

110TH CONGRESS
1ST SESSION

S. 326

To amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2007

Mrs. LINCOLN (for herself, Mr. THOMAS, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Ms. KLOBUCHAR, Mr. ENZI, Mr. HARKIN, Mr. ROCKEFELLER, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disabled Veterans Tax
5 Fairness Act of 2007”.

1 **SEC. 2. SPECIAL PERIOD OF LIMITATION WHEN UNI-**
 2 **FORMED SERVICES RETIRED PAY IS RE-**
 3 **DUCTION AS A RESULT OF AWARD OF DIS-**
 4 **ABILITY COMPENSATION.**

5 (a) IN GENERAL.—Subsection (d) of section 6511
 6 (relating to special rules applicable to income taxes) is
 7 amended by adding at the end the following new para-
 8 graph:

9 “(8) SPECIAL RULES WHEN UNIFORMED SERV-
 10 ICES RETIRED PAY IS REDUCED AS A RESULT OF
 11 AWARD OF DISABILITY COMPENSATION.—

12 “(A) PERIOD OF LIMITATION ON FILING
 13 CLAIM.—If the claim for credit or refund re-
 14 lates to an overpayment of tax imposed by sub-
 15 title A on account of—

16 “(i) the reduction of uniformed serv-
 17 ices retired pay computed under section
 18 1406 or 1407 of title 10, United States
 19 Code, or

20 “(ii) the waiver of such pay under sec-
 21 tion 5305 of title 38 of such Code,

22 as a result of an award of compensation under
 23 title 38 of such Code pursuant to a determina-
 24 tion by the Secretary of Veterans Affairs, the 3-
 25 year period of limitation prescribed in sub-
 26 section (a) shall be extended, for purposes of

1 permitting a credit or refund based upon the
 2 amount of such reduction or waiver, until the
 3 end of the 1-year period beginning on the date
 4 of such determination.

5 “(B) LIMITATION TO 5 TAXABLE YEARS.—
 6 Subparagraph (A) shall not apply with respect
 7 to any taxable year which began more than 5
 8 years before the date of such determination.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall apply to claims for credit or refund
 11 filed after the date of the enactment of this Act.

12 (c) TRANSITION RULES.—In the case of a determina-
 13 tion described in paragraph (8) of section 6511(d) of the
 14 Internal Revenue Code of 1986 (as added by this section)
 15 which is made by the Secretary of Veterans Affairs after
 16 December 31, 2000, and before the date of the enactment
 17 of this Act, such paragraph—

18 (1) shall not apply with respect to any taxable
 19 year which began before January 1, 2001, and

20 (2) shall be applied by substituting “the date of
 21 the enactment of the Disabled Veterans Tax Fair-
 22 ness Act of 2007” for “the date of such determina-
 23 tion” in subparagraph (A) thereof.

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