

106TH CONGRESS
2D SESSION

H. R. 4159

To amend the Internal Revenue Code of 1986 to allow a refundable credit for long-term care and to offset the revenue cost of the credit by revising the rules on expatriation.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2000

Ms. STABENOW introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a refundable credit for long-term care and to offset the revenue cost of the credit by revising the rules on expatriation.

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 “Long-Term Care for
5 Families Act of 2000”.

6 **SEC. 2. REFUNDABLE CREDIT FOR LONG-TERM CARE.**

7 (a) GENERAL RULE.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by redese-
2 ignating section 35 as section 36 and by inserting after
3 section 34 the following new section:

4 **“SEC. 35. FAMILY CARE CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—There shall be al-
6 lowed as a credit against the tax imposed by this chapter
7 for the taxable year an amount equal to the sum of \$3,000
8 multiplied by the number of applicable individuals with re-
9 spect to whom the taxpayer is an eligible caregiver for the
10 taxable year.

11 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
12 COME.—

13 “(1) IN GENERAL.—The amount of the credit
14 allowable under subsection (a) shall be reduced (but
15 not below zero) by \$100 for each \$1,000 (or fraction
16 thereof) by which the taxpayer’s modified adjusted
17 gross income exceeds the threshold amount. For
18 purposes of the preceding sentence, the term ‘modi-
19 fied adjusted gross income’ means adjusted gross in-
20 come increased by any amount excluded from gross
21 income under section 911, 931, or 933.

22 “(2) THRESHOLD AMOUNT.—For purposes of
23 paragraph (1), the term ‘threshold amount’ means—

24 “(A) \$110,000 in the case of a joint re-
25 turn,

1 “(B) \$75,000 in the case of an individual
2 who is not married, and

3 “(C) \$55,000 in the case of a married in-
4 dividual filing a separate return.

5 For purposes of this paragraph, marital status shall
6 be determined under section 7703.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) APPLICABLE INDIVIDUAL.—

9 “(A) IN GENERAL.—The term ‘applicable
10 individual’ means, with respect to any taxable
11 year, any individual who has been certified, be-
12 fore the due date for filing the return of tax for
13 the taxable year (without extensions), by a phy-
14 sician (as defined in section 1861(r)(1) of the
15 Social Security Act) as being an individual with
16 long-term care needs described in subparagraph
17 (B) for a period—

18 “(i) which is at least 180 consecutive
19 days, and

20 “(ii) a portion of which occurs within
21 the taxable year.

22 Such term shall not include any individual oth-
23 erwise meeting the requirements of the pre-
24 ceding sentence unless within the 39½ month
25 period ending on such due date (or such other

1 period as the Secretary prescribes) a physician
2 (as so defined) has certified that such indi-
3 vidual meets such requirements.

4 “(B) INDIVIDUALS WITH LONG-TERM CARE
5 NEEDS.—An individual is described in this sub-
6 paragraph if the individual meets any of the fol-
7 lowing requirements:

8 “(i) The individual is at least 6 years
9 of age and—

10 “(I) is unable to perform (with-
11 out substantial assistance from an-
12 other individual) at least 3 activities
13 of daily living (as defined in section
14 7702B(c)(2)(B)) due to a loss of
15 functional capacity, or

16 “(II) requires substantial super-
17 vision to protect such individual from
18 threats to health and safety due to se-
19 vere cognitive impairment and is un-
20 able to perform at least 1 activity of
21 daily living (as so defined) or to the
22 extent provided in regulations pre-
23 scribed by the Secretary (in consulta-
24 tion with the Secretary of Health and

1 Human Services), is unable to engage
2 in age appropriate activities, or

3 “(III) requires substantial super-
4 vision to protect such individual from
5 threats to health and safety due to a
6 severe psychological disability, mental
7 retardation, or related developmental
8 disabilities and would otherwise re-
9 quire residence in a psychiatric hos-
10 pital, an intermediate care facility for
11 the mentally retarded, or similar resi-
12 dential facility approved by the Sec-
13 retary of Health and Human Services.

