U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS
Chairman Kevin Brady

Retirement, Savings, and Other Tax Relief Act of 2018

Section-by-Section Summary

DIVISION A – RETIREMENT, SAVINGS, AND OTHER TAX RELIEF ACT OF 2018

TITLE I – EXTENSION OF EXPIRING PROVISIONS

SUBTITLE A – MADE PERMANENT

- **Sec. 101. Railroad Track Maintenance Credit.** Makes permanent the railroad track maintenance tax credit. The provision is modified so that it provides a 30-percent credit to medium- and short-line railroads for amounts spent on track maintenance.

SUBTITLE B – EXTENSION AND PHASE OUT

- **Sec. 111. Biodiesel and Renewable Diesel.** Extends the $1.00 per gallon credit for biodiesel used or sold by the taxpayer or blended with diesel to produce a biodiesel mixture used or sold by the taxpayer through 2021. That credit is then phased out to $0.75, $0.50, and $0.33 for biodiesel used or sold in 2022, 2023, and 2024, respectively. No credit is available for biodiesel used or sold after 2024.

SUBTITLE C – EXTENSIONS FOR 2018

- **Sec. 121. Nonbusiness energy property.** Extends the credit for 10 percent of amounts paid for qualified energy efficiency improvements (*e.g.*, energy-saving roofs, windows, skylights, and doors) and 100 percent of amounts paid for qualified energy property (*e.g.*, high-efficiency water heaters, air conditioning units, and furnaces), with respect to the taxpayer's principal residence.

- **Sec. 122. Qualified fuel cell motor vehicles.** Extends the $4,000-$40,000 credit for purchases of new qualified fuel cell motor vehicles (*i.e.*, hydrogen fuel-cell vehicles).

- **Sec. 123. Alternative fuel refueling property credit.** Extends the credit for 30 percent of amounts paid for new qualified alternative fuel vehicle refueling property (*e.g.*, electric car charging stations), up to $30,000 for depreciable property and $1,000 otherwise.

- **Sec. 124. 2-wheeled plug-in electric vehicle credit.** Extends the credit for 10 percent of amounts paid for new qualified 2-wheeled plug-in electric vehicles, up to $2,500.

- **Sec. 125. Second generation biofuel producer credit.** Extends the $1.01 per gallon credit for second generation biofuel (*e.g.*, certain liquid fuel derived from renewable lignocellulosic matter).

- **Sec. 126. Credit for electricity produced from certain renewable resources.** Extends the per kilowatt hour credit for electricity produced at a qualified closed- or open-loop biomass, geothermal energy, landfill gas, trash, hydropower, or marine and hydrokinetic renewable energy facility.

- **Sec. 127. Production credit for Indian coal facilities.** Extends the production credit for coal produced from coal reserves owned by or on behalf of an Indian tribe on June 14, 2005.

- **Sec. 128. Energy efficient homes credit.** Extends the $1,000-$2,000 credit for construction and sale of qualified new energy-efficient homes.

- **Sec. 129. Classification of certain race horses as 3-year property.** Extends the rules providing for a 3-year recovery period for race horses for depreciation and expensing purposes.

- **Sec. 130. Special allowance for second generation biofuel plant property.** Extends 50-percent bonus depreciation for property used in the United States solely to produce second generation biofuel that does not otherwise qualify for bonus depreciation.

- **Sec. 131. Energy efficient commercial buildings deduction.** Extends the deduction for the cost, up to $1.80 per square foot, of energy-efficient commercial building property (*e.g.*, certain depreciable interior lighting, heating, cooling, ventilation, and hot water systems). The deduction allows certain tax-exempt and government entities to allocate the deduction to taxable project partners, effectively matching the cost recovery treatment provided by expensing for entities like public universities and state governments.

- **Sec. 132. Election to expense advanced mine safety equipment.** Extends the election to expense 50 percent of the cost of certain mine safety equipment property.

