, HRS, of the term "Power-generating Facility." Defines power-generating facility as any electricity-generating facility requiring a permit under the Federal Clean Air Act (42 USC § 7401, *et. seq*.), the Hawaii Air Pollution Control law, or both.

Specifically provides for the taxation of Naphtha fuel under Chapter 243, HRS. Assesses the tax for Naphtha fuel sold for use in a power-generating facility at 1 cent per gallon.

EFFECTIVE: May 29, 2007; provided that the amendments adding the definition of "Power-generating Facility" and the 1 cent rate for Naphtha fuel are to be repealed on December 31, 2009 and section 243-4, HRS, is to read in the manner it read prior to enactment; provided further that the 1 cent per gallon tax on Naphtha fuel is effective retroactively for Naphtha fuel sold for use in power-generating facilities.

ACT 173
SB 678 SD 1, HD 1, CD 1
RELATING TO GENERAL EXCISE TAX
SSCR 11; SSCR 650; HSCR 1313-07; HSCR 1875-07; CCR 47-07
SECT AFF: 237-24.75

Exempts from the general excise tax amounts received by the operator of the Hawaii Convention Center for reimbursement of costs or advances made pursuant to a contract with the Hawaii Tourism Authority under HRS § 201B-7.

EFFECTIVE: June 13, 2007.

ACT 209
HB 1757 HD 1, SD 3, CD 2
RELATING TO TRANSPORTATION
HSCR 159-07; HSCR 618-07; HSCR 1100-07; SSCR 1096; SSCR 1673; CCR 152-07
SECT AFF: 291-37; 237-___; 243-4

Exempts gross income or gross proceeds received from the sale of alcohol fuel from the general excise tax. Defines "alcohol fuel" as neat biomass-derived alcohol liquid fuel or a petroleum-derived fuel and alcohol liquid fuel mixture consisting of at least ten volume per cent denatured biomass-derived alcohol commercially usable as a fuel to power aircraft, seacraft, spacecraft, motor vehicles, or other motorized vehicles.

Requires any producer, wholesaler, or retailer of alcohol fuel to pass on any savings realized from the general excise tax exemption. Failure to pass on the savings is a violation of consumer protection law and is enforceable under Chapter 480, HRS. Failure to pass on the savings also results in a fine of $100,000.

Increases the fuel tax assessed on the sale or use of the various fuels taxed under Chapter 243, HRS, by one-cent ($0.01) per gallon.

EFFECTIVE: July 1, 2007; provided that the exemption of alcohol fuel from the general excise tax repeals on June 30, 2009.

ACT 225
HB 317 HD 2, SD 2, CD 1
RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS
HSCR 100-07; HSCR 1088-07; SSCR 1323; SSCR 1512; CCR 181-07
SECT AFF: Chapter ___; 237-24.75

Exempts from the general excise tax gross income or gross proceeds received by a professional employment organization from a client company equal to amounts that are disbursements to client company employees for wages, salaries, payroll taxes, insurance premiums, and benefits; provided that the professional employment organization collects, accounts for, and pays over any income tax withholding for assigned employees or any other federal or state tax for which the professional employment organization is responsible.

Defines "professional employment organization," "client company," and "assigned employee" in a new Chapter of the HRS.

EFFECTIVE: July 1, 2007; provided that the exemption applies to gross proceeds received after June 30, 2007.

ACT 239
HB 1719 HD 1, SD 1, CD 1
RELATING TO GENERAL EXCISE TAX
HSCR 179-07; HSCR 1099-07; SSCR 1309; SSCR 1507; CCR 169-07
SECT AFF: 237-24.3; 237-24.7

Exempts gross income or gross proceeds received by submanagers of an association of apartment owners or nonprofit homeowners or community association in reimbursement for common expenses from the general excise tax.

Exempts gross income or gross proceeds received by a hotel suboperator or the hotel operator or suboperator from a timeshare association in amounts equal to and which are disbursed for employee wages, salaries, payroll taxes, insurance premiums, and benefits from the general excise tax.

EFFECTIVE: January 1, 2008; provided that the amendments to section 237-24.3 repeal on December 31, 2009 and Sections 237-24.3 and 237-24.7, HRS, will be reenacted in the form in which they read on December 31, 2007.

ACT 258
SB 1133 SD 3, HD 1, CD 1
RELATING TO TAXATION
SSCR 73; SSCR 558; SSCR 797; HSCR 1811-07; CCR 177-07
SECT AFF: 251-2

Extends the $3 per day Rental Motor Vehicle Surcharge Tax to August 31, 2008.

EFFECTIVE: July 5, 2007.

INCOME TAX MEASURES

ACT 84
HB 1411 HD 2, SD 2
RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE

HSCR 768-07; HSCR 952-07; SSCR 1068; SSCR 1445
SECT AFF: 235-2.3

Section 235-2.5(c), HRS, mandates that the Department of Taxation submit a bill to the Legislature, during each regular session, to conform to the changes in the Internal Revenue Code (IRC). The adoption of the amendments to the IRC assures continued State conformity with the federal income tax law and minimizes taxpayers' burdens in complying with Hawaii's income tax law.

Reviewed were the federal income tax law changes resulting from the following federal acts:

(1) The Tax Increase Prevention & Reconciliation Act of 2005 (P.L. No. 109-122; May 17, 2006)

(2) The Heroes Earned Retirement Opportunities Act of 2006 (P.L. No. 109-227; May 29, 2006);

(3) The Pension Protection Act of 2006 (P.L. No. 109-280; August 17, 2006);

(4) An Act to Complete the Codification of Title 14, United States Code, Shipping, as Positive Law (P.L. No. 109-304; August 10, 2006);

(5) The Tax Relief & Health Care Act of 2006 (P.L. No. 109-432; December 20, 2006);

For more information on the federal laws to which the State conforms, please see Department of Taxation Announcement No. 2007-04 and/or the Digest of Federal Laws contained in this publication.

EFFECTIVE: May 22, 2007 and applies to taxable years beginning after December 31, 2006; provided that retroactive and prospective effective dates contained in the congressional acts relating to the Internal Revenue Code and enacted during 2006 shall be operative.

ACT 128
HB 506 HD 1, SD 1, CD 1
RELATING TO ETHANOL
HSCR 373-07; HSCR 1041-07; SSCR 1072; SSCR 1342; SSCR 1444; CCR 127-07
SECT AFF: 235-110.3

Extends the date for which a qualified ethanol production facility must be in production for purposes of qualifying for the Ethanol Production Facility Tax Credit by five years. Extends the production date to January 1, 2017.

EFFECTIVE: July 1, 2007.

ACT 151
SB 1222, SD3, HD2, CD1
RELATING TO INCOME TAXATION
SSCR 76; SSCR 364; SSCR 761; HSCR 1318-07; HSCR 1895-07; CCR 40-07
SECT AFF: 235-12.5; 235-129

Eliminates reference to the term "resident" and requires that all renewable energy technology systems must be installed in the State for purposes of the Renewable Energy Technologies Income Tax Credit.

Clarifies the income tax credit allocation provision for S corporations.

EFFECTIVE: June 7, 2007, and applies to taxable years beginning after December 31, 2006.

ACT 166
SB 600 HD 2, CD 1
RELATING TO LEASEHOLD CONVERSION
SSCR 526; SSCR 705; HSCR 1222-07; HSCR 1472-07; HSCR 1907-07; CCR 178-07
SECT AFF: 235-7

Excludes from income tax 100% of the gain realized by a fee simple owner from the sale of a leased fee interest in a condominium project, cooperative project, or planned unit development, to the association of apartment owners or the residential cooperative corporation.

Defines "fee simple owner;" "legal and equitable owner;" "leased fee interest;" "condominium project;" and "cooperative project" by reference to other law.

EFFECTIVE: June 8, 2007, applying to taxable years beginning after December 31, 2007; and repeals on December 31, 2012; provided that on January 1, 2013 HRS 235-7(a) will be reenacted in the form in which it read prior to enactment.

ACT 210
SB 148 SD 2, HD 1, CD 2
RELATING TO INCOME TAX CREDIT

SSCR 474; SSCR 750; HSCR 1815-07; CCR 114-07
SECT AFF: Chapter 235

Provides a one-time, refundable constitutionally mandated income tax credit.

Computes the credit on a per-return basis. The credit amount is based on the filing status on the return and the Federal Adjusted Gross Income reported on the return. The credit is deductible from the taxpayer's 2007 individual income tax liability. Any excess credit after calculating the income tax owed will be refunded to the taxpayer. All claims for the credit must be made within 12 months following the close of the 2007 taxable year.

Provides the following credit amounts based upon the return-type filed, and based further upon the filer's Federal Adjusted Gross Income:

<u>Those Entitled to File and Claim the Benefits of a Joint Return—</u>

If the federal adjusted gross income is:	The credit shall be:
Under $5,000	$160
$5,000 and over but under $10,000	$150
$10,000 and over but under $15,000	$140
$15,000 and over but under $20,000	$130
$20,000 and over but under $30,000	$120
$30,000 and over but under $40,000	$110
$40,000 and over but under $50,000	$100
$50,000 and over but under $60,000	$ 90
$60,000 and over	$0

<u>Those Entitled to File and Claim the Benefits of a Head of Household—</u>

If the adjusted gross income is:	The credit shall be:
Under $5,000	$140
$5,000 and over but under $10,000	$130
$10,000 and over but under $15,000	$120
$15,000 and over but under $20,000	$110
$20,000 and over but under $30,000	$100
$30,000 and over but under $40,000	$90
$40,000 and over but under $50,000	$80
$50,000 and over but under $60,000	$70
$60,000 and over	$0.

Those Filing as Unmarried or Married-Filing-Separately—

If the adjusted gross income is:	The credit shall be:
Under $5,000	$65
$5,000 and over but under $10,000	$55
$10,000 and over but under $15,000	$45
$15,000 and over but under $20,000	$35
$20,000 and over but under $30,000	$25
$30,000 and over	$0

Declares the following persons ineligible for the credit:

- Persons that are not residents for at least nine months;
- Any person convicted of a felony and incarcerated for the full taxable year;
- Any person eligible to be claimed as a dependent but committed to a youth correctional facility for the full taxable year;
- Any misdemeanant committed to jail for the full taxable year;
- Any person claimed as a dependent or who otherwise would qualify to be claimed as a dependent.

EFFECTIVE: June 26, 2007.

ACT 211
SB 1882 SD 2, HD 1, CD 1
RELATING TO TAXATION
SSCR 318; SSCR 751; HSCR 1814-07; CCR 113-07
SECT AFF: 235-55.85

Changes the name of the Low-Income Refundable Tax Credit to the Refundable Food/Excise Tax Credit.

Amends the refundable credit's payout schedule and adjusted gross incomes.

The Refundable Food/Excise Tax Credit Table of Adjusted Gross Incomes and Credit Payouts is as follows:

Federal Adjusted Gross Income	**Credit Per Exemption**
Under $5,000	$85
$5,000 under $10,000	$75
$10,000 under $15,000	$65
$15,000 under $20,000	$55
$20,000 under $30,000	$45
$30,000 under $40,000	$35

$40,000 under $50,000	$25
$50,000 and over	$0

Defines "adjusted gross income" as a taxpayer's federal adjusted gross income.

EFFECTIVE: June 26, 2007, applying to taxable years beginning after December 31, 2007.

MISCELLANEOUS TAX MEASURES

ACT 222
SB 1917 SD 3, HD 1, CD 1
RELATING TO HOUSING
SSCR 111; SSCR 626; SSCR 775; HSCR 1443-07; HSCR 1840-07; CCR 196-07
SECT AFF: 201H-6; 46-1.55; 247-7

Clarifies the depositing language for conveyance tax revenues.

Adds the Youth Conservation Corp as a priority purpose for the Natural Area Reserve Fund.

Extends the increased conveyance tax deposit established by Act 100, Session Laws of Hawaii 2006, to June 30, 2008.

EFFECTIVE: July 1, 2007; provided the extension of the conveyance tax increase takes effect on June 29, 2007.

VETOED MEASURES

VETO (July 11, 2007)
HB 91, HD 1
RELATING TO PUBLIC ACCOUNTANCY

HSCR 828-07; SSCR 1916
SECT AFF: 466-5

Eliminates government or private accounting experience as qualifying experience for purposes of obtaining a license to practice in public accountancy.

Eliminates a baccalaureate degree in a subject other than accounting, plus eighteen semester hours of upper division or graduate accounting or auditing, as qualifying an applicant to take the CPA exam.

TABLE SHOWING EFFECT OF ACTS
Twenty-Third Legislature - 2006 Regular Session

KEY:		
Am = Amended	R = Repealed	
N = New	___ = Chapter or section number to be assigned in HRS Supplement	

SECTIONS OF HRS AFFECTED			
SECTION NO.	**EFFECT**	**ACT NO.**	**BILL NO.**
36-___	N	ACT 272	HB 122 HD 1, SD 1, CD1
40-35.5	Am	ACT 240	HB 1207 SD 1
46-1.55	Am	ACT 222	SB 1917 SD 3, HD 1, CD 1
201H-6	Am	ACT 222	SB 1917 SD 3, HD 1, CD 1
232-16	Am	ACT 154	HB 1256 HD 1, SD 1
232-17	Am	ACT 154	HB 1256 HD 1, SD 1
235-2.3	Am	ACT 84	HB 1411 HD 2, SD 2
235-7	Am	ACT 166	SB 600 HD 2, CD 1
235-12.5	Am	ACT 151	SB 1222 SD 3, HD 2, CD 1
235-20.5	Am	ACT 206	HB 1631 HD 2, SD 2, CD 1
235-55.85	Am	ACT 211	SB 1882 SD 2, HD 1, CD1
235-110.3	Am	ACT 128	HB 506 HD 1, SD 1, CD 1
235-110.9	Am	ACT 206	HB 1631 HD 2, SD 2, CD 1
235-129	Am	ACT 151	SB 1222 SD 3, HD 2, CD 1
237-___	N	ACT 209	HB 1757 HD 1, SD 3, CD 2
237-24.3	Am	ACT 239	HB 1719 HD 1, SD 1, CD 1
235-24.7	Am	ACT 239	HB 1719 HD 1, SD 1, CD 1
237-24.75	Am	ACT 173	SB 678 SD 1, HD 1, CD 1
237-24.75	Am	ACT 225	HB 317 HD 2, SD 2, CD 1
243-1	Am	ACT 103	SB 992 SD 1, HD 2, CD 1
243-4	Am	ACT 103	SB 992 SD 1, HD 2, CD 1
243-4	Am	ACT 209	HB 1757 HD 1, SD 3, CD 2
245-15	Am	ACT 102	SB 139 SD 1, HD 1, CD 1
247-7	Am	ACT 222	SB 1917 SD 3, HD 1, CD 1
251-2	Am	ACT 258	SB 1133 SD 3, HD 1, CD 1
291-37	Am	ACT 209	HB 1757 HD 1, SD 3, CD 2
304A-2168	Am	ACT 102	SB 139 SD 1, HD 1, CD 1
466-5	Am	VETO	HB 91 HD 1
CHAPTER NO.	**EFFECT**	**ACT NO.**	**BILL NO.**
235	N	ACT 210	SB 148 SD 2, HD 1, CD 2
___	N	ACT 225	HB 317 HD 2, SD 2, CD 1

Digest of the Tax Increase Prevention and Reconciliation Act of 2005 (P. L. No. 109-222; May 17, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 1(g)	The Tax Increase Prevention and Reconciliation Act of 2005 increases the age to which the kiddie tax provisions apply from under 14 to under 18 years of age. The provision also creates an exception to the kiddie tax for distributions from certain qualified disability trusts, defined by cross-reference to sections 1917 and 1614(a)(3) of the Social Security Act. The Act also provides that the kiddie tax does not apply to a child who is married and files a joint return for the taxable year. Effective Date: Taxable years beginning after December 31, 2005. Act § 102.
§ 26(a)	The Tax Increase Prevention and Reconciliation Act of 2005 extends the special rule for taxable years to 2006". Effective Date: Taxable years beginning after December 31, 2005. Act § 302.
§ 54(l)	Internal Revenue Code § 54(l) relating to clean renewable energy bonds was amended by the Tax Increase Prevention and Reconciliation Act of 2005 by striking out "section 149(f)(4)(A)" in paragraph (1) Effective Date: Effective for bonds issued after 5/17/2006. Act § 508.
§ 55	The Tax Increase Prevention and Reconciliation Act of 2005 increases the alternative minimum tax exemption amount to: (1) $62,550 in the case of married individuals filing a joint return and surviving spouses; (2) $42,500 in the case of unmarried individuals other than surviving spouses; and (3) $31,275 in the case of married individuals filing a separate return. Effective Date: Taxable years beginning after December 31, 2005. Act § 301.
§ 142	The Tax Increase Prevention and Reconciliation Act of 2005 amends § 142(d)(2)(B) relating to tax-exempt bonds by striking out "section 7872(g)" , and adding sections 7872(g) and (h) regarding loans to continuing care facilities. Effective Date: For calendar years beginning after 12/31/2005, for loans made before, on, or after 12/31/2005. Act § 209.
§ 143	The Tax Increase Prevention and Reconciliation Act of 2005 amends § 143 that in the case of qualified veterans' mortgage bonds issued by the States of Alaska, Oregon, and Wisconsin, (1) the requirement that veterans must have served before 1977 is repealed and (2) the eligibility period for applying for a loan following release from the military service is reduced from 30 years to 25 years. In addition, the annual issuance of qualified veterans' mortgage bonds in the States of Alaska, Oregon and Wisconsin is subject to new State volume limitations which are phased in between the years 2006 and 2010. The State volume limit in these States for any calendar year after 2010 is zero. Effective Date: The provision expanding the definition of eligible veterans applies to bonds issued on or after May 17, 2006. The provision amending State volume limitations applies to allocations of volume limitation made after April 5, 2006. Act § 203.
§ 144	The Tax Increase Prevention and Reconciliation Act of 2005 accelerates the application of the $20 million capital expenditure limitation from bonds issued after September 30, 2009, to bonds issued after December 31, 2006. Effective Date: Effective on the date of enactment for bonds issued after December 31, 2006. Act § 208.

§ 148	The Tax Increase Prevention and Reconciliation Act of 2005 deletes §§ 148(f)(4)(D)(ii)(II) – "all bonds issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying such subclause to such unit, be treated as not issued by such unit." Effective Date: Effective for bonds issued after 5/17/2006. Act § 508.
§ 149	The Tax Increase Prevention and Reconciliation Act of 2005 imposes new reasonable expectations requirements for loan originations. The issuer must expect that at least 50 percent of the net proceeds of a pooled financing bond will be lent to ultimate borrowers one year after the date of issue. This is in addition to the present-law requirement that at least 95 percent of the net proceeds will be lent to ultimate borrowers by the end of the third year after the date of issue. Effective Date: Effective for bonds issued after 5/17/2006. Act § 508.
The following provisions are operative for Hawaii income tax purposes.	
§ 163(j)(8)	The Tax Increase Prevention and Reconciliation Act of 2005 provides that in the case of a corporation that owns, directly or indirectly, an interest in a partnership, the corporation's share of partnership liabilities is treated as liabilities of the corporation for purposes of applying the earnings stripping rules to the corporation. Effective Date: Effective for taxable years beginning on or after 5/17/2006. Act § 501.
§ 167(g)(8)	The Tax Increase Prevention and Reconciliation Act of 2005 provides that if any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition or any copyright with respect to a musical composition that is required to be capitalized, then the income forecast method does not apply to such expenses, but rather, the expenses are amortized over a five-year period. Effective Date: Effective for expenses paid or incurred with respect to property placed in service in taxable years beginning after 12/31/2005. Act § 207.
§ 167(h)(5)	Special depreciation rules provided for oil companies. Effective Date: Amounts paid or incurred after May 17, 2006.
§ 170(e)	The Tax Increase Prevention and Reconciliation Act of 2005 makes permanent the availability of the section 1221(b)(3) election to treat certain sales of musical compositions or copyrights in musical works as being sales of capital assets (and therefore as generating capital gain). The provision also makes permanent the accompanying rule limiting to adjusted basis the amount of a charitable contribution deduction allowed for musical compositions or copyrights in musical works to which a taxpayer has elected the application of section 1221(b)(3) . Effective Date: Effective for sales and exchanges in taxable years beginning after 5/17/2006. Act § 204.
The following provisions are NOT operative for Hawaii income tax purposes.	
§§ 179(b)(1), (b)(2), (b)(5) &(c)(2)	The Tax Increase Prevention and Reconciliation Act of 2005 extends for two years the increased amount that a taxpayer may deduct and the other section 179 rules applicable in taxable years beginning before 2008. Thus, under the provision, these present-law rules continue in effect for taxable years beginning after 2007 and before 2010. Effective Date: Enacted 5/17/2006. Act § 101.
§ 179(d)(1)(A)(ii)	The Tax Increase Prevention and Reconciliation Act of 2005 substitutes "2010" for "2008" in paragraph § 179(d)(1)(A)(ii). Effective Date: Enacted 5/17/2006. Act § 101.
The following provision is NOT operative for Hawaii income tax purposes.	
§ 199	The Tax Increase Prevention and Reconciliation Act of 2005 modifies the wage limitation such that taxpayers may only include amounts, which are properly allocable to domestic production gross receipts. Thus, the wage limitation is 50 percent of those wages, which are deducted in arriving at qualified production activities income. Effective Date: Effective for taxable years beginning after 5/17/2006. Act § 514.

	The following provisions are operative for Hawaii income tax purposes.
§ 355	The Tax Increase Prevention and Reconciliation Act of 2005 reduces the percentage of investment assets of a corporation that will cause such corporation to be a disqualified investment corporation, from 75 percent to two-thirds of the fair market value of the corporation's assets, for distributions occurring after one year after the date of enactment. The Act also reduces from 25 percent to 20 percent the percentage stock ownership in a corporation that will cause such ownership to be disregarded as an investment asset itself, instead requiring "look-through" to the ratable share of the underlying assets of such corporation attributable to such stock ownership. Effective Date: Effective for distributions after 5/17/2006. Act § 507.
§ 408A	The Tax Increase Prevention and Reconciliation Act of 2005 eliminates the income limits on conversions of traditional IRAs to Roth IRAs. Effective Date: Effective for taxable years beginning after 12/31/2009. Act § 512.
§ 468B	The Tax Increase Prevention and Reconciliation Act of 2005 provides that certain settlement funds established in consent decrees for the sole purpose of resolving claims under Compensation and Liability Act of 1980 (CERCLA) are to be treated as beneficially owned by the United States government and therefore, not subject to Federal income tax. Effective Date: Effective for accounts and funds established after 5/17/2006. Act § 201.
§ 852(b)(3)	The Tax Increase Prevention and Reconciliation Act of 2005 provides that distributions by a RIC to foreign shareholders of amounts attributable to the sale of a U.S. real property interest (USRPIs) are not treated as Foreign Investment in Real Property Tax Act (FIRPTA) income unless the Regulated Investment Company (RIC) itself is a U.S. real property holding corporation. Effective Date: Effective for taxable years of qualified investment entities beginning after 12/31/2005. Act § 505.
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 871	The Tax Increase Prevention and Reconciliation Act of 2005 treats certain distributions attributable to sales of U.S. real property interests as dividends subject to dividend withholding, applies when the distribution is made to a foreign shareholder of a Regulated Investment Company (RIC) or Real Estate Investment Trust (REIT), but does not apply when the distribution is made to another RIC or a REIT. Effective Date: Effective for taxable years of qualified investment entities beginning after 12/31/2005. Act § 505.
§ 897	The Tax Increase Prevention and Reconciliation Act of 2005 provides distributions by a Regulated Investment Company (RIC) to foreign shareholders of amounts attributable to the sale of U.S. real property interest (USRPIs) are not treated as Foreign Investment in Real Property Tax Act (FIRPTA) income unless the RIC itself is a U.S. real property holding corporation. Effective Date: Effective for taxable years of qualified investment entities beginning after 12/31/2005. Act § 505.
§ 911	The Tax Increase Prevention and Reconciliation Act of 2005 provides if an individual excludes an amount from income under section 911 , any income in excess of the exclusion amount determined under section 911 is taxed by applying to that income the tax rates that would have been applicable had the individual not elected the section 911 exclusion. Effective Date: Effective for taxable years of qualified investment entities beginning after 12/31/2005. Act § 515.
§ 953	Under the Tax Increase Prevention and Reconciliation Act of 2005, dividends, interest, rents, any royalties received by a controlled foreign corporation are not treated as foreign personal holding company income to the extent attributable or properly allocable to non-subpart-F income of the payor. Effective Date: 5/17/2006. Act § 103.
§ 954	For taxable years beginning after 2005 and before 2009, dividends, interest, rents, and royalties received by one controlled foreign corporation from a related controlled foreign corporation are not treated as foreign personal holding company income to the extent attributable or properly allocable to non-subpart-F income of the payor. Effective Date: 5/17/2006. Act § 103.

