Digest of the Small Business and Work Opportunity Tax Act of 2007 (P. L. No. 110-28; May 25, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§§1(g)(2)(A) and (g)(2)(A)(i)	**Kiddie tax generally will apply to children up to age 18, and full-time students up to age 23, for tax years beginning after May 25, 2007** Under the "kiddie tax" rules, the unearned income (i.e., investment income) of specified children that exceeds an inflation-adjusted prescribed amount ($1,700 for 2007) is taxed to the children, but at the rates that would apply if that income were included in the parent's return, if that rate is higher than the child's rate. Under pre-Act law, the kiddie tax applied to a child who: (1) hadn't attained the age of 18 at the close of the tax year; (2) had at least one living parent at the close of the tax year; and (3) didn't file a joint return for the tax year. The Act expands the kiddie tax rules to apply to children age 18, and children over age 18 but under age 24 who are full-time students. But the expanded provision applies only to children whose earned income doesn't exceed one-half of the amount of their support. Effective Date: Tax years beginning after May 25, 2007.
§38(c)(4)(B)	**Work opportunity tax credit (WOTC) and FICA tip credit can offset 100% of alternative minimum tax (AMT) liability** The provision treats the tentative minimum tax as being zero for purposes of determining the tax liability limitation with respect to the WOTC and the FICA tip credit. Thus, the WOTC and the FICA tip credit can offset the taxpayer's AMT liability. Effective Date: WOTCs and FICA tip credits determined in tax years beginning after December 31, 2006.
§45B(b)(1)(B)	**FICA tip credit isn't reduced by any increase in the minimum wage** The provision modifies part of the definition of "excess employer social security tax" to provide that the tips have to exceed the amount by which the wages (excluding tips) paid by the employer to the employee during the month are less than the total amount which would be payable (with respect to the employment) at the minimum wage rate applicable to the individual under §6(a)(1) of FLSA as in effect on January 1, 2007 (determined without regard to §3(m) of FLSA). Thus, the amount of the FICA tip credit is based on the amount of tips in excess of those treated as wages for purposes of the FLSA as in effect on January 1, 2007. That is, under the Act, the FICA tip credit is determined based on a minimum wage of $5.15 per hour. If the amount of the minimum wage increases, the amount of the FICA tip credit will not be reduced.

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Effective Date: Tips received for services performed after December 31, 2006.

§§51(b)(3), (d)(3)(A), and (d)(3)(C)

An enhanced work opportunity credit is made available for the employment of certain disabled veterans

A work opportunity tax credit (WOTC) is available on an elective basis to an employer for a percentage of limited amounts of wages paid or incurred by the employer to individuals who belong to "targeted groups". One of the targeted groups is "qualified veterans".

Under pre-Act law, a "qualified veteran" included only an individual who: (1) was a "veteran," which requires that a person be certified by the designated local agency as—(a) having served on active duty (other than for training) in the U.S. Armed Forces for more than 180 days or having been discharged or released from active duty in the U.S. Armed Forces for a service-connected disability; and (b) if, the individual served a period of active duty of more than 90 days (other than for training), none of that more-than-90-day period was during the 60-day period ending on the hiring date; and (2) was certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of '77 for a three-month period ending during the 12-month period ending on the hiring date (the Food Stamp requirement).

The definition of qualified veteran provided by the Act is an expansion of the pre-Act definition of qualified veteran. The Act provides that a "qualified veteran" is an individual that is a veteran (as defined above) and is certified by the designated local agency as: (1) meeting the Food Stamp requirement or (2) entitled to compensation for a service-connected disability, and having a hiring date that isn't more than one year after having been discharged or released from active duty in the U.S. Armed Forces, or having aggregate periods of unemployment during the 1-year period ending on the hiring date that equal or exceed six months (the compensation-for-disability requirement). For purposes of the compensation-for-disability requirement, the terms "compensation" and "service-connected" have the meanings given under §101 of United States Code, Title 38.

Also, under pre-Act law, the maximum WOTC available with respect to any employee that was a qualified veteran was $2,400, i.e., 40% of up to $6,000 of qualified first-year wages. The $2,400 maximum per-employee credit limit, based on taking into 40% of up to $6,000 of qualified first-year wages, applies to most targeted groups for which the WOTC is available. The Act raises the maximum qualified first-year wages to $12,000, raising the maximum credit to $4,800.

Effective Date: Individuals who begin work for the employer after May 25, 2007.

§51(c)(4)(B)

Work opportunity credit is extended 44 months to Aug. 31, 2011 for most targeted groups

A work opportunity tax credit (WOTC) is available on an elective basis to an employer for a percentage of limited amounts of wages paid or incurred by the employer to individuals who belong to a "targeted group".

The term "wages" (for purposes of determining the amount of the WOTC) doesn't include any amount paid or incurred to an individual who begins work for the employer after December 31, 2007. The Act extends the credit to individuals who begin work for the

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employer before September 1, 2011.

Effective Date: Individuals who begin work for the employer after May 25, 2007 and before Sept. 1, 2011.

§§51(d)(1)(D) and (d)(5)

Work opportunity credit "high-risk youths" are renamed as "designated community residents" and age and geographical requirements are relaxed

A work opportunity tax credit (WOTC) is available on an elective basis to an employer for a percentage of limited amounts of wages paid or incurred by the employer to individuals who belong to "targeted groups."

Under pre-Act law, one of the "targeted groups" was "high-risk youths." An individual qualified as a "high-risk youth" if certified by a designated local agency as (1) having his principal place of abode within an empowerment zone, enterprise community or renewal community, (2) having attained the age of 18 on the hiring date and (3) not having attained the age of 25 on the hiring date. Additionally, wages that qualified for the WOTC because they are paid or incurred to a "high-risk youth" didn't include wages paid or incurred for services performed while the youth's principal place of abode was outside an empowerment zone, enterprise community or renewal community.

The Act renames the targeted group consisting of "high risk youths" as "designated community residents" and expands the individuals that qualify to include otherwise qualifying individuals age 18 but not yet 40 on the hiring date and otherwise qualifying individuals from rural renewal counties. A "rural renewal county" is any county that: (1) is outside a metropolitan statistical area (as defined by the Office of Management and Budget), and (2) during the 5-year periods '90 through '94 and '95 through '99 had a net population loss.

Effective Date: Individuals who begin work for the employer after May 25, 2007.

§51(d)(6)(B)(iii)

Work opportunity credit targeted group of "vocational rehabilitation referrals" is expanded to cover "Ticket to Work" plan participants

A work opportunity tax credit (WOTC) is available on an elective basis to an employer for a percentage of limited amounts of wages paid or incurred by the employer to individuals who belong to "targeted groups". One of the targeted groups is "vocational rehabilitation referrals".

A "vocational rehabilitation referral" is an individual who is certified by a designated local agency as (1) having a physical or mental disability that, for the individual, is, or results in, a substantial handicap to employment, and (2) having been referred to the employer while receiving, or after completing, specified rehabilitative services. Under pre-Act law, the specification for the rehabilitative services was that they be provided under one of the following two formats: (1) an individualized written plan for employment under a state plan for vocational rehabilitation services approved under the Rehabilitation Act of '73, or (2) a vocational rehabilitation program for veterans under Title 38 USC, Chapter 38.

The Act adds, as a third qualifying format, an individual work plan developed and implemented by an employment network under Social Security Act §1148(g) with respect to which the requirements of Social Security Act §1148(g) are met. Social Security Act §1148(g) provides that the Social Security Administration establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a

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ticket to work and self-sufficiency issued by the Social Security Administration to obtain employment services, vocational rehabilitation services or other support services from an employment network. The Act thus expands the definition of vocational rehabilitation referral.

Effective Date: Individuals who begin work for the employer after May 25, 2007.

§§179(b)(1), (b)(2), (b)(5)(A)

§179 deduction limit and phaseout threshold amount are increased to $125,000 and $500,000, respectively, for tax years beginning after 2006 and before 2011; these increased amounts are indexed for inflation after 2007 and before 2011

A taxpayer can elect under §179 to deduct as an expense, rather than to depreciate, up to a specified amount of the cost of new or used tangible personal property placed in service during the tax year in the taxpayer's trade or business. Under pre-Act law, a taxpayer can expense up to $100,000 for tax years beginning after December 31, 2002 and before January 1, 2010, and up to $25,000 for tax years beginning after December 31, 2009. Also, under pre-Act law, the annual expense limit was reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the tax year exceeded $400,000 for tax years beginning after December 31, 2002 and before January 1, 2010, and exceeded $200,000 for tax years beginning after December 31, 2009. The $100,000 and $400,000 amounts are each increased by a cost of living adjustment determined under §1(f)(3), but substituting “calendar year 2002” (as the base year) for “calendar year 1992”. For 2007, after adjustment for inflation, the $100,000 amount is $112,000, and the $400,000 amount is $450,000. Under pre-Act law, the inflation adjustment applied for tax years beginning in a calendar year after December 31, 2003 and before January 1, 2010.

The Act increases the $100,000 amount that a taxpayer can deduct as a §179 expense to $125,000 for tax years beginning after 2006. It also increases the $400,000 phaseout threshold amount to $500,000 for tax years beginning after 2006.

The Act also extends, for an additional year (through tax years beginning before January 1, 2011), the increased $125,000 amount that a taxpayer can deduct as a §179 expense and the increased $500,000 phaseout threshold amount. The Act indexes the $125,000 amount that can be expensed and the $500,000 phaseout threshold for inflation in tax years beginning in a calendar year after 2007 and before 2011.

The Act also extends the inflation adjustment for the $125,000 maximum expensing amount and the $500,000 phaseout threshold for one year to tax years beginning in a calendar year before January 1, 2011. Specifically, for any tax year beginning in a calendar year after 2007 and before January 1, 2011, the $125,000 and $500,000 amounts are each increased by a cost of living adjustment determined under §1(f)(3), but substituting “calendar year 2006” (as the base year) for “calendar year 1992”.

Effective Date: Tax years beginning after December 31, 2006 and before January 1, 2011.

§179(c)(2)

Right to revoke or change §179 expense election without IRS consent is extended for one year to tax years beginning before January 1, 2011

A taxpayer may elect under §179 to deduct as an expense, rather than to depreciate, up to a specified amount of the cost of new or used tangible personal property placed in service during the tax year in the taxpayer's trade or business. Under pre- Act law, any

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	§179 expense election could be revoked by the taxpayer with respect to any property for any tax year beginning after December 31, 2002 and before January 1, 2010. Under pre-Act law, for tax years beginning after December 31, 2009, the §179 expense election could be revoked only with IRS's consent. A taxpayer requesting IRS's consent has to set forth in detail the reasons for the request, and the request would be granted only in extraordinary circumstances. The Act extends a taxpayer's ability to revoke a §179 expense election for one additional year, to any tax year beginning before January 1, 2011. Effective Date: Tax years beginning after December 31, 2006 and before January 1, 2011.
§179(d)(1)(A)(ii)	**Inclusion of off-the-shelf computer software as eligible for the §179 expensing election is extended for one year to tax years beginning before January 1, 2011** A taxpayer can elect to deduct as an expense (rather than depreciating) the cost of "§179 property" placed in service during the tax year in the taxpayer's trade or business which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, to which the depreciation rules of §167 apply. Under pre-Act law, this computer software had to have been placed in service in a tax year beginning after December 31, 2002 and before January 1, 2010. The Act extends the inclusion of off-the-shelf computer software in the definition of §179 property for one additional year, that is, for software that is placed in service in tax years beginning before January 1, 2011. Effective Date: Tax years beginning after December 31, 2006 and before January 1, 2011.
The following provisions are operative for Hawaii income tax purposes.	
Non-code	**Extension of alternative deficit reduction contribution rules** The provision extends the alternative deficit reduction rules for pension plans to plan years beginning before January 1, 2008. Effective Date: August 17, 2006
§414(f)(6)(A)(ii)(I)	**Revocation of election relating to treatment as multiemployer plan** The Act modifies the time period during which the plan must have satisfied the criteria for the election. The criteria must have been satisfied for each of the 3 plan years immediately preceding the first plan year for which the election is effective with respect to the plan. Effective Date: August 17, 2006
§414(f)(6)(B)	**Revocation of election relating to treatment as multiemployer plan** The Act modifies the effective date of the election. A plan may elect an effective date that is any plan year beginning on or after January 1, 1999, and ending before January 1, 2008.

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	Effective Date: August 17, 2006
§414(f)(6)(E)	**Revocation of election relating to treatment as multiemployer plan**
	The Act provides a technical correction that an election is available in the case of a plan sponsored by an organization which is described in §501(c)(5) and exempt from tax under §501(a) and which was established in Chicago, Illinois, on August 12, 1881.
	Effective Date: August 17, 2006
§414(f)(6)(F)	**Revocation of election relating to treatment as multiemployer plan**
	The provision provides that a plan making the election is treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits employer contributions to the plan by one or more employers that are signatory to such agreement, or participation in the plan by one or more employees of an employer that is signatory to such agreement.
	Effective Date: August 17, 2006
§420(c)(3)(A)	**Modification of requirements for qualified transfers**
	In the case of a qualified transfer, the provision permits the transfer to satisfy the minimum cost requirement by satisfying the minimum cost requirement applicable to a collective bargained transfer. This alternate method of satisfying the minimum cost requirement is only available if the transfer involves a plan maintained by an employer, which in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and the aggregate cost of such benefits or coverage which would have been allowable as a deduction to the employer is at least 5% of the gross receipts of the employer for such taxable year (or is a plan maintained by a successor to such employer).
	Effective Date: Applies to transfers after May 25, 2007.
§420(e)(2)(B)	**Modification of requirements for qualified transfers**
	Technical correction to reflect the revisions made to the minimum funding requirements applicable to defined benefit plans under the Pension Protection Act of 2006.
	Effective Date: August 17, 2006
§420(f)(2)(E)(i)(III)	**Modification of requirements for qualified transfers**
	Technical correction to correct an internal cross-reference.
	Effective Date: August 17, 2006
Non-Code	**Modification of the interest rate for pension funding rules**
	The provision provides, in the case of a plan sponsor that elects to amortize the shortfall amortization base over a period of 10 plan years, the plan is to use an interest rate of 8.25% (rather than the segment rates calculated on the basis of the corporate bond yield curve) for purposes of determining the funding target for each of the 10 plan years during

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such period.

