

112TH CONGRESS  
2D SESSION

# H. R. 6225

To amend the Internal Revenue Code of 1986 to provide for economic growth and personal financial liberty, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2012

Mr. WALBERG introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for economic growth and personal financial liberty, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

Sec. 2. Findings.

TITLE I—EGTRRA, JGTRRA, AND CERTAIN OTHER TAX RELIEF  
MADE PERMANENT

Sec. 101. EGTRRA, JGTRRA, and certain other tax relief made permanent.

TITLE II—DEATH TAX REPEAL PERMANENCY

Sec. 201. Repeal of estate and generation-skipping transfer taxes.

Sec. 202. Modifications of gift tax.

## TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Extension for individuals.

## TITLE IV—CAPITAL GAINS INFLATION RELIEF

Sec. 401. Indexing of certain assets for purposes of determining gain or loss.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) According to the Tax Foundation, this year,  
4 before being able to work for themselves, Americans  
5 will work 107 days out of the year just to pay their  
6 taxes.

7 (2) Tax Freedom Day, the day when Americans  
8 have finally earned enough money to pay their tax  
9 bills for the year and can begin to work for them-  
10 selves, fell on April 17th.

11 (3) Taxes are a greater burden on the family  
12 budget than food, clothing, and housing combined.

13 (4) The Federal tax burden was 15.4 percent of  
14 gross domestic product in 2011.

15 (5) The historical Federal tax burden of the  
16 previous few decades is 18.0 percent of gross domes-  
17 tic product.

18 (6) Under current law, the tax burden will rise  
19 to 21.0 percent of gross domestic product within ten  
20 years, which would be the highest tax burden in  
21 United States history, even during wartime.

1 (7) Families and business cannot bear a tax in-  
2 crease of this magnitude.

3 **TITLE I—EGTRRA, JGTRRA, AND**  
4 **CERTAIN OTHER TAX RELIEF**  
5 **MADE PERMANENT**

6 **SEC. 101. EGTRRA, JGTRRA, AND CERTAIN OTHER TAX RE-**  
7 **LIEF MADE PERMANENT.**

8 (a) ECONOMIC GROWTH AND TAX RELIEF REC-  
9 ONCILIATION ACT OF 2001.—Title IX of the Economic  
10 Growth and Tax Relief Reconciliation Act of 2001 is here-  
11 by repealed.

12 (b) INCOME TAX RATES ON DIVIDENDS AND NET  
13 CAPITAL GAIN.—Section 303 of the Jobs and Growth Tax  
14 Relief Reconciliation Act of 2003 is hereby repealed.

15 (c) DEDUCTION FOR STATE AND LOCAL SALES  
16 TAXES.—Paragraph (5) of section 164(b) of the Internal  
17 Revenue Code of 1986 is amended by striking subpara-  
18 graph (I).

19 (d) DEDUCTION FOR TUITION AND RELATED EX-  
20 PENSES.—Section 222 of such Code is amended by strik-  
21 ing subsection (e).

22 (e) INCREASED EXPENSING FOR SMALL BUSI-  
23 NESS.—

24 (1) DOLLAR LIMITATION.—Paragraph (1) of  
25 section 179(b) of such Code is amended by striking

1 subparagraphs (C) and (D) and inserting the fol-  
2 lowing new subparagraph:

3 “(C) \$125,000 in the case of taxable years  
4 beginning after 2011.”.

5 (2) INCREASE IN QUALIFYING INVESTMENT AT  
6 WHICH PHASEOUT BEGINS.—Paragraph (2) of sec-  
7 tion 179(b) of such Code is amended by striking  
8 subparagraphs (C) and (D) and inserting the fol-  
9 lowing new subparagraph:

10 “(C) \$500,000 in the case of taxable years  
11 beginning after 2011.”.