	The following provision is operative for Hawaii income tax purposes.
§ 1221(b)	The Tax Increase Prevention and Reconciliation Act of 2005 makes permanent the availability of the section 1221(b)(3) election to treat certain sales of musical compositions or copyrights in musical works as being sales of capital assets (and therefore as generating capital gain). The provision also makes permanent the accompanying rule limiting to adjusted basis the amount of a charitable contribution deduction allowed for musical compositions or copyrights in musical works to which a taxpayer has elected the application of section 1221(b)(3) . Effective Date: Effective for sales and exchanges in taxable years beginning after 5/17/2006. Act § 204.
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 1355	Under the Tax Increase Prevention and Reconciliation Act of 2005, a corporation for which a tonnage tax election is in effect may make a further election with respect to a qualifying vessel used during a taxable year in "qualified zone domestic trade." Effective Date: Effective for taxable years beginning after 12/31/2005. Act § 205.
§ 1445	The Tax Increase Prevention and Reconciliation Act of 2005 provides that distributions generally, applies to distributions with respect to taxable years of Regulated Investment Company (RICs) and Real Estate Investment Trust (REITs_ beginning after December 31, 2005, except that no withholding is required under sections 1441 , 1442 , or 1445 with respect to any distribution before the date of enactment if such amount was not otherwise required to be withheld under any such section as in affect before the amendments made by the conference agreement. Effective Date: Effective for taxable years of qualified investment entities beginning after 12/31/2005. Act § 505.
§ 3402	**Extends withholding to certain payments made by government entities.** Requires that when government makes payments to any persons providing property or services, the government shall deduct and withhold from such payment a tax of 3 percent of the amount of the payment. Certain exceptions to this rule are provided. Effective: Effective for payments made after December 31, 2010.
§ 4965	**Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.** If a transaction is a prohibited tax shelter transaction at the time certain tax-exempt entities become a party to the transaction, such entities shall pay a tax for the taxable year in which they become a party and any subsequent taxable year in the amount determined under subsection (b)(1). A tax is also imposed if certain tax-exempt entities are parties to a transaction that subsequently becomes listed as a prohibited transaction. The entity manager of a tax-exempt entity is liable for a tax if the manager approves the entity as a party to a prohibited tax shelter transaction and knows or has reason to know that the transaction is a prohibited tax shelter transaction. "Prohibited tax shelter transactions" means listed transactions described in § 6707A(c)(2) and prohibited reportable transactions (confidential transactions or transactions with contractual protection which are reportable transactions under 6707A(c)(1)). The Secretary is authorized to promulgate regulations providing guidance regarding determination of allocation of net income proceeds of a tax-exempt entity attributable to a transaction to various periods. Effective: Effective for tax years ending after May 17, 2006, for transactions before, on, or after May 17, 2006, except that no tax under § 4965(a) (as added by § 516(a)(1) of P.L. 109-222) shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date which is 90 days after May 17, 2006.
§ 6011	**Disclosure of reportable transaction to tax-exempt entity.** Taxable party to a prohibited tax shelter transaction must disclose by statement to any tax-exempt entity which is a party to such transaction that the transaction is a prohibited tax shelter transaction. Effective: Effective for disclosures the due dates for which are after May 17, 2006.

§ 6033 **Returns by certain exempt organizations.**

Requires every tax-exempt entity described in § 4965(c) to file a disclosure of (1) the entity's being a party to any prohibited tax shelter transaction and (2) the identity of any other party to such transaction which is known by the tax-exempt entity.

Effective: Effective for disclosures the due dates for which are after May 17, 2006.

§ 6049 **Returns regarding payments of interest.**

Pre-Act law provided that the term "interest" did not include interest on any obligation if such interest is exempt from tax under § 103(a) (exemption for interest on State or local bonds) or if such interest is exempt from tax under any other provision of this Title.

The Act eliminates the aforementioned pre-Act provision and instead provides that "interest" does not include any amount paid to a person described in paragraph 4 (corporations, 501(a) tax exempt organizations, the United States or its wholly owned agency, States, foreign governments, international organizations, foreign central banks of issue, dealers in securities or commodities, real estate investment trusts, entities registered under the Investment Company Act of 1940, common trust funds, or any trust exempt from tax under § 664(c) or described in § 4947(a)(1)).

"Interest" also does not include any amount described in paragraph 5 (amounts subject to withholding related to tax on nonresident aliens and foreign corporations and amounts that would be subject to withholding but for the fact that (1) such amount is income from sources outside the U.S., (ii) the payor thereof is exempt from the application of the § 1441(a) requirement for withholding of tax on nonresident aliens, (iii) such amount is original issue discount, or (iv) such amount is described in § 871(i)(2)).

Effective: Effective for interest paid after December 31, 2005.

§ 6159 **Reference change.**

Changes reference from § 7122(d) to § 7122(e) for information on rights to administrative review and appeal.

Effective: Effective for offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006.

§ 6652 **Failure to file certain information returns, registration statements, etc.**

Changes references from § 6033 to § 6033(a)(1).

States that in the case of a failure to file a disclosure required under § 6033(a)(2), the tax-exempt entity shall pay $100 for each day during which the failure continues. The maximum penalty for such failure with respect to a single disclosure shall not exceed $50,000.

The Secretary may make written demand on any entity or manager subject to the aforementioned penalty specifying a reasonable future date by which the disclosure shall be filed. Failure of an entity or manager to comply with such demand shall result in payment by the entity or manager of $100 for each day after the expiration of time specified in the demand for which the failure continues. The maximum penalty for a failure with respect to any single disclosure shall not exceed $10,000.

Effective: Effective for disclosures the due dates for which are after May 17, 2006.

§ 7122

Rules for submission of offers-in-compromise.

Lump-sum offer - Requires that a lump-sum offer-in-compromise be accompanied by a payment of 20 percent of the amount of such offer. Lump-sum offer-in-compromise is any offer of payment made in 5 or fewer installments.

Period payment offer – Requires that a periodic payment offer-in-compromise be accompanied by the payment of the amount of the first proposed installment. Failure to make an installment (other than the first installment) due under such offer during the period such offer is being evaluated by the Secretary, may be treated by the Secretary as a withdrawal of such offer-in-compromise.

Application - Application of any payment to the assessed tax or other amounts may be specified by the taxpayer. In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

Any offer-in-compromise that does not meet the initial payment requirements pertaining to a lump-sum offer-in-compromise or periodic payment offer-in-compromise, may be returned to the taxpayer as unprocessable.

Deemed acceptance – Any offer-in-compromise shall be deemed to be accepted by the Secretary if such offer is not rejected before the date which is 24 months after the date of the submission of such offer.

Effective: Effective for offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006.

§ 7872

Treatment of loans with below-market interest rates.

Paragraph (1) provides that § 7872 rules for the treatment of loans with below-market interest rates shall not apply to any below-market loan made to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of the calendar year. The Act provides that Paragraph (1) shall not apply for any calendar year where subsection (h) applies.

The Act inserts a new subsection (h) which provides that § 7872 rules for the treatment of below-market loans shall not apply to a below-market loan owned by a facility which on the last day of the calendar year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

Defines a "continuing care contract" as a contract between an individual and a qualified continuing care facility under which (A) the individual or his/her spouse may use a qualified continuing care facility for their lives, (B) the individual or his/her spouse will be provided with housing as appropriate for their health, and (C) the individual or his/her spouse will be provided assisted living or nursing care as require and as is available in the facility.

Effective: Effective for calendar years beginning after December 31, 2005, for loans made before, on, or after December 31, 2005.

Digest of Tax Increase Prevention and Reconciliation Act of 2005 (continued) (P. L. No. 109-222; May 17, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 3402	**Extends withholding to certain payments made by government entities.** Requires that when government makes payments to any persons providing property or services, the government shall deduct and withhold from such payment a tax of 3 percent of the amount of the payment. Certain exceptions to this rule are provided. Effective: Effective for payments made after December 31, 2010.
§ 4965	**Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.** If a transaction is a prohibited tax shelter transaction at the time certain tax-exempt entities become a party to the transaction, such entities shall pay a tax for the taxable year in which they become a party and any subsequent taxable year in the amount determined under subsection (b)(1). A tax is also imposed if certain tax-exempt entities are parties to a transaction that subsequently becomes listed as a prohibited transaction. The entity manager of a tax-exempt entity is liable for a tax if the manager approves the entity as a party to a prohibited tax shelter transaction and knows or has reason to know that the transaction is a prohibited tax shelter transaction. "Prohibited tax shelter transactions" means listed transactions described in § 6707A(c)(2) and prohibited reportable transactions (confidential transactions or transactions with contractual protection which are reportable transactions under 6707A(c)(1)). The Secretary is authorized to promulgate regulations providing guidance regarding determination of allocation of net income proceeds of a tax-exempt entity attributable to a transaction to various periods. Effective: Effective for tax years ending after May 17, 2006, for transactions before, on, or after May 17, 2006, except that no tax under § 4965(a) (as added by § 516(a)(1) of P.L. 109-222) shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date which is 90 days after May 17, 2006.
§ 6011	**Disclosure of reportable transaction to tax-exempt entity.** Taxable party to a prohibited tax shelter transaction must disclose by statement to any tax-exempt entity which is a party to such transaction that the transaction is a prohibited tax shelter transaction. Effective: Effective for disclosures the due dates for which are after May 17, 2006.
§ 6033	**Returns by certain exempt organizations.** Requires every tax-exempt entity described in § 4965(c) to file a disclosure of (1) the entity's being a party to any prohibited tax shelter transaction and (2) the identity of any other party to such transaction which is known by the tax-exempt entity. Effective: Effective for disclosures the due dates for which are after May 17, 2006.

§ 6049 **Returns regarding payments of interest.**

Pre-Act law provided that the term "interest" did not include interest on any obligation if such interest is exempt from tax under § 103(a) (exemption for interest on State or local bonds) or if such interest is exempt from tax under any other provision of this Title.

The Act eliminates the aforementioned pre-Act provision and instead provides that "interest" does not include any amount paid to a person described in paragraph 4 (corporations, 501(a) tax exempt organizations, the United States or its wholly owned agency, States, foreign governments, international organizations, foreign central banks of issue, dealers in securities or commodities, real estate investment trusts, entities registered under the Investment Company Act of 1940, common trust funds, or any trust exempt from tax under § 664(c) or described in § 4947(a)(1)).

"Interest" also does not include any amount described in paragraph 5 (amounts subject to withholding related to tax on nonresident aliens and foreign corporations and amounts that would be subject to withholding but for the fact that (1) such amount is income from sources outside the U.S., (ii) the payor thereof is exempt from the application of the § 1441(a) requirement for withholding of tax on nonresident aliens, (iii) such amount is original issue discount, or (iv) such amount is described in § 871(i)(2)).

Effective: Effective for interest paid after December 31, 2005.

§ 6159 **Reference change.**

Changes reference from § 7122(d) to § 7122(e) for information on rights to administrative review and appeal.

Effective: Effective for offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006.

§ 6652 **Failure to file certain information returns, registration statements, etc.**

Changes references from § 6033 to § 6033(a)(1).

States that in the case of a failure to file a disclosure required under § 6033(a)(2), the tax-exempt entity shall pay $100 for each day during which the failure continues. The maximum penalty for such failure with respect to a single disclosure shall not exceed $50,000.

The Secretary may make written demand on any entity or manager subject to the aforementioned penalty specifying a reasonable future date by which the disclosure shall be filed. Failure of an entity or manager to comply with such demand shall result in payment by the entity or manager of $100 for each day after the expiration of time specified in the demand for which the failure continues. The maximum penalty for a failure with respect to any single disclosure shall not exceed $10,000.

Effective: Effective for disclosures the due dates for which are after May 17, 2006.

§ 7122 **Rules for submission of offers-in-compromise.**

Lump-sum offer - Requires that a lump-sum offer-in-compromise be accompanied by a payment of 20 percent of the amount of such offer. Lump-sum offer-in-compromise is any offer of payment made in 5 or fewer installments.

Period payment offer – Requires that a periodic payment offer-in-compromise be accompanied by the payment of the amount of the first proposed installment. Failure to make an installment (other than the first installment) due under such offer during the period such offer is being evaluated by the Secretary, may be treated by the Secretary as a withdrawal of such offer-in-compromise.

Application - Application of any payment to the assessed tax or other amounts may be specified by the taxpayer. In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

Any offer-in-compromise that does not meet the initial payment requirements pertaining to a lump-sum offer-in-compromise or periodic payment offer-in-compromise, may be returned to the taxpayer as unprocessable.

Deemed acceptance – Any offer-in-compromise shall be deemed to be accepted by the Secretary if such offer is not rejected before the date which is 24 months after the date of the submission of such offer.

Effective: Effective for offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006.

§ 7872 **Treatment of loans with below-market interest rates.**

Paragraph (1) provides that § 7872 rules for the treatment of loans with below-market interest rates shall not apply to any below-market loan made to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of the calendar year. The Act provides that Paragraph (1) shall not apply for any calendar year where subsection (h) applies.

The Act inserts a new subsection (h) which provides that § 7872 rules for the treatment of below-market loans shall not apply to a below-market loan owned by a facility which on the last day of the calendar year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

Defines a "continuing care contract" as a contract between an individual and a qualified continuing care facility under which (A) the individual or his/her spouse may use a qualified continuing care facility for their lives, (B) the individual or his/her spouse will be provided with housing as appropriate for their health, and (C) the individual or his/her spouse will be provided assisted living or nursing care as require and as is available in the facility.

Effective: Effective for calendar years beginning after December 31, 2005, for loans made before, on, or after December 31, 2005.

Digest of Heroes Earned Retirement Opportunities Act (P. L. No. 109-227; May 29, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is operative for Hawaii income tax purposes.
§ 219(f)	Inserts a new paragraph (7) and redesignates existing paragraph (7) as paragraph (8). New paragraph (7) establishes a special rule for compensation earned by members of the armed forces for service in a combat zone. For tax years beginning after 2003, the amount of compensation includible in an individual's gross income for purposes of determining the maximum deduction allowed for qualified retirement contributions under § 219(b)(1)(B), shall be determined without regard to § 112. Thus, the amount of compensation includible in gross income will include certain compensation received by United States Armed Forces members for service in a combat zone. For individuals that received combat pay excludable under § 112 for any tax year beginning after Dec. 31, 2003 and ending before May 29, 2006 (enactment date), there is a three-year period beginning on May 29, 2006 in which to make a contribution to an IRA for that tax year, and have the contribution treated as having been made on the last day of that tax year. Effective: For taxable years beginning after December 31, 2003.

Digest of Pension Protection Act

(P. L. No. 109-280; August 17, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 25B(b)	Increases the income ceilings used in determining the applicable percentage of qualified retirement savings contributions that may be used as a tax credit (the "saver's credit") against income tax. The income ceilings will be indexed for inflation after 2006. Effective: For tax years beginning in a calendar year after 2006.
§ 25B(h)	The "saver's credit", which is the applicable percentage of qualified retirement savings contributions that may be used as a tax credit against income tax, is made permanent by repealing the 2006 sunset provision. Effective: August 17, 2006.
	The following provision is operative for Hawaii income tax purposes.
§ 72 (e)(11)	**Allowing tax exemption of distributions from life insurance and annuity contracts if used to purchase long-term care insurance.** IRC § 72 governs the determination of the extent to which amounts received as annuities under an annuity, endowment, or life insurance contract are includible in gross income. The new provision states that charges made against the cash value of an annuity contract or the cash surrender value of a life insurance contract for the purpose of paying for coverage under a qualified long-term care insurance contract that is itself part of an annuity contract, shall be deducted from the amount that is regarded as the "investment" amount in the contract. However, the provision also provides that the charge is not includible in gross income. *The effect of this provision is to allow distributions from life insurance and annuity contracts to escape taxation so long as such distributions are used to purchase long-term care insurance. Effective: Effective for contracts issued after 12/31/1996 but only for tax years beginning after 12/31/2009.
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 72 (t)(2)(G)	**Additional exemption from the 10-percent tax on early distribution for military personnel on active duty.** The exemption from the 10-percent additional tax on early distributions from qualified retirement plans is extended to individuals called to active duty between September 11, 2001 and December 31, 2007 for an indefinite period or for a period of more than 179 days. To qualify for the exemption, the distribution must be from an individual retirement plan or employer contributions made pursuant to elective deferrals. Furthermore, individuals receiving a qualified reservist distribution may repay the distributed amount notwithstanding any other dollar limitations otherwise applicable to individual retirement plan contributions, within the 2-year period beginning on the day after the end of the active duty period. However, no deduction shall be allowed for such repayment contribution. This provision is retroactive as well as prospective and is therefore applicable to distributions made after September 11, 2001 during an active duty period. Effective: Applies to distributions made after September 11, 2001.

§ 72 (t)(10)	**Broadening the exemption from the 10-percent tax on early distribution for public safety workers.** Under the new provision, early distributions that are made to qualified public safety employees (State/local police, fire-fighters, emergency medical service personnel) from a governmental plan that is a defined benefit plan, is not subject to the 10-percent tax if the distribution is made to an employee that separated from service after attaining age 50. Effective: Effective for distributions made after August 17, 2006.

The following provisions are operative for Hawaii income tax purposes.

§ 101(j)	**Modified treatment of certain employer-owned life insurance contracts**. Under the new provision, payment received by the policyholder of an employer-owned life insurance contract by reason of death of the insured continues to be excludable from the policyholder's gross income but only up to an amount equal to the sum of the premiums and other amounts the policyholder paid for the contract. This limitation on the amount excludable from the policyholder's gross income does not apply to (1) certain insureds (those that were employees within the 12-month period before the insured's death or those that were directors or highly compensated individuals at the time the contract was issued) or (2) amounts paid to the insured's family members, designated beneficiaries or estate. The new provision also establishes notice and consent requirements for the employee-insured prior to contract issuance. Effective: Effective for life insurance contracts issued after August 17, 2006 except those issued pursuant to an IRC § 1035 exchange.
§ 170(b)(1)(E)	**Increasing allowable amount of charitable conservation contributions made by individuals.** For individuals, the percentage limitation applicable to qualified conservation contributions (real property interests made to a qualified organization for conservation purposes) is increased from 30 percent to 50 percent of the taxpayer's contribution base. The qualified conservation contribution combined with all other charitable contributions allowed under § 170(b)(1) may not exceed 50 percent of the taxpayer's contribution base (roughly equivalent to AGI) or 100 percent of the taxpayer's contribution base in the case of a qualified farmer or rancher. Excess amounts of conservation contributions may now be carried forward for 15 years rather than 5 years. Effective: Effective for contributions made in taxable years after December 31, 2005 and before January 1, 2008.
§ 170(b)(2)	**Increasing allowable amount of charitable conservation contributions made by corporations.** While charitable contributions by corporations were previously limited to an amount equal to 10 percent of taxable income, the Act now allows corporations that are qualified farmers or ranchers to make a conservation contribution in an amount up to 100 percent of taxable income so long as the total of such contributions and other charitable contributions does not exceed taxable income. Excess amounts of conservation contributions may now be carried forward for 15 years. Effective: Effective for contributions made in taxable years after December 31, 2005 and before January 1, 2008.

§ 170(d)(2) **Coordinated amendment to corporate charitable conservation contributions carryover rule.**

This section which provides a five-year carryover for a corporation's excess charitable contributions is amended to clarify that the five-year carryover applies to contributions other than qualified conservations by corporate farmers and ranchers as the 15-year carryover period applies.

Effective: Effective for contributions made in taxable years after December 31, 2005 and before January 1, 2008.

§ 170(e)(1)(B)(i) **Limitation on charitable contributions of ordinary income and capital gain property.**

Charitable contributions otherwise taken with respect to applicable property exceeding $5,000 (tangible personal property whose use by the donee is related to the purpose upon which the donee's Sec. 501 non-profit exemption is based) must be reduced if (1) the donee's use of the property is unrelated to the purpose upon which the donee's Sec. 501 non-profit exemption is based or (2) the donee disposes of the property before the close of the taxable year in which the contribution was made and the donee has not made a certification. The charitable contribution shall be reduced by the amount of gain the taxpayer would have recognized if he had sold it at its fair market value.

Effective: Effective for contributions made after September 1, 2006.

§ 170(e)(1)(B)(iv) **Limitation on charitable contributions of taxidermy property.**

Charitable contributions otherwise taken with respect to taxidermy property by the taxidermist or a person who incurred the taxidermy expense, must be reduced. The charitable contribution shall be reduced by the amount of long-term capital gain the taxpayer would have recognized if he had sold it at its fair market value.

Effective: Effective for contributions made after July 25, 2006.

§ 170(e)(3)(C)(iv) **Extends sunset date for deductions relating to charitable contributions of apparently wholesome food inventory.**

Deduction by corporations (including S corporations) for charitable contributions of apparently wholesome food inventory is retroactively extended through December 31, 2007.

Effective: Effective for contributions made after December 31, 2005 and before Jan. 1, 2008.

§ 170(e)(3)(D)(iv) **Extends sunset date for deductions relating to charitable contributions of book inventory to schools.**

Deduction by corporations (including S corporations) for charitable contributions of book inventory is retroactively extended through December 31, 2007.

Effective: Effective for contributions made after December 31, 2005 and before Jan. 1, 2008.

§ 170(e)(7) **Recapture of deduction for charitable contributions of tangible personal property disposed by the donee within 3 years of the date of contribution.**

If charitable deduction property exceeding $ 5,000 is disposed by the donee after the close of the tax year in which the property was donated and within three years of the date of donation, the donor shall include in income an amount equal to the excess of the deduction amount previously allowed to the donor over the donor's basis in the property at the time of contribution. Recapture of the deduction is not required if the donee makes proper certification.

Effective: Effective for contributions made after September 1, 2006.

§ 170(f)(11) **Qualified appraisal and appraisers are defined for charitable deduction purposes.**

§ 170(f)(11)(C) requires a qualified appraisal of property for which a charitable contribution deduction of more than $5,000 is claimed.

The Act establishes rules governing qualified appraisals including that appraisals be in accordance with regulations prescribed by the Secretary and that appraisers use generally accepted appraisal standards. The Act also establishes rules governing necessary credentials for appraisers.

The Act also removes assessment of the § 6701(a) penalty for aiding and abetting understatements as a requirement before the Secretary of the Treasury can invoke 31 USC § 330(c) to bar an appraiser from presenting evidence in an administrative proceeding or provide that his appraisals won't have any probative effect in any such proceeding.

Effective: Effective for appraisals prepared with respect to returns or submissions filed after August 17, 2006.

§ 170(f)(13) **$500 fee required for claims exceeding $10,000 for qualified conservation contribution relating to buildings in registered historic districts.**

The Act requires that a $500 fee be paid to the IRS by taxpayers seeking a deduction for a qualified conservation contribution (a qualified real property interest to a qualified organization exclusively for conservation purposes) with respect to the exterior of a building in a registered historic district as defined by § 170(h)(4)(C)(ii), where the deduction exceeds $ 10,000.

Effective: Effective for contributions made 180 days after August 17, 2006.

§ 170(f)(14) **Deduction for qualified conservation contribution is reduced by past rehabilitation credits claimed.**

The Act requires that deductions for qualified conservation contributions be reduced by an amount bearing the same ratio to the fair market value of the contribution as the total rehabilitation credits allowed to the taxpayer under § 47in the 5 preceding taxable years bear to the fair market value of the building on the date of the contribution.

The Act disallows a charitable deduction for a qualified conservation contribution relating to a structure or land area by reason of the property's location in a registered historic district. A charitable deduction is allowable for buildings located in a registered historic district, as was the case under pre-2006 Pension Act law.

Effective: Effective for contributions made after August 17, 2006.

§ 170(f)(15) **Limitation on taxidermy property basis computation.**

The Act establishes that in the case of a charitable contribution of taxidermy property made by the person who prepared, stuffed, or mounted the property, or incurred such costs, only the cost of preparing, stuffing, or mounting shall be included in the basis of the property. *The effect of this provision is to exclude indirect costs from the basis of the property, such as transportation costs (e.g. safari travel costs) or any costs related to the hunting of the animal.

Effective: Effective for contributions made after July 25, 2006.

§ 170(f)(16) **Limitation on contributions of clothing and household items.**

The Act requires that charitable contributions made by individuals, partnerships, or S corporations of clothing or household items be in good used condition in order for a deduction to be claimed. The Secretary may by regulation deny a deduction for contribution of clothing or household items with minimal monetary value. However, these limitations do not apply to a contribution of a single clothing item or household item for which a deduction of more than $500 is claimed if a qualified appraisal for the item is included with the return.

Defines household items as furniture, furnishings, electronics, appliances, linens, and other similar items. "Household items" does not include food, paintings, antiques, objects of art, jewelry and gems, or collections.

Effective: Effective for contributions made after August 17, 2006.

§ 170(f)(17) **Tightens recordkeeping rules.**

The Act requires in order for a donor to claim a deduction for a charitable contribution of a cash, check, or other monetary gift, the donor must maintain a record of such contribution consisting of a bank record or written communication from the donee indicating the donee organization name, the date of the contribution, and the amount contributed.

Effective: Effective for contributions made in tax years beginning after August 17, 2006.

§ 170(f)(18) **Limitation on contribution to donor advised funds.**

Deductions for charitable contributions to a donor advised fund are not allowed where certain types of organizations (organizations described in § 170(c)(3), (4), and (5); or a type III supporting organization as defined in § 4343(f)(5)(A) that is not a functionally integrated type III supporting organization) serve as the sponsoring organization. The taxpayer must also obtain contemporaneous written acknowledgment from the sponsoring organization that the organization has exclusive legal control over the assets contributed.

Effective: Effective after the date that is 180 days after August 17, 2006.

§ 170(h)(4)(B) **Additional requirements for qualified conservation contributions involving buildings in registered historic districts.**

Under the Act, in order for a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building located in a registered historic district to meet the requirements of a qualified conservation contribution, (1) the restriction must preserve the entire building exterior and prohibit any change in the exterior that is inconsistent with the historical character; (2) the donor and donee must enter into written agreement certifying that the donee is a qualified organization with a particular purpose of protection or conservation and has the resources to manage and enforce the restriction; and (3) the taxpayer must include a qualified appraisal, photographs, and building description along with the tax return for contributions made after August 17, 2006.