14 “(ii) The individual is at least 2 but
15 not 6 years of age and is unable due to a
16 loss of functional capacity to perform
17 (without substantial assistance from an-
18 other individual) at least 2 of the following
19 activities: eating, transferring, or mobility.

20 “(iii) The individual is under 2 years
21 of age and requires specific durable med-
22 ical equipment by reason of a severe health
23 condition or requires a skilled practitioner
24 trained to address the individual’s condi-

1 tion to be available if the individual’s par-
2 ents or guardians are absent.

3 “(C) PSYCHOLOGICAL DISABILITY DE-
4 FINED.—In this section, the term ‘psychological
5 disability’ shall refer to diagnosable clinical con-
6 ditions on Axis I or Axis II of the current edi-
7 tion of the American Psychiatric Association’s
8 Diagnostic and Statistical Manual of Mental
9 Disorders and is of a severity that requires sub-
10 stantial supervision or residence in a psychiatric
11 hospital or similar residential facility approved
12 by the Secretary.

13 “(D) MENTAL RETARDATION DEFINED.—
14 In this section, the term ‘mental retardation’
15 shall have the same meaning as ‘developmental
16 disabilities’ as defined in section 102 of the De-
17 velopmental Disabilities Assistance and Bill of
18 Rights Act (42 U.S.C. 6000) consistent with
19 the requirements of section 305(a)(2)(E) and is
20 of a severity that requires substantial super-
21 vision or residence in an intermediate care facil-
22 ity for the mentally retarded, or similar residen-
23 tial facility approved by the Secretary of Health
24 and Human Services.

25 “(2) ELIGIBLE CAREGIVER.—

1 “(A) IN GENERAL.—A taxpayer shall be
2 treated as an eligible caregiver for any taxable
3 year with respect to the following individuals:

4 “(i) The taxpayer.

5 “(ii) The taxpayer’s spouse.

6 “(iii) An individual with respect to
7 whom the taxpayer is allowed a deduction
8 under section 151 for the taxable year.

9 “(iv) An individual who would be de-
10 scribed in clause (iii) for the taxable year
11 if section 151(c)(1)(A) were applied by
12 substituting for the exemption amount an
13 amount equal to the sum of the exemption
14 amount, the standard deduction under sec-
15 tion 63(c)(2)(C), and any additional stand-
16 ard deduction under section 63(c)(3) which
17 would be applicable to the individual if
18 clause (iii) applied.

19 “(v) An individual who would be de-
20 scribed in clause (iii) for the taxable year
21 if—

22 “(I) the requirements of clause
23 (iv) are met with respect to the indi-
24 vidual, and

1 “(II) the requirements of sub-
2 paragraph (B) are met with respect to
3 the individual in lieu of the support
4 test of section 152(a).

5 “(B) RESIDENCY TEST.—The require-
6 ments of this subparagraph are met if an indi-
7 vidual has as his principal place of abode the
8 home of the taxpayer and—

9 “(i) in the case of an individual who
10 is an ancestor or descendant of the tax-
11 payer or the taxpayer’s spouse, is a mem-
12 ber of the taxpayer’s household for over
13 half the taxable year, or

14 “(ii) in the case of any other indi-
15 vidual, is a member of the taxpayer’s
16 household for the entire taxable year.

17 “(C) SPECIAL RULES WHERE MORE THAN
18 1 ELIGIBLE CAREGIVER.—

19 “(i) IN GENERAL.—If more than 1 in-
20 dividual is an eligible caregiver with re-
21 spect to the same applicable individual for
22 taxable years ending with or within the
23 same calendar year, a taxpayer shall be
24 treated as the eligible caregiver if each
25 such individual (other than the taxpayer)

1 files a written declaration (in such form
2 and manner as the Secretary may pre-
3 scribe) that such individual will not claim
4 such applicable individual for the credit
5 under this section.

6 “(ii) NO AGREEMENT.—If each indi-
7 vidual required under clause (i) to file a
8 written declaration under clause (i) does
9 not do so, the individual with the highest
10 modified adjusted gross income (as defined
11 in section 32(c)(5)) shall be treated as the
12 eligible caregiver.