12 (3) INFLATION ADJUSTMENTS.—Paragraph (6)  
13 of section 179 of such Code is amended to read as  
14 follows:

15 “(6) INFLATION ADJUSTMENTS.—

16 “(A) IN GENERAL.—In the case of any  
17 taxable year beginning in a calendar year after  
18 2012, the \$125,000 and \$500,000 amounts in  
19 paragraphs (1)(C) and (2)(C) shall each be in-  
20 creased by an amount equal to—

21 “(i) such dollar amount, multiplied by

22 “(ii) the cost-of-living adjustment de-  
23 termined under section 1(f)(3) for the cal-  
24 endar year in which the taxable year be-  
25 gins, by substituting ‘calendar year 2011’

1 for ‘calendar year 1992’ in subparagraph  
2 (B) thereof.

3 “(B) ROUNDING.—

4 “(i) DOLLAR LIMITATION.—If the  
5 amount in paragraph (1)(C), as increased  
6 under subparagraph (A), is not a multiple  
7 of \$1,000, such amount shall be rounded  
8 to the nearest multiple of \$1,000.

9 “(ii) PHASEOUT AMOUNT.—If the  
10 amount in paragraph (2)(C), as increased  
11 under subparagraph (A), is not a multiple  
12 of \$10,000, such amount shall be rounded  
13 to the nearest multiple of \$10,000.”.

14 (4) REVOCATION OF ELECTION.—Paragraph  
15 (2) of section 179(c) of such Code (relating to elec-  
16 tion irrevocable) is amended by striking “and before  
17 2013”.

18 (5) COMPUTER SOFTWARE.—Clause (ii) of sec-  
19 tion 179(d)(1)(A) of such Code is amended by strik-  
20 ing “and before 2012”.

21 (f) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on the date of the enactment  
23 of this Act.

1     **TITLE II—DEATH TAX REPEAL**  
2                     **PERMANENCY**

3     **SEC. 201. REPEAL OF ESTATE AND GENERATION-SKIPPING**  
4                     **TRANSFER TAXES.**

5             (a) ESTATE TAX REPEAL.—Subchapter C of chapter  
6 11 of subtitle B of the Internal Revenue Code of 1986  
7 is amended by adding at the end the following new section:

8     **“SEC. 2210. TERMINATION.**

9             “(a) IN GENERAL.—Except as provided in subsection  
10 (b), this chapter shall not apply to the estates of decedents  
11 dying on or after the date of the enactment of this section.

12             “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED  
13 DOMESTIC TRUSTS.—In applying section 2056A with re-  
14 spect to the surviving spouse of a decedent dying before  
15 the date of the enactment of this section—

16                 “(1) section 2056A(b)(1)(A) shall not apply to  
17 distributions made after the 10-year period begin-  
18 ning on such date, and

19                 “(2) section 2056A(b)(1)(B) shall not apply on  
20 or after such date.”.

21             (b) GENERATION-SKIPPING TRANSFER TAX RE-  
22 PEAL.—Subchapter G of chapter 13 of subtitle B of such  
23 Code is amended by adding at the end the following new  
24 section:

1 **“SEC. 2664. TERMINATION.**

2 “This chapter shall not apply to generation-skipping  
3 transfers on or after the date of the enactment of this  
4 section.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) The table of sections for subchapter C of  
7 chapter 11 is amended by adding at the end the fol-  
8 lowing new item:

“Sec. 2210. Termination.”.

9 (2) The table of sections for subchapter G of  
10 chapter 13 is amended by adding at the end the fol-  
11 lowing new item:

“Sec. 2664. Termination.”.

12 (d) RESTORATION OF PRE-EGTRRA PROVISIONS  
13 NOT APPLICABLE.—

14 (1) IN GENERAL.—Section 301 of the Tax Re-  
15 lief, Unemployment Insurance Reauthorization, and  
16 Job Creation Act of 2010 shall not apply to estates  
17 of decedents dying, and transfers made, on or after  
18 the date of the enactment of this Act.