Effective: Effective for contributions made after July 25, 2006.

§ 170(h)(4)(C) **Additional requirements for qualified conservation contributions involving buildings in registered historic districts.**

The Act disallows the qualified conservation contribution for structures or land areas in a registered historic district. Only a building in a registered historic district is eligible for treatment as a qualified conservation contribution.

Effective: Effective for contributions made after August 17, 2006.

§ 170(o) **Rules regarding fractional gifts: limitation, valuation, recapture, and penalty.**

The Act disallows deduction for a contribution of an undivided portion of a taxpayer's entire interest in tangible personal property unless all interest in the property is held immediately before contribution by the taxpayer or the taxpayer and donee. However, the Secretary may, by regulation, allow exceptions to this rule where all persons holding an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

Subsequent contributions of property are valued at the lesser of the fair market value at the time of the initial fractional contribution or the fair market value at the time of the additional contribution.

Deduction must be recaptured with respect to any contribution of an undivided portion of a taxpayer's entire interest in tangible personal property where the donor does not contribute all of the remaining interest in the property to the donee within 10 years or the date of donor's death or where the donee has not had substantial physical possession of the property and used it toward a purpose consistent with the basis of its § 501 exemption. The tax imposed for any taxable year in which recapture occurred, shall be increased by 10 percent of the amount so recaptured. *Recapture thus results in the taxpayer's liability for the tax on the recaptured amount, accrued interest, and the 10 percent penalty on the recaptured amount.

Effective: Effective for contributions, bequests, and gifts made after August 17, 2006.

§ 219(b)(5)(C) **Catch-up contributions for participants in certain 401(k) plans of bankrupt employers where the employer committed crimes related to the bankruptcy occurred.**

This Act allows participants in a 401(k) plan, whose contributions the employer matched with employer stock, to make additional deductible IRA contributions where the employer is a debtor in Chapter 11 bankruptcy and an indictment or conviction resulted from transactions related to the bankruptcy. In addition to the deductible amount allowed in the particular tax year, the participant may make an additional deductible contribution of up to 3 times the applicable amount (the amount of catch-up contributions that a 50 year-old individual may make to an IRA) allowed in that tax year.

Effective: Effective for tax years beginning after December 31, 2006 but before January 1, 2010.

§ 219(g)(8) **Inflation adjustment for AGI limitations on IRA contributions.**

AGI limitations on traditional IRA and Roth IRA contributions will be indexed for inflation after 2006. Specifically, the applicable dollar amounts used in determining the limitation on an individual's maximum IRA contribution will be increased by multiplying the applicable dollar amount by the cost of living adjustment.

Effective: Effective for tax years beginning after December 31, 2006.

§ 401(a)(5)(G) **Government plans exempted from minimum participation and nondiscrimination requirements.**

Exempts all government plans from the requirements that qualified plans meet minimum participation standards set forth in § 410 and refrain from discriminating in favor of highly compensated employees.

Effective: Effective for any year beginning after August 17, 2006.

§ 401(a)(26)(G) **Government plans exempted from additional participation requirements.**

Exempts all government plans from the requirements that qualified plans meet additional participation requirements of § 401(a)(26).

Effective: Effective for any year beginning after August 17, 2006.

§ 401(a)(28)(B)(v) **Certain defined contributions plans exempted from investment diversification requirement.**

Exempts applicable defined contribution plans described in § 40(a)(35)(E) from the investment diversification requirement imposed upon trusts that are part of an employee stock ownership plan.

Effective: Effective for plans beginning in years after December 31, 2006.

§ 401(a)(29) **Additional requirements for defined benefit plans subject to minimum funding standards.**

Where a defined benefit plans are subject to minimum funding standards set forth in § 412, the trust of which the plan is a part shall not constitute a qualified trust unless the plan also meets the requirements of funding-based limits on benefits as provided under § 436.

Effective: Effective August 17, 2006.

§ 401(a)(32) **Reference update.**

Changes references from the old liquidity requirement provision in § 412(m)(5) to the new provision in § 430(j)(4).

Effective: Effective August 17, 2006.

§ 401(a)(33) **Changes requirements for the exception to the prohibition on benefit increases while sponsor is in bankruptcy.**

Pre-2006 Act law provided an exception to benefit increases while a sponsor is in bankruptcy where the plan has a funded current liability percentage of 100 percent or more, or where the amendment only repealed an amendment described in § 412(c)(8) pertaining to retroactive plan amendments. The Act now provides that the exception is available where the plan has a funding target attainment percentage of 100 percent or more, or where the amendment only repeals an amendment described in § 412(c)(2) pertaining to asset valuation.

Effective: Effective August 17, 2006.

§ 401(a)(35) **Additional diversification requirements for certain defined contribution plans.**

Act provides that a trust which is part of an applicable defined contribution plan shall not be treated as a qualified trust unless the plan allows a proportionate share of an individual's account attributable to employee contributions and elective deferrals invested in employer securities to be reinvested by an individual in other investment options (meeting subparagraph D requirements). Furthermore, the plan must also allow a proportionate share of an individual's account attributable to employer contributions invested in employer securities to be reinvested by a participant or beneficiary in other investment options (meeting subparagraph D requirements). This latter requirement will be phased in over 3 years. There must be 3 or more investment choices other than employer securities, each diversified and having materially different risk and return characteristics.

Periods for divestment and reinvestment must occur at least quarterly. Furthermore, the plan may not impose restrictions or conditions regarding investment of employer securities which are not imposed on the investment of other assets of the plan.

Provides a definition for an "applicable defined contribution plan" as any defined contribution plan holding any publicly traded employer securities but excludes certain ESOPs and certain one-participant retirement plans. Certain plans may be treated as holding publicly traded employer securities if any employer corporation or any member of a controlled group of corporations that includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

Provides definition of "applicable individual."

The rules will be phased in over a 3 year period for accounts consisting of employer contributions invested in employer securities acquired in a plan year before Jan. 1, 2007.

Effective: Effective for plan years beginning after December 31, 2006.

§ 401(a)(36) **Distributions allowed during working retirement.**

Qualified pension plans can allow distributions to 62-year-old working employees.

Effective: Effective for distributions in plan years beginning after December 31, 2006.

§ 401(k)(2)(B) **Qualified cash or deferred arrangement.**

Amounts held by trust that are attributable to employer contributions as part of a qualified cash or deferred arrangement may make qualified distributions to a military reservist on or after the date of the call to active duty.

Effective: Effective for distributions after September 11, 2001.

§ 401(k)(3)(G) **Government plans exempted from participation and discrimination rules.**

Exempts all government plans from nondiscrimination and minimum participation rules applicable to cash or deferred arrangements by § 401(k)(3).

Effective: Any year beginning after August 17, 2006.

§ 401(k)(8)(A)(i) **Arrangement not disqualified if excess contributions distributed.**

Income allocable to excess contributions or excess aggregate contributions that must be distributed to avoid plan disqualification will be the amount of income allocable to those contributions through the end of the plan year.

Effective: Effective for plan years beginning after December 31, 2007.

§ 401(k)(8)(E) **Arrangement not disqualified if excess contribution due to erroneous automatic contribution is distributed.**

For vesting purposes, a corrective distribution of an "erroneous automatic contribution" is not treated as forfeitable, and thus will not disqualify an automatic contribution arrangement plan under either the IRC or ERISA vesting rules.

Effective: Effective for plan years beginning after December 31, 2007.

§ 401(k)(13) **Alternative method for automatic contribution arrangements to meet nondiscrimination requirements.**

Provides that qualified automatic contribution arrangements shall be treated as meeting the requirement of § 401(k)(3)(A)(ii) that deferral percentages for eligible highly compensated employees and all other eligible employees bear a certain proportional relationship.

A qualified automatic contribution arrangement is a cash or deferred arrangement that must treat eligible employees as having elected to have the employer make elective contributions in an amount equal to a qualified percentage of compensation that meets certain minimum percentages and does not exceed a maximum of 10 percent.

Employer contributions – Under the cash or deferred arrangement, employers must, on behalf of each employee who is not a highly compensated employee, make matching contributions equal to 100 percent of the employee's elective contributions but not to exceed a certain maximum percentage or make a contribution to a defined contribution plan of at least 3 percent of the employee's compensation without regard to whether the employee makes an elective contribution or employee contribution.

Matching contribution requirements under § 401(k)(12)(B)(ii) and (iii) are applicable.

Forfeiture - Employees who have completed at least 2 years of service have a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such employer contributions.

Notice - Each employee eligible to participate in the arrangement must receive written notice of the employee's rights and obligations under the arrangement. Notice must be sufficiently accurate and comprehensive, comprehensible by the average employee, and provide certain specific information.

Effective: Effective for plan years beginning after December 31, 2007.

§ 401(m)(6)(A) **Arrangement not disqualified if excess contributions distributed.**

Income allocable to excess contributions or excess aggregate contributions that must be distributed to avoid plan disqualification will be the amount of income allocable to those contributions through the end of the plan year.

Effective: Effective for plan years beginning after December 31, 2007.

§ 401(m)(12) **Automatic contribution arrangements.**

Provides that a defined contribution plan is qualified with respect to matching contributions if the plan is a qualified automatic contribution arrangement meeting the requirements of § 401(k)(13) and meeting the nondiscrimination requirements of § 410(m)(11)(B).

Effective: Effective for plan years beginning after December 31, 2007.

§ 402(c)(2)(A)	**Extends the tax-exempt treatment of the nontaxable portions of roll over distributions from exempt trusts.** Under previous law, the taxable portions of distributions from a qualified trust that were rolled over into another retirement plan were excludable from gross income and the nontaxable portions of the rollover distribution were excludable from gross income if made in a direct trustee-to-trustee transfer, made to a transferee plan that was a defined contribution plan, and made to a transferee plan that agrees to separately account for amounts transferred and provides separate accounting for the taxable and nontaxable portions of the distribution. The Act provides that the nontaxable portions of the eligible rollover distribution from a qualified plan may be rolled over to another qualified plan (whether or not a defined contribution plan or a 403(b) annuity contract if such trust or contract provides separate accounting for amounts so transferred and the earnings thereon. The rollover must still be made in a direct trustee-to-trustee transfer. Effective: Effective for tax years beginning after December 31, 2006.
§ 402(c)(11)(A)	**Distributions to inherited individual retirement plan of nonspouse beneficiary is eligible rollover distribution.** If a distribution from an eligible retirement plan of a deceased employee is made via direct trustee-to-trustee transfer to a § 408 individual retirement account or annuity established in order to receive the distribution on behalf of the employee's nonspouse designated beneficiary, the transfer shall be treated as an eligible rollover distribution excludable from income. The transferred plan shall be treated as a § 408(d)(3)(C) inherited individual retirement account or annuity; and is therefore subject to § 401(a)(9)(B) rules governing distributions made where employee dies before entire interest is distributed. Effective: Effective for distributions after December 31, 2006.
§ 402(l)	**Certain distributions from governmental plans for accident, health and long-term care insurance excludable from gross income by retired public safety officers.** Eligible retired public safety officers making the election after separation from service to have undistributed amounts from an eligible retirement plan distributed to pay for qualified health insurance premiums shall exclude such distributed amounts from gross income up to a maximum of $ 3,000. Such amounts excluded from gross income may not be deducted as medical expenses under § 213 and may not be deducted as self-employed health insurance expenses under § 162(l). Effective: Effective for tax years beginning after December 31, 2006.
§ 403(a)(2)	**Coordinated amendment to tax exemption for annuity distributions used to purchase health and long-term care insurance.** Provides exception to the § 72 requirement that the distributee is taxable on amounts distributed under an annuity contract purchased by an employer for an employee. The tax exemption is available to the extent allowed under § 402(l) for amounts paid for health insurance or long-term care insurance premiums by eligible retired public safety officers. Effective: Effective for distributions in tax years beginning after December 31, 2006.
§ 403(a)(4)(B)	**Coordinated amendment to provision allowing nonspouse beneficiaries to roll over into IRAs distributions from qualified plans, tax-sheltered annuities, and government plans.** Effective: Effective for distributions made after December 31, 2006.

§ 403(b)(2)

Coordinated amendment to tax exemption for annuity distributions used to purchase health and long-term care insurance by retired public safety officers.

Provides exception to the § 72 requirement that the distributee is taxable on amounts distributed under an annuity contract purchased by an employer for an employee. The tax exemption is available to the extent allowed under § 402(l) for amounts paid for health insurance or long-term care insurance premiums by eligible retired public safety officers.

Effective: Effective for distributions in tax years beginning after December 31, 2006.

§ 403(b)(7)(A)(ii)

Coordinated amendment to exemption from the 10-percent tax on early distribution for military personnel on active duty.

Amounts paid by an employer to a custodial account satisfying § 401(f)(2) requirements shall be treated as amounts contributed by him for an annuity contract for his employee notwithstanding distributions made in which § 72(t)(2)(G) (exemption from the 10-percent tax on early distribution for military personnel on active duty) applied.

Effective: Effective for distributions after September 11, 2001.

§ 403(b)(8)(B)

Coordinated amendment to provision allowing nonspouse beneficiaries to roll over into IRAs distributions from qualified plans, tax-sheltered annuities, and government plans.

Effective: Effective for distributions made after December 31, 2006.

§ 403(b)(11)(C)

Coordinated amendment to exemption from the 10-percent tax on early distribution for military personnel on active duty.

The provisions of § 403(b) which govern the taxability of beneficiaries under annuities purchased by § 501(c)(3) organizations or public schools, shall apply so long as the contract distributions are paid only in limited instances including when the employee attains age 59 and a half, in the case of hardship, or for distributions to which 72(t)(2)(G) applies (distributions from retirement plans to individuals called to active duty).

Effective: Effective for distributions after September 11, 2001.

§ 404(a)(1)(A)

Coordinated amendment to the Act's establishment of separate funding standards and limitations for single-employer and multiemployer plans.

Increases defined benefit plan deduction limits for contribution amounts paid by an employer under a stock bonus, pension, profit-sharing, or annuity plan or paid by an employee under a deferred compensation arrangement and bifurcates limitations for single and multi-employer plans. The limitation for multiemployer plans continues to be set forth in § 404(a) while the limitation for single-employer plans is set forth in the new § 404(o).

Also establishes that minimum funding standards applicable to multiemployer plans are set forth in § 431.

Calculation of the full funding limitation used in determining the maximum amount deductible in a year is changed. Pre-Act determination of the full funding limitation was prescribed under § 412, meaning the excess (if any) of (i) the lesser of (I) in the case of plan years beginning before January 1, 2004, the applicable percentage of current liability (including the expected increase in current liability due to benefits accruing during the plan year), or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over (ii) the lesser of (I) the fair market value of the plan's assets, or (II) the value of such assets determined under paragraph (2). Under the Act, full funding limitation determination removes the provision relating to plan years beginning before January 1, 2004.

Special rule in the case of certain amendments is changed. Prior to the Act, the special rule for determining full funding limitation applied when current liabilities exceeded the full funding limitation. Under the Act, the special rule applies when the value of plan assets exceeds accrued liability under the plan. If the special rule applies, the full funding limitation for such year is increased by a certain amount.

Effective: Effective for years beginning after December 31, 2007.

§ 404(a)(1)(D)	**Amount deductible for multiemployer plan is determined on basis of unfunded current liability.**
	The maximum amount that a defined benefit plan that is a multiemployer plan may deduct, shall not be less than the excess (if any) of 140 percent of the current liability of the plan over the value of the plan's assets.
	Effective: Effective for years beginning after December 31, 2007.
§ 404(a)(1)(F)	**Repealed.**
	Repeals subparagraph that allowed employers to disregard subsections (b)(5)(B)(ii)(II) which allowed the Secretary to prescribe an interest rate under certain conditions and (l)(7)(C)(i)(IV) of § 412 solely for the purpose of determining the interest rate used in calculating the maximum amount of the deduction allowable.
	Effective: Effective for years beginning after December 31, 2005.
§ 404(a)(7)(A)(ii)	**For single employer plan, amount satisfying the § 412 minimum funding standard must not fall below the shortfall amount determined under § 430.**
	Provides that in the case of a defined benefit plan which is a single employer plan, the amount necessary to satisfy the minimum funding standard provided by § 412 shall not be less than the plan's funding shortfall determined under § 430.
	Effective: Effective for years beginning after December 31, 2007.
§ 404(a)(7)(C)(iii)	**Limitation of contribution deductibility restriction.**
	In the case of employer contributions to one or more defined contribution plans, the § 404(a)(7) limitation on deductible amounts for combinations of plans shall only apply where such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to beneficiaries.
	Effective: Effective for contributions for tax years beginning after December 31, 2005.
§ 404(a)(7)(C)(iv)	**Limitation of contribution deductibility restriction for certain combined plans.**
	In determining the limit on deductions where there is a combination of one or more defined benefit and one or more defined contribution plans, under the Act, any single-employer plan covered under ERISA § 4021, i.e., any defined benefit plan guaranteed by the PBGC, will not be taken into account. Thus, the deduction for contributions to these plans is not affected by the overall limit on deductions for combinations of plans.
	Effective: Effective for years beginning after December 31, 2007.
§ 404(a)(7)(C)(v)	**Limitation on contribution deductibility restriction for multiemployer plans.**
	Multiemployer plans are not taken into account in applying the limit on deductions where there is a combination of defined benefit and defined contribution plans. Thus, the separate deduction limits applicable to defined benefit and defined contribution plans apply to multiemployer plans.
	Effective: Effective for contributions for tax years beginning after December 31, 2005.
§ 404(a)(7)(D)	**Insurance contract plan.**
	For purposes of § 404(a)(7) certain insurance contract plans described in § 412(e)(3) shall be treated as a defined benefit plan.
	Effective: Effective for years beginning after December 31, 2007.

§ 404(o)

Deduction limit for single-employer plans described.

For defined benefit plans that are single-employer plans, the contribution deduction limit for any tax year is equal to the greater of (A) the sum of the amounts determined under § 404(o)(2) for each plan year ending with or within the tax year, of (B) the sum of the minimum required contributions under § 430 for such plan years.

The sum of the amounts determined under § 404(o)(2) will be the excess (if any) of (1) the sum of the funding target for the plan year, the target normal cost for the plan year, and the cushion amount for the plan year over (2) the value of the assets of the plan held by the plan as of the valuation date.

The cushion amount is the sum of 50 percent of the funding target for the plan year and the amount by which the funding target for the plan year would increase if the plan were to take into account increases in compensation expected or increases in benefits expected.

Special rule for plans with 100 or fewer participants. For purposes of determining the cushion amount, plans shall exclude from target liability, the liability attributable to benefit increases for highly compensated employees resulting from a plan amendment that was made or became effective within the last 2 years.

Special rule for terminating plans. Retains the rule that in the case of a plan subject to § 4041 of ERISA which terminates during the plan year, the limit on deductible amounts shall not be less than the amount required to make the plan sufficient for benefit liabilities.

Actuarial assumptions. Computations under this subsection for any plan year shall use the same actuarial assumptions used for the plan year under § 430.

Effective: Effective for years beginning after December 31, 2007.

§ 404A(g)(3)(A)

Deduction for certain foreign deferred compensation plans.

Replaces references to § 412(c)(3) and (7) with references to § 413(c)(3) and (6) governing actuarial assumptions and full funding limitations.

Effective: Effective for years beginning after December 31, 2007.

§ 408(d)(8)

IRA distributions donated to charity in 2007 and 2007 may be tax-free up to $100,000 for each year.

A taxpayer may exclude up to $100,000 of qualified charitable distributions in a given tax year. "Qualified charitable distribution" means any otherwise taxable distribution from an individual retirement plan other than a simplified employee pension plan described in § 408(k) or a simple retirement account described in § 408(p), where the distribution is made directly by the trustee to an organization described in § 170(b)(1)(A) and is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70 and 1/2.

Also, the qualified charitable distribution must be deductible under § 170.

Portions of qualified charitable distributions exceeding $100,000 shall not be taken into account in determining the deduction under § 170.

This provision is not applicable to distributions made in taxable years beginning after December 31, 2007.

Effective: Effective for distributions made in tax years beginning after December 31, 2005 and before January 1, 2008.

§ 408A(c)(3)(B)

Rollovers to Roth IRAs from qualified plans, 403(b) annuities, and governmental section 457 plans will be permitted after 2007 if AGI-based limit is met, but tax must be paid on otherwise tax-deferred distributions.

Individuals receiving amounts from tax-qualified retirement plans, 403(b) annuities, and governmental section 457, will be able to roll over those amounts directly into a Roth IRA subject to the same rules that applied to rollovers from traditional IRAs into a Roth IRA. Thus, AGI-based limits continue to apply to rollovers from eligible retirement plans to Roth IRAs.

Effective: Effective for distributions after December 31, 2007.

§ 408A(c)(3)(C)[sic (D)]	**Inflation adjustment for AGI limitations on traditional IRA and Roth IRA contributions.** In a taxable year beginning in a calendar year after 2006, the applicable dollar amount described in § 408(c)(3)(C)(ii)(I) and (II) that is used in determining adjusted gross income under § 219(g)(3) shall be increased by the cost of living adjustment for the calendar year in which the taxable year begins. Effective: Effective for tax years beginning after 2006.
§ 408A(d)(3)	**Coordinated amendment to § 408A(c)(3)(B) rule allowing rollovers to Roth IRAs from qualified plans, 403(b) annuities, and governmental section 457 plans.** Provisions of § 408A(d)(3)(A) requiring that certain amounts be included in gross income, shall apply notwithstanding § 402(c) rules applicable to rollovers from exempt trusts, 403(b)(8) rules regarding rollover amounts, 408(d)(3) rules regarding rollover contributions, and 457(e)(16) rules regarding rollover amounts. Adds to the list of persons required to include additional information in § 408(i) or 6047reports, those persons described in § 6047(d)(1) including employers or plan administrator of a plan from which designated contributions may be made and any person issuing any contract under which designated distributions may be made. Effective: Effective for distributions after December 31, 2007.
§ 408A(e)	**Coordinated amendment to § 408A(c)(3)(B) rule allowing rollovers to Roth IRAs from qualified plans, 403(b) annuities, and governmental section 457 plans.** Defines "qualified rollover contribution" as a rollover contribution to a Roth IRA from another such account or a rollover contribution from an eligible retirement plan, but only if it meets certain requirements. For purposes of § 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.. Effective: Effective for distributions after December 31, 2007.
§ 409(h)(7)	**Exception to right to demand employer securities.** Previous law provided an exception to the § 409(h)(1)(A) requirement that participants entitled to plan distribution have a right to demand that benefits be distributed in the form of employer securities that was applicable to the portion of the participant's account that the employee elected to have reinvested under § 401(a)(28)(B). The Act expands the exception to apply to amounts that the employee elected to have reinvested under § 401(a)(35)(B) or (C). Effective: Effective for plan years beginning after December 31, 2006.

§ 409A(b)(3) and (4)

Funding of nonqualified deferred compensation plan by sponsor of underfunded or terminated single-employer defined benefit plan triggers income, interest, and 20% penalty to covered employees.

If during any restricted period with respect to a single-employer defined benefit plan, assets are set aside in a trust for purposes of paying deferred compensation of a covered employee (CEO, one of corporation's four highest compensated officers, or director, officer, or principal stockholder of public corporation) under a nonqualified deferred compensation plan of the plan sponsor, then such assets shall, for purposes of § 83, be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors.

The "restricted period" is the period during which the plan is in at-risk status, any period the plan sponsor is a debtor in a case under title Chapter 11 bankruptcy, and the 12-month period beginning on the date which is 6 months before the termination date of the plan if the plan is not sufficient for benefit liabilities at the termination date.

Summary: This provision penalizes the reservation or transfer of assets to pay nonqualified deferred compensation to highly-paid corporate insiders at a time when the corporation's qualified plan covering the rank-and-file is underfunded or terminated. The executive must include the amounts set aside or transferred in income, even if those amounts are subject to claims of general creditors. Interest at the underpayment rate plus one percentage point is imposed on the underpayments that would have occurred had the amounts been includable in income for the tax year in which first deferred or the first tax year not subject to substantial risk of forfeiture.

Special rule for payment of taxes on deferred compensation included in income. If an employer pays federal, state, or local income taxes with respect to any compensation required to be included in gross income pursuant to this paragraph, (1) interest shall be imposed on the amount of such payment as if such payment was part of the deferred compensation to which it relates; (2) such payment shall be taken into account in determining the amount of the additional tax as if such payment was part of the deferred compensation to which it relates; and (3) no deduction shall be allowed under this title with respect to such payment.

Effective: Effective for transfers or other reservation of assets before August 17, 2006.

§ 410(b)(3)(C)

Minimum participation standards and exclusion of certain employees.

Under the pre-2006 Act law, in determining whether a plan meets minimum coverage requirements under this subsection, certain employees excluded from consideration were those employees not covered by a collective bargaining agreement between air pilots and employers. The Act provides that management pilots not represented in accordance with title II of the Railway labor Act shall be treated as covered by a collective bargaining agreement (1) if the management pilots manage flight operations of air pilots who are so represented and (2) if the management pilots are benefited by a trust established pursuant to a collective bargaining agreement.

Effective: Effective for years beginning before, on, or after August 17, 2006.

§ 411(a)(2)

Faster vesting schedule applies to all employer contributions to defined contribution plans.

Applies the pre-Act law for matching contributions to all employer defined contribution plans. Thus, the rules for all employer contributions to defined contribution plans, including matching contributions, are now the same as the pre-Act vesting schedules for matching contributions, which required faster vesting than the pre-Act schedules for other contributions. The vesting rules for defined benefit plans remain the same.