13 “(iii) MARRIED INDIVIDUALS FILING
14 SEPARATELY.—In the case of married indi-
15 viduals filing separately, the determination
16 under this subparagraph as to whether the
17 husband or wife is the eligible caregiver
18 shall be made under the rules of clause (ii)
19 (whether or not one of them has filed a
20 written declaration under clause (i)).

21 “(d) IDENTIFICATION REQUIREMENT.—No credit
22 shall be allowed under this section to a taxpayer with re-
23 spect to any applicable individual unless the taxpayer in-
24 cludes the name and taxpayer identification number of
25 such individual, and the identification number of the phy-

1 sician or licensed independent practitioner licensed by the
2 State to render relevant diagnosis certifying such indi-
3 vidual, on the return of tax for the taxable year.

4 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
5 YEAR.—Except in the case of a taxable year closed by rea-
6 son of the death of the taxpayer, no credit shall be allow-
7 able under this section in the case of a taxable year cov-
8 ering a period of less than 12 months.”.

9 (b) CONFORMING AND CLERICAL AMENDMENTS.—

10 (1) Paragraph (2) of section 6213(g) of such
11 Code (relating to mathematical or clerical error) is
12 amended—

13 (A) by striking “and” at the end of sub-
14 paragraph (K), by striking the period at the
15 end of subparagraph (L) and inserting “, and”,
16 and by inserting after subparagraph (L) the fol-
17 lowing new subparagraph:

18 “(M) an omission of a correct TIN or phy-
19 sician identification required under section
20 24(e) (relating to family care credit) to be in-
21 cluded on a return.”, and

22 (B) in the matter preceding clause (i) of
23 subparagraph (L), by striking “or 32” and in-
24 serting “32, or 35”.

1 (2) The table of sections for subpart C of part
 2 IV of subchapter A of chapter 1 of such Code is
 3 amended by striking the item relating to section 35
 4 and inserting the following:

 “Sec. 35. Family care credit.
 “Sec. 36. Overpayments of tax.”

5 (c) **APPROPRIATIONS FOR REFUND.**—Section
 6 1324(b)(2) of title 31, United States Code, is amended
 7 by inserting before the period “, or of section 35 of such
 8 Code”.

9 (d) **EFFECTIVE DATE.**—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2000.

12 **SEC. 3. REVISION OF TAX RULES ON EXPATRIATION.**

13 (a) **IN GENERAL.**—Subpart A of part II of sub-
 14 chapter N of chapter 1 of the Internal Revenue Code of
 15 1986 is amended by inserting after section 877 the fol-
 16 lowing new section:

17 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

18 “(a) **GENERAL RULES.**—For purposes of this
 19 subtitle—

20 “(1) **MARK TO MARKET.**—Except as provided in
 21 subsection (f), all property of a covered expatriate to
 22 whom this section applies shall be treated as sold on
 23 the day before the expatriation date for its fair mar-
 24 ket value.

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

3 “(A) notwithstanding any other provision
4 of this title, any gain arising from such sale
5 shall be taken into account for the taxable year
6 of the sale, and

7 “(B) any loss arising from such sale shall
8 be taken into account for the taxable year of
9 the sale to the extent otherwise provided by this
10 title, except that section 1091 shall not apply to
11 any such loss.

12 Proper adjustment shall be made in the amount of
13 any gain or loss subsequently realized for gain or
14 loss taken into account under the preceding sen-
15 tence.

16 “(3) EXCLUSION FOR CERTAIN GAIN.—The
17 amount which would (but for this paragraph) be in-
18 cludible in the gross income of any individual by rea-
19 son of this section shall be reduced (but not below
20 zero) by \$600,000. For purposes of this paragraph,
21 allocable expatriation gain taken into account under
22 subsection (f)(2) shall be treated in the same man-
23 ner as an amount required to be includible in gross
24 income.

25 “(b) ELECTION TO DEFER TAX.—

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

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

21 “(3) TERMINATION OF POSTPONEMENT.—No
22 tax may be postponed under this subsection later
23 than the due date for the return of tax imposed by
24 this chapter for the taxable year which includes the
25 date of death of the expatriate (or, if earlier, the

1 time that the security provided with respect to the
2 property fails to meet the requirements of paragraph
3 (4), unless the taxpayer corrects such failure within
4 the time specified by the Secretary).