- **Sec. 133. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.** Extends the election to recognize over an 8-year period gains on sales of electric transmission services property to independent transmission companies, except to the extent the taxpayer purchased certain utility property during the preceding 4-year period.

- **Sec. 134. Extension of excise tax credits relating to alternative fuels.** Extends the $0.50 per gallon credit for alternative fuel (*e.g.*, liquefied petroleum gas, natural gas, hydrogen, or gas or fuel derived from biomass) used or sold by the taxpayer.

- **Sec. 135. 7-year recovery period for motorsports entertainment complexes.** Extends the rules providing for a 7-year recovery period for motorsport entertainment complexes for depreciation and expensing purposes.

- **Sec. 136. Accelerated depreciation for business property on Indian reservation.** Extends accelerated depreciation (through the provision of shortened recovery periods such as 3 years instead of 5 years and 12 years instead of 20 years) for qualified Indian reservation property, subject to a provision allowing taxpayers to elect out of accelerated depreciation.

- **Sec. 137. Expensing rules for certain productions.** Extends special rules for expensing with respect to qualified film and television productions and qualified live theatrical productions.

- **Sec. 138. Indian employment credit.** Extends the Indian employment tax credit, which provides a 20-percent credit to employers for wages and healthcare expenses associated with employing certain members of an Indian tribe.

- **Sec. 139. Mine rescue team training credit.** Extends the mine rescue team tax credit, which provides a 20-percent credit to employers at U.S.-based mines for training program costs for mine rescue team employees (including wages of the employees while attending training).

- **Sec. 140. Exclusion from gross income of discharge of qualified principal residence indebtedness.** Extends the exclusion from an individual's gross income for a discharge of indebtedness on a principal residence.

- **Sec. 141. Treatment of mortgage insurance premiums as qualified residence interest.** Extends the deduction for mortgage insurance premiums, which are treated as interest for purposes of the mortgage interest deduction.

- **Sec. 142. Deduction of qualified tuition and related expenses.** Extends the above-the-line deduction for qualified tuition and related expenses for higher education. The deduction is capped at $4,000 for individuals with adjusted gross income (AGI) up to $65,000 ($130,000 for joint filers) and $2,000 for individuals with AGI up to $80,000 ($160,000 for joint filers).

- **Sec. 143. Extension of empowerment zone tax incentives.** Extends tax benefits relating to tax-exempt bonds, employment credits, increased expensing, and gain exclusion from the sale of certain small-business stock for business activities conducted in empowerment zones.

- **Sec. 144. American Samoa economic development credit.** Extends the credit under section 30A for domestic corporations that are engaged in qualified production activities in American Samoa. The credit is capped at 60 percent of wages (including employee fringe benefit expenses), plus 15 percent of the depreciation allowances for short-life property, 40 percent of the depreciation allowances for medium-life property, and 65 percent of the depreciation allowances for long-life property.

SUBTITLE D – EXTENSIONS FOR 2019

- **Sec. 151. Extension of Oil Spill Liability Trust Fund Rate.** Extends the oil spill liability trust fund financing rate through December 31, 2019.

- **Sec. 152. Black Lung Liability Trust Fund Excise Tax.** Extends the black lung liability trust fund excise tax through December 31, 2019.

TITLE II – DISASTER TAX RELIEF

- Provides disaster tax relief benefits with respect to individuals and businesses affected by Hurricanes Florence and Michael, Typhoons Mangkhut and Yutu, California fires, Kilauea volcanic eruptions and earthquakes, and Hawaii severe storms, flooding, landslides, and mudslides. These benefits are special rules allowing access to retirement funds, temporary suspension of limits on deductions for charitable contributions, allowance of deductions for personal casualty disaster losses, special rules for measurement of earned income for purposes of qualification for tax credits, and a special credit for employee retention.

