

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6081

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IN THE SENATE OF THE UNITED STATES

MAY 21, 2008

Received

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## AN ACT

To amend the Internal Revenue Code of 1986 to provide benefits for military personnel, 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,*

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Heroes Earnings Assistance and Relief Tax Act of  
4 2008”.

5 (b) **REFERENCE.**—Except as otherwise expressly pro-  
6 vided, whenever in this Act an amendment or repeal is  
7 expressed in terms of an amendment to, or repeal of, a  
8 section or other provision, the reference shall be consid-  
9 ered to be made to a section or other provision of the In-  
10 ternal Revenue Code of 1986.

11 (c) **TABLE OF CONTENTS.**—The table of contents for  
12 this Act is as follows:

Sec. 1. Short title, etc.

**TITLE I—BENEFITS FOR MILITARY**

Sec. 101. Recovery rebate provided to military families.

Sec. 102. Election to include combat pay as earned income for purposes of  
earned income tax credit.

Sec. 103. Modification of mortgage revenue bonds for veterans.

Sec. 104. Survivor and disability payments with respect to qualified military  
service.

Sec. 105. Treatment of differential military pay as wages.

Sec. 106. Special period of limitation when uniformed services retired pay is re-  
duced as a result of award of disability compensation.

Sec. 107. Distributions from retirement plans to individuals called to active  
duty.

Sec. 108. Authority to disclose return information for certain veterans pro-  
grams made permanent.

Sec. 109. Contributions of military death gratuities to Roth IRAs and Edu-  
cation Savings Accounts.

Sec. 110. Suspension of 5-year period during service with the Peace Corps.

Sec. 111. Credit for employer differential wage payments to employees who are  
active duty members of the uniformed services.

Sec. 112. State payments to service members treated as qualified military bene-  
fits.

Sec. 113. Permanent exclusion of gain from sale of a principal residence by cer-  
tain employees of the intelligence community.

Sec. 114. Special disposition rules for unused benefits in health flexible spend-  
ing arrangements of individuals called to active duty.

Sec. 115. Technical correction related to exclusion of certain property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders.

#### TITLE II—IMPROVEMENTS IN SUPPLEMENTAL SECURITY INCOME

Sec. 201. Treatment of uniformed service cash remuneration as earned income.  
 Sec. 202. State annuities for certain veterans to be disregarded in determining supplemental security income benefits.  
 Sec. 203. Exclusion of AmeriCorps benefits for purposes of determining supplemental security income eligibility and benefit amounts.  
 Sec. 204. Effective date.

#### TITLE III—REVENUE PROVISIONS

Sec. 301. Revision of tax rules on expatriation.  
 Sec. 302. Certain domestically controlled foreign persons performing services under contract with United States Government treated as American employers.  
 Sec. 303. Increase in minimum penalty on failure to file a return of tax.

#### TITLE IV—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

Sec. 401. Parity in the application of certain limits to mental health benefits.

1                   **TITLE I—BENEFITS FOR**  
 2                                   **MILITARY**  
 3   **SEC. 101. RECOVERY REBATE PROVIDED TO MILITARY**  
 4                                   **FAMILIES.**

5           (a) IN GENERAL.—Subsection (h) of section 6428  
 6 (relating to identification number requirement) is amend-  
 7 ed by adding at the end the following new paragraph:

8                   “(3) SPECIAL RULE FOR MEMBERS OF THE  
 9           ARMED FORCES.—Paragraph (1) shall not apply to  
 10           a joint return where at least 1 spouse was a member  
 11           of the Armed Forces of the United States at any  
 12           time during the taxable year.”.

13           (b) EFFECTIVE DATE.—The amendments made by  
 14 this section shall take effect as if included in the amend-

1 ments made by section 101 of the Economic Stimulus Act  
2 of 2008.

3 **SEC. 102. ELECTION TO INCLUDE COMBAT PAY AS EARNED**  
4 **INCOME FOR PURPOSES OF EARNED INCOME**  
5 **TAX CREDIT.**

6 (a) IN GENERAL.—Clause (vi) of section 32(c)(2)(B)  
7 (defining earned income) is amended to read as follows:  
8 “(vi) a taxpayer may elect to treat  
9 amounts excluded from gross income by  
10 reason of section 112 as earned income.”.

11 (b) CONFORMING AMENDMENT.—Paragraph (4) of  
12 section 6428(e) is amended by striking “except that—”  
13 and all that follows through “(B) such term shall” and  
14 inserting “except that such term shall”.

15 (c) SUNSET NOT APPLICABLE.—Section 105 of the  
16 Working Families Tax Relief Act of 2004 (relating to ap-  
17 plication of EGTRRA sunset to this title) shall not apply  
18 to section 104(b) of such Act.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years ending after De-  
21 cember 31, 2007.