19 (2) EXCEPTION FOR STEPPED-UP BASIS.—  
20 Paragraph (1) shall not apply to the provisions of  
21 law amended by subtitle E of title V of the Eco-  
22 nomic Growth and Tax Relief Reconciliation Act of  
23 2001 (relating to carryover basis at death; other  
24 changes taking effect with repeal).

1 (e) SUNSET NOT APPLICABLE.—

2 (1) Section 901 of the Economic Growth and  
3 Tax Relief Reconciliation Act of 2001 shall not  
4 apply to title V of such Act in the case of estates  
5 of decedents dying, and transfers made, on or after  
6 the date of the enactment of this Act.

7 (2) Section 304 of the Tax Relief, Unemploy-  
8 ment Insurance Reauthorization, and Job Creation  
9 Act of 2010 is hereby repealed.

10 (f) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to the estates of decedents dying,  
12 and generation-skipping transfers, after the date of the  
13 enactment of this Act.

14 **SEC. 202. MODIFICATIONS OF GIFT TAX.**

15 (a) COMPUTATION OF GIFT TAX.—Subsection (a) of  
16 section 2502 of the Internal Revenue Code of 1986 is  
17 amended to read as follows:

18 “(a) COMPUTATION OF TAX.—

19 “(1) IN GENERAL.—The tax imposed by section  
20 2501 for each calendar year shall be an amount  
21 equal to the excess of—

22 “(A) a tentative tax, computed under para-  
23 graph (2), on the aggregate sum of the taxable  
24 gifts for such calendar year and for each of the  
25 preceding calendar periods, over



1                   “(B) a tentative tax, computed under para-  
 2                   graph (2), on the aggregate sum of the taxable  
 3                   gifts for each of the preceding calendar periods.

4                   “(2) RATE SCHEDULE.—

<b>“If the amount with respect to which the tentative tax to be computed is:</b>	<b>The tentative tax is:</b>
Not over \$10,000 .....	18% of such amount.
Over \$10,000 but not over \$20,000 .....	\$1,800, plus 20% of the excess over \$10,000.
Over \$20,000 but not over \$40,000 .....	\$3,800, plus 22% of the excess over \$20,000.
Over \$40,000 but not over \$60,000 .....	\$8,200, plus 24% of the excess over \$40,000.
Over \$60,000 but not over \$80,000 .....	\$13,000, plus 26% of the excess over \$60,000.
Over \$80,000 but not over \$100,000 .....	\$18,200, plus 28% of the excess over \$80,000.
Over \$100,000 but not over \$150,000 .....	\$23,800, plus 30% of the excess over \$100,000.
Over \$150,000 but not over \$250,000 .....	\$38,800, plus 32% of the excess of \$150,000.
Over \$250,000 but not over \$500,000 .....	\$70,800, plus 34% of the excess over \$250,000.
Over \$500,000 .....	\$155,800, plus 35% of the excess of \$500,000.”.

5                   (b) TREATMENT OF CERTAIN TRANSFERS IN  
 6 TRUST.—Section 2511 (relating to transfers in general)  
 7 is amended by adding at the end the following new sub-  
 8 section:

9                   “(c) TREATMENT OF CERTAIN TRANSFERS IN  
 10 TRUST.—Notwithstanding any other provision of this sec-  
 11 tion and except as provided in regulations, a transfer in

1 trust shall be treated as a taxable gift under section 2503,  
2 unless the trust is treated as wholly owned by the donor  
3 or the donor's spouse under subpart E of part I of sub-  
4 chapter J of chapter 1.”.

5 (c) LIFETIME GIFT EXEMPTION.—Paragraph (1) of  
6 section 2505(a) of the Internal Revenue Code of 1986 is  
7 amended to read as follows:

8 “(1) the amount of the tentative tax which  
9 would be determined under the rate schedule set  
10 forth in section 2502(a)(2) if the amount with re-  
11 spect to which such tentative tax is to be computed  
12 were \$5,000,000, reduced by”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Section 2505(a) of such Code is amended  
15 by striking the last sentence.