Employer contributions for defined benefit plans. A plan is qualified if (1) an employee who has completed at least 5 years of service has a nonforefeitable right to 100 percent of the employee's accrued benefit derived from employer contributions or (2) an employee completing between 3 and 7 years of service has a nonforfeitable right to a percentage of the accrued benefit derived from employer contributions according to the graduated table shown in § 411(a)(2)(A)(iii).

Employer contributions for defined contribution plans. A plan is qualified if (1) an employee completing at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions or (2) an employee completing between 2 and 6 years of service has a nonforfeitable right to a percentage of the accrued benefit derived from employer contributions according to the graduated table shown in § 411(a)(B)(iii).

Effective: Effective for contributions for play years beginning after December 31, 2006.

§ 411(a)(3)	**Certain permitted forfeitures, suspensions, etc.** Pre-2006 Act law provided that the right to an accrued benefit derived from employer contributions shall not be treated as forfeitable solely because plan amendments may be given retroactive application as provided in § 412(c)(8). The Act changes the reference from § 412(c)(8) to § 412(c)(2). Effective: Effective August 17, 2006.
§ 411(a)(3)(G)	**Certain permitted forfeitures, suspensions, etc.** Provides that a matching contribution shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an erroneous automatic contribution under § 414(w). Effective: Effective for plan years beginning after December 31, 2007.
§ 411(a)(12)	**Repealed provision allowing for vesting of matching contributions.** Since the vesting schedule for all employer contributions to defined contribution plans is now the same, the separate vesting rule that applied to employer matching contributions is repealed. Effective: Effective for contributions for plan years beginning after December 31, 2006.
§ 411(a)(13)	**New rules established retroactively for creation of cash balance and other hybrid applicable defined benefit plans.** An applicable defined benefit plan shall not be treated as failing to meet vesting requirements for employer contributions under § 411(a)(2), rules regarding allocation of accrued benefits between employer and employee contributions under §411(c), and restrictions on cash-outs under § 417(e), solely because the present value of the accrued benefit of a participant is equal to the amount expressed as the balance in the hypothetical account or as an accumulated percentage of the participant's final average compensation **3 year vesting.** An applicable defined benefit plan meets the vesting requirements of § 411(a)(2) only if an employee completing at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions. Effective: Effective for distributions made after August 17, 2006.
§ 411(b)(1)(F)	**Reference change.** Reference change from § 412(i)(2) and (3) to § 412(e)(3)(B) and (C). Reference change from § 412(i)(4),(5), and (6) to § 412(e)(3)(D), (E), and (F). No substantive change. Effective: Effective August 17, 2006.

§ 411(b)(5)

Special rules relating to age.

Comparison to similarly situated younger individual. Plan shall not be treated as failing to meet the requirement of § 411(b)(1)(H)(i) that an employee's benefit accrual not cease or reduce because of the attainment of any age, if a participant's accrued benefit as of any date would be equal to or greater than that of any similarly situated younger individual participant (without regard to any subsidized early retirement benefits).

Interest credits. The applicable defined benefit plan must provide than any interest credit for any plan year shall be at a rate not greater than a market rate of return. The plan may provide for a reasonable minimum guaranteed rate of return equal to the greater of a fixed or variable rate of return. An interest credit of less than zero must not render the account balance less than the account's aggregate amount of contributions. The Secretary may provide by regulation rules governing the calculation of a market rate of return.

Rate of benefit accrual. The accrued benefit of the participant under the terms of a plan amendment must not be less than the sum of (1) the participant's accrued benefit for years of service before the effective date of the amendment determined under the plan terms in effect before the amendment plus (2) the participant's accrued benefit for years of service after the effective date of the amendment determined under the plan terms in effect after the amendment. Early retirement benefits or subsidies to which the participant is entitled, must be included in the sum.

Termination. The applicable defined benefit plan must provide that upon termination of the plan, (1) if the interest credit rate is a variable rate, the rate of interest used to determine accrued benefits shall be equal to the average of the interest rates used during the 5-year period preceding the termination date and (2) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity shall be the rate and table specified under the plan for such purpose as of the termination date.

Certain offsets and disparities in plan contributions or benefits are permitted. Indexing (the periodic adjustment of the accrued benefit by application of a recognized investment index) is permitted except where a fixed annuity is involved and indexing results in an accrued benefit less than the accrued benefit determined without regard to the indexing.

Effective: Effective for periods beginning on or after June 29, 2005.

§ 412(b)(5)(B)(ii)(II)
[Effective for plan years beginning before January 1, 2008]

Rules for determining permissible range of interest rates in calculating current funding liability are extended through plan years beginning in 2007.

Extends through plan years beginning in 2007, the special rule stating that the term "permissible range" means a rate of interest not above and not more than 10 percent below the weighted average of the rates of interest on amounts invested conservatively in long-term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. This rule is now applicable for plan years beginning after December 31, 2003 and before January 1, 2008.

Effective: Effective August 17, 2006 for plan years beginning before January 1, 2008.

§ 412(l)(7)(C)(i)(IV)
[Effective for plan years beginning before January 1, 2008]

Extension of 2004 and 2005 interest rules for determining additional funding contributions.

Extends to plan years 2006 and 2007 the special interest rules that applied under the additional funding requirements for plan years 2004 and 2005. Thus, current liability for purposes of these requirements is determined by using the interest rates established under § 412(b)(5) as amended by the Act (the specified range of interest rates that is the weighted average of the interest rates of amounts invested conservatively in long-term investment-grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year).

Effective: Effective August 17, 2006 for plan years beginning before January 1, 2008.

§ 412(a) [Effective for plan years beginning after December 31, 2007]	**Modification of minimum funding standards.** **Bifurcates minimum funding standards** for single-employer and multiple employer plans as follows: (A) in the case of a single-employer, defined benefit plan, the employer must make contributions to the plan for the plan years which, in the aggregate, are not less than the minimum required contribution determined under § 430 for that year, (B) in the case of a single-employer money purchase plan, the employer must make contributions to the plan for the plan year which are required under the terms, and (C) in the case of a multiemployer plan, the employers must make contributions to the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency. **Maintenance of minimum funding standard account no longer required.** Although, under § 431, multiemployer plans must continue to maintain a funding standard account. Effective: Effective for plan years beginning after December 31, 2007.
§ 412(b) [Effective for plan years beginning after December 31, 2007]	**Modification of minimum funding standards – Employer liability.** **Removes exception to the controlled group rules for multiemployer plans.** Thus, contribution employers to multiemployer plans that are members of a controlled group are now jointly and severally liable for making plan contributions. Effective: Effective for plan years beginning after December 31, 2007.
§ 412(b)(3) [Effective for plan years beginning after December 31, 2007]	**Minimum funding standards – Employer liability.** **Employer liability for contributions.** The employer is not responsible for making contributions for a year in which the plan is in critical status pursuant to § 432, has adopted a rehabilitation plan in accordance with § 432(e), and has complied with such rehabilitation plan. Effective: Effective for plan years beginning after December 31, 2007.
§ 412(c) [Effective for plan years beginning after December 31, 2007]	**Minimum funding standards – Revised rules for obtaining a minimum funding waiver.** **Variance from minimum funding standards allowed for business hardship.** The amount of the waived funding deficiency shall be amortized. No interest rate stated for computing the amortization charge. Thus, the interest rate used for single-employer plans is the rate set out in § 430 and for multiemployer plans, the rate set out in § 431. Business hardship factors are unchanged. **Security for waiver for single-employer plans.** Provisions requiring the posting of security and consultation with the Pension Benefit Guaranty Corporation for funding waivers, are not applicable where the sum of the aggregate unpaid minimum required contributions and the present value of all waiver amortization installments, is less than $1,000,000. Effective: Effective for plan years beginning after December 31, 2007.
§ 412(d) [Effective for plan years beginning after December 31, 2007]	**Minimum funding standards – Change in method or year.** If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary. Effective: Effective for plan years beginning after December 31, 2007.
§ 412(e) [Effective for plan years beginning after December 31, 2007]	**Minimum funding standards.** **General.** Minimum funding standards apply to a defined benefit plan or money purchase plan for any plan year that the plan was either (i) a qualified trusteed plan under § 401(a) or (ii) a qualified annuity plan under § 403(a). Effective: Effective for plan years beginning after December 31, 2007.

§ 412(l)(7)(C)(i)(IV) [Effective for plan years beginning before January 1, 2008]	**Coordinated amendment to provision that extends through plan years beginning in 2007, the rules for determining the permissible range of interest rates in calculating current funding liability.** Effective: Effective August 17, 2006.
§ 414(d)	**Expanded definition of governmental plan.** The term "governmental plan" is expanded to include a plan of an Indian tribal government or agency or subdivision thereof, where all of the participants are employees and where substantially all of the activities performed by the employees involve essential governmental functions and do not involve commercial activities. Thus, tribal government plans are included in the exemptions for government plans in ERISA and the Code, and subjected to the same pension plan rules and regulations applied to state and other local governments and their police and firefighters. Effective: Effective for any year beginning on or after August 17, 2006.
§ 414(f)(6)	**Revocation of election to multiemployer status.** Under pre-Act law § 414(f)(5), a multiemployer plan could elect that the plan shall not be treated as a multiemployer plan within one year of the September 26, 1980 enactment of the Multiemployer Pension Plan Amendments Act of 1980. The 2006 Pension Protection Act provides that within one year of the enactment of the Pension Protection Act, an election under § 414(f)(5) to not be treated as a multiemployer plan, may be revoked upon meeting certain conditions if for each of the three plan years prior to the enactment, the plan would have been a multiemployer plan, but for the special election. Furthermore, for each of the three plan years prior to the 2006 enactment, substantially all of the plan's employer contributions for each of those plan years had to have been made by tax-exempt organizations and the plan had to have been established prior to September 2, 1974. Effective: Effective August 17, 2006.
§ 414(h)(2)	**Coordinated amendment.** Coordinated amendment to § 414(d) that expanded the definition of "governmental plan." Effective: Effective for any year beginning on or after August 17, 2006.
§ 414(l)(2)(B)(i)	**Calculation of applicable percentage of excess assets allocated to a spin-off plan.** Pre-Act law provides that a plan spin-off of a defined benefit plan shall not constitute a qualified trust unless the applicable percentage of excess assets are allocated to each of the plans. Under the Act, the applicable percentage is determined by dividing the excess of the amount determined under § 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under § 430 in the case of any other plan), over the amount of the assets required to be allocated to the plan after the spin-off (without regard to this paragraph), by the sum of the excess amounts determined separately under clause (i) for all such plans. Effective: Effective August 17, 2006.

§ 414(w)

Special rules for certain withdrawals from eligible automatic contribution arrangements.

Eligible automatic contribution arrangements may allow employees to make permissible withdrawals but such amounts withdrawn shall be includible in gross income in the taxable year the distribution is made, subject to the exceptions in § 72(t), and employer matching contributions shall be forfeited.

Permissible withdrawals are those made pursuant to an election by the employee and consisting of elective contributions described in § 414(w)(3). The election must be made no later than 90 days after the date of the first elective contribution.

Eligible automatic contribution arrangement is defined as an arrangement under which (A) a participant may elect to have the employer make payments as contributions on behalf of the participant directly in cash, (B) the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation, and (C) in the absence of an investment election by the participant, contributions are invested in accordance with regulations of ERISA.

Notice requirements are prescribed.

Permissible withdrawals shall not be taken into account for purposes of § 401(k)(3).

Effective: Effective for plan years beginning after December 31, 2007.

§ 414(x) **Special rules for eligible combined defined benefit plans and qualified cash or deferred arrangements.**

Eligible combined plan is defined as a plan (i) maintained by a small employer, (ii) consisting of a defined benefit plan and an applicable defined contribution plan, (iii) holding assets in a single trust with the assets clearly identified and allocated to the defined benefit and defined contribution plans, and meeting the benefit, contribution, vesting, and nondiscrimination requirements of § 414(x)(2)(B),(C),(D),(E), and (F).

Small employer is as defined in § 4980D(d)(2) but defined as having fewer than 500 rather than 50 employees.

Benefit requirements. The accrued benefit of each participant derived from employer contributions is not less than the applicable percentage of the participant's final average pay (determined using the period of 5 consecutive years during which the participant had the greatest compensation). However, if the defined benefit plan is an applicable defined benefit plan under § 411(a)(13)(B) meeting the interest credit requirements of § 411(b)(5)(B)(i), the plan meets the benefit requirements for any plan year where the participant receives a pay credit for the year which is not less than the percentage of compensation determined in accordance with the table of § 414(x)(2)(B)(iii).

Applicable percentage is the lesser of 1 percent multiplied by the number of years of service or 20 percent.

Contribution requirements. The qualified cash or deferred arrangement must constitute an automatic contribution arrangement and the employer must make matching contributions on behalf of each employee eligible to participate in an amount equal to 50 percent of the elective contributions of the employee to the extent that the elective contributions do not exceed 4 percent of compensation.

Vesting requirements. In the case of a defined benefit plan forming part of an eligible combined plan, an employee completing at least 3 years of service has a nonforfeitable right to 100 percent of the employees accrued benefit under the plan derived from employer contributions. In the case of an applicable defined contribution plan forming part of an eligible combined plan, an employee has a nonforfeitable right to any matching contribution made under the cash or deferred arrangement (including matching contributions in excess of the contributions required under § 414(C)(i)(II), and an employee completing 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from nonelective contributions of the employer.

All contributions and benefits under the plan and all rights and features under the plan must be provided uniformly to all participants.

Nondiscrimination requirements.

Automatic contribution arrangement. A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement (i) provides that each employee eligible to participate is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contribution made or made at a different rate and (ii) meets the notice requirements.

Effective: Effective for plan years beginning after December 31, 2009.

§ 415(b)(2)(E)(ii) **Limitations on benefits and contributions under qualified plans.**

For purposes of adjusting the maximum allowable benefit where benefits are payable in a form other than a straight life annuity with no ancillary benefits, where employees do not contribute and no rollover contributions are made, the interest rate assumption shall not be less than the greatest of (I) 5.5 percent, (II) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate were the interest rate assumption, or (III) the rate specified under the plan.

Effective: Effective for distributions made in years beginning after December 31, 2005.

§ 415(b)(2)(H) **Coordinated amendment .**

Coordinated amendment to § 414(d) that expanded the definition of "governmental plan."

Effective: Effective for any year beginning on or after August 17, 2006.

§ 415(b)(3)	**Change to determination of annual benefit limit.** Active participation restriction eliminated from "average compensation for high three years" definition when determining annual benefit limit. Thus, for purposes of determining the average compensation, the "high three years" are the three consecutive calendar years during which the participant had the greatest aggregate compensation from the employer. Effective: Effective for years beginning after December 31, 2005.
§ 415(b)(10)	**Coordinated amendment.** Coordinated amendment to § 414(d) that expanded the definition of "governmental plan." Effective: Effective for any year beginning on or after August 17, 2006.
§ 415(b)(11)	**Excepting non-highly compensated employees covered by church plans from the Code's limitation on the maximum high three year compensation benefit that defined benefit plan participants can receive.** Maximum benefit shall not be determined by 100 percent of the participant's average compensation for his high 3 years for a plan maintained by a church or church-controlled organization described in § 3121(w)(3)(A) except with respect to highly compensated benefits. Effective: Effective for any year beginning after December 31, 2006.
§ 415(n)(1) and (3)	**Rules on purchase of "permissive service credit" under defined benefit governmental plans are clarified retroactively.** Permissive service credits include service credit for periods for which there is no performance of service and notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan. Thus, under the Act, "permissive service credit" means service credit which relates to benefits to which a participant is not otherwise entitled, rather than service credit which the participant has not received under the plan. Uses the term "nonqualified service credit" in place of "permissive service credit attributable to nonqualified service" but there are no major substantive changes. Effective: Effective for permissive service credit contributions made in years beginning after December 31, 1997.
§ 415(n)(3)	**Permissive service credits – Special rules for trustee-to-trustee transfers.** In the case of a trustee-to-trustee transfer, the limitations regarding nonqualified service credit shall not apply in determining whether the transfer is for the purchase of permissive service credit and the distribution rules applicable to the defined benefit governmental plan shall apply to transferred amounts and any benefits attributable to such amounts. Thus, a trustee-to-trustee transfer can be excludable as the purchase of permissive service credit even if either (A) more than 5 years of nonqualified service credit are taken into account under § 415(n), or (B) nonqualified service credit is taken into account before the employee has at least 5 years of plan participation. Effective: Effective for trustee-to-trustee transfers after December 31, 2001.
§ 416(g)(4)(H)	**Special rules for top-heavy plans – Expands exclusions from top-heavy plans.** Top-heavy plan shall not include a plan consisting solely of cash or deferred arrangement meeting the requirements of § 401(k)(13) and matching contributions with respect to which the requirements of § 401(m)(12) are met. Effective: Effective for plan years beginning after December 31, 2007.

§ 417(a)(1)(A)(ii)

Plans subject to survivor annuity requirement will have to provide "qualified optional survivor annuity" form of benefit after 2007.

In order to meet § 401(a)(11) requirements for joint and survivor annuities, a participant must be allowed to elect the qualified optional survivor annuity at any time during the applicable election period upon waiving the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit.

A qualified optional survivor annuity is an annuity (A) for the life of the participant, with a survivor annuity for the life of the spouse which is equal to the "applicable percentage" of the amount of the annuity which is payable during the joint lives of the participant and the spouse and (B) which is the actuarial equivalent of a single annuity for the life of the participant.

Applicable percentage – If the survivor annuity percentage is less than 75% then the applicable percentage is 75%. If the survivor annuity percentage is 75% or greater, then the applicable percentage is 50%.

Effective: Effective for plan years beginning after December 31, 2007.

§ 417(a)(3)(A)(i)

Written explanation of the qualified optional survivor annuity must be provided.

Effective: Effective for plan years beginning after December 31, 2007.

§ 417(a)(6)

Minimum survivor annuity – Applicable election period.

Notice and consent period for election to waive Qualified Joint and Survivor Annuity is extended from 90 to 180 days.

Effective: Effective for years beginning after December 31, 2006.

§ 417(e)(3)

Interest rate and mortality table to be used for calculating the lump-sum present value of a participant's accrued benefit under the cash-out rules.

Changes made to the interest rate and mortality table to be used for calculating the lump-sum present value of a participant's accrued benefit under the cash-out rules.

Pre-Act law stated that the "applicable mortality table" was the table prescribed by the Secretary and based on the prevailing commissioners' standard table (described in § 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of § 807(d)(5)). The "applicable interest rate" was the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary prescribed.

Under the Act, the "applicable mortality means the mortality table modified by the Secretary and based on the mortality table specified for the plan year under § 430(h)(3)(A) (without regard to subparagraph (C) or (D) of such section). The "applicable interest rate" means the adjusted first, second, and third segment rates applied under rules similar to the rules of § 430(h)(2)(C) for the month before the date of distribution or such other time as the Secretary prescribes. The segment rates used in calculating the applicable interest rate, are the first, second, and third segment rates which would be determined under § 430(h)(2)(C) if (i) § 430(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) for the average yields for the 24-month period described in such section, (ii § 430(h)(2)(G)(i)(II) were applied by substituting § 417(e)(3)(A)(ii)(II) for § 412(b)(5)(B)(ii)(II) and (iii) the applicable percentage under § 430(h)(2)(G) were determined in accordance with the a 20%, 40%, 60%, and 80% applicable percentage for 2008, 2009, 2010, and 2011, respectively.

Summary: The mortality table that must be used for calculating the lump sums is based on the mortality table required for minimum funding purposes, as modified by IRS. The adjusted first, second, and third segment rates are derived from a corporate bond yield curve prescribed by IRS for the month which reflects the yield on investment grade corporate bonds with varying maturities (rather than a 24-month average, as under § 430 minimum funding rules). The interest rate that applies depends on how many years in the future a participant's annuity payment will be made. Typically, a higher interest rate applies for payments made further out in the future.

Effective: Effective for plan years beginning after December 31, 2007.

§ 417(g) **Qualified optional survivor annuity.**

Qualified optional survivor annuity means an annuity (A) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and (B) which is the actuarial equivalent of a single annuity for the life of the participant.

Applicable percentage for this paragraph is 75 percent if the survivor annuity percentage is less than 75 percent and is 50 percent if the survivor annuity percentage is greater than or equal to 75 percent. The survivor annuity percentage is the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.

Effective: Effective for plan years beginning after December 31, 2007.

§ 418E(d) **Insolvent plans - Plan sponsor determination.**

Amends the triennial comparison test by adding measures designed to forestall the insolvency of multiemployer plans. Multiemployer plan sponsors must make advance determinations of impending insolvencies over a five-year period, instead of a three-year period. If the plan sponsor determines that the plan will be insolvent in any of the next five plan years, then the sponsor has to perform the triennial comparison test at least once a year until the plan sponsor determines that the plan will not be insolvent in any of the next five plan years.

Effective: Effective for determinations made in plan years beginning after December 31, 2007.

§ 419A(c)(6) **Deductions permitted for contributions to fund a reserve for medical benefits for future years through a bona fide association.**

Applicable account limit for any taxable year may include a reserve in an amount not exceeding 35 percent of the sum of (i) qualified direct costs, and (ii) the change in claims incurred but unpaid with respect to medical benefits (other than post-retirement medical benefits). Thus, a deduction is allowed for contributions made to fund a reserve for medical benefits (other than retiree medical benefits) for future years provided through a bona fide association.

Effective: Effective for tax years beginning after December 31, 2006.

§ 420(a) **Multiemployer plans may transfer excess pension assets to retiree health accounts.**

Removes restriction that prevented multiemployer plans from transferring excess pension assets to retiree health accounts. If all of the § 420 requirements are met, the transfer does not cause the plan to lose its tax qualification, and the employer is not subject either to income tax or to the reversion excise tax.

Effective: Effective for transfers made in tax years beginning after December 31, 2006.

§ 420(e)(2) **Rules on transfer of excess pension assets to retiree health accounts are integrated with new funding rules.**

The term "excess pension assets" means the excess (if any) of (A) the lesser of (i) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under § 430(f)) or (ii) the value of plan assets as determined under § 430(g)(3) after reduction under § 430(f), over (B) 125 percent of the sum of the funding shortfall and target normal cost determined under § 430.

Effective: Effective August 17, 2006.

§ 420(e)(4) **Rules on transfer of excess pension assets to retiree health accounts are integrated with new funding rules.**

Provides that any assets transferred in a qualified transfer shall not be treated as assets of the plan for either this section or § 430.

Effective: Effective August 17, 2006.

§ 420(e)(5)

Coordinated amendment to § 420(a) rule allowing multiemployer plans to transfer excess pension assets to retiree health accounts.

This section shall be applied to multiemployer plans by treating any reference to an employer as a reference to all employers maintaining the plan or the plan sponsor if appropriate..

Effective: Effective for transfers made in tax years beginning after December 31, 2006.

§ 420(f)

Single-employer plans can use excess pension assets to fund future retiree health benefits.

General. An employer maintaining a single-employer defined benefit plan, may, in lieu of a qualified transfer, elect to have the plan make a qualified future transfer, or a collectively bargained transfer that is treated as a qualified transfer. A qualified transfer does not cause the plan to lose its tax qualification, and the employer is not subject to either income tax or a reversion excise tax.

Excess pension assets. The term "excess pension assets" means the excess (if any) of (A) the lesser of (i) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under § 430(f)) or (ii) the value of plan assets as determined under § 430(g)(3) after reduction under § 430(f), over (B) 120 percent of the sum of the funding shortfall and target normal cost determined under § 430.

However, if 120 percent of the sum of the funding shortfall and target normal cost exceeds the value of plan assets, the employer shall make contributions in an amount that is at least large enough to reduce the excess to zero or an amount required to reduce the excess to zero shall be transferred from the health benefits account to the plan.

Limitation on amount transferred. The amount of the excess pension assets which may be transferred in the case of a qualified future transfer shall be equal to the sum of the amount determined under subsection (b)(3) as the amount reasonably estimated to be paid during the taxable year of the transfer for qualified current retiree health liabilities plus the sum of the qualified current retiree health liabilities which the plan reasonably estimates will be incurred for each of the other taxable years in the transfer period. The amount of excess pension assets which may be transferred in the case of a collectively bargained transfer shall not exceed the amount reasonably estimated under the collective bargaining agreement and generally accepted accounting principles, to be the amount to be paid out during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.

Minimum cost requirement. To meet the requirements of § 420(c)(3), for a qualified future transfer, each group health plan or arrangement providing applicable health benefits shall provide applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of such applicable employer cost during such period is not less than the applicable employer cost determined under § 420(c)(3)(A). For a collectively bargained transfer, each plan providing collectively bargained health benefits shall provide that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement. To meet the requirements of § 420(c)(3), the employer may instead elect to meet the requirements of § 420(c)(3) in effect prior to the amendments made by § 535 of the Tax Relief Extension Act of 1999 for each of the years in the period.

Effective: Effective for transfers after August 17, 2006.

§ 420(f) (cont'd)

Qualified transfers to cover future retiree health costs and collectively bargained retiree health benefits.

Special rules for collectively bargained transfers. A collectively bargained transfer (I) is made in accordance with a collective bargaining agreement, (II) has an employer that designates in written notice to the employee organization and (III) involves a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits to retirees and spouses and dependents under all of the benefit plans maintained by the employer if the aggregate cost (including administrative expenses) of such benefits which would have been allowable as a deduction to the employer is at least 5 percent of the gross receipts of the employer for such taxable year.

Use of assets. Any assets transferred to a health benefits account in a collectively bargained transfer shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under § 420(f)(6)(B)(iii)).