5 “(4) SECURITY.—

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

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

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

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

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

1 “(6) ELECTIONS.—An election under paragraph
2 (1) shall only apply to property described in the elec-
3 tion and, once made, is irrevocable. An election may
4 be under paragraph (1) with respect to an interest
5 in a trust with respect to which gain is required to
6 be recognized under subsection (f)(1).

7 “(7) INTEREST.—For purposes of section 6601,
8 the last date for the payment of tax shall be deter-
9 mined without regard to the election under this sub-
10 section.

11 “(c) COVERED EXPATRIATE.—For purposes of this
12 section—

13 “(1) IN GENERAL.—The term ‘covered expa-
14 triate’ means an expatriate who meets the require-
15 ments of subparagraph (A) or (B) of section
16 877(a)(2).

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

19 “(A) the individual—

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

1 “(ii) has been a resident of the United
2 States (as defined in section
3 7701(b)(1)(A)(ii)) for not more than 8 tax-
4 able years during the 15-taxable year pe-
5 riod ending with the taxable year during
6 which the expatriation date occurs, or

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

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

14 “(d) SECTION NOT TO APPLY TO CERTAIN PROP-
15 ERTY.—This section shall not apply to the following prop-
16 erty:

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

23 “(2) INTEREST IN CERTAIN RETIREMENT
24 PLANS.—

1 “(A) IN GENERAL.—Any interest in a
2 qualified retirement plan (as defined in section
3 4974(c)), other than any interest attributable to
4 contributions which are in excess of any limita-
5 tion or which violate any condition for tax-fa-
6 vored treatment.

7 “(B) FOREIGN PENSION PLANS.—

8 “(i) IN GENERAL.—Under regulations
9 prescribed by the Secretary, interests in
10 foreign pension plans or similar retirement
11 arrangements or programs.

12 “(ii) LIMITATION.—The value of prop-
13 erty which is treated as not sold by reason
14 of this subparagraph shall not exceed
15 \$500,000.

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

17 “(1) EXPATRIATE.—The term ‘expatriate’
18 means—

19 “(A) any United States citizen who relin-
20 quishes his citizenship, and

21 “(B) any long-term resident of the United
22 States who—

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

1 “(ii) commences to be treated as a
2 resident of a foreign country under the
3 provisions of a tax treaty between the
4 United States and the foreign country and
5 who does not waive the benefits of such
6 treaty applicable to residents of the foreign
7 country.

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

10 “(A) the date an individual relinquishes
11 United States citizenship, or

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

15 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
16 citizen shall be treated as relinquishing his United
17 States citizenship on the earliest of—

18 “(A) the date the individual renounces his
19 United States nationality before a diplomatic or
20 consular officer of the United States pursuant
21 to paragraph (5) of section 349(a) of the Immig-
22 ration and Nationality Act (8 U.S.C.
23 1481(a)(5)),

24 “(B) the date the individual furnishes to
25 the United States Department of State a signed

1 statement of voluntary relinquishment of
2 United States nationality confirming the per-
3 formance of an act of expatriation specified in
4 paragraph (1), (2), (3), or (4) of section 349(a)
5 of the Immigration and Nationality Act (8
6 U.S.C. 1481(a)(1)–(4)),

7 “(C) the date the United States Depart-
8 ment of State issues to the individual a certifi-
9 cate of loss of nationality, or

10 “(D) the date a court of the United States
11 cancels a naturalized citizen’s certificate of nat-
12 uralization.

13 Subparagraph (A) or (B) shall not apply to any indi-
14 vidual unless the renunciation or voluntary relin-
15 quishment is subsequently approved by the issuance
16 to the individual of a certificate of loss of nationality
17 by the United States Department of State.