Effective Date: August 17, 2006

§641(c)(2)(iv) **Interest on debt used to acquire S corporation stock may be deducted by ESBTs**

Electing small business trusts (ESBTs) are allowed to be S corporation shareholders. The portion of the ESBT that consists of stock in one or more S corporations (S portion) is taxed at the highest individual income tax rate (35%) and the income from the S portion is not included in the beneficiaries' income. Under pre-2007 Small Business Act law, the items that were included in the S portion were (1) the items of income, loss or deduction allocated to the ESBT as an S corporation shareholder, (2) gain or loss from the sale of the S corporation stock, and (3) to the extent provided in IRS regs, any state or local income taxes and administrative expenses of the ESBT allocable to the S corporation stock. Interest paid by an ESBT to buy S corporation stock was allocated to the S portion of the ESBT but was not a deductible administrative expense for purposes determining the taxable income of the S portion.

The Act provides that interest expense that is paid or accrued on debt incurred to acquire S corporation stock is taken into account in determining the income of the S portion of an ESBT.

Effective Date: Tax years beginning after December 31, 2006.

§761(f) **Family business tax simplification**

The provision generally permits a qualified joint venture whose only members are a husband and wife filing a joint return not to be treated as a partnership for Federal tax purposes. A qualified joint venture is a joint venture involving the conduct of a trade or business, if (1) the only members of the joint venture are a husband and wife, (2) both spouses materially participate in the trade or business, and (3) both spouses elect to have the provision apply.

Under the provision, a qualified joint venture conducted by a husband and wife who file a joint return is not treated as a partnership for Federal tax purposes. All items of income, gain, loss, deduction and credit are divided between the spouses in accordance with their respective interests in the venture. Each spouse takes into account his or her respective share of these items as a sole proprietor. Thus, it is anticipated that each spouse would account for his or her respective share on the appropriate form, such as Schedule C. The provision is not intended to change the determination under present law of whether an entity is a partnership for Federal tax purposes (without regard to the election provided by the provision).

For purposes of determining net earnings from self-employment, each spouse's share of income or loss from a qualified joint venture is taken into account just as it is for Federal income tax purposes under the provision (i.e., in accordance with their respective interests in the venture). A corresponding change is made to the definition of net earnings from self-employment under the Social Security Act. The provision is not intended to prevent allocations or reallocations, to the extent permitted under present law, by courts or by the Social Security Administration of net earnings from self-employment for purposes of determining Social Security benefits of an individual.

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Effective Date: Tax years beginning after December 31, 2006.

§1361(b)(3)(C) **Sale of interest in QSub treated as taxable sale of portion of assets followed by tax-free incorporation**

An S corporation can have 100% owned qualified Subchapter S subsidiaries (QSubs) that are generally treated as part of the S corporation, rather than as separate entities. Where a QSub loses its qualification, it is treated as a new corporation that acquired all of its assets and assumed all of its liabilities from the S corporation in exchange for its stock immediately before it loses qualification. Under general tax principles, if the deemed transfer from the S corporation to the newly formed corporation did not qualify as a tax-free transfer, it was a fully taxable transfer. Thus, for instance, if an S corporation sold 21% of the stock of a QSub, it was treated as if it transferred all the QSub's assets to the newly formed corporation in a taxable transfer.

The Act provides that if the failure to meet the 100% ownership QSub requirement is because of a sale of stock of the QSub, the sale of the stock will be treated as if the sale were: a sale of an undivided interest in the assets of the QSub (based on a percentage of the stock sold) followed by an acquisition by such corporation of all of its assets (and the assumption by the corporation of all of its liabilities) in a §351 transaction. Thus, where the S corporation sells 21% of the stock of the QSub to an unrelated party, it will recognize 21% of the gain on the QSub's assets in the deemed sale and will not recognize any gain on the deemed formation of the new corporation. This rule does not change the treatment of the disposition of QSub stock in a non-taxable transaction. For instance, if an S corporation distributes QSub stock pro rata to its shareholders, the distribution is still treated as stock distribution that can qualify as a divisive §368(a)(1)(D) reorganization and a §355 spin off if the relevant requirements are satisfied.

Effective Date: Tax years beginning after December 31, 2006.

§1361(f) **Restricted bank director stock not taken into account in determining S corporation qualification**

A corporation is eligible to be an S corporation only if it has no more than 100 shareholders and does not have more than one class of stock. An S corporation has one class of stock if all outstanding shares of stock give identical rights to distribution and liquidation proceeds.

National banking law requires that a director of a national bank own stock in the bank and that a bank have at least five directors. A number of States have similar requirements for State-chartered banks. Bank directors often enter into agreements under which the bank (or a holding company) agrees to reacquire the stock upon the director's ceasing to hold the office of director, at the price paid by the director for the stock.

The Act provides that restricted bank director stock is not taken into account as outstanding stock of the S corporation for tax purposes. Thus, the stock is not treated as a second class of stock; a director is not treated as a shareholder of the S Corporation by reason of the stock; the stock is disregarded in allocating items of income, loss, etc. among the shareholders; and the stock is treated as outstanding for purposes of determining whether an S corporation holds 100 percent of the sale of the stock of a qualified subchapter S subsidiary

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Restricted bank director stock means stock in a bank (as defined in §581) or a depositary institution holding company (as defined in §3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(w)(1)) if the stock: (1) must be held by an individual under Federal or State law in order to allow the individual to serve as a director; and (2) is subject to an agreement with the bank or company (or a corporation that controls the bank or company) under which the holder must sell back the stock at the price the individual paid for the stock upon ceasing to hold the office of director.

Effective Date: Tax years beginning after December 31, 2006. Restricted bank director stock is not treated as a second class of stock for taxable years beginning after December 31, 1996.

§1361(g) **Bank's adjustments from changing from reserve method upon electing S corporation status may be taken in last C corporation year**

Financial institutions that use the reserve method of accounting for bad debts are not eligible to be S corporations. Where a financial institution changes from the reserve method, it must take adjustments into account under §481 in order to prevent duplications or omissions of items by reason of the change. Under Internal Revenue Service guidance, positive adjustments that increase taxable income are generally taken into account over four years, while negative adjustments that reduce taxable income are generally taken into account entirely in the year of change.

The Act provides that where a bank changes from the reserve method for bad debts under §585 or §593 in its first tax year for which an S corporation election is in effect, the bank may elect to take into account any adjustments under §481 resulting from the change for the tax year immediately before the first S corporation tax year. Thus, if the election is made, the adjustments will be taken entirely in the corporation's last C corporation year.

Effective Date: Tax years beginning after December 31, 2006.

§§1362(d)(3)(B)(ii) and (d)(3)(C) **S corporation capital gains are not treated as passive income**

Where an S corporation has earnings and profits from C corporation years, it is subject to a corporate level tax on its net passive income if more than 25% of its gross receipts is passive investment income. In addition, the S corporation election will terminate if more than 25% of its gross receipts is passive investment income. Under pre-Act law, passive investment income included gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities.

The Act eliminates gains from sales or exchanges of stock or securities as an item of passive investment income.

Effective Date: Tax years beginning after May 25, 2007.

§1368(f) **S Corporation distributions with respect to restricted bank director stock**

A distribution (other than a payment in exchange for the stock) with respect to the restricted stock is includible in the gross income of the director and is deductible by the S corporation for the taxable year that includes the last day of the director's taxable year in which the distribution is included in income.

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	Effective Date: Tax years beginning after December 31, 2006.
Non-code	**Pre-'83 S corporation E&P eliminated for corporations that were not S corporations immediately after '96**
	Although an S corporation does not generate earnings and profits (E&P), it may have accumulated E&P either because: (1) it (or a corporation from which it received carryovers) was a C corporation; or (2) it had accumulated E&P from pre-'83 S corporation years and it was not an S corporation for its first tax year beginning after December 31, 1996. Distributions made by an S corporation out of E&P are treated as a dividend to the extent they exceed the corporation's accumulated adjustments account.
	The Act provides that a corporation that was an S corporation for any tax year beginning before January 1, 1983 and was not an S corporation for its first tax year beginning after December 31, 1996 reduces its accumulated E&P (for the first tax year beginning after May 25, 2007) by an amount equal to the portion (if any) of the accumulated E&P that was accumulated in any pre-'83 S corporation years.
	Effective Date: Tax years beginning after May 25, 2007.
The following provisions are NOT operative for Hawaii income tax purposes.	
§1400N(a)(7)	**Tax-exempt qualified mortgage bond treatment can apply to finance repairs and reconstruction of GO Zone residences damaged or destroyed by Hurricanes Katrina, Rita, or Wilma**
	Under the Act, any qualified GO Zone repair or reconstruction, as defined below, is treated as a qualified rehabilitation for purposes of both the §143 qualified mortgage bond rules and the §1400N(a) GO Zone bond rules. The term "qualified GO Zone repair or reconstruction" means: any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the GO Zone, the Rita GO Zone, or the Wilma GO Zone; in the case of damage constituting destruction caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, the reconstruction of a building located in the GO Zone, the Rita GO Zone, or the Wilma GO Zone.
	However, to qualify as a qualified GO Zone repair or reconstruction, the expenditures for the repairs or reconstructions described above must be 25% or more of the mortgagor's adjusted basis in the residence. For purposes of this requirement, the mortgagor's adjusted basis must be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.
	As a result, a qualified GO Zone repair or reconstruction loan is treated as a qualified rehabilitation loan for purposes of the qualified mortgage bond rules. Thus, these loans financed with the proceeds of qualified mortgage bonds or GO Zone bonds may be used to acquire or replace existing mortgages, without regard to the 20 year rule or the requirements regarding the retention of existing walls.
	Effective Date: Owner-financing provided after May 25, 2007 and before January 1, 2011.
§1400N(c)(3)(A)	**Placed-in-service date for treating GO Zone buildings as being in difficult development areas eligible for enhanced low-income housing credit is extended for two years**

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Under pre-Act law, buildings in the GO Zone, the Rita GO Zone, and the Wilma GO Zone are eligible for the enhanced 91% or 39% credit for 2006, 2007, and 2008. This enhanced credit applies regardless of whether the building receives its credit allocation under the otherwise allocable low-income housing credit cap or the additional credit cap available for 2006, 2007, and 2008 for buildings located in the Gulf Opportunity Zone. Also, the 20-percent-of-population restriction is waived in 2006, 2007, and 2008 for purposes of applying the enhanced credit in the above zones. Thus, the increase in basis allowed for buildings in difficult development areas applies in all of these areas without limitation.

The provision extends the increased credit provision for property substantially all of the use of which is in one or more specified portions of the GO Zone to property placed in service by the taxpayer on or before December 1, 2008.

Effective Date: May 25, 2007

§1400N(c)(5) **§42(h)(1)(B) time limit on allocation of low-income housing credit doesn't apply to buildings in the GO Zones placed in service before 2011 and for which allocations are made in 2006, 2007, or 2008**

The Act amends the provision granting additional low-income housing credit dollar amounts to projects in the GO Zones by adding a rule stating that §42(h)(1)(B) doesn't apply to an allocation of housing credit dollar amount to a building located in the GO Zones, if the allocation is made in 2006, 2007, or 2008, and the building is placed in service before January 1, 2011.

Effective Date: May 25, 2007

§1400N(c)(6) **Community development block grants aren't federal subsidies that reduce low-income housing credit percentage or basis for buildings placed in service in GO Zones before 2011**

The Act provides that, for purposes of applying §42(i)(2)(D) to any building that is placed in service in the GO Zones during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan is not treated as a below-market federal loan solely by reason of any assistance provided under §106, 107, or 108 of the Housing and Community Development Act of '74 by reason of §122 of the Act, or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006. The Act thus modifies the definition of below-market federal loan for otherwise qualifying buildings located in the GO Zones that are placed in service during the period beginning on January 1, 2006 and ending on December 31, 2010, by effectively providing that a community development grant will not cause an otherwise qualifying building to be treated as federally subsidized for purposes of the low-income housing credit.

Effective Date: May 25, 2007

§1400N(e)(2) **Additional expensing for qualified §179 GO Zone property is extended through December 31, 2008 for property used in highly damaged GO Zone areas**

For property substantially all of the use of which is in specified portions of the GO Zone, qualified §179 Gulf Opportunity Zone property includes §179 property which is qualified

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Gulf Opportunity Zone property, except that in determining what is qualified Gulf Opportunity Zone property—(1) the rules for "specified Gulf Opportunity Zone extension property" don't apply, and (2) the placed-in-service deadline for qualified Gulf Opportunity Zone property is December 31, 2008. Thus, property substantially all of the use of which is in the Louisiana parishes of Calcasieu, Cameron, Orleans, Plaquemines, St. Bernard, St. Tammany and Washington, and the Mississippi counties of Hancock, Harrison, Jackson, Pearl River, and Stone, qualifies for the additional expensing available for qualified §179 Gulf Opportunity Zone property if it is placed in service before January 1, 2009.

Effective Date: Tax years beginning after May 25, 2007.

§1402(a)(17) **Spouses' partnership may elect out of partnership rules**

The provision generally permits a qualified joint venture whose only members are a husband and wife filing a joint return not to be treated as a partnership for Federal tax purposes. A qualified joint venture is a joint venture involving the conduct of a trade or business, if (1) the only members of the joint venture are a husband and wife, (2) both spouses materially participate in the trade or business, and (3) both spouses elect to have the provision apply.

Under the provision, a qualified joint venture conducted by a husband and wife who file a joint return is not treated as a partnership for Federal tax purposes. All items of income, gain, loss, deduction and credit are divided between the spouses in accordance with their respective interests in the venture. Each spouse takes into account his or her respective share of these items as a sole proprietor. Thus, it is anticipated that each spouse would account for his or her respective share on the appropriate form, such as Schedule C.

