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108TH CONGRESS
1ST SESSION

H. R. 878

[Report No. 108–23]

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2003

Mr. THOMAS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. RAMSTAD, Mr. CANTOR, Mr. ENGLISH, and Mr. CRANE) introduced the following bill; which was referred to the Committee on Ways and Means

MARCH 5, 2003

Additional sponsors: Mr. PORTMAN, Mr. MCINNIS, Mr. MCCRERY, Mr. JONES of North Carolina, Mr. COLE, Mr. SIMMONS, Mr. WILSON of South Carolina, Mr. REYNOLDS, Mr. CRENSHAW, Mr. HEFLEY, Mr. BRADLEY of New Hampshire, Mr. GILLMOR, Mr. ROYCE, Mr. MCCOTTER, and Mr. DUNCAN

MARCH 5, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on February 25, 2003]

A BILL

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.

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; REFERENCES; TABLE OF CON-**
 4 **TENTS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the*
 6 *“Armed Forces Tax Fairness Act of 2003”.*

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

13 (c) *TABLE OF CONTENTS.*—*The table of contents of this*
 14 *Act is as follows:*

Sec. 1. Short title; references; table of contents.

TITLE I—ARMED FORCES

Sec. 101. Special rule for members of uniformed services and foreign service and peace corps volunteers and employees in determining exclusion of gain from sale of principal residence.

Sec. 102. Restoration of full exclusion from gross income of death gratuity payment.

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

- Sec. 106. Clarification of the treatment of certain dependent care assistance programs.*
- Sec. 107. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc., on account of attendance at military academy.*
- Sec. 108. Suspension of tax-exempt status of terrorist organizations.*
- Sec. 109. Above-the-line deduction for overnight travel expenses of national guard and reserve members.*

TITLE II—MISCELLANEOUS PROVISIONS

- Sec. 201. Tax relief and assistance for families of astronauts who lose their lives on a space mission.*
- Sec. 202. Income averaging for farmers not to increase alternative minimum tax.*
- Sec. 203. Capital gain treatment under section 631(b) to apply to outright sales by landowners.*
- Sec. 204. Special rules for livestock sold on account of weather-related conditions.*
- Sec. 205. Simplification of excise tax imposed on bows and arrows.*
- Sec. 206. Repeal of excise tax on fishing tackle boxes.*
- Sec. 207. Reduced motor fuel excise tax on certain mixtures of diesel fuel.*
- Sec. 208. Expansion of human clinical trials qualifying for orphan drug credit.*
- Sec. 209. Health insurance costs of eligible individuals.*
- Sec. 210. Treatment under at-risk rules of publicly traded nonrecourse debt.*
- Sec. 211. Exclusion of income derived from certain wagers on horse races from gross income of nonresident alien individuals.*
- Sec. 212. Payment of dividends on stock of cooperatives without reducing patronage dividends.*
- Sec. 213. Pilot project for forest conservation activities.*
- Sec. 214. Protection of social security.*

TITLE III—REVENUE PROVISIONS

- Sec. 301. Individual expatriation to avoid tax.*
- Sec. 302. Vaccine tax to apply to hepatitis A vaccine.*

TITLE I—ARMED FORCES

SEC. 101. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE AND PEACE CORPS VOLUNTEERS AND EMPLOYEES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) *IN GENERAL.*—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

1 “(10) *MEMBERS OF UNIFORMED SERVICES AND*
2 *FOREIGN SERVICE AND PEACE CORPS VOLUNTEERS*
3 *AND EMPLOYEES.—*

4 “(A) *IN GENERAL.—At the election of an*
5 *individual with respect to a property, the run-*
6 *ning of the 5-year period referred to in sub-*
7 *sections (a) and (c)(1)(B) and paragraph (7) of*
8 *this subsection with respect to such property*
9 *shall be suspended during any period that such*
10 *individual or such individual’s spouse is serving*
11 *on qualified official extended duty as a member*
12 *of the uniformed services or of the Foreign Serv-*
13 *ice or as a Peace Corps volunteer or an employee*
14 *of the Peace Corps.*

15 “(B) *MAXIMUM PERIOD OF SUSPENSION.—*
16 *Such 5-year period shall not be extended more*
17 *than 5 years by reason of subparagraph (A).*

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

20 “(i) *IN GENERAL.—The term ‘qualified*
21 *official extended duty’ means any extended*
22 *duty while serving at a duty station which*
23 *is at least 150 miles from such property or*
24 *while residing under Government orders in*
25 *Government quarters.*

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

6 “(iii) *FOREIGN SERVICE.*—*The term*
7 *‘member of the Foreign Service’ has the*
8 *meaning given the term ‘member of the*
9 *Service’ by paragraph (1), (2), (3), (4), or*
10 *(5) of section 103 of the Foreign Service Act*
11 *of 1980, as in effect on the date of the enact-*
12 *ment of this paragraph.*

13 “(iv) *EXTENDED DUTY.*—*The term ‘ex-*
14 *tended duty’ means any period of active*
15 *duty pursuant to a call or order to such*
16 *duty for a period in excess of 180 days or*
17 *for an indefinite period.*

18 “(v) *RULES RELATING TO THE PEACE*
19 *CORPS.*—

20 “(I) *EXTENDED DUTY.*—*In the*
21 *case of a Peace Corps volunteer, the*
22 *term ‘extended duty’ means any period*
23 *of active duty assigned to a Peace*
24 *Corps volunteer under the Peace Corps*

1 *Act for a period in excess of 180 days*
 2 *or for an indefinite period.*

3 “(II) *PEACE CORPS VOLUN-*
 4 *TEER.*—*The term ‘Peace Corps volun-*
 5 *teer’ means an individual enrolled as a*
 6 *volunteer or volunteer leader under the*
 7 *Peace Corps Act.*

8 “(III) *EMPLOYEE OF THE PEACE*
 9 *CORPS.*—*The term ‘employee of the*
 10 *Peace Corps’ means a person employed*
 11 *in the Peace Corps under section 7 of*
 12 *the Peace Corps Act.*

13 “(IV) *REFERENCES TO PEACE*
 14 *CORPS ACT.*—*References in this clause*
 15 *to the Peace Corps Act mean references*
 16 *to the Peace Corps Act (22 U.S.C. 2501*
 17 *et seq.) as in effect on the date of the*
 18 *enactment of this clause.*

19 “(D) *SPECIAL RULES RELATING TO ELEC-*
 20 *TION.*—

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

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

4 (b) *EFFECTIVE DATE; SPECIAL RULE.*—

5 (1) *EFFECTIVE DATE.*—The amendment made by
 6 this section shall take effect as if included in the
 7 amendments made by section 312 of the Taxpayer Re-
 8 lief Act of 1997.

9 (2) *WAIVER OF LIMITATIONS.*—If refund or cred-
 10 it of any overpayment of tax resulting from the
 11 amendment made by this section is prevented at any
 12 time before the close of the 1-year period beginning on
 13 the date of the enactment of this Act by the operation
 14 of any law or rule of law (including *res judicata*),
 15 such refund or credit may nevertheless be made or al-
 16 lowed if claim therefor is filed before the close of such
 17 period.

18 **SEC. 102. RESTORATION OF FULL EXCLUSION FROM GROSS**

19 ***INCOME OF DEATH GRATUITY PAYMENT.***

20 (a) *IN GENERAL.*—Paragraph (3) of section 134(b)
 21 (relating to qualified military benefit) is amended by add-
 22 ing at the end the following new subparagraph:

23 “(C) *EXCEPTION FOR DEATH GRATUITY AD-*
 24 *JUSTMENTS MADE BY LAW.*—Subparagraph (A)
 25 shall not apply to any adjustment to the amount

1 of death gratuity payable under chapter 75 of
 2 title 10, United States Code, which is pursuant
 3 to a provision of law enacted before December 31,
 4 1991.”.

