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IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Finance

SEPTEMBER 17, 2002

Reported by Mr. BAUCUS, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

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.

1 **SECTION 1. SHORT TITLE; ETC.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *“Armed Forces Tax Fairness Act of 2002”.*

4 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 5 *expressly provided, whenever in this Act an amendment or*
 6 *repeal is expressed in terms of an amendment to, or repeal*
 7 *of, a section or other provision, the reference shall be consid-*
 8 *ered to be made to a section or other provision of the Inter-*
 9 *nal Revenue Code of 1986.*

10 (c) *TABLE OF CONTENTS.*—*The table of contents for*
 11 *this Act is as follows:*

Sec. 1. Short title; etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion from gross income of certain death gratuity payments.

Sec. 102. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.

Sec. 103. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.

Sec. 104. Expansion of combat zone filing rules to contingency operations.

Sec. 105. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

Sec. 106. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 107. Clarification of treatment of certain dependent care assistance programs.

TITLE II—OTHER PROVISIONS

Sec. 201. Revision of tax rules on expatriation.

Sec. 202. Extension of IRS user fees.

1 **TITLE I—IMPROVING TAX EQ-**
2 **UITY FOR MILITARY PER-**
3 **SONNEL**

4 **SEC. 101. EXCLUSION FROM GROSS INCOME OF CERTAIN**
5 **DEATH GRATUITY PAYMENTS.**

6 (a) *IN GENERAL.*—Subsection (b)(3) of section 134 (re-
7 lating to certain military benefits) is amended by adding
8 at the end the following new subparagraph:

9 “(C) *EXCEPTION FOR DEATH GRATUITY AD-*
10 *JUSTMENTS MADE BY LAW.*—Subparagraph (A)
11 shall not apply to any adjustment to the amount
12 of death gratuity payable under chapter 75 of
13 title 10, United States Code, which is pursuant
14 to a provision of law enacted after September 9,
15 1986.”.

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

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

1 **SEC. 102. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
2 **RESIDENCE BY A MEMBER OF THE UNI-**
3 **FORMED SERVICES OR THE FOREIGN SERV-**
4 **ICE.**

5 (a) *IN GENERAL.*—Subsection (d) of section 121 (relat-
6 ing to exclusion of gain from sale of principal residence)
7 is amended by adding at the end the following new para-
8 graph:

9 “(9) *MEMBERS OF UNIFORMED SERVICES AND*
10 *FOREIGN SERVICE.*—

11 “(A) *IN GENERAL.*—At the election of an
12 individual with respect to a property, the run-
13 ning of the 5-year period described in subsection
14 (a) with respect to such property shall be sus-
15 pended during any period that such individual
16 or such individual’s spouse is serving on quali-
17 fied official extended duty as a member of the
18 uniformed services or of the Foreign Service of
19 the United States.

20 “(B) *MAXIMUM PERIOD OF SUSPENSION.*—
21 The 5-year period described in subsection (a)
22 shall not be extended more than 10 years by rea-
23 son of subparagraph (A).

24 “(C) *QUALIFIED OFFICIAL EXTENDED*
25 *DUTY.*—For purposes of this paragraph—

1 “(i) *IN GENERAL.*—*The term ‘qualified*
2 *official extended duty’ means any extended*
3 *duty while serving at a duty station which*
4 *is at least 50 miles from such property or*
5 *while residing under Government orders in*
6 *Government quarters.*

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

12 “(iii) *FOREIGN SERVICE OF THE*
13 *UNITED STATES.*—*The term ‘member of the*
14 *Foreign Service of the United States’ has*
15 *the meaning given the term ‘member of the*
16 *Service’ by paragraph (1), (2), (3), (4), or*
17 *(5) of section 103 of the Foreign Service Act*
18 *of 1980.*

19 “(iv) *EXTENDED DUTY.*—*The term ‘ex-*
20 *tended duty’ means any period of duty pur-*
21 *suant to a call or order to such duty for a*
22 *period in excess of 90 days or for an indefi-*
23 *nite period.*

24 “(D) *SPECIAL RULES RELATING TO ELEC-*
25 *TION.*—

1 “(i) *ELECTION LIMITED TO 1 PROP-*
2 *ERTY AT A TIME.*—An election under sub-
3 *paragraph (A) with respect to any property*
4 *may not be made if such an election is in*
5 *effect with respect to any other property.*

6 “(ii) *REVOCATION OF ELECTION.*—An
7 *election under subparagraph (A) may be re-*
8 *voked at any time.”.*

9 (b) *EFFECTIVE DATE.*—The amendment made by this
10 *section shall apply to elections made with respect to sales*
11 *and exchanges occurring after the date of the enactment of*
12 *this Act.*

13 **SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
14 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
15 **SISTANCE PROGRAM.**

16 (a) *IN GENERAL.*—Section 132(a) (relating to the ex-
17 *clusion from gross income of certain fringe benefits) is*
18 *amended by striking “or” at the end of paragraph (6), by*
19 *striking the period at the end of paragraph (7) and insert-*
20 *ing “; or” and by adding at the end the following new para-*
21 *graph:*

22 “(8) *qualified military base realignment and clo-*
23 *sure fringe.”.*

24 (b) *QUALIFIED MILITARY BASE REALIGNMENT AND*
25 *CLOSURE FRINGE.*—Section 132 is amended by redesignig-

1 nating subsection (n) as subsection (o) and by inserting
2 after subsection (m) the following new subsection:

3 “(n) **QUALIFIED MILITARY BASE REALIGNMENT AND**
4 **CLOSURE FRINGE.**—For purposes of this section, the term
5 ‘qualified military base realignment and closure fringe’
6 means 1 or more payments under the authority of section
7 1013 of the *Demonstration Cities and Metropolitan Devel-*
8 *opment Act of 1966 (42 U.S.C. 3374)* to offset the adverse
9 effects on housing values as a result of a military base re-
10 alignment or closure.”

11 (c) **EFFECTIVE DATE.**—The amendments made by this
12 section shall apply to payments made after the date of the
13 enactment of this Act.

