

DECEMBER 15, 2015

RULES COMMITTEE PRINT 114-40

**TEXT OF HOUSE AMENDMENT #2 TO THE SENATE
AMENDMENT TO H.R. 2029, MILITARY CON-
STRUCTION AND VETERANS AFFAIRS AND RE-
LATED AGENCIES APPROPRIATIONS ACT,
2016**

**[Showing the text of the Protecting Americans from Tax
Hikes Act of 2015.]**

At the end of House amendment #1, insert the fol-
lowing:

1 **DIVISION** **Q—PROTECTING**
2 **AMERICANS FROM TAX HIKES**
3 **ACT OF 2015**

4 **SECTION 1. SHORT TITLE, ETC.**

5 (a) **SHORT TITLE.**—This division may be cited as the
6 “Protecting Americans from Tax Hikes Act of 2015”.

7 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
8 wise expressly provided, whenever in this division an
9 amendment or repeal is expressed in terms of an amend-
10 ment to, or repeal of, a section or other provision, the ref-
11 erence shall be considered to be made to a section or other
12 provision of the Internal Revenue Code of 1986.

- 1 (c) TABLE OF CONTENTS.—The table of contents for
2 this division is as follows:

DIVISION Q—PROTECTING AMERICANS FROM TAX HIKES ACT OF
2015

Sec. 1. Short title, etc.

TITLE I—EXTENDERS

Subtitle A—Permanent Extensions

PART 1—TAX RELIEF FOR FAMILIES AND INDIVIDUALS

- Sec. 101. Enhanced child tax credit made permanent.
Sec. 102. Enhanced American opportunity tax credit made permanent.
Sec. 103. Enhanced earned income tax credit made permanent.
Sec. 104. Extension and modification of deduction for certain expenses of elementary and secondary school teachers.
Sec. 105. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.
Sec. 106. Extension of deduction of State and local general sales taxes.

PART 2—INCENTIVES FOR CHARITABLE GIVING

- Sec. 111. Extension and modification of special rule for contributions of capital gain real property made for conservation purposes.
Sec. 112. Extension of tax-free distributions from individual retirement plans for charitable purposes.
Sec. 113. Extension and modification of charitable deduction for contributions of food inventory.
Sec. 114. Extension of modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 115. Extension of basis adjustment to stock of S corporations making charitable contributions of property.

PART 3—INCENTIVES FOR GROWTH, JOBS, INVESTMENT, AND INNOVATION

- Sec. 121. Extension and modification of research credit.
Sec. 122. Extension and modification of employer wage credit for employees who are active duty members of the uniformed services.
Sec. 123. Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 124. Extension and modification of increased expensing limitations and treatment of certain real property as section 179 property.
Sec. 125. Extension of treatment of certain dividends of regulated investment companies.
Sec. 126. Extension of exclusion of 100 percent of gain on certain small business stock.
Sec. 127. Extension of reduction in S-corporation recognition period for built-in gains tax.
Sec. 128. Extension of subpart F exception for active financing income.

PART 4—INCENTIVES FOR REAL ESTATE INVESTMENT

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- Sec. 131. Extension of minimum low-income housing tax credit rate for non-Federally subsidized buildings.
- Sec. 132. Extension of military housing allowance exclusion for determining whether a tenant in certain counties is low-income.
- Sec. 133. Extension of RIC qualified investment entity treatment under FIRPTA.

Subtitle B—Extensions Through 2019

- Sec. 141. Extension of new markets tax credit.
- Sec. 142. Extension and modification of work opportunity tax credit.
- Sec. 143. Extension and modification of bonus depreciation.
- Sec. 144. Extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Subtitle C—Extensions Through 2016

PART 1—TAX RELIEF FOR FAMILIES AND INDIVIDUALS

- Sec. 151. Extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness.
- Sec. 152. Extension of mortgage insurance premiums treated as qualified residence interest.
- Sec. 153. Extension of above-the-line deduction for qualified tuition and related expenses.

PART 2—INCENTIVES FOR GROWTH, JOBS, INVESTMENT, AND INNOVATION

- Sec. 161. Extension of Indian employment tax credit.
- Sec. 162. Extension and modification of railroad track maintenance credit.
- Sec. 163. Extension of mine rescue team training credit.
- Sec. 164. Extension of qualified zone academy bonds.
- Sec. 165. Extension of classification of certain race horses as 3-year property.
- Sec. 166. Extension of 7-year recovery period for motorsports entertainment complexes.
- Sec. 167. Extension and modification of accelerated depreciation for business property on an Indian reservation.
- Sec. 168. Extension of election to expense mine safety equipment.
- Sec. 169. Extension of special expensing rules for certain film and television productions; special expensing for live theatrical productions.
- Sec. 170. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 171. Extension and modification of empowerment zone tax incentives.
- Sec. 172. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 173. Extension of American Samoa economic development credit.
- Sec. 174. Moratorium on medical device excise tax.

PART 3—INCENTIVES FOR ENERGY PRODUCTION AND CONSERVATION

- Sec. 181. Extension and modification of credit for nonbusiness energy property.
- Sec. 182. Extension of credit for alternative fuel vehicle refueling property.
- Sec. 183. Extension of credit for 2-wheeled plug-in electric vehicles.
- Sec. 184. Extension of second generation biofuel producer credit.
- Sec. 185. Extension of biodiesel and renewable diesel incentives.

- Sec. 186. Extension and modification of production credit for Indian coal facilities.
- Sec. 187. Extension of credits with respect to facilities producing energy from certain renewable resources.
- Sec. 188. Extension of credit for energy-efficient new homes.
- Sec. 189. Extension of special allowance for second generation biofuel plant property.
- Sec. 190. Extension of energy efficient commercial buildings deduction.
- Sec. 191. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 192. Extension of excise tax credits relating to alternative fuels.
- Sec. 193. Extension of credit for new qualified fuel cell motor vehicles.

TITLE II—PROGRAM INTEGRITY

- Sec. 201. Modification of filing dates of returns and statements relating to employee wage information and nonemployee compensation to improve compliance.
- Sec. 202. Safe harbor for de minimis errors on information returns and payee statements.
- Sec. 203. Requirements for the issuance of ITINs.
- Sec. 204. Prevention of retroactive claims of earned income credit after issuance of social security number.
- Sec. 205. Prevention of retroactive claims of child tax credit.
- Sec. 206. Prevention of retroactive claims of American opportunity tax credit.
- Sec. 207. Procedures to reduce improper claims.
- Sec. 208. Restrictions on taxpayers who improperly claimed credits in prior year.
- Sec. 209. Treatment of credits for purposes of certain penalties.
- Sec. 210. Increase the penalty applicable to paid tax preparers who engage in willful or reckless conduct.
- Sec. 211. Employer identification number required for American opportunity tax credit.
- Sec. 212. Higher education information reporting only to include qualified tuition and related expenses actually paid.

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Family Tax Relief

- Sec. 301. Exclusion for amounts received under the Work Colleges Program.
- Sec. 302. Improvements to section 529 accounts.
- Sec. 303. Elimination of residency requirement for qualified ABLE programs.
- Sec. 304. Exclusion for wrongfully incarcerated individuals.
- Sec. 305. Clarification of special rule for certain governmental plans.
- Sec. 306. Rollovers permitted from other retirement plans into simple retirement accounts.
- Sec. 307. Technical amendment relating to rollover of certain airline payment amounts.
- Sec. 308. Treatment of early retirement distributions for nuclear materials couriers, United States Capitol Police, Supreme Court Police, and diplomatic security special agents.
- Sec. 309. Prevention of extension of tax collection period for members of the Armed Forces who are hospitalized as a result of combat zone injuries.