22 **SEC. 103. MODIFICATION OF MORTGAGE REVENUE BONDS**  
23 **FOR VETERANS.**

24 (a) QUALIFIED MORTGAGE BONDS USED TO FI-  
25 NANCE RESIDENCES FOR VETERANS WITHOUT REGARD

1 TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subpara-  
2 graph (D) of section 143(d)(2) (relating to exceptions) is  
3 amended by striking “and before January 1, 2008”.

4 (b) INCREASE IN BOND LIMITATION FOR ALASKA,  
5 OREGON, AND WISCONSIN.—Clause (ii) of section  
6 143(l)(3)(B) (relating to State veterans limit) is amended  
7 by striking “\$25,000,000” each place it appears and in-  
8 serting “\$100,000,000”.

9 (c) DEFINITION OF QUALIFIED VETERAN.—Para-  
10 graph (4) of section 143(l) (defining qualified veteran) is  
11 amended to read as follows:

12 “(4) QUALIFIED VETERAN.—For purposes of  
13 this subsection, the term ‘qualified veteran’ means  
14 any veteran who—

15 “(A) served on active duty, and

16 “(B) applied for the financing before the  
17 date 25 years after the last date on which such  
18 veteran left active service.”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to bonds issued after December  
21 31, 2007.

22 (e) TRANSITION RULE.—In the case of any bond  
23 issued after December 31, 2007, and before the date of  
24 the enactment of this Act, subparagraph (B) of section  
25 143(l)(4) of the Internal Revenue Code of 1986, as

1 amended by this section, shall be applied by substituting  
2 “30 years” for “25 years”.

3 **SEC. 104. SURVIVOR AND DISABILITY PAYMENTS WITH RE-**  
4 **SPECT TO QUALIFIED MILITARY SERVICE.**

5 (a) PLAN QUALIFICATION REQUIREMENT FOR  
6 DEATH BENEFITS UNDER USERRA-QUALIFIED ACTIVE  
7 MILITARY SERVICE.—Subsection (a) of section 401 (relat-  
8 ing to requirements for qualification) is amended by in-  
9 serting after paragraph (36) the following new paragraph:

10 “(37) DEATH BENEFITS UNDER USERRA-QUALI-  
11 FIED ACTIVE MILITARY SERVICE.—A trust shall not  
12 constitute a qualified trust unless the plan provides  
13 that, in the case of a participant who dies while per-  
14 forming qualified military service (as defined in sec-  
15 tion 414(u)), the survivors of the participant are en-  
16 titled to any additional benefits (other than benefit  
17 accruals relating to the period of qualified military  
18 service) provided under the plan had the participant  
19 resumed and then terminated employment on ac-  
20 count of death.”.

21 (b) TREATMENT IN THE CASE OF DEATH OR DIS-  
22 ABILITY RESULTING FROM ACTIVE MILITARY SERVICE  
23 FOR BENEFIT ACCRUAL PURPOSES.—Subsection (u) of  
24 section 414 (relating to special rules relating to veterans’  
25 reemployment rights under USERRA) is amended by re-

1 designating paragraphs (9) and (10) as paragraphs (10)  
2 and (11), respectively, and by inserting after paragraph  
3 (8) the following new paragraph:

4           “(9) TREATMENT IN THE CASE OF DEATH OR  
5           DISABILITY RESULTING FROM ACTIVE MILITARY  
6           SERVICE.—

7           “(A) IN GENERAL.—For benefit accrual  
8           purposes, an employer sponsoring a retirement  
9           plan may treat an individual who dies or be-  
10          comes disabled (as defined under the terms of  
11          the plan) while performing qualified military  
12          service with respect to the employer maintain-  
13          ing the plan as if the individual has resumed  
14          employment in accordance with the individual’s  
15          reemployment rights under chapter 43 of title  
16          38, United States Code, on the day preceding  
17          death or disability (as the case may be) and ter-  
18          minated employment on the actual date of  
19          death or disability. In the case of any such  
20          treatment, and subject to subparagraphs (B)  
21          and (C), any full or partial compliance by such  
22          plan with respect to the benefit accrual require-  
23          ments of paragraph (8) with respect to such in-  
24          dividual shall be treated for purposes of para-

1 graph (1) as if such compliance were required  
2 under such chapter 43.

3 “(B) NONDISCRIMINATION REQUIRE-  
4 MENT.—Subparagraph (A) shall apply only if  
5 all individuals performing qualified military  
6 service with respect to the employer maintain-  
7 ing the plan (as determined under subsections  
8 (b), (c), (m), and (o)) who die or became dis-  
9 abled as a result of performing qualified mili-  
10 tary service prior to reemployment by the em-  
11 ployer are credited with service and benefits on  
12 reasonably equivalent terms.