14 **SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO**
15 **CONTINGENCY OPERATIONS.**

16 (a) **IN GENERAL.**—Section 7508(a) (relating to time
17 for performing certain acts postponed by reason of service
18 in combat zone) is amended—

19 (1) by inserting “or when deployed outside the
20 United States away from the individual’s permanent
21 duty station while participating in an operation des-
22 ignated by the Secretary of Defense as a contingency
23 operation (as defined in section 101(a)(13) of title 10,
24 United States Code) or which became such a contin-

1 gency operation by operation of law” after “section
2 112”,

3 (2) by inserting in the first sentence “or at any
4 time during the period of such contingency operation”
5 after “for purposes of such section”,

6 (3) by inserting “or operation” after “such an
7 area”, and

8 (4) by inserting “or operation” after “such
9 area”.

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) Section 7508(d) is amended by inserting “or
12 contingency operation” after “area”.

13 (2) The heading for section 7508 is amended by
14 inserting “**OR CONTINGENCY OPERATION**” after
15 “**COMBAT ZONE**”.

16 (3) The item relating to section 7508 in the table
17 of sections for chapter 77 is amended by inserting “or
18 contingency operation” after “combat zone”.

19 (c) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to any period for performing an act
21 which has not expired before the date of the enactment of
22 this Act.

1 **SEC. 105. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
2 **TRAVEL EXPENSES OF NATIONAL GUARD AND**
3 **RESERVE MEMBERS.**

4 (a) *DEDUCTION ALLOWED.*—Section 162 (relating to
5 certain trade or business expenses) is amended by redesignig-
6 nating subsection (p) as subsection (q) and inserting after
7 subsection (o) the following new subsection:

8 “(p) *TREATMENT OF EXPENSES OF MEMBERS OF RE-*
9 *SERVE COMPONENT OF ARMED FORCES OF THE UNITED*
10 *STATES.*—For purposes of subsection (a)(2), in the case of
11 an individual who performs services as a member of a re-
12 serve component of the Armed Forces of the United States
13 at any time during the taxable year, such individual shall
14 be deemed to be away from home in the pursuit of a trade
15 or business for any period during which such individual
16 is away from home in connection with such service.”

17 (b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
18 *PAYER ELECTS TO ITEMIZE.*—Section 62(a)(2) (relating to
19 certain trade and business deductions of employees) is
20 amended by adding at the end the following new subpara-
21 graph:

22 “(E) *CERTAIN EXPENSES OF MEMBERS OF*
23 *RESERVE COMPONENTS OF THE ARMED FORCES*
24 *OF THE UNITED STATES.*—The deductions al-
25 lowed by section 162 which consist of expenses,
26 in amounts not in excess of the rates for travel

1 *expenses (including per diem in lieu of subsist-*
2 *ence) authorized for employees of agencies under*
3 *subchapter I of chapter 57 of title 5, United*
4 *States Code, paid or incurred by the taxpayer in*
5 *connection with the performance of services by*
6 *such taxpayer as a member of a reserve compo-*
7 *nent of the Armed Forces of the United States.”.*

8 (c) *EFFECTIVE DATE.*—*The amendments made by this*
9 *section shall apply to amounts paid or incurred in taxable*
10 *years beginning after December 31, 2001.*

11 **SEC. 106. MODIFICATION OF MEMBERSHIP REQUIREMENT**
12 **FOR EXEMPTION FROM TAX FOR CERTAIN**
13 **VETERANS’ ORGANIZATIONS.**

14 (a) *IN GENERAL.*—*Subparagraph (B) of section*
15 *501(c)(19) (relating to list of exempt organizations) is*
16 *amended by striking “or widowers” and inserting “, wid-*
17 *owers, or ancestors or lineal descendants”.*

18 (b) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to taxable years beginning after the date*
20 *of the enactment of this Act.*

21 **SEC. 107. CLARIFICATION OF THE TREATMENT OF CERTAIN**
22 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

23 (a) *IN GENERAL.*—*Section 134(b) (defining qualified*
24 *military benefit) is amended by adding at the end the fol-*
25 *lowing new paragraph:*

1 “(4) *CLARIFICATION OF CERTAIN BENEFITS.*—
2 *For purposes of paragraph (1), such term includes*
3 *any dependent care assistance program for any indi-*
4 *vidual described in paragraph (1)(A).”.*

5 **(b) CONFORMING AMENDMENTS.**—

6 (1) *Section 134(b)(3)(A) is amended by inserting*
7 *“and paragraph (4)” after “subparagraph (B)”.*

8 (2) *Section 3121(a)(18) is amended by striking*
9 *“or 129” and inserting “, 129, or 134(b)(4)”.*

10 (3) *Section 3306(b)(13) is amended by striking*
11 *“or 129” and inserting “, 129, or 134(b)(4)”.*

12 (4) *Section 3401(a)(18) is amended by striking*
13 *“or 129” and inserting “, 129, or 134(b)(4)”.*

14 **(c) EFFECTIVE DATE.**—*The amendments made by this*
15 *section shall apply to taxable years beginning after Decem-*
16 *ber 31, 2001.*

17 **(d) NO INFERENCE.**—*No inference may be drawn from*
18 *the amendments made by this section with respect to the*
19 *tax treatment of any amounts under the program described*
20 *in section 134(b)(4) of the Internal Revenue Code of 1986*
21 *(as added by this section) for any taxable year beginning*
22 *before January 1, 2002.*

1 **TITLE II—OTHER PROVISIONS**

2 **SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.**

3 (a) *IN GENERAL.*—Subpart A of part II of subchapter
4 *N* of chapter 1 is amended by inserting after section 877
5 the following new section:

6 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

7 “(a) *GENERAL RULES.*—For purposes of this sub-
8 title—

9 “(1) *MARK TO MARKET.*—Except as provided in
10 subsections (d) and (f), all property of a covered expa-
11 triate to whom this section applies shall be treated as
12 sold on the day before the expatriation date for its
13 fair market value.

