DESCRIPTION OF THE TAX TECHNICAL CORRECTIONS ACT OF 2006

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JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Tax Technical Corrections Act of 2006, as introduced on September 29, 2006, in the House of Representatives as H.R. 6264, and in the Senate as S. 4026.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Tax Technical Corrections Act of 2006* (JCX-48-06), October 2, 2006.

I. TAX TECHNICAL CORRECTIONS

The bill includes technical corrections to recently enacted tax legislation. Except as otherwise provided, the amendments made by the technical corrections contained in the bill take effect as if included in the original legislation to which each amendment relates.

Amendments related to the Tax Increase Prevention and Reconciliation Act of 2005

Look-through treatment and regulatory authority (Act sec. 103(b)).–Under the Act, for taxable years beginning after 2005 and before 2009, dividends, interest (including factoring income which is treated as equivalent to interest under sec. 954(c)(1)(E)), rents, and royalties received by one controlled foreign corporation ("CFC") from a related CFC are not treated as foreign personal holding company income to the extent attributable or properly allocable to non-subpart F income of the payor (the "TIPRA look-through rule"). The Act further provides that the Secretary shall prescribe such regulations as are appropriate to prevent the abuse of the purposes of the rule.

Section 952(b) provides that subpart F income of a CFC does not include any item of income from sources within the United States which is effectively connected with the conduct by such CFC of a trade or business within the United States ("ECI") unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a tax treaty. Thus, for example, a payment of interest from a CFC all of the income of which is U.S.-source ECI (and therefore not subpart F income) may receive the unintended benefit of the TIPRA look-through rule under the Act, even though the payment may be deductible for U.S. tax purposes.

The provision conforms the TIPRA look-through rule to the rule's purpose of allowing U.S. companies to redeploy their active foreign earnings (i.e., CFC earnings subject to U.S. tax deferral) without an additional tax burden in appropriate circumstances. Under the provision, in order to be excluded from foreign personal holding company income under the TIPRA look-through rule, the dividend, interest, rent, or royalty also must not be attributable or properly allocable to income of the related party payor that is treated as ECI. Thus, for example, a payment of interest made by a CFC does not qualify under the TIPRA look-through rule to the extent that the interest payment is allocated to the CFC's ECI. This is the case even if the interest payment creates or increases a net operating loss of the CFC.

The provision clarifies the authority of the Secretary to issue regulations under the TIPRA look-through rule, as amended by this provision. It is intended that the Secretary will prescribe regulations that are necessary or appropriate to carry out the amended TIPRA look-through rule, including, but not limited to, regulations that prevent the inappropriate use of the amended TIPRA look-through rule to strip income from the U.S. income tax base. Regulations issued pursuant to this authority may, for example, include regulations that prevent the application of the amended TIPRA look-through rule to interest deemed to arise under certain related party factoring arrangements pursuant to section 864(d), or under other transactions the net effect of which is the deduction of a payment, accrual, or loss for U.S. tax purposes without a corresponding inclusion in the subpart F income of the CFC income recipient, where such inclusion would have resulted in the absence of the amended TIPRA look-through rule.

The provision also clarifies the treatment of deficits in earnings and profits. Under the provision, the TIPRA look-through rule does not apply to any interest, rent, or royalty to the extent that such interest, rent, or royalty creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another CFC. The provision parallels the rule applicable to interest, rents, or royalties that would otherwise qualify for exclusion from foreign personal holding company income under the "same country" exception (sec. 954(c)(3)(B)). Thus interest, rents, and royalties will be treated as subpart F income, notwithstanding the general TIPRA look-through rule, if the payment creates or increases a deficit of the payor corporation and that deficit is from an activity that could reduce the payor's subpart F income under the accumulated deficit rule (sec. 952(c)(1)(B)), or could reduce the income of a qualified chain member under the chain deficit rule (sec. 952(c)(1)(C)). For example, under the provision, items that do not qualify for the "same country" exception because they meet the terms of section 954(c)(3)(B) will also not qualify under the TIPRA look-through rule.

Modification of active business definition under section 355 (Act sec. 202).–The provision clarifies that, for purposes of the special rule in section 355(b)(3) relating to the active business requirement, the term "separate affiliated group" does not include any corporation that became an otherwise qualifying member of such separate affiliated group (or of any other separate affiliated group to which the active business rule of the provision applies with respect to the same distribution) within the 5-year period ending on the date of the distribution by reason of one or more transactions in which gain or loss was recognized in whole or in part. Also, a business conducted by such a corporation at the time it became such an otherwise qualifying member shall not be included.