5 (b) *CONFORMING AMENDMENT.*—Section 134(b)(3)(A)
 6 is amended by striking “subparagraph (B)” and inserting
 7 “subparagraphs (B) and (C)”.

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

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

14 (a) *IN GENERAL.*—Subsection (a) of section 132 (relat-
 15 ing to certain fringe benefits) is amended by striking “or”
 16 at the end of paragraph (6), by striking the period at the
 17 end of paragraph (7) and inserting “, or” and by adding
 18 at the end the following new paragraph:

19 “(8) qualified military base realignment and clo-
 20 sure fringe.”.

21 (b) *QUALIFIED MILITARY BASE REALIGNMENT AND*
 22 *CLOSURE FRINGE.*—Section 132 is amended by redesign-
 23 ating subsection (n) as subsection (o) and by inserting
 24 after subsection (m) the following new subsection:

1 “(n) *QUALIFIED MILITARY BASE REALIGNMENT AND*
 2 *CLOSURE FRINGE.*—

3 “(1) *IN GENERAL.*—*For purposes of this section,*
 4 *the term ‘qualified military base realignment and clo-*
 5 *sure fringe’ means 1 or more payments under the au-*
 6 *thority of section 1013 of the Demonstration Cities*
 7 *and Metropolitan Development Act of 1966 (42*
 8 *U.S.C. 3374) (as in effect on the date of the enact-*
 9 *ment of this subsection).*

10 “(2) *LIMITATION.*—*With respect to any property,*
 11 *such term shall not include any payment referred to*
 12 *in paragraph (1) to the extent that the sum of all*
 13 *such payments related to such property exceeds the*
 14 *amount described in clause (1) of subsection (c) of*
 15 *such section (as in effect on such date).’.*

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

19 ***SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO***
 20 ***CONTINGENCY OPERATIONS.***

21 (a) *IN GENERAL.*—*Subsection (a) of section 7508 (re-*
 22 *lating to time for performing certain acts postponed by rea-*
 23 *son of service in combat zone) is amended—*

24 (1) *by inserting “or when deployed outside the*
 25 *United States away from the individual’s permanent*

1 *duty station while participating in an operation des-*
 2 *ignated by the Secretary of Defense as a contingency*
 3 *operation (as defined in section 101(a)(13) of title 10,*
 4 *United States Code) or which became such a contin-*
 5 *gency operation by operation of law” after “section*
 6 *112”,*

7 *(2) by inserting in the first sentence “or at any*
 8 *time during the period of such contingency operation”*
 9 *after “for purposes of such section”,*

10 *(3) by inserting “or operation” after “such an*
 11 *area”, and*

12 *(4) by inserting “or operation” after “such*
 13 *area”.*

14 **(b) CONFORMING AMENDMENTS.—**

15 *(1) Section 7508(d) is amended by inserting “or*
 16 *contingency operation” after “area”.*

17 *(2) The heading for section 7508 is amended by*
 18 *inserting “**OR CONTINGENCY OPERATION**” after*
 19 *“**COMBAT ZONE**”.*

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

23 **(c) EFFECTIVE DATE.—***The amendments made by this*
 24 *section shall apply to any period for performing an act*

1 *which has not expired before the date of the enactment of*
2 *this Act.*

3 ***SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT***
4 ***FOR EXEMPTION FROM TAX FOR CERTAIN***
5 ***VETERANS' ORGANIZATIONS.***

6 (a) *IN GENERAL.*—Subparagraph (B) of section
7 501(c)(19) (relating to list of exempt organizations) is
8 amended by striking “or widowers” and inserting “, wid-
9 owers, ancestors, or lineal descendants”.

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

13 ***SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN***
14 ***DEPENDENT CARE ASSISTANCE PROGRAMS.***

15 (a) *IN GENERAL.*—Subsection (b) of section 134 (de-
16 fining qualified military benefit) is amended by adding at
17 the end the following new paragraph:

18 “(4) *CLARIFICATION OF CERTAIN BENEFITS.*—
19 *For purposes of paragraph (1), such term includes*
20 *any dependent care assistance program (as in effect*
21 *on the date of the enactment of this paragraph) for*
22 *any individual described in paragraph (1)(A).”.*

23 (b) *CONFORMING AMENDMENTS.*—

1 (1) Section 134(b)(3)(A) (as amended by section
2 102) is further amended by inserting “and paragraph
3 (4)” after “subparagraphs (B) and (C)”.

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

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

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

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to taxable years beginning after Decem-
12 ber 31, 2002.

13 **SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM**
14 **ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS,**
15 **ETC., ON ACCOUNT OF ATTENDANCE AT MILI-**
16 **TARY ACADEMY.**
17

18 (a) *IN GENERAL.*—Subparagraph (B) of section
19 530(d)(4) (relating to exceptions from additional tax for
20 distributions not used for educational purposes) is amended
21 by striking “or” at the end of clause (iii), by redesignating
22 clause (iv) as clause (v), and by inserting after clause (iii)
23 the following new clause:

24 “(iv) made on account of the attend-
25 ance of the designated beneficiary at the

1 *United States Military Academy, the*
 2 *United States Naval Academy, the United*
 3 *States Air Force Academy, the United*
 4 *States Coast Guard Academy, or the United*
 5 *States Merchant Marine Academy, to the*
 6 *extent that the amount of the payment or*
 7 *distribution does not exceed the costs of ad-*
 8 *vanced education (as defined by section*
 9 *2005(e)(3) of title 10, United States Code,*
 10 *as in effect on the date of the enactment of*
 11 *this section) attributable to such attendance,*
 12 *or”.*

13 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
 14 *section shall take effect for taxable years beginning after De-*
 15 *cember 31, 2002.*

16 ***SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TER-***
 17 ***RORIST ORGANIZATIONS.***

18 ***(a) IN GENERAL.***—*Section 501 (relating to exemption*
 19 *from tax on corporations, certain trusts, etc.) is amended*
 20 *by redesignating subsection (p) as subsection (q) and by in-*
 21 *serting after subsection (o) the following new subsection:*

22 ***“(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-***
 23 ***RORIST ORGANIZATIONS.***—

24 ***“(1) IN GENERAL.***—*The exemption from tax*
 25 *under subsection (a) with respect to any organization*

1 *described in paragraph (2), and the eligibility of any*
2 *organization described in paragraph (2) to apply for*
3 *recognition of exemption under subsection (a), shall*
4 *be suspended during the period described in para-*
5 *graph (3).*

6 “(2) *TERRORIST ORGANIZATIONS.—An organiza-*
7 *tion is described in this paragraph if such organiza-*
8 *tion is designated or otherwise individually identi-*
9 *fied—*

10 “(A) *under section 212(a)(3)(B)(vi)(II) or*
11 *219 of the Immigration and Nationality Act as*
12 *a terrorist organization or foreign terrorist orga-*
13 *nization,*

14 “(B) *in or pursuant to an Executive order*
15 *which is related to terrorism and issued under*
16 *the authority of the International Emergency*
17 *Economic Powers Act or section 5 of the United*
18 *Nations Participation Act of 1945 for the pur-*
19 *pose of imposing on such organization an eco-*
20 *nomie or other sanction, or*

21 “(C) *in or pursuant to an Executive order*
22 *issued under the authority of any Federal law*
23 *if—*

24 “(i) *the organization is designated or*
25 *otherwise individually identified in or pur-*

1 *suant to such Executive order as supporting*
2 *or engaging in terrorist activity (as defined*
3 *in section 212(a)(3)(B) of the Immigration*
4 *and Nationality Act) or supporting ter-*
5 *rorism (as defined in section 140(d)(2) of*
6 *the Foreign Relations Authorization Act,*
7 *Fiscal Years 1988 and 1989); and*

8 *“(ii) such Executive order refers to this*
9 *subsection.*

10 *“(3) PERIOD OF SUSPENSION.—With respect to*
11 *any organization described in paragraph (2), the pe-*
12 *riod of suspension—*

13 *“(A) begins on the later of—*

14 *“(i) the date of the first publication of*
15 *a designation or identification described in*
16 *paragraph (2) with respect to such organi-*
17 *zation, or*

18 *“(ii) the date of the enactment of this*
19 *subsection, and*

20 *“(B) ends on the first date that all designa-*
21 *tions and identifications described in paragraph*
22 *(2) with respect to such organization are re-*
23 *scinded pursuant to the law or Executive order*
24 *under which such designation or identification*
25 *was made.*

1 “(4) *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 described in para-
 5 graph (2) during the period described in paragraph
 6 (3).