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

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

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if an individual is determined under para-

1 graph (3) to hold an interest in a trust on the day
2 before the expatriation date—

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

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

7 “(C)(i) such separate share shall be treat-
8 ed as a separate trust consisting of the assets
9 allocable to such share,

10 “(ii) the separate trust shall be treated as
11 having sold its assets on the day before the ex-
12 patriation date for their fair market value and
13 as having distributed all of its assets to the in-
14 dividual as of such time, and

15 “(iii) the individual shall be treated as hav-
16 ing recontributed the assets to the separate
17 trust.

18 Subsection (a)(2) shall apply to any income, gain, or
19 loss of the individual arising from a distribution de-
20 scribed in subparagraph (C)(ii).

21 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
22 FIED TRUSTS.—

23 “(A) IN GENERAL.—If the trust interest
24 described in paragraph (1) is an interest in a
25 qualified trust—

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

3 “(ii) in addition to any other tax im-
4 posed by this title, there is hereby imposed
5 on each distribution with respect to such
6 interest a tax in the amount determined
7 under subparagraph (B).

8 “(B) AMOUNT OF TAX.—The amount of
9 tax under subparagraph (A)(ii) shall be equal to
10 the lesser of—

11 “(i) the highest rate of tax imposed by
12 section 1(e) for the taxable year which in-
13 cludes the day before the expatriation date,
14 multiplied by the amount of the distribu-
15 tion, or

16 “(ii) the balance in the deferred tax
17 account immediately before the distribution
18 determined without regard to any increases
19 under subparagraph (C)(ii) after the 30th
20 day preceding the distribution.

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

23 “(i) OPENING BALANCE.—The open-
24 ing balance in a deferred tax account with
25 respect to any trust interest is an amount

1 equal to the tax which would have been im-
2 posed on the allocable expatriation gain
3 with respect to the trust interest if such
4 gain had been included in gross income
5 under subsection (a).

6 “(ii) INCREASE FOR INTEREST.—The
7 balance in the deferred tax account shall
8 be increased by the amount of interest de-
9 termined (on the balance in the account at
10 the time the interest accrues), for periods
11 after the 90th day after the expatriation
12 date, by using the rates and method appli-
13 cable under section 6621 for underpay-
14 ments of tax for such periods.

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

18 “(I) by the amount of taxes im-
19 posed by subparagraph (A) on any
20 distribution to the person holding the
21 trust interest, and

22 “(II) in the case of a person
23 holding a nonvested interest, to the
24 extent provided in regulations, by the
25 amount of taxes imposed by subpara-

1 graph (A) on distributions from the
2 trust with respect to nonvested inter-
3 ests not held by such person.

4 “(D) ALLOCABLE EXPATRIATION GAIN.—
5 For purposes of this paragraph, the allocable
6 expatriation gain with respect to any bene-
7 ficiary’s interest in a trust is the amount of
8 gain which would be allocable to such bene-
9 ficiary’s vested and nonvested interests in the
10 trust if the beneficiary held directly all assets
11 allocable to such interests.

12 “(E) TAX DEDUCTED AND WITHHELD.—
13 “(i) IN GENERAL.—The tax imposed
14 by subparagraph (A)(ii) shall be deducted
15 and withheld by the trustees from the dis-
16 tribution to which it relates.

17 “(ii) EXCEPTION WHERE FAILURE TO
18 WAIVE TREATY RIGHTS.—If an amount
19 may not be deducted and withheld under
20 clause (i) by reason of the distributee fail-
21 ing to waive any treaty right with respect
22 to such distribution—

23 “(I) the tax imposed by subpara-
24 graph (A)(ii) shall be imposed on the
25 trust and each trustee shall be person-

1 ally liable for the amount of such tax,
2 and

3 “(II) any other beneficiary of the
4 trust shall be entitled to recover from
5 the distributee the amount of such tax
6 imposed on the other beneficiary.

7 “(F) DISPOSITION.—If a trust ceases to be
8 a qualified trust at any time, a covered expa-
9 triate disposes of an interest in a qualified
10 trust, or a covered expatriate holding an inter-
11 est in a qualified trust dies, then, in lieu of the
12 tax imposed by subparagraph (A)(ii), there is
13 hereby imposed a tax equal to the lesser of—

14 “(i) the tax determined under para-
15 graph (1) as if the day before the expatria-
16 tion date were the date of such cessation,
17 disposition, or death, whichever is applica-
18 ble, or

19 “(ii) the balance in the tax deferred
20 account immediately before such date.