Thus, as one example, if a parent corporation spins off a subsidiary and, within the 5-year period ending on the date of the spin-off the parent corporation had acquired, in a transaction in which gain or loss was recognized, stock ownership of a third corporation such that the third corporation would otherwise qualify as a member of a separate affiliated group in the spin-off, then that third corporation shall not be considered a member of the separate affiliated group of the parent corporation if it is retained by the parent corporation in the spin-off. Also, that third corporation shall not be considered a member of the separate affiliated group of the spun-off subsidiary, even if the parent corporation has dropped the stock of that third corporation down to the subsidiary in a tax-free transaction prior to the spin-off. Similarly, a business conducted by the acquired third corporation at the time that corporation would otherwise have qualified as a member of a relevant separate affiliated group (but for the transaction in which gain or loss was recognized) also will not be includable in either relevant separate affiliated group, regardless of whether such business is held by another corporation that otherwise is included in either relevant separate affiliated group.

The provision also clarifies that the Treasury Department shall prescribe regulations that provide for the proper application of sections 355(b)(2)(B), (C) and (D) to distributions to which the provision applies.

Computation of alternative minimum tax for individuals with income excluded under the foreign earned income exclusion (Act sec. 515).–The provision clarifies that in computing the tentative minimum tax on nonexcluded income, the computation of tax under

section 911(f)(2) is made before reduction for the alternative minimum tax foreign tax credit. Thus, the provision conforms the computation of the tentative minimum tax to the computation of the regular tax, so that both computations are made before the application of the foreign tax credit.

Amendment related to the Gulf Opportunity Zone Act of 2005

Modification of effective date of exception from interest suspension rules for certain listed and reportable transactions (Act sec. 303).−Section 903 of the American Jobs Creation Act of 2004 ("AJCA"), as modified by section 303 of the Gulf Opportunity Zone Act of 2005, provides that the Secretary of the Treasury may permit interest suspension where taxpayers have acted reasonably and in good faith. For provisions that are included in the Code, section 7701(a)(11) provides that the term "Secretary of the Treasury" means the Secretary in his non-delegable capacity, and the term "Secretary" means the Secretary or his delegate. However, section 903 of AJCA (as modified) is not included in the Code. To clarify that the Secretary may delegate authority under section 903 of AJCA (as modified), the provision adds the words "or the Secretary's delegate" following the reference to the Secretary of the Treasury.

Amendments related to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

Timing of claims for excess alternative fuel (not in a mixture) credit (Act sec. 11113).−Present law provides that the alternative fuel (not in a mixture) credit is refundable. Code section 6427(i)(3) permits claims to be filed on a weekly basis with respect to alcohol, biodiesel, and alternative fuel mixtures if certain requirements are met. This rule, however, does not refer to the alternative fuel credit (for alternative fuel not in a mixture). The provision clarifies that the same rules for filing claims with respect to fuel mixtures apply to the alternative fuel credit.

Amendments related to the Energy Policy Act of 2005

Credit for production from advanced nuclear power facilities (Act sec. 1306).−The provision clarifies that the national capacity limitation of 6,000 megawatts represents the total number of megawatts that may be allocated by the Secretary under section 45J.

Clarify limitation on the credit of installing alternative fuel refueling property (Act sec. 1342).−The present-law credit for qualified alternative fuel vehicle refueling property for a taxable year is limited to $30,000 per property subject to depreciation, and $1,000 for other property (sec. 30C(b)). The provision clarifies that the $30,000 and $1,000 limitations apply to all alternative fuel vehicle refueling property placed in service by the taxpayer at a location. The provision is consistent with similar deduction limitations imposed under section 179A(b)(2)(A) (relating to the deduction for clean-fuel vehicles and certain refueling property).

Clarify that research eligible for the energy research credit is qualified research (Act sec. 1351).−The energy research credit is available with respect to certain amounts paid or incurred to an energy research consortium. The provision clarifies that the credit is available with to respect to such amounts paid or incurred to an energy research consortium provided they are used for energy research that is qualified research.