16 (2) The heading for section 2505 of such Code  
17 is amended by striking “**UNIFIED**”.

18 (3) The item in the table of sections for sub-  
19 chapter A of chapter 12 of such Code relating to  
20 section 2505 is amended to read as follows:

“Sec. 2505. Credit against gift tax.”.

21 (e) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to gifts made on or after the date  
23 of the enactment of this Act.

24 (f) TRANSITION RULE.—

1           (1) IN GENERAL.—For purposes of applying  
2 sections 1015(d), 2502, and 2505 of the Internal  
3 Revenue Code of 1986, the calendar year in which  
4 this Act is enacted shall be treated as 2 separate cal-  
5 endar years one of which ends on the day before the  
6 date of the enactment of this Act and the other of  
7 which begins on such date of enactment.

8           (2) APPLICATION OF SECTION 2504(b).—For  
9 purposes of applying section 2504(b) of the Internal  
10 Revenue Code of 1986, the calendar year in which  
11 this Act is enacted shall be treated as one preceding  
12 calendar period.

## 13           **TITLE III—ALTERNATIVE** 14           **MINIMUM TAX RELIEF**

### 15   **SEC. 301. EXTENSION FOR INDIVIDUALS.**

16           (a) EXTENSION OF EXEMPTION AMOUNT.—Section  
17 55(d)(1) of the Internal Revenue Code of 1986 is amended  
18 by inserting “or 2012” after “2011” each place it appears  
19 in subparagraphs (A) and (B).

20           (b) EXTENSION OF ALTERNATIVE MINIMUM TAX RE-  
21 LIEF FOR NONREFUNDABLE PERSONAL CREDITS.—Sec-  
22 tion 26(a)(2) of such Code is amended—

23           (1) by striking “during 2000, 2001, 2002,  
24           2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,

1 or 2011” and inserting “after 1999 and before  
2 2013”, and

3 (2) by striking “2011” in the heading thereof  
4 and inserting “2012”.

5 (c) ADJUSTMENT FOR INFLATION.—Section 55(d) of  
6 such Code is amended by adding at the end the following  
7 new paragraph:

8 “(4) ADJUSTMENT FOR INFLATION.—

9 “(A) IN GENERAL.—In the case of any  
10 taxable year beginning in a calendar year after  
11 2011, the dollar amounts for 2011 in subpara-  
12 graphs (A) and (B) of paragraph (1) for 2011  
13 shall each be increased by an amount equal  
14 to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-  
17 termined under section 1(f)(3) for the cal-  
18 endar year in which the taxable year be-  
19 gins, by substituting ‘calendar year 2010’  
20 for ‘calendar year 1992’ in subparagraph  
21 (B) thereof.

22 “(B) ROUNDING.—If any amount in para-  
23 graph (1), as increased under subparagraph  
24 (A), is not a multiple of \$50, such amount shall  
25 be rounded to the nearest multiple of \$50.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2011.

4 **TITLE IV—CAPITAL GAINS**  
5 **INFLATION RELIEF**

6 **SEC. 401. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
7 **OF DETERMINING GAIN OR LOSS.**

8 (a) IN GENERAL.—Part II of subchapter O of chap-  
9 ter 1 of the Internal Revenue Code of 1986 (relating to  
10 basis rules of general application) is amended by redesi-  
11 gnating section 1023 as section 1024 and by inserting after  
12 section 1022 the following new section:

13 **“SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
14 **OF DETERMINING GAIN OR LOSS.**

15 “(a) GENERAL RULE.—

16 “(1) INDEXED BASIS SUBSTITUTED FOR AD-  
17 JUSTED BASIS.—Solely for purposes of determining  
18 gain or loss on the sale or other disposition by a tax-  
19 payer (other than a corporation) of an indexed asset  
20 which has been held for more than 3 years, the in-  
21 dexed basis of the asset shall be substituted for its  
22 adjusted basis.