7 “(5) *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 or identification described in paragraph (2),
 13 the period of suspension described in paragraph (3),
 14 or a denial of a deduction under paragraph (4) in
 15 any administrative or judicial proceeding relating to
 16 the Federal tax liability of such organization or other
 17 person.

18 “(6) *ERRONEOUS DESIGNATION.*—

19 “(A) *IN GENERAL.*—If—

20 “(i) the tax exemption of any organi-
 21 zation described in paragraph (2) is sus-
 22 pended under paragraph (1),

23 “(ii) each designation and identifica-
 24 tion described in paragraph (2) which has
 25 been made with respect to such organization

1 *is determined to be erroneous pursuant to*
2 *the law or Executive order under which*
3 *such designation or identification was*
4 *made, and*

5 “(iii) *the erroneous designations and*
6 *identifications result in an overpayment of*
7 *income tax for any taxable year by such or-*
8 *ganization,*

9 *credit or refund (with interest) with respect to*
10 *such overpayment shall be made.*

11 “(B) *WAIVER OF LIMITATIONS.—If the cred-*
12 *it or refund of any overpayment of tax described*
13 *in subparagraph (A)(iii) is prevented at any*
14 *time by the operation of any law or rule of law*
15 *(including res judicata), such credit or refund*
16 *may nevertheless be allowed or made if the claim*
17 *therefor is filed before the close of the 1-year pe-*
18 *riod beginning on the date of the last determina-*
19 *tion described in subparagraph (A)(ii).*

20 “(7) *NOTICE OF SUSPENSIONS.—If the tax ex-*
21 *emption of any organization is suspended under this*
22 *subsection, the Internal Revenue Service shall update*
23 *the listings of tax-exempt organizations and shall*
24 *publish appropriate notice to taxpayers of such sus-*
25 *pension and of the fact that contributions to such or-*

1 *ganization are not deductible during the period of*
 2 *such suspension.”.*

3 *(b) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to designations made before, on, or after*
 5 *the date of the enactment of this Act.*

6 ***SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT***
 7 ***TRAVEL EXPENSES OF NATIONAL GUARD AND***
 8 ***RESERVE MEMBERS.***

9 *(a) DEDUCTION ALLOWED.—Section 162 (relating to*
 10 *certain trade or business expenses) is amended by redesign-*
 11 *ating subsection (p) as subsection (q) and inserting after*
 12 *subsection (o) the following new subsection:*

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

22 *(b) DEDUCTION ALLOWED WHETHER OR NOT TAX-*
 23 *PAYER ELECTS TO ITEMIZE.—Paragraph (2) of section*
 24 *62(a) (relating to certain trade and business deductions of*

1 employees) is amended by adding at the end the following
 2 new subparagraph:

3 “(E) CERTAIN EXPENSES OF MEMBERS OF
 4 RESERVE COMPONENTS OF THE ARMED FORCES
 5 OF THE UNITED STATES.—The deductions al-
 6 lowed by section 162 which consist of expenses,
 7 not in excess of \$500, paid or incurred by the
 8 taxpayer in connection with the performance of
 9 services by such taxpayer as a member of a re-
 10 serve component of the Armed Forces of the
 11 United States for any period during which such
 12 individual is more than 100 miles away from
 13 home in connection with such services.”.

14 (c) EFFECTIVE DATE.—The amendments made by this
 15 section shall apply to amounts paid or incurred in taxable
 16 years beginning after December 31, 2002.

17 **TITLE II—MISCELLANEOUS** 18 **PROVISIONS**

19 **SEC. 201. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF** 20 **ASTRONAUTS WHO LOSE THEIR LIVES ON A** 21 **SPACE MISSION.**

22 (a) INCOME TAX RELIEF.—

23 (1) IN GENERAL.—Subsection (d) of section 692
 24 (relating to income taxes of members of Armed Forces
 25 and victims of certain terrorist attacks on death) is

1 *amended by adding at the end the following new*
 2 *paragraph:*

3 *“(5) RELIEF WITH RESPECT TO ASTRONAUTS.—*
 4 *The provisions of this subsection shall apply to any*
 5 *astronaut whose death occurs while on a space mis-*
 6 *sion, except that paragraph (3)(B) shall be applied by*
 7 *using the date of the death of the astronaut rather*
 8 *than September 11, 2001.”.*

9 *(2) CONFORMING AMENDMENTS.—*

10 *(A) Section 5(b)(1) is amended by inserting*
 11 *“, astronauts,” after “Forces”.*

12 *(B) Section 6013(f)(2)(B) is amended by*
 13 *inserting “, astronauts,” after “Forces”.*

14 *(3) CLERICAL AMENDMENTS.—*

15 *(A) The heading of section 692 is amended*
 16 *by inserting “, **ASTRONAUTS,**” after*
 17 ***“FORCES”.***

18 *(B) The item relating to section 692 in the*
 19 *table of sections for part II of subchapter J of*
 20 *chapter 1 is amended by inserting “, astro-*
 21 *nauts,” after “Forces”.*

22 *(4) EFFECTIVE DATE.—The amendments made*
 23 *by this subsection shall apply with respect to any as-*
 24 *tronaut whose death occurs after December 31, 2002.*

25 *(b) DEATH BENEFIT RELIEF.—*

1 (1) *IN GENERAL.*—Subsection (i) of section 101
2 (relating to certain death benefits) is amended by
3 adding at the end the following new paragraph:

4 “(4) *RELIEF WITH RESPECT TO ASTRONAUTS.*—
5 The provisions of this subsection shall apply to any
6 astronaut whose death occurs while on a space mis-
7 sion.”.

8 (2) *CLERICAL AMENDMENT.*—The heading for
9 subsection (i) of section 101 is amended by inserting
10 “OR ASTRONAUTS” after “VICTIMS”.

11 (3) *EFFECTIVE DATE.*—The amendments made
12 by this subsection shall apply to amounts paid after
13 December 31, 2002, with respect to deaths occurring
14 after such date.

15 (c) *ESTATE TAX RELIEF.*—

16 (1) *IN GENERAL.*—Subsection (b) of section 2201
17 (defining qualified decedent) is amended by striking
18 “and” at the end of paragraph (1)(B), by striking the
19 period at the end of paragraph (2) and inserting “,
20 and”, and by adding at the end the following new
21 paragraph:

22 “(3) any astronaut whose death occurs while on
23 a space mission.”.

24 (2) *CLERICAL AMENDMENTS.*—

1 (A) The heading of section 2201 is amended
 2 by inserting “, **DEATHS OF ASTRONAUTS**,”
 3 after “**FORCES**”.

4 (B) The item relating to section 2201 in the
 5 table of sections for subchapter C of chapter 11
 6 is amended by inserting “, deaths of astronauts,”
 7 after “Forces”.

8 (3) *EFFECTIVE DATE.*—The amendments made
 9 by this subsection shall apply to estates of decedents
 10 dying after December 31, 2002.