Double taxation of rail and inland waterway fuel resulting from the use of dyed fuel on which the Leaking Underground Storage Tank Trust Fund tax has already been imposed; off-highway business use (Act sec. 1362).−Section 4081(a)(2)(B) of the Code imposes tax at the Leaking Underground Storage Tank Trust Fund financing tax rate of 0.1 cent per gallon on diesel fuel at the time it is removed from a terminal. Section 4082(a) provides that none of the generally applicable exemptions other than the exemption for export apply to this removal even if the fuel is dyed. When dyed fuel is used or sold for use in a diesel powered highway vehicle or train (sec. 4041), or such fuel is subject to the inland waterway tax (sec. 4042), the Code inadvertently imposes the Leaking Underground Storage Tank Trust Fund tax a second time. Section 6430 prohibits the refund of taxes imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuel destined for export. The provision eliminates the imposition of the 0.1 cent tax a second time if the Leaking Underground Storage Tank Trust Fund financing tax rate previously was imposed under section 4081. The provision permits a refund in the amount of the Leaking Underground Storage Tank Trust Fund financing rate if such tax was imposed a second time under 4041 or 4042 from October 1, 2005 through the date of enactment. The provision also clarifies that off-highway business use is not exempt from the Leaking Underground Storage Tank Trust Fund Financing rate. For administrative reasons associated with collecting the tax, the off-highway business use clarification is effective for fuel sold for use or used after the date of enactment.

Exemption from the Leaking Underground Storage Tank Trust Fund financing rate for aircraft and vessels engaged in foreign trade (Act sec. 1362).−Fuel supplied in the United States for use in aircraft engaged in foreign trade is exempt from U.S. customs duties and internal revenue taxes, so long as, where the aircraft is registered in a foreign State, the State of registry provides substantially reciprocal privileges for U.S.-registered aircraft. However, the Energy Policy Act of 2005 imposed, without exemption, the Leaking Underground Storage Tank Trust Fund financing rate on all taxable fuels, except in the case of export. As a result, aviation fuel is no longer exempt from the Leaking Underground Storage Tank Trust Fund financing rate. According to the State Department, almost all of the United States' bilateral air services agreements contain provisions exempting from taxation all fuel supplied in the territory of one party for use in the aircraft of the other party. The United States has interpreted these provisions to prohibit the taxation, in any form, of aviation fuel supplied in the United States to the aircraft of airlines of the foreign countries that are parties to these air services agreements. The amendment provides that fuel for use in vessels (including civil aircraft) employed in foreign trade or trade between the United States and any of its possessions is exempt from the Leaking Underground Storage Tank Trust Fund financing rate.

Amendments related to the American Jobs Creation Act of 2004

Eliminate the open-loop biomass segregation requirement in section 45(c)(3)(A)(ii) (Act sec. 710).−For purposes of the credit for electricity produced from certain renewable resources, section 45(c)(3)(A)(ii) defines open-loop biomass to include any solid, nonhazardous, cellulosic waste material or any lignin material that is segregated from other waste materials, and that meets other requirements. The Act added municipal solid waste to the category of qualified energy resources giving rise to the credit. Thus, both open-loop biomass and municipal solid waste can be treated as qualified energy resources. The provision therefore strikes the

requirement that open-loop biomass be segregated from other waste materials in order to be treated as qualified energy resources.

Clarification of proportionate limitation applicable to closed-loop biomass (Act sec. 710).−Section 45(d)(2)(B)(ii) provides that when closed-loop biomass is cofired with other fuels, the credit is limited to the otherwise allowable credit multiplied by the ratio of the thermal content of the closed-loop biomass to the thermal content of all fuel used. This limitation duplicates a similar limitation in section 45(a), which provides that the credit is equal to 1.5 cents multiplied by the kilowatt hours of electricity produced by the taxpayer from qualified energy resources (and meeting other criteria). The present-law section 45(a) rule has the effect of limiting the credit (or duration of the credit) to the appropriate portion of the fuel that constitutes qualified energy resources, in the situations in which qualified energy resources are permitted to be cofired with each other, or are permitted to be cofired with other fuels. The provision clarifies that the limitation applies only once, not twice, to closed-loop biomass cofired with other fuels, by striking the duplicate limitation in section 45(d)(2)(B)(ii).

