

108TH CONGRESS  
1ST SESSION

# S. 19

To amend the Internal Revenue Code of 1986 and titles 10 and 38, United States Code, to improve benefits for members of the uniformed services and for veterans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. DASCHLE (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BREAUX, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mrs. MURRAY, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 and titles 10 and 38, United States Code, to improve benefits for members of the uniformed services and for veterans, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Veterans and Military Personnel Fairness Act of 2003”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BENEFITS AND BENEFITS ADMINISTRATION

Subtitle A—Compensation

Sec. 101. Effective date of authority for concurrent receipt of military retired pay and veterans' disability compensation.

Subtitle B—Health Care

Sec. 111. Guaranteed adequate funding for veterans health care.

Sec. 112. Authority of Department of Veterans Affairs pharmacies to dispense medications to veterans on prescriptions written by private practitioners.

TITLE II—ARMED FORCES TAX FAIRNESS

Sec. 201. Short title; etc.

Subtitle A—Improving Tax Equity for Military Personnel

Sec. 211. Exclusion from gross income of certain death gratuity payments.

Sec. 212. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the foreign service.

Sec. 213. Exclusion for amounts received under Department of Defense homeowners assistance program.

Sec. 214. Expansion of combat zone filing rules to contingency operations.

Sec. 215. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

Sec. 216. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 217. Clarification of the treatment of certain dependent care assistance programs.

Subtitle B—Other Provisions

Sec. 221. Revision of tax rules on expatriation.

Sec. 222. Extension of Internal Revenue Service user fees.

Sec. 223. Partial payment of tax liability in installment agreements.

1                   **TITLE I—BENEFITS AND**  
2                   **BENEFITS ADMINISTRATION**  
3                   **Subtitle A—Compensation**

4   **SEC. 101. EFFECTIVE DATE OF AUTHORITY FOR CONCUR-**  
5                   **RENT RECEIPT OF MILITARY RETIRED PAY**  
6                   **AND VETERANS' DISABILITY COMPENSATION.**

7           (a) REPEAL OF CONTINGENT EFFECTIVE DATE.—

8   Section 1414 of title 10, United States Code, is amend-  
9   ed—

10           (1) in subsection (a), by striking “, subject to  
11           the enactment of qualifying offsetting legislation as  
12           specified in subsection (f)”; and

13           (2) by striking subsections (e) and (f).

14           (b) SUBSTITUTION OF EFFECTIVE DATE.—Section  
15   1414 of title 10, United States Code, shall apply with re-  
16   spect to months beginning on or after October 1, 2003.

17           (c) PROHIBITION OF RETROACTIVE BENEFITS.—(1)  
18   No benefit may be paid to any person by reason of section  
19   1414 of title 10, United States Code, for any period before  
20   the date specified in subsection (b).

21           (2) Section 641 of the National Defense Authoriza-  
22   tion Act for Fiscal Year 2002 (Public Law 107–107; 115  
23   Stat. 1149) is amended by striking subsection (d).

24           (d) CONFORMING TERMINATION OF SPECIAL COM-  
25   PENSATION PROGRAMS.—(1) Effective on the date speci-

1 fied in subsection (b), sections 1413 and 1413a of title  
2 10, United States Code, are repealed.

3 (2) Section 1413 of title 10, United States Code, is  
4 amended—

5 (A) in subsection (a), by striking the second  
6 sentence; and

7 (B) in subsection (b), by striking paragraph  
8 (3).

## 9 **Subtitle B—Health Care**

### 10 **SEC. 111. GUARANTEED ADEQUATE FUNDING FOR VET-** 11 **ERANS HEALTH CARE.**

12 (a) IN GENERAL.—Chapter 1 of title 38, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing new section:

#### 15 **“§ 117. Guaranteed funding for veterans health care**

16 “(a) For each fiscal year, the Secretary of the Treas-  
17 ury shall make available to the Secretary of Veterans Af-  
18 fairs the amount determined under subsection (b) with re-  
19 spect to that fiscal year. Each such amount is available,  
20 without fiscal year limitation, for the programs, functions,  
21 and activities of the Veterans Health Administration, as  
22 specified in subsection (c).

23 “(b)(1) The amount applicable to fiscal year 2005  
24 under this subsection is the amount equal to 120 percent

1 of the amount obligated by the Department during fiscal  
2 year 2003 for the purposes specified in subsection (c).

3 “(2) The amount applicable to any fiscal year after  
4 fiscal year 2005 under this subsection is the amount equal  
5 to the product of the following:

6 “(A) The sum of—

7 “(i) the number of veterans enrolled in the  
8 Department health care system under section  
9 1705 of this title as of July 1 preceding the be-  
10 ginning of such fiscal year; and

11 “(ii) the number of persons eligible for  
12 health care under chapter 17 of this title who  
13 are not covered by clause (i) and who were pro-  
14 vided hospital care or medical services under  
15 such chapter at any time during the fiscal year  
16 preceding such fiscal year.

17 “(B) The per capita baseline amount, as in-  
18 creased from time to time pursuant to paragraph  
19 (3)(B).

20 “(3)(A) For purposes of paragraph (2)(B), the term  
21 ‘per capita baseline amount’ means the amount equal to—

22 “(i) the amount specified in paragraph (1), di-  
23 vided by

1           “(ii) the number of veterans enrolled in the De-  
2           partment health care system under section 1705 of  
3           this title as of September 30, 2003.

4           “(B) With respect to any fiscal year, the Secretary  
5           shall provide a percentage increase (rounded to the near-  
6           est dollar) in the per capita baseline amount equal to the  
7           percentage by which—

8           “(i) the Consumer Price Index (all Urban Con-  
9           sumers, United States city Average, Medical Care,  
10          Not Seasonally Adjusted), published by the Bureau  
11          of Labor Statistics of the Department of Labor for  
12          the 12-month period ending on the June 30 pre-  
13          ceding the beginning of the fiscal year for which the  
14          increase is made, exceeds

15          “(ii) such Consumer Price Index for the 12-  
16          month period preceding the 12-month period de-  
17          scribed in clause (i).