TITLE III – RETIREMENT AND SAVINGS

SUBTITLE A – EXPANDING AND PRESERVING RETIREMENT SAVINGS

- **Sec. 301. Multiple employer plans; pooled employer plans.**

  Current law: In general, unrelated employers may join together to offer a defined contribution plan, known as a multiple employer plan. (These plans are generally a subcategory of single-employer plans and are distinct from multiemployer plans, which are offered jointly by employers and unions.) However, there are several obstacles that limit the participation of employers in multiple employer plans. Defined contribution plans that do not meet any one of a host of tax-law requirements are subject to a variety of penalties, including disqualification of the plan. Under current Treasury guidance, if one employer in a multiple employer plan runs afoul of the tax rules, the entire plan may be subject to penalty, including disqualification, even if that one employer is only one of hundreds of employers in the plan. This guidance is known as the "one bad apple" rule.

In addition, ERISA contains requirements that have been interpreted by the Department of Labor as significantly limiting the circumstances under which unrelated employers may join together in a multiple employer plan.

Provision: Under the provision, multiple employer plans that meet specified requirements, including a requirement that the plan have a pooled plan provider, would be considered to be "pooled employer plans." A pooled plan provider would be required to agree to be a fiduciary of the plan and to serve as the plan administrator, responsible for ensuring that the plan meets all applicable tax-law and ERISA requirements. In the event that one employer in a pooled provider plan violates one of the tax-law requirements, the other employers would not be affected by that failure. In addition, the ERISA requirements regarding the types of employers that may participate together in a multiple employer plan would be expanded for pooled provider plans to eliminate any requirement that the employers in the plan be related to each other in some fashion.

The provision would be effective for plan years beginning after December 31, 2019.

- **Sec. 302. Rules relating to election of safe harbor 401(k) status.**

  Current law: Under current law, qualified retirement plans are subject to non-discrimination rules that impose requirements with respect to the balance between contributions to the plan made by highly compensated employees (and employer contributions for such employees) and contributions made by and for non-highly compensated employees. There are several different safe harbors that may be used by plans to avoid being subject to the non-discrimination rules. One of those safe harbors is based on the employer making a contribution to the plan on behalf of each employee that equals or exceeds three percent of the employee's compensation and that is not dependent on whether the employee contributes to the plan. These employer contributions are referred to as "non-elective." In order to use this safe harbor, the employer is required to inform employees before the plan year during which the employer will make these non-elective contributions.

  Provision: Under the provision, employers would have until the 30th day before the close of the plan year to choose to use the non-elective contribution safe harbor for the year. In addition, employers would have until the end of the following plan year to choose this safe harbor if the employer provides an enhanced non-elective contribution of at least four percent of the employee's compensation (instead of three percent as generally required under the safe harbor).

  The provision would be effective for plan years beginning after December 31, 2018.

- **Sec. 303. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.**

  Current law: Under current law, the annual limit on the contributions that an individual may make to one or more individual retirement accounts (IRAs) is the lesser of: (1) a dollar amount (which is $5,500 for 2018); and (2) the amount of the individual's compensation includible in gross income for the year. Additional limits on allowable contributions apply to individuals who participate in employer-sponsored retirement plans or whose spouse so participates.

Provision: Under the provision, any fellowship grants, scholarships, or other amounts that are paid to an individual to help in the pursuit of graduate or postdoctoral study or research and that are includable in his or her taxable income would be treated as compensation for IRA-contribution purposes.

The provision would be effective for tax years beginning after December 31, 2018.

- **Sec. 304. Repeal of maximum age for traditional IRA contributions.**

  Current law: Under current law, individuals who are age 70½ or older are not permitted to make contributions to a traditional IRA.

  Provision: The provision would eliminate the age limit for contributing to a traditional IRA.

  The provision would be effective for tax years beginning after December 31, 2018.

- **Sec. 305. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.**

  Current law: Employer-sponsored defined-contribution plans may offer employees who participate in the plan the option of taking loans from the plan with respect to their accounts. In some cases, these plans have arrangements that allow a participating employee to take a line of credit against his or her retirement account and then access those funds through a credit card.