Treatment of partnerships under the limitation on deductions allocable to property used by governments or other tax-exempt entities (Act sec. 848).−Code section 470 generally applies loss deferral rules in the case of property leased to tax-exempt entities. The manner of application of section 470 in the case of property owned by a partnership in which a tax-exempt entity is a partner is unclear. The provision provides rules for the application of section 470 in the case of property that is tax-exempt use property solely by virtue of being owned by a partnership with a tax-exempt partner. The provision provides that, generally, if any portion of property is treated as tax-exempt use property by reason of section 168(h)(6), then all of such property is treated as tax-exempt use property under section 470. However, the provision provides that property owned by a partnership is not treated as tax-exempt use property under section 470 if it is not depreciable or amortizable property. In addition, the provision provides that property owned by a partnership is not treated as tax-exempt use property under section 470 if two sets of requirements are met. The requirements relate to (1) availability of funds set aside or under certain arrangements, and (2) certain options to purchase property of the partnership.

Availability of funds

The provision requires that, at all times during the taxable year, no more than the allowable partnership amount of funds be subject to an arrangement, set-aside, or expected set-aside, that is to or for the benefit of any taxable partner or any lender, or is to or for the benefit of any tax-exempt partner, in order to satisfy any obligation of the tax-exempt partner to the partnership, any taxable partner, or any lender. With respect to funds owned by the partnership, the allowable partnership amount is the greater of (a) 20 percent of the sum of the taxable partners' capital accounts (determined under the rules of section 704(b)) and the taxable partners' share of recourse liabilities of the partnership (determined under section 752), or (b) 20 percent of the aggregate debt of the partnership. With respect to funds not owned by the partnership, the allowable partnership amount is zero.

For this purpose, an arrangement includes a loan by a tax-exempt partner or the partnership to any taxable partner, the partnership, or any lender, as well as an arrangement described in present-law section 470(d)(1)(B).[2] The amount subject to an arrangement, or set aside or expected to be set aside, includes the amount of any interest or other income or gain earned on the amount. Amounts are treated as set aside or expected to be set aside only if a reasonable person would conclude that the facts and circumstances indicate that such amounts are set aside or expected to be set aside.

The provision provides an exception for funds set aside or subject to an arrangement on a short-term basis. Under this rule, funds that are set aside, or subject to an arrangement, for a period of less than 12 months are not taken into account in determining whether more than an allowable amount of funds are set aside or subject to an arrangement. All related set asides and arrangements are treated as a single arrangement for this purpose, except as provided in regulations. Thus, for example, a series of multiple set asides or arrangements which combine to exceed the 12-month threshold are not eligible for the exception under the provision. The exception should not be interpreted to permit taxpayers to effectively extend the 12-month threshold by use of separate and fungible set asides or arrangements.

In addition, the provision provides an exception for funds subject to an arrangement, or set aside or expected to be set aside, that bear no connection to the economic relationships between and among the partners and that bear no connection to the economic relationships between the partners and the partnership. Any funds that bear a connection either to the economic relationship between two or more partners or to the economic relationship between the partnership and any partner do not meet the exception and must be taken into account.

With respect to the available funds requirement of the exception for certain leases under present law section 470(d)(1), it is possible that present law might be interpreted to require only that that the arrangements and set asides are less than or equal to the allowable amount at a single moment during the lease term. The provision clarifies that the arrangements and set asides must be less than or equal to the allowable amount at all times during the lease term.

No fixed-price purchase option

Under the provision, no tax-exempt partner may have an option to purchase or compel the distribution of partnership property or any direct or indirect interest in the partnership for any stated purchase price or valuation other than the fair market value of the property (as determined at the time of exercise of the option). Similarly, neither the partnership nor any taxable partner may have an option to sell or compel distribution of partnership property or any direct or indirect interest in the partnership to a tax-exempt partner for any stated purchase price or valuation other than the fair market value of the property (as determined at the time of exercise of the option).

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[2] Arrangements referred to in this section include defeasance arrangements; deposit agreements; letters of credit collateralized with cash or cash equivalents; payment undertaking agreements; prepaid rent (within the meaning of the regulations under section 467); sinking fund arrangements; guaranteed investment contracts; financial guaranty insurance; or any similar arrangements.

The provision provides authority for the Secretary of the Treasury to promulgate regulations under which an option to purchase, sell, or compel distribution of partnership property or a partnership interest for a fair market value determined by a formula does not violate this requirement. The regulation authority applies to formulas under which the fair market value is determined on the basis of objective criteria that are reasonably designed to approximate the fair market value of property at the time of the purchase, sale, or distribution.