18          “(c)(1) Except as provided in paragraph (2), the pur-  
19          poses for which amounts made available pursuant to sub-  
20          section (a) shall be all programs, functions, and activities  
21          of the Veterans Health Administration.

22          “(2) Amounts made available pursuant to subsection  
23          (a) are not available for grants under subchapter III of  
24          chapter 81 of this title.”.

1 (b) REPEAL OF CONSTRUCTION AUTHORIZATION RE-  
 2 QUIREMENT.—Section 8104 of title 38, United States  
 3 Code, is amended to read as follows:

4 **“§ 8104. Additional authorities and limitations**

5 “(a) The Secretary may accept gifts or donations for  
 6 any of the purposes of this subchapter.

7 “(b)(1) The Secretary may not obligate funds in an  
 8 amount in excess of \$500,000 from the Advance Planning  
 9 Fund of the Department toward the design or develop-  
 10 ment of a major medical facility project until—

11 “(A) the Secretary submits to the committees a  
 12 report on the proposed obligation; and

13 “(B) a period of 30 days has passed after the  
 14 date on which the report is received by the commit-  
 15 tees.

16 “(2) In this subsection, the term ‘major medical facil-  
 17 ity project’ means a project for the construction, alter-  
 18 ation, or acquisition of a medical facility involving a total  
 19 expenditure of more than \$4,000,000, but such term does  
 20 not include an acquisition by exchange.”.

21 (c) CLERICAL AMENDMENTS.—(1) The table of sec-  
 22 tions at the beginning of chapter 1 of title 38, United  
 23 States Code, is amended by adding at the end the fol-  
 24 lowing new item:

“117. Guaranteed funding for veterans health care.”.

1           (2) The table of sections at the beginning of chapter  
 2 81 of such title is amended by striking the item relating  
 3 to section 8104 and inserting the following new item:

“8104. Additional authorities and limitations.”.

4           (d) EFFECTIVE DATES.—(1) The amendments made  
 5 by subsections (a) and (c)(1) shall take effect on the date  
 6 of the enactment of this Act.

7           (2) The amendments made by subsections (b) and  
 8 (c)(2) shall take effect on October 1, 2004.

9 **SEC. 112. AUTHORITY OF DEPARTMENT OF VETERANS AF-**  
 10 **FAIRS PHARMACIES TO DISPENSE MEDICA-**  
 11 **TIONS TO VETERANS ON PRESCRIPTIONS**  
 12 **WRITTEN BY PRIVATE PRACTITIONERS.**

13           (a) AUTHORITY.—Section 1712(d) of title 38, United  
 14 States Code, is amended—

15                 (1) by inserting “(1)” after “(d)”; and

16                 (2) by adding at the end the following:

17           “(2) In addition to drugs and medicines furnished  
 18 pursuant to paragraph (1), the Secretary shall furnish to  
 19 a veteran enrolled under section 1705 of this title such  
 20 drugs and medicines on the formulary of the Department  
 21 as may be ordered on prescription of a duly licensed physi-  
 22 cian in the treatment of any illness or injury of the vet-  
 23 eran. Any such prescription is subject to section 1722A  
 24 of this title.”.



1 (b) CLERICAL AMENDMENTS.—(1) The heading of  
 2 section 1712 of such title is amended to read as follows:  
 3 “§ 1712. **Dental care; drugs and medicines; vaccines**”.

4 (2) The table of sections at the beginning of chapter  
 5 17 of such title is amended by striking the item relating  
 6 to section 1712 and inserting the following new item:

“1712. Dental care; drugs and medicines; vaccines.”.

7 **TITLE II—ARMED FORCES TAX**  
 8 **FAIRNESS**

9 **SEC. 201. SHORT TITLE; ETC.**

10 (a) SHORT TITLE.—This title may be cited as the  
 11 “Armed Forces Tax Fairness Act of 2003”.

12 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 13 wise expressly provided, whenever in this title an amend-  
 14 ment or repeal is expressed in terms of an amendment  
 15 to, or repeal of, a section or other provision, the reference  
 16 shall be considered to be made to a section or other provi-  
 17 sion of the Internal Revenue Code of 1986.

18 **Subtitle A—Improving Tax Equity**  
 19 **for Military Personnel**

20 **SEC. 211. EXCLUSION FROM GROSS INCOME OF CERTAIN**  
 21 **DEATH GRATUITY PAYMENTS.**

22 (a) IN GENERAL.—Subsection (b)(3) of section 134  
 23 (relating to certain military benefits) is amended by add-  
 24 ing at the end the following new subparagraph:

1           “(C) EXCEPTION FOR DEATH GRATUITY  
 2           ADJUSTMENTS MADE BY LAW.—Subparagraph  
 3           (A) shall not apply to any adjustment to the  
 4           amount of death gratuity payable under chapter  
 5           75 of title 10, United States Code, which is  
 6           pursuant to a provision of law enacted after  
 7           September 9, 1986.”.

8           (b) CONFORMING AMENDMENT.—Subparagraph (A)  
 9           of section 134(b)(3) is amended by striking “subpara-  
 10          graph (B)” and inserting “subparagraphs (B) and (C)”.

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

14   **SEC. 212. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**  
 15                   **RESIDENCE BY A MEMBER OF THE UNI-**  
 16                   **FORMED SERVICES OR THE FOREIGN SERV-**  
 17                   **ICE.**

18          (a) IN GENERAL.—Subsection (d) of section 121 (re-  
 19          lating to exclusion of gain from sale of principal residence)  
 20          is amended by adding at the end the following new para-  
 21          graph:

22                   “(9) MEMBERS OF UNIFORMED SERVICES AND  
 23                   FOREIGN SERVICE.—

24                   “(A) IN GENERAL.—At the election of an  
 25                   individual with respect to a property, the run-

1           ning of the 5-year period described in sub-  
2           section (a) with respect to such property shall  
3           be suspended during any period that such indi-  
4           vidual or such individual’s spouse is serving on  
5           qualified official extended duty as a member of  
6           the uniformed services or of the Foreign Service  
7           of the United States.