11 **SEC. 202. INCOME AVERAGING FOR FARMERS NOT TO IN-**
 12 **CREASE ALTERNATIVE MINIMUM TAX.**

13 (a) *IN GENERAL.*—Subsection (c) of section 55 (defin-
 14 ing regular tax) is amended by redesignating paragraph
 15 (2) as paragraph (3) and by inserting after paragraph (1)
 16 the following new paragraph:

17 “(2) *COORDINATION WITH INCOME AVERAGING*
 18 *FOR FARMERS.*—Solely for purposes of this section,
 19 section 1301 (relating to averaging of farm income)
 20 shall not apply in computing the regular tax.”.

21 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 22 section (a) shall apply to taxable years beginning after De-
 23 cember 31, 2002.

1 **SEC. 203. CAPITAL GAIN TREATMENT UNDER SECTION**
 2 **631(b) TO APPLY TO OUTRIGHT SALES BY**
 3 **LANDOWNERS.**

4 (a) *IN GENERAL.*—*The first sentence of section 631(b)*
 5 *(relating to disposal of timber with a retained economic in-*
 6 *terest) is amended by striking “retains an economic interest*
 7 *in such timber” and inserting “either retains an economic*
 8 *interest in such timber or makes an outright sale of such*
 9 *timber”.*

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) *The third sentence of section 631(b) is*
 12 *amended by striking “The date of disposal” and in-*
 13 *serting “In the case of disposal of timber with a re-*
 14 *tained economic interest, the date of disposal”.*

15 (2) *The heading for section 631(b) is amended by*
 16 *striking “WITH A RETAINED ECONOMIC INTEREST”.*

17 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall apply to sales after the date of the enactment*
 19 *of this Act.*

20 **SEC. 204. SPECIAL RULES FOR LIVESTOCK SOLD ON AC-**
 21 **COUNT OF WEATHER-RELATED CONDITIONS.**

22 (a) *RULES FOR REPLACEMENT OF INVOLUNTARILY*
 23 *CONVERTED LIVESTOCK.*—*Subsection (e) of section 1033*
 24 *(relating to involuntary conversions) is amended—*

25 (1) *by striking “CONDITIONS.—For purposes”*
 26 *and inserting “CONDITIONS.—*

1 “(1) *IN GENERAL.*—*For purposes*”, and
 2 (2) *by adding at the end the following new para-*
 3 *graph:*

4 “(2) *EXTENSION OF REPLACEMENT PERIOD.*—

5 “(A) *IN GENERAL.*—*In the case of drought,*
 6 *flood, or other weather-related conditions de-*
 7 *scribed in paragraph (1) which result in the*
 8 *area being designated as eligible for assistance*
 9 *by the Federal Government, subsection (a)(2)(B)*
 10 *shall be applied with respect to any converted*
 11 *property by substituting ‘4 years’ for ‘2 years’.*

12 “(B) *FURTHER EXTENSION BY SEC-*
 13 *RETARY.*—*The Secretary may extend on a re-*
 14 *gional basis the period for replacement under*
 15 *this section (after the application of subpara-*
 16 *graph (A)) for such additional time as the Sec-*
 17 *retary determines appropriate if the weather-re-*
 18 *lated conditions which resulted in such applica-*
 19 *tion continue for more than 3 years.’.*

20 (b) *INCOME INCLUSION RULES.*—*Subsection (e) of sec-*
 21 *tion 451 (relating to special rule for proceeds from livestock*
 22 *sold on account of drought, flood, or other weather-related*
 23 *conditions) is amended by adding at the end the following*
 24 *new paragraph:*

1 “(3) *SPECIAL ELECTION RULES.*—If section
 2 1033(e)(2) applies to a sale or exchange of livestock
 3 described in paragraph (1), the election under para-
 4 graph (1) shall be deemed valid if made during the
 5 replacement period described in such section.”.

6 (c) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to any taxable year with respect to
 8 which the due date (without regard to extensions) for the
 9 return is after December 31, 2002.

10 **SEC. 205. SIMPLIFICATION OF EXCISE TAX IMPOSED ON**
 11 **BOWS AND ARROWS.**

12 (a) *BOWS.*—Paragraph (1) of section 4161(b) (relating
 13 to bows) is amended to read as follows:

14 “(1) *BOWS.*—

15 “(A) *IN GENERAL.*—There is hereby im-
 16 posed on the sale by the manufacturer, producer,
 17 or importer of any bow which has a draw weight
 18 of 30 pounds or more, a tax equal to 11 percent
 19 of the price for which so sold.

20 “(B) *ARCHERY EQUIPMENT.*—There is here-
 21 by imposed on the sale by the manufacturer, pro-
 22 ducer, or importer—

23 “(i) of any part or accessory suitable
 24 for inclusion in or attachment to a bow de-
 25 scribed in subparagraph (A), and

1 “(ii) of any quiver or broadhead suit-
 2 able for use with an arrow described in
 3 paragraph (3),
 4 a tax equal to 11 percent of the price for which
 5 so sold.”.

6 (b) *ARROWS*.—Subsection (b) of section 4161 (relating
 7 to bows and arrows, etc.) is amended by redesignating para-
 8 graph (3) as paragraph (4) and inserting after paragraph
 9 (2) the following:

10 “(3) *ARROWS*.—

11 “(A) *IN GENERAL*.—There is hereby im-
 12 posed on the sale by the manufacturer, producer,
 13 or importer of any arrow, a tax equal to 12 per-
 14 cent of the price for which so sold.

15 “(B) *EXCEPTION*.—The tax imposed by sub-
 16 paragraph (A) on an arrow shall not apply if
 17 the arrow contains an arrow shaft subject to the
 18 tax imposed by paragraph (2).

19 “(C) *ARROW*.—For purposes of this para-
 20 graph, the term ‘arrow’ means any shaft de-
 21 scribed in paragraph (2) to which additional
 22 components are attached.”.

23 (c) *CONFORMING AMENDMENT*.—The heading of sec-
 24 tion 4161(b)(2) is amended by striking “*ARROWS*.—” and
 25 inserting “*ARROW COMPONENTS*.—”.

1 (d) *EFFECTIVE DATE.*—The amendments made by this
 2 section shall apply to articles sold by the manufacturer,
 3 producer, or importer after the 90th day after the date of
 4 the enactment of this Act.

5 **SEC. 206. REPEAL OF EXCISE TAX ON FISHING TACKLE**
 6 **BOXES.**

7 (a) *REPEAL.*—Paragraph (6) of section 4162(a) (de-
 8 fining sport fishing equipment) is amended by striking sub-
 9 paragraph (C) and by redesignating subparagraphs (D)
 10 through (J) as subparagraphs (C) through (I), respectively.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
 12 section shall take effect 30 days after the date of the enact-
 13 ment of this Act.

14 **SEC. 207. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN**
 15 **MIXTURES OF DIESEL FUEL.**

16 (a) *IN GENERAL.*—Clause (iii) of section
 17 4081(a)(2)(A) is amended by inserting before the period
 18 “(19.7 cents per gallon in the case of a diesel-water fuel
 19 emulsion at least 14 percent of which is water)”.