For purposes of determining net earnings from self-employment, each spouse's share of income or loss from a qualified joint venture is taken into account just as it is for Federal income tax purposes under the provision (i.e., in accordance with their respective interests in the venture). A corresponding change is made to the definition of net earnings from self-employment under the Social Security Act. The provision is not intended to prevent allocations or reallocations, to the extent permitted under present law, by courts or by the Social Security Administration of net earnings from self-employment for purposes of determining Social Security benefits of an individual.

Effective Date: Tax years beginning after December 31, 2006.

§§6060, 6060(a)
6103(k)(5),
6107, 6107(a),
6107(b), and 6107(c)
6109(a)(4)

Coordinated amendment for tax return preparer

Broadens scope of tax return preparers to include preparers of various tax returns such as estate and gift tax, employment tax, and excise tax returns, and returns of exempt organizations.

Effective Date: Applies to returns prepared after May 25, 2007

§§6330(f)(3) and (h)

Levies issued to collect federal employment taxes are excepted from the pre-levy CDP hearing requirement

In general, Internal Revenue Service may not levy against a person's property or right to property unless it notifies the person in writing of his or her right to a hearing before the

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levy, i.e., a pre-levy Collection Due Process hearing (CDP hearing). The written notification informing a taxpayer of his right to a pre-levy CDP hearing accompanies the written notice of intent to levy.

The Act provides that the rules requiring notice and an opportunity for a hearing before a levy don't apply to "disqualified employment tax levies." The taxpayer, however, must be given the opportunity for a post-levy CDP hearing within a reasonable time period after the levy. A "disqualified employment tax levy" is any levy to collect employment taxes for any tax period if the person subject to the levy (or a predecessor) requested a hearing under §6330 for unpaid employment taxes arising in the most recent 2-year period before the beginning of the tax period for which the levy is served. The term "employment taxes" means any taxes under Chapter 21, 22, 23 or 24 of the Internal Revenue Code.

Effective Date: Levies issued on or after September 22, 2007.

§§6404(g)(1)(A) and (g)(3)(A) **Internal Revenue Service has 36 (up from 18) months to notify an individual taxpayer of basis for liability before it must suspend interest and penalties**

Under pre-Act law, where an individual taxpayer filed an income tax return for a tax year on or before the due date for the return (including extensions), Internal Revenue Service had to suspend the imposition of interest and penalties with respect to any failure relating to that return (with certain exceptions, such as cases involving fraud or gross misstatements, or where the taxpayer has self-assessed the tax) if IRS didn't provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 18-month period beginning on the later of (a) the date the return was filed, or (b) the due date of the return (without regard to extensions). Under pre-Act law, the suspension applied to any interest or penalties that were computed by reference to the period of time the failure continued to exist and that were properly allocable to the suspension period—i.e., the period that began on the day after the close of the 18-month period, and that ended on the date that was 21 days after IRS provided the notice.

The Act increases the 18-month period referred to in the above rules to 36 months. Thus, the accrual of interest and penalties is suspended starting 36 months after the filing of the tax return if IRS has not sent the taxpayer a notice specifically stating the taxpayer's liability and the basis for the liability.

Effective Date: Notices provided after November 25, 2007.

§6503(k)(4) **Coordinated amendment for tax return preparer**

Broadens scope of tax return preparers.

Effective Date: Applies to returns prepared after May 25, 2007

§6655 **Estimated tax payment amounts from corporations with assets of $1 billion or more are changed for some installments due in 2012**

The Act amends the 2005 Tax Increase Prevention Act (TIPRA) §401(1)(B) by changing the "106.25%" amount to "114.25%" of any required installment of corporate estimated tax that is otherwise due in July, August, or September of 2012. Thus, the Act increases the corporate estimated tax payment due in July, August, and September 2012 from

CODE SECTION	DESCRIPTION OF PROVISION

106.25% to 114.25% of the payment otherwise due. As under pre-Act law, the next payment is reduced accordingly.

Effective Date: May 25, 2007.

§6657 **Increase in penalty for bad checks and money orders**

For checks or money orders that are less than $1,250, the Act increases the minimum penalty to $25 or the amount of the check or money order, whichever is less.

Effective Date: Checks or money orders received after May 25, 2007.

§6676 **New penalty applies to filing erroneous refund claim**

Under the Act, if a claim for refund or credit for income tax is made for an "excessive amount," the person making the claim is liable for a penalty equal to 20% of the excessive amount. An "excessive amount" is the amount by which the amount of a person's claim for refund or credit for any tax year exceeds the amount of the claim allowable under the Code for that tax year. The penalty doesn't apply if it is shown that the claim for the excessive amount has a reasonable basis. Thus, the penalty is equal to 20% of the disallowed portion of the claim for refund or credit for which there is no reasonable basis for the claimed tax treatment. The penalty doesn't apply to any portion of the excessive amount or credit which is subject to an accuracy-related penalty imposed under §6662 or §6662A or under the §6663 fraud penalty.

Effective Date: Any claim filed or submitted after May 25, 2007.

§6694 **Coordinated amendment for tax return preparer**

Broadens scope of tax return preparers.

Effective Date: Applies to returns prepared after May 25, 2007

§§6694(a) and (b) **Scope of tax return preparer penalties broadened, penalty amounts increased and standards for avoiding penalties modified**

The provision broadens the scope of the present-law tax return preparer penalties to include preparers of estate and gift tax, employment tax, and excise tax returns, and returns of exempt organizations.

The provision also alters the standards of conduct that must be met to avoid imposition of the penalties for preparing a return with respect to which there is an understatement of tax. First, the provision replaces the realistic possibility standard for undisclosed positions with a requirement that there be a reasonable belief that the tax treatment of the position was more likely than not the proper treatment. The provision replaces the not-frivolous standard accompanied by disclosure with the requirement that there be a reasonable basis for the tax treatment of the position accompanied by disclosure.

The provision also increases the first-tier penalty from $250 to the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer from the preparation of a return or claim with respect to which the penalty is imposed. The provision increases the second-tier penalty from $1,000 to the greater of $5,000 or 50

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	percent of the income derived (or to be derived) by the tax return preparer. Effective Date: For returns prepared after May 25, 2007.
§§6694(c)(2), 6694(e), 6694(f), 6695, 6695(f), 6696(e), 7427, and 7407	**Coordinated amendment for tax return preparer** Broadens scope of tax return preparers. Effective Date: Applies to returns prepared after May 25, 2007
§7528(c)	**IRS user fees made permanent** The Act repeals the rule providing that no fee be charged for requests made after September 30, 2014. Thus, the statutory authorization for the IRS user fee program is now permanent. Effective Date: For requests made after May 25, 2007.
§7701(a)(36)	**Scope of tax return preparer penalties broadened, penalty amounts increased and standards for avoiding penalties modified** Broadens scope of tax return preparers to include preparers of various tax returns such as estate and gift tax, employment tax, and excise tax returns, and returns of exempt organizations. Effective Date: For returns prepared after May 25, 2007.

Digest of the Andean Trade Preference Act

(P. L. No. 110-42; June 30, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
The following provision is NOT operative for Hawaii income tax purposes.	
§6655	**Time for payment of Corporate Estimated Taxes** The provision increases the amount of any corporate estimated tax installment otherwise due by a corporation with assets of not less than $1 billion in July, August, or September of 2012 to 114.50% of such amount. Effective Date: June 30, 2007

Digest of the Joint Resolution Approving the Renewal of Import Restrictions Contained in the Burmese Freedom and Democracy Act of 2003, and For Other Purposes

(P. L. No. 110-52; August 1, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is NOT operative for Hawaii income tax purposes.
§6655	**Time for payment of Corporate Estimated Taxes** The provision increases the amount of any corporate estimated tax installment otherwise due by a corporation with assets of not less than $1 billion in July, August, or September of 2012 to 114.75% of such amount. Effective Date: July 26, 2007

Digest of To Extend the Trade Adjustment Assistance Program Under the Trade Act of 1974 for 3 Months

(P. L. No. 110-89; September 28, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
The following provision is NOT operative for Hawaii income tax purposes.	
§6655	**Time for payment of Corporate Estimated Taxes** The provision increases the amount of any corporate estimated tax installment otherwise due by a corporation with assets of not less than $1 billion in July, August, or September of 2012 to 115% of such amount. Effective Date: September 28, 2007

Digest of To Implement the United States-Peru Trade Promotion Agreement

(P. L. No. 110-138; December 14, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
The following provision is NOT operative for Hawaii income tax purposes.	
§6655	**Time for payment of Corporate Estimated Taxes** The provision increases the amount of any corporate estimated tax installment otherwise due by a corporation with assets of not less than $1 billion in July, August, or September of 2012 to 115.75% of such amount. Effective Date: Date Trade Agreement becomes effective.

Digest of the Energy Independence and Security Act of 2007

(P. L. No. 110-140; December 19, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is operative for Hawaii income tax purposes.
§167(h)(5)(A)	**Amortization period of geological and geophysical (G&G) expenditures for certain major integrated oil companies is extended from 5 years to 7 years** The Act extends from five years to seven years the amortization period for G&G costs for major integrated oil companies. Effective Date: Amounts paid or incurred after December 19, 2007.
	The following provision is NOT operative for Hawaii income tax purposes.
§3301	**Additional 0.2% FUTA surtax is extended to apply through 2008** Employers must pay the Federal Unemployment Tax Act ("FUTA") tax for wages paid to their employees with respect to employment. The maximum amount of wages subject to FUTA tax is $7,000 of wages for each employee during a calendar year. Under pre-Act law, the FUTA tax was imposed at a rate of 6.2% through 2007 (the total of the permanent 6% tax rate, and a temporary 0.2% surtax rate and 6.0% for calendar year 2008 and later years). The Act provides that the 6.2% FUTA tax rate continues to apply through 2008, and the 6.0% rate applies for calendar year 2009 and later years. That is, the temporary 0.2% surtax is extended through December 31, 2007. Effective Date: For wages paid after December 31, 2007, and before 2009.

Digest of the 2007 Virginia Tech Victims Act

(P. L. No. 110-141; December 19, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is operative for Hawaii income tax purposes.
§61	**Exclusion from income for payments from the Hokie Spirit Memorial Fund** Certain payments received by surviving victims and survivors of slain victims of the Virginia Tech shootings are excluded from gross income. Gross income does not include any amount received from Virginia Tech, out of amounts transferred from the Hokie Spirit Memorial Fund (the Fund) established by the Virginia Tech Foundation, an organization organized and operated as described in §501(c)(3), if that amount is paid on account of the April 16, 2007 shootings at Virginia Tech. If an individual receives amounts from Virginia Tech that are paid out of the Fund, on account of the April 16, 2007 shootings, those amounts are excluded from the individual's gross income. Effective Date: December 19, 2007
	The following provision is NOT operative for Hawaii income tax purposes.
§6698(b)(1)	**Monthly failure to file partnership return penalty is increased** The penalty per partner for failure to file a partnership return increases by $1 from $85 to $86 for partnership returns for tax years starting in 2008. Effective Date: The $1 increase applies to partnership returns for tax years starting in 2008.

Digest of the Mortgage Forgiveness Debt Relief Act of 2007

(P. L. No. 110-142; December 20, 2007)

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

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	The following provisions are operative for Hawaii income tax purposes.
§42(i)(3)(D)(ii)(I)	**Rule that prevents full-time students from disqualifying housing units from the low-income housing credit is clarified** The low-income housing credit is a tax credit equal to a percentage of the qualified basis of qualified low-income buildings. Generally, the qualified basis increases by the extent to which a building consists of "low-income units." Units don't fail to qualify as low-income units merely because they are occupied by full-time students if the full-time students (1) are married and file a joint return (the joint return test) or (2) are single parents and their children (the single-parents-and-children test). Under the Act, the single-parents-and-children test describes the eligible single parents and their children as (1) single parents that aren't dependents of another individual (defining dependents as that term is defined under the modified-dependency test) and (2) children of those parents that aren't dependents of another individual other than a parent of those children (defining dependents as that term is defined under the modified-dependency test). Effective Date: Housing credit amounts allocated before, on or after December 20, 2007, and buildings placed in service before, on, or after December 20, 2007 to the extent that IRC section 42(h)(1) doesn't apply to any building by reason of IRC section 42(h)(4) .
§§108(a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(2)(A), (a)(2)(C), and (h)	**Discharges of up to $2 million of acquisition debt on taxpayer's principal residence in 2007 through 2009 are excluded from income** For income tax purposes, a discharge of indebtedness that is, a forgiveness of debt is generally treated as includible in gross income. The amount of income generally equals the difference between the outstanding amount of the debt just prior to the discharge and any amount paid to satisfy the debt. However, a discharge of indebtedness is excluded from gross income if it: (1) occurs in a Title 11 bankruptcy case, (2) occurs when the taxpayer is insolvent, (3) is a discharge of "qualified farm indebtedness," or (4) is a discharge of "qualified real property business indebtedness." Where these exceptions apply, taxpayers generally reduce certain tax attributes, including basis in property, by the amount of the excluded income. Under pre-Act law, there were no special rules applicable to discharges of acquisition debt on the taxpayer's principal residence. Illustration: A taxpayer who isn't in bankruptcy and isn't insolvent owns a principal residence subject to a $300,000 mortgage debt for which the taxpayer has personal liability. The creditor forecloses and the home is sold for $270,000 in satisfaction of the debt. Under pre-Act law, the debtor had $30,000 of debt discharge income. The result was the same if the creditor restructured the loan and reduced the principal amount to

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$180,000.

The Act excludes from a taxpayer's gross income any discharge of indebtedness income by reason of a discharge (in whole or in part) of qualified principal residence indebtedness before January 1, 2010. The exclusion applies where taxpayers restructure their acquisition debt on a principal residence or lose their principal residence in a foreclosure.