13 “(C) DETERMINATION OF BENEFITS.—The  
14 amount of employee contributions and the  
15 amount of elective deferrals of an individual  
16 treated as reemployed under subparagraph (A)  
17 for purposes of applying paragraph (8)(C) shall  
18 be determined on the basis of the individual’s  
19 average actual employee contributions or elec-  
20 tive deferrals for the lesser of—

21 “(i) the 12-month period of service  
22 with the employer immediately prior to  
23 qualified military service, or

24 “(ii) if service with the employer is  
25 less than such 12-month period, the actual



1 length of continuous service with the em-  
2 ployer.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 404(a)(2) is amended by striking  
5 “and (31)” and inserting “(31), and (37)”.

6 (2) Section 403(b) is amended by adding at the  
7 end the following new paragraph:

8 “(14) DEATH BENEFITS UNDER USERRA-QUALI-  
9 FIED ACTIVE MILITARY SERVICE.—This subsection  
10 shall not apply to an annuity contract unless such  
11 contract meets the requirements of section  
12 401(a)(37).”.

13 (3) Section 457(g) is amended by adding at the  
14 end the following new paragraph:

15 “(4) DEATH BENEFITS UNDER USERRA-QUALI-  
16 FIED ACTIVE MILITARY SERVICE.—A plan described  
17 in paragraph (1) shall not be treated as an eligible  
18 deferred compensation plan unless such plan meets  
19 the requirements of section 401(a)(37).”.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by  
22 this section shall apply with respect to deaths and  
23 disabilities occurring on or after January 1, 2007.

24 (2) PROVISIONS RELATING TO PLAN AMEND-  
25 MENTS.—

1 (A) IN GENERAL.—If this subparagraph  
2 applies to any plan or contract amendment,  
3 such plan or contract shall be treated as being  
4 operated in accordance with the terms of the  
5 plan during the period described in subpara-  
6 graph (B)(iii).

7 (B) AMENDMENTS TO WHICH SUBPARA-  
8 GRAPH (A) APPLIES.—

9 (i) IN GENERAL.—Subparagraph (A)  
10 shall apply to any amendment to any plan  
11 or annuity contract which is made—

12 (I) pursuant to the amendments  
13 made by subsection (a) or pursuant to  
14 any regulation issued by the Secretary  
15 of the Treasury under subsection (a),  
16 and

17 (II) on or before the last day of  
18 the first plan year beginning on or  
19 after January 1, 2010.

20 In the case of a governmental plan (as de-  
21 fined in section 414(d) of the Internal Rev-  
22 enue Code of 1986), this clause shall be  
23 applied by substituting “2012” for “2010”  
24 in subclause (II).

1 (ii) CONDITIONS.—This paragraph  
2 shall not apply to any amendment unless—

3 (I) the plan or contract is oper-  
4 ated as if such plan or contract  
5 amendment were in effect for the pe-  
6 riod described in clause (iii), and

7 (II) such plan or contract amend-  
8 ment applies retroactively for such pe-  
9 riod.

10 (iii) PERIOD DESCRIBED.—The period  
11 described in this clause is the period—

12 (I) beginning on the effective  
13 date specified by the plan, and

14 (II) ending on the date described  
15 in clause (i)(II) (or, if earlier, the  
16 date the plan or contract amendment  
17 is adopted).

18 **SEC. 105. TREATMENT OF DIFFERENTIAL MILITARY PAY AS**

19 **WAGES.**

20 (a) INCOME TAX WITHHOLDING ON DIFFERENTIAL  
21 WAGE PAYMENTS.—

22 (1) IN GENERAL.—Section 3401 (relating to  
23 definitions) is amended by adding at the end the fol-  
24 lowing new subsection:

1       “(h) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE  
2 DUTY MEMBERS OF THE UNIFORMED SERVICES.—

3           “(1) IN GENERAL.—For purposes of subsection  
4 (a), any differential wage payment shall be treated  
5 as a payment of wages by the employer to the em-  
6 ployee.

7           “(2) DIFFERENTIAL WAGE PAYMENT.—For  
8 purposes of paragraph (1), the term ‘differential  
9 wage payment’ means any payment which—

10           “(A) is made by an employer to an indi-  
11 vidual with respect to any period during which  
12 the individual is performing service in the uni-  
13 formed services (as defined in chapter 43 of  
14 title 38, United States Code) while on active  
15 duty for a period of more than 30 days, and

16           “(B) represents all or a portion of the  
17 wages the individual would have received from  
18 the employer if the individual were performing  
19 service for the employer.”.

20           “(2) EFFECTIVE DATE.—The amendment made  
21 by this subsection shall apply to remuneration paid  
22 after December 31, 2008.