Subtitle B—Real Estate Investment Trusts

- Sec. 311. Restriction on tax-free spinoffs involving REITs.
- Sec. 312. Reduction in percentage limitation on assets of REIT which may be taxable REIT subsidiaries.
- Sec. 313. Prohibited transaction safe harbors.
- Sec. 314. Repeal of preferential dividend rule for publicly offered REITs.
- Sec. 315. Authority for alternative remedies to address certain REIT distribution failures.
- Sec. 316. Limitations on designation of dividends by REITs.
- Sec. 317. Debt instruments of publicly offered REITs and mortgages treated as real estate assets.
- Sec. 318. Asset and income test clarification regarding ancillary personal property.
- Sec. 319. Hedging provisions.
- Sec. 320. Modification of REIT earnings and profits calculation to avoid duplicate taxation.
- Sec. 321. Treatment of certain services provided by taxable REIT subsidiaries.
- Sec. 322. Exception from FIRPTA for certain stock of REITs.
- Sec. 323. Exception for interests held by foreign retirement or pension funds.
- Sec. 324. Increase in rate of withholding of tax on dispositions of United States real property interests.
- Sec. 325. Interests in RICs and REITs not excluded from definition of United States real property interests.
- Sec. 326. Dividends derived from RICs and REITs ineligible for deduction for United States source portion of dividends from certain foreign corporations.

Subtitle C—Additional Provisions

- Sec. 331. Deductibility of charitable contributions to agricultural research organizations.
- Sec. 332. Removal of bond requirements and extending filing periods for certain taxpayers with limited excise tax liability.
- Sec. 333. Modifications to alternative tax for certain small insurance companies.
- Sec. 334. Treatment of timber gains.
- Sec. 335. Modification of definition of hard cider.
- Sec. 336. Church plan clarification.

Subtitle D—Revenue Provisions

- Sec. 341. Updated ASHRAE standards for energy efficient commercial buildings deduction.
- Sec. 342. Excise tax credit equivalency for liquified petroleum gas and liquified natural gas.
- Sec. 343. Exclusion from gross income of certain clean coal power grants to non-corporate taxpayers.
- Sec. 344. Clarification of valuation rule for early termination of certain charitable remainder unitrusts.
- Sec. 345. Prevention of transfer of certain losses from tax indifferent parties.
- Sec. 346. Treatment of certain persons as employers with respect to motion picture projects.

TITLE IV—TAX ADMINISTRATION

Subtitle A—Internal Revenue Service Reforms

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- Sec. 401. Duty to ensure that Internal Revenue Service employees are familiar with and act in accord with certain taxpayer rights.
- Sec. 402. IRS employees prohibited from using personal email accounts for official business.
- Sec. 403. Release of information regarding the status of certain investigations.
- Sec. 404. Administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.
- Sec. 405. Organizations required to notify Secretary of intent to operate under 501(c)(4).
- Sec. 406. Declaratory judgments for 501(c)(4) and other exempt organizations.
- Sec. 407. Termination of employment of Internal Revenue Service employees for taking official actions for political purposes.
- Sec. 408. Gift tax not to apply to contributions to certain exempt organizations.
- Sec. 409. Extend Internal Revenue Service authority to require truncated Social Security numbers on Form W-2.
- Sec. 410. Clarification of enrolled agent credentials.
- Sec. 411. Partnership audit rules.

Subtitle B—United States Tax Court

PART 1—TAXPAYER ACCESS TO UNITED STATES TAX COURT

- Sec. 421. Filing period for interest abatement cases.
- Sec. 422. Small tax case election for interest abatement cases.
- Sec. 423. Venue for appeal of spousal relief and collection cases.
- Sec. 424. Suspension of running of period for filing petition of spousal relief and collection cases.
- Sec. 425. Application of Federal rules of evidence.

PART 2—UNITED STATES TAX COURT ADMINISTRATION

- Sec. 431. Judicial conduct and disability procedures.
- Sec. 432. Administration, judicial conference, and fees.

PART 3—CLARIFICATION RELATING TO UNITED STATES TAX COURT

- Sec. 441. Clarification relating to United States Tax Court.

TITLE V—TRADE-RELATED PROVISIONS

- Sec. 501. Modification of effective date of provisions relating to tariff classification of recreational performance outerwear.
- Sec. 502. Agreement by Asia-Pacific Economic Cooperation members to reduce rates of duty on certain environmental goods.

TITLE VI—BUDGETARY EFFECTS

- Sec. 601. Budgetary effects.

1 **SEC. 123. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**
2 **COVERY FOR QUALIFIED LEASEHOLD IM-**
3 **PROVEMENTS, QUALIFIED RESTAURANT**
4 **BUILDINGS AND IMPROVEMENTS, AND**
5 **QUALIFIED RETAIL IMPROVEMENTS.**

6 (a) QUALIFIED LEASEHOLD IMPROVEMENT PROP-
7 erty AND QUALIFIED RESTAURANT PROPERTY.—Clauses
8 (iv) and (v) of section 168(e)(3)(E) are each amended by
9 striking “placed in service before January 1, 2015”.

10 (b) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—
11 Section 168(e)(3)(E)(ix) is amended by striking “placed
12 in service after December 31, 2008, and before January
13 1, 2015”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to property placed in service after
16 December 31, 2014.

17 **SEC. 124. EXTENSION AND MODIFICATION OF INCREASED**
18 **EXPENSING LIMITATIONS AND TREATMENT**
19 **OF CERTAIN REAL PROPERTY AS SECTION**
20 **179 PROPERTY.**

21 (a) MADE PERMANENT.—

22 (1) DOLLAR LIMITATION.—Section 179(b)(1) is
23 amended by striking “shall not exceed—” and all
24 that follows and inserting “shall not exceed
25 \$500,000.”.

1 (2) by striking “, 2011, 2012, 2013, AND 2014” in
2 the heading thereof and inserting “AND THERE-
3 AFTER”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to stock acquired after December
6 31, 2014.

7 **SEC. 127. EXTENSION OF REDUCTION IN S-CORPORATION**
8 **RECOGNITION PERIOD FOR BUILT-IN GAINS**
9 **TAX.**

10 (a) IN GENERAL.—Section 1374(d)(7) is amended to
11 read as follows:

12 “(7) RECOGNITION PERIOD.—

13 “(A) IN GENERAL.—The term ‘recognition
14 period’ means the 5-year period beginning with
15 the 1st day of the 1st taxable year for which
16 the corporation was an S corporation. For pur-
17 poses of applying this section to any amount in-
18 cludible in income by reason of distributions to
19 shareholders pursuant to section 593(e), the
20 preceding sentence shall be applied without re-
21 gard to the phrase ‘5-year’.

22 “(B) INSTALLMENT SALES.—If an S cor-
23 poration sells an asset and reports the income
24 from the sale using the installment method
25 under section 453, the treatment of all pay-

1 ments received shall be governed by the provi-
2 sions of this paragraph applicable to the taxable
3 year in which such sale was made.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2014.

7 **SEC. 128. EXTENSION OF SUBPART F EXCEPTION FOR AC-**
8 **TIVE FINANCING INCOME.**

9 (a) **INSURANCE BUSINESSES.**—Section 953(e) is
10 amended by striking paragraph (10) and by redesignating
11 paragraph (11) as paragraph (10).

12 (b) **BANKING, FINANCING, OR SIMILAR BUSI-**
13 **NESSES.**—Section 954(h) is amended by striking para-
14 graph (9).

15 (c) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to taxable years of foreign corpora-
17 tions beginning after December 31, 2014, and to taxable
18 years of United States shareholders with or within which
19 any such taxable year of such foreign corporation ends.