  Provision: Under the provision, employer-sponsored retirement plans would be prohibited from offering account loans that can be accessed through credit cards.

  The provision would be effective for loans taken after the date of enactment of this Act.

- **Sec. 306. Portability of lifetime income investments.**

  Current law: Employers that sponsor defined contribution plans generally offer employees a menu of investment options that can be changed periodically, including the elimination of particular options. If an employee has chosen an investment option that the employer subsequently eliminates from the plan's menu of options, the employee generally must shift from that investment into another option that is available under the plan. Employers generally may not allow current employees to take retirement plan distributions, known as "in-service" distributions, before they reach age 59½ or age 62 depending on the type of plan.

Provision: Under the provision, employers could allow current employees who have their defined-contribution accounts invested in annuities to choose to keep that investment by rolling the annuity into an IRA if the employer discontinues the annuity as an investment option under the retirement plan.

The provision would be effective for plan years beginning after December 31, 2018.

- **Sec. 307. Treatment of custodial accounts on termination of section 403(b) plans.**

  Current law: Section 403(b) plans are employer-sponsored retirement plans offered by (1) charitable tax-exempt organizations and (2) educational institutions of State or local governments, including public schools and public colleges and universities. Many of the rules that apply to section 403(b) plans are similar to the rules applicable to other qualified retirement plans, including section 401(k) plans.

  Provision: The provision would require Treasury to issue guidance to ensure that there is no disruption when an employer terminates a section 403(b) plan so that its assets are contributed to a custodial account with an IRS-approved nonbank trustee. The guidance is to provide that such an account is treated as directly owned by participants without any change in the tax treatment.

  The provision would be effective for tax years beginning after December 31, 2018.

- **Sec. 308. Clarification of retirement income account rules relating to church-controlled organizations.**

  Current law: Under current law, retirement plans sponsored by churches generally are subject to different requirements than other retirement plans. The IRS has issued guidance that narrowly prescribes the circumstances in which the employees of a church-affiliated organization may participate in such a church plan.

  Provision: The provision would clarify that certain employees of church-affiliated organizations would be allowed to participate in a church's retirement plan. Such employees would include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation. Employees of a tax-exempt organization that is controlled by or associated with a church or a convention or association of churches, and certain employees after separation from service with a church or a convention or association of churches, also would be allowed to participate.

  The provision would be effective for plan years beginning after December 31, 2008.

- **Sec. 309. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.**

  Current law: Under current law, safe harbor provisions apply with respect to compliance with nondiscrimination rule requirements applicable to defined contribution deferral plans. One such safe-harbor provision provides rules for employers to automatically enroll employees in defined contribution deferral plans up to a specified percentage of the employees' compensation, starting at three percent in an employee's first year of employment, increasing by one percent every year during the subsequent three years of employment, and capped at 10 percent.

  Provision: For automatic enrollment safe harbor plans, the provision would increase the 10-percent cap on the allowable automatic escalation of employee deferrals after an employee's first plan year to a 15-percent cap of employee pay.

  The provision would be effective for plan years beginning after December 31, 2018.

- **Sec. 310. Increase in credit limitation for small employer pension plan startup costs.**

  Current law: Under current law, small employers are eligible for a credit of up to $500 per year, for up to three years, to help cover the costs associated with starting a retirement plan for employees.

  Provision: The provision would increase the credit by changing the annual limit on the credit to the greater of (1) $500 or (2) the lesser of (a) $250 multiplied by the number of non-highly compensated employees of the eligible employer who are eligible to participate in the plan or (b) $1,500. The credit applies for up to three years.

  The provision applies to tax years beginning after December 31, 2018.

- **Sec. 311. Small employer automatic enrollment credit.**

  Current law: Under current law, the small employer retirement plan start-up tax credit does not include any special rules for plans with automatic enrollment features.

  Provision: The provision would increase the small employer retirement plan start-up tax credit by $500 per year for employers that create new section 401(k) plans and SIMPLE IRA plans that include automatic enrollment features. The credit would also be available to employers that add automatic enrollment features to an existing plan.