23       “(b) TREATMENT OF DIFFERENTIAL WAGE PAY-  
24 MENTS FOR RETIREMENT PLAN PURPOSES.—

25           “(1) PENSION PLANS.—

1 (A) IN GENERAL.—Section 414(u) (relat-  
2 ing to special rules relating to veterans’ reem-  
3 ployment rights under USERRA), as amended  
4 by section 103(b), is amended by adding at the  
5 end the following new paragraph:

6 “(12) TREATMENT OF DIFFERENTIAL WAGE  
7 PAYMENTS.—

8 “(A) IN GENERAL.—Except as provided in  
9 this paragraph, for purposes of applying this  
10 title to a retirement plan to which this sub-  
11 section applies—

12 “(i) an individual receiving a differen-  
13 tial wage payment shall be treated as an  
14 employee of the employer making the pay-  
15 ment,

16 “(ii) the differential wage payment  
17 shall be treated as compensation, and

18 “(iii) the plan shall not be treated as  
19 failing to meet the requirements of any  
20 provision described in paragraph (1)(C) by  
21 reason of any contribution or benefit which  
22 is based on the differential wage payment.

23 “(B) SPECIAL RULE FOR DISTRIBU-  
24 TIONS.—

1           “(i) IN GENERAL.—Notwithstanding  
2           subparagraph (A)(i), for purposes of sec-  
3           tion 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii),  
4           403(b)(11)(A), or 457(d)(1)(A)(ii), an in-  
5           dividual shall be treated as having been  
6           severed from employment during any pe-  
7           riod the individual is performing service in  
8           the uniformed services described in section  
9           3401(h)(2)(A).

10           “(ii) LIMITATION.—If an individual  
11           elects to receive a distribution by reason of  
12           clause (i), the plan shall provide that the  
13           individual may not make an elective defer-  
14           ral or employee contribution during the 6-  
15           month period beginning on the date of the  
16           distribution.

17           “(C) NONDISCRIMINATION REQUIRE-  
18           MENT.—Subparagraph (A)(iii) shall apply only  
19           if all employees of an employer (as determined  
20           under subsections (b), (c), (m), and (o)) per-  
21           forming service in the uniformed services de-  
22           scribed in section 3401(h)(2)(A) are entitled to  
23           receive differential wage payments on reason-  
24           ably equivalent terms and, if eligible to partici-  
25           pate in a retirement plan maintained by the

1 employer, to make contributions based on the  
2 payments on reasonably equivalent terms. For  
3 purposes of applying this subparagraph, the  
4 provisions of paragraphs (3), (4), and (5) of  
5 section 410(b) shall apply.

6 “(D) DIFFERENTIAL WAGE PAYMENT.—  
7 For purposes of this paragraph, the term ‘dif-  
8 ferential wage payment’ has the meaning given  
9 such term by section 3401(h)(2).”.

10 (B) CONFORMING AMENDMENT.—The  
11 heading for section 414(u) is amended by in-  
12 serting “AND TO DIFFERENTIAL WAGE PAY-  
13 MENTS TO MEMBERS ON ACTIVE DUTY” after  
14 “USERRA”.

15 (2) DIFFERENTIAL WAGE PAYMENTS TREATED  
16 AS COMPENSATION FOR INDIVIDUAL RETIREMENT  
17 PLANS.—Section 219(f)(1) (defining compensation)  
18 is amended by adding at the end the following new  
19 sentence: “The term compensation includes any dif-  
20 ferential wage payment (as defined in section  
21 3401(h)(2)).”.

22 (3) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall apply to years beginning  
24 after December 31, 2008.

1 (c) PROVISIONS RELATING TO PLAN AMEND-  
2 MENTS.—

3 (1) IN GENERAL.—If this subsection applies to  
4 any plan or annuity contract amendment, such plan  
5 or contract shall be treated as being operated in ac-  
6 cordance with the terms of the plan or contract dur-  
7 ing the period described in paragraph (2)(B)(i).

8 (2) AMENDMENTS TO WHICH SECTION AP-  
9 PLIES.—

10 (A) IN GENERAL.—This subsection shall  
11 apply to any amendment to any plan or annuity  
12 contract which is made—

13 (i) pursuant to any amendment made  
14 by subsection (b)(1), and

15 (ii) on or before the last day of the  
16 first plan year beginning on or after Janu-  
17 ary 1, 2010.

18 In the case of a governmental plan (as defined  
19 in section 414(d) of the Internal Revenue Code  
20 of 1986), this subparagraph shall be applied by  
21 substituting “2012” for “2010” in clause (ii).

22 (B) CONDITIONS.—This subsection shall  
23 not apply to any plan or annuity contract  
24 amendment unless—



1 (i) during the period beginning on the  
 2 date the amendment described in subpara-  
 3 graph (A)(i) takes effect and ending on the  
 4 date described in subparagraph (A)(ii) (or,  
 5 if earlier, the date the plan or contract  
 6 amendment is adopted), the plan or con-  
 7 tract is operated as if such plan or con-  
 8 tract amendment were in effect, and

9 (ii) such plan or contract amendment  
 10 applies retroactively for such period.