23 “(2) EXCEPTION FOR DEPRECIATION, ETC.—

24 The deductions for depreciation, depletion, and am-  
25 ortization shall be determined without regard to the

1 application of paragraph (1) to the taxpayer or any  
2 other person.

3 “(3) WRITTEN DOCUMENTATION REQUIRE-  
4 MENT.—Paragraph (1) shall apply only with respect  
5 to indexed assets for which the taxpayer has written  
6 documentation of the original purchase price paid or  
7 incurred by the taxpayer to acquire such asset.

8 “(b) INDEXED ASSET.—

9 “(1) IN GENERAL.—For purposes of this sec-  
10 tion, the term ‘indexed asset’ means—

11 “(A) common stock in a C corporation  
12 (other than a foreign corporation), or

13 “(B) tangible property,  
14 which is a capital asset or property used in the trade  
15 or business (as defined in section 1231(b)).

16 “(2) STOCK IN CERTAIN FOREIGN CORPORA-  
17 TIONS INCLUDED.—For purposes of this section—

18 “(A) IN GENERAL.—The term ‘indexed  
19 asset’ includes common stock in a foreign cor-  
20 poration which is regularly traded on an estab-  
21 lished securities market.

22 “(B) EXCEPTION.—Subparagraph (A)  
23 shall not apply to—

24 “(i) stock of a foreign investment  
25 company,

1           “(ii) stock in a passive foreign invest-  
2           ment company (as defined in section  
3           1296),

4           “(iii) stock in a foreign corporation  
5           held by a United States person who meets  
6           the requirements of section 1248(a)(2),  
7           and

8           “(iv) stock in a foreign personal hold-  
9           ing company.

10           “(C) TREATMENT OF AMERICAN DEPOSI-  
11           TORY RECEIPTS.—An American depository re-  
12           ceipt for common stock in a foreign corporation  
13           shall be treated as common stock in such cor-  
14           poration.

15           “(c) INDEXED BASIS.—For purposes of this sec-  
16           tion—

17           “(1) GENERAL RULE.—The indexed basis for  
18           any asset is—

19           “(A) the adjusted basis of the asset, in-  
20           creased by

21           “(B) the applicable inflation adjustment.

22           “(2) APPLICABLE INFLATION ADJUSTMENT.—  
23           The applicable inflation adjustment for any asset is  
24           an amount equal to—

1           “(A) the adjusted basis of the asset, multi-  
2           plied by

3           “(B) the percentage (if any) by which—

4                   “(i) the gross domestic product  
5                   deflator for the last calendar quarter end-  
6                   ing before the asset is disposed of, exceeds

7                   “(ii) the gross domestic product  
8                   deflator for the last calendar quarter end-  
9                   ing before the asset was acquired by the  
10                  taxpayer.

11          The percentage under subparagraph (B) shall be  
12          rounded to the nearest  $\frac{1}{10}$  of 1 percentage point.

13           “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—

14          The gross domestic product deflator for any cal-  
15          endar quarter is the implicit price deflator for the  
16          gross domestic product for such quarter (as shown  
17          in the last revision thereof released by the Secretary  
18          of Commerce before the close of the following cal-  
19          endar quarter).

20           “(d) SUSPENSION OF HOLDING PERIOD WHERE DI-  
21          MINISHED RISK OF LOSS; TREATMENT OF SHORT  
22          SALES.—

23                   “(1) IN GENERAL.—If the taxpayer (or a re-  
24                   lated person) enters into any transaction which sub-  
25                   stantially reduces the risk of loss from holding any



1 asset, such asset shall not be treated as an indexed  
2 asset for the period of such reduced risk.