20 (b) *REFUNDS FOR TAX-PAID PURCHASES.*—

21 (1) *IN GENERAL.*—Section 6427 (relating to fuels
 22 not used for taxable purchases) is amended by redes-
 23 ignating subsections (m) through (p) as subsections
 24 (n) through (q), respectively, and by inserting after
 25 subsection (l) the following new subsection:

1 “(m) *DIESEL FUEL USED TO PRODUCE EMULSION.*—

2 “(1) *IN GENERAL.*—*Except as provided in sub-*
 3 *section (k), if any diesel fuel on which tax was im-*
 4 *posed by section 4081 at the regular tax rate is used*
 5 *by any person in producing an emulsion described in*
 6 *section 4081(a)(2)(A) which is sold or used in such*
 7 *person’s trade or business, the Secretary shall pay*
 8 *(without interest) to such person an amount equal to*
 9 *the excess of the regular tax rate over the incentive*
 10 *tax rate with respect to such fuel.*

11 “(2) *DEFINITIONS.*—*For purposes of paragraph*
 12 *(1)—*

13 “(A) *REGULAR TAX RATE.*—*The term ‘reg-*
 14 *ular tax rate’ means the aggregate rate of tax*
 15 *imposed by section 4081 determined without re-*
 16 *gard to the parenthetical in section*
 17 *4081(a)(2)(A).*

18 “(B) *INCENTIVE TAX RATE.*—*The term ‘in-*
 19 *centive tax rate’ means the aggregate rate of tax*
 20 *imposed by section 4081 determined with regard*
 21 *to the parenthetical in section 4081(a)(2)(A).”.*

22 “(c) *EFFECTIVE DATE.*—*The amendments made by this*
 23 *section shall take effect on October 1, 2003.*

1 **SEC. 208. EXPANSION OF HUMAN CLINICAL TRIALS QUALI-**
 2 **FYING FOR ORPHAN DRUG CREDIT.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 45C(b)
 4 (relating to qualified clinical testing expenses) is amended
 5 by adding at the end the following new subparagraph:

6 “(C) *TREATMENT OF CERTAIN EXPENSES*
 7 *INCURRED BEFORE DESIGNATION.*—For purposes
 8 of subparagraph (A)(ii)(I), if a drug is des-
 9 ignated under section 526 of the Federal Food,
 10 Drug, and Cosmetic Act not later than the due
 11 date (including extensions) for filing the return
 12 of tax under this subtitle for the taxable year in
 13 which the application for such designation of
 14 such drug was filed, such drug shall be treated
 15 as having been designated on the date that such
 16 application was filed.”.

17 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 18 section (a) shall apply to expenses incurred after the date
 19 of the enactment of this Act.

20 **SEC. 209. HEALTH INSURANCE COSTS OF ELIGIBLE INDIV-**
 21 **VIDUALS.**

22 (a) *CONSUMER OPTIONS.*—Paragraph (2) of section
 23 35(e) is amended by inserting at the end the following new
 24 subparagraph:

25 “(C) *WAIVER BY ELIGIBLE INDIVIDUALS.*—
 26 With respect to any month which ends before

1 *January 1, 2005, this paragraph shall not apply*
 2 *with respect to any eligible individual and such*
 3 *individual’s qualifying family members if such*
 4 *eligible individual elects to waive the application*
 5 *of this paragraph with respect to such month.”.*

6 **(b) EFFECTIVE DATE.**—*The amendment made by this*
 7 *section shall apply to months beginning after the date of*
 8 *the enactment of this Act.*

9 **SEC. 210. TREATMENT UNDER AT-RISK RULES OF PUBLICLY**
 10 **TRADED NONRECOURSE DEBT.**

11 **(a) IN GENERAL.**—*Subparagraph (A) of section*
 12 *465(b)(6) (relating to qualified nonrecourse financing treat-*
 13 *ed as amount at risk) is amended by striking “share of”*
 14 *and all that follows and inserting “share of—*

15 *“(i) any qualified nonrecourse financ-*
 16 *ing which is secured by real property used*
 17 *in such activity, and*

18 *“(ii) any other financing which—*

19 *“(I) would (but for subparagraph*
 20 *(B)(ii)) be qualified nonrecourse fi-*
 21 *nancing,*

22 *“(II) is qualified publicly traded*
 23 *debt, and*

24 *“(III) is not borrowed by the tax-*
 25 *payer from a person described in sub-*

1 *clause (I), (II), or (III) of section*
 2 *49(a)(1)(D)(iv).”.*

3 **(b) QUALIFIED PUBLICLY TRADED DEBT.**—*Paragraph*
 4 *(6) of section 465(b) is amended by adding at the end the*
 5 *following new subparagraph:*

6 “(F) QUALIFIED PUBLICLY TRADED
 7 DEBT.—*For purposes of subparagraph (A), the*
 8 *term ‘qualified publicly traded debt’ means any*
 9 *debt instrument which is readily tradable on an*
 10 *established securities market. Such term shall not*
 11 *include any debt instrument which has a yield*
 12 *to maturity which equals or exceeds the limita-*
 13 *tion in section 163(i)(1)(B).”.*

14 **(c) EFFECTIVE DATE.**—*The amendments made by this*
 15 *section shall apply to debt instruments issued after the date*
 16 *of the enactment of this Act.*

17 **SEC. 211. EXCLUSION OF INCOME DERIVED FROM CERTAIN**
 18 **WAGERS ON HORSE RACES FROM GROSS IN-**
 19 **COME OF NONRESIDENT ALIEN INDIVIDUALS.**

20 **(a) IN GENERAL.**—*Subsection (b) of section 872 (relat-*
 21 *ing to exclusions) is amended by redesignating paragraphs*
 22 *(5), (6), and (7) as paragraphs (6), (7), and (8), respec-*
 23 *tively, and inserting after paragraph (4) the following new*
 24 *paragraph:*

1 “(5) *INCOME DERIVED FROM WAGERING TRANS-*
 2 *ACTIONS IN CERTAIN PARIMUTUEL POOLS.*—Gross in-
 3 *come derived by a nonresident alien individual from*
 4 *a legal wagering transaction initiated outside the*
 5 *United States in a parimutuel pool with respect to a*
 6 *live horse race in the United States.”.*

7 (b) *CONFORMING AMENDMENT.*—Section 883(a)(4) is
 8 *amended by striking “(5), (6), and (7)” and inserting “(6),*
 9 *(7), and (8)”.*

10 (c) *EFFECTIVE DATE.*—The amendments made by this
 11 *section shall apply to proceeds from wagering transactions*
 12 *after September 30, 2003.*

13 ***SEC. 212. PAYMENT OF DIVIDENDS ON STOCK OF COOPERA-***
 14 ***TIVES WITHOUT REDUCING PATRONAGE DIVI-***
 15 ***DENDS.***

16 (a) *IN GENERAL.*—Subsection (a) of section 1388 (re-
 17 *lating to patronage dividend defined) is amended by adding*
 18 *at the end the following: “For purposes of paragraph (3),*
 19 *net earnings shall not be reduced by amounts paid during*
 20 *the year as dividends on capital stock or other proprietary*
 21 *capital interests of the organization to the extent that the*
 22 *articles of incorporation or bylaws of such organization or*
 23 *other contract with patrons provide that such dividends are*
 24 *in addition to amounts otherwise payable to patrons which*

1 *are derived from business done with or for patrons during*
 2 *the taxable year.”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 4 *section shall apply to distributions in taxable years begin-*
 5 *ning after the date of the enactment of this Act.*

6 ***SEC. 213. PILOT PROJECT FOR FOREST CONSERVATION AC-***
 7 ***TIVITIES.***

8 (a) *TAX-EXEMPT BOND FINANCING.*—

9 (1) *IN GENERAL.*—*For purposes of the Internal*
 10 *Revenue Code of 1986, any qualified forest conserva-*
 11 *tion bond shall be treated as an exempt facility bond*
 12 *under section 142 of such Code.*

13 (2) *QUALIFIED FOREST CONSERVATION BOND.*—
 14 *For purposes of this section, the term “qualified forest*
 15 *conservation bond” means any bond issued as part of*
 16 *an issue if—*

17 (A) *95 percent or more of the net proceeds*
 18 *(as defined in section 150(a)(3) of such Code) of*
 19 *such issue are to be used for qualified project*
 20 *costs,*

21 (B) *such bond is an obligation of the State*
 22 *of Washington or any political subdivision there-*
 23 *of and is issued for the Evergreen Forest Trust,*
 24 *and*

1 (C) such bond is issued before October 1,
2 2004.