Limitation on amount transferred under a collectively bargained transfer. The amount of excess pension assets that may be transferred in a collective bargaining transfer, cannot exceed the amount that is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles (GAAP), to be the amount that the employer maintaining the plan will pay (directly or through reimbursement) out of the account during the "collectively bargained cost maintenance period" for "collectively bargained retiree health liabilities."

Special deduction rules for collectively bargained transfers. For collectively bargained transfers, the limitation under § 420(d)(1)(C) shall not apply, and an employer may contribute an amount to a health benefits account or welfare benefit fund with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of § 404 or other provisions of this section.

Transfer period is a period of consecutive taxable years (not less than 2) specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.

Collectively bargained cost maintenance period, collectively bargained retiree health liabilities, collectively bargained health benefits, and collectively bargained health plan are defined.

Effective: Effective for transfers after August 17, 2006.

§ 430(a)

Minimum funding standards for single-employer defined benefit pension plans.

Minimum required contribution. Under the Act, the "minimum required contribution" to a defined benefit plan (other than a multiemployer plan) during a plan year, will depend on whether the value of plan assets covers the plan's funding target and the plan's target normal cost.

If the value of plan assets is less than the funding target for the plan year, the minimum required contribution is the sum of (A) the target normal cost of the plan for the plan year, (B) the shortfall amortization charge (if any) for the plan year determined under § 430(e), and (C) the waiver amortization charge (if any) for the plan year determined under § 430(e).

If the value of plan assets equals or exceeds the funding target for the year, the minimum required contribution is the target normal cost for the year reduced by the excess of plan asset value over the funding target.

Effective: Effective for plan years beginning after 2007 except as provided in § 211(b)(2).

§ 430(b)

Minimum funding standards for single-employer defined benefit pension plans.

Target normal cost. "Target normal cost" means the present value of all benefits expected to accrue during the plan year. Benefits attributable to past services that are increased due to increases in compensation during the current plan year are treated as having accrued during the current plan year.

Effective: Effective for plan years beginning after 2007 except as provided in § 211(b)(2).

§ 430(c) **Minimum funding standards for single-employer defined benefit pension plans.**

Shortfall amortization charge. The shortfall amortization charge of a plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

Shortfall amortization installments are the amounts used to amortize the shortfall amortization base of the plan for any plan year in level annual installments over a 7-year period. The installment amounts shall be calculated using the segment rates described in § 430(h)(2)(C).

Shortfall amortization base is the funding shortfall for the plan year minus the present value of the aggregate total of the shortfall amortization installments and waiver amortization installments due for the plan year that are attributable to amortization bases of preceding years.

Funding shortfall is the excess (if any) of the funding target for the plan year over the value of plan assets for the plan year.

Transition. For plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account in determining shortfall. The applicable percentages are 92, 94 and 96 percent for 2008, 2009, and 2010, respectively. This transition rule shall not apply to any plan year after 2008 unless the shortfall amortization base for each of the preceding years beginning after 2007 was zero. Furthermore, this transition rule shall not apply to a plan which was not in effect for a plan year beginning in 2007 or which was in effect for a plan year beginning in 2007 and was subject to additional funding requirements under § 412(l).

Effective: Effective for plan years beginning after 2007.

§ 430(d) **Minimum funding standards for single-employer defined benefit pension plans.**

Rules relating to funding target. The funding target is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

Funding target attainment percentage is the ratio (expressed as a percentage) of the value of plan assets for the plan year over the funding target of the plan for the plan year.

Effective: Effective for plan years beginning after 2007.

§ 430(e) **Minimum funding standards for single-employer defined benefit pension plans.**

Waiver amortization charge is the aggregate total of the waiver amortization installments with respect to the waiver amortization bases for each of the 5 preceding plan years.

Waiver amortization installments are the amounts used to amortize the waiver amortization base for any plan year in level annual installments over a 5 year period. The installment amounts shall be calculated using the segment rates described in § 430(h)(2)(C).

Waiver amortization base is the amount of the waived funding deficiency (if any) for such plan year under § 412(c).

Effective: Effective for plan years beginning after 2007.

§ 430(f)

Minimum funding standards for single-employer defined benefit pension plans.

Reduction of minimum required contribution by prefunding balance and funding standard carryover balance. Plan sponsor of a single-employer defined benefit plan may elect to maintain a prefunding balance or a funding standard carryover balance until such balance is reduced to zero. A prefunding balance and a funding standard carryover balance shall be available as a credit against the minimum required contribution, shall be applied as a reduction in the value of plan assets, and may be reduced at any time pursuant to an election under § 430(f).

If the funding standard carryover balance is greater than zero, no amount of the prefunding balance may be used as a credit to reduce the minimum required contribution.

Limitation for underfunded plans. Neither the prefunding balance nor the funding standard carryover balance may be used as a credit to reduce the minimum required contribution if the ratio of plan asset value for the preceding plan year over the funding target of the plan for the preceding plan year is less than 80 percent.

Effect of balances on amounts treated as value of plan assets.

Reduction of value of plan assets by prefunding balance and funding standard carryover balance. In general, the value of plan assets used to determine excess assets, funding shortfall, and funding target attainment percentage, is deemed to be such amount reduced by the amount of the prefunding balance and the funding standard carryover balance. However, for purposes of determining the funding shortfall, the value of plan assets shall not be deemed to be reduced by the amount of the prefunding or standard carryover balance, if there is a binding written agreement with the Pension Benefit Guaranty Corporation that such balance is not available to reduce the minimum required contribution for the plan year.

Election to reduce balance prior to determinations of value of plan assets and crediting against minimum required contribution. The plan sponsor may elect to reduce by any amount the prefunding balance and the funding standard carryover balance for a plan year and such reduction shall be effective prior to any determination of the value of plan assets and application of the balance in reducing the minimum required contribution. However, to the extent that any plan has a funding standard carryover balance greater than zero, the plan sponsor may not elect to reduce the prefunding balance.

Prefunding balance. The annual increase to the balance may not exceed the excess (if any) of the aggregate total of employer contributions to the plan for the preceding plan year over the minimum required contribution for such preceding plan year. These excess contributions shall be adjusted for interest accruing for periods between the first day of the current plan year and the dates on which the excess contributions were made, using the effective interest rate for the preceding plan year. These excess contributions must be reduced (but not below zero) by the amount of contributions an employer would be required to make under § 206(g)(1), (2), or (4) to avoid a benefit limitation which would otherwise be imposed under such paragraph for the preceding plan year. The prefunding balance shall be decreased (but not below zero) by amounts used as a credit to reduce the minimum required contribution for the preceding plan year and amounts by which the sponsor elected to reduce the balance.

Effective: Effective for plan years beginning after 2007.

§ 430(f) (cont'd)

Minimum funding standards for single-employer defined benefit pension plans.

Funding standard carryover balance shall be decreased (but not below zero) by the amount of such balance used as a credit to reduce the minimum required contribution of the plan for the preceding plan year and amounts by which the sponsor elected to reduce the balance.

Adjustments. The plan sponsor shall, in accordance with regulations prescribed by the Secretary, adjust the prefunding balance or funding standard carryover balance to reflect the rate of return on plan assets for the preceding plan year.

Effective: Effective for plan years beginning after 2007.

§ 430(g)

Minimum funding standards for single-employer defined benefit pension plans.

Valuation of plan assets and liabilities. The valuation date of a plan for any plan years shall be the first day of the plan year with the exception that small plans (100 or fewer participants) may designate any day during the plan year as the valuation date.

The value of plan assets shall be the fair market value of the assets. A plan may determine the value of plan assets on the basis of the averaging of fair market values if such method is permitted by the Secretary, averages values within a certain period, and does not result in a value of plan assets deviating more than 10 percent from the fair market value of the asset at such time.

Employer contributions for preceding plan years that are made after the valuation date for the plan year in which the contribution is made, shall be taken into account as an asset of the plan as of the valuation date. Contributions made before the valuation date of the plan year, shall not be taken into account in the value of plan assets.

Effective: Effective for plan years beginning after 2007.

§ 430(h)

Minimum funding standards for single-employer defined benefit pension plans.

Actuarial assumptions and methods. Present value and other computations must be made on the basis of actuarial assumptions and methods that are reasonable offer the actuary's best estimate of anticipated experience under the plan.

Interest rate. "Effective interest rate" means the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

In determining the funding target, the interest rate used in determining the present value of the plan liabilities shall be the first segment rate in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the second segment rate during the 15-year period following the initial 5-year period, and the third segment rate during the period following the 5-year and 15-year periods.

Segment rate. The first segment rate is the single rate of interest which shall be determined by the Secretary on the basis of the corporate bond yield curve for such month, taking into account only that portion of the curve based on bonds maturing during the 5 year-period commencing with such month. The second segment rate is the rate determined by the Secretary on the basis of the corporate bond yield curve taking into account only that portion of the curve which is based on bonds maturing during the 15-year period following the initial 5-year period. The third segment rate is the rate determined by the Secretary based on the corporate bond yield curve taking into account only that portion of such yield curve based on bonds maturing during the periods beginning after the 5-year and 15-year periods.

Election to use yield curve. Solely to determine the minimum required contribution under this section, the plan sponsor, may in lieu of the segment rates, elect to use interest rates under the corporate bond yield curve, with certain restrictions.

Transition rule. For plan years beginning in 2008 or 2009, the first, second, or third segment rate for a plan shall be equal to the sum of (I) the product of such rate for such month multiplied by the applicable percentage, and (II) the product of the rate determined under the rules of § 412(b)(5)(B)(ii)(II) multiplied by a percentage equal to 100 percent minus the applicable percentage. The applicable percentage is 33 and 1/3 percent for plan years beginning in 2008 and 66 and 2/3 percent for plan years beginning in 2009.

Mortality tables. The Secretary shall by regulation prescribe mortality tables to be used in determining any present value or making any computation under this section with required periodic revisions. A mortality table shall cease to be in effect upon a significant change in the participants in a plan by reason of a plan spinoff or merger or upon the date which the plan actuary determines that such table does not meet the requirements of a mortality table. A mortality table meets the requirements if (I) there is a sufficient number of plan participants and the pension plan have been maintained for a sufficient period to have credible information and (II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience. The plan sponsor must submit a mortality table to the Secretary for approval at least 7 months before the 1st day of the period described in clause (i).

Effective: Effective for plan years beginning after 2007.

§ 430(h)(cont'd)

Minimum funding standards for single-employer defined benefit pension plans.

Approval of large changes in actuarial assumptions. Approval of the Secretary is required for changes to actuarial assumptions used to determine the funding target for plans that are (1) defined benefit plans subject to Title IV of ERISA, (2) where the aggregate unfunded vested benefits at the close of the preceding plan year and all other plans maintained by the contributing sponsors and members of such sponsors' controlled groups, exceed $50,000,000, and (3) where the change in assumptions results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000 or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

Effective: Effective for plan years beginning after 2007.

§ 430(i)

Minimum funding standards for single-employer defined benefit pension plans.

Special rule for at-risk plans. Funding target for at-risk plans shall be the sum of the present value of all benefits accrued under the plan as determined using additional actuarial assumptions described in § 430(i)(1)(B) and in the case of a plan in at-risk status for at least 2 of the 4 preceding plan years, a loading factor determined under § 430(i)(1)(C).

Additional actuarial assumptions. All employees not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 10 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk funding target and at-risk target normal cost are being determined. All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age which would result in the highest present value of benefits. The loading factor is the sum of $700 times the number of plan participants, plus 4 percent of the funding target for the plan year.

Target normal cost of at-risk plans. The target normal cost of a plan in at-risk status is equal to the sum of the present value of all benefits expected to accrue during the plan year, determined using the additional actuarial assumptions in § 430(i)(1)(B) plus in the case of a plan at-risk for at least 2 of the 4 preceding plan years, a loading factor equal to 4 percent of the target normal cost for the plan year.

A plan is at-risk if the funding target attainment percentage for the preceding plan year determined without regard to this subsection is less than 80 percent, and the funding target attainment percentage for the preceding plan year determined using the additional actuarial assumptions described in paragraph (1)(B) in computing the funding target is less than 70 percent.

Effective: Effective for plan years beginning after 2007.

§ 430(j)

Minimum funding standards for single-employer defined benefit pension plans.

Payment of minimum required contributions. The due date for any payment of any minimum required contribution for any plan year shall be 8 and ½ months after the close of the plan year. Any such required payment for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

Accelerated quarterly contribution schedule for underfunded plans. If the plan has a funding shortfall for the preceding plan year, the employer's failure to make the required installment payment shall result in the imposition of an interest on the amount of underpayment at a rate equal to the applicable interest rate plus 5 percentage points.

The required annual payment is the lesser of 90 percent of the minimum required contribution to the plan for the plan year or 100 percent of the minimum required contribution to the plan for the preceding plan year. The amount of any required installment shall be 25 percent of the required annual payment.

Liquidity requirement in connection with quarterly contributions. A plan (other than a small plan described in § 430(g)(2)(B)) is treated as failing to pay the full amount of a required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall. A liquidity shortfall is the amount equal to the excess of the base amount (3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter) for the quarter over the value of the plan's liquid assets.

Effective: Effective for plan years beginning after 2007.

§ 430(k) **Minimum funding standards for single-employer defined benefit pension plans.**

Imposition of lien where failure to make required contributions. If any person fails to make a contribution payment required by § 412 and § 430 before the due date and the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding overdue payments exceeds $1,000,000, there shall be a lien in favor of the plan against all property and rights to property belonging to such person and other person who is a member of the same controlled group. The lien shall be in an amount equal to the aggregate unpaid balance of contribution payments required under § 412 and 430 for which payment has not been made.

A person committing such failure shall notify the Pension Benefit Guaranty Corporation within 10 days of the due date. Any amount with respect to which a lien is imposed shall be treated as taxes due and owing the United States and rules similar to rules of § 4068(c), (d), and (e) of ERISA shall apply.

Any such lien may be perfected and enforced only by the Pension Benefit Guaranty Corporation or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor.

Effective: Effective for plan years beginning after 2007.

§ 430(l) **Minimum funding standards for single-employer defined benefit pension plans.**

Qualified transfers to health benefit accounts. In the case of a qualified transfer (as defined in § 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.

Effective: Effective for plan years beginning after 2007.

§ 431(a) **Rules on minimum funding standards for multiemployer plans relocated and modified.**

The Act moves many of the § 412 rules that applied to multiemployer plan funding standard accounts to § 431.

General. The accumulated funding deficiency for purposes of § 412 of a multiemployer plan is the excess of total charges to the funding standard account for all plan years over the total credits to such account for such years. If the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency is determined in accordance with § 4243 of ERISA. The alternative minimum funding rules no longer apply to multiemployer plans.

Effective: Effective for plan years beginning after 2007.

§ 431(b) **Rules on minimum funding standards for multiemployer plans relocated and modified.**

Funding standard account. Requires each multiemployer plan to establish and maintain a funding standard account. Describes charges and credits to be made against the account. The costs are same as under pre-Act law except for the following changes in amortization periods:

(i) for a plan that comes into existence on or after Jan. 1, 2008, the unfunded past service liability under the plan on the first day of the first plan year to which Part I of Subchapter D of the Code applies to the plan, over a period of 15 plan years;

(ii) separately, for each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in that year, over a period of 15 plan years and

(iii) separately, for each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan over a period of 15 plan years.

Under pre-Act law, the amortization periods referred to in (ii) and (iii) were 30 plan years.

The credits are the same as under pre-Act law except for the following changes in amortization periods:

(i) separately, for each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in that year, over a period of 15 plan years;

(ii) separately, for each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years.

Under pre-Act law, these amortization periods were 30 plan years.

Establishes provisions that "grandfather" amounts that were being amortized under pre-Act § 412(b). Thus, these amounts won't be subject to the new shortened amortization periods.

Special rule for charges and credits to funding standard account. If § 412(b)(7)(F) election (the 80% deferral election that was in effect only for plan years beginning after June 30, 2003, and before July 1, 2005) was in effect for any plan year, the funding standard account will be charged with the amount deferred (and § 431(b)(2)(B)(iii) regarding the 15-year amortization period for net experience losses, will not apply to the amount charged).

Short-term benefit. Provides that to the extent that any plan amendment increases a plan's unfunded past service liability by increasing benefits which are not payable as a life annuity but are payable under the plan's terms during a period that does not exceed 14 years from the amendment's effective date, § 431(b)(2)(B)(ii) – regarding the 15-year amortization period for net increases in unfunded past service liability due to adopted plan amendments – must be applied separately for the increase in unfunded past service liability by substituting for "15" years, the number of years of the period during which these benefits are payable.

Effective: Effective for plan years beginning after 2007.

§ 431(c) **Rules on minimum funding standards for multiemployer plans relocated and modified.**

Full funding. Provides that if as of the close the plan year, a plan would have an accumulated funding deficiency in excess of the full funding limitation: (1) the funding standard account is credited with the amount of the excess and (2) all amounts described in § 412(b)(2)(B), (C), (D), and § 412(b)(3)(B) that are required to be amortized must be considered fully amortized for purposes of these sections.

Modifies definition of "full funding" to reflect the elimination of the alternative minimum funding standard account under § 412(g).

Additional rules. Retains the special election regarding the valuation of bond portfolios. However, does not retain the special rule authorizing IRS to issue regs providing that the value of dedicated bond portfolios – of plans other than multiemployer plans – must be determined using the interest rate the plan uses to determine costs.

Actuarial assumptions. Pre-Act law required actuarial assumptions use by multiemployer plans to be reasonable in the aggregate. Under the Act, each assumption must itself be reasonable.

Effective: Effective for plan years beginning after 2007.

§ 431(d)

Rules on minimum funding standards for multiemployer plans relocated and modified.

Automatic 5-year extension of amortization period for unfunded liabilities allowed if multiemployer plan sponsor submits application to IRS for extension and includes a qualified certification by plan's actuary with application.

Alternative extension of amortization period. Provides for alternative extension of the amortization period, authorizing IRS to further extend the amortization period for unfunded liability of multiemployer plan (not to exceed 10 years, reduced by number of years granted under any automatic extension) if IRS determines that the extension would carry out the purposes of the 2006 Pension Act and would provide adequate protection for plan participants and their beneficiaries.

Interest rate for amortization extensions. Eliminates special interest rate rule that applied for multiemployer plan amortization extensions. Thus, the interest rate that applies for any plan year in determining the charge for an amortization extension is the plan rate.

Special rule for use of the shortfall funding method. Provides that a multiemployer plan meeting the shortfall-funding-method criteria may adopt, use, or cease using, the shortfall funding method and that this adoption, use, or cessation of use will be deemed to have been approved by IRS under § 412(d)(1).

Effective: Effective for plan years beginning after 2007.

§ 432(a)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

General. Requires plan sponsors of multiemployer plans in effect on June 16, 2006 that are in endangered or critical status to adopt and implement funding improvement plans or rehabilitation plans respectively.

Effective: Effective for plan years beginning after 2007.

§ 432(b)(1),(2)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Determination of endangered and critical status. Provides criteria for determining whether plan is in endangered or critical status.

Effective: Effective for plan years beginning after 2007.

§ 432(b)(3)(A)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Annual certification by plan actuary of multiemployer plan to Secretary and plan Sponsor is required whether or not the plan is in endangered or critical status if the plan is in funding improvement or rehabilitation period whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

Effective: Effective for plan years beginning after 2007.

§ 432(b)(3)(B)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Establishes rules for actuarial projections used in determining if multiemployer plan is in endangered or critical status.

Effective: Effective for plan years beginning after 2007.

§ 432(b)(3)(C)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Failure of plan's actuary to certify the multiemployer plan's status by the end of the 90-day period specified in § 432(b)(3)(A) will be treated for purposes of ERISA § 502(c)(2), as a failure or refusal by plan administrator to file the plan's annual report under ERISA § 101(b)(4).

Effective: Effective for plan years beginning after 2007.

§ 432(b)(3)(D)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Notice requirements established when plan is in endangered or critical status.

Effective: Effective for plan years beginning after 2007.

§ 432(c)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Funding improvement plan. When a multiemployer plan is in endangered status for a plan year, the Act will require the plan sponsor to adopt a funding improvement plan no later than 240 days after the date on which the plan's actuary certifies that the plan is in endangered status. Within 30 days after adopting the funding improvement plan, the sponsor must provide the bargaining parties with one or more schedules showing the revised benefit structures, revised contribution structures, or both, which if adopted, are reasonably expected to enable the plan to meet the applicable benchmarks of § 432(c)(3) relating to a plan's improving its funded percentage. The sponsor may be required to provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the applicable benchmarks in accordance with the funding improvement plan.

These rules won't apply to a plan year if it is in a funding plan adoption period or funding improvement period due to the plan's being in endangered status for a preceding plan year.

Provides requirements of a funding improvement plan. In effect, the funding improvement plan will have to provide that during the funding improvement period, the plan will achieve a one-third reduction in underfunding and have no accumulated funding deficiency for any plan year during the funding improvement period.

Seriously endangered status. Funding improvement plan for a plan in seriously endangered status will have to provide that the plan will achieve a one-fifth reduction in underfunding and have no accumulated funding deficiency for any plan year over the 15-year funding improvement period.

Updates by plan sponsor to funding improvement plans and schedules are required.

Default schedules may be used where parties to a collective bargaining agreement that provides for contributions under a multiemployer plan and that was in effect when the plan entered endangered status expires, if the parties to the bargaining agreement can't agree on the changes to contribution or benefit schedules necessary to meet the applicable benchmarks of the funding improvement plan.

Effective: Effective for plan years beginning after 2007.

§ 432(d)

Overview of special funding rules for multiemployer plans in endangered or critical status; annual certification by plan actuary; notice requirements.

Restrictions on collective bargaining agreements during funding plan adoption period and funding improvement period. During the funding plan adoption period, the plan sponsor may not accept collective bargaining agreements or participation agreements that provide for a reduction in the level of contributions for any participants, a suspension of contributions with respect to any period of service, or any new exclusion of younger or newly hired employees from plan participation. Other restrictions are also imposed on certain actions during the funding plan adoption period.

Effective: Effective for plan years beginning after 2007.

§ 432(e)

Details of special funding rules for multiemployer plans in critical status.

Effective: Effective for plan years beginning after 2007.

§ 432(f)

Details of special funding rules for multiemployer plans in critical status.

Effective: Effective for plan years beginning after 2007.

§ 432(g)

Details of special funding rules for multiemployer plans in critical status and endangered status.

Effective: Effective for plan years beginning after 2007.

§ 432(h)

Special rules apply to multiemployer plans in endangered status with non-union members.

Effective: Effective for plan years beginning after 2007.

§ 432(i)

Details of special funding rules for multiemployer plans in critical and endangered status.

Effective: Effective for plan years beginning after 2007.

§ 436

Funding-based limits imposed on benefits and benefit accruals under single-employer plans.

Funding based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans. If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year is less than 60 percent or would be less than 60 percent taking into account such occurrence. Certain exemptions apply to this rule.

Limitations on plan amendments increasing liability for benefits. No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage for such plan year is less than 80 percent or would be less than 80 percent taking into account such amendment. Certain exemptions apply.

Limitation on accelerated benefit distributions in cases where funding percentage is less than 60 percent, plan sponsor is debtor in Chapter 11 bankruptcy, and plan's adjusted funding target attainment percentage for a plan year is at least 60 percent but less than 80 percent.

Limitation on benefit accruals for plans with severe funding shortfalls. A defined benefit plan which is a single-employer plan shall provide that in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, benefit accruals under the plan shall cease as of the valuation date for the plan year with certain exceptions.

Limitations on benefits may be avoided through the provision of security which will be treated as an asset for purposes of determining the funding target attainment percentage. However, prefunding balance or funding standard carryover balance may not be used to satisfy any payment an employer may make under subsection (b), (c), or (e) to avoid the application of any limitation under such subsection.

Effective: Effective for plan years beginning after December 31, 2007.

§ 457(a)(3)

Coordinated amendment to § 402(l) rule allowing gross income exclusion of certain distributions from governmental plans for accident, health and long-term care insurance by retired public safety officers.

Effective: Effective for distributions in tax years beginning after December 31, 2006.

§ 457(e)(11)(D)

Deferred compensation plans of state and local governments and tax-exempt organizations.

Certain voluntary early retirement incentive plans maintained by educational entities are exempt from the § 457 deferred compensation rules and are treated like welfare plans under ERISA. Specifically, for purposes of the § 457(e)(11)(A)(i) rule that excludes certain plans (like bona fide severance pay plans) from the § 457 rules (and thus treats these plans as not providing for the deferral of compensation) an "applicable voluntary early retirement incentive plan" is treated as a bona fide severance pay plan with respect to any payments or supplements made, to the extent the payments or supplements could otherwise have been provided under a defined benefit plan so long as the applicable voluntary early retirement incentive plan makes payments or supplements as an early retirement benefit, a retirement-type subsidy, or an early retirement benefit described in § 411(a)(9) and the payments or supplements are made in coordination with a qualified defined benefit plan that includes a tax-exempt trust, and which is maintained by a § 457(e)(1)(A) eligible employer or education association.

Effective: Effective for tax years ending after August 17, 2006.