"Qualified principal residence indebtedness" means acquisition indebtedness, as defined by §163(h)(3)(B) for purposes of the interest deduction rules, with respect to the taxpayer's principal residence, but with a $2 million limit ($1 million for married individuals filing separately) on the aggregate amount of debt that may be treated as qualified principal residence indebtedness (§108(h)(2) as amended by Act. Acquisition indebtedness with respect to an individual's principal residence generally means indebtedness that is incurred to acquire, construct, or substantially improve, and is secured by, that residence. For this purpose, "principal residence" has the same meaning as under the §121 home sale rules (§108(h)(5)). If only a portion of discharged indebtedness is qualified principal residence indebtedness immediately before the discharge, the exclusion rule applies only to so much of the amount discharged as exceeds the portion of the debt that isn't qualified principal residence indebtedness (§108(h)(4)). The basis of the taxpayer's principal residence is reduced (but not below zero) by the amount excluded from income under the principal residence exclusion. (§108(h)(1)). The principal residence exclusion doesn't apply if the discharge of the loan was on account of services performed for the lender or any other factor not directly related to a decline in the residence's value or to the taxpayer's financial condition (Code Sec. 108(h)(3)). The principal residence exclusion doesn't apply to a taxpayer in a Title 11 case. Instead, the Title 11 bankruptcy exclusion applies. (§108(a)(2)(A) as amended by Act) The principal residence exclusion applies to an insolvent taxpayer not in a Title 11 case unless the taxpayer elects to have the insolvency exclusion apply instead.

Effective Date: Discharges of indebtedness after December 31, 2006 and before Jan. 1, 2010.

§121(b)(4)

$500,000 exclusion applies to gain from certain sales or exchanges of a principal residence by a surviving spouse within two years of the death of the spouse

A taxpayer generally can exclude up to $250,000 ($500,000 for certain married couples filing joint returns) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer has to have owned the residence and used it as a principal residence for at least two years of the five-year period ending on the date of the sale or exchange. The exclusion is generally limited to $250,000 for unmarried taxpayers. For a husband and wife who file a joint return for the tax year of the sale or exchange of the property, the $250,000 limitation that applies to the exclusion of gain from the sale or exchange of a principal residence is applied by substituting "$500,000" for "$250,000" if: (1) either the surviving spouse or the deceased spouse met the two-year ownership requirements (described in §121(a)) with respect to the property immediately before the spouse died; (2) both spouses met the two-year use requirements (described in §121(a)) with respect to the property immediately before the spouse died; and (3) neither spouse was ineligible for the benefits of the exclusion with respect to the property by reason of the one sale every two years rule (contained in §121(b)(3). For an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period that unmarried individual owned and used the property includes the period the deceased spouse owned and used the property before death. Under pre-Act law, gain from a sale or exchange of a principal residence by a

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surviving spouse could only have qualified for an exclusion of up to $500,000 if: (a) the sale occurred in the year of the deceased spouse's death, (b) the surviving spouse and deceased spouse's executor (or personal representative) filed a joint return for the year of death, and (c) the three requirements listed above (items (1) through (3)) were satisfied.

The Act provides, in the case of a sale or exchange of the principal residence by an unmarried individual whose spouse is deceased on the date of the sale, rules limiting the amount of the exclusion to $250,000 is applied by substituting "$500,000" for "$250,000" if: (1) the sale occurs not later than two years after the date of death of the spouse, and (2) the requirements of §121(b)(2)(A) (rules permitting a maximum exclusion of $500,000 for certain married taxpayers filing a joint return) were met immediately before the date of death.

Effective Date: Sales or exchanges after December 31, 2007.

§139B **Tax relief and expense reimbursements provided by state and local governments to volunteer firefighters and emergency medical responders for services performed are tax-free for 2008–2010 tax years**

All forms of compensation received for services are included in gross income, unless a specific exemption applies. In addition to amounts received in cash or property, compensation also includes other types of benefits, such as the foregone interest on a below-market interest rate loan provided as compensation. Various states have programs that provide state and local tax relief to persons who volunteer their services as emergency responders. Under pre-Act law, there was no statutory exemption for the tax relief provided under these programs. In Chief Counsel Advice 200302045, Internal Revenue Service took the position that reductions or rebates of property taxes by state or local governments on account of services performed by members of qualified volunteer emergency response organizations were in-kind payments for services, and so were taxable income to the volunteers. In determining regular tax liability, an itemized deduction is permitted for certain state and local taxes paid, including individual income taxes (unless the taxpayer elects to deduct sales taxes instead), real property taxes, and personal property taxes. Under pre-Act law volunteer emergency responders who received state or local tax reductions on account of services performed didn't have to reduce the amount of their otherwise allowable itemized deduction for taxes by the amount of the tax relief (which was taxable).

A deduction generally is allowed for contributions made to qualifying charitable donees, including §501(c)(3) organizations and federal, state or local governmental entities. Deductible amounts include out-of-pocket expenses incurred in connection with performing charitable services for a charity, to the extent the expenses aren't reimbursed. Under the general rules for reimbursements received for expenses incurred, these reimbursements generally are taxable. However, specific statutory exclusions are provided where the reimbursement is for expenses incurred in performing volunteer services under certain government programs. Under pre-Act law, there was no specific statutory exclusion for reimbursements received by volunteer emergency medical responders.

The Act provides that, in the case of any member of a qualified volunteer emergency response organization (defined below), gross income does not include the following: (1) any qualified state and local tax benefit (§139B(a)(1)) as defined below, and (2) any qualified payment (§139B(a)(2)) as defined below. For purposes of the above rule (§139B(c)) ,a "qualified state and local tax benefit" is a reduction or rebate of certain

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specified taxes provided by a state or political division of a state on account of services performed as a member of a qualified volunteer emergency response organization (defined below). The specified taxes are the taxes described in: §164(a)(1) , i.e., state and local real property taxes; §164(a)(2) , i.e., state and local personal property taxes; or §164(a)(3) , i.e., state and local income taxes. For purposes of the above rules, a "qualified payment" generally is any payment (whether reimbursement or otherwise) provided by a state or political division of a state on account of the performance of services as a member of a qualified volunteer emergency response organization (§139B(c)(2)(A)). The amount determined as a qualified payment for any tax year cannot exceed $30 multiplied by the number of months during the year that the taxpayer performs the services (§139B(c)(2)(B)). A "qualified volunteer emergency response organization" is any volunteer organization that meets the following requirements: (§139B(c)(3)) (i) it's required (by written agreement) by a state or political subdivision to furnish firefighting or emergency medical services in the state or political subdivision, and (§139B(c)(3)(B)) (ii) it's organized and operated to provide firefighting or emergency medical services for persons in the state or political subdivision, as the case may be (§139B(c)(3)(A)).

The Act provides that in the case of any member of a qualified volunteer emergency response organization, the deductions under §164 (taxes) is determined with regard to any qualified state and local tax benefit (Code Sec. 139B(b)(1)) and §170 (charitable contributions) a charitable deduction is allowed for unreimbursed out-of-pocket expenses incurred by the taxpayer in performing services free for a charity, including a state or local government are limited. In other words, an individual cannot claim both an exclusion and a deduction for the same item.

Effective Date: Tax years beginning after December 31, 2007 and before Jan. 1, 2011.

§163(h)(3)(E)(iv)(I) **Interest deduction for mortgage insurance premiums is extended to amounts paid or incurred after 2007 and before 2011**

Premiums paid or accrued during 2007 by a taxpayer for qualified mortgage insurance in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer are treated as qualified residence interest and thus deductible, subject to phaseout rules affecting taxpayers with adjusted gross income (AGI) over $100,000 for the tax year.

The rules regarding the deduction of qualified mortgage insurance premiums don't apply with respect to any mortgage insurance contract issued before January 1, 2007. In addition, under pre-Act law, the rules regarding the deduction of qualified mortgage insurance premiums didn't apply to any amount paid or accrued after December 31, 2007, or properly allocable to any period after that date.

Under the Act, the rules allowing the deduction of qualified mortgage insurance premiums discussed are extended to amounts paid or incurred on or before December 31, 2010, or properly allocable to any period before that date.

Effective Date : Amounts paid or accrued after December 31, 2007 and before Jan. 1, 2011.

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§216(b)(1)(D)	**Cooperatives can use alternative tests based on square footage or expenditures in lieu of the 80/20 gross income test to qualify as a cooperative housing corporation** Under pre-Act law, to qualify as a cooperative housing corporation a corporation: (1) has one class of stock, (2) each of the stockholders of which can, solely by reason of ownership of stock in the corporation, occupy a dwelling owned or leased by the cooperative, (3) no stockholder of which can receive any distribution not out of the cooperative's earnings and profits, except on complete or partial liquidation of the cooperative, and (4) 80% or more of the gross income of which for the tax year in which the taxes and interest are paid or incurred is derived from tenant-stockholders. To satisfy the 80/20 test under pre-Act law, Congress believed that some cooperative housing corporations had been making rentals to commercial tenants at below-market rates. The Act provides two non-income-based alternatives to the 80% requirement (the 80/20 test described in item (4) above) in the definition of a cooperative housing corporation. Specifically, the Act amends requirement (4) above to provide that the requirement is satisfied if a corporation meets one or more of the following requirements for the tax year: (a) 80% or more of the corporation's gross income for the tax year is derived from tenant-stockholders; (b) At all times during the tax year, 80% or more of the total square footage of the corporation's property is used or available for use by the tenant-stockholders for residential purposes or purposes ancillary to the residential use; (c) 90% or more of the expenditures of the corporation paid or incurred during the tax year are paid or incurred for the acquisition, construction, management, maintenance, or care of the corporation's property for the benefit of the tenant-stockholders Effective Date: Tax years ending after December 20, 2007.
The following provisions are NOT operative for Hawaii income tax purposes.	
§6103(e)(10)	**Limitations on Disclosure of Tax Information** The Act limits the inspection or disclosure of partnership, S corporation, estate and trust returns. Specifically, the information inspected or disclosed regarding partnership, S corporation, trust, or estate returns cannot include any supporting schedule, attachment, or list which includes the taxpayer identity information of a person other than the entity making the return or the person conducting the inspection or to whom the disclosure is made. Effective Date: The disclosure limitation applies on December 20, 2007.
§6655	**Modification of Required Installment of Corporate Estimated Taxes with Respect to Certain Dates** The provision increases the amount of any corporate estimated tax installment otherwise due by a corporation with assets of not less than $1 billion in July, August, or September of 2012 to 116.50% of such amount. Effective Date: December 20, 2007
§§6698(a) and (b)(1)	**Monthly failure to file partnership return penalty is increased** The Act increases the penalty per partner, for failure to file a partnership return from $50

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to $85 for each month, or part thereof, that the failure continues. The Act also extends the maximum period for which the penalty may be imposed from 5 months to 12 months.

Effective Date: The penalty increase applies to returns required to be filed after December 20, 2007,

§6699 **Penalty imposed for failure to file timely S corporation return**

The Act adds a new provision that imposes a penalty on S corporations that fail to file timely S corporation returns. If an S corporation that is required to file an income tax return for any tax year: (A) fails to file a timely return (taking into account any filing extension) or files a return which fails to show the required information, it is liable for a penalty (late filing penalty) for each month (or fraction thereof), not to exceed 12 months, during which the failure continues, unless the failure is due to reasonable cause.

The monthly penalty amount equals: (1) $85, multiplied by (2) the number of persons who were shareholders in the S corporation during any part of the tax year. The late filing penalty is assessed against the S corporation.

Effective Date: Tax returns required to be filed after December 20, 2007.

Digest of the Tax Increase Prevention Act of 2007

(P. L. No. 110-166; December 26, 2007)

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

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	The following provisions are NOT operative for Hawaii income tax purposes.
§21	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §21 child and dependent care credit affected by the §26(a)(2) rule. The Act extends the §26(a)(2) AMT offset rule so that it applies through 2007 (instead of through 2006). Effective Date: Tax years beginning in 2007
§22	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §22 credit for the elderly and disabled affected by the §26(a)(2) rule. The Act extends the §26(a)(2) AMT offset rule so that it applies through 2007 (instead of through 2006). Effective Date: Tax years beginning in 2007
§23	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §23 adoption expense credit affected by the §26(a)(2) rule. The adoption credit is subject to the tax liability limitation prescribed by §23(b)(4) in tax years when §26(a)(2) doesn't apply. The extension of §26(a)(2) so that it applies in 2007 means that the adoption credit is subject to that limitation in 2007. Effective Date: Tax years beginning in 2007
§24	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §24 child tax credit affected by the §26(a)(2) rule. The child tax credit is subject to the tax liability limitation prescribed by §24(b)(3) in tax years when §26(a)(2) doesn't apply. The extension of §26(a)(2) so that it applies in 2007 means that the child tax credit is subject to that limitation in 2007. Effective Date: Tax years beginning in 2007
§25	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §25 credit for interest paid or accrued on certain home mortgages of low-income persons affected by the §26(a)(2) rule. If the mortgage credit certificate credit for any tax year exceeds the limitation under §26(a)(2) (or under §26(a)(1) , if §26(a)(2) doesn't apply) for the tax year, reduced by the sum of the nonrefundable personal credits (other than the MCC credit, adoption credit, REEP credit, and D.C. first-time homebuyer credit)

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for the year, the excess is carried over to each of the next three years.

Effective Date: Tax years beginning in 2007

§25A **Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)**

The §25A credit for higher education expenses (the Hope credit and the Lifetime Learning credit) affected by the §26(a)(2) rule. The Act extends the §26(a)(2) AMT offset rule so that it applies through 2007 (instead of through 2006).

Effective Date: Tax years beginning in 2007

§25B **Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)**

The §25B credit for elective deferrals and IRA contributions (the saver's credit) affected by the §26(a)(2) rule. The saver's credit is subject to the tax liability limitation prescribed by §25B(g) in tax years when §26(a)(2) doesn't apply. The extension of §26(a)(2) so that it applies in 2007 means that the saver's credit is subject to that limitation in 2007.

Effective Date: Tax years beginning in 2007

§25C **Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)**

The §25C nonbusiness energy property credit for energy-efficient improvements to a principal residence affected by the §26(a)(2) rule. The Act extends the §26(a)(2) AMT offset rule so that it applies through 2007 (instead of through 2006).