  The provision applies to tax years beginning after December 31, 2018.

- **Sec. 312. Exemption from required minimum distribution rules for individuals with certain account balances.**

  Current law: Under current law, individuals who have employer-sponsored plans, whether defined contribution or defined benefit plans, as well as individuals who own IRAs, are required to start taking annual distributions beginning at age 70½. The required minimum distribution is based on actuarial tables released by the Department of the Treasury.

  Provision: Under the provision, individuals with total defined contribution or IRA account balances of $50,000 or less would be exempt from these required minimum distribution rules.

  The provision would be effective for distributions required to be made in calendar years beginning more than 120 days after the date of the enactment of this Act.

- **Sec. 313. Elective deferrals by members of the Ready Reserve of a reserve component of the Armed Forces.**

  Current law: Under current law, the annual limit for an employee's contributions to defined contribution plans (for 2018, $18,500, plus an additional catch-up contribution of $6,000 for those age 50 or older) applies to all plans in which the employee participates. Thus, if an employee participates in more than one such plan, the employee's combined maximum contribution to both plans for 2018 is $18,500 (and an additional $6,000 if age 50 or older).

  Provision: Under the provision, the contribution limit would apply separately to contributions to the Thrift Savings Plan accounts of members of the Ready Reserve of a reserve component of the Armed Forces and to contributions to all other plans in which the reservist may participate.

  The provision would be effective for plan years beginning after December 31, 2018.

SUBTITLE B – ADMINISTRATIVE IMPROVEMENTS

- **Sec. 321. Plan adopted by filing due date for year may be treated as in effect as of close of year.**

  Current law: Under current law, an employer that wants to establish a qualified retirement plan for its employees must do so by the last day of the taxable year in order for the plan to apply for such year.

  Provision: Under the provision, an employer would have until the due date (including with extensions) for its tax return for a taxable year to establish a qualified retirement plan that applies to such year.

The provision would be effective for plan years beginning after December 31, 2018.

- **Sec. 322. Modification of nondiscrimination rules to protect older, longer service participants.**

  Current law: Under current law, employer-sponsored retirement plans must meet a variety of requirements in order to be tax-qualified, including non-discrimination rules designed to ensure that the plan coverage of employees and the contributions or benefits provided to employees must not discriminate in favor of highly compensated employees. In general, employers may choose to stop allowing employees to accrue new benefits in a historical plan or to only allow existing employees to accrue new benefits while closing the plan to new employees, while providing a new plan for new benefits or new employees. For employers that sponsor both a defined contribution plan and a defined benefit plan, the non-discrimination rules allow limited cross-testing between the two plans. However, over time non-discrimination violations can arise in situations where an employer allows current workers to continue to accrue benefits in a defined benefit plan that has been closed to new employees.

  Provision: Under the provision, expanded cross-testing between an employer's defined-benefit plans and defined-contribution plans would be allowed for purposes of the non-discrimination rules.

  The provision would generally take effect on the date of enactment.

- **Sec. 323. Fiduciary safe harbor for selection of lifetime income provider.**

  Current law: Under current law, plan trustees are fiduciaries with regard to selecting service providers. If plan trustees select an insurance company to provide annuities to plan participants and that insurance company later goes insolvent and is unable to provide those annuities, participants would potentially have a cause of action against the plan and the plan trustees in order to recoup the annuities.

  Provision: Under the provision, fiduciaries are afforded a safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract if the fiduciary obtains certain written representations from the insurer, including that the insurer is licensed to offer such contracts, and at the time of selection and in the previous seven years operates under a certificate of authority from the insurance commissioner of its domiciliary State, has filed audited financial statements, satisfies reserve requirements and is not operating under an order of supervision, rehabilitation, or liquidation.

- **Sec. 324. Disclosure regarding lifetime income.**

  Current law: Employers sponsoring defined contribution plans may provide financial education to plan participants. Such education may include information regarding the importance of saving for retirement and information regarding different strategies for calculating appropriate amounts of savings or drawing down one's account in retirement.

  Provision: The provision would require employers sponsoring defined contribution plans to provide a lifetime income disclosure to each plan participant in a manner to be specified by the Department of Labor, with information about the lifetime income stream equivalent of the participant's total account balance if the participant were to purchase an annuity. The provision would generally be effective 12 months after the issuance of guidance by the Department of Labor.

- **Sec. 325. Modification of PBGC premiums for CSEC plans.**

  Current law: The Pension Benefit Guaranty Corporation (PBGC) is a governmental entity that has separate insurance programs for single-employer and multiemployer defined-benefit pension plans. Participation in the program is a prerequisite for such plans to be tax-qualified. The single-employer program includes both single-employer plans and multiple employer plans, which are plans containing more than one employer that are generally subject to the single-employer funding rules. Cooperative- and small-employer charity (CSEC) plans are a subset of these multiple employer plans. For 2019, single-employer plans, including CSEC plans, are subject to a PBGC fixed of $80 per participant and a variable rate premium of $43 per $1000 of unfunded liabilities up to a cap of $541 per participant.

  Provision: The provision would reduce the fixed per participant PBGC premiums for CSEC plans to $19. The provision would also provide that CSEC plans use the discount rate used for measuring plan liabilities to measure unfunded liabilities for purposes of the PBGC variable rate premium.

  The provision would be effective for plan years beginning after December 31, 2018.

SUBTITLE C – OTHER SAVINGS PROVISIONS

- **Sec. 331. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.**

  Current law: Under current law, employees who have not reached retirement age generally may not make withdrawals from their employer-sponsored retirement plan except in the case of hardship withdrawals. Hardship withdrawals are includible in taxable income and also are subject to an additional tax of ten percent. Withdrawals from an IRA before the account owner turns 59½ also are generally includible in taxable income and subject to an additional tax of ten percent.

Provision: Under the provision, a parent would be permitted to make a withdrawal from his or her IRA of up to $7,500 within one year of the birth of a child or the adoption of a child (or an individual who cannot care for him or herself). Such a withdrawal would not be subject to the additional tax of ten percent. In addition, any amount that is withdrawn from an IRA under this provision could be recontributed to an IRA in the future. Employer-sponsored defined-contribution plans also could allow for such withdrawals and recontributions.

The provision would be effective for distributions made after December 31, 2018.

TITLE IV – AMERICAN INNOVATION

- **Sec. 401. Simplification and Expansion of Deduction for Start-Up and Organizational Expenditures.**

  Current law: Under current law, taxpayers may deduct up to $5,000 of start-up expenses (*i.e.*, costs incurred prior to the commencement of a business's operation). This deduction is phased out to the extent that start-up expenses exceed $50,000. Start-up expenses that do not qualify for the deduction may be amortized over a 180-month period.

  Partnerships and corporations also may deduct up to $5,000 of organizational expenses (*i.e.*, expenses relating to the organization and creation of the partnership or corporation). This deduction is phased out to the extent organizational expenses exceed $50,000. Organizational expenses that do not qualify for the deduction may be amortized over a 180-month period.

  Provision: Under the provision, the existing provisions for start-up and organizational expenses would be combined into a single provision applicable to all businesses. The provision would allow a taxpayer to deduct up to $20,000 (indexed for inflation) in start-up and organizational costs. This deduction would be phased out to the extent that the start-up and organizational costs, in the aggregate, exceed $120,000 (indexed for inflation). Expenses above the new increased limit would continue to be deductible over a 180-month period following the start of the business.

  The provision would be effective for expenses paid or incurred in connection with active businesses that begin in taxable years beginning after 2018.

- **Sec. 402. Preservation of Start-up Net Operating Losses and Tax Credits After Ownership Change.**

  Current law: Under current law, special rules apply to limit the use of net operating loss carryforwards of a corporation that undergoes an ownership change. The net operating loss carryforwards that are subject to this limitation are known as the corporation's "pre-change losses."