§ 457(e)(16)(B)	**Coordinated amendment to § 402(c)(11) provision allowing rollovers where distribution is made to inherited individual retirement plan of nonspouse beneficiary.** Effective: Effective for distributions made after December 31, 2006.
§ 457(f)(2)(F)	**Certain employment retention plans maintained by educational entities are exempt from the § 457 deferred compensation rules and are treated like welfare plans under ERISA.** Applicable employment retention plans described in § 457(f)(4) are added to the list of plans exempted from the general rule that compensation that is part of an ineligible deferred compensation plan of an eligible employer must be included in gross income of the participant or beneficiary during the first year there is no substantial risk of forfeiture. Effective: Effective for tax years ending after August 17, 2006.
§ 457(f)(4)	**Certain employment retention plans maintained by educational entities are exempt from the § 457 deferred compensation rules and are treated like welfare plans under ERISA.** Provides definition of employment retention plan and applicable employment retention plan. Imposes limitation on tax-exempt amount described in § 457(f)(2)(F) that is the portion of the plan which provides benefits payable to the participant not in excess of twice the applicable dollar limit determined under § 457(e)(15). Effective: Effective for tax years ending after August 17, 2006.
§ 501(c)(21)(C)	**"Aggregate limit" on payments from black lung disability trusts for accident or health benefits is eliminated.** The aggregate amount of payments made during a tax year from a black lung benefit trust of accident or health benefits for retired miners and their spouses and dependents may not exceed the "yearly limit" i.e., the excess (if any) as of the close of the preceding tax year, of (i) the fair market value of trust assets, over (ii) 110% of the present value of the liability of the person that created the trust for black lung death or disability claims. Effective: Effective for tax years beginning after December 31, 2006.
§ 501(q)	**Credit counseling organizations must meet consumer protection requirements to qualify as tax exempt.** Effective: Effective for tax years beginning after August 17, 2006, except for existing credit counseling organizations who must comply for tax years beginning after August 17, 2007.
§ 508(f)	**Sponsoring organizations must notify IRS of any donor advised fund they maintain or intend to maintain.** Effective: Effective for organizations applying for tax-exempt status after August 17, 2006.

§ 509

Stricter accountability required for exception from private foundation status for Type III supporting organizations; certain gifts to supporting organizations barred.

States that "private foundation" not only excludes organizations described in § 170(b)(1)(A), organizations receiving more than 1/3 of its support in each taxable year from gifts, grants, etc., and organizations receiving not more than 1/3 of its support from gross investment income and net business taxable income, but also excludes those organizations operated, supervised, or controlled by or in connection with any of the aforementioned organizations.

The requirements of a Type III supporting organization are amended so that an organization does not qualify as a Type III organization unless: (1) for each tax year beginning after August 17, 2006 the organization provides to each supported organization such information as the IRS may require to ensure that the organization is responsive to the needs or demands of the supported organization and (2) the organization is not operated in connection with any supported organization that is not organized in the U.S.

Exception for charitable trust. An organization that is a trust will not qualify as a Type III supporting organization operated in connection with a public charity described in § 509(a)(1) or (2) solely because it is a charitable trust under state law, the supported organization is a beneficiary of the trust, and the supported organization has the power to enforce the trust and compel an accounting.

Gifts from prohibited persons barred. For purposes of the supporting organization rules, an organization is not operated, supervised, or controlled by any organization described in § 509(a)(1) or (2) or operated in connection with such an organization, if the organization accepts any gift or contribution from a prohibited person. The supporting organization is treated as a private foundation for all purposes until such time as the organization can demonstrate to the satisfaction of IRS that it qualifies as a public charity other than as a supporting organization.

Prohibited person is (a) a person (other than a public charity described in § 509(a)(1), (2), or (4)) who controls the governing body of the supported organization; (b) a member of the family of an individual listed above; or (c) a 35% controlled entity.

Codifies rule that gross investment income of private foundations includes annuities, income from notional principal contracts, and other substantially similar income.

Effective: Effective August 17, 2006.

§ 512(b)(13)(E)

Specified payments made by a controlled entity to its tax-exempt parent in 2006 or 2007 are included in "unrelated business taxable income" (UBTI) to the extent they exceed fair market value.

Under the Act, the general rule of § 512(b)(13) (under which specified payments made by a controlled entity to a tax-exempt organization are included in the tax-exempt organization's UBTI to the extent the payment reduces the net unrelated income (or increases any unrelated loss) of the controlled entity) applies only to excess payments, i.e., the portion of a qualifying specified payment that exceeds the amount that would have been paid or accrued, if the qualifying specified payment met the § 482 requirements.

An additional tax is also imposed on the controlling organization for valuation misstatements.

The new rules will not apply to post-2007 payments.

Effective: Effective for payments received or accrued after December 31, 2005.

§ 513(j)

Debt management plan services are an unrelated trade or business, if organization is not a tax-exempt credit counseling organization under § 501(q).

Effective: Effective for tax years beginning after August 17, 2006 (one year later for existing organizations).

§ 514(c)(9)(C)

Exemption from the unrelated business income tax for leveraged real estate investments held by church annuity plans.

Adds retirement income accounts described in § 403(b)(9) (dealing with retirement income accounts provided by churches) to the definition of "qualified organization" used in § 514(c)(9). That section excludes indebtedness incurred by a qualified organization in acquiring or improving any real property from the term "acquisition indebtedness.".

Effective: Effective for tax years beginning on or after August 17, 2006.

§ 529(f)	**IRS is given broad regulatory authority to prevent abuse of qualified tuition programs.**
	Effective: Effective August 17, 2006.
The following provision is NOT operative for Hawaii income tax purposes.	
§ 545(b)(2)	**Coordinated amendment to § 170(b)(1)(E) provision regarding qualified conservation contributions.**
	Effective: Effective for contributions made in tax years beginning after December 31, 2005 and before January 1, 2008.
The following provision is operative for Hawaii income tax purposes.	
§ 664(g)(3)(E)	**Qualified employer securities transferred by charitable remainder trust to ESOP must be allocated to participants based on fair market value when allocated.**
	Effective: Effective August 17, 2006.
The following provision is NOT operative for Hawaii income tax purposes.	
§ 848(e)(6)	**Qualified long-term care insurance can be provided as a rider to an annuity contract after 2009.**
	Provides that an annuity or life insurance contract which includes a qualified long-term care insurance contract as a part of or a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in § 848(c)(1)(A) or (B).
	Effective: Effective for specified policy acquisition expenses determined for tax years beginning after December 31, 2009.
The following provisions are operative for Hawaii income tax purposes.	
§ 1035	**Conforming amendment to provision that qualified long-term care insurance can be provided as a rider to an annuity contract after 2009.**
	Effective: Effective for exchanges occurring after December 31, 2009.
§ 1367(a)(2)	**S corporation's charitable contribution of property reduces shareholder's basis only by contributed property's basis for tax years beginning in 2006 and 2007.**
	If the required decrease in basis of a shareholder's stock in an S corporation is due to charitable contribution of property, the decrease shall be in an amount equal to the shareholder's pro rata share of the adjusted basis of such property for contributions made in taxable years beginning before December 31, 2007.
	Effective: Effective for contributions made in tax years beginning after December 31, 2005 (only applies to 2006 and 2007 tax years).
The following provisions are NOT operative for Hawaii income tax purposes.	
§ 2055(e)(5)	**Charitable deduction isn't allowed for contributions to donor advised funds of certain sponsoring organizations; deductible contributions require additional substantiation.**
	Effective: Effective for contributions made after the date that is 180 days after August 17, 2006.
§ 2055(g)	**Charitable deduction for fractional interest gifts of tangible personal property is limited; later fractional contributions must be valued consistently with initial one.**
	The fair market value of any additional contributions shall be determined using the lesser of the fair market value of the property at the time of the initial fractional contribution or the fair market value of the property at the time of the additional contribution.
	Effective: Effective for contributions made after the date that is 180 days after August 17, 2006.
§ 2522(c)(5)	**Charitable deduction isn't allowed for contributions to donor advised funds of certain sponsoring organizations; deductible contributions require additional substantiation.**
	Effective: Effective for contributions made after the date that is 180 days after August 17, 2006.

§ 2522(e)	**Charitable deduction for fractional interest gifts of tangible personal property is limited; later fractional contributions must be valued consistently with initial one.**
	Effective: Effective for contributions made after the date that is 180 days after August 17, 2006.
§ 3121	**Amends definition of "employment" for purposes of chapter dealing with employment taxes.**
	Excludes from the definition of employment services performed by an individual who is a special trial judge of the United States Tax Court.
	Effective: Effective August 17, 2006.
§ 3304	**Approval of state laws.**
	Pre-Act law requires the Secretary of Labor to approve any State law submitted to him which he finds provides that the amount of compensation payable to an individual for any week which begins after March 31, 1980 and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment based on the previous work of such individual, shall be reduced by an amount equal to the amount of such pension retirement or retired pay, annuity or other payment which is reasonably attributable to such week with certain exceptions. The Act provides that compensation shall not be reduced for any pension, retirement or retired pay annuity or similar payment which is not includible in gross income of the individual for the taxable year in which paid because it was part of a rollover distribution.
	Effective: Effective for weeks beginning on or after August 17, 2006.
§ 4041(g)(5)	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective January 1, 2007.
§ 4221(a)(6)	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective January 1, 2007.
§ 4253(k)	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective January 1, 2007.
§ 4483(h)	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective for taxable periods beginning on or after July 1, 2007.
§ 4940(c)	**Rules similar to like-kind exchange rules apply to private foundations.**
	No gain or loss taken into account with respect to property used for a period of not less than 1 year for purpose constituting the basis of the private foundation's exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for purpose or function constituting the basis for such foundation's exemption.
	Effective: Effective for taxable years beginning after August 17, 2006.
§ 4941	**Penalty excise taxes on private foundations and public charities are increased.**
	Effective: Effective for taxable years beginning after August 17, 2006.
§ 4942(a)	**Penalty excise taxes on private foundations and public charities are increased.**
	Effective: Effective for taxable years beginning after August 17, 2006.

§ 4942(g)	**Distributions by nonoperating private foundations to certain supporting organizations are not qualifying distributions.**
	Effective: Effective for distributions and expenditures after August 17, 2006.
§ 4943(e)	**Tax on excess business holdings extended to donor advised funds.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4943(f)	**Excess business holdings rules applied to supporting organizations.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4944	**Penalty excise taxes on private foundations and public charities are increased.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4945(a),(c)	**Penalty excise taxes on private foundations and public charities are increased.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4945(d)	**Distributions by nonoperating private foundations to certain supporting organizations are not qualifying distributions.**
	Effective: Effective for distributions and expenditures after August 17, 2006.
§ 4958(c)(2)	**Certain distributions from donor advised funds to donors, donor advisors, or related persons are automatically treated as excess benefit transactions.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4958(c)(3)	**Special rules for excess benefit transactions are enacted for § 509(a)(3) supporting organizations.**
	Effective: Effective for transactions occurring after July 25, 2006.
§ 4958(d)	**Penalty excise taxes on private foundations and public charities are increased.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4958(f)	**Tax on excess benefit transactions.**
	Special rules for excess benefit transactions are enacted for § 509(a)(3) supporting organizations.
	Donors and donor advisors are "disqualified persons" for donor advised funds, and investment advisors are "disqualified persons" for sponsoring organizations, for excess benefit transaction tax purposes.
	Certain distributions from donor advised funds to donors, donor advisors, or related persons are automatically treated as excess benefit transactions.
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4966	**New taxes imposed on taxable distributions from donor advised funds.**
	Effective: Effective for tax years beginning after August 17, 2006.
§ 4967	**New taxes imposed on prohibited benefits received by a donor, donor advisor, or related person from a donor advised fund.**
	Effective: Effective for tax years beginning after August 17, 2006.

§ 4971(a) – (c)	**Excise tax on failure to meet minimum funding standards integrated with new funding rules.**
	Effective: Effective for plan years beginning after 2007.
§ 4971(g)	**New excise tax scheme applies to multiemployer plans in critical or endangered status.**
	Effective: Effective for plan years beginning after 2007.
§ 4972(c)(6)(A)	**Defined benefit plan deduction limits increased with separate limits set for single-employer and multiemployer plans.**
	Effective: Effective for contributions for tax years beginning after December 31, 2005.
§ 4975(d)(17)	**Investment advice may be provided under 401(k) plans and IRAs, despite conflicts of interest; employers are exempt from fiduciary liability.**
	Effective: Effective for investment advice provided by a fiduciary for a fee or other compensation after December 31, 2006.
§ 4975(d)(18)	**Block trades are exempt from prohibited transaction rules.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(d)(19)	**Transactions made through regulated electronic communication trading systems are exempt from the prohibited transaction rules.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(d)(20)	**Certain transactions between plans and service providers are exempt from prohibited transaction rules if made for adequate consideration.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(d)(21)	**Certain foreign exchange transactions are exempt from prohibited transaction rules.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(d)(22)	**Securities cross trades are exempt from prohibited transaction rules.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(d)(23)	**Certain otherwise prohibited transactions involving securities and commodities that are corrected within 14 days are exempt from the prohibited transaction rules.**
	Effective: Effective for prohibited transactions discovered, or that should have been discovered, after August 17, 2006.
§ 4975(f)(8)	**Investment advice may be provided under 401(k) plans and IRAs, despite conflicts of interest; employers are exempt from fiduciary liability.**
	Effective: Effective for investment advice provided by a fiduciary for a fee or other compensation after December 31, 2006.
§ 4975(f)(9)	**Block trades are exempt from prohibited transaction rules.**
	Effective: Effective for transactions occurring after August 17, 2006.
§ 4975(f)(10)	**Certain transactions between plans and service providers are exempt from prohibited transaction rules if made for adequate consideration.**
	Effective: Effective for transactions occurring after August 17, 2006.

§ 4975(f)(11)	**Certain otherwise prohibited transactions involving securities and commodities that are corrected within 14 days are exempt from the prohibited transactions rules.**
	Effective: Effective for prohibited transactions discovered, or that should have been discovered after August 17, 2006.
§ 4979(f)	**Tax on excess contributions – corrective distribution rules relaxed.**
	Effective: Effective for plan years beginning after December 31, 2007.
§ 4980	**Tax on reversion of qualified plan assets to employer.**
	Eliminates the requirement that employer securities remain in the plan until distribution to participants in accordance with plan provisions in order to escape treatment as an employer reversion.
	Effective: Effective for plan years beginning after December 31, 2006.
§ 4980F(e)(1)	**Pension plans will have to provide additional information in annual reports but not send summary annual reports; multiemployer plans will have to provide new summary reports to employers and unions, and give plan information to participants or employers upon request.**
	Effective: Effective for plan years beginning after December 31, 2007.
§ 6033(a)(3)(B)	**Additional requirements for returns by exempt organizations.**
	Supporting organizations described in § 509(a)(3) may not be exempted by the Secretary from the return filing requirement.
	Effective: Effective for returns filed for tax years ending after August 17, 2006.
§ 6033(h)	**Additional requirements for returns by exempt organizations.**
	Requires controlling organizations (within the meaning of § 512(b)(13)) to provide certain additional information.
	Effective: Effective for returns the due date (determined without regard to extensions) of which is after August 17, 2006.
§ 6033(i)	**Additional requirements for returns by exempt organizations.**
	Requires certain exempt organizations that otherwise do not have to file annual information returns to provide certain information to the IRS.
	Effective: Effective for notices and returns with respect to annual periods beginning after December 31, 2006.
§ 6033(j)	**Additional requirements for returns by exempt organizations.**
	Failure to file an annual return or notice for 3 consecutive years will result in revocation of the organization's exempt status.
	Effective: Effective for notices and returns with respect to annual periods beginning after December 31, 2006.
§ 6033(k)	**Additional requirements for returns by exempt organizations.**
	Requires that sponsoring organizations described in § 4966(d)(1) provide additional information in the return regarding donor advised funds.
	Effective: Effective for returns filed for tax years ending after August 17, 2006.
§ 6033(l)	**Additional requirements for returns by exempt organizations.**
	Requires that supporting organizations described in § 509(a)(3) provide additional information in the return.
	Effective: Effective for returns filed for tax years ending after August 17, 2006.

§ 6034	**Split-interest trusts (described in § 4972(a)(2))must file annual information returns even if they must currently distribute all net income.**
	Repeals the exception to the filing requirement for split-interest trusts that are required to distribute currently all of their net income to beneficiaries.
	Effective: Effective for returns for tax years beginning after December 31, 2006.
§ 6039I	**Income tax treatment of proceeds from employer-owned life insurance is modified.**
	Requires every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after August 17, 2006, to file a return providing certain information.
	Requires every applicable policyholder owning 1 or more employer-owned life insurance contracts during any year to keep such records as may be necessary for purposes of determining whether the requirements of this section and § 101(j) are met.
	Effective: Effective for life insurance contracts issued after August 17, 2006.
§ 6050L(a)(1)	**Charitable donees must report disposition within three years of receipt of charitable deduction property.**
	Pre-Act law required charitable donees to report disposition within 2 years of receipt of charitable deduction property.
	Under the Act, the donee must also report whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under § 501. The donee must include with the return the certification described in § 170(e)(7)(D) (if such certification is made under § 170(e)(7)) where the donee indicates that the use of applicable property was related to the purpose or function constituting the basis for the donee's § 501 exemption.
	Effective: Effective for returns filed after September 1, 2006.
§ 6050U	**Charges or payments for qualified long-term care insurance contracts under combined arrangements.**
	Reporting requirements imposed on persons making a charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract which is excludable from gross income under § 72(e)(11) because it was used as payment for coverage under a qualified long-term care insurance contract.
	Effective: Effective for charges made after December 31, 2009.
§ 6050V	**Certain exempt organizations that acquire interests in life insurance contracts within two years after August 17, 2006 must file information returns – penalties imposed for failure to comply.**
	Effective: Effective for acquisitions of contracts after August 17, 2006.
§ 6059	**Requires actuary to state in the periodic report that the requirements for reasonable actuarial assumptions under § 430(h)(1) or 431(c)(3) were complied with.**
	Effective: Effective August 17, 2006.
§ 6103	**Limits on disclosure of returns and return information apply to information disclosed to appropriate state officers under § 6104(c).**
	In addition, recordkeeping and reporting requirements apply to IRS's disclosure to appropriate state officers of tax-exempt organizations' returns and return information. Safeguards apply to IRS's disclosure of tax-exempt organizations' returns to appropriate state officers.
	Effective: Effective August 17, 2006 but not for requests made before August 17, 2006.
§ 6104(b)	**Information about non-charitable beneficiaries of split-interest trusts is not available for public inspection.**
	Effective: Effective for returns for tax years beginning after December 31, 2006.

§ 6104(c)	**Publicity of information required from certain exempt organizations and certain trusts – publication to state officials.**
	The IRS can disclose to appropriate state officers (1) a notice of proposed refusal to recognize the organization as exempt or a notice of proposed revocation of exempt status, (2) proposed deficiencies of certain excise taxes imposed on exempt organizations, and (3) names, addresses and taxpayer identification numbers of organizations that have applied for exempt status.
	IRS can disclose to appropriate state officers returns and return information of certain non § 501(c)(1) or non § 501(c)(3) organizations.
	Returns of certain tax-exempt organizations can be disclosed in civil administrative and judicial proceedings related to the enforcement of state laws.
	Disclosure of returns and return information relating to tax exempt organizations is prohibited if disclosure seriously impairs federal tax administration.
	Effective: Effective August 17, 2006 but not for requests made before such date.
§ 6104(d)(1)(A)(iii)	**§ 501(c)(3) organizations must make available for public inspection copies of their annual unrelated business income tax (UBIT) returns.**
	Effective: Effective for returns filed after August 17, 2006.
§ 6214(b)	**Tax Court authority to apply equitable recoupment doctrine is codified.**
	Effective: Effective for Tax Court actions or proceedings for which a decision has not become final as of August 17, 2006.
§ 6330(d)(1)	**Tax Court has sole jurisdiction over all Collection Due Process appeals.**
	Effective: Effective for Determinations after the date which is 60 days after August 17, 2006.
§ 6416	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective January 1, 2007.
§ 6421(c)	**Qualified blood collector organizations will be exempted from certain fuel, retail, manufacturers, communications, and highway use excise taxes after 2006.**
	Effective: Effective January 1, 2007.
§ 6652(c)(1)(E)	**Exempt organizations not required to file annual information returns because normal annual gross receipts or less must file annual notices with IRS but no monetary penalty for failure to file the notice.**
	Effective: Effective for notices and returns for annual periods beginning after 2006.

§ 6652(c)(2)	**Penalty on split interest trusts for failing to file a § 6034 return.** Increases the penalty on split-interest trusts that fail to file the return required under § 6034 to $20 for each day the failure continues, up to a maximum of $10,000 for any one return. In addition, for split-interest trusts with gross income over $250,000, the penalty is $100 for each day the failure continues up to a maximum of $50,000. Specifically, the Act increases the penalty by providing that the pre-Act penalty amounts no longer apply and by referring to the $20 per day and maximum of $10,000 per return penalty amounts that apply under § 6652(c)(1) for failure to file exempt organization annual returns and by increasing the amounts to $100 per day up to a maximum of $50,000 per return for any split-interest trust with gross income over $250,000. Furthermore, in determining the penalty amounts for split-interest trusts that fail to file the required return, the Act provides that the rule in § 6652(c)(1) that limits penalty amounts to 5% of annual gross receipts won't apply. Moreover, the rules in § 6652(c)(1) dealing with organizations with annual gross receipts of over $1 million are disregarded. If the person required to file the return knowingly fails to file the return, the penalty will also be imposed on that person who will be personally liable for that penalty. Effective: Effective for returns for tax years beginning after December 31, 2006.
§ 6662	**Expands the definition of substantial and gross valuation misstatements. Substantial/gross valuation penalty tests changed to 150%/200% from 200%/400% for income taxes and to 65%/40% from 50%/25% for estate and gift taxes.** Effective: Effective for returns filed after August 17, 2006.
§ 6664(c)	**Eliminates provision that allowed an exception from the penalty for gross valuation overstatements meeting certain conditions.** Effective: Effective for returns filed after August 17, 2006 except as provided in § 1219(e)(3) of the Act.
§ 6695A	**Penalty imposed on appraisal preparers for certain incorrect appraisals leading to substantial or gross valuation misstatements.** Effective: Effective for appraisals prepared for returns or submissions filed after August 17, 2006, except as provided in § 1219(e)(3) of the Act.
§ 6696	**Coordinated amendment to § 6695A penalty on appraisal preparers for certain incorrect appraisals leading to substantial or gross valuation misstatements.** Effective: Effective for appraisals prepared for returns or submissions filed after August 17, 2006.
§ 6720B	**Fraudulent identification of exempt use property.** In addition to any criminal penalty provided by law, any person who identifies applicable property as having a use which is related to a purpose or function constituting the basis for the donee's exemption under § 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000. Effective: Effective for identifications made after August 17, 2006.
§ 6721(e)(2)(D)	**Certain exempt organizations that acquire interests in life insurance contracts within two years after August 17, 2006 must file information returns – penalties imposed for failure to comply.** In the case of failure to file a correct return due to intentional disregard of the filing requirement, the penalty shall be the greater of $100 or 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return in the case of a failure to file a return under § 6050V (return of exempt organization that acquired interest in life insurance contract within 2 years of August 17, 2006). Effective: Effective for acquisitions of contracts after August 17, 2006.

§ 6724(d)(1)(B)(xiv)	**Coordinated amendment to changes in § 6050V.**
	Effective: Effective for acquisitions of contracts after August 17, 2006.
§ 6724(d)(2)(CC)	**Coordinated amendment to changes in § 6050U.**
	Effective: Effective for charges made after December 31, 2009.
§ 7213(a)(2)	**Unauthorized disclosure of tax-exempt organization's returns and return information acquired under § 6104(c) is subject to criminal penalties.**
	Effective: Effective August 17, 2006, but not for requests made before August 17, 2006.
§ 7213A(a)(2)	**Unauthorized disclosure of tax-exempt organization's returns and return information acquired under § 6104(c) is subject to criminal penalties.**
	Effective: Effective August 17, 2006, but not for requests made before August 17, 2006.
§ 7428(b)(4)	**Exempt organization status can be revoked for failing to file annual information returns or notices for three consecutive years and no action can be brought under §7428 for any revocation of status.**
	Effective: Effective for returns and notices for annual periods beginning after 2006.
§ 7431(a)(2)	**Tax-exempt organizations can sue for damages for unauthorized disclosure or inspection of the organization's returns and return information.**
	Effective: Effective August 17, 2006, but not for requests made before August 17, 2006.
§ 7443A	**Tax Court special trial judges may hear and decide any small case employment tax proceeding.**
	Effective: Effective for any small case employment tax proceeding for which a decision is not final before August 17, 2006.
§ 7443B	**Retired special trial judges of the Tax Court can be recalled for judicial duty for certain periods.**
	Effective: Effective August 17, 2006.
§ 7447	**Judge of Tax Court may elect to contribute to the Thrift Savings Fund established by § 8437 of title 5 of the United States Code with certain restrictions.**
	Effective: Effective August 17, 2006 except that U.S. Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.
§ 7448	**Adds provisions relating to special trial judge in § 7448 governing annuities to surviving spouses and dependent children of judges.**
	Effective: Effective August 17, 2006.
§ 7451	**Tax Court authorization to impose a petition filing fee is broadened to cover any Tax Court petition.**
	Effective: Effective August 17, 2006.
§ 7472	**Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after the date of the enactment of the Act, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to § 604(a)(5) of title 28, United States Code.**
	Effective: Effective August 17, 2006.

§ 7475(b)	**Tax Court may use the annual registration fee on Tax Court practitioners to provide service to pro se taxpayers.**
	Effective: Effective August 17, 2006.
§ 7701(a)(49)	**Definition of qualified blood collector organizations.**
	Effective: Effective January 1, 2007.
§ 7701(o)	**Definition of convention or association of churches does not preclude individual members.**
	Effective: Effective August 17, 2006.
§ 7702B(e)	**Coordinated amendment to provision that qualified long-term care insurance can be provided as a rider to an annuity contract after 2009.**
	Effective: Effective after December 31, 2009.