8           “(B) MAXIMUM PERIOD OF SUSPENSION.—  
9           The 5-year period described in subsection (a)  
10          shall not be extended more than 10 years by  
11          reason of subparagraph (A).

12          “(C) QUALIFIED OFFICIAL EXTENDED  
13          DUTY.—For purposes of this paragraph—

14               “(i) IN GENERAL.—The term ‘quali-  
15               fied official extended duty’ means any ex-  
16               tended duty while serving at a duty station  
17               which is at least 50 miles from such prop-  
18               erty or while residing under Government  
19               orders in Government quarters.

20               “(ii) UNIFORMED SERVICES.—The  
21               term ‘uniformed services’ has the meaning  
22               given such term by section 101(a)(5) of  
23               title 10, United States Code, as in effect  
24               on the date of the enactment of this para-  
25               graph.

1           “(iii) FOREIGN SERVICE OF THE  
 2           UNITED STATES.—The term ‘member of  
 3           the Foreign Service of the United States’  
 4           has the meaning given the term ‘member  
 5           of the Service’ by paragraph (1), (2), (3),  
 6           (4), or (5) of section 103 of the Foreign  
 7           Service Act of 1980.

8           “(iv) EXTENDED DUTY.—The term  
 9           ‘extended duty’ means any period of duty  
 10          pursuant to a call or order to such duty for  
 11          a period in excess of 90 days or for an in-  
 12          definite period.

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

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

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

23          (b) EFFECTIVE DATE; SPECIAL RULE.—

24               (1) EFFECTIVE DATE.—The amendment made  
 25          by this section shall take effect as if included in the

1 amendments made by section 312 of the Taxpayer  
2 Relief Act of 1997.

3 (2) WAIVER OF LIMITATIONS.—If refund or  
4 credit of any overpayment of tax resulting from the  
5 amendment made by this section is prevented at any  
6 time before the close of the 1-year period beginning  
7 on the date of the enactment of this Act by the oper-  
8 ation of any law or rule of law (including res judi-  
9 cata), such refund or credit may nevertheless be  
10 made or allowed if claim therefor is filed before the  
11 close of such period.

12 **SEC. 213. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**  
13 **PARTMENT OF DEFENSE HOMEOWNERS AS-**  
14 **SISTANCE PROGRAM.**

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

21 “(8) qualified military base realignment and  
22 closure fringe.”.

23 (b) QUALIFIED MILITARY BASE REALIGNMENT AND  
24 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  
 5 term ‘qualified military base realignment and closure  
 6 fringe’ means 1 or more payments under the authority of  
 7 section 1013 of the Demonstration Cities and Metropoli-  
 8 tan Development Act of 1966 (42 U.S.C. 3374) to offset  
 9 the adverse effects on housing values as a result of a mili-  
 10 tary base realignment or closure.”.

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

14 **SEC. 214. 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 contin-  
 23 gency operation (as defined in section 101(a)(13) of  
 24 title 10, United States Code) or which became such

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

3 (2) by inserting in the first sentence “or at any  
4 time during the period of such contingency oper-  
5 ation” 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  
12 “or 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  
17 table of sections for chapter 77 is amended by in-  
18 serting “or contingency operation” after “combat  
19 zone”.

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

1 **SEC. 215. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**  
2 **TRAVEL EXPENSES OF NATIONAL GUARD**  
3 **AND RESERVE MEMBERS.**

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

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

18 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
19 PAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating  
20 to 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 in amounts not in excess of the rates for travel  
2 expenses (including per diem in lieu of subsist-  
3 ence) authorized for employees of agencies  
4 under subchapter I of chapter 57 of title 5,  
5 United States Code, paid or incurred by the  
6 taxpayer in connection with the performance of  
7 services by such taxpayer as a member of a re-  
8 serve component of the Armed Forces of the  
9 United States.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to amounts paid or incurred in tax-  
12 able years beginning after December 31, 2002.

13 **SEC. 216. MODIFICATION OF MEMBERSHIP REQUIREMENT**  
14 **FOR EXEMPTION FROM TAX FOR CERTAIN**  
15 **VETERANS’ ORGANIZATIONS.**

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

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

1 **SEC. 217. CLARIFICATION OF THE TREATMENT OF CERTAIN**  
2 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

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

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

10 (b) **CONFORMING AMENDMENTS.**—

11 (1) Section 134(b)(3)(A) is amended by insert-  
12 ing “and paragraph (4)” after “subparagraph (B)”.

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

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

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

19 (c) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2002.

22 (d) **NO INFERENCE.**—No inference may be drawn  
23 from the amendments made by this section with respect  
24 to the tax treatment of any amounts under the program  
25 described in section 134(b)(4) of the Internal Revenue

1 Code of 1986 (as added by this section) for any taxable  
2 year beginning before January 1, 2003.

### 3 **Subtitle B—Other Provisions**

#### 4 **SEC. 221. REVISION OF TAX RULES ON EXPATRIATION.**

5 (a) IN GENERAL.—Subpart A of part II of sub-  
6 chapter N of chapter 1 is amended by inserting after sec-  
7 tion 877 the following new section:

#### 8 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

9 “(a) GENERAL RULES.—For purposes of this sub-  
10 title—

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

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

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

22 “(B) any loss arising from such sale shall  
23 be taken into account for the taxable year of  
24 the sale to the extent otherwise provided by this

1 title, except that section 1091 shall not apply to  
2 any such loss.

3 Proper adjustment shall be made in the amount of  
4 any gain or loss subsequently realized for gain or  
5 loss taken into account under the preceding sen-  
6 tence.

7 “(3) EXCLUSION FOR CERTAIN GAIN.—

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

17 “(B) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of an  
19 expatriation date occurring in any calendar  
20 year after 2003, the \$600,000 amount  
21 under subparagraph (A) shall be increased  
22 by an amount equal to—

23 “(I) such dollar amount, multi-  
24 plied by

1                   “(II) the cost-of-living adjust-  
2                   ment determined under section 1(f)(3)  
3                   for such calendar year, determined by  
4                   substituting ‘calendar year 2002’ for  
5                   ‘calendar year 1992’ in subparagraph  
6                   (B) thereof.