Clarification of regulatory authority

The provision clarifies that the present-law regulatory authority granted to the Secretary of the Treasury to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 470.

The provision provides that the Secretary shall prescribe regulations that provide for the application of section 470 to tiered and other related partnerships. At the discretion of the Secretary, such regulations may permit or require the aggregation of tiered or related partnerships where appropriate for purposes of any or all determinations required under section 470. The regulations may also permit or require the aggregation of partnership property.

The provision clarifies that the Secretary may, by regulation, provide for the treatment of partnership property as tax-exempt use property for purposes of the loss deferral rules of section 470 if such property is used in an arrangement which is inconsistent with the purposes of section 470, regardless of whether the statutory exception is satisfied. The provision provides an illustrative list of factors which may be indicators of a transaction that is inconsistent with the purposes of section 470. None of these factors, by itself, is determinative that a transaction is inconsistent with the purposes of section 470. However, the Secretary may determine that some combination of one or more of these and other factors results in the treatment of partnership property as tax-exempt use property.

The provision is effective as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate. It is not intended that the provision supercede the rules set forth by the Treasury Department in Notice 2005-29, 2005-13 I.R.B. 796, and Notice 2006-2, 2006-2 I.R.B. 1, with respect to the application of section 470 in the case of partnerships for taxable years of partnerships beginning in 2004 and 2005.

Treatment of losses on positions in identified straddles (Act sec. 888).–Under Code section 1092, the term "straddle" means offsetting positions in actively traded personal property. Generally, a loss on a position in a straddle may be recognized only to the extent the amount of the loss exceeds the unrecognized gain (if any) in offsetting positions in the straddle.[3] Special rules for identified straddles provide a different treatment of losses and also provide that any position that is not part of an identified straddle is not treated as offsetting with respect to any position that is part of the identified straddle. A taxpayer is permitted to treat a straddle as an identified straddle only if, among other requirements, the straddle is not part of a larger straddle.

[3] Section 1092(a)(1)(A).

Before the enactment of the Act, the rules for treating a straddle as an identified straddle required that all the positions of the straddle were acquired on the same day and either that all of the positions were disposed of on the same day in a taxable year or that none of the positions were disposed of as of the close of the taxable year. A loss on a position in an identified straddle was not subject to the loss deferral rule described above but instead was taken into account when all the positions making up the straddle were disposed of.

The Act changed the rules for identified straddles by providing, among other things, that if there is a loss on a position in an identified straddle, the loss is applied to increase the basis of the offsetting positions in that identified straddle. Under section 1092(a)(2)(A)(ii), the basis of each offsetting position in an identified straddle is increased by an amount that equals the product of the amount of the loss multiplied by the ratio of the amount of unrecognized straddle period gain in that offsetting position to the aggregate amount of unrecognized straddle period gain in all offsetting positions. The Act also provided that any loss described in section 1092(a)(2)(A)(ii) is not otherwise taken into account for Federal tax purposes.

The Act left unclear the treatment of a loss on a position in an identified straddle in at least two circumstances: first, when there are no offsetting positions in the identified straddle with unrecognized straddle period gain, and, second, when an offsetting position in the identified straddle is or has been a liability to the taxpayer.

The provision addresses the treatment of losses in these two circumstances. In general, the provision reaffirms that a loss on a position in an identified straddle is not permitted to be recognized currently and also is not permanently disallowed.

The provision provides that if the application of section 1092(a)(2)(A)(ii) does not result in a basis increase in any offsetting position in the identified straddle (because there is no unrecognized straddle period gain in any offsetting position), the basis of each offsetting position in the identified straddle must be increased in a manner that (1) is reasonable, is consistent with the purposes of the identified straddle rules, and is consistently applied by the taxpayer, and (2) allocates to offsetting positions the full amount of the loss (but no more than the full amount of the loss). At the time a taxpayer adopts an allocation method under this rule, the taxpayer is expected to describe that method in its books and records.

Under the provision, unless the Secretary of the Treasury provides otherwise, similar rules apply for purposes of the identified straddle rules when there is a loss on a position in an identified straddle and an offsetting position in the identified straddle is or has been a liability or an obligation (including, for instance, a debt obligation issued by the taxpayer, a written option, or a notional principal contract entered into by the taxpayer). Under this rule, if a taxpayer, for example, receives $1 to enter into a five-year short forward contract and the next day $100 of loss is allocated to that position, the resulting basis of the contract is $99.