Effective Date: Tax years beginning in 2007

§25D **Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)**

The §25D residential energy efficient property (REEP) credit for solar electric, solar hot water, and fuel cell property added to a residence affected by the §26(a)(2) rule. If the REEP credit exceeds the limitation under §26(a)(2) (or under §26(a)(1) , if §26(a)(2) doesn't apply) for the tax year, reduced by the sum of the other nonrefundable personal credits, the excess is carried over to the next tax year and added to the REEP credit for that year.

Effective Date: Tax years beginning in 2007

§26(a)(2) **Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)**

Individuals may qualify for a number of nonrefundable personal tax credits (e.g., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). However, for tax years beginning in 2000–2006, certain nonrefundable personal tax credits are subject to a limitation based on tax liability. Under §26(a)(2), these credits are allowed only to the extent that the aggregate amount of the credits doesn't exceed the sum of: the taxpayer's regular tax liability for the tax year, reduced by the foreign tax credit allowable under §27(a), and the alternative minimum tax (AMT) imposed by §55(a) for the tax year (i.e., the excess of the tentative minimum tax over the regular tax. The §26(a)(2) AMT offset rule means that the specified nonrefundable personal credits may offset both the regular

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tax and the AMT. In other words, individual taxpayers may offset their entire regular tax liability and AMT tax liability by certain nonrefundable personal credits.

The nonrefundable personal credits affected by the §26(a)(2) rule are: (1) the §21 child and dependent care credit; (2) the §22 credit for the elderly and disabled; (3) the §23 adoption expense credit; (4) the §24 child tax credit; (5) the §25 credit for interest paid or accrued on certain home mortgages of low-income persons (the mortgage credit certificate (MCC) credit); (6) the §25A credit for higher education expenses (the Hope credit and the Lifetime Learning credit; (7) the §25B credit for elective deferrals and IRA contributions (the saver's credit); (8) the §25C nonbusiness energy property credit for energy-efficient improvements to a principal residence; (9) the §25D residential energy efficient property (REEP) credit for photovoltaic, solar hot water, and fuel cell property added to a residence; and (10) the §1400C first-time homebuyer credit for the District of Columbia.

The Act extends the §26(a)(2) AMT offset rule to apply to tax years beginning in 2007. This means that for tax years beginning in 2007, the nonrefundable personal credits may offset AMT as well as regular tax. Specifically, for tax years beginning in 2007 (as well as in 2000 through 2006), the aggregate amount of personal nonrefundable credits may not exceed the sum of: the taxpayer's regular tax liability for the tax year, reduced by the foreign tax credit allowable under §27(a), and the tax imposed by §55(a) (§26(a)(2))—i.e., the AMT. Thus, the Act extends the §26(a)(2) AMT offset rule so that it applies through 2007 (instead of through 2006).

Effective Date: Tax years beginning in 2007

§§55(d)(1)(A) and (d)(1)(B)

AMT exemption amounts for 2007 are increased to $44,350 for unmarrieds, to $66,250 for joint filers, and to $33,125 for marrieds filing separately

In computing the alternative minimum tax (AMT) for individuals, the AMT tax rate is applied against the taxpayer's alternative minimum taxable income (AMTI), as reduced by the taxpayer's exemption amount (which phases out for AMTI above certain threshold levels). Pre-Act law provided the following AMT exemption amounts for tax years beginning in 2007: $33,750 for unmarried individuals who aren't surviving spouses; $45,000 for married couples filing jointly and surviving spouses; and $22,500 (technically, 50% of the joint return/surviving spouse amount) for married individuals filing separately. For tax years beginning in 2006, the AMT exemption amounts were: $42,500 for unmarried individuals who weren't surviving spouses; $62,550 for married couples filing jointly and surviving spouses; and $31,275 for marrieds filing separately. The higher amounts for 2006 reflected the temporary increases provided by 2005 Tax Increase Prevention Act § 301 as part of an AMT “patch” to reduce the number of individuals who otherwise would be subject to the AMT. Under pre-Act law, the temporary increases expired after 2006.

For tax years beginning in 2007, the Act increases the AMT exemption amounts as follows (rather than allowing them to decrease to pre-“patch” levels): to $66,250 (up from $62,550 in 2006) for married couples filing a joint return and surviving spouses; to $44,350 (up from $42,500 in 2006) for an individual who isn't married or a surviving spouse; to $33,125 (up from $31,275 in 2006) for married individuals filing separate returns.

Effective Date: Tax years beginning after 2006, but only tax years beginning in 2007.

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§904(i)	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** For tax years to which §26(a)(2) doesn't apply, the U.S. tax liability against which an individual's foreign tax credit is taken is reduced by the sum of the nonrefundable personal credits (other than the adoption credit, child tax credit, and saver's credit) allowable for the year. Effective Date: Tax years beginning in 2007
§1400C	**Nonrefundable personal credits may offset AMT through 2007 (instead of 2006)** The §1400C first-time homebuyer credit for the District of Columbia is affected by the §26(a)(2) rule. If the D.C. first-time homebuyer credit exceeds the limitation under §26(a)(2) (or under §26(a)(1) , if §26(a)(2) doesn't apply) for the tax year, reduced by the nonrefundable personal credits (other than the D.C. first-time homebuyer credit and the REEP credit), the excess is carried over to the next tax year and added to the D.C. first-time homebuyer credit allowable for that year. Effective Date: Tax years beginning in 2007

Digest of the Consolidated Appropriations Act , 2008

(P. L. No. 110-161; December 26, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§4081(d)(2)(B)	**Airport and airway trust fund excise taxes are extended through Feb. 29, 2008**
§4261(j)(1)(A)(ii) §4271(d)(1)(A)(ii)	The Act modifies the Internal Revenue Code to provide that various Airport and Airway Trust Fund excise taxes apply through Feb. 29, 2008 (instead of through Sept. 30, 2007) Effective Date: Oct. 1, 2007 through Feb. 29, 2008

Digest of the Tax Technical Corrections Act of 2007

(P. L. No. 110-172; December 29, 2007)

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

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§21(e)(5)	**Clerical correction relating to dependent care credit** Clerical correction reference of custodial parent to §152(e)(4)(A). Effective Date: December 29, 2007
§§24(d)(1)(B) and (d)(1)(B)(ii)(II)	**Errors in refundable child tax credit rules are corrected** Before 2010, individuals may claim a child tax credit of up to $1,000 for each qualifying child under age 17 at the close of the calendar year. The credit is reduced (not below zero) by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income (AGI)—AGI increased by excluded foreign, possessions, and Puerto Rico income—above $110,000 for joint filers, $75,000 for unmarried individuals, and $55,000 for marrieds filing separately. Under §(d)(1)(B) , the child tax credit is refundable to the extent of *the excess (if any)* of: (1) 15% of earned income above $10,000, as adjusted for inflation ($11,750 for 2007); or (2) for a taxpayer with three or more qualifying children, the excess of social security taxes for the tax year over the credit allowed under an unidentified *"section"* for the tax year. The two italicized phrases above were introduced when the rules for the refundable child tax credit (also called the "additional child tax credit") were amended by the §402(i)(3)(B)(ii) of the 2005 Gulf Opportunity Zone Act. Prior to that amendment, §24(d)(1)(B) provided that child tax credit was refundable to the extent of the greater of: 15% of earned income above $10,000, as adjusted for inflation; or for a taxpayer with three or more qualifying children, the excess of social security taxes for the tax year over the credit allowed under §32, i.e., the earned income credit, for the tax year. The Act corrects the above two errors. Thus, under the Act, the child tax credit is refundable to the extent of "the greater of" (rather than "the excess (if any) of") the amounts listed at (1) and (2) above. In addition, item (2), above, is amended so that it refers to the credit allowed under §32 —the earned income credit—rather than to a credit under an unidentified "section." Effective Date: Tax years beginning after December 31, 2005.
§25C(c)(3)	**Clerical correction relating to nonbusiness energy property credit** Correction from "section 3280" to "part 3280". Effective Date: December 29, 2007

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§§26(b)(2)(S) and (b)(2)(T),	**List of taxes excluded from "regular tax liability" is expanded to include the 10% penalty taxes imposed for failures to maintain High Deductible Health Plan coverage or for recapture of charitable deduction claimed for a fractional interest contribution** "Regular tax liability" is used to compute the limitations on the amount of credits (personal and business) that can be claimed in a tax year. "Regular tax liability" is also important for alternative minimum tax (AMT) purposes. A taxpayer is subject to the AMT in a tax year if his "tentative minimum tax" exceeds his "regular tax liability" for the year. §26(b)(2) defines "regular tax liability" as the tax imposed by Chapter 1 of the Internal Revenue Code for the tax year, other than certain specifically enumerated taxes. Under the Act §26(b)(2) list of taxes that are specifically excluded from the taxpayer's "regular tax liability" is expanded to include the taxes imposed under the following sections: (1) the 10% penalty taxes enacted under the 2006 Tax Relief Act that relate to failures to maintain high deductible health plan (HDHP) coverage, including: the §106(e)(3)(A)(ii) tax with respect to rollovers from flexible spending accounts and health reimbursement accounts into health savings accounts (HSAs), §223(b)(8)(B)(i)(II) tax with respect to contributions made to HSAs, and §408(d)(9)(D)(i)(II) tax with respect to rollovers from IRAs to HSAs; (2) the 10% recapture tax imposed on a taxpayer who is required, under the rules for fractional interest contributions enacted under the 2006 Pension Protection Act, to recapture the charitable deduction he claimed for a gift of a fractional interest in tangible personal property. Effective Date: December 29, 2007
§§26(b)(2)(U), and (b)(2)(V)	**Redesignation relating to definition of "regular tax liability"** Redesignated subparagraphs (b)(2)(S) and (b)(2)(T) as subparagraphs (b)(2)(U) and (b)(2)(V). Effective Date: December 29, 2007
§30C(b)	**Dollar limits on credit for alternative fuel vehicle refueling property apply to all property placed in service at a location** The Act provides that the credit allowed for all qualified alternative fuel vehicle (QAFV) refueling property placed in service by the taxpayer during the tax year at a location cannot exceed (1) $30,000 in the case of a property of a character subject to an allowance for depreciation, and (2) $1,000 in any other case. Thus, the Act clarifies that the $30,000 and $1,000 limits apply to all QAFV refueling property placed in service by the taxpayer at a location. The rule is consistent with similar deduction limits imposed under §179A(b)(2)(A) relating to the deduction for clean-fuel vehicles and certain refueling property. Effective Date: Property placed in service after December 31, 2005, in tax years ending after December 31, 2005.
§30C(c)	**Definition of "qualified alternative fuel vehicle refueling property" is clarified** The Act modifies the language of §30C(c)(1) to refer to the correct term. The term "qualified alternative fuel vehicle refueling property" has the same meaning as the term "qualified clean-fuel vehicle refueling property" would have under §179A if (1)

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	§179A(d)(1) did not apply to property installed on property which is used as the taxpayer's principal residence and (2) only the following were treated as clean-burning fuels for purposes of Code Sec. 179A(d): (A) any fuel at least 85% of the volume of which consists of one or more of the following: ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen; (B) any mixture (i) which consists of two or more of the following: biodiesel or kerosene; (ii) at least 20% of the volume of which consists of biodiesel determined without regard to any kerosene in the mixture. Effective Date: Property placed in service after December 31, 2005, in tax years ending after December 31, 2005.
§34(a)(1)	**Clerical correction relating to certain uses of gasoline and special fuels** Deleted "with respect to gasoline used during the taxable year on a farm for farming purposes" after "section 6420" in paragraph (a)(1). Effective Date: December 29, 2007
§34(a)(2)	**Clerical correction relating to certain uses of gasoline and special fuels** Deleted "with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service after "section 6421" in paragraph (a)(2). Effective Date: December 29, 2007
§34(a)(3)	**Clerical correction relating to certain uses of gasoline and special fuels** Deleted "with respect to fuels used for nontaxable purposes or resold during the taxable year" after "section 6427" in paragraph (a)(3). Effective Date: December 29, 2007
§35(d)(2)	**Clerical correction relating to health insurance costs of eligible individuals** Clarifying special rule for divorced parents and custodial parents. Effective Date: December 29, 2007
§§38(b) and 38(b)(30)	**Clerical correction relating to general business credits** Miscellaneous clerical corrections. Effective Date: December 29, 2007
The following provisions are operative for Hawaii income tax purposes.	
§41(a)(3)	**Research credit for research by an energy research consortium is clarified to require that the research be qualified energy research** Under the Act, for amounts to be eligible for the energy-research-consortium portion of the research credit, the amounts must be for "energy research." Energy research does not include any research which is not qualified research. The Act clarifies that the credit

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	is available for amounts paid or incurred to an energy research consortium provided they are used for energy research that is qualified research. Effective Date: Amounts paid or incurred after Aug. 8, 2005, in tax years ending after Aug. 8, 2005.
§§41(f)(1)(A)(ii) and (f)(1)(B)(ii)	**Energy research consortium amounts are included in allocation of the research credit among controlled group members and commonly controlled businesses** Under pre-Act law, the research credit allowable to each member of a controlled group or allowable under regulations to each commonly controlled trade or business was its proportionate share of the qualified research expenses and basic research payments giving rise to the credit. Under the Act, the research credit allowable to each member of a controlled group or allowable under regulations to each commonly controlled trade or business is its proportionate share of the qualified research expenses, basic research payments and amounts paid or incurred to energy research consortiums giving rise to the credit. Effective Date: Amounts paid or incurred after Aug. 8, 2005, in tax years ending after Aug. 8, 2005.
§ 41(f)(6)(E)	**Coordinated amendment** The provision clarifies that the credit is available for amounts paid or incurred to an energy research consortium provided they are used for energy research that is qualified research. Effective Date: Amounts paid or incurred after Aug. 8, 2005, in tax years ending after Aug. 8, 2005.
The following provisions are NOT operative for Hawaii income tax purposes.	
§45(c)(3)(A)(ii)	**Open-loop biomass segregation from other waste materials requirement is retroactively eliminated for purposes of the §45 electricity production credit** Because both open-loop biomass and municipal solid waste can be treated as qualified energy resources, the Act eliminates the requirement that open-loop biomass must be segregated from other waste materials for purposes of the electricity production credit. Effective Date: Electricity produced and sold after Oct. 22, 2004, in tax years ending after that date. For open-loop biomass facilities not using agricultural livestock waste nutrients and placed in service before Oct. 22, 2004, apply to electricity produced and sold after December 31, 2004, in tax years ending after that date.
§45(d)(2)(B)(i)	**Clerical correction relating to electricity produced from certain renewable resources** Miscellaneous clerical corrections. Effective Date: October 22, 2004