21 Such tax shall be imposed on the trust and
22 each trustee shall be personally liable for the
23 amount of such tax and any other beneficiary
24 of the trust shall be entitled to recover from the

1 covered expatriate or the estate the amount of
2 such tax imposed on the other beneficiary.

3 “(G) DEFINITIONS AND SPECIAL RULE.—

4 For purposes of this paragraph—

5 “(i) QUALIFIED TRUST.—The term
6 ‘qualified trust’ means a trust—

7 “(I) which is organized under,
8 and governed by, the laws of the
9 United States or a State, and

10 “(II) with respect to which the
11 trust instrument requires that at least
12 1 trustee of the trust be an individual
13 citizen of the United States or a do-
14 mestic corporation.

15 “(ii) VESTED INTEREST.—The term
16 ‘vested interest’ means any interest which,
17 as of the day before the expatriation date,
18 is vested in the beneficiary.

19 “(iii) NONVESTED INTEREST.—The
20 term ‘nonvested interest’ means, with re-
21 spect to any beneficiary, any interest in a
22 trust which is not a vested interest. Such
23 interest shall be determined by assuming
24 the maximum exercise of discretion in
25 favor of the beneficiary and the occurrence

1 of all contingencies in favor of the bene-
2 ficiary.

3 “(iv) ADJUSTMENTS.—The Secretary
4 may provide for such adjustments to the
5 bases of assets in a trust or a deferred tax
6 account, and the timing of such adjust-
7 ments, in order to ensure that gain is
8 taxed only once.

9 “(3) DETERMINATION OF BENEFICIARIES’ IN-
10 TEREST IN TRUST.—

11 “(A) DETERMINATIONS UNDER PARA-
12 GRAPH (1).—For purposes of paragraph (1), a
13 beneficiary’s interest in a trust shall be based
14 upon all relevant facts and circumstances, in-
15 cluding the terms of the trust instrument and
16 any letter of wishes or similar document, histor-
17 ical patterns of trust distributions, and the ex-
18 istence of and functions performed by a trust
19 protector or any similar advisor.

20 “(B) OTHER DETERMINATIONS.—For pur-
21 poses of this section—

22 “(i) CONSTRUCTIVE OWNERSHIP.—If
23 a beneficiary of a trust is a corporation,
24 partnership, trust, or estate, the share-
25 holders, partners, or beneficiaries shall be

1 deemed to be the trust beneficiaries for
2 purposes of this section.

3 “(ii) TAXPAYER RETURN POSITION.—

4 A taxpayer shall clearly indicate on its in-
5 come tax return—

6 “(I) the methodology used to de-
7 termine that taxpayer’s trust interest
8 under this section, and

9 “(II) if the taxpayer knows (or
10 has reason to know) that any other
11 beneficiary of such trust is using a
12 different methodology to determine
13 such beneficiary’s trust interest under
14 this section.

15 “(g) TERMINATION OF DEFERRALS, ETC.—In the
16 case of any covered expatriate, notwithstanding any other
17 provision of this title—

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

21 “(2) any extension of time for payment of tax
22 shall cease to apply on the day before the expatria-
23 tion date and the unpaid portion of such tax shall
24 be due and payable at the time and in the manner
25 prescribed by the Secretary.

1 “(h) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section.”

4 (b) TAX ON GIFTS AND BEQUESTS RECEIVED BY
5 UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-
6 TRIATES.—

7 (1) IN GENERAL.—Subtitle B of the Internal
8 Revenue Code of 1986 (relating to estate and gift
9 taxes) is amended by inserting after chapter 13 the
10 following new chapter:

11 **“CHAPTER 13A—GIFTS AND BEQUESTS**
12 **FROM EXPATRIATES**

“Sec. 2681. Imposition of tax.