7                   “(ii) ROUNDING RULES.—If any  
8                   amount after adjustment under clause (i)  
9                   is not a multiple of \$1,000, such amount  
10                  shall be rounded to the next lower multiple  
11                  of \$1,000.

12                  “(4) ELECTION TO CONTINUE TO BE TAXED AS  
13                  UNITED STATES CITIZEN.—

14                  “(A) IN GENERAL.—If a covered expatriate  
15                  elects the application of this paragraph—

16                         “(i) this section (other than this para-  
17                         graph and subsection (i)) shall not apply to  
18                         the expatriate, but

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

1           “(B) REQUIREMENTS.—Subparagraph (A)  
2 shall not apply to an individual unless the indi-  
3 vidual—

4           “(i) provides security for payment of  
5 tax in such form and manner, and in such  
6 amount, as the Secretary may require,

7           “(ii) consents to the waiver of any  
8 right of the individual under any treaty of  
9 the United States which would preclude as-  
10 sessment or collection of any tax which  
11 may be imposed by reason of this para-  
12 graph, and

13           “(iii) complies with such other re-  
14 quirements as the Secretary may prescribe.

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

23           “(b) ELECTION TO DEFER TAX.—

24           “(1) IN GENERAL.—If the taxpayer elects the  
25 application of this subsection with respect to any

1 property treated as sold by reason of subsection (a),  
2 the payment of the additional tax attributable to  
3 such property shall be postponed until the due date  
4 of the return for the taxable year in which such  
5 property is disposed of (or, in the case of property  
6 disposed of in a transaction in which gain is not rec-  
7 ognized in whole or in part, until such other date as  
8 the Secretary may prescribe).

9 “(2) DETERMINATION OF TAX WITH RESPECT  
10 TO PROPERTY.—For purposes of paragraph (1), the  
11 additional tax attributable to any property is an  
12 amount which bears the same ratio to the additional  
13 tax imposed by this chapter for the taxable year  
14 solely by reason of subsection (a) as the gain taken  
15 into account under subsection (a) with respect to  
16 such property bears to the total gain taken into ac-  
17 count under subsection (a) with respect to all prop-  
18 erty to which subsection (a) applies.

19 “(3) TERMINATION OF POSTPONEMENT.—No  
20 tax may be postponed under this subsection later  
21 than the due date for the return of tax imposed by  
22 this chapter for the taxable year which includes the  
23 date of death of the expatriate (or, if earlier, the  
24 time that the security provided with respect to the  
25 property fails to meet the requirements of paragraph

1 (4), unless the taxpayer corrects such failure within  
2 the time specified by the Secretary).

3 “(4) SECURITY.—

4 “(A) IN GENERAL.—No election may be  
5 made under paragraph (1) with respect to any  
6 property unless adequate security is provided to  
7 the Secretary with respect to such property.

8 “(B) ADEQUATE SECURITY.—For purposes  
9 of subparagraph (A), security with respect to  
10 any property shall be treated as adequate secu-  
11 rity if—

12 “(i) it is a bond in an amount equal  
13 to the deferred tax amount under para-  
14 graph (2) for the property, or

15 “(ii) the taxpayer otherwise estab-  
16 lishes to the satisfaction of the Secretary  
17 that the security is adequate.

18 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-  
19 tion may be made under paragraph (1) unless the  
20 taxpayer consents to the waiver of any right under  
21 any treaty of the United States which would pre-  
22 clude assessment or collection of any tax imposed by  
23 reason of this section.

24 “(6) ELECTIONS.—An election under paragraph  
25 (1) shall only apply to property described in the elec-



1 tion and, once made, is irrevocable. An election may  
2 be made under paragraph (1) with respect to an in-  
3 terest in a trust with respect to which gain is re-  
4 quired to be recognized under subsection (f)(1).

5 “(7) INTEREST.—For purposes of section  
6 6601—

7 “(A) the last date for the payment of tax  
8 shall be determined without regard to the elec-  
9 tion under this subsection, and

10 “(B) section 6621(a)(2) shall be applied by  
11 substituting ‘5 percentage points’ for ‘3 per-  
12 centage points’ in subparagraph (B) thereof.

13 “(c) COVERED EXPATRIATE.—For purposes of this  
14 section—

15 “(1) IN GENERAL.—Except as provided in para-  
16 graph (2), the term ‘covered expatriate’ means an  
17 expatriate.

18 “(2) EXCEPTIONS.—An individual shall not be  
19 treated as a covered expatriate if—

20 “(A) the individual—

21 “(i) became at birth a citizen of the  
22 United States and a citizen of another  
23 country and, as of the expatriation date,  
24 continues to be a citizen of, and is taxed  
25 as a resident of, such other country, and

1                   “(ii) has not been a resident of the  
2                   United States (as defined in section  
3                   7701(b)(1)(A)(ii)) during the 5 taxable  
4                   years ending with the taxable year during  
5                   which the expatriation date occurs, or

6                   “(B)(i) the individual’s relinquishment of  
7                   United States citizenship occurs before such in-  
8                   dividual attains age 18½, and

9                   “(ii) the individual has been a resident of  
10                  the United States (as so defined) for not more  
11                  than 5 taxable years before the date of relin-  
12                  quishment.

13                  “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-  
14                  SION PLANS.—

15                  “(1) EXEMPT PROPERTY.—This section shall  
16                  not apply to the following:

17                  “(A) UNITED STATES REAL PROPERTY IN-  
18                  TERESTS.—Any United States real property in-  
19                  terest (as defined in section 897(c)(1)), other  
20                  than stock of a United States real property  
21                  holding corporation which does not, on the day  
22                  before the expatriation date, meet the require-  
23                  ments of section 897(c)(2).

24                  “(B) SPECIFIED PROPERTY.—Any prop-  
25                  erty or interest in property not described in

1           subparagraph (A) which the Secretary specifies  
2           in regulations.