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§§45(d)(2)(B)(ii) and (d)(2)(B)(iii)	**Clarification of proportionate limitation applicable to closed-loop biomass for purposes of the credit for electricity produced from renewable resources applies retroactively to electricity produced and sold after Oct. 22, 2004** The Act deletes the clause that provided that when closed-loop biomass is co-fired with coal, with other biomass, or with both, the amount of the credit determined under §45(a) for the facility is limited to the otherwise allowable credit multiplied by the ratio of the thermal content of the closed-loop biomass used in that facility to the thermal content of all fuel used in that facility. Redesignation: §45(d)(2)(B)(iii) is redesignated as §45(d)(2)(B)(ii). Effective Date: Electricity produced and sold after October 22, 2004, in tax years ending after that date.
§45(e)(7)(A)(i)	**Credit for electricity produced at qualified wind facilities originally placed in service before July 1, '99 and sold to utilities under certain pre-'87 contracts is not disallowed due to a change in ownership** The Act provides the electricity production credit does not apply to electricity sold to utilities under certain pre-1987 contracts if the electricity is produced at a qualified wind facility originally placed in service after June 30, 1999. Facilities placed in service before June 30, 1999 that sell electricity under applicable pre-1987 contracts are not denied the electricity production credit solely by reason of a change in ownership after June 30, 1999. Effective Date: December 17, 1999
§§45H(b)(1)(A), (c)(2), (e)(1), and (e)(2)	**The low sulfur diesel fuel credit rules are amended retroactively to eliminate duplicate basis reduction** Under the provision, deductions are denied in an amount equal to the amount of the credit under §45H , and the provisions of present law reducing basis and denying a deduction are repealed. The provision also provides that no low sulfur fuel credit will be determined if a taxpayer elects not to have §45H(a) apply to the tax year. The provision changes the name of the costs that qualify for the low sulfur diesel fuel credit and for the deduction for costs complying with EPA regulations from "qualified capital costs" to "qualified costs". Effective Date: Expenses paid or incurred after December 31, 2002, in tax years ending after December 31, 2002.
§§45H(d), (e), and (f)	**Redesignation relating to credit for low sulfur diesel fuel** Deleted subparagraph (d) and redesignated subparagraphs (e), (f), and (g) as subparagraphs (d), (e), and (f). Effective Date: Expenses paid or incurred after December 31, 2002, in tax years ending after December 31, 2002.

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§45H(g)	**The low sulfur diesel fuel credit rules to permit election not to take the credit** The provision provides that no low sulfur fuel credit will be determined if a taxpayer elects not to have §45H(a) apply to the tax year. Effective Date: Expenses paid or incurred after December 31, 2002, in tax years ending after December 31, 2002.
§45J(b)(2)	**IRS cannot allocate more than the national capacity limitation of 6,000 megawatts for purposes of advanced nuclear power facilities credit computation** The Act provides that the aggregate amount of national megawatt capacity limitation allocated by §45J(b)(3) cannot exceed 6,000 megawatts. Effective Date: Production in tax years beginning after August 8, 2005.
§§45L(c)(2) and (c)(3)	**Clerical correction relating to new energy efficient home credit** Correction from section 3280 to part 3280. Effective Date: December 29, 2007
§§48(c), (c)(1)(B), and (c)(2)(B)	**Clarification that the definitions of qualified fuel cell property and qualified microturbine property apply for all purposes of the §48 energy credit** The provision clarifies that the definitions of qualified fuel cell property and qualified microturbine property (and the other provisions relating to qualified fuel cell property and qualified microturbine property contained in §48(c)) apply to all of §48, including the provision under §48(a)(2)(A)(i)(I) that the energy percentage is 30% for qualified fuel cell property and the definition of energy property under §48(a)(3)(A)(iv) includes qualified fuel cell property and qualified microturbine property. Effective Date: December 29, 2007
§48A(d)(4)(B)(ii)	**Clerical correction relating to qualifying advanced coal project credit** Deleted “subsection” before “paragraph (2)” and “paragraph (2)(D)” in clause (d)(4)(B)(ii). Effective Date: December 29, 2007
§53(e)(2)(A)	**AMT refundable credit for individuals is revised to allow at least $5,000 a year for five years** The provision increases the alternative minimum tax (AMT) refundable credit amount used in computing the refundable portion of the minimum tax credits (MTC) allowed to individuals who have long-term unused MTCs for a tax year beginning after 2006 and before 2013. An individual's AMT refundable credit amount for a tax year, before any reduction resulting from the AGI-based phaseout rules, is the amount (not in excess of the long-term unused MTC for the tax year equal to the greater of: (1) $5,000, (2) 20% of the long-term unused MTC for the tax year, or (3) the amount (if any) of the AMT

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	refundable credit amount determined under §53(e) for the taxpayer's preceding tax year, as determined before any reduction resulting from the AGI-based phaseout rules. Effective Date: Tax years beginning after December 20, 2006 and before January 1, 2013.
§54(g)(4)(C)(iv)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Directs that "an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products" is substituted for "a cooperative described in section 927(a)(4)" in §54(g)(4)(C)(iv). It appears as if the amendment should be made to §56(g)(4)(C)(iv) and has been incorporated in §56(g)(4)(C)(iv) Effective Date: December 29, 2007
§56(g)(4)(C)(ii)(I)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Substituted "921" with "921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)" in subclause (g)(4)(C)(ii)(I). Effective Date: December 29, 2007
The following provisions are operative for Hawaii income tax purposes.	
§121(d)(9)	**Clerical correction relating to exclusion of gain from sale of principal residence** Added new subparagraph, "Termination with respect to employees of intelligence community. Clause (iii) of subparagraph (A) shall not apply with respect to any sale or exchange after December 31, 2010." Effective Date: Sales or exchanges after 12/20/2006 and before January 1, 2011.
§125(b)(2)	**Clerical correction relating to cafeteria plans** Substituting "last sentence" with "second sentence". Clarify determination of statutory nontaxable benefits. Effective Date: December 29, 2007
§167(g)(8)(C)(ii)(II)	**Clerical correction relating to depreciation** Correction from "section 263A(j)(2)" to "section 263A(i)(2)". Effective Date: December 29, 2007
§168(l)(3)	**Bonus depreciation and alternative minimum tax exemption rules for qualified cellulosic biomass ethanol plant property are retroactively corrected to permit non-enzymatic hydrolysis** The Act removes the word "enzymatic" from the definition of "cellulosic biomass ethanol".

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: Property purchased after December 20, 2006 and placed in service before January 1, 2013.
§170(b)(1)(A)(vii)	**Clerical correction relating to deduction for charitable contributions** Correct reference to the description of certain private foundations. Effective Date: December 29, 2007
§170(e)(1)(B)(i)(II)	**Definition of "applicable property" for purposes of reduced deduction for contribution is clarified** Generally, a charitable contribution of property deduction is equal to the fair market value (FMV) of the donated property. In cases of contributions of "applicable property" where the donee disposes of the property within specified time periods following the contribution, the donor's deduction is subject to reduction (if the disposition occurs in the contribution year) or recapture (if the disposition occurs with specified time periods following the contribution year). Under the Act, the definition of "applicable property" for purposes of the reduction required in the amount of the taxpayer's deduction for a contribution of "applicable property" if the donee disposes of the property before the end of the contribution year no longer includes the requirement for which a deduction in excess of the donor's basis is allowed. Effective Date: December 29, 2007
§170(e)(1)(B)(ii)	**Clerical correction relating to deduction for charitable contributions** Correction from "subsection (b)(1)(E)" to " subsection (b)(1)(F)". Effective Date: December 29, 2007
§170(e)(7)(D)(i)(I)	**Donee's use of donated "applicable property" for its exempt purpose or function must be substantial for taxpayer to avoid reduction or recapture of deduction for contribution** Under the Act, in addition to certifying that the donee's use of the property was related to the purpose or function that was the basis for its tax-exemption, the donee organization, must also certifiy that its use of the donated property was substantial. The officer of the donee organization must certify that the donee's use of the property was substantial. Effective Date: Contributions after Sept. 1, 2006.
§§170(o)(1)(A) and (c)(3)(A)(i)	**Clerical corrections relating to deduction for charitable contributions** Substituted "all interest in the property is" with "all interests in the property are" in subparagraph (o)(1)(A). Substituted "interest" with "interests" in clause (o)(3)(A)(i). Substituted "before" with "on or before" in clause (o)(3)(A)(i). Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§179B(a)	**Coordinated amendment for low sulfur diesel fuel credit** The provision changes the name of the costs that qualify for the low sulfur diesel fuel credit and for the deduction for costs complying with EPA regulations from "qualified capital costs" to "qualified costs". Adds language "and which are properly chargeable to capital account." Effective Date: Expenses paid or incurred after December 31, 2002, in tax years ending after December 31, 2002.
§245(c)(4)(C)	**Clerical correction relating to dividends received from certain foreign corporations** Added new subparagraph (C), regarding definition of Foreign Sales Corporation. Effective Date: December 29, 2007
§245(c)(5)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Added new subsection (5), regarding Foreign Sales Corporations. Effective Date: December 29, 2007
	The following provisions are operative for Hawaii income tax purposes.
§275(a)(4)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Substituted "if" with “if the taxpayer chooses to take to any extent the benefits of section 901.” Effective Date: December 29, 2007
	The following provisions are NOT operative for Hawaii income tax purposes.
§280C(d)	**Coordinated amendment for low sulfur diesel fuel credit** The provision stating that no deduction is allowed under §280C(d) for that portion of the expenses otherwise allowable as a deduction for the tax year that is equal to the amount of the low sulfur diesel fuel production credit determined for that tax year is amended to provide instead that deductions otherwise allowable for income tax purposes for the tax year must be reduced by the amount of the credit determined for the tax year under §45H(a). Effective Date: Expenses paid or incurred after December 31, 2002, in tax years ending after December 31, 2002.
§§291(a)(4) and (a)(5)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted paragraph (4) (certain rules relating to certain Foreign Sales Corporations) and redesignated paragraph (5) as paragraph (4). Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
§291(c)(1)	**Coordinated amendment** Substituted "subsection (a)(5)" with "subsection (a)(4)". Effective Date: December 29, 2007
	The following provisions are operative for Hawaii income tax purposes.
§§355(b)(2)(A), (b)(3), (b)(3)(A), (b)(3)(C), and (b)(3)(D)	**Modification of active business definition under §355** Under the Act, if a corporation becomes a member of a separate affiliated group as a result of one or more transactions in which gain or loss was recognized any trade or business conducted by the corporation when it became a member is treated as acquired in a transaction in which gain or loss was recognized in a transaction to which item (2) of the §355(b)(2) five-year list applies. This technical amendment makes a stock acquisition subject to §355(b)(2)(C) and therefore the trade or business conducted by the corporation may qualify as an expansion of an existing active trade or business conducted by the distributing corporation or the controlled corporation, as the case may be. The provision clarifies that the Internal Revenue Service shall prescribe regulations to carry out the purpose of these amendments. Effective Date: Distributions made after May 17, 2006.
§402(g)(7)(A)(ii)(II)	**Application of cumulative limit on designated Roth contributions corrected** In general, a "designated Roth contribution" is an elective deferral that is designated irrevocably by the employee at the time of the election as a Roth contribution, and treated as includible in the employee's gross income. A special rule enables certain employees to make additional elective deferrals to a §403(b) annuity contract. Specifically, for elective deferrals under a §403(b) annuity contract, the applicable limit is adjusted by increasing the otherwise adjusted limit by whichever of the following amounts is smallest: (1) $3,000, (2) $15,000 reduced by the sum of: (a) the amounts not included in gross income for prior tax years by reason of this rule, plus (b) the aggregate amount of designated Roth contributions, for prior tax years, or (3) the excess of (i) $5,000 multiplied by the employee's number of years of service with the qualified organization, over (ii) the employer contributions made to the employee's tax-sheltered annuity contract on his behalf by the organization for a prior tax year in the manner prescribed by Internal Revenue Service. Pre-Act law provided the rule for the aggregate amount of designated Roth contributions, for prior tax years, to coordinate the cumulative limit with the ability to make designated Roth contributions, but inadvertently reduced the $15,000 amount by all designated Roth contributions made in prior years. The Act provides that the $15,000 cumulative limit is reduced only by additional designated Roth contributions made under the special rule. Effective Date: Tax years beginning after December 31, 2005.
§408(d)(8)(D)	**Rule clarified for determining what portion of an IRA distribution that includes nondeductible contributions is tax-free under the IRA qualified charitable distribution rules** The Pension Protection Act of 2006 created a new exclusion from gross income for otherwise taxable IRA distributions, where the distributions are donated to charity in 2006 and 2007. Under the IRA qualified charitable distribution rules, amounts up to $100,000

CODE SECTION	DESCRIPTION OF PROVISION
	each year may be distributed tax-free, as long as (1) the distribution is made directly by the IRA trustee to a qualified charitable organization, and (2) the IRA owner has attained age 70-1/2. If the IRA (either a traditional or a Roth IRA) includes nondeductible contributions a special rule applies in determining the portion of the distribution that would otherwise be includible in gross income (but for the IRA qualified charitable distribution rules), and that is eligible for qualified charitable distribution treatment. In determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution must be treated as includible in gross income (without regard to the IRA qualified charitable distribution exclusion). The Act amends §408(d)(8)(D) to provide that this treatment applies to the extent that the distributed amount does not exceed the aggregate amount which would be includible in income if all amounts in all of the individual's IRAs were distributed during the tax year, and all of the IRAs were treated as one contract for purposes of determining the aggregate amount which would have been includible under §72. When determining the portion of a distribution that would otherwise be includible in income, the otherwise includible amount is determined as if all amounts were distributed from all of the individual's IRAs. Effective Date: For IRA distributions made in tax years beginning after December 31, 2005 and before January 1, 2008.
§§441(b)(4) and (h)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted reference to Foreign Sales Corporations. Effective Date: December 29, 2007
§§470(c)(2)(B) and (c)(2)(C)	**Ownership by certain pass-thru entities making nonqualified allocations is no longer a reason for property to be subject to the "tax-exempt use loss" rules** Under the Act, any property that would have been tax-exempt use property, for purposes of the tax-exempt use loss rules, solely by reason of §168(h)(6) (treatment of property owned by a partnership) is excepted from being tax-exempt use property for purposes of the tax-exempt use loss rules. Effective: Property acquired after March 12, 2004.
§470(d)(1)(A)	**The "limited-available-funds" requirement for excepting certain leases from the "tax-exempt use loss" rules must be satisfied for the full lease term** The provision requires that the limited-available funds requirement be satisfied at all times during the lease term. Effective: Leases entered into after March 12, 2004, but not "qualified transportation property".
§852(b)(4)(C)	**Clerical correction relating to regulated investment companies** Regarding determination of holding periods for the loss on sale or exchange of stock held 6 months or less.