1 **SEC. 133. EXTENSION OF RIC QUALIFIED INVESTMENT EN-**
2 **TITY TREATMENT UNDER FIRPTA.**

3 (a) IN GENERAL.—Section 897(h)(4)(A) is amend-
4 ed—

5 (1) by striking clause (ii), and

6 (2) by striking all that precedes “regulated in-
7 vestment company which” and inserting the fol-
8 lowing:

9 “(A) QUALIFIED INVESTMENT ENTITY.—

10 The term ‘qualified investment entity’ means—

11 “(i) any real estate investment trust,

12 and

13 “(ii) any”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by

16 this section shall take effect on January 1, 2015.

17 Notwithstanding the preceding sentence, such

18 amendments shall not apply with respect to the

19 withholding requirement under section 1445 of the

20 Internal Revenue Code of 1986 for any payment

21 made before the date of the enactment of this Act.

22 (2) AMOUNTS WITHHELD ON OR BEFORE DATE

23 OF ENACTMENT.—In the case of a regulated invest-

24 ment company—

1 (A) which makes a distribution after De-
2 cember 31, 2014, and before the date of the en-
3 actment of this Act, and

4 (B) which would (but for the second sen-
5 tence of paragraph (1)) have been required to
6 withhold with respect to such distribution under
7 section 1445 of such Code,
8 such investment company shall not be liable to any
9 person to whom such distribution was made for any
10 amount so withheld and paid over to the Secretary
11 of the Treasury.

12 **Subtitle B—Extensions Through** 13 **2019**

14 **SEC. 141. EXTENSION OF NEW MARKETS TAX CREDIT.**

15 (a) IN GENERAL.—Section 45D(f)(1)(G) is amended
16 by striking “for 2010, 2011, 2012, 2013, and 2014” and
17 inserting “for each of calendar years 2010 through 2019”.

18 (b) CARRYOVER OF UNUSED LIMITATION.—Section
19 45D(f)(3) is amended by striking “2019” and inserting
20 “2024”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to calendar years beginning after
23 December 31, 2014.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to homes acquired after December
3 31, 2014.

4 **SEC. 189. EXTENSION OF SPECIAL ALLOWANCE FOR SEC-**
5 **OND GENERATION BIOFUEL PLANT PROP-**
6 **ERTY.**

7 (a) IN GENERAL.—Section 168(l)(2)(D) is amended
8 by striking “January 1, 2015” and inserting “January 1,
9 2017”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to property placed in service after
12 December 31, 2014.

13 **SEC. 190. EXTENSION OF ENERGY EFFICIENT COMMERCIAL**
14 **BUILDINGS DEDUCTION.**

15 (a) IN GENERAL.—Section 179D(h) is amended by
16 striking “December 31, 2014” and inserting “December
17 31, 2016”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to property placed in service
20 after December 31, 2014.

1 “(3) COLLECTION PERIOD AFTER ASSESSMENT
2 NOT EXTENDED AS A RESULT OF HOSPITALIZA-
3 TION.—With respect to any period of continuous
4 qualified hospitalization described in subsection (a)
5 and the next 180 days thereafter, subsection (a)
6 shall not apply in the application of section 6502.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to taxes assessed before, on, or
9 after the date of the enactment of this Act.

10 **Subtitle B—Real Estate Investment** 11 **Trusts**

12 **SEC. 311. RESTRICTION ON TAX-FREE SPINOFFS INVOLV-** 13 **ING REITS.**

14 (a) IN GENERAL.—Section 355 is amended by adding
15 at the end the following new subsection:

16 “(h) RESTRICTION ON DISTRIBUTIONS INVOLVING
17 REAL ESTATE INVESTMENT TRUSTS.—

18 “(1) IN GENERAL.—This section (and so much
19 of section 356 as relates to this section) shall not
20 apply to any distribution if either the distributing
21 corporation or controlled corporation is a real estate
22 investment trust.

23 “(2) EXCEPTIONS FOR CERTAIN SPINOFFS.—

24 “(A) SPINOFFS OF A REAL ESTATE IN-
25 VESTMENT TRUST BY ANOTHER REAL ESTATE

1 INVESTMENT TRUST.—Paragraph (1) shall not
2 apply to any distribution if, immediately after
3 the distribution, the distributing corporation
4 and the controlled corporation are both real es-
5 tate investment trusts.

6 “(B) SPINOFFS OF CERTAIN TAXABLE
7 REIT SUBSIDIARIES.—Paragraph (1) shall not
8 apply to any distribution if—

9 “(i) the distributing corporation has
10 been a real estate investment trust at all
11 times during the 3-year period ending on
12 the date of such distribution,

13 “(ii) the controlled corporation has
14 been a taxable REIT subsidiary (as de-
15 fined in section 856(l)) of the distributing
16 corporation at all times during such pe-
17 riod, and

18 “(iii) the distributing corporation had
19 control (as defined in section 368(c) ap-
20 plied by taking into account stock owned
21 directly or indirectly, including through
22 one or more corporations or partnerships,
23 by the distributing corporation) of the con-
24 trolled corporation at all times during such
25 period.

1 A controlled corporation will be treated as
2 meeting the requirements of clauses (ii) and
3 (iii) if the stock of such corporation was distrib-
4 uted by a taxable REIT subsidiary in a trans-
5 action to which this section (or so much of sec-
6 tion 356 as relates to this section) applies and
7 the assets of such corporation consist solely of
8 the stock or assets of assets held by one or
9 more taxable REIT subsidiaries of the distrib-
10 uting corporation meeting the requirements of
11 clauses (ii) and (iii). For purposes of clause
12 (iii), control of a partnership means ownership
13 of 80 percent of the profits interest and 80 per-
14 cent of the capital interests.”.

15 (b) PREVENTION OF REIT ELECTION FOLLOWING
16 TAX-FREE SPIN OFF.—Section 856(c) is amended by re-
17 designating paragraph (8) as paragraph (9) and by insert-
18 ing after paragraph (7) the following new paragraph:

19 “(8) ELECTION AFTER TAX-FREE REORGANIZA-
20 TION.—If a corporation was a distributing corpora-
21 tion or a controlled corporation (other than a con-
22 trolled corporation with respect to a distribution de-
23 scribed in section 355(h)(2)(A)) with respect to any
24 distribution to which section 355 (or so much of sec-
25 tion 356 as relates to section 355) applied, such cor-

1 poration (and any successor corporation) shall not
2 be eligible to make any election under paragraph (1)
3 for any taxable year beginning before the end of the
4 10-year period beginning on the date of such dis-
5 tribution.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to distributions on or after Decem-
8 ber 7, 2015, but shall not apply to any distribution pursu-
9 ant to a transaction described in a ruling request initially
10 submitted to the Internal Revenue Service on or before
11 such date, which request has not been withdrawn and with
12 respect to which a ruling has not been issued or denied
13 in its entirety as of such date.

14 **SEC. 312. REDUCTION IN PERCENTAGE LIMITATION ON AS-**
15 **SETS OF REIT WHICH MAY BE TAXABLE REIT**
16 **SUBSIDIARIES.**

17 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is
18 amended by striking “25 percent” and inserting “20 per-
19 cent”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2017.

1 **SEC. 313. PROHIBITED TRANSACTION SAFE HARBORS.**

2 (a) ALTERNATIVE 3-YEAR AVERAGING TEST FOR
3 PERCENTAGE OF ASSETS THAT CAN BE SOLD ANNU-
4 ALLY.—

5 (1) IN GENERAL.—Clause (iii) of section
6 857(b)(6)(C) is amended by inserting before the
7 semicolon at the end the following: “, or (IV) the
8 trust satisfies the requirements of subclause (II) ap-
9 plied by substituting ‘20 percent’ for ‘10 percent’
10 and the 3-year average adjusted bases percentage
11 for the taxable year (as defined in subparagraph
12 (G)) does not exceed 10 percent, or (V) the trust
13 satisfies the requirements of subclause (III) applied
14 by substituting ‘20 percent’ for ‘10 percent’ and the
15 3-year average fair market value percentage for the
16 taxable year (as defined in subparagraph (H)) does
17 not exceed 10 percent”.