Digest of Act to Complete The Codification of Title 46, United States Code, "Shipping", As Positive Law (P. L. No. 109-304; August 17, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 56(c)(2)	**Reference change.** With respect to adjustments in computing the alternative minimum taxable income that are applicable to corporations, references to § 607 of the Merchant Marine Act of 1936 (46 U.S.C. 1177) are changed to Chapter 535 of Title 46 of the United States Code. Effective: Effective October 6, 2006.
§ 543(a)(1)(B)	**Reference change.** "Personal holding company income" means portions of adjusted ordinary gross income which consist of interest on amounts set aside in a reserve fund under Chapter 533 or 535 of Title 46 of the United States Code. Pre-Act law referred to interest on amounts set aside in a reserve fund under § 511 or 607 of the Merchant Marine Act of 1936 (46 App. U.S.C. 1161 or 1177). Effective: Effective October 6, 2006.
§ 9504(c)	**Reference change.** Changes reference from § 13106 of title 46, United States Code to § 13107. Specifically, the Act provides that amounts in the Boat Safety Account of the Aquatic Resources Trust Fund shall be available for making expenditures to carry out the purposes of § 13107. Pre-Act law referred to § 13106. Effective: Effective October 6, 2006.
	The following provisions are operative for Hawaii income tax purposes.
§ 140(a)(4)	**Reference change.** Changes reference from § 607(d) of the Merchant Marine Act of 1936 (46 U.S.C. 1177) to § 53507 of Title 46 of the United States Code. Specifically, the Act provides that § 53507 of Title 46, U.S.C. should be referred to for information regarding earnings of ship contractors deposited in special reserve funds. Pre-Act law referred to the Merchant Marine Act. Effective: Effective October 6, 2006.
§ 1023	**Reference change.** Changes reference from § 511 of the Merchant Marine Act of 1936 (46 U.S.C. 1161) to chapter 533 of Title 46 of the United States Code. Specifically, the Act provides that chapter 533 of Title 46, U.S.C. should be referred to for information regarding basis in the case of construction of new vessels. Pre-Act law referred to the Merchant Marine Act. Effective: Effective October 6, 2006.

§ 1061 **Reference change.**

The Act provides that for nonrecognition of gain in connection with the transfer of obsolete vessels to the Maritime Administration under Chapter 573 of Title 46 of the United States Code, see § 53707 of Title 46. Pre-Act law provided information on nonrecognition of gain in connection with the transfer of obsolete vessels to the Maritime Administration under § 510 of the Merchant Marine Act of 1936, see subsection (e) of that section.

The Act provides that for recognition of gain or loss in connection with the construction of new vessels, see § 533 of Title 46, U.S.C. Pre-Act law provided that for recognition of gain or loss in connection with the construction of new vessels, see § 511 of the Merchant Marine Act.

The Act eliminates reference to the provision for nonrecognition of gain in connection with vessels exchanged with the Maritime Administration under § 8 of the Merchant Ship Sales Act of 1946.

Effective: Effective October 6, 2006.

§ 7518 **Reference change.**

Replaces references to § 607 of the Merchant Marine Act of 1936 with Chapter 535 of Title 46 of the United States Code where it was used with respect to merchant marine capital construction fund ceilings on deposits, limitations on deposits by lessees, and nontaxability of deposits.

Effective: Effective October 6, 2006.

Digest of the Tax Provisions of the Tax Relief and Health Care Act (P. L. No. 109-432; December 20, 2006)

Note: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 25D	Individuals are allowed a personal credit for expenditures for residential energy efficient property placed in service after Dec. 31, 2005, and, under pre-2006 Tax Relief and Health Care Act law, before Jan. 1, 2008. The 2006 Tax Relief and Health Care Act extends the residential energy efficient property credit for one year, so that it is now available for property placed in service before Jan. 1, 2009. Effective Date: Dec. 20, 2006. The residential energy efficient property credit is available for property placed in service before Jan. 1, 2009. Act § 206.
§ 32(c)	A taxpayer may elect to treat combat pay excluded from gross income under Internal Revenue Code § 112 as earned income in determining both eligibility for the earned income credit (EIC) and the amount of that credit. Under pre-2006 Tax Relief and Health Care Act law, this election wasn't available in tax years ending after Dec. 31, 2006. The 2006 Tax Relief and Health Care Act extends the availability of this election for one year through tax years ending before Jan. 1, 2008. Effective Date: Tax years beginning after Dec. 31, 2006. Act § 106.
§ 30A	Possessions tax credit for American Samoa was retroactively extended through 2007 for existing claimants. Effective Date: Tax years beginning after Dec. 31, 2005 and before January 1, 2008. Act § 1303.
§ 38(b)	The 2006 Tax Relief and Health Care Act provides a credit for mine rescue team training under Internal Revenue Code § 45N. The mine rescue team training credit under § 45N is part of the Internal Revenue Code § 38 general business credit. Specifically, the mine rescue team training credit is included in the current year business credit for purposes of the general business credit. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2009. Act § 405.
§ 41(c)(4)	The 2006 Tax Relief and Health Care Act adds a new "alternative simplified credit" for qualified research expenses. A taxpayer can elect a credit (in lieu of the regular credit) equal to 12% of the excess of the qualified research expenses for the tax year over 50% of the average qualified research expenses for the three tax years preceding the tax year for which the credit is being determined. The 2006 Tax Relief and Health Care Act also provides that, for any tax year ending after Dec. 31, 2005 and before Dec. 20, 2006, any election under Internal Revenue Code § 41(c)(4) or Internal Revenue Code § 280C(c)(3)(C) is treated as having been timely made for the tax year if the election is made not later than the later of Apr. 15, 2007 or the time Internal Revenue Service (IRS) specifies. Effective Date: Tax years ending after Dec. 31, 2006, except to the extent provided in the transition rule. Act § 104.
	The following provision is operative for Hawaii income tax purposes.

§ 41(h)(1)	The 2006 Tax Relief and Health Care Act strikes the Dec. 31, 2005 expiration date of the research credit (including the university basic research credit) and replaces that date with Dec. 31, 2007. Thus, the research credit is extended for two years, i.e., for amounts paid or incurred after Dec. 31, 2005 and before Jan. 1, 2008. Effective Date: Amounts paid or incurred after Dec. 31, 2005. Act § 104.
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 45(d)	Under the 2006 Tax Relief and Health Care Act, to be qualified facilities for purposes of the credit for electricity produced from renewable resources, facilities using wind, closed-loop biomass, open-loop biomass, geothermal energy, small irrigation power, municipal solid waste, or hydropower to produce electricity must be originally placed in service before Jan. 1, 2009. Effective Date: Facilities placed in service after Dec. 31, 2007. Act § 201.
§ 45A	The 2006 Tax Relief and Health Care Act extends the Indian employment credit for two years, through the end of 2007 so that the credit does not apply to tax years beginning after Dec. 31, 2007. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2008. Act § 111.
§ 45C	For purposes of the orphan drug credit, the research tax credit is considered to remain in effect for periods after Dec. 31, 2007. For extensions of the period for making an election for a tax year ending after Dec. 31, 2005 and before Dec. 20, 2006, which would have expired but for relief provided by the 2006 Tax Relief and Health Care Act. Effective Date: Amounts paid or incurred after Dec. 31, 2005. Act § 104.
§ 45D	A new markets tax credit is available for qualified equity investments in a qualified community development entity requires the IRS is to prescribe regulations as appropriate that ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments. The 2006 Tax Relief and Health Care Act extends the $3.5 billion limitation to 2008. Effective Date: Dec. 20, 2006. Act § 102.
§ 45G	The 2006 Tax Relief and Health Care Act modifies the term “qualified railroad track expenditures” used in determining the railroad track maintenance credit for a tax year to mean gross expenditures. Effective Date: Tax years beginning after Dec. 31, 2004. Act § 423.
§ 45K	The 2006 Tax Relief and Health Care Act provides that the phase-out limitations and adjustments provided in Internal Revenue Code § 45K(b)(1) do not apply to the production of coke and coke gas. Effective Date: Fuel produced and sold after Dec. 31, 2005. Act § 211.
§ 45L	The 2006 Tax Relief and Health Care Act extends the credit for one year so that it applies to qualified new energy efficient homes acquired before Jan. 1, 2009. Effective Date: Qualified new energy efficient homes acquired after Dec. 31, 2007 and before Jan. 1, 2009. Act § 205.
§ 45N	The 2006 Tax Relief and Health Care Act provides a credit for mine rescue team training. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2009. Act § 405.
§§ 48(a) &(c)	The 2006 Tax Relief and Health Care Act extends the 30% credits for solar energy property and qualified fuel cell property and the 10% credit for qualified microturbine property, through Dec. 31, 2008. Effective Date: Dec. 20, 2006. The above rules are extended for periods after Dec. 31, 2007 and before Jan. 1, 2009. Act § 207.
§ 48A	The 2006 Tax Relief and Health Care Act modifies the 99% SO2 removal requirement necessary for an electric generation unit to be treated as an advanced coal-based generation technology. Effective Date: Applications for certification under Internal Revenue Code § 48A(d)(2) submitted after Oct. 2, 2006. Act § 203.

§ 51(c)

The 2006 Tax Relief and Health Care Act provides that the term “wages” (for purposes of determining the amount of the work opportunity tax credit) does not include any amount paid or incurred to an individual who begins work for the employer after Dec. 31, 2007.

Effective Date: Individuals who begin work for the employer after Dec. 31, 2005 and before Jan. 1, 2008. Act § 105.

§ 51(d)

Under the 2006 Tax Relief and Health Care Act, if the taxpayer obtains certification after the employee begins work for the taxpayer, the taxpayer must submit the required pre-screening notice to the designated local agency no later than 28 days after the employee begins work. Thus, the 2006 Tax Relief and Health Care Act changes the 21-day deadline to a 28-day deadline.

The 2006 Tax Relief and Health Care Act also raises, from less than 25 to less than 40, the “maximum age requirement” for being a member of the “targeted group” consisting of “qualified food stamp recipients” and eliminates the “family low-income requirement” for being a member of the “targeted group” consisting of “qualified ex-felons.”

Effective Date: Individuals who begin work for the employer after Dec. 31, 2006 and before Jan. 1, 2008. Act § 105.

§ 51(e)

The 2006 Tax Relief and Health Care Act modifies Internal Revenue Code § 51(e) that if a “long-term family assistance recipient” is an agricultural employee, wages of up to $10,000 per year will be considered unemployment insurance wages for which a work opportunity tax credit (WOTC) will be allowed; and if a “long-term family assistance recipient” is a railroad employee, wages of up to $833.33 per month will be considered unemployment insurance wages for which a WOTC will be allowed.

Effective Date: Individuals who begin work for the employer after Dec. 31, 2006 and before Jan. 1, 2008. Act § 105.

§ 51A

The 2006 Tax Relief and Health Care Act provides that Internal Revenue Code § 51A does not apply to an individual who begins work for the employer after Dec. 31, 2007.

Effective Date: Individuals who begin work for the employer after Dec. 31, 2006 and before Jan. 1, 2008. Act § 105.

§ 53(e)

The alternative minimum tax (AMT) applies in a tax year only to the extent it exceeds the taxpayer's regular tax liability for the year. An individual's AMT liability equals the excess (if any) of his tentative minimum tax (i.e., AMT before deducting regular tax) over his regular tax, for the year.

The 2006 Tax Relief and Health Care Act provides that an individual's minimum tax credit for any tax year beginning before Jan. 1, 2013 cannot be less than the “AMT refundable credit amount” , and makes that amount refundable.

Effective Date: Tax years beginning after Dec. 20, 2006 and before Jan. 1, 2013. Act § 402.

§§ 54(f) & (m)

Taxpayers who hold “clean renewable energy bonds” (CREBs) on specified dates during the year are entitled to a nonrefundable credit equal to a portion of the bond's outstanding face amount. The credit is includable in gross income, and is treated as interest income. However, under pre-2006 Tax Relief and Health Care Act law, there was a national CREB limitation of $800 million. However, IRS was not permitted to allocate more than $500 million of the national CREB limitation to finance qualified projects of qualified borrowers that were governmental bodies. Under pre-2006 Tax Relief and Health Care Act law, bonds could not qualify as CREBs if they were issued after Dec. 31, 2007. The 2006 Tax Relief and Health Care Act raises the limitation on the amount of CREBs from $800 million to $1.2 billion.

Moreover, the Act increases the amount of the national CREB limitation that IRS may allocate to finance qualified projects of qualified borrowers that are governmental bodies from $500 million to $750 million.

Effective Date: For the increase in the amount of the national CREB limitation, and for the extension of the termination date for issuance of CREBs, bonds issued after Dec. 31, 2006. Act § 202.

	The following provisions are operative for Hawaii income tax purposes.
§ 61(a)(21)	IRS pays rewards to individuals (known as "whistleblowers") for providing information regarding tax law violations. A whistleblower could deduct his whistleblower-related attorneys' fees and court costs (to the extent they were otherwise deductible) only if he itemized his deductions. Moreover, in most cases, to the extent legal expenses are deductible, they are "miscellaneous itemized deductions" subject to a 2%-of-adjusted gross income (AGI) floor and to the overall limitation on itemized deductions, and are not deductible at all for alternative minimum tax (AMT) purposes. The 2006 Tax Relief and Health Care Act reforms the whistleblower reward program by increasing the amounts paid as rewards, providing for appeals of reward determinations, and establishing a Whistleblower Office within IRS. In addition, the 2006 Tax Relief and Health Care Act provides an above-the-line deduction for attorneys' fees and costs relating to whistleblower rewards paid for providing information regarding violations of the tax laws. Specifically, any deduction allowable under Chapter 1 of the Code (Code § 1 through Code § 1400T) for attorneys' fees and court costs paid by, or on behalf of, the taxpayer in connection with any Code § 7623(b) whistleblower reward is—subject to certain limits dded to the list of deductible expenses that are deducted from gross income. Effective Date: Information provided on or after Dec. 20, 2006. Act § 406.
§ 62(a)(2)(D)	The 2002 Job Creation Act provided "eligible educators"—kindergarten through 12th grade teachers, instructors, counselors, principals, or aides in any elementary or secondary school—an above-the-line deduction of up to $250 for out-of-pocket expenses they paid in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services), other equipment, and supplementary materials used in the classroom. Under pre-2006 Tax Relief and Health Care Act law, this educator expense deduction expired after 2005. The 2006 Tax Relief and Health Care Act allows the educator expense deduction for tax years beginning in 2006 or 2007. Effective Date: Expenses paid or incurred in tax years beginning after Dec. 31, 2005 and before Jan. 1, 2008. Act § 108(a).
§ 106(e)	Health flexible spending accounts (health FSAs) and health reimbursement arrangements (HRAs) are used by employers to reimburse medical expenses of their employees (and their spouses and dependents). Health FSAs typically are funded on a salary reduction basis, meaning that employees are given the option to reduce current compensation and instead have the compensation used to reimburse the employee for medical expenses. If the health FSA meets certain requirements, then the compensation that is forgone is not includible in gross income or wages, and reimbursements for medical care from the health FSA are excludable from gross income and wages. Health FSAs are subject to the general requirements relating to cafeteria plans. The 2006 Tax Relief and Health Care Act allows employers—on a one-time only basis, and for a limited time—to roll over unused health FSA and HRA balances to an Health Savings Account (HAS). A health FSA or HRA can permit these rollovers (as long as the rollovers satisfy the requirements for a "qualified HSA distribution,") without violating the otherwise applicable requirements for health FSAs and HRAs. Effective Date: Generally, for distributions on or after Dec. 20, 2006. Act § 302.
§ 121(d)	A taxpayer generally can exclude up to $250,000 ($500,000 for certain married couples filing joint returns) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer has to have owned the residence and used it as a principal residence for at least two years of the five-year period ending on the date of the sale or exchange. For purposes of determining whether a sale or exchange of an individual's principal residence qualifies for the $250,000/$500,000 exclusion, the 2006 Tax Relief and Health Care Act provides that, at the election of an individual with respect to a property, the running of the five-year ownership and use period with respect to the property is suspended during any period that the individual or the individual's spouse is serving on qualified official extended duty as a member of the uniformed services, a member of the U.S. Foreign Service, or an employee of the intelligence community. Effective Date: Sales or exchanges after Dec. 20, 2006 and before Jan. 1, 2011. Act § 417.

	The following provisions are NOT operative for Hawaii income tax purposes.
§ 143(d)	Tax-exempt status is available for certain state and local bonds used to finance mortgages. Private activity bonds issued after Aug. 15, 1986 that are qualified mortgage bonds or qualified veterans' mortgage bonds are tax-exempt qualified bonds. The 2006 Tax Relief and Health Care Act allows qualified mortgage bonds to be issued to finance mortgages for veterans who served in the active military without regard to the first-time homebuyer requirement. Veterans are eligible for this one-time only exception without regard to the date they last served on active duty or the date they applied for a loan after leaving active duty. Effective Date: Bonds issued after Dec. 20, 2006 and before Jan. 1, 2008. Act § 416.
§ 143(l)	Alaska, California, Oregon, Texas, and Wisconsin may issue qualified veterans' mortgage bonds. The 2006 Tax Relief and Health Care Act repeals the sunset date of 2010 of the annual state volume limits for Alaska, Oregon, and Wisconsin. The total volume of qualified veterans' mortgage bonds that can be issued in each of those states is $25 million for 2010 and each calendar year thereafter. Effective Date: Allocations of state volume limit after Apr. 5, 2006. Act § 411.
	The following provisions are operative for Hawaii income tax purposes.
§ 163(h)	Under the 2006 Tax Relief and Health Care Act, premiums paid or accrued during 2007 by a taxpayer during the tax year for qualified mortgage insurance in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer are treated as qualified residence interest. "Qualified mortgage insurance" means: (1) mortgage insurance provided by Veterans Administration (VA), the Federal Housing Administration (FHA), or the Rural Housing Administration (RHA), and (2) private mortgage insurance (as defined by Sec. 2 of the Homeowners Protection Act of 1998. This rule is subject to a phase out deduction exception. Under this phase out deduction exception, married taxpayers filing separate returns, the amount otherwise treated as interest under the new rule discussed above must be reduced (but not below zero) by 10% of the amount of qualified mortgage insurance for each $1,000 (or fraction thereof) that the taxpayer's adjusted gross income (AGI) for the tax year exceeds $100,000. For married taxpayers filing separate returns, the reduction equals 10% of the amount of qualified mortgage insurance for each $500 (or fraction thereof) that the taxpayer's AGI for the tax year exceeds $50,000. Any amounts paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the tax year in which that amount is paid are chargeable to capital account and must be treated as paid in those periods to which they are allocated. No deduction is allowed for the unamortized balance of premiums that have been capitalized under the new rule if the mortgage is satisfied before the end of its term Effective Date: Amounts paid or accrued after Dec. 31, 2006. Act § 419.
§ 164(b)(5)(I)	The 2006 Tax Relief and Health Care Act extends for two years the provision allowing taxpayers to elect to deduct state and local sales taxes in lieu of state and local income taxes. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2008. Act § 103(a).
§ 168(e)(3)	The 2006 Tax Relief and Health Care Act extends for two years the treatment of qualified leasehold improvement property as 15-year MACRS property by providing that 15-year property includes qualified leasehold improvement property placed in service before Jan. 1, 2008. The 2006 Tax Relief and Health Care Act also extends for two years the treatment of qualified restaurant property as 15-year MACRS property by providing that 15-year property includes qualified restaurant property placed in service before Jan. 1, 2008. Effective Date: Property placed in service after Dec. 31, 2005 and before Jan. 1, 2008. Act § 113.
	The following provision is NOT operative for Hawaii income tax purposes.
§ 168(j)	The 2006 Tax Relief and Health Care Act extends the expiration date of the shortened depreciation recovery periods for qualified Indian reservation property for two years so that the shortened depreciation recovery periods apply for property placed in service up until January 1, 2008. Effective Date: Property placed in service after Dec. 31, 2005 and before Jan. 1, 2008. Act § 112.

The following provisions are operative for Hawaii income tax purposes.	
§ 168(l)	The 2006 Tax Relief and Health Care Act provides that for "qualified cellulosic biomass ethanol plant property" ("QCBEPP,"), the depreciation deduction under Internal Revenue Code § 167(a) for the tax year in which the property is placed in service includes an allowance equal to 50% of the adjusted basis of the QCBEPP, and the adjusted basis of the QCBEPP is reduced by the amount of that deduction before computing the amount otherwise allowable as a depreciation deduction for the tax year and any subsequent tax year. Effective Date: Property placed in service after Dec. 20, 2006 in tax years ending after Dec. 20, 2006, but only if the property is (1) acquired by the taxpayer by purchase after Dec. 20, 2006 (and not under a written binding contract for the acquisition in effect on or before Dec. 20, 2006) and (2) placed in service by the taxpayer before Jan. 1, 2013. Act § 209.
§§ 170(e)(4) & (6)	The 2006 Tax Relief and Health Care Act extends for two years the provisions relating to qualified computer contributions by corporations. Thus, those provisions will not apply to contributions made during any tax year beginning after Dec. 31, 2007. Under the 2006 Tax Relief and Health Care Act, corporations are eligible for the enhanced deductions for qualified research contributions and qualified computer contributions for property assembled, as well as constructed by the corporations. However, old or used components assembled by the taxpayer into scientific property or computer technology or equipment are not eligible for the enhanced deductions. Effective Date: Contributions made in tax years beginning after Dec. 31, 2005. The provision will not apply for contributions made in tax years beginning after Dec. 31, 2007. Act § 116.
§ 179D	Under the 2006 Tax Relief and Health Care Act, the deduction for energy efficient commercial building property is extended for one year and does not apply for property placed in service after December 31, 2008. Effective Date: Dec. 20, 2006. Act § 204.
§ 179E	Under the 2006 Tax Relief and Health Care Act, a new deduction is provided to a taxpayer who elects to treat 50% of the cost of any qualified advanced mine safety equipment property as an expense that is not chargeable to capital account. Effective Date: Costs paid or incurred after Dec. 20, 2006 with regard to property placed in service before Jan. 1, 2009. Act § 404.
§ 198(d)	Under the 2006 Tax Relief and Health Care Act, petroleum products as defined in Internal Revenue Code § 4612(a)(3) are also treated as hazardous substances for purposes of Internal Revenue Code § 198 for remediation of qualified contaminated sites. Thus, the provision expands the definition of hazardous substances to petroleum products, including crude oil, crude oil condensates and natural gasoline. The exceptions for sites on the national priorities list under Comprehensive Environmental Response, Compensation, and Liability Act of '80 (CERCLA) and for substances with respect to which a removal or remediation is not permitted under §104 of CERCLA, would continue to apply to all hazardous substances (including petroleum products). Effective Date: Expenditures paid or incurred after Dec. 31, 2005. Act §109.
§ 198(h)	The 2006 Tax Relief and Health Care Act extends Internal Revenue Code § 198(h) for two years, by providing that Code Sec. 198(h) will apply to expenditures paid or incurred before January 1, 2008. Effective Date: Expenditures paid or incurred after Dec. 31, 2005 and before Jan. 1, 2008. Act § 109.
The following provision is NOT operative for Hawaii income tax purposes.	
§ 199(d)	Under the 2006 Tax Relief and Health Care Act, a taxpayer is allowed to treat Puerto Rico as part of the U.S. for purposes of the Internal Revenue Code §199 deduction for domestic production activities if the gross receipts from sources within Puerto Rico are currently taxable for U.S. federal income tax purposes. Effective Date: Tax years beginning after Dec. 31, 2005, but only for a taxpayer's first two tax years beginning after that date and before Jan. 1, 2008. Act § 401.

	The following provision is operative for Hawaii income tax purposes.
§ 220(i)	Archer medical savings accounts (Archer MSAs) provide a tax-favored way to save for and pay medical expenses. Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual, and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income. Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and to self-employed individuals covered under a high deductible health plan. Under pre-2006 Tax Relief and Health Care Act law, no new contributions could be made to Archer MSAs after 2005, except by or on behalf of individuals who previously had Archer MSA contributions, and employees who are employed by a participating employer. Under pre-2006 Tax Relief and Health Care Act law, IRS was required to make and publish the determination that a year is a "cut-off year" by Oct. 1 of that year. If IRS determines that the Archer MSA program ends early because the numerical limitation on Archer MSAs has been reached, then an individual who is not covered by a high deductible health plan by the "cut-off date" will be unable to establish an Archer MSA. Under pre-2006 Tax Relief and Health Care Act law, the cut-off date was Oct. 1 of the cut-off year. The 2006 Tax Relief and Health Care Act extends Archer MSAs through 2007 by amending the definition of "cut-off year" by replacing "2005" with "2007" in each place that "2005" appeared. Reports required from Archer MSA trustees for 2005 or 2006—which, under pre-2006 Tax Relief and Health Care Act law, would have been due on Aug. 1, 2005 or Aug. 1, 2006, respectively—will be treated as timely if made before the end of the 90-day period beginning on Dec. 20, 2006. If IRS determines that either 2005 or 2006 is a cut-off year, then IRS may make and publish that determination—which, under pre-2006 Tax Relief and Health Care Act law, IRS would have been required to do by Oct. 1, 2005 or Oct. 1, 2006, respectively—at any time before the close of the 120-day period beginning on Dec. 20, 2006. If IRS determines that either 2005 or 2006 is a cut-off year, then the "cut-off date" will be the last day of the 120-day period beginning on Dec. 20, 2006. Effective Date: Dec. 20, 2006. Act § 117.
	The following provision is NOT operative for Hawaii income tax purposes.
§ 222	The 2006 Tax Relief and Health Care Act extends the deduction for higher-education expenses for two years by providing that the deduction is available through Dec. 31, 2007. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2008. Act § 101.

