

108TH CONGRESS
1ST SESSION

H. R. 1307

AN ACT

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services 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.**

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

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference
10 shall be considered to be made to a section or other provi-
11 sion of the Internal Revenue Code of 1986.

12 **SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED**
13 **SERVICES IN DETERMINING EXCLUSION OF**
14 **GAIN FROM SALE OF PRINCIPAL RESIDENCE.**

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

19 “(10) MEMBERS OF UNIFORMED SERVICES.—

20 “(A) IN GENERAL.—At the election of an
21 individual with respect to a property, the run-
22 ning of the 5-year period referred to in sub-
23 sections (a) and (c)(1)(B) and paragraph (7) of
24 this subsection with respect to such property
25 shall be suspended during any period that such

1 individual or such individual's spouse is serving
2 on qualified official extended duty as a member
3 of the uniformed services.

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

7 “(C) QUALIFIED OFFICIAL EXTENDED
8 DUTY.—For purposes of this paragraph—

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

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

21 “(iii) EXTENDED DUTY.—The term
22 ‘extended duty’ means any period of active
23 duty pursuant to a call or order to such
24 duty for a period in excess of 180 days or
25 for an indefinite period.

1 “(D) SPECIAL RULES RELATING TO ELEC-
2 TION.—

3 “(i) ELECTION LIMITED TO 1 PROP-
4 ERTY AT A TIME.—An election under sub-
5 paragraph (A) with respect to any property
6 may not be made if such an election is in
7 effect with respect to any other property.

8 “(ii) REVOCATION OF ELECTION.—An
9 election under subparagraph (A) may be
10 revoked at any time.”.

11 (b) EFFECTIVE DATE; SPECIAL RULE.—

12 (1) EFFECTIVE DATE.—The amendment made
13 by this section shall take effect as if included in the
14 amendments made by section 312 of the Taxpayer
15 Relief Act of 1997.

16 (2) WAIVER OF LIMITATIONS.—If refund or
17 credit of any overpayment of tax resulting from the
18 amendment made by this section is prevented at any
19 time before the close of the 1-year period beginning
20 on the date of the enactment of this Act by the oper-
21 ation of any law or rule of law (including res judi-
22 cata), such refund or credit may nevertheless be
23 made or allowed if claim therefor is filed before the
24 close of such period.

1 **SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS**
2 **INCOME OF DEATH GRATUITY PAYMENT.**

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

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

13 (b) CONFORMING AMENDMENT.—Section
14 134(b)(3)(A) is amended by striking “subparagraph (B)”
15 and inserting “subparagraphs (B) and (C)”.

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

19 **SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
20 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
21 **SISTANCE PROGRAM.**

22 (a) IN GENERAL.—Subsection (a) of section 132 (re-
23 lating to certain fringe benefits) is amended by striking
24 “or” at the end of paragraph (6), by striking the period
25 at the end of paragraph (7) and inserting “, or” and by
26 adding at the end the following new paragraph:

1 “(8) qualified military base realignment and
2 closure fringe.”.

3 (b) QUALIFIED MILITARY BASE REALIGNMENT AND
4 CLOSURE FRINGE.—Section 132 is amended by redesignig-
5 nating subsection (n) as subsection (o) and by inserting
6 after subsection (m) the following new subsection:

7 “(n) QUALIFIED MILITARY BASE REALIGNMENT AND
8 CLOSURE FRINGE.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘qualified military base realignment
11 and closure fringe’ means 1 or more payments under
12 the authority of section 1013 of the Demonstration
13 Cities and Metropolitan Development Act of 1966
14 (42 U.S.C. 3374) (as in effect on the date of the en-
15 actment of this subsection).

16 “(2) LIMITATION.—With respect to any prop-
17 erty, such term shall not include any payment re-
18 ferred to in paragraph (1) to the extent that the
19 sum of all such payments related to such property
20 exceeds the amount described in clause (1) of sub-
21 section (c) of such section (as in effect on such
22 date).”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to payments made after the date
25 of the enactment of this Act.