18 (2) 3-YEAR AVERAGE ADJUSTED BASES AND
19 FAIR MARKET VALUE PERCENTAGES.—Paragraph
20 (6) of section 857(b) is amended by redesignating
21 subparagraphs (G) and (H) as subparagraphs (I)
22 and (J), respectively, and by inserting after subpara-
23 graph (F) the following new subparagraphs:

24 “(G) 3-YEAR AVERAGE ADJUSTED BASES
25 PERCENTAGE.—The term ‘3-year average ad-
26 justed bases percentage’ means, with respect to

1 any taxable year, the ratio (expressed as a per-
2 centage) of—

3 “(i) the aggregate adjusted bases (as
4 determined for purposes of computing
5 earnings and profits) of property (other
6 than sales of foreclosure property or sales
7 to which section 1033 applies) sold during
8 the 3 taxable year period ending with such
9 taxable year, divided by

10 “(ii) the sum of the aggregate ad-
11 justed bases (as so determined) of all of
12 the assets of the trust as of the beginning
13 of each of the 3 taxable years which are
14 part of the period referred to in clause (i).

15 “(H) 3-YEAR AVERAGE FAIR MARKET
16 VALUE PERCENTAGE.—The term ‘3-year aver-
17 age fair market value percentage’ means, with
18 respect to any taxable year, the ratio (expressed
19 as a percentage) of—

20 “(i) the fair market value of property
21 (other than sales of foreclosure property or
22 sales to which section 1033 applies) sold
23 during the 3 taxable year period ending
24 with such taxable year, divided by

1 “(ii) the sum of the fair market value
2 of all of the assets of the trust as of the
3 beginning of each of the 3 taxable years
4 which are part of the period referred to in
5 clause (i).”.

6 (3) CONFORMING AMENDMENTS.—Clause (iv)
7 of section 857(b)(6)(D) is amended by adding “or”
8 at the end of subclause (III) and by adding at the
9 end the following new subclauses:

10 “(IV) the trust satisfies the re-
11 quirements of subclause (II) applied
12 by substituting ‘20 percent’ for ‘10
13 percent’ and the 3-year average ad-
14 justed bases percentage for the tax-
15 able year (as defined in subparagraph
16 (G)) does not exceed 10 percent, or

17 “(V) the trust satisfies the re-
18 quirements of subclause (III) applied
19 by substituting ‘20 percent’ for ‘10
20 percent’ and the 3-year average fair
21 market value percentage for the tax-
22 able year (as defined in subparagraph
23 (H)) does not exceed 10 percent,”.

1 (b) APPLICATION OF SAFE HARBORS INDEPENDENT
2 OF DETERMINATION WHETHER REAL ESTATE ASSET IS
3 INVENTORY PROPERTY.—

4 (1) IN GENERAL.—Subparagraphs (C) and (D)
5 of section 857(b)(6) are each amended by striking
6 “and which is described in section 1221(a)(1)” in
7 the matter preceding clause (i).

8 (2) NO INFERENCE FROM SAFE HARBORS.—
9 Subparagraph (F) of section 857(b)(6) is amended
10 to read as follows:

11 “(F) NO INFERENCE WITH RESPECT TO
12 TREATMENT AS INVENTORY PROPERTY.—The
13 determination of whether property is described
14 in section 1221(a)(1) shall be made without re-
15 gard to this paragraph.”.

16 (c) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendments made by
18 subsection (a) shall apply to taxable years beginning
19 after the date of the enactment of this Act.

20 (2) APPLICATION OF SAFE HARBORS.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the amendments made by
23 subsection (b) shall take effect as if included in
24 section 3051 of the Housing Assistance Tax
25 Act of 2008.

1 (B) RETROACTIVE APPLICATION OF NO IN-
2 FERENCE NOT APPLICABLE TO CERTAIN TIM-
3 BER PROPERTY PREVIOUSLY TREATED AS NOT
4 INVENTORY PROPERTY.—The amendment made
5 by subsection (b)(2) shall not apply to any sale
6 of property to which section 857(b)(6)(G) of the
7 Internal Revenue Code of 1986 (as in effect on
8 the day before the date of the enactment of this
9 Act) applies.

10 **SEC. 314. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**
11 **PUBLICLY OFFERED REITS.**

12 (a) IN GENERAL.—Section 562(c) is amended by in-
13 serting “or a publicly offered REIT” after “a publicly of-
14 fered regulated investment company (as defined in section
15 67(c)(2)(B))”.

16 (b) PUBLICLY OFFERED REIT.—Section 562(c), as
17 amended by subsection (a), is amended—

18 (1) by striking “Except in the case of” and in-
19 serting the following:

20 “(1) IN GENERAL.—Except in the case of”, and

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) PUBLICLY OFFERED REIT.—For purposes
24 of this subsection, the term ‘publicly offered REIT’
25 means a real estate investment trust which is re-

1 quired to file annual and periodic reports with the
2 Securities and Exchange Commission under the Se-
3 curities Exchange Act of 1934.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to distributions in taxable years
6 beginning after December 31, 2014.

7 **SEC. 315. AUTHORITY FOR ALTERNATIVE REMEDIES TO AD-**
8 **DRESS CERTAIN REIT DISTRIBUTION FAIL-**
9 **URES.**

10 (a) IN GENERAL.—Subsection (e) of section 562 is
11 amended—

12 (1) by striking “In the case of a real estate in-
13 vestment trust” and inserting the following:

14 “(1) DETERMINATION OF EARNINGS AND PROF-
15 ITS FOR PURPOSES OF DIVIDENDS PAID DEDUC-
16 TION.—In the case of a real estate investment
17 trust”, and

18 (2) by adding at the end the following new
19 paragraph:

20 “(2) AUTHORITY TO PROVIDE ALTERNATIVE
21 REMEDIES FOR CERTAIN FAILURES.—In the case of
22 a failure of a distribution by a real estate investment
23 trust to comply with the requirements of subsection
24 (c), the Secretary may provide an appropriate rem-
25 edy to cure such failure in lieu of not considering

1 the distribution to be a dividend for purposes of
2 computing the dividends paid deduction if—

3 “(A) the Secretary determines that such
4 failure is inadvertent or is due to reasonable
5 cause and not due to willful neglect, or

6 “(B) such failure is of a type of failure
7 which the Secretary has identified for purposes
8 of this paragraph as being described in sub-
9 paragraph (A).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to distributions in taxable years
12 beginning after December 31, 2015.

13 **SEC. 316. LIMITATIONS ON DESIGNATION OF DIVIDENDS BY**
14 **REITS.**

15 (a) IN GENERAL.—Section 857 is amended by redес-
16 ignating subsection (g) as subsection (h) and by inserting
17 after subsection (f) the following new subsection:

18 “(g) LIMITATIONS ON DESIGNATION OF DIVI-
19 DENDS.—

20 “(1) OVERALL LIMITATION.—The aggregate
21 amount of dividends designated by a real estate in-
22 vestment trust under subsections (b)(3)(C) and
23 (c)(2)(A) with respect to any taxable year may not
24 exceed the dividends paid by such trust with respect
25 to such year. For purposes of the preceding sen-

1 tence, dividends paid after the close of the taxable
2 year described in section 858 shall be treated as
3 paid with respect to such year.

4 “(2) **PROPORTIONALITY.**—The Secretary may
5 prescribe regulations or other guidance requiring the
6 proportionality of the designation of particular types
7 of dividends among shares or beneficial interests of
8 a real estate investment trust.”.