3           “(2) SPECIAL RULES FOR CERTAIN RETIRE-  
4           MENT PLANS.—

5                   “(A) IN GENERAL.—If a covered expatriate  
6           holds on the day before the expatriation date  
7           any interest in a retirement plan to which this  
8           paragraph applies—

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

12                                   “(ii) an amount equal to the present  
13                                   value of the expatriate’s nonforfeitable ac-  
14                                   crued benefit shall be treated as having  
15                                   been received by such individual on such  
16                                   date as a distribution under the plan.

17                   “(B) TREATMENT OF SUBSEQUENT DIS-  
18           TRIBUTIONS.—In the case of any distribution  
19           on or after the expatriation date to or on behalf  
20           of the covered expatriate from a plan from  
21           which the expatriate was treated as receiving a  
22           distribution under subparagraph (A), the  
23           amount otherwise includible in gross income by  
24           reason of the subsequent distribution shall be  
25           reduced by the excess of the amount includible

1 in gross income under subparagraph (A) over  
2 any portion of such amount to which this sub-  
3 paragraph previously applied.

4 “(C) TREATMENT OF SUBSEQUENT DIS-  
5 TRIBUTIONS BY PLAN.—For purposes of this  
6 title, a retirement plan to which this paragraph  
7 applies, and any person acting on the plan’s be-  
8 half, shall treat any subsequent distribution de-  
9 scribed in subparagraph (B) in the same man-  
10 ner as such distribution would be treated with-  
11 out regard to this paragraph.

12 “(D) APPLICABLE PLANS.—This para-  
13 graph shall apply to—

14 “(i) any qualified retirement plan (as  
15 defined in section 4974(c)),

16 “(ii) an eligible deferred compensation  
17 plan (as defined in section 457(b)) of an  
18 eligible employer described in section  
19 457(e)(1)(A), and

20 “(iii) to the extent provided in regula-  
21 tions, any foreign pension plan or similar  
22 retirement arrangements or programs.

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

24 “(1) EXPATRIATE.—The term ‘expatriate’  
25 means—

1           “(A) any United States citizen who relin-  
2           quishes citizenship, and

3           “(B) any long-term resident of the United  
4           States who—

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

8                   “(ii) commences to be treated as a  
9                   resident of a foreign country under the  
10                  provisions of a tax treaty between the  
11                  United States and the foreign country and  
12                  who does not waive the benefits of such  
13                  treaty applicable to residents of the foreign  
14                  country.

15           “(2) EXPATRIATION DATE.—The term ‘expa-  
16           triation date’ means—

17                   “(A) the date an individual relinquishes  
18                   United States citizenship, or

19                   “(B) in the case of a long-term resident of  
20                   the United States, the date of the event de-  
21                   scribed in clause (i) or (ii) of paragraph (1)(B).

22           “(3) RELINQUISHMENT OF CITIZENSHIP.—A  
23           citizen shall be treated as relinquishing United  
24           States citizenship on the earliest of—

1           “(A) the date the individual renounces  
2 such individual’s United States nationality be-  
3 fore a diplomatic or consular officer of the  
4 United States pursuant to paragraph (5) of sec-  
5 tion 349(a) of the Immigration and Nationality  
6 Act (8 U.S.C. 1481(a)(5)),

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

15           “(C) the date the United States Depart-  
16 ment of State issues to the individual a certifi-  
17 cate of loss of nationality, or

18           “(D) the date a court of the United States  
19 cancels a naturalized citizen’s certificate of nat-  
20 uralization.

21           Subparagraph (A) or (B) shall not apply to any indi-  
22 vidual unless the renunciation or voluntary relin-  
23 quishment is subsequently approved by the issuance  
24 to the individual of a certificate of loss of nationality  
25 by the United States Department of State.

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

4           “(f) SPECIAL RULES APPLICABLE TO BENE-  
5           FICIARIES’ INTERESTS IN TRUST.—

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

10                   “(A) the individual shall not be treated as  
11                   having sold such interest,

12                   “(B) such interest shall be treated as a  
13                   separate share in the trust, and

14                   “(C)(i) such separate share shall be treat-  
15                   ed as a separate trust consisting of the assets  
16                   allocable to such share,

17                   “(ii) the separate trust shall be treated as  
18                   having sold its assets on the day before the ex-  
19                   patriation date for their fair market value and  
20                   as having distributed all of its assets to the in-  
21                   dividual as of such time, and

22                   “(iii) the individual shall be treated as hav-  
23                   ing recontributed the assets to the separate  
24                   trust.

1 Subsection (a)(2) shall apply to any income, gain, or  
2 loss of the individual arising from a distribution de-  
3 scribed in subparagraph (C)(ii). In determining the  
4 amount of such distribution, proper adjustments  
5 shall be made for liabilities of the trust allocable to  
6 an individual's share in the trust.

7 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-  
8 FIED TRUSTS.—

9 “(A) IN GENERAL.—If the trust interest  
10 described in paragraph (1) is an interest in a  
11 qualified trust—

12 “(i) paragraph (1) and subsection (a)  
13 shall not apply, and

14 “(ii) in addition to any other tax im-  
15 posed by this title, there is hereby imposed  
16 on each distribution with respect to such  
17 interest a tax in the amount determined  
18 under subparagraph (B).

19 “(B) AMOUNT OF TAX.—The amount of  
20 tax under subparagraph (A)(ii) shall be equal to  
21 the lesser of—

22 “(i) the highest rate of tax imposed by  
23 section 1(e) for the taxable year which in-  
24 cludes the day before the expatriation date,



1 multiplied by the amount of the distribu-  
2 tion, or

3 “(ii) the balance in the deferred tax  
4 account immediately before the distribution  
5 determined without regard to any increases  
6 under subparagraph (C)(ii) after the 30th  
7 day preceding the distribution.