11 **SEC. 106. SPECIAL PERIOD OF LIMITATION WHEN UNI-**  
 12 **FORMED SERVICES RETIRED PAY IS RE-**  
 13 **DUCTION AS A RESULT OF AWARD OF DIS-**  
 14 **ABILITY COMPENSATION.**

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

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

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

1           “(i) the reduction of uniformed serv-  
2           ices retired pay computed under section  
3           1406 or 1407 of title 10, United States  
4           Code, or

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

7           as a result of an award of compensation under  
8           title 38 of such Code pursuant to a determina-  
9           tion by the Secretary of Veterans Affairs, the 3-  
10          year period of limitation prescribed in sub-  
11          section (a) shall be extended, for purposes of  
12          permitting a credit or refund based upon the  
13          amount of such reduction or waiver, until the  
14          end of the 1-year period beginning on the date  
15          of such determination.

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

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

23           (c) TRANSITION RULES.—In the case of a determina-  
24           tion described in paragraph (8) of section 6511(d) of the  
25           Internal Revenue Code of 1986 (as added by this section)

1 which is made by the Secretary of Veterans Affairs after  
2 December 31, 2000, and before the date of the enactment  
3 of this Act, such paragraph—

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

6 (2) shall be applied by substituting for “the  
7 date of such determination” in subparagraph (A)  
8 thereof.

9 **SEC. 107. DISTRIBUTIONS FROM RETIREMENT PLANS TO**  
10 **INDIVIDUALS CALLED TO ACTIVE DUTY.**

11 (a) **IN GENERAL.**—Clause (iv) of section 72(t)(2)(G)  
12 is amended by striking “, and before December 31, 2007”.

13 (b) **EFFECTIVE DATE.**—The amendment made by  
14 this section shall apply to individuals ordered or called to  
15 active duty on or after December 31, 2007.

16 **SEC. 108. AUTHORITY TO DISCLOSE RETURN INFORMATION**  
17 **FOR CERTAIN VETERANS PROGRAMS MADE**  
18 **PERMANENT.**

19 (a) **IN GENERAL.**—Paragraph (7) of section 6103(l)  
20 is amended by striking the last sentence thereof.

21 (b) **CONFORMING AMENDMENT.**—Section  
22 6103(l)(7)(D)(viii)(III) is amended by striking “sections  
23 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”  
24 and inserting “sections 1710(a)(2)(G), 1710(a)(3), and  
25 1710(b)”.

1 (c) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to requests made after Sep-  
3 tember 30, 2008.

4 **SEC. 109. CONTRIBUTIONS OF MILITARY DEATH GRATU-**  
5 **ITIES TO ROTH IRAS AND EDUCATION SAV-**  
6 **INGS ACCOUNTS.**

7 (a) PROVISION IN EFFECT BEFORE PENSION PRO-  
8 TECTION ACT.—Subsection (e) of section 408A (relating  
9 to qualified rollover contribution), as in effect before the  
10 amendments made by section 824 of the Pension Protec-  
11 tion Act of 2006, is amended to read as follows:

12 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For  
13 purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualified rollover  
15 contribution’ means a rollover contribution to a Roth  
16 IRA from another such account, or from an indi-  
17 vidual retirement plan, but only if such rollover con-  
18 tribution meets the requirements of section  
19 408(d)(3). Such term includes a rollover contribu-  
20 tion described in section 402A(c)(3)(A). For pur-  
21 poses of section 408(d)(3)(B), there shall be dis-  
22 regarded any qualified rollover contribution from an  
23 individual retirement plan (other than a Roth IRA)  
24 to a Roth IRA.

25 “(2) MILITARY DEATH GRATUITY.—

1           “(A) IN GENERAL.—The term ‘qualified  
2 rollover contribution’ includes a contribution to  
3 a Roth IRA maintained for the benefit of an in-  
4 dividual made before the end of the 1-year pe-  
5 riod beginning on the date on which such indi-  
6 vidual receives an amount under section 1477  
7 of title 10, United States Code, or section 1967  
8 of title 38 of such Code, with respect to a per-  
9 son, to the extent that such contribution does  
10 not exceed—

11                   “(i) the sum of the amounts received  
12 during such period by such individual  
13 under such sections with respect to such  
14 person, reduced by

15                   “(ii) the amounts so received which  
16 were contributed to a Coverdell education  
17 savings account under section 530(d)(9).

18           “(B) ANNUAL LIMIT ON NUMBER OF  
19 ROLLOVERS NOT TO APPLY.—Section  
20 408(d)(3)(B) shall not apply with respect to  
21 amounts treated as a rollover by subparagraph  
22 (A).

23           “(C) APPLICATION OF SECTION 72.—For  
24 purposes of applying section 72 in the case of  
25 a distribution which is not a qualified distribu-

1           tion, the amount treated as a rollover by reason  
2           of subparagraph (A) shall be treated as invest-  
3           ment in the contract.”.