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: December 29, 2007
§856(d)(9)(D)(ii)	**Hotels and motels are lodging facilities for qualified REIT subsidiaries purposes regardless of whether rentals are transient** The Act provides that a lodging facility is a (1) hotel; (2) motel; or (3) other establishment in which more than one-half of the dwelling units are used on a transient basis. The requirement that more than one-half of the dwelling units are used on a transient basis does not apply to hotels and motels. Effective Date: For tax years beginning after December 31, 2000.
§856(l)(2)	**Clerical correction relating to real estate investment trusts (REITs)** Substituted the last sentence with "For purposes of subparagraph (B), securities described in subsection (m)(2)(A) shall not be taken into account". Effective Date: December 29, 2007
§857(b)(8)(B)	**Clerical correction relating to REITs** Determination of holding period for loss on sale or exchange of stock held 6 months or less. Effective Date: December 29, 2007
The following provisions are NOT operative for Hawaii income tax purposes.	
§884(d)(2)(B)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Exception for certain income as in effect before repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. Effective Date: December 29, 2007
§901(h)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Subsection (h) repealed. Taxes paid with respect to foreign trade income. Effective Date: December 29, 2007
§§904(d)(2)(B)(v), (d)(2)(B)(v)(I), (d)(2)(B)(v)(II), (d)(2)(B)(v)(III)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted subclause (d)(2)(B)(v)(II) and redesignated subclause (d)(2)(B)(v)(III) as (II). Specified passive category income corrected. Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
§904(f)(3)(D)(iv)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Substituting "a controlled group" with "an affiliated group". Effective Date: For dispositions after October 22, 2004.
§§906(b)(5), (b)(6), (b)(7)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted paragraph (b)(5) (no credit allowed with respect to foreign trade income within the meaning of §923(b) of a Foreign Sales Corporation) and redesignated paragraphs (b)(6) and (7) as paragraphs (b)(5) and (6). Effective Date: December 29, 2007
§911(f)	**Computation of regular tax and AMT modified where foreign earned income or housing exclusion is claimed** The Act amends the regular tax computation and the alternative minimum tax computation when an individual taxpayer has excluded amounts. Effective Date: Tax years beginning after December 31, 2006.
§936(f)(2)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted reference to Foreign Sales Corporation. Effective Date: December 29, 2007
§§951(c) and (d)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted subsection (c) (foreign trade income of a Foreign Sales Corporation) and redesignated subsection (d) as (c). Effective Date: December 29, 2007
§952(b)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted "For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States. " in subsection (b). Effective Date: December 29, 2007.
§§954(c)(1)(F), (c)(1)(H), (c)(1)(I), (c)(2)(C)(ii)	**Clerical correction relating to income from foreign sources** Amended subparagraph (c)(1)(F) (income from notional principal contracts). Redesignated subparagraph (c)(1)(I) as subparagraph (c)(1)(H). Substituted "section

CODE SECTION	DESCRIPTION OF PROVISION
	956(c)(2)(J)" with "section 956(c)(2)(I)" in clause (c)(2)(C)(ii). Effective Date: December 29, 2007
§954(c)(6)(B)	**TIPRA look-through rule doesn't apply to interest, rent or royalty payments between related CFCs that create or increase a deficit that reduces subpart F income** TIPRA look-through rule doesn't apply to interest, rent or royalty payments between related CFCs that create or increase a deficit that reduces subpart F income. The provision parallels the rule applicable to interest, rents, or royalties that would otherwise qualify for exclusion from foreign personal holding company income under the "same country" exception of §954(c)(3)(B). Thus interest, rents, and royalties will be treated as subpart F income, notwithstanding the general TIPRA look-through rule, if the payment creates or increases a deficit of the payor corporation and that deficit is from an activity that could reduce the payor's subpart F income under §952(c)(1)(B) accumulated deficit rule or could reduce the income of a qualified chain member under §952(c)(1)(C) chain deficit rule. For example, under the provision, items that do not qualify for the "same country" exception will also not qualify under the TIPRA look-through rule. Effective Date: Tax years of foreign corporations beginning after December 31, 2005, and tax years of U.S. shareholders with or within which such tax years for foreign corporations end.
§954(c)(6)(C)	**Redesignation relating to income from foreign sources** Redesignated subparagraph (B) as subparagraph (C). Effective Date: Tax years of foreign corporations beginning after December 31, 2005 and before January 1, 2009, and tax years of U.S. shareholders with or within which such tax years for foreign corporations end.
§§956(c)(2), (c)(2)(I), (c)(2)(J), (c)(2)(K), (c)(2)(L), and (c)(2)(M)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted subparagraph (c)(2)(I) (relating to property which is held by a Foreign Sales Corporation and which is related to the export activities of such Foreign Sales Corporation). Redesignated subparagraphs (c)(2)(J)-(M) as subparagraphs (c)(2)(I)-(L). Substituted "subparagraphs (J), (K), and (L)" with "subparagraphs (I), (J), and (K)" in paragraph (c)(2). Effective Date: December 29, 2007
§§992(a)(1)(C), (a)(1)(D), and (a)(1)(E),	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Miscellaneous clerical corrections. Deleted subparagraph (a)(1)(E) relating to Foreign Sales Corporations. Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are operative for Hawaii income tax purposes.
§§1016(a)(31), (a)(32), (a)(33), (a)(34), (a)(35), (a)(36), and (a)(37)	**Low sulfur diesel fuel credit rules are amended retroactively** The pre-Act provision requiring an adjustment to basis in refinery property to be made under 1016(a) for the amount of production credit claimed is retroactively repealed. Redesignation: Deleted paragraph (31) and redesignated paragraphs (32) through (37) as paragraphs (31) through (36). Includes other miscellaneous clerical corrections. Effective Date: Effective for expenses paid or incurred after December 31, 2002, in taxable years ending after December 31, 2002.
§§1092(a)(2)(A)(i), (a)(2)(A)(ii), (a)(2)(A)(iii), and (a)(2)(A)(iv)	**Treatment of losses on positions in identified straddles** The Act addresses the treatment of losses in (1) when there are no offsetting positions in the identified straddle with unrecognized straddle-period gain, and (2) when an offsetting position in the identified straddle is or has been a liability to the taxpayer. It generally reaffirms that a loss on a position in an identified straddle is neither currently recognized nor permanently disallowed. Under the Act, if the application of §1092(a)(2)(A)(ii) does not result in a basis increase in any offsetting position in the identified straddle (because there is no unrecognized straddle-period gain in any offsetting position), the basis of each offsetting position in the identified straddle must be increased in a manner that: is reasonable, is consistent with the purposes of the identified straddle rules, is consistently applied by the taxpayer, and allocates the full amount of the loss (but no more than that amount) to offsetting positions. Taxpayers are expected to describe their method of allocating the basis increase in their books and records at the time the method is adopted. Similar basis-increase rules apply (unless Internal Revenue Service provides otherwise) when there is a loss on a position in an identified straddle and an offsetting position in the identified straddle is or has been a liability or an obligation, such as a debt obligation issued by the taxpayer, a written option, or a notional principal contract entered into by the taxpayer. Effective Date: Positions established after October 21, 2004.
§1092(a)(2)(B)	**Identification of offsetting positions in identified straddles is required** The Act provides that a straddle isn't "clearly identified" unless the positions in the straddle that are offsetting to other positions in the straddle are identified. Taxpayers must identify not only the positions that make up an identified straddle but also which positions in that identified straddle are offsetting to one another. Effective: Straddles acquired after December 29, 2007.
§§1092(a)(2)(C), (a)(2)(D), (a)(3)(B)	**Rules for identified straddles** Similar basis-increase rules apply (unless Internal Revenue Service provides otherwise) when there is a loss on a position in an identified straddle and an offsetting position in the identified straddle is or has been a liability or an obligation, such as a debt obligation issued by the taxpayer, a written option, or a notional principal contract entered into by the taxpayer. Redesignated subparagraph (C) as subparagraph (D).

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: Positions established after Oct. 21, 2004.
§1248(d)(5)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Clarifying definition of Foreign Sales Corporation. Effective Date: December 29, 2007
§1260(c)(2)(G)	**Clerical correction relating to gains from constructive ownership transactions** Substituted "subsection (d)" for "subsection (e)" in subparagraph (c)(2)(G). Effective Date: December 29, 2007
The following provisions are NOT operative for Hawaii income tax purposes.	
§1297(b)(2)(D), (d), (e), and (f)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Deleted subsection (d) ("passive foreign investment company" does not include any foreign investment company to which section 1247 applies). Redesignated subsections (e)-(f) as subsections (d)-(e). Effective Date: December 29, 2007
§1298(a)(2)(B)	**Clerical correction relating to passive foreign investment companies** Substituted "Section 1297(e)" with "Section 1297(d)" Effective Date: December 29, 2007
§§1298(b)(7), (b)(8), and (b)(9),	**Clerical amendments related to passive foreign investment companies** Deleted paragraph (b)(7) (coordination with §1246). Redesignated paragraphs (b)(8)-(9) as (b)(7)-(8). Effective Date: For taxable years of foreign corporations beginning after December 31, 2004, and for taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.
The following provisions are operative for Hawaii income tax purposes.	
§1362(f)(1)	**Clerical corrections relating to elections, revocations, and terminations of S Corporations** Correcting reference to certain inadvertent invalid elections or terminations. Effective Date: December 29, 2007 Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
§1366(d)(4)	**Charitable deduction allowed where S corporation's charitable contribution of property reduces shareholder's basis only by contributed property's basis** Under pre-Act law the amount of losses and deductions which a shareholder of an S corporation may take into account in any taxable year is limited to the shareholder's adjusted basis in his stock and indebtedness of the corporation. The provision provides that this basis limitation does not apply to a contribution of appreciated property to the extent the shareholder's pro rata share of the contribution exceeds the shareholder's pro rata share of the adjusted basis of the property. The basis limitation of §1366(d) does not apply to the amount of deductible appreciation in the contributed property. The provision does not apply to contributions made in taxable years beginning after December 31, 2007. Effective Date: The technical correction is effective as if included in the provision of the 2006 Pension Protection Act to which it relates. Effective for contributions made in taxable years beginning after December 31, 2005.
The following provision is NOT operative for Hawaii income tax purposes.	
§1400O(2)	**Clerical correction relating to GO Zone education tax benefits** Miscellaneous clerical correction. Effective Date: December 29, 2007
The following provision is operative for Hawaii income tax purposes.	
§1400S(a)(2)(A)(i)	**Clerical correction relating to GO Zone tax relief** Referencing subparagraph (G) instead of (F). Effective Date: December 29, 2007
The following provisions are NOT operative for Hawaii income tax purposes.	
§§2055(g) 2522(e)(1)(A)	**Limits on estate and gift tax charitable deductions for series of fractional contributions of tangible personal property are retroactively repealed** The 2006 Pension Protection Act included a rule that if a taxpayer made a lifetime gift of an undivided portion of his entire interest in any tangible personal property, for which an income tax charitable deduction was allowed (an “initial fractional contribution”), and then, on his death, the taxpayer made an additional bequest, legacy, devise, or transfer of an interest in the same property (an “additional contribution”), there was a limit on the amount of the estate tax charitable deduction allowable for the additional contribution. For estate tax charitable deduction purposes, the fair market value of the additional contribution was determined by using the lesser of the fair market value of the property at the time of the initial fractional contribution, or the fair market value of the property at the time of the additional contribution. The Act strikes the special valuation rule for estate and gift tax purposes. Effective Date: For contributions, bequests, and gifts made after August 17, 2006.