8 “(C) DEFERRED TAX ACCOUNT.—For pur-  
9 poses of subparagraph (B)(ii)—

10 “(i) OPENING BALANCE.—The open-  
11 ing balance in a deferred tax account with  
12 respect to any trust interest is an amount  
13 equal to the tax which would have been im-  
14 posed on the allocable expatriation gain  
15 with respect to the trust interest if such  
16 gain had been included in gross income  
17 under subsection (a).

18 “(ii) INCREASE FOR INTEREST.—The  
19 balance in the deferred tax account shall  
20 be increased by the amount of interest de-  
21 termined (on the balance in the account at  
22 the time the interest accrues), for periods  
23 after the 90th day after the expatriation  
24 date, by using the rates and method appli-  
25 cable under section 6621 for underpay-

1           ments of tax for such periods, except that  
2           section 6621(a)(2) shall be applied by sub-  
3           stituting ‘5 percentage points’ for ‘3 per-  
4           centage points’ in subparagraph (B) there-  
5           of.

6           “(iii) DECREASE FOR TAXES PRE-  
7           VIOUSLY PAID.—The balance in the tax de-  
8           ferred account shall be reduced—

9           “(I) by the amount of taxes im-  
10          posed by subparagraph (A) on any  
11          distribution to the person holding the  
12          trust interest, and

13          “(II) in the case of a person  
14          holding a nonvested interest, to the  
15          extent provided in regulations, by the  
16          amount of taxes imposed by subpara-  
17          graph (A) on distributions from the  
18          trust with respect to nonvested inter-  
19          ests not held by such person.

20          “(D) ALLOCABLE EXPATRIATION GAIN.—

21          For purposes of this paragraph, the allocable  
22          expatriation gain with respect to any bene-  
23          ficiary’s interest in a trust is the amount of  
24          gain which would be allocable to such bene-  
25          ficiary’s vested and nonvested interests in the

1 trust if the beneficiary held directly all assets  
2 allocable to such interests.

3 “(E) TAX DEDUCTED AND WITHHELD.—

4 “(i) IN GENERAL.—The tax imposed  
5 by subparagraph (A)(ii) shall be deducted  
6 and withheld by the trustees from the dis-  
7 tribution to which it relates.

8 “(ii) EXCEPTION WHERE FAILURE TO  
9 WAIVE TREATY RIGHTS.—If an amount  
10 may not be deducted and withheld under  
11 clause (i) by reason of the distributee fail-  
12 ing to waive any treaty right with respect  
13 to such distribution—

14 “(I) the tax imposed by subpara-  
15 graph (A)(ii) shall be imposed on the  
16 trust and each trustee shall be person-  
17 ally liable for the amount of such tax,  
18 and

19 “(II) any other beneficiary of the  
20 trust shall be entitled to recover from  
21 the distributee the amount of such tax  
22 imposed on the other beneficiary.

23 “(F) DISPOSITION.—If a trust ceases to be  
24 a qualified trust at any time, a covered expa-  
25 triate disposes of an interest in a qualified

1 trust, or a covered expatriate holding an inter-  
2 est in a qualified trust dies, then, in lieu of the  
3 tax imposed by subparagraph (A)(ii), there is  
4 hereby imposed a tax equal to the lesser of—

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

10 “(ii) the balance in the tax deferred  
11 account immediately before such date.

12 Such tax shall be imposed on the trust and  
13 each trustee shall be personally liable for the  
14 amount of such tax and any other beneficiary  
15 of the trust shall be entitled to recover from the  
16 covered expatriate or the estate the amount of  
17 such tax imposed on the other beneficiary.

18 “(G) DEFINITIONS AND SPECIAL RULES.—

19 For purposes of this paragraph—

20 “(i) QUALIFIED TRUST.—The term  
21 ‘qualified trust’ means a trust which is de-  
22 scribed in section 7701(a)(30)(E).

23 “(ii) VESTED INTEREST.—The term  
24 ‘vested interest’ means any interest which,

1 as of the day before the expatriation date,  
2 is vested in the beneficiary.

3 “(iii) NONVESTED INTEREST.—The  
4 term ‘nonvested interest’ means, with re-  
5 spect to any beneficiary, any interest in a  
6 trust which is not a vested interest. Such  
7 interest shall be determined by assuming  
8 the maximum exercise of discretion in  
9 favor of the beneficiary and the occurrence  
10 of all contingencies in favor of the bene-  
11 ficiary.

12 “(iv) ADJUSTMENTS.—The Secretary  
13 may provide for such adjustments to the  
14 bases of assets in a trust or a deferred tax  
15 account, and the timing of such adjust-  
16 ments, in order to ensure that gain is  
17 taxed only once.

18 “(v) COORDINATION WITH RETIRE-  
19 MENT PLAN RULES.—This subsection shall  
20 not apply to an interest in a trust which  
21 is part of a retirement plan to which sub-  
22 section (d)(2) applies.

23 “(3) DETERMINATION OF BENEFICIARIES’ IN-  
24 TEREST IN TRUST.—

1           “(A) DETERMINATIONS UNDER PARA-  
2           GRAPH (1).—For purposes of paragraph (1), a  
3           beneficiary’s interest in a trust shall be based  
4           upon all relevant facts and circumstances, in-  
5           cluding the terms of the trust instrument and  
6           any letter of wishes or similar document, histor-  
7           ical patterns of trust distributions, and the ex-  
8           istence of and functions performed by a trust  
9           protector or any similar adviser.

10           “(B) OTHER DETERMINATIONS.—For pur-  
11           poses of this section—

12           “(i) CONSTRUCTIVE OWNERSHIP.—If  
13           a beneficiary of a trust is a corporation,  
14           partnership, trust, or estate, the share-  
15           holders, partners, or beneficiaries shall be  
16           deemed to be the trust beneficiaries for  
17           purposes of this section.

18           “(ii) TAXPAYER RETURN POSITION.—  
19           A taxpayer shall clearly indicate on its in-  
20           come tax return—

21           “(I) the methodology used to de-  
22           termine that taxpayer’s trust interest  
23           under this section, and

24           “(II) if the taxpayer knows (or  
25           has reason to know) that any other

1 beneficiary of such trust is using a  
2 different methodology to determine  
3 such beneficiary's trust interest under  
4 this section.