4           (b) PROVISION IN EFFECT AFTER PENSION PROTEC-  
5 TION ACT.—Subsection (e) of section 408A, as in effect  
6 after the amendments made by section 824 of the Pension  
7 Protection Act of 2006, is amended to read as follows:

8           “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For  
9 purposes of this section—

10           “(1) IN GENERAL.—The term ‘qualified rollover  
11 contribution’ means a rollover contribution—

12           “(A) to a Roth IRA from another such ac-  
13 count,

14           “(B) from an eligible retirement plan, but  
15 only if—

16           “(i) in the case of an individual retire-  
17 ment plan, such rollover contribution meets  
18 the requirements of section 408(d)(3), and

19           “(ii) in the case of any eligible retire-  
20 ment plan (as defined in section  
21 402(c)(8)(B) other than clauses (i) and (ii)  
22 thereof), such rollover contribution meets  
23 the requirements of section 402(c),  
24 403(b)(8), or 457(e)(16), as applicable.

1 For purposes of section 408(d)(3)(B), there  
2 shall be disregarded any qualified rollover con-  
3 tribution from an individual retirement plan  
4 (other than a Roth IRA) to a Roth IRA.

5 “(2) MILITARY DEATH GRATUITY.—

6 “(A) IN GENERAL.—The term ‘qualified  
7 rollover contribution’ includes a contribution to  
8 a Roth IRA maintained for the benefit of an in-  
9 dividual made before the end of the 1-year pe-  
10 riod beginning on the date on which such indi-  
11 vidual receives an amount under section 1477  
12 of title 10, United States Code, or section 1967  
13 of title 38 of such Code, with respect to a per-  
14 son, to the extent that such contribution does  
15 not exceed—

16 “(i) the sum of the amounts received  
17 during such period by such individual  
18 under such sections with respect to such  
19 person, reduced by

20 “(ii) the amounts so received which  
21 were contributed to a Coverdell education  
22 savings account under section 530(d)(9).

23 “(B) ANNUAL LIMIT ON NUMBER OF  
24 ROLLOVERS NOT TO APPLY.—Section  
25 408(d)(3)(B) shall not apply with respect to

1 amounts treated as a rollover by the subpara-  
2 graph (A).

3 “(C) APPLICATION OF SECTION 72.—For  
4 purposes of applying section 72 in the case of  
5 a distribution which is not a qualified distribu-  
6 tion, the amount treated as a rollover by reason  
7 of subparagraph (A) shall be treated as invest-  
8 ment in the contract.”.

9 (c) EDUCATION SAVINGS ACCOUNTS.—Subsection  
10 (d) of section 530 is amended by adding at the end the  
11 following new paragraph:

12 “(9) MILITARY DEATH GRATUITY.—

13 “(A) IN GENERAL.—For purposes of this  
14 section, the term ‘rollover contribution’ includes  
15 a contribution to a Coverdell education savings  
16 account made before the end of the 1-year pe-  
17 riod beginning on the date on which the con-  
18 tributor receives an amount under section 1477  
19 of title 10, United States Code, or section 1967  
20 of title 38 of such Code, with respect to a per-  
21 son, to the extent that such contribution does  
22 not exceed—

23 “(i) the sum of the amounts received  
24 during such period by such contributor



1 under such sections with respect to such  
2 person, reduced by

3 “(ii) the amounts so received which  
4 were contributed to a Roth IRA under sec-  
5 tion 408A(e)(2) or to another Coverdell  
6 education savings account.

7 “(B) ANNUAL LIMIT ON NUMBER OF  
8 ROLLOVERS NOT TO APPLY.—The last sentence  
9 of paragraph (5) shall not apply with respect to  
10 amounts treated as a rollover by the subpara-  
11 graph (A).

12 “(C) APPLICATION OF SECTION 72.—For  
13 purposes of applying section 72 in the case of  
14 a distribution which is includible in gross in-  
15 come under paragraph (1), the amount treated  
16 as a rollover by reason of subparagraph (A)  
17 shall be treated as investment in the contract.”.

18 (d) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided by para-  
20 graphs (2) and (3), the amendments made by this  
21 section shall apply with respect to deaths from inju-  
22 ries occurring on or after the date of the enactment  
23 of this Act.

24 (2) APPLICATION OF AMENDMENTS TO DEATHS  
25 FROM INJURIES OCCURRING ON OR AFTER OCTOBER

1 7, 2001, AND BEFORE ENACTMENT.—The amend-  
2 ments made by this section shall apply to any con-  
3 tribution made pursuant to section 408A(e)(2) or  
4 530(d)(5) of the Internal Revenue Code of 1986, as  
5 amended by this Act, with respect to amounts re-  
6 ceived under section 1477 of title 10, United States  
7 Code, or under section 1967 of title 38 of such  
8 Code, for deaths from injuries occurring on or after  
9 October 7, 2001, and before the date of the enact-  
10 ment of this Act if such contribution is made not  
11 later than 1 year after the date of the enactment of  
12 this Act.

