

In the Senate of the United States,

November 14, 2002.

Resolved, That the bill from the House of Representatives (H.R. 5557) entitled “An Act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service 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, and for other purposes.”, do pass with the following

AMENDMENT:

1 Page 10, strike out line 10 and insert:

2 ***SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM***
3 ***ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS,***
4 ***ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.***

7 (a) *IN GENERAL.*—Subparagraph (B) of section
8 530(d)(4) of the Internal Revenue Code of 1986 (relating
9 to exceptions from additional tax for distributions not used
10 for educational purposes) is amended by striking “or” at
11 the end of clause (iii), by redesignating clause (iv) as clause
12 (v), and by inserting after clause (iii) the following new
13 clause:

1 “(1) *IN GENERAL.*—*The exemption from tax*
2 *under subsection (a) with respect to any organization*
3 *shall be suspended during any period in which the or-*
4 *ganization is a designated terrorist organization.*

5 “(2) *DESIGNATED TERRORIST ORGANIZATION.*—
6 *For purposes of this subsection, the term ‘designated*
7 *terrorist organization’ means an organization*
8 *which—*

9 “(A) *is designated as a terrorist organiza-*
10 *tion in or pursuant to an Executive order, or*
11 *otherwise designated, under the authority of—*

12 “(i) *section 212(a)(3) or 219 of the Im-*
13 *migration and Nationality Act,*

14 “(ii) *the International Emergency Eco-*
15 *nomics Powers Act, or*

16 “(iii) *section 5 of the United Nations*
17 *Participation Act, or*

18 “(B) *is designated in or pursuant to an Ex-*
19 *ecutive order as supporting terrorist activity (as*
20 *defined in section 212(a)(3)(B) of the Immigra-*
21 *tion and Nationality Act) or terrorism (as de-*
22 *defined in section 140(d)(2) of the Foreign Rela-*
23 *tions Authorization Act, Fiscal Years 1988 and*
24 *1989).*

1 “(3) *DENIAL OF DEDUCTION.*—No deduction
2 shall be allowed under section 170, 545(b)(2),
3 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any
4 contribution to an organization during the period
5 such organization is a designated terrorist organiza-
6 tion.

7 “(4) *DENIAL OF ADMINISTRATIVE OR JUDICIAL*
8 *CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-*
9 *TION.*—Notwithstanding section 7428 or any other
10 provision of law, no organization or other person may
11 challenge a suspension under paragraph (1), a des-
12 ignation described in paragraph (2), or a denial of
13 a deduction under paragraph (3) in any administra-
14 tive or judicial proceeding relating to the Federal tax
15 liability of such organization or other person.

16 “(5) *CREDIT OR REFUND IN CASE OF ERRO-*
17 *NEOUS DESIGNATION.*—

18 “(A) *IN GENERAL.*—If a designation of an
19 organization pursuant to 1 or more of the provi-
20 sions of law described in paragraph (2) is deter-
21 mined to be erroneous pursuant to such law and
22 the erroneous designation results in an overpay-
23 ment of income tax for any taxable year with re-
24 spect to such organization, credit or refund (with

1 *interest) with respect to such overpayment shall*
2 *be made.*

3 “(B) *WAIVER OF LIMITATIONS.*—*If credit or*
4 *refund of any overpayment of tax described in*
5 *subparagraph (A) is prevented at any time be-*
6 *fore the close of the 1-year period beginning on*
7 *the date of the determination of such credit or re-*
8 *fund by the operation of any law or rule of law*
9 *(including res judicata), such refund or credit*
10 *may nevertheless be made or allowed if claim*
11 *therefor is filed before the close of such period.”.*

12 (b) *NOTICE OF SUSPENSIONS.*—*If the tax exemption*
13 *of any organization is suspended under section 501(p) of*
14 *the Internal Revenue Code of 1986 (as added by subsection*
15 *(a)), the Internal Revenue Service shall update the listings*
16 *of tax-exempt organizations and shall publish appropriate*
17 *notice to taxpayers of such suspension and of the fact that*
18 *contributions to such organization are not deductible dur-*
19 *ing the period of such suspension.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*
21 *section shall take effect on the date of the enactment of this*
22 *Act.*

1 **SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
 2 **TRAVEL EXPENSES OF NATIONAL GUARD AND**
 3 **RESERVE MEMBERS.**

4 (a) *DEDUCTION ALLOWED.*—Section 162 of the Inter-
 5 *nal Revenue Code of 1986 (relating to certain trade or busi-*
 6 *ness expenses) is amended by redesignating subsection (p)*
 7 *as subsection (q) and inserting after subsection (o) the fol-*
 8 *lowing new subsection:*

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

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

23 “(E) *CERTAIN EXPENSES OF MEMBERS OF*
 24 *RESERVE COMPONENTS OF THE ARMED FORCES*
 25 *OF THE UNITED STATES.*—The deductions al-
 26 *lowed by section 162 which consist of expenses,*

1 “(A) shall vary according to categories (or
2 subcategories) established by the Secretary,

3 “(B) shall be determined after taking into
4 account the average time for (and difficulty of)
5 complying with requests in each category (and
6 subcategory), and

7 “(C) shall be payable in advance.

8 “(2) EXEMPTIONS, ETC.—

9 “(A) IN GENERAL.—The Secretary shall
10 provide for such exemptions (and reduced fees)
11 under such program as the Secretary determines
12 to be appropriate.

13 “(B) EXEMPTION FOR CERTAIN REQUESTS
14 REGARDING PENSION PLANS.—The Secretary
15 shall not require payment of user fees under such
16 program for requests for determination letters
17 with respect to the qualified status of a pension
18 benefit plan maintained solely by 1 or more eli-
19 gible employers or any trust which is part of the
20 plan. The preceding sentence shall not apply to
21 any request—

22 “(i) made after the later of—

23 “(I) the fifth plan year the pen-
24 sion benefit plan is in existence, or

1 “(II) the end of any remedial
2 amendment period with respect to the
3 plan beginning within the first 5 plan
4 years, or

5 “(ii) made by the sponsor of any proto-
6 type or similar plan which the sponsor in-
7 tends to market to participating employers.

8 “(C) DEFINITIONS AND SPECIAL RULES.—
9 For purposes of subparagraph (B)—

10 “(i) PENSION BENEFIT PLAN.—The
11 term ‘pension benefit plan’ means a pen-
12 sion, profit-sharing, stock bonus, annuity,
13 or employee stock ownership plan.

14 “(ii) ELIGIBLE EMPLOYER.—The term
15 ‘eligible employer’ means an eligible em-
16 ployer (as defined in section
17 408(p)(2)(C)(i)(I)) which has at least 1 em-
18 ployee who is not a highly compensated em-
19 ployee (as defined in section 414(q)) and is
20 participating in the plan. The determina-
21 tion of whether an employer is an eligible
22 employer under subparagraph (B) shall be
23 made as of the date of the request described
24 in such subparagraph.

1 “(iii) *DETERMINATION OF AVERAGE*
 2 *FEES CHARGED.*—*For purposes of any de-*
 3 *termination of average fees charged, any re-*
 4 *quest to which subparagraph (B) applies*
 5 *shall not be taken into account.*

6 “(3) *AVERAGE FEE REQUIREMENT.*—*The average*
 7 *fee charged under the program required by subsection*
 8 *(a) shall not be less than the amount determined*
 9 *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>

10 “(c) *TERMINATION.*—*No fee shall be imposed under*
 11 *this section with respect to requests made after September*
 12 *30, 2012.”.*

13 (b) *CONFORMING AMENDMENTS.*—

14 (1) *The table of sections for chapter 77 of the In-*
 15 *ternal Revenue Code of 1986 is amended by adding*
 16 *at the end the following new item:*

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

17 (2) *Section 10511 of the Revenue Act of 1987 is*
 18 *repealed.*

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

1 subsections (d) and (e) as subsections (e) and (f), respec-
2 tively, and inserting after subsection (c) the following new
3 subsection:

4 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
5 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
6 *YEARS.—In the case of an agreement entered into by the*
7 *Secretary under subsection (a) for partial collection of a*
8 *tax liability, the Secretary shall review the agreement at*
9 *least once every 2 years.”.*

10 (c) *EFFECTIVE DATE.—The amendments made by this*
11 *section shall apply to agreements entered into on or after*
12 *the date of the enactment of this Act.*

13 **SEC. 13. PROTECTION OF SOCIAL SECURITY.**

Attest:

Secretary.

107TH CONGRESS
2D SESSION

H. R. 5557

AMENDMENT