3 (3) *LIMITATION ON AGGREGATE AMOUNT*
4 *ISSUED.*—The maximum aggregate face amount of
5 bonds which may be issued under this section shall
6 not exceed \$250,000,000.

7 (4) *QUALIFIED PROJECT COSTS.*—For purposes
8 of this subsection, the term “qualified project costs”
9 means the sum of—

10 (A) the cost of acquisition by the Evergreen
11 Forest Trust from an unrelated person of forests
12 and forest land—

13 (i) which are located in the State of
14 Washington, and

15 (ii) which at the time of acquisition or
16 immediately thereafter are subject to a con-
17 servation restriction described in subsection
18 (c)(2),

19 (B) capitalized interest on the qualified for-
20 est conservation bonds for the 3-year period be-
21 ginning on the date of issuance of such bonds,
22 and

23 (C) credit enhancement fees which constitute
24 qualified guarantee fees (within the meaning of
25 section 148 of such Code).

1 (5) *SPECIAL RULES.—In applying the Internal*
2 *Revenue Code of 1986 to any qualified forest con-*
3 *servation bond, the following modifications shall*
4 *apply:*

5 (A) *Section 146 of such Code (relating to*
6 *volume cap) shall not apply.*

7 (B) *For purposes of section 147(b) of such*
8 *Code (relating to maturity may not exceed 120*
9 *percent of economic life), the land and standing*
10 *timber acquired with proceeds of qualified forest*
11 *conservation bonds shall have an economic life of*
12 *35 years.*

13 (C) *Subsections (c) and (d) of section 147*
14 *of such Code (relating to limitations on acquisi-*
15 *tion of land and existing property) shall not*
16 *apply.*

17 (D) *Section 57(a)(5) of such Code (relating*
18 *to tax-exempt interest) shall not apply to interest*
19 *on qualified forest conservation bonds.*

20 (6) *TREATMENT OF CURRENT REFUNDING*
21 *BONDS.—Paragraphs (2)(C) and (3) shall not apply*
22 *to any bond (or series of bonds) issued to refund a*
23 *qualified forest conservation bond issued before Octo-*
24 *ber 1, 2004, if—*

1 (A) the average maturity date of the issue
 2 of which the refunding bond is a part is not later
 3 than the average maturity date of the bonds to
 4 be refunded by such issue,

5 (B) the amount of the refunding bond does
 6 not exceed the outstanding amount of the re-
 7 funded bond, and

8 (C) the net proceeds of the refunding bond
 9 are used to redeem the refunded bond not later
 10 than 90 days after the date of the issuance of the
 11 refunding bond.

12 For purposes of subparagraph (A), average maturity
 13 shall be determined in accordance with section
 14 147(b)(2)(A) of such Code.

15 (7) *EFFECTIVE DATE.*—This subsection shall
 16 apply to obligations issued after the date of the enact-
 17 ment of this Act.

18 (b) *ITEMS FROM QUALIFIED HARVESTING ACTIVITIES*
 19 *NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.*—

20 (1) *IN GENERAL.*—Income, gains, deductions,
 21 losses, or credits from a qualified harvesting activity
 22 conducted by the Evergreen Forest Trust shall not be
 23 subject to tax or taken into account under subtitle A
 24 of the Internal Revenue Code of 1986.

1 (2) *QUALIFIED HARVESTING ACTIVITY.*—*For*
2 *purposes of paragraph (1)—*

3 (A) *IN GENERAL.*—*The term “qualified har-*
4 *vesting activity” means the sale, lease, or har-*
5 *vesting, of standing timber—*

6 (i) *on land owned by the Evergreen*
7 *Forest Trust which was acquired with pro-*
8 *ceeds of qualified forest conservation bonds,*
9 *and*

10 (ii) *pursuant to a qualified conserva-*
11 *tion plan adopted by the Evergreen Forest*
12 *Trust.*

13 (B) *EXCEPTIONS.*—

14 (i) *CESSATION AS QUALIFIED ORGANI-*
15 *ZATION.*—*The term “qualified harvesting*
16 *activity” shall not include any sale, lease,*
17 *or harvesting during any period that the*
18 *Evergreen Forest Trust is not a qualified*
19 *organization.*

20 (ii) *EXCEEDING LIMITS ON HAR-*
21 *VESTING.*—*The term “qualified harvesting*
22 *activity” shall not include any sale, lease,*
23 *or harvesting of standing timber on land*
24 *acquired with proceeds of qualified forest*
25 *conservation bonds to the extent that—*

1 (I) the average annual area of
2 timber harvested from such land ex-
3 ceeds 2.5 percent of the total area of
4 such land, or

5 (II) the quantity of timber re-
6 moved from such land exceeds the
7 quantity which can be removed from
8 such land annually in perpetuity on a
9 sustained-yield basis with respect to
10 such land.

11 The limitations under subclauses (I) and
12 (II) shall not apply to salvage or sanitation
13 harvesting of timber stands which are sub-
14 stantially damaged by fire, windthrow, or
15 other catastrophe, or which are in imminent
16 danger from insect or disease attack.

17 (3) *TERMINATION.*—This subsection shall not
18 apply to any qualified harvesting activity occurring
19 after the date on which there is no outstanding quali-
20 fied forest conservation bond or any such bond ceases
21 to be a tax-exempt bond.

22 (4) *PARTIAL RECAPTURE OF BENEFITS IF HAR-*
23 *VESTING LIMIT EXCEEDED.*—If, as of the date that
24 this subsection ceases to apply under paragraph (3),
25 the average annual area of timber harvested from the

1 *land exceeds the requirement of paragraph*
 2 *(2)(B)(ii)(I), the tax imposed by chapter 1 of the In-*
 3 *ternal Revenue Code of 1986 shall be increased, under*
 4 *rules prescribed by the Secretary, by the sum of the*
 5 *tax benefit attributable to such excess and interest at*
 6 *the underpayment rate under section 6621 for the pe-*
 7 *riod of the underpayment.*

8 *(c) DEFINITIONS.—For purposes of this section—*

9 *(1) QUALIFIED CONSERVATION PLAN.—The term*
 10 *“qualified conservation plan” means a multiple land*
 11 *use program or plan which—*

12 *(A) is designed and administered primarily*
 13 *for the purposes of protecting and enhancing*
 14 *wildlife and fish, timber, scenic attributes, recre-*
 15 *ation, and soil and water quality of the forest*
 16 *and forest land,*

17 *(B) mandates that conservation of forest*
 18 *and forest land is the single-most significant use*
 19 *of the forest and forest land,*

20 *(C) requires that timber harvesting be con-*
 21 *sistent with—*

22 *(i) restoring and maintaining reference*
 23 *conditions for the Westside Douglas Fir for-*
 24 *est type,*

1 (ii) restoring and maintaining a rep-
2 resentative sample of young, mid, and late
3 successional forest age classes,

4 (iii) maintaining or restoring the re-
5 sources' ecological health for purposes of
6 preventing damage from fire, insect, or dis-
7 ease,

8 (iv) maintaining or enhancing wildlife
9 or fish habitat,

10 (v) enhancing research opportunities
11 in sustainable renewable resource uses, or

12 (vi) preserving or protecting open
13 space.