5 “(g) TERMINATION OF DEFERRALS, ETC.—In the  
6 case of any covered expatriate, notwithstanding any other  
7 provision of this title—

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

11 “(2) any extension of time for payment of tax  
12 shall cease to apply on the day before the expatria-  
13 tion date and the unpaid portion of such tax shall  
14 be due and payable at the time and in the manner  
15 prescribed by the Secretary.

16 “(h) IMPOSITION OF TENTATIVE TAX.—

17 “(1) IN GENERAL.—If an individual is required  
18 to include any amount in gross income under sub-  
19 section (a) for any taxable year, there is hereby im-  
20 posed, immediately before the expatriation date, a  
21 tax in an amount equal to the amount of tax which  
22 would be imposed if the taxable year were a short  
23 taxable year ending on the expatriation date.

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

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

8           “(4) DEFERRAL OF TAX.—The provisions of  
9           subsection (b) shall apply to the tax imposed by this  
10          subsection to the extent attributable to gain includ-  
11          ible in gross income by reason of this section.

12          “(i) SPECIAL LIENS FOR DEFERRED TAX  
13          AMOUNTS.—

14                 “(1) IMPOSITION OF LIEN.—

15                         “(A) IN GENERAL.—If a covered expatriate  
16                         makes an election under subsection (a)(4) or  
17                         (b) which results in the deferral of any tax im-  
18                         posed by reason of subsection (a), the deferred  
19                         amount (including any interest, additional  
20                         amount, addition to tax, assessable penalty, and  
21                         costs attributable to the deferred amount) shall  
22                         be a lien in favor of the United States on all  
23                         property of the expatriate located in the United  
24                         States (without regard to whether this section  
25                         applies to the property).



1           “(B) DEFERRED AMOUNT.—For purposes  
2 of this subsection, the deferred amount is the  
3 amount of the increase in the covered expatri-  
4 ate’s income tax which, but for the election  
5 under subsection (a)(4) or (b), would have oc-  
6 curred by reason of this section for the taxable  
7 year including the expatriation date.

8           “(2) PERIOD OF LIEN.—The lien imposed by  
9 this subsection shall arise on the expatriation date  
10 and continue until—

11           “(A) the liability for tax by reason of this  
12 section is satisfied or has become unenforceable  
13 by reason of lapse of time, or

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

17           “(3) CERTAIN RULES APPLY.—The rules set  
18 forth in paragraphs (1), (3), and (4) of section  
19 6324A(d) shall apply with respect to the lien im-  
20 posed by this subsection as if it were a lien imposed  
21 by section 6324A.

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

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

6 “(d) GIFTS AND INHERITANCES FROM COVERED EX-  
7 PATRIATES.—

8 “(1) IN GENERAL.—Subsection (a) shall not ex-  
9 clude from gross income the value of any property  
10 acquired by gift, bequest, devise, or inheritance from  
11 a covered expatriate after the expatriation date. For  
12 purposes of this subsection, any term used in this  
13 subsection which is also used in section 877A shall  
14 have the same meaning as when used in section  
15 877A.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE  
17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)  
18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-  
20 ance is—

21 “(i) shown on a timely filed return of  
22 tax imposed by chapter 12 as a taxable gift  
23 by the covered expatriate, or

24 “(ii) included in the gross estate of  
25 the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-  
2 turn of tax imposed by chapter 11 of the  
3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but  
5 no such return would have been required to be  
6 filed even if the covered expatriate were a cit-  
7 izen or long-term resident of the United  
8 States.”.

9 (c) DEFINITION OF TERMINATION OF UNITED  
10 STATES CITIZENSHIP.—Section 7701(a) is amended by  
11 adding at the end the following new paragraph:

12 “(48) TERMINATION OF UNITED STATES CITI-  
13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall  
15 not cease to be treated as a United States cit-  
16 izen before the date on which the individual’s  
17 citizenship is treated as relinquished under sec-  
18 tion 877A(e)(3).

19 “(B) DUAL CITIZENS.—Under regulations  
20 prescribed by the Secretary, subparagraph (A)  
21 shall not apply to an individual who became at  
22 birth a citizen of the United States and a cit-  
23 izen of another country.”.

24 (d) INELIGIBILITY FOR VISA OR ADMISSION TO  
25 UNITED STATES.—

1           (1) IN GENERAL.—Section 212(a)(10)(E) of the  
2 Immigration and Nationality Act (8 U.S.C.  
3 1182(a)(10)(E)) is amended to read as follows:

4           “(E) FORMER CITIZENS NOT IN COMPLI-  
5 ANCE WITH EXPATRIATION REVENUE PROVI-  
6 SIONS.—Any alien who is a former citizen of  
7 the United States who relinquishes United  
8 States citizenship (within the meaning of sec-  
9 tion 877A(e)(3) of the Internal Revenue Code  
10 of 1986) and who is not in compliance with sec-  
11 tion 877A of such Code (relating to expatria-  
12 tion).”.

13           (2) AVAILABILITY OF INFORMATION.—

14           (A) IN GENERAL.—Section 6103(l) (relat-  
15 ing to disclosure of returns and return informa-  
16 tion for purposes other than tax administration)  
17 is amended by adding at the end the following  
18 new paragraph:

19           “(18) DISCLOSURE TO DENY VISA OR ADMIS-  
20 SION TO CERTAIN EXPATRIATES.—Upon written re-  
21 quest of the Attorney General or the Attorney Gen-  
22 eral’s delegate, the Secretary shall disclose whether  
23 an individual is in compliance with section 877A  
24 (and if not in compliance, any items of noncompli-  
25 ance) to officers and employees of the Federal agen-

1       cy responsible for administering section  
2       212(a)(10)(E) of the Immigration and Nationality  
3       Act solely for the purpose of, and to the extent nec-  
4       essary in, administering such section  
5       212(a)(10)(E).”.

6               (B) SAFEGUARDS.—Section 6103(p)(4)  
7       (relating to safeguards) is amended by striking  
8       “or (17)” each place it appears and inserting  
9       “(17), or (18)”.