3 “(2) SHORT SALES.—

4 “(A) IN GENERAL.—In the case of a short  
5 sale of an indexed asset with a short sale period  
6 in excess of 3 years, for purposes of this title,  
7 the amount realized shall be an amount equal  
8 to the amount realized (determined without re-  
9 gard to this paragraph) increased by the appli-  
10 cable inflation adjustment. In applying sub-  
11 section (c)(2) for purposes of the preceding sen-  
12 tence, the date on which the property is sold  
13 short shall be treated as the date of acquisition  
14 and the closing date for the sale shall be treat-  
15 ed as the date of disposition.

16 “(B) SHORT SALE PERIOD.—For purposes  
17 of subparagraph (A), the short sale period be-  
18 gins on the day that the property is sold and  
19 ends on the closing date for the sale.

20 “(e) TREATMENT OF REGULATED INVESTMENT  
21 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

22 “(1) ADJUSTMENTS AT ENTITY LEVEL.—

23 “(A) IN GENERAL.—Except as otherwise  
24 provided in this paragraph, the adjustment  
25 under subsection (a) shall be allowed to any

1 qualified investment entity (including for pur-  
2 poses of determining the earnings and profits of  
3 such entity).

4 “(B) EXCEPTION FOR CORPORATE SHARE-  
5 HOLDERS.—Under regulations—

6 “(i) in the case of a distribution by a  
7 qualified investment entity (directly or in-  
8 directly) to a corporation—

9 “(I) the determination of whether  
10 such distribution is a dividend shall be  
11 made without regard to this section,  
12 and

13 “(II) the amount treated as gain  
14 by reason of the receipt of any capital  
15 gain dividend shall be increased by the  
16 percentage by which the entity’s net  
17 capital gain for the taxable year (de-  
18 termined without regard to this sec-  
19 tion) exceeds the entity’s net capital  
20 gain for such year determined with re-  
21 gard to this section, and

22 “(ii) there shall be other appropriate  
23 adjustments (including deemed distribu-  
24 tions) so as to ensure that the benefits of  
25 this section are not allowed (directly or in-

1           directly) to corporate shareholders of quali-  
2           fied investment entities.

3           For purposes of the preceding sentence, any  
4           amount includible in gross income under section  
5           852(b)(3)(D) shall be treated as a capital gain  
6           dividend and an S corporation shall not be  
7           treated as a corporation.

8           “(C) EXCEPTION FOR QUALIFICATION  
9           PURPOSES.—This section shall not apply for  
10          purposes of sections 851(b) and 856(e).

11          “(D) EXCEPTION FOR CERTAIN TAXES IM-  
12          POSED AT ENTITY LEVEL.—

13                 “(i) TAX ON FAILURE TO DISTRIBUTE  
14                 ENTIRE GAIN.—If any amount is subject to  
15                 tax under section 852(b)(3)(A) for any  
16                 taxable year, the amount on which tax is  
17                 imposed under such section shall be in-  
18                 creased by the percentage determined  
19                 under subparagraph (B)(i)(II). A similar  
20                 rule shall apply in the case of any amount  
21                 subject to tax under paragraph (2) or (3)  
22                 of section 857(b) to the extent attributable  
23                 to the excess of the net capital gain over  
24                 the deduction for dividends paid deter-  
25                 mined with reference to capital gain divi-

1           dends only. The first sentence of this  
2           clause shall not apply to so much of the  
3           amount subject to tax under section  
4           852(b)(3)(A) as is designated by the com-  
5           pany under section 852(b)(3)(D).

6           “(ii) OTHER TAXES.—This section  
7           shall not apply for purposes of determining  
8           the amount of any tax imposed by para-  
9           graph (4), (5), or (6) of section 857(b).

10           “(2) ADJUSTMENTS TO INTERESTS HELD IN  
11           ENTITY.—

12           “(A) REGULATED INVESTMENT COMPA-  
13           NIES.—Stock in a regulated investment com-  
14           pany (within the meaning of section 851) shall  
15           be an indexed asset for any calendar quarter in  
16           the same ratio as—

17           “(i) the average of the fair market  
18           values of the indexed assets held by such  
19           company at the close of each month during  
20           such quarter, bears to

21           “(ii) the average of the fair market  
22           values of all assets held by such company  
23           at the close of each such month.