14 (2) CONSERVATION RESTRICTION.—The conserva-
15 tion restriction described in this paragraph is a re-
16 striction which—

17 (A) is granted in perpetuity to an unrelated
18 person which is described in section 170(h)(3) of
19 such Code and which, in the case of a nongovern-
20 mental unit, is organized and operated for con-
21 servation purposes,

22 (B) meets the requirements of clause (ii) or
23 (iii)(II) of section 170(h)(4)(A) of such Code,

24 (C) obligates the Evergreen Forest Trust to
25 pay the costs incurred by the holder of the con-

1 *servation restriction in monitoring compliance*
2 *with such restriction, and*

3 *(D) requires an increasing level of conserva-*
4 *tion benefits to be provided whenever cir-*
5 *cumstances allow it.*

6 (3) *QUALIFIED ORGANIZATION.—The term*
7 *“qualified organization” means an organization—*

8 *(A) which is a nonprofit organization orga-*
9 *nized and operated exclusively for charitable, sci-*
10 *entific, or educational purposes including but*
11 *not limited to acquiring, protecting, restoring,*
12 *managing, and developing forest lands and other*
13 *renewable resources for the long-term charitable,*
14 *educational, scientific, and public benefit of the*
15 *State of Washington,*

16 *(B) more than half of the value of the prop-*
17 *erty of which consists of forests and forest land*
18 *acquired with the proceeds from qualified forest*
19 *conservation bonds,*

20 *(C) which periodically conducts educational*
21 *programs designed to inform the public of envi-*
22 *ronmentally sensitive forestry management and*
23 *conservation techniques,*

24 *(D) which has a board of directors that at*
25 *all times is comprised of 9 members—*

1 (i) at least 2 of whom represent the
2 holders of the conservation restriction de-
3 scribed in paragraph (2), and

4 (ii) at least 2 of whom are public offi-
5 cials,

6 (E) of which not more than one-third of the
7 members of the board of directors is comprised of
8 individuals who are or were at any time within
9 5 years before the beginning of a term of mem-
10 bership on the board, an employee of, inde-
11 pendent contractor with respect to, officer of, di-
12 rector of, or held a material financial interest in,
13 a commercial forest products enterprise with
14 which the Evergreen Forest Trust has a contrac-
15 tual or other financial arrangement,

16 (F) the bylaws of which require at least
17 two-thirds of the members of the board of direc-
18 tors to vote affirmatively to approve the qualified
19 conservation program and any change thereto,
20 and

21 (G) upon dissolution, is required to dedicate
22 its assets to—

23 (i) an organization described in section
24 501(c)(3) of such Code which is organized
25 and operated for conservation purposes, or

1 (ii) a governmental unit described in
2 section 170(c)(1) of such Code.

3 (4) *EVERGREEN FOREST TRUST.*—The term “Ev-
4 ergreen Forest Trust” means a nonprofit corporation
5 known as the Evergreen Forest Trust which was in-
6 corporated on February 25, 2000, under chapter
7 24.03 of the Revised Code of Washington and which,
8 on May 11, 2001, was recognized as an organization
9 described in section 501(c)(3) of the Internal Revenue
10 Code of 1986.

11 (5) *UNRELATED PERSON.*—The term “unrelated
12 person” means a person who is not a related person.

13 (6) *RELATED PERSON.*—A person shall be treat-
14 ed as related to another person if—

15 (A) such person bears a relationship to such
16 other person described in section 267(b) (deter-
17 mined without regard to paragraph (9) thereof),
18 or 707(b)(1), of such Code, determined by sub-
19 stituting “25 percent” for “50 percent” each
20 place it occurs therein, and

21 (B) in the case such other person is a non-
22 profit organization, if such person controls di-
23 rectly or indirectly more than 25 percent of the
24 governing body of such organization.

1 **SEC. 214. PROTECTION OF SOCIAL SECURITY.**

2 *The amounts transferred to any trust fund under title*
 3 *II of the Social Security Act shall be determined as if this*
 4 *title (other than this section) and title I of this Act had*
 5 *not been enacted.*

6 **TITLE III—REVENUE**
 7 **PROVISIONS**

8 **SEC. 301. INDIVIDUAL EXPATRIATION TO AVOID TAX.**

9 (a) *EXPATRIATION TO AVOID TAX.*—

10 (1) *IN GENERAL.*—*Subsection (a) of section 877*
 11 *(relating to treatment of expatriates) is amended to*
 12 *read as follows:*

13 “(a) *TREATMENT OF EXPATRIATES.*—

14 “(1) *IN GENERAL.*—*Every nonresident alien in-*
 15 *dividual to whom this section applies and who, with-*
 16 *in the 10-year period immediately preceding the close*
 17 *of the taxable year, lost United States citizenship*
 18 *shall be taxable for such taxable year in the manner*
 19 *provided in subsection (b) if the tax imposed pursu-*
 20 *ant to such subsection (after any reduction in such*
 21 *tax under the last sentence of such subsection) exceeds*
 22 *the tax which, without regard to this section, is im-*
 23 *posed pursuant to section 871.*

24 “(2) *INDIVIDUALS SUBJECT TO THIS SECTION.*—

25 *This section shall apply to any individual if—*

1 “(A) the average annual net income tax (as
2 defined in section 38(c)(1)) of such individual
3 for the period of 5 taxable years ending before
4 the date of the loss of United States citizenship
5 is greater than \$122,000,

6 “(B) the net worth of the individual as of
7 such date is \$2,000,000 or more, or

8 “(C) such individual fails to certify under
9 penalty of perjury that he has met the require-
10 ments of this title for the 5 preceding taxable
11 years or fails to submit such evidence of such
12 compliance as the Secretary may require.

13 *In the case of the loss of United States citizenship in*
14 *any calendar year after 2003, such \$122,000 amount*
15 *shall be increased by an amount equal to such dollar*
16 *amount multiplied by the cost-of-living adjustment*
17 *determined under section 1(f)(3) for such calendar*
18 *year by substituting ‘2002’ for ‘1992’ in subpara-*
19 *graph (B) thereof. Any increase under the preceding*
20 *sentence shall be rounded to the nearest multiple of*
21 *\$1,000.”.*

22 (2) *REVISION OF EXCEPTIONS FROM ALTER-*
23 *NATIVE TAX.—Subsection (c) of section 877 (relating*
24 *to tax avoidance not presumed in certain cases) is*
25 *amended to read as follows:*

1 “(c) *EXCEPTIONS.*—

2 “(1) *IN GENERAL.*—Subparagraphs (A) and (B)
3 of subsection (a)(2) shall not apply to an individual
4 described in paragraph (2) or (3).

5 “(2) *DUAL CITIZENS.*—

6 “(A) *IN GENERAL.*—An individual is de-
7 scribed in this paragraph if—

8 “(i) the individual became at birth a
9 citizen of the United States and a citizen of
10 another country and continues to be a cit-
11 izen of such other country, and

12 “(ii) the individual has had no sub-
13 stantial contacts with the United States.

14 “(B) *SUBSTANTIAL CONTACTS.*—An indi-
15 vidual shall be treated as having no substantial
16 contacts with the United States only if the indi-
17 vidual—

18 “(i) was never a resident of the United
19 States (as defined in section 7701(b)),

20 “(ii) has never held a United States
21 passport, and

22 “(iii) was not present in the United
23 States for more than 30 days during any
24 calendar year which is 1 of the 10 calendar

1 years preceding the individual's loss of
2 United States citizenship.

3 “(3) CERTAIN MINORS.—An individual is de-
4 scribed in this paragraph if—

5 “(A) the individual became at birth a cit-
6 izen of the United States,

7 “(B) neither parent of such individual was
8 a citizen of the United States at the time of such
9 birth,

10 “(C) the individual's loss of United States
11 citizenship occurs before such individual attains
12 age 18½, and

13 “(D) the individual was not present in the
14 United States for more than 30 days during any
15 calendar year which is 1 of the 10 calendar
16 years preceding the individual's loss of United
17 States citizenship.”.