Under present law, a straddle is treated as an identified straddle only if, among other requirements, it is clearly identified on the taxpayer's records as an identified straddle before the earlier of (1) the close of the day on which the straddle is acquired, or (2) a time that the Secretary of the Treasury may prescribe by regulations. The provision clarifies that for purposes of this identification requirement, a straddle is clearly identified only if the identification

includes an identification of the positions in the straddle that are offsetting with respect to other positions in the straddle. Consequently, taxpayers are required to identify not only the positions that make up an identified straddle but also which positions in that identified straddle are offsetting with respect to one another.

The provision provides that regulations or other guidance prescribed by the Secretary for carrying out the purposes of the identified straddle rules may include the rules for the application of section 1092 to a position that is or has been a liability or an obligation. Regulations or other guidance also may include safe harbor basis allocation methods that satisfy the requirements that an allocation other than under section 1092(a)(2)(A)(ii) must be reasonable, consistent with the purposes of the identified straddle rules, and consistently applied by the taxpayer.

Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003

Dividends from DISCs and former DISCs (Act sec. 302).−The provision provides that the lower capital gain rates applicable to dividends received by individuals does not apply to any dividend received from a corporation which is a DISC or former DISC to the extent the dividend is paid out of the corporation's accumulated DISC income or is a deemed distribution pursuant to section 995(b)(1). This rule is similar to the rule denying corporate shareholders a dividend received deduction under section 246(d).

The provision is effective for dividends received on or after the date of introduction, in order to alleviate the difficulties that both taxpayers and the Treasury Department would experience in administering the provision going back to 2003 tax returns.

Amendments related to the Economic Growth Tax Relief Reconciliation Act of 2001

Application of special elective deferral limit to designated Roth contributions (Act sec. 617).−Code section 402(g)(7) provides a special rule allowing certain employees to make additional elective deferrals to a tax-sheltered annuity, subject to (1) an annual limit of $3,000, and (2) a cumulative limit of $15,000 minus the amount of additional elective deferrals made in previous years under the special rule. Present law provides a rule to coordinate the cumulative limit with the ability to make designated Roth contributions, but inadvertently reduces the $15,000 amount by all designated Roth contributions made in previous years. The provision clarifies that the $15,000 amount is reduced only by additional designated Roth contributions made under the special rule.

Application of FICA taxes to designated Roth contributions (Act sec. 617).−Under Code section 3121(v)(1)(A), elective deferrals are included in wages for purposes of social security and Medicare taxes. The provision clarifies that wage treatment applies also to elective deferrals that are designated as Roth contributions.

Amendment to the Tax Relief Extension Act of 1999

Renewable electricity sold to utilities under certain contracts (Act sec. 507).−Code section 45(e)(7) provides that a wind energy facility placed in service by the taxpayer after June 30, 1999, does not qualify for the section 45 production tax credit if the electricity generated at the facility is sold to a utility pursuant to certain pre-1987 contracts. The provision clarifies that

facilities placed in service prior to June 30, 1999, that sell electricity under applicable pre-1987 contracts are not denied the section 45 production tax credit solely by reason of a change in ownership after June 30, 1999.

Amendments related to the Internal Revenue Service Restructuring and Reform Act of 1998

Redactions for background documents related to Chief Counsel Advice documents (Act sec. 3509).−The Internal Revenue Service Restructuring and Reform Act of 1998 established a structured process by which the IRS makes certain work products, designated Chief Counsel advice ("CCA"), open to public inspection. To afford additional protection for certain governmental interests implicated by CCAs, section 6110(i)(3) governs redactions that may be made to CCAs, including the exemptions or exclusions available under the Freedom of Information Act, 5 U.S.C. § 552(b) and (c) (except that the provision for redaction under a Federal statute excludes Title 26), as well as the exemptions pertaining to taxpayer identity information described in section 6110(c)(1). Section 6110(i)(3) does not expressly address redactions to the "background file documents" related to a CCA. The provision clarifies that the CCA background file documents are governed by the same redactions as CCAs.

Clerical corrections

The bill includes a number of clerical and typographical amendments.