Generally, an ownership change occurs when new owners acquire more than 50 percent of the stock of a corporation (either in a single transaction or in multiple transactions over a 3-year look-back period). For this purpose, nearly every kind of transaction in stock is taken into account to determine whether an ownership change has occurred, including, for example, taxable purchases, tax-free exchanges, and stock issuances.

The amount of the limitation (known as the "section 382 limitation") on the corporation's use of its pre-change losses is based on the corporation's value at the time of the ownership change. However, if the corporation does not continue its business operations at all times during the two-year period beginning on the date of the ownership change, the section 382 limitation is generally reduced to zero.

Special rules apply in determining the section 382 limitation in the case of ownership changes that occur in the context of a bankruptcy or similar case.

Similar rules as those described above also apply to limit the use of a corporation's tax credits in the event of an ownership change.

Provision: Under the provision, a corporation's "start-up" losses would not be considered "prechange losses" for purposes of the section 382 limitation. Thus, a corporation's start-up losses would not be subject to the section 382 limitation in the event of an ownership change.

A corporation's start-up losses are losses that are properly allocable to the corporation's new business that arise in any taxable year that begins before the end of the 3-year period that begins on the date on which such new business is considered "active." A new business would be considered "active" using the same tax principles that apply with respect to the deductibility of start-up and organizational costs.

This provision would not apply if the corporation does not continue the new business at all times during the two-year period beginning on the date of an ownership change, or if the ownership change occurs while the corporation is under the jurisdiction of the court in a bankruptcy or similar case.

Under the provision, a corporation's "start-up" tax credits would not be subject to the section 382 limitation under similar rules as those described above.

The provision would be effective for any business that begins as an active business after September 10, 2018 and for taxable years ending after September 10, 2018.

TITLE V – CERTAIN TAX TECHNICAL CORRECTIONS AND CLARIFICATIONS

- **Sec. 501. Technical amendments relating to Public Law 115-97 (Tax Cuts and Jobs Act or TCJA)**

  - **Sec. 501(a). Amendments relating to section 11011.** The technical correction clarifies that in the case of an individual shareholder of a regulated investment company (RIC or mutual fund) that owns stock in a real estate investment trust (REIT) or interests in a publicly traded partnership, the individual is treated as receiving qualified REIT dividends or qualified publicly traded partnership income to the extent any dividends received by the individual from the RIC are attributable to qualified REIT dividends or qualified publicly traded partnership income.

  - **Sec. 501(b). Amendments relating to section 13204.** The technical correction clarifies that the cost recovery period for qualified improvement property (QIP) is 15 years under the modified accelerated cost recovery system and 20 years under the alternative depreciation system.

  - **Sec. 501(c). Amendments relating to section 13302.** The technical correction clarifies that the modification to carryovers and carrybacks of net operating losses (NOLs) applies to NOLs arising in taxable years beginning after December 31, 2017.

  - **Sec. 501(d). Amendment relating to section 13307.** The technical correction clarifies that the non-deductibility of attorneys' fees involved in nondisclosure agreements relating to a claim of sexual harassment or sexual abuse applies to defendants' costs and not to plaintiffs' costs.

  - **Sec. 501(e). Amendment relating to section 14103.** The technical correction clarifies that remittances of tax in excess of the regular tax are not required to be applied to any remaining installments under section 965(h).

- **Sec. 502. Clarification of treatment of veterans as specified group for purposes of the low-income housing tax credit.** The provision clarifies that veterans' housing is considered to comply with the general public use requirements of the low-income housing tax credit.

- **Sec. 503. Clarification of general public use requirement for qualified residential rental projects.** The provision clarifies that veterans' housing is considered to comply with the general public use requirements for exempt facility bonds in the same manner that veterans' housing is considered to comply with the general public use requirements of the low-income housing tax credit.