18 (3) CONFORMING AMENDMENT.—Section 2107(a)
19 is amended to read as follows:

20 “(a) TREATMENT OF EXPATRIATES.—A tax computed
21 in accordance with the table contained in section 2001 is
22 hereby imposed on the transfer of the taxable estate, deter-
23 mined as provided in section 2106, of every decedent non-
24 resident not a citizen of the United States if the date of

1 *death occurs during a taxable year with respect to which*
 2 *the decedent is subject to tax under section 877(b).”.*

3 *(b) SPECIAL RULES FOR DETERMINING WHEN AN IN-*
 4 *DIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR*
 5 *LONG-TERM RESIDENT.—Section 7701 (relating to defini-*
 6 *tions) is amended by redesignating subsection (n) as sub-*
 7 *section (o) and by inserting after subsection (m) the fol-*
 8 *lowing new subsection:*

9 *“(n) SPECIAL RULES FOR DETERMINING WHEN AN IN-*
 10 *DIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR*
 11 *LONG-TERM RESIDENT.—An individual who would not*
 12 *(but for this subsection) be treated as a citizen or resident*
 13 *of the United States shall continue to be treated as a citizen*
 14 *or resident of the United States until such individual—*

15 *“(1) gives notice of an expatriating act or termi-*
 16 *nation of residency (with the requisite intent to relin-*
 17 *quish citizenship or terminate residency) to the Sec-*
 18 *retary of State or the Secretary of Homeland Secu-*
 19 *rity, and*

20 *“(2) provides a statement in accordance with*
 21 *section 6039G.”.*

22 *(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR*
 23 *MORE THAN 30 DAYS.—Section 877 (relating to expatria-*
 24 *tion to avoid tax) is amended by adding at the end the*
 25 *following new subsection:*

1 “(g) *PHYSICAL PRESENCE.*—*This section shall not*
 2 *apply to any individual for any taxable year during the*
 3 *10-year period referred to in subsection (a) in which such*
 4 *individual is present in the United States for more than*
 5 *30 days in the calendar year ending in such taxable year,*
 6 *and such individual shall be treated for purposes of this*
 7 *title as a citizen or resident of the United States for such*
 8 *taxable year.”.*

9 (d) *TRANSFERS SUBJECT TO GIFT TAX.*—*Subsection*
 10 *(a) of section 2501 (relating to taxable transfers) is amend-*
 11 *ed by adding at the end the following:*

12 “(6) *TRANSFERS OF CERTAIN STOCK.*—

13 “(A) *IN GENERAL.*—*Paragraph (3) shall*
 14 *not apply to the transfer of stock described in*
 15 *subparagraph (B) by any individual to whom*
 16 *section 877(b) applies, and section 2511(a) shall*
 17 *be applied without regard to whether such stock*
 18 *is property which is situated within the United*
 19 *States.*

20 “(B) *VALUATION.*—*For purposes of sub-*
 21 *paragraph (A), the value of stock shall be deter-*
 22 *mined as provided in section 2103, except that—*

23 “(i) *if the donor owned (within the*
 24 *meaning of section 958(a)) at the time of*
 25 *such transfer 10 percent or more of the total*

1 *combined voting power of all classes of stock*
2 *entitled to vote of a foreign corporation, and*

3 “(ii) *if such donor owned (within the*
4 *meaning of section 958(a)), or is considered*
5 *to have owned (by applying the ownership*
6 *rules of section 958(b)), at the time of such*
7 *transfer, more than 50 percent of—*

8 “(I) *the total combined voting*
9 *power of all classes of stock entitled to*
10 *vote of such corporation, or*

11 “(II) *the total value of the stock of*
12 *such corporation, then that proportion*
13 *of the fair market value of the stock of*
14 *such foreign corporation owned (within*
15 *the meaning of section 958(a)) by such*
16 *donor at the time of such transfer,*
17 *which the fair market value of any as-*
18 *sets owned by such foreign corporation*
19 *and situated in the United States, at*
20 *the time of such transfer, bears to the*
21 *total fair market value of all assets*
22 *owned by such foreign corporation at*
23 *the time of such transfer, shall be in-*
24 *cluded in the value of such property.*

1 *For purposes of the preceding sentence, a*
 2 *donor shall be treated as owning stock of a*
 3 *foreign corporation at the time of such*
 4 *transfer if, at such time, by trust or other-*
 5 *wise, within the meaning of sections 2035 to*
 6 *2038, inclusive, he owned such stock.”.*

7 *(e) ENHANCED INFORMATION REPORTING FROM INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.—*

9 *(1) IN GENERAL.—Subsection (a) of section*
 10 *6039G is amended to read as follows:*

11 *“(a) IN GENERAL.—Notwithstanding any other provi-*
 12 *sion of law, any individual to whom section 877(b) applies*
 13 *for any taxable year shall provide a statement for such tax-*
 14 *able year which includes the information described in sub-*
 15 *section (b).”.*

16 *(2) INFORMATION TO BE PROVIDED.—Subsection*
 17 *(b) of section 6039G is amended to read as follows:*

18 *“(b) INFORMATION TO BE PROVIDED.—Information*
 19 *required under subsection (a) shall include—*

20 *“(1) the taxpayer’s TIN,*

21 *“(2) the mailing address of such individual’s*
 22 *principal foreign residence,*

23 *“(3) the foreign country, in which such indi-*
 24 *vidual is residing,*

1 “(4) the foreign country of which such individual
2 is a citizen,

3 “(5) information detailing the assets and liabil-
4 ities of such individual,

5 “(6) the number of days that the individual was
6 present in the United States during the taxable year,
7 and

8 “(7) such other information as the Secretary
9 may prescribe.”.

10 (3) *INCREASE IN PENALTY.*—Subsection (d) of
11 section 6039G is amended to read as follows:

12 “(d) *PENALTY.*—If—

13 “(1) an individual is required to file a statement
14 under subsection (a) for any taxable year, and

15 “(2) fails to file such a statement with the Sec-
16 retary on or before the date such statement is required
17 to be filed or fails to include all the information re-
18 quired to be shown on the statement or includes incor-
19 rect information,

20 such individual shall pay a penalty of \$5,000 unless it is
21 shown that such failure is due to reasonable cause and not
22 to willful neglect.”.

23 (4) *CONFORMING AMENDMENT.*—Section 6039G
24 is amended by striking subsections (c), (f), and (g)

1 and by redesignating subsections (d) and (e) as sub-
 2 section (c) and (d), respectively.

3 (f) *EFFECTIVE DATE.*—The amendments made by this
 4 section shall apply to individuals who expatriate after Feb-
 5 ruary 27, 2003.

6 **SEC. 302. VACCINE TAX TO APPLY TO HEPATITIS A VAC-**
 7 **CINE.**

8 (a) *IN GENERAL.*—Paragraph (1) of section 4132(a)
 9 (defining taxable vaccine) is amended by redesignating sub-
 10 paragraphs (I), (J), (K), and (L) as subparagraphs (J),
 11 (K), (L), and (M), respectively, and by inserting after sub-
 12 paragraph (H) the following new subparagraph:

13 “(I) Any vaccine against hepatitis A.”

14 (b) *EFFECTIVE DATE.*—

15 (1) *SALES, ETC.*—The amendments made by sub-
 16 section (a) shall apply to sales and uses on or after
 17 the first day of the first month which begins more
 18 than 4 weeks after the date of the enactment of this
 19 Act.

20 (2) *DELIVERIES.*—For purposes of paragraph
 21 (1) and section 4131 of the Internal Revenue Code of
 22 1986, in the case of sales on or before the effective date
 23 described in such paragraph for which delivery is
 24 made after such date, the delivery date shall be con-
 25 sidered the sale date.

Union Calendar No. 16

108TH CONGRESS
1ST SESSION

H. R. 878

[Report No. 108-23]

A BILL

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.

MARCH 5, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed