

107TH CONGRESS
2^D SESSION

H. R. 5063

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2002

Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. PICKERING, Mr. GEKAS, and Mr. FORBES) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Armed Forces Tax
5 Fairness Act of 2002”.

1 **SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED**
2 **SERVICES IN DETERMINING EXCLUSION OF**
3 **GAIN FROM SALE OF PRINCIPAL RESIDENCE.**

4 (a) IN GENERAL.—Subsection (d) of section 121 of
5 the Internal Revenue Code of 1986 (relating to exclusion
6 of gain from sale of principal residence) is amended by
7 adding at the end the following new paragraph:

8 “(9) MEMBERS OF UNIFORMED SERVICES.—

9 “(A) IN GENERAL.—At the election of an
10 individual with respect to a property, the run-
11 ning of the 5-year period described in sub-
12 section (a) with respect to such property shall
13 be suspended during any period that such indi-
14 vidual or such individual’s spouse is serving on
15 qualified official extended duty as a member of
16 the uniformed services.

17 “(B) MAXIMUM PERIOD OF SUSPENSION.—
18 The 5-year period described in subsection (a)
19 shall not be extended more than 5 years by rea-
20 son of subparagraph (A).

21 “(C) QUALIFIED OFFICIAL EXTENDED
22 DUTY.—For purposes of this paragraph—

23 “(i) IN GENERAL.—The term ‘quali-
24 fied official extended duty’ means any ex-
25 tended duty while serving at a duty station
26 which is at least 250 miles from such prop-

1 erty or while residing under Government
2 orders in Government quarters.

3 “(ii) UNIFORMED SERVICES.—The
4 term ‘uniformed services’ has the meaning
5 given such term by section 101(a)(5) of
6 title 10, United States Code, as in effect
7 on the date of the enactment of this para-
8 graph.

9 “(iii) EXTENDED DUTY.—The term
10 ‘extended duty’ means any period of active
11 duty pursuant to a call or order to such
12 duty for a period in excess of 180 days or
13 for an indefinite period.

14 “(D) SPECIAL RULES RELATING TO ELEC-
15 TION.—

16 “(i) ELECTION LIMITED TO 1 PROP-
17 erty AT A TIME.—An election under sub-
18 paragraph (A) with respect to any property
19 may not be made if such an election is in
20 effect with respect to any other property.

21 “(ii) REVOCATION OF ELECTION.—An
22 election under subparagraph (A) may be
23 revoked at any time.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to elections made after the date

1 of the enactment of this Act for suspended periods under
2 section 121(d)(9) of the Internal Revenue Code of 1986
3 (as added by this section) beginning after such date.

4 **SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS**
5 **INCOME OF DEATH GRATUITY PAYMENT.**

6 (a) IN GENERAL.—Subsection (b)(3) of section 134
7 of the Internal Revenue Code of 1986 (relating to certain
8 military benefits) is amended by adding at the end the
9 following new subparagraph:

10 “(C) EXCEPTION FOR DEATH GRATUITY
11 ADJUSTMENTS MADE BY LAW.—Subparagraph
12 (A) shall not apply to any adjustment to the
13 amount of death gratuity payable under chapter
14 75 of title 10, United States Code, which is
15 pursuant to a provision of law enacted before
16 December 31, 1991.”.

17 (b) CONFORMING AMENDMENT.—Subparagraph (A)
18 of section 134(b)(3) of such Code is amended by striking
19 “subparagraph (B)” and inserting “subparagraphs (B)
20 and (C)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to deaths occurring
23 after September 10, 2001.

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