9 (b) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to distributions in taxable years
11 beginning after December 31, 2015.

12 **SEC. 317. DEBT INSTRUMENTS OF PUBLICLY OFFERED**
13 **REITS AND MORTGAGES TREATED AS REAL**
14 **ESTATE ASSETS.**

15 (a) **DEBT INSTRUMENTS OF PUBLICLY OFFERED**
16 **REITS TREATED AS REAL ESTATE ASSETS.**—

17 (1) **IN GENERAL.**—Subparagraph (B) of section
18 856(c)(5) is amended—

19 (A) by striking “and shares” and inserting
20 “, shares”, and

21 (B) by inserting “, and debt instruments
22 issued by publicly offered REITs” before the
23 period at the end of the first sentence.

24 (2) **INCOME FROM NONQUALIFIED DEBT IN-**
25 **STRUMENTS OF PUBLICLY OFFERED REITS NOT**

1 QUALIFIED FOR PURPOSES OF SATISFYING THE 75
2 PERCENT GROSS INCOME TEST.—Subparagraph (H)
3 of section 856(c)(3) is amended by inserting “(other
4 than a nonqualified publicly offered REIT debt in-
5 strument)” after “real estate asset”.

6 (3) 25 PERCENT ASSET LIMITATION ON HOLD-
7 ING OF NONQUALIFIED DEBT INSTRUMENTS OF PUB-
8 LICLY OFFERED REITS.—Subparagraph (B) of sec-
9 tion 856(c)(4) is amended by redesignating clause
10 (iii) as clause (iv) and by inserting after clause (ii)
11 the following new clause:

12 “(iii) not more than 25 percent of the
13 value of its total assets is represented by
14 nonqualified publicly offered REIT debt in-
15 struments, and”.

16 (4) DEFINITIONS RELATED TO DEBT INSTRU-
17 MENTS OF PUBLICLY OFFERED REITS.—Paragraph
18 (5) of section 856(c) is amended by adding at the
19 end the following new subparagraph:

20 “(L) DEFINITIONS RELATED TO DEBT IN-
21 STRUMENTS OF PUBLICLY OFFERED REITS.—

22 “(i) PUBLICLY OFFERED REIT.—The
23 term ‘publicly offered REIT’ has the
24 meaning given such term by section
25 562(c)(2).

1 “(ii) NONQUALIFIED PUBLICLY OF-
2 FERED REIT DEBT INSTRUMENT.—The
3 term ‘nonqualified publicly offered REIT
4 debt instrument’ means any real estate
5 asset which would cease to be a real estate
6 asset if subparagraph (B) were applied
7 without regard to the reference to ‘debt in-
8 struments issued by publicly offered
9 REITs’.”.

10 (b) INTERESTS IN MORTGAGES ON INTERESTS IN
11 REAL PROPERTY TREATED AS REAL ESTATE ASSETS.—
12 Subparagraph (B) of section 856(c)(5) is amended by in-
13 serting “or on interests in real property” after “interests
14 in mortgages on real property”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2015.

18 **SEC. 318. ASSET AND INCOME TEST CLARIFICATION RE-**
19 **GARDING ANCILLARY PERSONAL PROPERTY.**

20 (a) IN GENERAL.—Subsection (c) of section 856, as
21 amended by the preceding provisions of this Act, is amend-
22 ed by redesignating paragraph (9) as paragraph (10) and
23 by inserting after paragraph (8) the following new para-
24 graph:

1 “(9) SPECIAL RULES FOR CERTAIN PERSONAL
2 PROPERTY WHICH IS ANCILLARY TO REAL PROP-
3 PERTY.—

4 “(A) CERTAIN PERSONAL PROPERTY
5 LEASED IN CONNECTION WITH REAL PROP-
6 PERTY.—Personal property shall be treated as a
7 real estate asset for purposes of paragraph
8 (4)(A) to the extent that rents attributable to
9 such personal property are treated as rents
10 from real property under subsection (d)(1)(C).

11 “(B) CERTAIN PERSONAL PROPERTY
12 MORTGAGED IN CONNECTION WITH REAL PROP-
13 PERTY.—In the case of an obligation secured by
14 a mortgage on both real property and personal
15 property, if the fair market value of such per-
16 sonal property does not exceed 15 percent of
17 the total fair market value of all such property,
18 such obligation shall be treated—

19 “(i) for purposes of paragraph (3)(B),
20 as an obligation described therein, and

21 “(ii) for purposes of paragraph
22 (4)(A), as a real estate asset.

23 For purposes of the preceding sentence, the fair
24 market value of all such property shall be deter-
25 mined in the same manner as the fair market

1 value of real property is determined for pur-
2 poses of apportioning interest income between
3 real property and personal property under para-
4 graph (3)(B).”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2015.

8 **SEC. 319. HEDGING PROVISIONS.**

9 (a) **MODIFICATION TO PERMIT THE TERMINATION**
10 **OF A HEDGING TRANSACTION USING AN ADDITIONAL**
11 **HEDGING INSTRUMENT.**—Subparagraph (G) of section
12 856(e)(5) is amended by striking “and” at the end of
13 clause (i), by striking the period at the end of clause (ii)
14 and inserting “, and”, and by adding at the end the fol-
15 lowing new clause:

16 “(iii) if—

17 “(I) a real estate investment
18 trust enters into one or more positions
19 described in clause (i) with respect to
20 indebtedness described in clause (i) or
21 one or more positions described in
22 clause (ii) with respect to property
23 which generates income or gain de-
24 scribed in paragraph (2) or (3),

1 “(II) any portion of such indebt-
2 edness is extinguished or any portion
3 of such property is disposed of, and

4 “(III) in connection with such ex-
5 tinguishment or disposition, such
6 trust enters into one or more trans-
7 actions which would be hedging trans-
8 actions described in clause (ii) or (iii)
9 of section 1221(b)(2)(A) with respect
10 to any position referred to in sub-
11 clause (I) if such position were ordi-
12 nary property,

13 any income of such trust from any position
14 referred to in subclause (I) and from any
15 transaction referred to in subclause (III)
16 (including gain from the termination of
17 any such position or transaction) shall not
18 constitute gross income under paragraphs
19 (2) and (3) to the extent that such trans-
20 action hedges such position.”.

21 (b) IDENTIFICATION REQUIREMENTS.—

22 (1) IN GENERAL.—Subparagraph (G) of section
23 856(c)(5), as amended by subsection (a), is amended
24 by striking “and” at the end of clause (ii), by strik-
25 ing the period at the end of clause (iii) and inserting

1 “, and”, and by adding at the end the following new
2 clause:

3 “(iv) clauses (i), (ii), and (iii) shall
4 not apply with respect to any transaction
5 unless such transaction satisfies the identi-
6 fication requirement described in section
7 1221(a)(7) (determined after taking into
8 account any curative provisions provided
9 under the regulations referred to there-
10 in).”.

11 (2) CONFORMING AMENDMENTS.—Subpara-
12 graph (G) of section 856(e)(5) is amended—

13 (A) by striking “which is clearly identified
14 pursuant to section 1221(a)(7)” in clause (i),
15 and

16 (B) by striking “, but only if such trans-
17 action is clearly identified as such before the
18 close of the day on which it was acquired, origi-
19 nated, or entered into (or such other time as
20 the Secretary may prescribe)” in clause (ii).

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2015.