CODE SECTION	DESCRIPTION OF PROVISION
§§2522(e)(2), (e)(2)(C), (e)(3), (e)(3)(A)(i), and (e)(4)	**Clerical correction** Deleted paragraphs (e)(2) and (4) (valuation of subsequent gifts and definitions of additional and initial fractional contributions). Redesignated paragraph (e)(3) as (2) and added subparagraph (e)(2)(C). Effective Date: For contributions, bequests, and gifts made after August 17, 2006.
§3121(v)(1)(A)	**Elective deferrals designated as Roth contributions are FICA "wages"** The Act provides that elective deferrals that are designated as Roth IRA contributions are treated as wages for FICA tax purposes. Effective Date: For taxable year beginning after December 31, 2005.
§4041(d)(1)	**Double Leaking Underground Storage Tank Trust Fund financing rate (LUST tax rate) eliminated on certain fuel** Generally, §4041(d)(1) imposes the LUST tax rate as an "additional" retail excise tax on the retail sale or use of diesel fuel, kerosene, various alternative fuels, and kerosene used in aviation. This provision provides that the additional retail tax, the LUST tax rate, won't apply to the sale or use of any liquid if tax was already imposed on that liquid under the §4081 removal-at-terminal tax rules at the LUST tax rate. Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§4041(d)(5)	**Fuel used in vessels or aircraft in foreign trade or trade between U.S. and its possessions is exempted from the LUST tax** The Act provides that fuel for use in vessels (including civil aircraft) employed in foreign trade, or trade between the U.S. and any of its possessions, is exempted from the LUST tax rate. Effective Date: Retroactively for fuel entered, removed, or sold after September 30, 2005.
§4041(d)(5)	**Fuel sold for use, or used, for an off-highway business use isn't excepted from the LUST tax rate imposed under the retail fuel tax rules** The Act adds the §4041(b)(1)(A) exemption from the retail fuel taxes for off-highway business use of fuel to the list of exemptions under §4041(d)(5) that are to be disregarded in imposing the LUST tax rate imposed on retail sale or use of specified fuels. Effective Date: For fuel sold for use or used after December 29, 2007.
§4042(b)(3)	**LUST tax on certain fuels** The provision provides that the LUST tax rate won't apply to the use of liquid fuels in commercial waterway transportation where the fuel was already taxed at the LUST tax rate under §4041(d) or §4081.

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§4082(a)	**Amendments related to the Energy Policy Act of 2005**
	Deleting "(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)".
	Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§4082(b)	**Clerical correction relating diesel fuel and kerosene**
	Definition of nontaxable use clarified.
	Effective Date: December 29, 2007
§4082(e)	**Fuel used in aircrafts**
	The Act provides if the aircraft is employed in foreign trade or trade between the U.S. and any of its possessions, in addition to the regular removal-at-terminal tax rate being zero, the rate increase imposed under §4081(a)(2)(B) is also zero.
	Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§4082(f)	**Fuel used in vessels or aircraft in foreign trade or trade between U.S. and its possessions**
	The Act provides that while the exemption, generally, doesn't apply to tax imposed at the LUST tax rate, it may apply to the LUST tax rate if IRS determines that the fuel is destined for export or for use by the purchaser as supplies for vessels (within the meaning of §4221(d)(3)) employed in foreign trade or trade between the U.S. and any of its possessions.
	Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§§4082(g) and (h)	**Clerical correction relating to exemptions for diesel fuel and kerosene**
	Redesignated subsections (f)-(g) as (g)-(h).
	Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§§4101(a)(4) and (a)(5)	**Clerical correction relating to registration and bond of petroleum products**
	Redesignated paragraph (a)(4) as paragraph (a)(5).
	Effective Date: December 29, 2007.
§4940(c)(4)(A)	**Excise tax on private foundation's net investment**
	The Act provides for the purposes of the definition of "net investment income," gain or loss from the sale or other disposition of property is not taken into account to the extent that the gain or loss is taken into account for purposes of computing the UBIT.

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: Tax years beginning after August 17, 2006.
§4942(i)(1)(A)	**Clerical correction relating to taxes on failure to distribute income from private foundations**
	Substituted "section 170(b)(1)(E)(ii)" with "section 170(b)(1)(F)(ii)".
	Effective Date: December 29, 2007
§§4958(c)(3)(A)(i)(II) and (c)(3)(C)(ii)	**Excess benefit transactions rules**
	The Act expands the exception to the definition of "substantial contributor" to provide that the term does not include §501(c)(4), §501(c)(5), or §501(c)(6) supported organizations. Since §501(c)(4), §501(c)(5), and §501(c)(6) supported organizations are not considered "substantial contributors" for purposes of the excess benefit transaction rules, the tax on excess benefit transactions does not apply to transactions between these supported organizations and their supporting organizations. The Act also expands the exception to the "excess benefit transaction" rules for loans made to public charities by including §501(c)(4), §501(c)(5), and §501(c)(6) supported organizations in the list of organizations that are eligible for this exception.
	Effective Date: For transactions occurring after July 25, 2006.
§4962(b)	**Donor advised fund excise taxes added to list of "qualified first tier taxes" for abatement purposes**
	The Act adds subchapter G to the list of qualified first tier taxes.
	Effective Date: Taxable years beginning after August 17, 2006.
§4965(c)(6)	**Clerical correction relating to tax exempt organization excise taxes**
	Substituted "section 4457(e)(1)(A)" with "section 457(e)(1)(A)".
	Effective Date: December 29, 2007
§§5121 and 5432	**Clerical correction relating to liquor tax**
	Redesignated §5432 (relating to recordkeeping by wholesale dealers) as §5121.
	Effective Date: July 1, 2008, but shall not apply to taxes imposed for periods before July 1, 2008.
§5732(c)	**Clerical correction relating to tobacco tax**
	Substituting "this subpart" with "this subchapter".
	Effective Date: December 29, 2007

CODE SECTION	DESCRIPTION OF PROVISION
§§6011(c) and (c)(1)	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Definition of Foreign Sales Corporation clarified. Effective Date: December 29, 2007
§6046(b)	**Clerical correction relating to returns of foreign corporations** Substituted “subsection (a)(1)” with “subsection (a)(1)(A)”, and substituting “paragraph (2) or (3) of subsection (a)” with “subparagraph (B) or (C) of subsection (a)(1)”. Effective Date: December 29, 2007
§6072(c)	**Clerical correction relating to time to file income tax returns** Correcting reference to §922 in effect before repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. Effective Date: December 29, 2007
§6103(b)(5)(A)	**Clerical correction relating to confidentiality and disclosure of returns and return information** Deleting "the Canal Zone". Effective Date: December 29, 2007
§6104(b)	**IRS must allow public inspection of unrelated business income tax (UBIT) returns of tax-exempt organizations** The Act clarifies that the Internal Revenue Service is required to make Form 990-T publicly available, subject to redaction procedures applicable to Form 990 §6104(b). Effective Date: Returns filed after August 17, 2006.
§§6104(d)(1)(A)(ii) and (d)(2)	**§501(c)(3) organizations must make available for public inspection copies of federal Form 990-T relating to unrelated business income tax for three years** The provision provides that the public inspection of returns under §6104(d)(1) applies to annual returns filed under §6011 during the three-year period beginning on the last day prescribed for filing those returns (determined with regard to any filing extensions). The Act clarifies that the three-year limitation on making returns publicly available applies to federal Form 990-T. Effective Date: Returns filed after August 17, 2006.
§6110(i)(3)	**Redactions for background documents related to Chief Counsel Advice documents** The provision clarifies that the Chief Council Advice (CCA) background file documents are governed by the same redactions as CCAs.

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: Chief Counsel Advice issued after October 20, 1998.
§6211(b)(4)(A)	**Clerical correction relating to definition of a deficiency** Substituted "and 34" with "34, and 35". Effective Date: December 29, 2007
	The following provision is operative for Hawaii income tax purposes.
§§6230(a)(3)(A) and (a)(3)(B)	**Clerical correction relating to administrative provisions** Reference "section 6013(e)" instead of "section 6015". Effective Date: December 29, 2007
	The following provisions are NOT operative for Hawaii income tax purposes.
§6416(a)(4)(C)	**Rules relating to registered credit card issuer's electronic excise tax refund claims for sales of gasoline to certain exempt entities, are clarified for sales after December 31, 2005** The Act provides the same refund rules apply to registered credit card issuers as apply to registered ultimate vendors. Effective Date: For sales after December 31, 2005.
§§6426(d)(2)(F) and (h)	**Fuel eligible for alternative fuel excise tax credit is expanded retroactively** The Act modifies the definition of alternative fuels to replace the term "hydrocarbon" with the term "fuel." Effective Date: Any sale or use for any period after September 30, 2006.
§6427(e)(3)	**Clerical correction relating to fuels not used for taxable purposes** Redesignated §6427(e)(3) as §6427(e)(5) Effective Date: August 8, 2005
§6427(e)(5)(B)	**Termination dates for excise tax refund/income tax credit rules for biodiesel mixtures, alternative fuel mixtures, and alternative fuels are corrected** The Act retroactively corrects the errors in the termination provisions of the excise tax refund rules for biodiesel mixtures, alternative fuel mixtures, and alternative fuels. Effective Date: August 8, 2005
§§6427(i)(3), (i)(3)(A), (i)(3)(A)(i), and (i)(3)(B)	**Expedited excise tax refund claims permitted for alternative fuels, for any sale or use for any period after September 30, 2006** The Act clarifies the expedited excise tax refund rules under §6427(i)(3), retroactive for any sale or use for any period after September 30, 2006, to provide that the same rules

CODE SECTION	DESCRIPTION OF PROVISION
	apply for filing refund claims for alternative fuel mixtures and alternative fuels. Effective Date: For any sale or use for any period after September 30, 2006.
§6427(l)(4)(A)(ii)	**Clerical correction relating to fuels not used for taxable purposes** Substituted "section 4081(a)(2)(iii)" with "section 4081(a)(2)(A)(iii)" in clause (l)(4)(A)(ii). The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) (Amendments related to section 301 of the American Jobs Creation Act of 2004) of section 11151(a) of the SAFETEA-LU [P.L. 109-59] had never been enacted.
§6427(p)	**Clerical correction relating to fuels not used for taxable purposes** Deleted subsection (p) (relating to gasohol used in noncommercial aviation). The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) (Amendments related to section 301 of the American Jobs Creation Act of 2004) of section 11151(a) of the SAFETEA-LU [P.L. 109-59] had never been enacted.
§6427(q)	**Clerical correction relating to fuels not used for taxable purposes** Redesignated subsection (q) as subsection (p). The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) (Amendments related to section 301 of the American Jobs Creation Act of 2004) of section 11151(a) of the SAFETEA-LU [P.L. 109-59] had never been enacted.
§6430	**Treatment of tax imposed at leaking underground storage tank trust fund financing rate.** The Act prohibits the refund of taxes imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuel destined for export. Effective Date: For fuel entered, removed, or sold after September 30, 2005.
§6501(m)	**Low sulfur diesel fuel credit rules** The Act adds the election out of the low sulfur diesel fuel credit (45H(g)) to the list of credits for which the limitations period in which the Internal Revenue Service (IRS) may assess a deficiency is extended so that it won't expire before the date one year after the date that IRS is notified of the election or revocation. Effective Date: Expenses paid or incurred after December 31, 2002.
§6686	**Clerical amendments relating to the FSC repeal and Extraterritorial Income Exclusion Act of 2000** Referencing former Foreign Sales Corporation.

CODE SECTION	DESCRIPTION OF PROVISION
	Effective Date: December 29, 2007
§6695A(a)(2)	**Penalty for valuation misstatements attributable to incorrect appraisals**
	The Act added a penalty for substantial and gross valuation misstatements attributable to incorrect appraisals will also apply to any person who prepares an appraisal upon which a §6662(g) substantial estate or gift tax valuation understatement is based.
	Effective Date: Appraisals prepared for returns or submissions filed after August 17, 2006.
§6696(d)(1)	**Penalty for valuation misstatements attributable to incorrect appraisals subject to 3-year limitation period**
	The provision adds a cross reference to §6695A in section 6696(d). The provision provides that the §6695A penalty for valuation misstatements attributable to incorrect appraisals is subject to a 3-year limitation period.
	Effective Date: Appraisals prepared for returns or submissions filed after August 17, 2006.
§6707A(e)(2)(C)	**Clerical correction relating to penalty for failure to include reportable transaction information with return**
	Reference “section 6662A(e)(2)(B)” instead of “section 6662A(e)(2)(C)”.
	Effective Date: December 29, 2007
§§6724(d)(1)(B)(iv) and (d)(2)(K)	**Returns and statements relating to certain mortgage insurance premiums are subject to information return and payee statement penalties**
	The Act adds information returns required for mortgage insurance premiums to the definition of information returns and also adds written statements required to be furnished to individuals for mortgage insurance premiums to the definition of payee statements.
	Effective Date: Amounts paid or accrued after December 31, 2006.
§§7651(4) and (5)	**Clerical correction relating to administration and collection of taxes in possessions**
	Deleted paragraph (4) (Canal Zone). Redesignated paragraph (5) as paragraph (4).
	Effective Date: December 29, 2007.
§9002(3)	**Clerical correction relating to presidential election campaign fund**
	Reference “section 306(a)(1)" instead of “section 309(a)(1)”.
	Effective Date: December 29, 2007.

CODE SECTION	DESCRIPTION OF PROVISION
§9004(a)(1)	**Clerical correction relating to presidential election campaign fund** Reference "section 315(b)(1)(B)" instead of "section 320(b)(1)(B)". Effective Date: December 29, 2007.
§9006	**Clerical correction relating to presidential election campaign fund** Substituted "Comptroller General" each place it appears with "Commission". Effective Date: December 29, 2007.
§9032(3)	**Clerical correction relating to presidential primary matching account** Reference "section 306(a)(1)" instead of "section 309(a)(1)". Effective Date: December 29, 2007.
§9034(b)	**Clerical correction relating to presidential primary matching account** Substituted "section 320(b)(1)(A)" with "section 315(b)(1)(A)". Effective Date: December 29, 2007.
§§9502(e) and (f)	**Clerical correction relating to the airport and airway trust fund** Deleted subsection (e) (certain taxes on alcohol mixtures to remain in the general fund). Redesignated subsection (f) as (e). Effective Date: For fuel sold or used after December 31, 2004.
§§9503(c)(6) and (7)	**Clerical correction relating to the highway trust fund** Redesignated paragraph (c)(7) as (6). Effective Date: December 29, 2007.
§9508	**Clerical correction relating to LUST trust fund** The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by section 1(a) (Amended the Internal Revenue Code to authorize expenditures from the Leaking Underground Storage Tank Trust Fund to carry out various programs enacted by the Energy Policy Act of 2005 to protect groundwater, including underground storage tank and piping secondary containment, maintenance of government-owned tanks, tank inspection, training for tank operators, state compliance and enforcement activities, prevention of delivery of a regulated substance into a tank, and protection of tanks on Indian reservations or tribal lands.) of Public Law 109-433 had never been enacted.