13 (3) PENSION PROTECTION ACT CHANGES.—Sec-  
14 tion 408A(e)(1) of the Internal Revenue Code of  
15 1986 (as in effect after the amendments made by  
16 subsection (b)) shall apply to taxable years begin-  
17 ning after December 31, 2007.

18 **SEC. 110. SUSPENSION OF 5-YEAR PERIOD DURING SERV-**  
19 **ICE WITH THE PEACE CORPS.**

20 (a) IN GENERAL.—Subsection (d) of section 121 (re-  
21 lating to special rules) is amended by adding at the end  
22 the following new paragraph:

23 “(12) PEACE CORPS.—

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           sections (a) and (c)(1)(B) and paragraph (7) of  
3           this subsection with respect to such property  
4           shall be suspended during any period that such  
5           individual or such individual's spouse is serving  
6           outside the United States—

7                   “(i) on qualified official extended duty  
8                   (as defined in paragraph (9)(C)) as an em-  
9                   ployee of the Peace Corps, or

10                   “(ii) as an enrolled volunteer or volun-  
11                   teer leader under section 5 or 6 (as the  
12                   case may be) of the Peace Corps Act (22  
13                   U.S.C. 2504, 2505).

14                   “(B) APPLICABLE RULES.—For purposes  
15                   of subparagraph (A), rules similar to the rules  
16                   of subparagraphs (B) and (D) shall apply.”.

17           (b) EFFECTIVE DATE.—The amendment made by  
18           subsection (a) shall apply to taxable years beginning after  
19           December 31, 2007.

1 **SEC. 111. CREDIT FOR EMPLOYER DIFFERENTIAL WAGE**  
2 **PAYMENTS TO EMPLOYEES WHO ARE ACTIVE**  
3 **DUTY MEMBERS OF THE UNIFORMED SERV-**  
4 **ICES.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
6 chapter A of chapter 1 (relating to business credits) is  
7 amended by adding at the end the following new section:

8 **“SEC. 45P. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**  
9 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**  
10 **FORMED SERVICES.**

11 “(a) GENERAL RULE.—For purposes of section 38,  
12 in the case of an eligible small business employer, the dif-  
13 ferential wage payment credit for any taxable year is an  
14 amount equal to 20 percent of the sum of the eligible dif-  
15 ferential wage payments for each of the qualified employ-  
16 ees of the taxpayer during such taxable year.

17 “(b) DEFINITIONS.—For purposes of this section—

18 “(1) ELIGIBLE DIFFERENTIAL WAGE PAY-  
19 MENTS.—The term ‘eligible differential wage pay-  
20 ments’ means, with respect to each qualified em-  
21 ployee, so much of the differential wage payments  
22 (as defined in section 3401(h)(2)) paid to such em-  
23 ployee for the taxable year as does not exceed  
24 \$20,000.

25 “(2) QUALIFIED EMPLOYEE.—The term ‘quali-  
26 fied employee’ means a person who has been an em-

1       employee of the taxpayer for the 91-day period imme-  
2       diately preceding the period for which any differen-  
3       tial wage payment is made.

4           “(3) ELIGIBLE SMALL BUSINESS EMPLOYER.—

5           “(A) IN GENERAL.—The term ‘eligible  
6       small business employer’ means, with respect to  
7       any taxable year, any employer which—

8           “(i) employed an average of less than  
9       50 employees on business days during such  
10      taxable year, and

11          “(ii) under a written plan of the em-  
12      ployer, provides eligible differential wage  
13      payments to every qualified employee of  
14      the employer.

15          “(B) CONTROLLED GROUPS.—For pur-  
16      poses of subparagraph (A), all persons treated  
17      as a single employer under subsection (b), (c),  
18      (m), or (o) of section 414 shall be treated as a  
19      single employer.

20          “(c) COORDINATION WITH OTHER CREDITS.—The  
21      amount of credit otherwise allowable under this chapter  
22      with respect to compensation paid to any employee shall  
23      be reduced by the credit determined under this section  
24      with respect to such employee.

1       “(d) DISALLOWANCE FOR FAILURE TO COMPLY  
2 WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF  
3 MEMBERS OF THE RESERVE COMPONENTS OF THE  
4 ARMED FORCES OF THE UNITED STATES.—No credit  
5 shall be allowed under subsection (a) to a taxpayer for—

6               “(1) any taxable year, beginning after the date  
7 of the enactment of this section, in which the tax-  
8 payer is under a final order, judgment, or other  
9 process issued or required by a district court of the  
10 United States under section 4323 of title 38 of the  
11 United States Code with respect to a violation of  
12 chapter 43 of such title, and

13               “(2) the 2 succeeding taxable years.