24           “(B) REAL ESTATE INVESTMENT  
25           TRUSTS.—Stock in a real estate investment

1 trust (within the meaning of section 856) shall  
2 be an indexed asset for any calendar quarter in  
3 the same ratio as—

4 “(i) the fair market value of the in-  
5 dexed assets held by such trust at the close  
6 of such quarter, bears to

7 “(ii) the fair market value of all as-  
8 sets held by such trust at the close of such  
9 quarter.

10 “(C) RATIO OF 80 PERCENT OR MORE.—If  
11 the ratio for any calendar quarter determined  
12 under subparagraph (A) or (B) would (but for  
13 this subparagraph) be 80 percent or more, such  
14 ratio for such quarter shall be 100 percent.

15 “(D) RATIO OF 20 PERCENT OR LESS.—If  
16 the ratio for any calendar quarter determined  
17 under subparagraph (A) or (B) would (but for  
18 this subparagraph) be 20 percent or less, such  
19 ratio for such quarter shall be zero.

20 “(E) LOOK-THRU OF PARTNERSHIPS.—For  
21 purposes of this paragraph, a qualified invest-  
22 ment entity which holds a partnership interest  
23 shall be treated (in lieu of holding a partnership  
24 interest) as holding its proportionate share of  
25 the assets held by the partnership.

1           “(3) TREATMENT OF RETURN OF CAPITAL DIS-  
2           TRIBUTIONS.—Except as otherwise provided by the  
3           Secretary, a distribution with respect to stock in a  
4           qualified investment entity which is not a dividend  
5           and which results in a reduction in the adjusted  
6           basis of such stock shall be treated as allocable to  
7           stock acquired by the taxpayer in the order in which  
8           such stock was acquired.

9           “(4) QUALIFIED INVESTMENT ENTITY.—For  
10          purposes of this subsection, the term ‘qualified in-  
11          vestment entity’ means—

12                   “(A) a regulated investment company  
13                   (within the meaning of section 851), and

14                   “(B) a real estate investment trust (within  
15                   the meaning of section 856).

16          “(f) OTHER PASS-THRU ENTITIES.—

17                   “(1) PARTNERSHIPS.—

18                           “(A) IN GENERAL.—In the case of a part-  
19                           nership, the adjustment made under subsection  
20                           (a) at the partnership level shall be passed  
21                           through to the partners.

22                           “(B) SPECIAL RULE IN THE CASE OF SEC-  
23                           TION 754 ELECTIONS.—In the case of a transfer  
24                           of an interest in a partnership with respect to

1           which the election provided in section 754 is in  
2           effect—

3                   “(i) the adjustment under section  
4                   743(b)(1) shall, with respect to the trans-  
5                   feror partner, be treated as a sale of the  
6                   partnership assets for purposes of applying  
7                   this section, and

8                   “(ii) with respect to the transferee  
9                   partner, the partnership’s holding period  
10                  for purposes of this section in such assets  
11                  shall be treated as beginning on the date  
12                  of such adjustment.

13                  “(2) S CORPORATIONS.—In the case of an S  
14                  corporation, the adjustment made under subsection  
15                  (a) at the corporate level shall be passed through to  
16                  the shareholders. This section shall not apply for  
17                  purposes of determining the amount of any tax im-  
18                  posed by section 1374 or 1375.

19                  “(3) COMMON TRUST FUNDS.—In the case of a  
20                  common trust fund, the adjustment made under sub-  
21                  section (a) at the trust level shall be passed through  
22                  to the participants.