1 **SEC. 320. MODIFICATION OF REIT EARNINGS AND PROFITS**
2 **CALCULATION TO AVOID DUPLICATE TAX-**
3 **ATION.**

4 (a) EARNINGS AND PROFITS NOT INCREASED BY
5 AMOUNTS ALLOWED IN COMPUTING TAXABLE INCOME IN
6 PRIOR YEARS.—Section 857(d) is amended—

7 (1) by amending paragraph (1) to read as fol-
8 lows:

9 “(1) IN GENERAL.—The earnings and profits of
10 a real estate investment trust for any taxable year
11 (but not its accumulated earnings) shall not be re-
12 duced by any amount which—

13 “(A) is not allowable in computing its tax-
14 able income for such taxable year, and

15 “(B) was not allowable in computing its
16 taxable income for any prior taxable year.”, and

17 (2) by adding at the end the following new
18 paragraphs:

19 “(4) REAL ESTATE INVESTMENT TRUST.—For
20 purposes of this subsection, the term ‘real estate in-
21 vestment trust’ includes a domestic corporation,
22 trust, or association which is a real estate invest-
23 ment trust determined without regard to the require-
24 ments of subsection (a).

25 “(5) SPECIAL RULES FOR DETERMINING EARN-
26 INGS AND PROFITS FOR PURPOSES OF THE DEDUC-

1 TION FOR DIVIDENDS PAID.—For special rules for
2 determining the earnings and profits of a real estate
3 investment trust for purposes of the deduction for
4 dividends paid, see section 562(e)(1).”.

5 (b) EXCEPTION FOR PURPOSES OF DETERMINING
6 DIVIDENDS PAID DEDUCTION.—Section 562(e)(1), as
7 amended by the preceding provisions of this Act, is amend-
8 ed by striking “deduction, the earnings” and all that fol-
9 lows and inserting the following: “deduction—

10 “(A) the earnings and profits of such trust
11 for any taxable year (but not its accumulated
12 earnings) shall be increased by the amount of
13 gain (if any) on the sale or exchange of real
14 property which is taken into account in deter-
15 mining the taxable income of such trust for
16 such taxable year (and not otherwise taken into
17 account in determining such earnings and prof-
18 its), and

19 “(B) section 857(d)(1) shall be applied
20 without regard to subparagraph (B) thereof.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2015.

1 **SEC. 321. TREATMENT OF CERTAIN SERVICES PROVIDED**
2 **BY TAXABLE REIT SUBSIDIARIES.**

3 (a) TAXABLE REIT SUBSIDIARIES TREATED IN
4 SAME MANNER AS INDEPENDENT CONTRACTORS FOR
5 CERTAIN PURPOSES.—

6 (1) MARKETING AND DEVELOPMENT EXPENSES
7 UNDER RENTAL PROPERTY SAFE HARBOR.—Clause
8 (v) of section 857(b)(6)(C) is amended by inserting
9 “or a taxable REIT subsidiary” before the period at
10 the end.

11 (2) MARKETING EXPENSES UNDER TIMBER
12 SAFE HARBOR.—Clause (v) of section 857(b)(6)(D)
13 is amended by striking “, in the case of a sale on
14 or before the termination date,”.

15 (3) FORECLOSURE PROPERTY GRACE PERIOD.—
16 Subparagraph (C) of section 856(e)(4) is amended
17 by inserting “or through a taxable REIT subsidiary”
18 after “receive any income”.

19 (b) TAX ON REDETERMINED TRS SERVICE IN-
20 COME.—

21 (1) IN GENERAL.—Subparagraph (A) of section
22 857(b)(7) is amended by striking “and excess inter-
23 est” and inserting “excess interest, and redeter-
24 mined TRS service income”.

25 (2) REDETERMINED TRS SERVICE INCOME.—
26 Paragraph (7) of section 857(b) is amended by re-

1 designating subparagraphs (E) and (F) as subpara-
2 graphs (F) and (G), respectively, and inserting after
3 subparagraph (D) the following new subparagraph:

4 “(E) REDETERMINED TRS SERVICE IN-
5 COME.—

6 “(i) IN GENERAL.—The term ‘redeter-
7 mined TRS service income’ means gross
8 income of a taxable REIT subsidiary of a
9 real estate investment trust attributable to
10 services provided to, or on behalf of, such
11 trust (less deductions properly allocable
12 thereto) to the extent the amount of such
13 income (less such deductions) would (but
14 for subparagraph (F)) be increased on dis-
15 tribution, apportionment, or allocation
16 under section 482.

17 “(ii) COORDINATION WITH REDETER-
18 MINED RENTS.—Clause (i) shall not apply
19 with respect to gross income attributable
20 to services furnished or rendered to a ten-
21 ant of the real estate investment trust (or
22 to deductions properly allocable thereto).”.

23 (3) CONFORMING AMENDMENTS.—Subpara-
24 graphs (B)(i) and (C) of section 857(b)(7) are each

1 amended by striking “subparagraph (E)” and insert-
2 ing “subparagraph (F)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2015.

6 **SEC. 322. EXCEPTION FROM FIRPTA FOR CERTAIN STOCK**
7 **OF REITS.**

8 (a) MODIFICATIONS OF OWNERSHIP RULES.—

9 (1) IN GENERAL.—Section 897 is amended by
10 adding at the end the following new subsection:

11 “(k) SPECIAL RULES RELATING TO REAL ESTATE
12 INVESTMENT TRUSTS.—

13 “(1) INCREASE IN PERCENTAGE OWNERSHIP
14 FOR EXCEPTIONS FOR PERSONS HOLDING PUBLICLY
15 TRADED STOCK.—

16 “(A) DISPOSITIONS.—In the case of any
17 disposition of stock in a real estate investment
18 trust, paragraphs (3) and (6)(C) of subsection
19 (c) shall each be applied by substituting ‘more
20 than 10 percent’ for ‘more than 5 percent’.

21 “(B) DISTRIBUTIONS.—In the case of any
22 distribution from a real estate investment trust,
23 subsection (h)(1) shall be applied by sub-
24 stituting ‘10 percent’ for ‘5 percent’.

1 “(2) STOCK HELD BY QUALIFIED SHARE-
2 HOLDERS NOT TREATED AS USRPI.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B)—

5 “(i) stock of a real estate investment
6 trust which is held directly (or indirectly
7 through 1 or more partnerships) by a
8 qualified shareholder shall not be treated
9 as a United States real property interest,
10 and

11 “(ii) notwithstanding subsection
12 (h)(1), any distribution to a qualified
13 shareholder shall not be treated as gain
14 recognized from the sale or exchange of a
15 United States real property interest to the
16 extent the stock of the real estate invest-
17 ment trust held by such qualified share-
18 holder is not treated as a United States
19 real property interest under clause (i).

20 “(B) EXCEPTION.—In the case of a quali-
21 fied shareholder with 1 or more applicable in-
22 vestors—

23 “(i) subparagraph (A)(i) shall not
24 apply to so much of the stock of a real es-
25 tate investment trust held by a qualified

1 shareholder as bears the same ratio to the
2 value of the interests (other than interests
3 held solely as a creditor) held by such ap-
4 plicable investors in the qualified share-
5 holder bears to value of all interests (other
6 than interests held solely as a creditor) in
7 the qualified shareholder, and

8 “(ii) a percentage equal to the ratio
9 determined under clause (i) of the amounts
10 realized by the qualified shareholder with
11 respect to any disposition of stock in the
12 real estate investment trust or with respect
13 to any distribution from the real estate in-
14 vestment trust attributable to gain from
15 sales or exchanges of a United States real
16 property interest shall be treated as
17 amounts realized from the disposition of
18 United States real property interests.

19 “(C) SPECIAL RULE FOR CERTAIN DIS-
20 TRIBUTIONS TREATED AS SALE OR EX-
21 CHANGE.—If a distribution by a real estate in-
22 vestment trust is treated as a sale or exchange
23 of stock under section 301(e)(3), 302, or 331
24 with respect to a qualified shareholder—

1 “(i) in the case of an applicable inves-
2 tor, subparagraph (B) shall apply with re-
3 spect to such distribution, and

4 “(ii) in the case of any other person,
5 such distribution shall be treated under
6 section 857(b)(3)(F) as a dividend from a
7 real estate investment trust notwith-
8 standing any other provision of this title.

9 “(D) APPLICABLE INVESTOR.—For pur-
10 poses of this paragraph, the term ‘applicable in-
11 vestor’ means, with respect to any qualified
12 shareholder holding stock in a real estate in-
13 vestment trust, a person (other than a qualified
14 shareholder) which—

15 “(i) holds an interest (other than an
16 interest solely as a creditor) in such quali-
17 fied shareholder, and

18 “(ii) holds more than 10 percent of
19 the stock of such real estate investment
20 trust (whether or not by reason of the per-
21 son’s ownership interest in the qualified
22 shareholder).

23 “(E) CONSTRUCTIVE OWNERSHIP
24 RULES.—For purposes of subparagraphs (B)(i)
25 and (C) and paragraph (4), the constructive

1 ownership rules under subsection (c)(6)(C) shall
2 apply.

3 “(3) QUALIFIED SHAREHOLDER.—For purposes
4 of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified
6 shareholder’ means a foreign person which—

7 “(i)(I) is eligible for benefits of a com-
8 prehensive income tax treaty with the
9 United States which includes an exchange
10 of information program and the principal
11 class of interests of which is listed and reg-
12 ularly traded on 1 or more recognized
13 stock exchanges (as defined in such com-
14 prehensive income tax treaty), or

15 “(II) is a foreign partnership that is
16 created or organized under foreign law as
17 a limited partnership in a jurisdiction that
18 has an agreement for the exchange of in-
19 formation with respect to taxes with the
20 United States and has a class of limited
21 partnership units which is regularly traded
22 on the New York Stock Exchange or
23 Nasdaq Stock Market and such class of
24 limited partnership units value is greater

1 than 50 percent of the value of all the
2 partnership units,

3 “(ii) is a qualified collective invest-
4 ment vehicle, and

5 “(iii) maintains records on the iden-
6 tity of each person who, at any time during
7 the foreign person’s taxable year, holds di-
8 rectly 5 percent or more of the class of in-
9 terest described in subclause (I) or (II) of
10 clause (i), as the case may be.

11 “(B) QUALIFIED COLLECTIVE INVEST-
12 MENT VEHICLE.—For purposes of this sub-
13 section, the term ‘qualified collective investment
14 vehicle’ means a foreign person—

15 “(i) which, under the comprehensive
16 income tax treaty described in subpara-
17 graph (A)(i), is eligible for a reduced rate
18 of withholding with respect to ordinary
19 dividends paid by a real estate investment
20 trust even if such person holds more than
21 10 percent of the stock of such real estate
22 investment trust,

23 “(ii) which—

24 “(I) is a publicly traded partner-
25 ship (as defined in section 7704(b)) to

1 which subsection (a) of section 7704
2 does not apply,

3 “(II) is a withholding foreign
4 partnership for purposes of chapters
5 3, 4, and 61,

6 “(III) if such foreign partnership
7 were a United States corporation,
8 would be a United States real prop-
9 erty holding corporation (determined
10 without regard to paragraph (1)) at
11 any time during the 5-year period
12 ending on the date of disposition of,
13 or distribution with respect to, such
14 partnership’s interests in a real estate
15 investment trust, or

16 “(iii) which is designated as a quali-
17 fied collective investment vehicle by the
18 Secretary and is either—

19 “(I) fiscally transparent within
20 the meaning of section 894, or

21 “(II) required to include divi-
22 dends in its gross income, but entitled
23 to a deduction for distributions to per-
24 sons holding interests (other than in-

1 terests solely as a creditor) in such
2 foreign person.

3 “(4) PARTNERSHIP ALLOCATIONS.—

4 “(A) IN GENERAL.—For the purposes of
5 this subsection, in the case of an applicable in-
6 vestor who is a nonresident alien individual or
7 a foreign corporation and is a partner in a part-
8 nership that is a qualified shareholder, if such
9 partner’s proportionate share of USRPI gain
10 for the taxable year exceeds such partner’s dis-
11 tributive share of USRPI gain for the taxable
12 year, then

13 “(i) such partner’s distributive share
14 of the amount of gain taken into account
15 under subsection (a)(1) by the partner for
16 the taxable year (determined without re-
17 gard to this paragraph) shall be increased
18 by the amount of such excess, and

19 “(ii) such partner’s distributive share
20 of items of income or gain for the taxable
21 year that are not treated as gain taken
22 into account under subsection (a)(1) (de-
23 termined without regard to this paragraph)
24 shall be decreased (but not below zero) by
25 the amount of such excess.

1 “(B) USRPI GAIN.—For the purposes of
2 this paragraph, the term ‘USRPI gain’ means
3 the excess (if any) of—

4 “(i) the sum of—

5 “(I) any gain recognized from
6 the disposition of a United States real
7 property interest, and

8 “(II) any distribution by a real
9 estate investment trust that is treated
10 as gain recognized from the sale or
11 exchange of a United States real
12 property interest, over

13 “(ii) any loss recognized from the dis-
14 position of a United States real property
15 interest.

16 “(C) PROPORTIONATE SHARE OF USRPI
17 GAIN.—For purposes of this paragraph, an ap-
18 plicable investor’s proportionate share of
19 USRPI gain shall be determined on the basis of
20 such investor’s share of partnership items of in-
21 come or gain (excluding gain allocated under
22 section 704(c)), whichever results in the largest
23 proportionate share. If the investor’s share of
24 partnership items of income or gain (excluding
25 gain allocated under section 704(c)) may vary

1 during the period such investor is a partner in
2 the partnership, such share shall be the highest
3 share such investor may receive.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 897(c)(1)(A) is amended by in-
6 serting “or subsection (k)” after “subparagraph
7 (B)” in the matter preceding clause (i).

8 (B) Section 857(b)(3)(F) is amended by
9 inserting “or subparagraph (A)(ii) or (C) of
10 section 897(k)(2)” after “897(h)(1)”.

11 (b) DETERMINATION OF DOMESTIC CONTROL.—

12 (1) SPECIAL OWNERSHIP RULES.—

13 (A) IN GENERAL.—Section 897(h)(4) is
14 amended by adding at the end the following
15 new subparagraph:

16 “(E) SPECIAL OWNERSHIP RULES.—For
17 purposes of determining the holder of stock
18 under subparagraphs (B) and (C)—

19 “(i) in the case of any class of stock
20 of the qualified investment entity which is
21 regularly traded on an established securi-
22 ties market in the United States, a person
23 holding less than 5 percent of such class of
24 stock at all times during the testing period
25 shall be treated as a United States person

1 unless the qualified investment entity has
2 actual knowledge that such person is not a
3 United States person,

4 “(ii) any stock in the qualified invest-
5 ment entity held by another qualified in-
6 vestment entity—

7 “(I) any class of stock of which
8 is regularly traded on an established
9 securities market, or

10 “(II) which is a regulated invest-
11 ment company which issues redeem-
12 able securities (within the meaning of
13 section 2 of the Investment Company
14 Act of 1940),

15 shall be treated as held by a foreign per-
16 son, except that if such other qualified in-
17 vestment entity is domestically controlled
18 (determined after application of this sub-
19 paragraph), such stock shall be treated as
20 held by a United States person, and

21 “(iii) any stock in the qualified invest-
22 ment entity held by any other qualified in-
23 vestment entity not described in subclause
24 (I) or (II) of clause (ii) shall only be treat-
25 ed as held by a United States person in

1 proportion to the stock of such other quali-
2 fied investment entity which is (or is treat-
3 ed under clause (ii) or (iii) as) held by a
4 United States person.”.