10           (3) EFFECTIVE DATE.—The amendments made  
11       by this subsection shall apply to individuals who re-  
12       linquish United States citizenship on or after the  
13       date of the enactment of this Act.

14           (e) CONFORMING AMENDMENTS.—

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

17       “(g) APPLICATION.—This section shall not apply to  
18       an expatriate (as defined in section 877A(e)) whose expa-  
19       triation date (as so defined) occurs on or after September  
20       12, 2002.”.

21           (2) Section 2107 is amended by adding at the  
22       end the following new subsection:

23       “(f) APPLICATION.—This section shall not apply to  
24       any expatriate subject to section 877A.”.

1           (3) Section 2501(a)(3) is amended by adding at  
2 the end the following new subparagraph:

3                   “(F) APPLICATION.—This paragraph shall  
4 not apply to any expatriate subject to section  
5 877A.”.

6           (4)(A) Paragraph (1) of section 6039G(d) is  
7 amended by inserting “or 877A” after “section  
8 877”.

9           (B) The second sentence of section 6039G(e) is  
10 amended by inserting “or who relinquishes United  
11 States citizenship (within the meaning of section  
12 877A(e)(3))” after “877(a)”.

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

15           (f) CLERICAL AMENDMENT.—The table of sections  
16 for subpart A of part II of subchapter N of chapter 1  
17 is amended by inserting after the item relating to section  
18 877 the following new item:

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

19           (g) EFFECTIVE DATE.—

20                   (1) IN GENERAL.—Except as provided in this  
21 subsection, the amendments made by this section  
22 shall apply to expatriates (within the meaning of  
23 section 877A(e) of the Internal Revenue Code of  
24 1986, as added by this section) whose expatriation

1 date (as so defined) occurs on or after September  
2 12, 2002.

3 (2) GIFTS AND BEQUESTS.—Section 102(d) of  
4 the Internal Revenue Code of 1986 (as added by  
5 subsection (b)) shall apply to gifts and bequests re-  
6 ceived on or after September 12, 2002, from an indi-  
7 vidual or the estate of an individual whose expatria-  
8 tion date (as so defined) occurs after such date.

9 (3) DUE DATE FOR TENTATIVE TAX.—The due  
10 date under section 877A(h)(2) of the Internal Rev-  
11 enue Code of 1986, as added by this section, shall  
12 in no event occur before the 90th day after the date  
13 of the enactment of this Act.

14 **SEC. 222. EXTENSION OF INTERNAL REVENUE SERVICE**  
15 **USER FEES.**

16 (a) IN GENERAL.—Chapter 77 (relating to miscella-  
17 neous provisions) is amended by adding at the end the  
18 following new section:

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

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

22 “(1) requests to the Internal Revenue Service  
23 for ruling letters, opinion letters, and determination  
24 letters, and

25 “(2) other similar requests.

1 “(b) PROGRAM CRITERIA.—

2 “(1) IN GENERAL.—The fees charged under the  
3 program required by subsection (a)—

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

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

10 “(C) shall be payable in advance.

11 “(2) EXEMPTIONS, ETC.—

12 “(A) IN GENERAL.—The Secretary shall  
13 provide for such exemptions (and reduced fees)  
14 under such program as the Secretary deter-  
15 mines to be appropriate.

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

25 “(i) made after the later of—



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

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

7                   “(ii) made by the sponsor of any pro-  
8                   totype or similar plan which the sponsor  
9                   intends to market to participating employ-  
10                  ers.

11                  “(C) DEFINITIONS AND SPECIAL RULES.—

12                  For purposes of subparagraph (B)—

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

17                   “(ii) ELIGIBLE EMPLOYER.—The  
18                   term ‘eligible employer’ means an eligible  
19                   employer (as defined in section  
20                   408(p)(2)(C)(i)(I)) which has at least 1  
21                   employee who is not a highly compensated  
22                   employee (as defined in section 414(q))  
23                   and is participating in the plan. The deter-  
24                   mination of whether an employer is an eli-  
25                   gible employer under subparagraph (B)

1 shall be made as of the date of the request  
 2 described in such subparagraph.

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

8 “(3) AVERAGE FEE REQUIREMENT.—The aver-  
 9 age fee charged under the program required by sub-  
 10 section (a) shall not be less than the amount deter-  
 11 mined under the following table:

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

12 “(c) TERMINATION.—No fee shall be imposed under  
 13 this section with respect to requests made after September  
 14 30, 2012.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) The table of sections for chapter 77 is  
 17 amended by adding at the end the following new  
 18 item:

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

19 (2) Section 10511 of the Revenue Act of 1987  
 20 is repealed.

1           (3) Section 620 of the Economic Growth and  
2           Tax Relief Reconciliation Act of 2001 is repealed.

3           (c) LIMITATIONS.—Notwithstanding any other provi-  
4           sion of law, any fees collected pursuant to section 7527  
5           of the Internal Revenue Code of 1986, as added by sub-  
6           section (a), shall not be expended by the Internal Revenue  
7           Service unless provided by an appropriations Act.

8           (d) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to requests made after the date  
10          of the enactment of this Act.

11 **SEC. 223. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**  
12 **STALLMENT AGREEMENTS.**

13          (a) IN GENERAL.—

14               (1) Section 6159(a) (relating to authorization  
15               of agreements) is amended—

16                       (A) by striking “satisfy liability for pay-  
17                       ment of” and inserting “make payment on”,  
18                       and

19                       (B) by inserting “full or partial” after “fa-  
20                       cilitate”.

21               (2) Section 6159(c) (relating to Secretary re-  
22               quired to enter into installment agreements in cer-  
23               tain cases) is amended in the matter preceding para-  
24               graph (1) by inserting “full” before “payment”.

1           (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT  
2 AGREEMENTS EVERY TWO YEARS.—Section 6159 is  
3 amended by redesignating subsections (d) and (e) as sub-  
4 sections (e) and (f), respectively, and inserting after sub-  
5 section (c) the following new subsection:

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

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

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