

107TH CONGRESS
2D SESSION

H. R. 5557

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.

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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”.

6 **SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED**
7 **SERVICES AND FOREIGN SERVICE IN DETER-**
8 **MINING EXCLUSION OF GAIN FROM SALE OF**
9 **PRINCIPAL RESIDENCE.**

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

14 “(10) MEMBERS OF UNIFORMED SERVICES AND
15 FOREIGN SERVICE.—

16 “(A) IN GENERAL.—At the election of an
17 individual with respect to a property, the run-
18 ning of the 5-year period described in sub-
19 section (a) with respect to such property shall
20 be suspended during any period that such indi-
21 vidual or such individual’s spouse is serving on
22 qualified official extended duty as a member of
23 the uniformed services or of the Foreign Serv-
24 ice.

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

5 “(C) QUALIFIED OFFICIAL EXTENDED
6 DUTY.—For purposes of this paragraph—

7 “(i) IN GENERAL.—The term ‘quali-
8 fied official extended duty’ means any ex-
9 tended duty while serving at a duty station
10 which is at least 150 miles from such prop-
11 erty or while residing under Government
12 orders in Government quarters.

13 “(ii) UNIFORMED SERVICES.—The
14 term ‘uniformed services’ has the meaning
15 given such term by section 101(a)(5) of
16 title 10, United States Code, as in effect
17 on the date of the enactment of this para-
18 graph.

19 “(iii) FOREIGN SERVICE.—The term
20 ‘member of the Foreign Service’ has the
21 meaning given the term ‘member of the
22 Service’ by paragraph (1), (2), (3), (4), or
23 (5) of section 103 of the Foreign Service
24 Act of 1980, as in effect on the date of the
25 enactment of this paragraph.

1 “(iv) EXTENDED DUTY.—The term
2 ‘extended duty’ means any period of active
3 duty pursuant to a call or order to such
4 duty for a period in excess of 180 days or
5 for an indefinite period.

6 “(D) SPECIAL RULES RELATING TO ELEC-
7 TION.—

8 “(i) ELECTION LIMITED TO 1 PROP-
9 PERTY AT A TIME.—An election under sub-
10 paragraph (A) with respect to any property
11 may not be made if such an election is in
12 effect with respect to any other property.

13 “(ii) REVOCATION OF ELECTION.—An
14 election under subparagraph (A) may be
15 revoked at any time.”.

16 (b) EFFECTIVE DATE; SPECIAL RULE.—

17 (1) EFFECTIVE DATE.—The amendment made
18 by this section shall take effect as if included in the
19 amendments made by section 312 of the Taxpayer
20 Relief Act of 1997.

21 (2) WAIVER OF LIMITATIONS.—If refund or
22 credit of any overpayment of tax resulting from the
23 amendment made by this section is prevented at any
24 time before the close of the 1-year period beginning
25 on the date of the enactment of this Act by the oper-

1 ation of any law or rule of law (including res judi-
2 cata), such refund or credit may nevertheless be
3 made or allowed if claim therefor is filed before the
4 close of such period.

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

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

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

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

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

1 **SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
2 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
3 **SISTANCE PROGRAM.**

4 (a) IN GENERAL.—Section 132(a) of the Internal
5 Revenue Code of 1986 (relating to the exclusion from
6 gross income of certain fringe benefits) is amended by
7 striking “or” at the end of paragraph (6), by striking the
8 period at the end of paragraph (7) and inserting “, or”
9 and by adding at the end the following new paragraph:

10 “(8) qualified military base realignment and
11 closure fringe.”.

12 (b) QUALIFIED MILITARY BASE REALIGNMENT AND
13 CLOSURE FRINGE.—Section 132 of such Code is amended
14 by redesignating subsection (n) as subsection (o) and by
15 inserting after subsection (m) the following new sub-
16 section:

17 “(n) QUALIFIED MILITARY BASE REALIGNMENT AND
18 CLOSURE FRINGE.—For purposes of this section, the
19 term ‘qualified military base realignment and closure
20 fringe’ means 1 or more payments under the authority of
21 section 1013 of the Demonstration Cities and Metropoli-
22 tan Development Act of 1966 (42 U.S.C. 3374) to offset
23 the adverse effects on housing values as a result of a mili-
24 tary base realignment or closure.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments made after the date
3 of the enactment of this Act.

4 **SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO**
5 **CONTINGENCY OPERATIONS.**

6 (a) IN GENERAL.—Section 7508(a) of the Internal
7 Revenue Code of 1986 (relating to time for performing
8 certain acts postponed by reason of service in combat
9 zone) is amended—

10 (1) by inserting “or when deployed outside the
11 United States away from the individual’s permanent
12 duty station while participating in an operation des-
13 igned by the Secretary of Defense as a contin-
14 gency operation (as defined in section 101(a)(13) of
15 title 10, United States Code) or which became such
16 a contingency operation by operation of law” after
17 “section 112”,

18 (2) by inserting in the first sentence “or at any
19 time during the period of such contingency oper-
20 ation” after “for purposes of such section”,

21 (3) by inserting “or operation” after “such an
22 area”, and

23 (4) by inserting “or operation” after “such
24 area”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 7508(d) of such Code is amended
2 by inserting “or contingency operation” after
3 “area”.

4 (2) The heading for section 7508 of such Code
5 is amended by inserting “**OR CONTINGENCY OP-**
6 **ERATION**” after “**COMBAT ZONE**”.

7 (3) The item relating to section 7508 of such
8 Code in the table of sections for chapter 77 is
9 amended by inserting “or contingency operation”
10 after “combat zone”.

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

15 **SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT**
16 **FOR EXEMPTION FROM TAX FOR CERTAIN**
17 **VETERANS’ ORGANIZATIONS.**

18 (a) **IN GENERAL.**—Subparagraph (B) of section
19 501(c)(19) of the Internal Revenue Code of 1986 (relating
20 to list of exempt organizations) is amended by striking “or
21 widowers” and inserting “, widowers, or ancestors or lineal
22 descendants”.

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

1 **SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN**
2 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

3 (a) IN GENERAL.—Section 134(b) of the Internal
4 Revenue Code of 1986 (defining qualified military benefit)
5 is amended by adding at the end the following new para-
6 graph:

7 “(4) CLARIFICATION OF CERTAIN BENEFITS.—
8 For purposes of paragraph (1), such term includes
9 any dependent care assistance program (as in effect
10 on the date of the enactment of this paragraph) for
11 any individual described in paragraph (1)(A).”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 134(b)(3)(A) of such Code (as
14 amended by section 3) is further amended by insert-
15 ing “and paragraph (4)” after “subparagraphs (B)
16 and (C)”.

17 (2) Section 3121(a)(18) of such Code is amend-
18 ed by striking “or 129” and inserting “, 129, or
19 134(b)(4)”.

20 (3) Section 3306(b)(13) of such Code is amend-
21 ed by striking “or 129” and inserting “, 129, or
22 134(b)(4)”.

23 (4) Section 3401(a)(18) of such Code is amend-
24 ed by striking “or 129” and inserting “, 129, or
25 134(b)(4)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2001.

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

10 **SEC. 8. PROTECTION OF SOCIAL SECURITY.**

11 The amounts transferred to any trust fund under
12 title II of the Social Security Act shall be determined as
13 if this Act had not been enacted.

Passed the House of Representatives October 7,
2002.

Attest:

Clerk.