5 (B) CONFORMING AMENDMENT.—The
6 heading for paragraph (4) of section 897(h) is
7 amended by inserting “AND SPECIAL RULES”
8 after “DEFINITIONS”.

9 (2) TECHNICAL AMENDMENT.—Clause (ii) of
10 section 897(h)(4)(A) is amended by inserting “and
11 for purposes of determining whether a real estate in-
12 vestment trust is a domestically controlled qualified
13 investment entity under this subsection” after “real
14 estate investment trust”.

15 (c) EFFECTIVE DATES.—

16 (1) IN GENERAL.—The amendments made by
17 subsection (a) shall take effect on the date of enact-
18 ment and shall apply to—

19 (A) any disposition on and after the date
20 of the enactment of this Act, and

21 (B) any distribution by a real estate in-
22 vestment trust on or after the date of the en-
23 actment of this Act which is treated as a deduc-
24 tion for a taxable year of such trust ending
25 after such date.

1 (2) DETERMINATION OF DOMESTIC CONTROL.—
2 The amendments made by subsection (b)(1) shall
3 take effect on the date of the enactment of this Act.

4 (3) TECHNICAL AMENDMENT.—The amendment
5 made by subsection (b)(2) shall take effect on Janu-
6 ary 1, 2015.

7 **SEC. 323. EXCEPTION FOR INTERESTS HELD BY FOREIGN**
8 **RETIREMENT OR PENSION FUNDS.**

9 (a) IN GENERAL.—Section 897, as amended by the
10 preceding provisions of this Act, is amended by adding at
11 the end the following new subsection:

12 “(1) EXCEPTION FOR INTERESTS HELD BY FOREIGN
13 PENSION FUNDS.—

14 “(1) IN GENERAL.—This section shall not apply
15 to any United States real property interest held di-
16 rectly (or indirectly through 1 or more partnerships)
17 by, or to any distribution received from a real estate
18 investment trust by—

19 “(A) a qualified foreign pension fund, or

20 “(B) any entity all of the interests of
21 which are held by a qualified foreign pension
22 fund.

23 “(2) QUALIFIED FOREIGN PENSION FUND.—

24 For purposes of this subsection, the term ‘qualified

1 foreign pension fund’ means any trust, corporation,
2 or other organization or arrangement—

3 “(A) which is created or organized under
4 the law of a country other than the United
5 States,

6 “(B) which is established to provide retire-
7 ment or pension benefits to participants or
8 beneficiaries that are current or former employ-
9 ees (or persons designated by such employees)
10 of one or more employers in consideration for
11 services rendered,

12 “(C) which does not have a single partici-
13 pant or beneficiary with a right to more than
14 five percent of its assets or income,

15 “(D) which is subject to government regu-
16 lation and provides annual information report-
17 ing about its beneficiaries to the relevant tax
18 authorities in the country in which it is estab-
19 lished or operates, and

20 “(E) with respect to which, under the laws
21 of the country in which it is established or oper-
22 ates—

23 “(i) contributions to such trust, cor-
24 poration, organization, or arrangement
25 which would otherwise be subject to tax

1 under such laws are deductible or excluded
2 from the gross income of such entity or
3 taxed at a reduced rate, or

4 “(ii) taxation of any investment in-
5 come of such trust, corporation, organiza-
6 tion or arrangement is deferred or such in-
7 come is taxed at a reduced rate.

8 “(3) REGULATIONS.—The Secretary shall pre-
9 scribe such regulations as may be necessary or ap-
10 propriate to carry out the purposes of this sub-
11 section.”.

12 (b) EXEMPTION FROM WITHHOLDING.—Section
13 1445(f)(3) is amended by striking “any person” and all
14 that follows and inserting the following: “any person other
15 than—

16 “(A) a United States person, and

17 “(B) except as otherwise provided by the
18 Secretary, an entity with respect to which sec-
19 tion 897 does not apply by reason of subsection
20 (l) thereof.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to dispositions and distributions
23 after the date of the enactment of this Act.

1 **SEC. 324. INCREASE IN RATE OF WITHHOLDING OF TAX ON**
2 **DISPOSITIONS OF UNITED STATES REAL**
3 **PROPERTY INTERESTS.**

4 (a) IN GENERAL.—Subsections (a), (e)(3), (e)(4),
5 and (e)(5) of section 1445 are each amended by striking
6 “10 percent” and inserting “15 percent”.

7 (b) EXCEPTION FOR CERTAIN RESIDENCES.—Sec-
8 tion 1445(e) is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(4) REDUCED RATE OF WITHHOLDING FOR
11 RESIDENCE WHERE AMOUNT REALIZED DOES NOT
12 EXCEED \$1,000,000.—In the case of a disposition—

13 “(A) of property which is acquired by the
14 transferee for use by the transferee as a resi-
15 dence,

16 “(B) with respect to which the amount re-
17 alized for such property does not exceed
18 \$1,000,000, and

19 “(C) to which subsection (b)(5) does not
20 apply,

21 subsection (a) shall be applied by substituting ‘10
22 percent’ for ‘15 percent’.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to dispositions after the date which
25 is 60 days after the date of the enactment of this Act.

1 **SEC. 325. INTERESTS IN RICS AND REITS NOT EXCLUDED**
2 **FROM DEFINITION OF UNITED STATES REAL**
3 **PROPERTY INTERESTS.**

4 (a) IN GENERAL.—Section 897(c)(1)(B) is amended
5 by striking “and” at the end of clause (i), by striking the
6 period at the end of clause (ii)(II) and inserting “, and”,
7 and by adding at the end the following new clause:

8 “(iii) neither such corporation nor any
9 predecessor of such corporation was a reg-
10 ulated investment company or a real estate
11 investment trust at any time during the
12 shorter of the periods described in sub-
13 paragraph (A)(ii).”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to dispositions on or after the date
16 of the enactment of this Act.

17 **SEC. 326. DIVIDENDS DERIVED FROM RICS AND REITS IN-**
18 **ELIGIBLE FOR DEDUCTION FOR UNITED**
19 **STATES SOURCE PORTION OF DIVIDENDS**
20 **FROM CERTAIN FOREIGN CORPORATIONS.**

21 (a) IN GENERAL.—Section 245(a) is amended by
22 adding at the end the following new paragraph:

23 “(12) DIVIDENDS DERIVED FROM RICS AND
24 REITS INELIGIBLE FOR DEDUCTION.—Regulated in-
25 vestment companies and real estate investment

1 trusts shall not be treated as domestic corporations
2 for purposes of paragraph (5)(B).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to dividends received from regu-
5 lated investment companies and real estate investment
6 trusts on or after the date of the enactment of this Act.

7 (c) **NO INFERENCE.**—Nothing contained in this sec-
8 tion or the amendments made by this section shall be con-
9 strued to create any inference with respect to the proper
10 treatment under section 245 of the Internal Revenue Code
11 of 1986 of dividends received from regulated investment
12 companies or real estate investment trusts before the date
13 of the enactment of this Act.

14 **Subtitle C—Additional Provisions**

15 **SEC. 331. DEDUCTIBILITY OF CHARITABLE CONTRIBU-** 16 **TIONS TO AGRICULTURAL RESEARCH ORGA-** 17 **NIZATIONS.**

18 (a) **IN GENERAL.**—Subparagraph (A) of section
19 170(b)(1) is amended by striking “or” at the end of clause
20 (vii), by striking the comma at the end of clause (viii) and
21 inserting “, or”, and by inserting after clause (viii) the
22 following new clause:

23 “(ix) an agricultural research organi-
24 zation directly engaged in the continuous
25 active conduct of agricultural research (as