	The following provisions are operative for Hawaii income tax purposes.
§§ 223(b)(2), (4) & (8)	An eligible individual is allowed a limited annual deduction for cash contributions to an health savings account (HSA)made by him or on his behalf. The amount otherwise allowable as a deduction for the tax year can not exceed the sum of the monthly limitations for months during the tax year. The 2006 Tax Relief and Health Care Act eliminates the references to the plan's annual deductible in items (A)(i) and (B)(i), above, and caps the monthly limit strictly in dollar terms: one-twelfth of $2,250 for self-only coverage, and one-twelfth of $4,500 for family coverage. These statutory amounts are adjusted for inflation, as under pre-Act law. For 2007, the dollar limit is $2,850 for self-only coverage, and $5,650 for family coverage. Rollovers from IRAs to Health Savings Accounts (HSAs) are subject to (a) a maximum dollar limitation, and (b) a one-time only limit on transfers. Under the 2006 Tax Relief and Health Care Act, the limit on an individual's deductible contributions to an HSA for a tax year must be reduced by (in addition to the aggregate amount paid for the tax year to the individual's Archer Medical Savings Accounts (MSAs) and the aggregate HSA contributions that are excludable from his gross income under Internal Revenue Code § 106(d)) the aggregate amount of IRA rollover distributions contributed to his HSAs for the tax year. The 2006 Tax Relief and Health Care Act eliminates the reduction in the deductible limit for part-year coverage, by allowing eligible individuals who establish an HSA midway through the year to contribute the full-year amount. Specifically, for purposes of calculating the deductible limit on contributions made to an HSA for any tax year, an individual who is an eligible individual during the last month of that tax year is treated: (1) as having been an eligible individual during each of the months in that tax year; and (2) as having been enrolled, during each of the months the individual is treated as an eligible individual solely by reason of item (1), above, in the same high deductible health plan in which the individual was enrolled for the last month of the tax year. Effective Date: For tax years beginning after Dec. 31, 2006. Act §§ 303, 305 & 307.
§ 223(c)	For tax years beginning after Dec. 31, 2006, coverage under a health FSA during any period immediately following the end of the health FSA's plan year during which unused benefits or contributions remaining at the end of that plan year may be paid or reimbursed to plan participants for qualified benefit expenses incurred during such period, is disregarded coverage (for purposes of determining who is an eligible individual for HSA purposes) if: (I) the balance in the FSA at the end of the plan year is zero; or (II) the individual is making a qualified HSA distribution in an amount equal to the remaining balance in the FSA as of the end of the plan year, in accordance with IRS rules. Effective Date: Tax years beginning after Dec. 31, 2006. Act § 302.
§ 223 (g)	The Tax Relief and Health Care Act modifies the cost-of-living adjustment that applies under the HSA rules for any tax year beginning after 2007. Specifically, the Internal Revenue Code § 1(f)(4) consumer price index (CPI) for a calendar year will have to be determined as of the close of the 12-month period ending on Mar. 31 of the calendar year (rather than Aug. 31) for the purpose of making cost-of-living adjustments for: (1) the monthly dollars limit for deductible HSA contributions, and (2) the high deductible health plan required dollar amounts for HDHP annual deductibles. Effective Date: For adjustments made for any tax year beginning after 2007. Act §304.
§ 263(a)	The Tax Relief and Health Care Act amended Internal Revenue Code § 263(a)(1) by adding a new paragraph "(L) expenditures for which a deduction is allowed under section 179E ", relating to mine safety equipment. Effective Date: Effective for costs paid or incurred after 12/20/2006. Act § 404.
	The following provision is NOT operative for Hawaii income tax purposes.
§ 280C(e)	Internal Revenue Code § 280C(e) with respect to mine rescue team training credit was added by The Tax Relief and Health Care Act. Effective Date: For taxable years beginning after 12/31/2005. Act § 405.
	The following provisions are operative for Hawaii income tax purposes.
§ 312(k)	The Tax Relief and Health Care Act amended Internal Revenue Code § 312(k)(3)(B), regarding a corporation's earning and profits, to address section 179E, relating to mine safety equipment. Effective Date: Effective for costs paid or incurred after 12/20/2006. Act § 404.

§ 355(b)	Under the 2006 Tax Relief and Health Care Act, Code § 355(b)(3) no longer sunsets for post-Dec. 31, 2010, distributions. Consistent with this amendment, the special transition rule applies to all post-May 17, 2006 restructurings. Effective Date: Distributions made after May 17, 2006. Act § 410.
§ 408(d)	The 2006 Tax Relief and Health Care Act provides that generally, on a once-only basis, an eligible individual can withdraw retirement-type funds from an IRA, and, up to a specified limit, transfer the funds tax-free to another tax-favored account (an HSA) from which to pay future medical expenses. Specifically, if an eligible individual so elects, his gross income for a tax year will not include the amount of a "qualified HSA funding distribution", to the extent that the distribution is "otherwise includible in income." In determining the extent to which amounts distributed from an IRA would "otherwise be included in income," the aggregate amount distributed from the IRA is treated as includible in income to the extent of the aggregate amount that would have been includible in income if all amounts from all (of that eligible individual's) individual retirement plans were distributed. Effective Date: Tax years beginning after Dec. 31, 2006. Act § 307.
§ 468B(g)	Under the 2006 Tax Relief and Health Care Act, the treatment of certain settlement funds as beneficially owned by the U.S. government (i.e., funds and accounts established solely to resolve CERCLA claims) and therefore not subject to federal income tax, is permanently extended to funds and accounts established after Dec. 31, 2010. Effective Date: Accounts and funds established after May 17, 2006. Act § 409.
§ 613A	Taxpayers are permitted to recover their oil and gas well investments through depletion deductions, which may in certain cases be determined using the percentage depletion method. One limitation that applies in calculating percentage depletion deductions is a restriction that, for oil and gas properties, the amount deducted may not exceed 100% of the taxable income from that property in any year. Special percentage depletion rules apply to oil and gas produced from "marginal" properties. Marginal production is defined as domestic crude oil and natural gas production from stripper well property or from heavy oil property. One special rule under Pre-2006 Tax Relief and Health Care Act law provided that the 100%-of-taxable-income limitation did not apply to domestic oil and gas production from marginal properties during tax years beginning after Dec. 31, 1997, and before Jan. 1, 2006. The 2006 Tax Relief and Health Care Act extends the rule suspending the 100%-of-taxable-income limitation with respect to oil and gas production from marginal properties to include any tax year beginning before Jan. 1, 2008. Effective Date: Tax years beginning after Dec. 31, 2005 and before Jan. 1, 2008. Act § 118.
§ 664(c)	A charitable remainder trust has any UBTI for any tax year, the trust is subject to tax for that year, to the full extent of its entire net income and not merely with respect to the UBTI. Under the 2006 Tax Relief and Health Care Act law, if a CRT has UBTI for a tax year, an excise tax will be imposed on the trust equal to the amount of the UBTI. Effective Date: For tax years beginning after Dec. 31, 2006. Act §424.
The following provision is NOT operative for Hawaii income tax purposes.	
§ 954(c)	The 2006 Tax Relief and Health Care Act provides that for a payment from a related CFC to be excluded from FPHCI under the TIPRA look-through rule, the dividends, interest, rents or royalties received or accrued from the related CFC must not be attributable or allocable to either subpart F income or income treated as effectively connected with the conduct of a U.S. trade or business of the related CFC payor. Effective Date: Tax years of foreign corporations beginning after Dec. 31, 2005 and before Jan. 1, 2009, and tax years of U.S. shareholders with or within which the tax years of such foreign corporations end. Act § 426.
The following provisions are operative for Hawaii income tax purposes.	
§ 1043(b)	The 2006 Tax Relief and Health Care Act makes divesture sales by federal "judicial officers" required under federal conflict of interest rules eligible for nonrecognition treatment. Effective Date: Sales after Dec. 20, 2006. Act § 428.
§ 1221(b)(3)	The 2006 Tax Relief and Health Care Act makes permanent the availability of the election under Code § 1221(b)(3) to treat certain sales of musical compositions or copyrights in musical works created by the taxpayer's personal efforts (or having a basis determined by reference to the basis in the hands of the taxpayer whose personal efforts created the compositions or copyrights) as being sales of capital assets and therefore generating capital gain. Effective Date: Sales and exchanges in tax years beginning after May 17, 2006. Act § 412.

§ 1245(a)	The Tax Relief and Health Care Act amended Internal Revenue Code § 1245(a) to make coordinating amendments for section 197E, relating to mine safety equipment. Effective Date: Effective for costs paid or incurred after 12/20/2006. Act § 404.
	The following provisions are NOT operative for Hawaii income tax purposes.
§§ 1355(a)(4) & (g)	Corporations may elect a tonnage tax in lieu of the U.S. corporate income tax on taxable income from international shipping activities. Under pre-2006 Tax Relief and Health Care Act law, the weight of a qualifying vessel had to be at least 6,000 deadweight tons, (10,000 deadweight tons for tax years beginning before Jan. 1, 2006, or ending after Dec. 31, 2010). The 2006 Tax Relief and Health Care Act makes permanent the 6,000 deadweight tonnage minimum for a qualifying vessel. Effective Date: Tax years beginning after Dec. 31, 2005. Act §§ 413 & 415.
§ 1355(g)	The 2006 Tax Relief and Health Care Act provides tonnage tax for vessels used in the Great Lakes or St. Lawrence Seaway. Effective Date: Tax years beginning after Dec. 20, 2006. Act §1609.
§ 1397E	Under pre-2006 Tax Relief and Health Care Act law, qualified zone academy bonds (QZABs) were authorized to be issued for calendar years '98 through 2005, up to an annual limitation of $400 million nationally. Except for carryovers of unused issuance limitations, the limit was zero after 2005. The 2006 Tax Relief and Health Care Act extends the authorization of the issuance of QZABs up to the national limitation of $400 million per year retroactively for two years through the end of calendar year 2007. The 2006 Tax Relief and Health Care Act also adds new expenditure, reporting, and arbitrage requirements to the QZAB rules. Effective Date: Obligations issued after Dec. 31, 2005 and before Jan. 1, 2008. Act § 107.
§ 1400(f)	Special tax incentives are available to businesses and individual residents within certain economically depressed census tracts within the District of Columbia (DC). These areas are designated as the “DC Enterprise Zone.” Under pre-2006 Tax Relief and Health Care Act law, the DC Enterprise Zone designation applied for the period beginning on Jan. 1, 1998 and ending Dec. 31, 2005. The 2006 Tax Relief and Health Care Act provides that the DC Zone designation applies to the period beginning on Jan. 1, 1998 and ending on Dec. 31, 2007. As a result of the two-year extension of the designation of the DC Zone (through Dec. 31, 2007), the wage credit and Internal Revenue Code § 179 expensing are also extended. Effective Date: Periods beginning after Dec. 31, 2005 and ending before Jan. 1, 2008. Act § 110.
§ 1400A	Tax-exempt private activity bonds may be issued to finance certain facilities in enterprise zones. For the District of Columbia Enterprise Zone (DC Zone), the amount of outstanding bond proceeds that can be borrowed by a qualified DC Zone business can't exceed $15 million, rather than the $3 million limit otherwise prescribed under Internal Revenue Code § 1394(c)(1) for tax-exempt enterprise zone facility bonds. Under pre-2006 Tax Relief and Health Care Act law, the increased amount applied to bonds issued during the period beginning on Jan. 1, 1998 and ending on Dec. 31, 2005. The 2006 Tax Relief and Health Care Act extents the higher limit on DC Zone bonds for two years. Effective Date: Bonds issued after Dec. 31, 2005 and before Jan. 1, 2008. Act § 110.
§ 1400B	There is an exclusion for “qualified capital gain” from the sale or exchange of any “DC Zone” asset; held for more than five years. A DC Zone asset is defined as DC Zone business stock, DC Zone partnership interest, DC Zone tangible business property , and DC Zone buildings which have been substantially improved. Pre-2006 Tax Relief and Health Care Act law provided that to qualify, an asset had to be acquired or improved by the taxpayer before Jan. 1, 2006. Also, qualified capital gain did not include any gain attributable to periods after Dec. 31, 2010. The 2006 Tax Relief and Health Care Act extends the zero-percent capital gains rate applicable to capital gains from the sale of certain qualified DC Zone assets for two years. Effective Date: Acquisitions after Dec. 31, 2005 and before January 1, 2008. Act 110.

§ 1400C	An individual who is a first-time homebuyer of a principal residence in the District of Columbia (DC) during any tax year is permitted a credit against income tax liability for the tax year. The 2006 Tax Relief and Health Care Act extends the first-time homebuyer credit for two years so that the credit applies to property bought before Jan. 1, 2008. Effective Date: Property bought after Dec. 31, 2005 and before Jan. 1, 2008. Act § 110.
§§ 1400N(d) & (e)	For "qualified Gulf Opportunity Zone property," there is allowed, unless the taxpayer "elects-out," an additional first-year depreciation deduction ("bonus depreciation") equal to 50% of the adjusted basis of the property. The adjusted basis of the qualified Gulf Opportunity Zone property is reduced by the amount of the bonus depreciation before computing the amount otherwise allowable as a depreciation deduction for the tax year and any later tax year. Among the requirements for qualifying as qualified Gulf Opportunity Zone property is satisfaction of a placed-in-service deadline. Under pre-2006 Tax Relief and Health Care Act law, property described in Internal Revenue Code § 168(k)(2)(A)(i) met the deadline if it was placed in service by the taxpayer before Jan. 1, 2008. The 2006 Tax Relief and Health Care Act provides that the placed-in-service deadlines do not apply to "specified Gulf Opportunity Zone extension property". However, this rule does not apply in determining what is "qualified Gulf Opportunity Zone property" for purposes of determining what is "qualified section 179 Gulf Opportunity Zone property." Effective Date: Tax years ending after Aug. 27, 2005. Act § 120.
§ 4041	The 2006 Tax Relief and Health Care Act extends application of the reduced retail excise tax rates for qualified methanol and ethanol fuels through Dec. 31, 2008. Effective Date: Dec. 20, 2006. Act § 208.
§ 4132	The 2006 Tax Relief and Health Care Act adds any meningococcal vaccine and any vaccine against the human papillomavirus to the list of vaccines subject to the manufacturers excise tax. Effective Date: For sales and uses on or after the first day of the first month that begins more than four weeks after Dec. 20, 2006. For sales on or before the effective date for which delivery is made after that date, the delivery date is treated as the sale date. Act § 408.
§ 4980G	For an employer who makes a contribution to any employee's Health Savings Account (HAS) during a calendar year, a tax is imposed on the employer's failure to make comparable contributions to the HSAs of all comparable participating employees for that calendar year. If an employer's contributions do not satisfy the comparability rule for a calendar year, the employer is subject to an excise tax equal to 35% of the aggregate amount contributed by the employer to HSAs for that period. The 2006 Tax Relief and Health Care Act carves out an exception to the comparability rule enabling employers to make larger HSA contributions for non-highly compensated employees (non-HCEs) than for "highly compensated employees (HCEs)." Effective Date: For tax years beginning after Dec. 31, 2006. Act § 306.
	The following provision is operative for Hawaii income tax purposes.
§ 6015	Married taxpayers who elect to do so may file joint income tax returns, but if they do, they become jointly and severally liable for any unpaid tax or deficiency. Spouses who may have unforthcoming husbands or wives can seek relief from joint and several liability by electing innocent spouse or separate liability relief or requesting equitable relief. If IRS denies a taxpayer's claim for innocent spouse relief or separate liability relief, the taxpayer can file a petition for review of the denial in the Tax Court. Whether the Tax Court has jurisdiction to review IRS denials of equitable relief has been the subject of litigation. Under pre-2006 Tax Relief and Health Care Act law, the Eighth and Ninth Circuits had held (and the Tax Court later changed its position and agreed) that the Tax Court had no jurisdiction to review denials of equitable relief in cases in which IRS had not asserted a deficiency against the party that requested relief. The 2006 Tax Relief and Health Care Act grants taxpayers the right to petition the Tax Court (and gives the Tax Court jurisdiction) to determine the appropriate relief available to an individual who elects equitable relief under Internal Revenue Code § 6015(f). Effective Date: Liability for taxes arising or remaining unpaid on or after Dec. 20, 2006. Act § 408.

	The following provisions are NOT operative for Hawaii income tax purposes.
§ 6039	The 2006 Tax Relief and Health Care Act adds a requirement that an employer make an information return with IRS, in addition to providing information to the employee, about the transfer of stock pursuant to the exercise of an incentive stock option, and to certain stock transfers regarding employee stock purchase plans. Effective Date: Calendar years beginning after Dec. 20, 2006. Act § 403.
§ 6050H	Internal Revenue Service may require, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, must make an information return with respect to that individual. Effective Date: Amounts paid or accrued after Dec. 31, 2006. Act § 419(d).
§ 6103(b)	Return and return information are confidential and may not be disclosed by government employees or other persons except as specifically authorized by statute. One exception to the general rule of confidentiality is the disclosure of tax information to States. The 2006 Tax Relief and Health Care Act broadens the definition of "State" under Internal Revenue Code § 6103(b)(5) for purposes of disclosure of tax returns and return information to include a "regional income tax agency" administering the tax laws of municipalities which have a collective population in excess of 250,000. Effective Date: Disclosures made after Dec. 31, 2006. Act § 421.
§ 6103(d)	IRS is permitted to disclose taxpayer identity information and signatures to any agency of any state to enable IRS to carry out a combined federal/state employment tax reporting program that has been approved by IRS. Under pre-2006 Tax Relief and Health Care Act law, IRS was authorized to make these disclosures until Dec. 31, 2006. The 2006 Tax Relief and Health Care Act extends for one year the authority for the combined employment tax reporting program through Dec. 31, 2007. Effective Date: Disclosures after Dec. 31, 2006 and before Jan. 1, 2008. Act § 122.
	The following provisions are operative for Hawaii income tax purposes.
§§ 6103(i)(3) & (7)	IRS is authorized, even if not requested, to disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate federal law enforcement agency responsible for investigating or responding to that terrorist incident, threat or activity. The 2006 Tax Relief and Health Care Act extends for one year the terrorist activity disclosure provisions (through Dec. 31, 2007). Effective Date: Disclosure after December 31, 2006 and before January 1, 2008. Act § 122.
	The following provisions are NOT operative for Hawaii income tax purposes.
§ 6103(l)	To carry out a federal direct student loan program that allows loans to be repaid on an income-contingent basis, IRS may disclose tax return information to officers and employees of the Department of Education. The 2006 Tax Relief and Health Care Act extends for one year the authority to disclose return information for purposes of the income-contingent loan repayment program through Dec. 31, 2007. Effective Date: Requests made after Dec. 31, 2006 and before Jan. 1, 2008. Act § 122.

§ 6211

A deficiency is the amount by which the taxpayer's correct tax liability exceeds: (1) the tax shown on the return, plus (2) the amounts previously assessed (or collected without assessment) as a deficiency, reduced by (3) the amount of any rebate. In this computation, the amount by which certain refundable credits exceed the tax imposed, or the tax shown on the return, without taking those credits into account, is taken into account as a negative amount of tax. As a result, Tax Court deficiency procedures apply to those credits even though they reduce net tax to zero. Under pre-2006 Tax Relief and Health Care Act law, this treatment applied only to the additional child tax credit, the gasoline and special fuel tax credit under Internal Revenue Code § 34, and the earned income credit.

The 2006 Tax Relief and Health Care Act adds the Internal Revenue Code § 53(e) AMT refundable credit to the refundable credits that can be taken into account as negative amounts of tax in computing a deficiency.

Effective Date: Tax years beginning after Dec. 20, 2006. Act § 402.

§ 6320

The 2006 Tax Relief and Health Care Act amends § 6320 that request for a hearing on the filing of a notice of lien must be in writing and state the grounds for the requested hearing.

Effective Date: Submissions made and issues raised after IRS first prescribes a list of frivolous provisions under Internal Revenue Code § 6702(c). Act § 407.

§ 6330

Under pre-2006 Tax Relief and Health Care Act law, the Tax Court may impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless. Other courts may impose a penalty of up to $10,000 for frivolous or groundless positions asserted by a taxpayer in tax cases.

The 2006 Tax Relief and Health Care Act adds a new provision under which IRS may treat any portion of certain requests and applications as if it had never been submitted if IRS determines it is based on a position that IRS has identified as frivolous, or it reflects a desire to delay or impede the administration of federal tax law. The request or application will not be subject to any further administrative or judicial review.

Effective Date: Submissions made and issues raised after IRS first prescribes a list of frivolous provisions under Internal Revenue Code § 6702(c). Act § 407.

§ 6427

Generally, if kerosene on which excise tax has been imposed is used for a “nontaxable use,” a refund, in the amount of that tax, may be obtained either by the purchaser, or in specified cases, the kerosene's registered ultimate vendor. Retroactive for kerosene sold after Sept. 30, 2005 , the 2006 Tax Relief and Heath Care Act generally allows purchasers that use kerosene for an exempt aviation purpose (other than a state or local government), to make a claim for refund of the tax that was paid on the fuel, or waive their right to claim the refund to the registered ultimate vendor of the fuel. As a result, under the provision, crop-dusters, air ambulances, aircraft engaged in foreign trade, and other exempt users may either make the claim for refund of the tax themselves or waive that right to their vendors.

Effective Date: effective for kerosene sold after 9/30/2005, except as provided in Act § 420(c)(2). Act § 420.

§ 6702

Under pre-2006 Tax Relief and Health Care Act law, a $500 penalty applied to an individual who filed what purported to be an income tax return, but which didn't contain information on which the substantial correctness of the self-assessment could be judged, or which contained information that on its face indicated that the self assessment was substantially incorrect. In either case, the penalty applied only if the filing involved a frivolous position or a desire to delay or impede the administration of the federal tax laws. A position was frivolous if it had no basis in law or in fact.

The 2006 Tax Relief and Health Care Act increases the penalty on taxpayers who file frivolous returns, and who make other kinds of frivolous submissions intended to delay or impede IRS to $5,000. The Act also extends the penalty to any tax return required under the Internal Revenue Code (not just income tax returns) and to requests for collection due process hearings, installment agreements, offers-in-compromise, and taxpayer assistance orders.

Effective Date: Submissions made and issues raised after IRS first prescribes a list of frivolous positions under Internal Revenue Code § 6702(c) Act § 407.

§ 6724	The 2006 Tax Relief and Health Care Act adds to the definition of information returns, for which penalties may be asserted under Internal Revenue Code § 6721, returns under Internal Revenue Code § 6039(a) —returns required for certain options. Effective Date: Calendar years beginning after Dec. 20, 2006. Act § 403.
§ 7122	A new section 7122(f) with respect to frivolous submissions, of offers-in-compromise was added by The 2006 Tax Relief and Health Care Act. Effective Date: Submissions made and issues raised after IRS first prescribes a list of frivolous provisions under Internal Revenue Code § 6702(c). Act § 407.
§ 7608	IRS is permitted to "churn" the income earned in an IRS undercover operation to pay additional expenses incurred in the operation. Under pre-2006 Tax Relief and Health Care Act law, this authority expired after Dec. 31, 2006. All amounts IRS spent for the undercover operations had to be recovered to the extent possible, and deposited in the U.S. Treasury as miscellaneous receipts, before Jan. 1, 2007. The 2006 Tax Relief and Health Care Act extends for one year through Dec. 31, 2007 IRS's authority to use proceeds from undercover operations to pay additional expenses incurred in conducting undercover operations. Effective Date: Dec. 20, 2006. Act § 121.
§ 7623	IRS is authorized to pay rewards to informers (known as "whistleblowers"), in the amounts deemed necessary, for: (1) detecting underpayments of tax, and (2) detecting and bringing to trial and punishment persons guilty of violating, or conniving to violate, the tax laws. However, under pre-2006 Tax Relief and Health Care Act law, a reward was payable only if the information provided by the whistleblower resulted in both the detection of an underpayment of tax, and the detection, trial, and punishment of the guilty person(s). This two-pronged test precluded whistleblower rewards in cases other than criminal tax evasion, for example, in cases of negligence. But Congress had indicated that rewards were payable in civil cases. The 2006 Tax Relief and Health Care Act reforms the reward program for individuals who provide information regarding violations of the tax laws to IRS. The IRS is authorized to pay rewards for information necessary for detecting underpayments of tax, or detecting and bringing to trial and punishment persons guilty of violating, or conniving to violate, the tax laws. Special trial judges in the Tax Court may preside over appeals of whistleblower award determination. Effective Date: Information provided on or after Dec. 20, 2006. Act § 406.
§ 7872	The 2006 Tax Relief and Health Care Act makes the TIPRA (Tax Increase Prevention and Reconciliation Act) changes to the rules governing the application of the below-market loan rules to qualified continuing care facilities permanent. Effective Date: For calendar years beginning after Dec. 31, 2005—for loans made before, on, or after Dec. 31, 2005. Act § 425.
§ 9812	Under the mental health parity rules, group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The Code imposes an excise tax on group health plans that fail to meet these parity requirements. The 2006 Tax Relief and Health Care Act extends for an additional year the excise tax for failure to comply with the mental health parity requirements through Dec. 31, 2007. Effective Date: Dec. 20, 2006. Act § 115.

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