13 **“SEC. 2681. IMPOSITION OF TAX.**

14 “(a) IN GENERAL.—If, during any calendar year, any
15 United States citizen or resident receives any covered gift
16 or bequest, there is hereby imposed a tax equal to the
17 product of—

18 “(1) the highest rate of tax specified in the
19 table contained in section 2001(c) as in effect on the
20 date of such receipt, and

21 “(2) the value of such covered gift or bequest.

22 “(b) TAX TO BE PAID BY RECIPIENT.—The tax im-
23 posed by subsection (a) on any covered gift or bequest
24 shall be paid by the person receiving such gift or bequest.

1 “(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection
2 (a) shall apply only to the extent that the covered gifts
3 and bequests received during the calendar year exceed
4 \$10,000.

5 “(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE
6 TAX.—The tax imposed by subsection (a) on any covered
7 gift or bequest shall be reduced by the amount of any gift
8 or estate tax paid to a foreign country with respect to such
9 covered gift or bequest.

10 “(e) COVERED GIFT OR BEQUEST.—

11 “(1) IN GENERAL.—For purposes of this chap-
12 ter, the term ‘covered gift or bequest’ means—

13 “(A) any property acquired by gift directly
14 or indirectly from an individual who, at the
15 time of such acquisition, was an expatriate, and

16 “(B) any property acquired by bequest, de-
17 vise, or inheritance directly or indirectly from
18 an individual who, at the time of death, was an
19 expatriate.

20 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
21 SUBJECT TO ESTATE OR GIFT TAX.—Such term shall
22 not include—

23 “(A) any property shown on a timely filed
24 return of tax imposed by chapter 12 which is a
25 taxable gift by the expatriate, and

1 “(B) any property shown on a timely filed
2 return of tax imposed by chapter 11 of the es-
3 tate of the expatriate.

4 “(3) TRANSFERS IN TRUST.—Any covered gift
5 or bequest which is made in trust shall be treated
6 as made to the beneficiaries of such trust in propor-
7 tion to their respective interests in such trust (as de-
8 termined under section 877A(f)(3)).

9 “(f) EXPATRIATE.—For purposes of this section, the
10 term ‘expatriate’ has the meaning given to such term by
11 section 877A(e)(1).”.

12 (2) CLERICAL AMENDMENT.—The table of
13 chapters for subtitle B of such Code is amended by
14 inserting after the item relating to chapter 13 the
15 following new item:

 “Chapter 13A. Gifts and bequests from expatriates.”

16 (c) DEFINITION OF TERMINATION OF UNITED
17 STATES CITIZENSHIP.—Section 7701(a) of such Code is
18 amended by adding at the end the following new para-
19 graph:

20 “(47) TERMINATION OF UNITED STATES CITI-
21 ZENSHIP.—

22 “(A) IN GENERAL.—An individual shall
23 not cease to be treated as a United States cit-
24 izen before the date on which the individual’s

1 citizenship is treated as relinquished under sec-
2 tion 877A(e)(3).

3 “(B) DUAL CITIZENS.—Under regulations
4 prescribed by the Secretary, subparagraph (A)
5 shall not apply to an individual who became at
6 birth a citizen of the United States and a cit-
7 izen of another country.”

8 (d) CONFORMING AMENDMENT.—Paragraph (1) of
9 section 6039G(d) of such Code is amended by inserting
10 “or 877A” after “section 877”.

11 (e) CLERICAL AMENDMENT.—The table of sections
12 for subpart A of part II of subchapter N of chapter 1
13 of such Code is amended by inserting after the item relat-
14 ing to section 877 the following new item:

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

15 (f) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in this
17 subsection, the amendments made by this section
18 shall apply to expatriates (within the meaning of
19 section 877A(e) of the Internal Revenue Code of
20 1986, as added by this section) whose expatriation
21 date (as so defined) occurs on or after the date of
22 action by the Committee on Ways and Means on this
23 Act.

24 (2) GIFTS AND BEQUESTS.—Chapter 13A of
25 the Internal Revenue Code of 1986 (as added by

1 subsection (b)) shall apply to covered gifts and be-
2 quests (as defined in section 2681 of such Code, as
3 so added) received on or after the date of action by
4 the Committee on Ways and Means on this Act, re-
5 gardless of when the transferor expatriated.

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