14 “(2) *RECOGNITION OF GAIN OR LOSS.*—In the
15 case of any sale under paragraph (1)—

16 “(A) notwithstanding any other provision of
17 this title, any gain arising from such sale shall
18 be taken into account for the taxable year of the
19 sale, and

20 “(B) any loss arising from such sale shall
21 be taken into account for the taxable year of the
22 sale to the extent otherwise provided by this title,
23 except that section 1091 shall not apply to any
24 such loss.

1 *Proper adjustment shall be made in the amount of*
2 *any gain or loss subsequently realized for gain or loss*
3 *taken into account under the preceding sentence.*

4 “(3) *EXCLUSION FOR CERTAIN GAIN.*—

5 “(A) *IN GENERAL.*—*The amount which, but*
6 *for this paragraph, would be includible in the*
7 *gross income of any individual by reason of this*
8 *section shall be reduced (but not below zero) by*
9 *\$600,000. For purposes of this paragraph, allo-*
10 *cable expatriation gain taken into account under*
11 *subsection (f)(2) shall be treated in the same*
12 *manner as an amount required to be includible*
13 *in gross income.*

14 “(B) *COST-OF-LIVING ADJUSTMENT.*—

15 “(i) *IN GENERAL.*—*In the case of an*
16 *expatriation date occurring in any calendar*
17 *year after 2002, the \$600,000 amount under*
18 *subparagraph (A) shall be increased by an*
19 *amount equal to—*

20 “(I) *such dollar amount, multi-*
21 *plied by*

22 “(II) *the cost-of-living adjustment*
23 *determined under section 1(f)(3) for*
24 *such calendar year, determined by sub-*
25 *stituting ‘calendar year 2001’ for ‘cal-*

1 *endar year 1992' in subparagraph (B)*
2 *thereof.*

3 “(ii) *ROUNDING RULES.—If any*
4 *amount after adjustment under clause (i) is*
5 *not a multiple of \$1,000, such amount shall*
6 *be rounded to the next lower multiple of*
7 *\$1,000.*

8 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
9 *UNITED STATES CITIZEN.—*

10 “(A) *IN GENERAL.—If a covered expatriate*
11 *elects the application of this paragraph—*

12 “(i) *this section (other than this para-*
13 *graph and subsection (i)) shall not apply to*
14 *the expatriate, but*

15 “(ii) *in the case of property to which*
16 *this section would apply but for such elec-*
17 *tion, the expatriate shall be subject to tax*
18 *under this title in the same manner as if*
19 *the individual were a United States citizen.*

20 “(B) *REQUIREMENTS.—Subparagraph (A)*
21 *shall not apply to an individual unless the indi-*
22 *vidual—*

23 “(i) *provides security for payment of*
24 *tax in such form and manner, and in such*
25 *amount, as the Secretary may require,*

1 “(ii) consents to the waiver of any
2 right of the individual under any treaty of
3 the United States which would preclude as-
4 sessment or collection of any tax which may
5 be imposed by reason of this paragraph,
6 and

7 “(iii) complies with such other require-
8 ments as the Secretary may prescribe.

9 “(C) *ELECTION.*—An election under sub-
10 paragraph (A) shall apply to all property to
11 which this section would apply but for the elec-
12 tion and, once made, shall be irrevocable. Such
13 election shall also apply to property the basis of
14 which is determined in whole or in part by ref-
15 erence to the property with respect to which the
16 election was made.

17 “(b) *ELECTION TO DEFER TAX.*—

18 “(1) *IN GENERAL.*—If the taxpayer elects the ap-
19 plication of this subsection with respect to any prop-
20 erty treated as sold by reason of subsection (a), the
21 payment of the additional tax attributable to such
22 property shall be postponed until the due date of the
23 return for the taxable year in which such property is
24 disposed of (or, in the case of property disposed of in
25 a transaction in which gain is not recognized in

1 whole or in part, until such other date as the Sec-
2 retary may prescribe).

3 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
4 *PROPERTY.*—For purposes of paragraph (1), the addi-
5 tional tax attributable to any property is an amount
6 which bears the same ratio to the additional tax im-
7 posed by this chapter for the taxable year solely by
8 reason of subsection (a) as the gain taken into ac-
9 count under subsection (a) with respect to such prop-
10 erty bears to the total gain taken into account under
11 subsection (a) with respect to all property to which
12 subsection (a) applies.

13 “(3) *TERMINATION OF POSTPONEMENT.*—No tax
14 may be postponed under this subsection later than the
15 due date for the return of tax imposed by this chapter
16 for the taxable year which includes the date of death
17 of the expatriate (or, if earlier, the time that the secu-
18 rity provided with respect to the property fails to
19 meet the requirements of paragraph (4), unless the
20 taxpayer corrects such failure within the time speci-
21 fied by the Secretary).

22 “(4) *SECURITY.*—

23 “(A) *IN GENERAL.*—No election may be
24 made under paragraph (1) with respect to any

1 *property unless adequate security is provided to*
2 *the Secretary with respect to such property.*

3 “(B) *ADEQUATE SECURITY.*—*For purposes*
4 *of subparagraph (A), security with respect to*
5 *any property shall be treated as adequate secu-*
6 *rity if—*

7 “(i) *it is a bond in an amount equal*
8 *to the deferred tax amount under paragraph*
9 *(2) for the property, or*

10 “(ii) *the taxpayer otherwise establishes*
11 *to the satisfaction of the Secretary that the*
12 *security is adequate.*

13 “(5) *WAIVER OF CERTAIN RIGHTS.*—*No election*
14 *may be made under paragraph (1) unless the tax-*
15 *payer consents to the waiver of any right under any*
16 *treaty of the United States which would preclude as-*
17 *essment or collection of any tax imposed by reason*
18 *of this section.*

19 “(6) *ELECTIONS.*—*An election under paragraph*
20 *(1) shall only apply to property described in the elec-*
21 *tion and, once made, is irrevocable. An election may*
22 *be made under paragraph (1) with respect to an in-*
23 *terest in a trust with respect to which gain is re-*
24 *quired to be recognized under subsection (f)(1).*

25 “(7) *INTEREST.*—*For purposes of section 6601—*

1 “(A) *the last date for the payment of tax*
2 *shall be determined without regard to the election*
3 *under this subsection, and*

4 “(B) *section 6621(a)(2) shall be applied by*
5 *substituting ‘5 percentage points’ for ‘3 percent-*
6 *age points’ in subparagraph (B) thereof.*

7 “(c) *COVERED EXPATRIATE.—For purposes of this sec-*
8 *tion—*

9 “(1) *IN GENERAL.—Except as provided in para-*
10 *graph (2), the term ‘covered expatriate’ means an ex-*
11 *patriate.*

12 “(2) *EXCEPTIONS.—An individual shall not be*
13 *treated as a covered expatriate if—*

14 “(A) *the individual—*

15 “(i) *became at birth a citizen of the*
16 *United States and a citizen of another*
17 *country and, as of the expatriation date,*
18 *continues to be a citizen of, and is taxed as*
19 *a resident of, such other country, and*

20 “(ii) *has not been a resident of the*
21 *United States (as defined in section*
22 *7701(b)(1)(A)(ii)) during the 5 taxable*
23 *years ending with the taxable year during*
24 *which the expatriation date occurs, or*

1 “(B)(i) *the individual’s relinquishment of*
2 *United States citizenship occurs before such indi-*
3 *vidual attains age 18½, and*

4 “(ii) *the individual has been a resident of*
5 *the United States (as so defined) for not more*
6 *than 5 taxable years before the date of relin-*
7 *quishment.*

8 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
9 *SION PLANS.—*

10 “(1) *EXEMPT PROPERTY.—This section shall not*
11 *apply to the following:*

12 “(A) *UNITED STATES REAL PROPERTY IN-*
13 *TERESTS.—Any United States real property in-*
14 *terest (as defined in section 897(c)(1)), other*
15 *than stock of a United States real property hold-*
16 *ing corporation which does not, on the day before*
17 *the expatriation date, meet the requirements of*
18 *section 897(c)(2).*

19 “(B) *SPECIFIED PROPERTY.—Any property*
20 *or interest in property not described in subpara-*
21 *graph (A) which the Secretary specifies in regu-*
22 *lations.*

23 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
24 *PLANS.—*

1 “(A) *IN GENERAL.*—If a covered expatriate
2 holds on the day before the expatriation date any
3 interest in a retirement plan to which this para-
4 graph applies—

5 “(i) such interest shall not be treated
6 as sold for purposes of subsection (a)(1), but

7 “(ii) an amount equal to the present
8 value of the expatriate’s nonforfeitable ac-
9 crued benefit shall be treated as having been
10 received by such individual on such date as
11 a distribution under the plan.

12 “(B) *TREATMENT OF SUBSEQUENT DIS-*
13 *TRIBUTIONS.*—In the case of any distribution on
14 or after the expatriation date to or on behalf of
15 the covered expatriate from a plan from which
16 the expatriate was treated as receiving a dis-
17 tribution under subparagraph (A), the amount
18 otherwise includible in gross income by reason of
19 the subsequent distribution shall be reduced by
20 the excess of the amount includible in gross in-
21 come under subparagraph (A) over any portion
22 of such amount to which this subparagraph pre-
23 viously applied.

24 “(C) *TREATMENT OF SUBSEQUENT DIS-*
25 *TRIBUTIONS BY PLAN.*—For purposes of this title,

1 *a retirement plan to which this paragraph ap-*
2 *plies, and any person acting on the plan’s behalf,*
3 *shall treat any subsequent distribution described*
4 *in subparagraph (B) in the same manner as*
5 *such distribution would be treated without re-*
6 *gard to this paragraph.*

7 “(D) *APPLICABLE PLANS.*—*This paragraph*
8 *shall apply to—*

9 “(i) *any qualified retirement plan (as*
10 *defined in section 4974(c)),*

11 “(ii) *an eligible deferred compensation*
12 *plan (as defined in section 457(b)) of an el-*
13 *igible employer described in section*
14 *457(e)(1)(A), and*

15 “(iii) *to the extent provided in regula-*
16 *tions, any foreign pension plan or similar*
17 *retirement arrangements or programs.*

18 “(e) *DEFINITIONS.*—*For purposes of this section—*

19 “(1) *EXPATRIATE.*—*The term ‘expatriate’*
20 *means—*

21 “(A) *any United States citizen who relin-*
22 *quishes citizenship, and*

23 “(B) *any long-term resident of the United*
24 *States who—*

1 “(i) ceases to be a lawful permanent
2 resident of the United States (within the
3 meaning of section 7701(b)(6)), or

4 “(ii) commences to be treated as a resi-
5 dent of a foreign country under the provi-
6 sions of a tax treaty between the United
7 States and the foreign country and who
8 does not waive the benefits of such treaty
9 applicable to residents of the foreign coun-
10 try.

11 “(2) *EXPATRIATION DATE*.—The term ‘expatria-
12 tion date’ means—

13 “(A) the date an individual relinquishes
14 United States citizenship, or

15 “(B) in the case of a long-term resident of
16 the United States, the date of the event described
17 in clause (i) or (ii) of paragraph (1)(B).

18 “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A citi-
19 izen shall be treated as relinquishing United States
20 citizenship on the earliest of—

21 “(A) the date the individual renounces such
22 individual’s United States nationality before a
23 diplomatic or consular officer of the United
24 States pursuant to paragraph (5) of section

1 349(a) of the Immigration and Nationality Act
2 (8 U.S.C. 1481(a)(5)),

3 “(B) the date the individual furnishes to the
4 United States Department of State a signed
5 statement of voluntary relinquishment of United
6 States nationality confirming the performance of
7 an act of expatriation specified in paragraph
8 (1), (2), (3), or (4) of section 349(a) of the Im-
9 migration and Nationality Act (8 U.S.C.
10 1481(a)(1)–(4)),

11 “(C) the date the United States Department
12 of State issues to the individual a certificate of
13 loss of nationality, or

14 “(D) the date a court of the United States
15 cancels a naturalized citizen’s certificate of natu-
16 ralization.

17 Subparagraph (A) or (B) shall not apply to any in-
18 dividual unless the renunciation or voluntary relin-
19 quishment is subsequently approved by the issuance to
20 the individual of a certificate of loss of nationality by
21 the United States Department of State.

22 “(4) LONG-TERM RESIDENT.—The term ‘long-
23 term resident’ has the meaning given to such term by
24 section 877(e)(2).

1 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
2 *INTERESTS IN TRUST.—*

3 “(1) *IN GENERAL.—Except as provided in para-*
4 *graph (2), if an individual is determined under para-*
5 *graph (3) to hold an interest in a trust on the day*
6 *before the expatriation date—*

7 “(A) *the individual shall not be treated as*
8 *having sold such interest,*

9 “(B) *such interest shall be treated as a sep-*
10 *arate share in the trust, and*

11 “(C)(i) *such separate share shall be treated*
12 *as a separate trust consisting of the assets allo-*
13 *cable to such share,*

14 “(ii) *the separate trust shall be treated as*
15 *having sold its assets on the day before the expa-*
16 *triation date for their fair market value and as*
17 *having distributed all of its assets to the indi-*
18 *vidual as of such time, and*

19 “(iii) *the individual shall be treated as hav-*
20 *ing recontributed the assets to the separate trust.*

21 *Subsection (a)(2) shall apply to any income, gain, or*
22 *loss of the individual arising from a distribution de-*
23 *scribed in subparagraph (C)(ii). In determining the*
24 *amount of such distribution, proper adjustments shall*

1 *be made for liabilities of the trust allocable to an in-*
2 *dividual's share in the trust.*

3 “(2) *SPECIAL RULES FOR INTERESTS IN QUALI-*
4 *FIED TRUSTS.—*

5 “(A) *IN GENERAL.—If the trust interest de-*
6 *scribed in paragraph (1) is an interest in a*
7 *qualified trust—*

8 “(i) *paragraph (1) and subsection (a)*
9 *shall not apply, and*

10 “(ii) *in addition to any other tax im-*
11 *posed by this title, there is hereby imposed*
12 *on each distribution with respect to such in-*
13 *terest a tax in the amount determined*
14 *under subparagraph (B).*

15 “(B) *AMOUNT OF TAX.—The amount of tax*
16 *under subparagraph (A)(ii) shall be equal to the*
17 *lesser of—*

18 “(i) *the highest rate of tax imposed by*
19 *section 1(e) for the taxable year which in-*
20 *cludes the day before the expatriation date,*
21 *multiplied by the amount of the distribu-*
22 *tion, or*

23 “(ii) *the balance in the deferred tax ac-*
24 *count immediately before the distribution*
25 *determined without regard to any increases*

1 under subparagraph (C)(ii) after the 30th
2 day preceding the distribution.

3 “(C) *DEFERRED TAX ACCOUNT.*—For pur-
4 poses of subparagraph (B)(ii)—

5 “(i) *OPENING BALANCE.*—The opening
6 balance in a deferred tax account with re-
7 spect to any trust interest is an amount
8 equal to the tax which would have been im-
9 posed on the allocable expatriation gain
10 with respect to the trust interest if such
11 gain had been included in gross income
12 under subsection (a).

13 “(ii) *INCREASE FOR INTEREST.*—The
14 balance in the deferred tax account shall be
15 increased by the amount of interest deter-
16 mined (on the balance in the account at the
17 time the interest accrues), for periods after
18 the 90th day after the expatriation date, by
19 using the rates and method applicable
20 under section 6621 for underpayments of
21 tax for such periods, except that section
22 6621(a)(2) shall be applied by substituting
23 ‘5 percentage points’ for ‘3 percentage
24 points’ in subparagraph (B) thereof.

1 “(iii) *DECREASE FOR TAXES PRE-*
2 *VIOUSLY PAID.—The balance in the tax de-*
3 *ferred account shall be reduced—*

4 “(I) *by the amount of taxes im-*
5 *posed by subparagraph (A) on any dis-*
6 *tribution to the person holding the*
7 *trust interest, and*

8 “(II) *in the case of a person hold-*
9 *ing a nonvested interest, to the extent*
10 *provided in regulations, by the amount*
11 *of taxes imposed by subparagraph (A)*
12 *on distributions from the trust with re-*
13 *spect to nonvested interests not held by*
14 *such person.*

15 “(D) *ALLOCABLE EXPATRIATION GAIN.—For*
16 *purposes of this paragraph, the allocable expa-*
17 *triation gain with respect to any beneficiary’s*
18 *interest in a trust is the amount of gain which*
19 *would be allocable to such beneficiary’s vested*
20 *and nonvested interests in the trust if the bene-*
21 *ficiary held directly all assets allocable to such*
22 *interests.*

23 “(E) *TAX DEDUCTED AND WITHHELD.—*

24 “(i) *IN GENERAL.—The tax imposed by*
25 *subparagraph (A)(ii) shall be deducted and*

1 *withheld by the trustees from the distribu-*
2 *tion to which it relates.*

3 “(ii) *EXCEPTION WHERE FAILURE TO*
4 *WAIVE TREATY RIGHTS.—If an amount may*
5 *not be deducted and withheld under clause*
6 *(i) by reason of the distributee failing to*
7 *waive any treaty right with respect to such*
8 *distribution—*

9 “(I) *the tax imposed by subpara-*
10 *graph (A)(ii) shall be imposed on the*
11 *trust and each trustee shall be person-*
12 *ally liable for the amount of such tax,*
13 *and*

14 “(II) *any other beneficiary of the*
15 *trust shall be entitled to recover from*
16 *the distributee the amount of such tax*
17 *imposed on the other beneficiary.*

18 “(F) *DISPOSITION.—If a trust ceases to be*
19 *a qualified trust at any time, a covered expa-*
20 *triate disposes of an interest in a qualified trust,*
21 *or a covered expatriate holding an interest in a*
22 *qualified trust dies, then, in lieu of the tax im-*
23 *posed by subparagraph (A)(ii), there is hereby*
24 *imposed a tax equal to the lesser of—*

1 “(i) the tax determined under para-
2 graph (1) as if the day before the expatria-
3 tion date were the date of such cessation,
4 disposition, or death, whichever is applica-
5 ble, or

6 “(ii) the balance in the tax deferred ac-
7 count immediately before such date.

8 *Such tax shall be imposed on the trust and each*
9 *trustee shall be personally liable for the amount*
10 *of such tax and any other beneficiary of the trust*
11 *shall be entitled to recover from the covered expa-*
12 *triate or the estate the amount of such tax im-*
13 *posed on the other beneficiary.*

14 “(G) *DEFINITIONS AND SPECIAL RULES.—*

15 *For purposes of this paragraph—*

16 “(i) *QUALIFIED TRUST.—The term*
17 *‘qualified trust’ means a trust which is de-*
18 *scribed in section 7701(a)(30)(E).*

19 “(ii) *VESTED INTEREST.—The term*
20 *‘vested interest’ means any interest which,*
21 *as of the day before the expatriation date, is*
22 *vested in the beneficiary.*

23 “(iii) *NONVESTED INTEREST.—The*
24 *term ‘nonvested interest’ means, with re-*
25 *spect to any beneficiary, any interest in a*

1 *trust which is not a vested interest. Such*
2 *interest shall be determined by assuming the*
3 *maximum exercise of discretion in favor of*
4 *the beneficiary and the occurrence of all*
5 *contingencies in favor of the beneficiary.*

6 “(iv) *ADJUSTMENTS.*—*The Secretary*
7 *may provide for such adjustments to the*
8 *bases of assets in a trust or a deferred tax*
9 *account, and the timing of such adjust-*
10 *ments, in order to ensure that gain is taxed*
11 *only once.*

12 “(v) *COORDINATION WITH RETIREMENT*
13 *PLAN RULES.*—*This subsection shall not*
14 *apply to an interest in a trust which is*
15 *part of a retirement plan to which sub-*
16 *section (d)(2) applies.*

17 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
18 *EST IN TRUST.*—

19 “(A) *DETERMINATIONS UNDER PARAGRAPH*
20 *(1).*—*For purposes of paragraph (1), a bene-*
21 *ficiary’s interest in a trust shall be based upon*
22 *all relevant facts and circumstances, including*
23 *the terms of the trust instrument and any letter*
24 *of wishes or similar document, historical pat-*
25 *terns of trust distributions, and the existence of*

1 *and functions performed by a trust protector or*
2 *any similar adviser.*

3 “(B) *OTHER DETERMINATIONS.—For pur-*
4 *poses of this section—*

5 “(i) *CONSTRUCTIVE OWNERSHIP.—If a*
6 *beneficiary of a trust is a corporation, part-*
7 *nership, trust, or estate, the shareholders,*
8 *partners, or beneficiaries shall be deemed to*
9 *be the trust beneficiaries for purposes of this*
10 *section.*

11 “(ii) *TAXPAYER RETURN POSITION.—A*
12 *taxpayer shall clearly indicate on its in-*
13 *come tax return—*

14 “(I) *the methodology used to de-*
15 *termine that taxpayer’s trust interest*
16 *under this section, and*

17 “(II) *if the taxpayer knows (or*
18 *has reason to know) that any other*
19 *beneficiary of such trust is using a dif-*
20 *ferent methodology to determine such*
21 *beneficiary’s trust interest under this*
22 *section.*

23 “(g) *TERMINATION OF DEFERRALS, ETC.—In the case*
24 *of any covered expatriate, notwithstanding any other provi-*
25 *sion of this title—*

1 “(1) any period during which recognition of in-
2 come or gain is deferred shall terminate on the day
3 before the expatriation date, and

4 “(2) any extension of time for payment of tax
5 shall cease to apply on the day before the expatriation
6 date and the unpaid portion of such tax shall be due
7 and payable at the time and in the manner pre-
8 scribed by the Secretary.

9 “(h) IMPOSITION OF TENTATIVE TAX.—

10 “(1) IN GENERAL.—If an individual is required
11 to include any amount in gross income under sub-
12 section (a) for any taxable year, there is hereby im-
13 posed, immediately before the expatriation date, a tax
14 in an amount equal to the amount of tax which
15 would be imposed if the taxable year were a short tax-
16 able year ending on the expatriation date.

17 “(2) DUE DATE.—The due date for any tax im-
18 posed by paragraph (1) shall be the 90th day after the
19 expatriation date.

20 “(3) TREATMENT OF TAX.—Any tax paid under
21 paragraph (1) shall be treated as a payment of the
22 tax imposed by this chapter for the taxable year to
23 which subsection (a) applies.

24 “(4) DEFERRAL OF TAX.—The provisions of sub-
25 section (b) shall apply to the tax imposed by this sub-

1 *section to the extent attributable to gain includible in*
2 *gross income by reason of this section.*

3 *“(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—*

4 *“(1) IMPOSITION OF LIEN.—*

5 *“(A) IN GENERAL.—If a covered expatriate*
6 *makes an election under subsection (a)(4) or (b)*
7 *which results in the deferral of any tax imposed*
8 *by reason of subsection (a), the deferred amount*
9 *(including any interest, additional amount, ad-*
10 *dition to tax, assessable penalty, and costs at-*
11 *tributable to the deferred amount) shall be a lien*
12 *in favor of the United States on all property of*
13 *the expatriate located in the United States (with-*
14 *out regard to whether this section applies to the*
15 *property).*

16 *“(B) DEFERRED AMOUNT.—For purposes of*
17 *this subsection, the deferred amount is the*
18 *amount of the increase in the covered expatri-*
19 *ate’s income tax which, but for the election under*
20 *subsection (a)(4) or (b), would have occurred by*
21 *reason of this section for the taxable year includ-*
22 *ing the expatriation date.*

23 *“(2) PERIOD OF LIEN.—The lien imposed by this*
24 *subsection shall arise on the expatriation date and*
25 *continue until—*

1 “(A) the liability for tax by reason of this
2 section is satisfied or has become unenforceable
3 by reason of lapse of time, or

4 “(B) it is established to the satisfaction of
5 the Secretary that no further tax liability may
6 arise by reason of this section.

7 “(3) CERTAIN RULES APPLY.—The rules set forth
8 in paragraphs (1), (3), and (4) of section 6324A(d)
9 shall apply with respect to the lien imposed by this
10 subsection as if it were a lien imposed by section
11 6324A.

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

15 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
16 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
17 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
18 not included in gross income) is amended by adding at the
19 end the following new subsection:

20 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
21 PATRIATES.—

22 “(1) IN GENERAL.—Subsection (a) shall not ex-
23 clude from gross income the value of any property ac-
24 quired by gift, bequest, devise, or inheritance from a
25 covered expatriate after the expatriation date. For

1 *purposes of this subsection, any term used in this sub-*
2 *section which is also used in section 877A shall have*
3 *the same meaning as when used in section 877A.*

4 *“(2) EXCEPTIONS FOR TRANSFERS OTHERWISE*
5 *SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)*
6 *shall not apply to any property if either—*

7 *“(A) the gift, bequest, devise, or inheritance*
8 *is—*

9 *“(i) shown on a timely filed return of*
10 *tax imposed by chapter 12 as a taxable gift*
11 *by the covered expatriate, or*

12 *“(ii) included in the gross estate of the*
13 *covered expatriate for purposes of chapter*
14 *11 and shown on a timely filed return of*
15 *tax imposed by chapter 11 of the estate of*
16 *the covered expatriate, or*

17 *“(B) no such return was timely filed but no*
18 *such return would have been required to be filed*
19 *even if the covered expatriate were a citizen or*
20 *long-term resident of the United States.”.*

21 *(c) DEFINITION OF TERMINATION OF UNITED STATES*
22 *CITIZENSHIP.—Section 7701(a) is amended by adding at*
23 *the end the following new paragraph:*

24 *“(48) TERMINATION OF UNITED STATES CITIZEN-*
25 *SHIP.—*

1 “(A) *IN GENERAL.*—*An individual shall not*
2 *cease to be treated as a United States citizen be-*
3 *fore the date on which the individual’s citizen-*
4 *ship is treated as relinquished under section*
5 *877A(e)(3).*”

6 “(B) *DUAL CITIZENS.*—*Under regulations*
7 *prescribed by the Secretary, subparagraph (A)*
8 *shall not apply to an individual who became at*
9 *birth a citizen of the United States and a citizen*
10 *of another country.*”

11 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
12 *UNITED STATES.*—

13 (1) *IN GENERAL.*—*Section 212(a)(10)(E) of the*
14 *Immigration and Nationality Act (8 U.S.C.*
15 *1182(a)(10)(E)) is amended to read as follows:*

16 “(E) *FORMER CITIZENS NOT IN COMPLI-*
17 *ANCE WITH EXPATRIATION REVENUE PROVI-*
18 *SIONS.*—*Any alien who is a former citizen of the*
19 *United States who relinquishes United States*
20 *citizenship (within the meaning of section*
21 *877A(e)(3) of the Internal Revenue Code of 1986)*
22 *and who is not in compliance with section 877A*
23 *of such Code (relating to expatriation).*”

24 (2) *AVAILABILITY OF INFORMATION.*—

1 (A) *IN GENERAL.*—Section 6103(l) (relating
2 to disclosure of returns and return information
3 for purposes other than tax administration) is
4 amended by adding at the end the following new
5 paragraph:

6 “(18) *DISCLOSURE TO DENY VISA OR ADMISSION*
7 *TO CERTAIN EXPATRIATES.*—Upon written request of
8 the Attorney General or the Attorney General’s dele-
9 gate, the Secretary shall disclose whether an indi-
10 vidual is in compliance with section 877A (and if not
11 in compliance, any items of noncompliance) to offi-
12 cers and employees of the Federal agency responsible
13 for administering section 212(a)(10)(E) of the *Immi-*
14 *gration and Nationality Act* solely for the purpose of,
15 and to the extent necessary in, administering such
16 section 212(a)(10)(E).”

17 (B) *SAFEGUARDS.*—Section 6103(p)(4) (re-
18 lating to safeguards) is amended by striking “or
19 (17)” each place it appears and inserting “(17),
20 or (18)”.

21 (3) *EFFECTIVE DATE.*—The amendments made
22 by this subsection shall apply to individuals who re-
23 linquish United States citizenship on or after the date
24 of the enactment of this Act.

25 (e) *CONFORMING AMENDMENTS.*—

1 (1) *Section 877 is amended by adding at the end*
2 *the following new subsection:*

3 “(g) *APPLICATION.—This section shall not apply to an*
4 *expatriate (as defined in section 877A(e)) whose expatria-*
5 *tion date (as so defined) occurs on or after September 12,*
6 *2002.”.*

7 (2) *Section 2107 is amended by adding at the*
8 *end the following new subsection:*

9 “(f) *APPLICATION.—This section shall not apply to*
10 *any expatriate subject to section 877A.”.*

11 (3) *Section 2501(a)(3) is amended by adding at*
12 *the end the following new subparagraph:*

13 “(F) *APPLICATION.—This paragraph shall*
14 *not apply to any expatriate subject to section*
15 *877A.”.*

16 (4)(A) *Paragraph (1) of section 6039G(d) is*
17 *amended by inserting “or 877A” after “section 877”.*

18 (B) *The second sentence of section 6039G(e) is*
19 *amended by inserting “or who relinquishes United*
20 *States citizenship (within the meaning of section*
21 *877A(e)(3))” after “877(a)”.*

22 (C) *Section 6039G(f) is amended by inserting*
23 *“or 877A(e)(2)(B)” after “877(e)(1)”.*

24 (f) *CLERICAL AMENDMENT.—The table of sections for*
25 *subpart A of part II of subchapter N of chapter 1 is amend-*

1 *ed by inserting after the item relating to section 877 the*
2 *following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”.

3 *(g) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—Except as provided in this*
5 *subsection, the amendments made by this section shall*
6 *apply to expatriates (within the meaning of section*
7 *877A(e) of the Internal Revenue Code of 1986, as*
8 *added by this section) whose expatriation date (as so*
9 *defined) occurs on or after September 12, 2002.*

10 *(2) GIFTS AND BEQUESTS.—Section 102(d) of*
11 *the Internal Revenue Code of 1986 (as added by sub-*
12 *section (b)) shall apply to gifts and bequests received*
13 *on or after September 12, 2002, from an individual*
14 *or the estate of an individual whose expatriation date*
15 *(as so defined) occurs after such date.*

16 *(3) DUE DATE FOR TENTATIVE TAX.—The due*
17 *date under section 877A(h)(2) of the Internal Revenue*
18 *Code of 1986, as added by this section, shall in no*
19 *event occur before the 90th day after the date of the*
20 *enactment of this Act.*

21 **SEC. 202. EXTENSION OF INTERNAL REVENUE SERVICE**
22 **USER FEES.**

23 *(a) IN GENERAL.—Chapter 77 (relating to miscella-*
24 *neous provisions) is amended by adding at the end the fol-*
25 *lowing new section:*

1 **“SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.**

2 “(a) *GENERAL RULE.*—*The Secretary shall establish*
3 *a program requiring the payment of user fees for—*

4 “(1) *requests to the Internal Revenue Service for*
5 *ruling letters, opinion letters, and determination let-*
6 *ters, and*

7 “(2) *other similar requests.*

8 “(b) *PROGRAM CRITERIA.*—

9 “(1) *IN GENERAL.*—*The fees charged under the*
10 *program required by subsection (a)—*

11 “(A) *shall vary according to categories (or*
12 *subcategories) established by the Secretary,*

13 “(B) *shall be determined after taking into*
14 *account the average time for (and difficulty of)*
15 *complying with requests in each category (and*
16 *subcategory), and*

17 “(C) *shall be payable in advance.*

18 “(2) *EXEMPTIONS, ETC.*—

19 “(A) *IN GENERAL.*—*The Secretary shall*
20 *provide for such exemptions (and reduced fees)*
21 *under such program as the Secretary determines*
22 *to be appropriate.*

23 “(B) *EXEMPTION FOR CERTAIN REQUESTS*
24 *REGARDING PENSION PLANS.*—*The Secretary*
25 *shall not require payment of user fees under such*
26 *program for requests for determination letters*

1 *with respect to the qualified status of a pension*
2 *benefit plan maintained solely by 1 or more eli-*
3 *gible employers or any trust which is part of the*
4 *plan. The preceding sentence shall not apply to*
5 *any request—*

6 “(i) *made after the later of—*

7 “(I) *the fifth plan year the pen-*
8 *sion benefit plan is in existence, or*

9 “(II) *the end of any remedial*
10 *amendment period with respect to the*
11 *plan beginning within the first 5 plan*
12 *years, or*

13 “(ii) *made by the sponsor of any proto-*
14 *type or similar plan which the sponsor in-*
15 *tends to market to participating employers.*

16 “(C) *DEFINITIONS AND SPECIAL RULES.—*

17 *For purposes of subparagraph (B)—*

18 “(i) *PENSION BENEFIT PLAN.—The*
19 *term ‘pension benefit plan’ means a pen-*
20 *sion, profit-sharing, stock bonus, annuity,*
21 *or employee stock ownership plan.*

22 “(ii) *ELIGIBLE EMPLOYER.—The term*
23 *‘eligible employer’ means an eligible em-*
24 *ployer (as defined in section*
25 *408(p)(2)(C)(i)(I)) which has at least 1 em-*

1 *employee who is not a highly compensated em-*
 2 *ployee (as defined in section 414(q)) and is*
 3 *participating in the plan. The determina-*
 4 *tion of whether an employer is an eligible*
 5 *employer under subparagraph (B) shall be*
 6 *made as of the date of the request described*
 7 *in such subparagraph.*

8 *“(iii) DETERMINATION OF AVERAGE*
 9 *FEES CHARGED.—For purposes of any de-*
 10 *termination of average fees charged, any re-*
 11 *quest to which subparagraph (B) applies*
 12 *shall not be taken into account.*

13 *“(3) AVERAGE FEE REQUIREMENT.—The average*
 14 *fee charged under the program required by subsection*
 15 *(a) shall not be less than the amount determined*
 16 *under the following table:*

“Category	Average Fee
<i>Employee plan ruling and opinion</i>	<i>\$250</i>
<i>Exempt organization ruling</i>	<i>\$350</i>
<i>Employee plan determination</i>	<i>\$300</i>
<i>Exempt organization determination</i>	<i>\$275</i>
<i>Chief counsel ruling</i>	<i>\$200.</i>

17 *“(c) TERMINATION.—No fee shall be imposed under*
 18 *this section with respect to requests made after September*
 19 *30, 2012.”.*

20 *(b) CONFORMING AMENDMENTS.—*

1 (1) *The table of sections for chapter 77 is amend-*
2 *ed by adding at the end the following new item:*

 “*Sec. 7527. Internal Revenue Service user fees.*”.

3 (2) *Section 10511 of the Revenue Act of 1987 is*
4 *repealed.*

5 (3) *Section 620 of the Economic Growth and*
6 *Tax Relief Reconciliation Act of 2001 is repealed.*

7 (c) *LIMITATIONS.*—*Notwithstanding any other provi-*
8 *sion of law, any fees collected pursuant to section 7527 of*
9 *the Internal Revenue Code of 1986, as added by subsection*
10 *(a), shall not be expended by the Internal Revenue Service*
11 *unless provided by an appropriations Act.*

12 (d) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall apply to requests made after the date of the*
14 *enactment of this Act.*

 Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.”.

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[Report No. 107-283]

AN ACT

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.

SEPTEMBER 17, 2002

Reported with an amendment and an amendment to the
title