23                  “(4) INDEXING ADJUSTMENT DISREGARDED IN  
24                  DETERMINING LOSS ON SALE OF INTEREST IN ENTI-  
25                  TY.—Notwithstanding the preceding provisions of

1 this subsection, for purposes of determining the  
2 amount of any loss on a sale or exchange of an in-  
3 terest in a partnership, S corporation, or common  
4 trust fund, the adjustment made under subsection  
5 (a) shall not be taken into account in determining  
6 the adjusted basis of such interest.

7 “(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

8 “(1) IN GENERAL.—This section shall not apply  
9 to any sale or other disposition of property between  
10 related persons except to the extent that the basis  
11 of such property in the hands of the transferee is a  
12 substituted basis.

13 “(2) RELATED PERSONS DEFINED.—For pur-  
14 poses of this section, the term ‘related persons’  
15 means—

16 “(A) persons bearing a relationship set  
17 forth in section 267(b), and

18 “(B) persons treated as single employer  
19 under subsection (b) or (c) of section 414.

20 “(h) TRANSFERS TO INCREASE INDEXING ADJUST-  
21 MENT.—If any person transfers cash, debt, or any other  
22 property to another person and the principal purpose of  
23 such transfer is to secure or increase an adjustment under  
24 subsection (a), the Secretary may disallow part or all of  
25 such adjustment or increase.



1 “(i) SPECIAL RULES.—For purposes of this section—

2 “(1) TREATMENT OF IMPROVEMENTS, ETC.—If  
3 there is an addition to the adjusted basis of any tan-  
4 gible property or of any stock in a corporation dur-  
5 ing the taxable year by reason of an improvement to  
6 such property or a contribution to capital of such  
7 corporation—

8 “(A) such addition shall never be taken  
9 into account under subsection (c)(1)(A) if the  
10 aggregate amount thereof during the taxable  
11 year with respect to such property or stock is  
12 less than \$1,000, and

13 “(B) such addition shall be treated as a  
14 separate asset acquired at the close of such tax-  
15 able year if the aggregate amount thereof dur-  
16 ing the taxable year with respect to such prop-  
17 erty or stock is \$1,000 or more.

18 A rule similar to the rule of the preceding sentence  
19 shall apply to any other portion of an asset to the  
20 extent that separate treatment of such portion is ap-  
21 propriate to carry out the purposes of this section.

22 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS  
23 THROUGHOUT HOLDING PERIOD.—The applicable in-  
24 flation adjustment shall be appropriately reduced for

1 periods during which the asset was not an indexed  
2 asset.

3 “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a  
4 corporation which is not a dividend shall be treated  
5 as a disposition.  
6

7 “(4) SECTION CANNOT INCREASE ORDINARY  
8 LOSS.—To the extent that (but for this paragraph)  
9 this section would create or increase a net ordinary  
10 loss to which section 1231(a)(2) applies or an ordi-  
11 nary loss to which any other provision of this title  
12 applies, such provision shall not apply. The taxpayer  
13 shall be treated as having a long-term capital loss in  
14 an amount equal to the amount of the ordinary loss  
15 to which the preceding sentence applies.

16 “(5) ACQUISITION DATE WHERE THERE HAS  
17 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)  
18 WITH RESPECT TO THE TAXPAYER.—If there has  
19 been a prior application of subsection (a)(1) to an  
20 asset while such asset was held by the taxpayer, the  
21 date of acquisition of such asset by the taxpayer  
22 shall be treated as not earlier than the date of the  
23 most recent such prior application.

1       “(j) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary or appropriate to  
3 carry out the purposes of this section.”.

4       (b) CLERICAL AMENDMENT.—The table of sections  
5 for part II of subchapter O of chapter 1 of such Code  
6 is amended by striking the item relating to section 1023  
7 and by inserting after the item relating to section 1022  
8 the following new item:

“Sec. 1023. Indexing of certain assets for purposes of determining gain or loss.  
“Sec. 1024. Cross references.”.

9       (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to indexed assets acquired by the  
11 taxpayer after December 31, 2012, in taxable years ending  
12 after such date.

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