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

3 (a) IN GENERAL.—Subsection (a) of section 7508
4 (relating to time for performing certain acts postponed by
5 reason of service in combat zone) is amended—

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

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

17 (3) by inserting “or operation” after “such an
18 area”, and

19 (4) by inserting “or operation” after “such
20 area”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 7508(d) is amended by inserting
23 “or contingency operation” after “area”.

24 (2) The heading for section 7508 is amended by
25 inserting “**OR CONTINGENCY OPERATION**” after
26 “**COMBAT ZONE**”.

1 (3) The item relating to section 7508 in the
2 table of sections for chapter 77 is amended by in-
3 serting “or contingency operation” after “combat
4 zone”.

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

9 **SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT**
10 **FOR EXEMPTION FROM TAX FOR CERTAIN**
11 **VETERANS’ ORGANIZATIONS.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 501(c)(19) (relating to list of exempt organizations) is
14 amended by striking “or widowers” and inserting “, wid-
15 owers, ancestors, or lineal descendants”.

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

19 **SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN**
20 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

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

24 “(4) CLARIFICATION OF CERTAIN BENEFITS.—
25 For purposes of paragraph (1), such term includes

1 any dependent care assistance program (as in effect
2 on the date of the enactment of this paragraph) for
3 any individual described in paragraph (1)(A).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 134(b)(3)(A) (as amended by sec-
6 tion 102) is further amended by inserting “and
7 paragraph (4)” after “subparagraphs (B) and (C)”.

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

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

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

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

17 **SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM**
18 **ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PRO-**
19 **GRAMS, ETC., ON ACCOUNT OF ATTENDANCE**
20 **AT MILITARY ACADEMY.**

22 (a) IN GENERAL.—Subparagraph (B) of section
23 530(d)(4) (relating to exceptions from additional tax for
24 distributions not used for educational purposes) is amend-
25 ed by striking “or” at the end of clause (iii), by redesignig-

1 nating clause (iv) as clause (v), and by inserting after
2 clause (iii) the following new clause:

3 “(iv) made on account of the attend-
4 ance of the designated beneficiary at the
5 United States Military Academy, the
6 United States Naval Academy, the United
7 States Air Force Academy, the United
8 States Coast Guard Academy, or the
9 United States Merchant Marine Academy,
10 to the extent that the amount of the pay-
11 ment or distribution does not exceed the
12 costs of advanced education (as defined by
13 section 2005(e)(3) of title 10, United
14 States Code, as in effect on the date of the
15 enactment of this section) attributable to
16 such attendance, or”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect for taxable years beginning
19 after December 31, 2002.

20 **SEC. 9. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
21 **TRAVEL EXPENSES OF NATIONAL GUARD**
22 **AND RESERVE MEMBERS.**

23 (a) DEDUCTION ALLOWED.—Section 162 (relating to
24 certain trade or business expenses) is amended by redesignig-

1 nating subsection (p) as subsection (q) and inserting after
2 subsection (o) the following new subsection:

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

13 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
14 PAYER ELECTS TO ITEMIZE.—Paragraph (2) of section
15 62(a) (relating to certain trade and business deductions
16 of employees) is amended by adding at the end the fol-
17 lowing new subparagraph:

18 “(E) CERTAIN EXPENSES OF MEMBERS OF
19 RESERVE COMPONENTS OF THE ARMED FORCES
20 OF THE UNITED STATES.—The deductions al-
21 lowed by section 162 which consist of expenses,
22 not in excess of \$1,500, paid or incurred by the
23 taxpayer in connection with the performance of
24 services by such taxpayer as a member of a re-
25 serve component of the Armed Forces of the

1 United States for any period during which such
2 individual is more than 100 miles away from
3 home in connection with such services.”.

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

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

8 The amounts transferred to any trust fund under
9 title II of the Social Security Act shall be determined as
10 if this Act (other than this section) had not been enacted.

Passed the House of Representatives March 20,
2003.

Attest:

Clerk.

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AN ACT

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services 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.