14       “(e) CERTAIN RULES TO APPLY.—For purposes of  
15 this section, rules similar to the rules of subsections (c),  
16 (d), and (e) of section 52 shall apply.

17       “(f) TERMINATION.—This section shall not apply to  
18 any payments made after December 31, 2009.”.

19       (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
20 NESS CREDIT.—Section 38(b) (relating to general busi-  
21 ness credit) is amended by striking “plus” at the end of  
22 paragraph (31), by striking the period at the end of para-  
23 graph (32) and inserting “, plus”, and by adding at the  
24 end of following new paragraph:

1           “(33) the differential wage payment credit de-  
2           termined under section 45P(a).”.

3           (c) NO DEDUCTION FOR COMPENSATION TAKEN  
4 INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating  
5 to rule for employment credits) is amended by inserting  
6 “45P(a),” after “45A(a),”.

7           (d) CLERICAL AMENDMENT.—The table of sections  
8 for subpart D of part IV of subchapter A of chapter 1  
9 is amended by adding at the end the following new item:

          “Sec. 45P. Employer wage credit for employees who are active duty members  
          of the uniformed services.”.

10          (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to amounts paid after the date of  
12 the enactment of this Act.

13 **SEC. 112. STATE PAYMENTS TO SERVICE MEMBERS TREAT-**  
14 **ED AS QUALIFIED MILITARY BENEFITS.**

15          (a) IN GENERAL.—Section 134(b) (defining qualified  
16 military benefit) is amended by adding at the end the fol-  
17 lowing new paragraph:

18           “(6) CERTAIN STATE PAYMENTS.—The term  
19           ‘qualified military benefit’ includes any bonus pay-  
20           ment by a State or political subdivision thereof to  
21           any member or former member of the uniformed  
22           services of the United States or any dependent of  
23           such member only by reason of such member’s serv-  
24           ice in an combat zone (as defined in section

1 112(c)(2), determined without regard to the par-  
2 enthetical).”.

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

6 **SEC. 113. PERMANENT EXCLUSION OF GAIN FROM SALE OF**  
7 **A PRINCIPAL RESIDENCE BY CERTAIN EM-**  
8 **PLOYEES OF THE INTELLIGENCE COMMU-**  
9 **NITY.**

10 (a) IN GENERAL.—Paragraph (9) of section 121(d)  
11 is amended by striking subparagraph (E).

12 (b) DUTY STATION MAY BE INSIDE UNITED  
13 STATES.—Section 121(d)(9)(C) (defining qualified official  
14 extended duty) is amended by striking clause (vi).

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to sales or exchanges after the date  
17 of the enactment of this Act.

18 **SEC. 114. SPECIAL DISPOSITION RULES FOR UNUSED BENE-**  
19 **FITS IN HEALTH FLEXIBLE SPENDING AR-**  
20 **RANGEMENTS OF INDIVIDUALS CALLED TO**  
21 **ACTIVE DUTY.**

22 (a) IN GENERAL.—Section 125 (relating to cafeteria  
23 plans) is amended by redesignating subsections (h) and  
24 (i) as subsection (i) and (j), respectively, and by inserting  
25 after subsection (g) the following new subsection:



1       “(h) SPECIAL RULE FOR UNUSED BENEFITS IN  
2 HEALTH FLEXIBLE SPENDING ARRANGEMENTS OF INDI-  
3 VIDUALS CALLED TO ACTIVE DUTY.—

4           “(1) IN GENERAL.—For purposes of this title,  
5 a plan or other arrangement shall not fail to be  
6 treated as a cafeteria plan or health flexible spend-  
7 ing arrangement merely because such arrangement  
8 provides for qualified reservist distributions.

9           “(2) QUALIFIED RESERVIST DISTRIBUTION.—  
10 For purposes of this subsection, the term ‘qualified  
11 reservist distribution’ means, any distribution to an  
12 individual of all or a portion of the balance in the  
13 employee’s account under such arrangement if—

14           “(A) such individual was (by reason of  
15 being a member of a reserve component (as de-  
16 fined in section 101 of title 37, United States  
17 Code)) ordered or called to active duty for a pe-  
18 riod in excess of 179 days or for an indefinite  
19 period, and

20           “(B) such distribution is made during the  
21 period beginning on the date of such order or  
22 call and ending on the last date that reimburse-  
23 ments could otherwise be made under such ar-  
24 rangement for the plan year which includes the  
25 date of such order or call.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distributions made after the  
3 date of the enactment of this Act.

4 **SEC. 115. TECHNICAL CORRECTION RELATED TO EXCLU-**  
5 **SION OF CERTAIN PROPERTY TAX REBATES**  
6 **AND OTHER BENEFITS PROVIDED TO VOLUN-**  
7 **TEER FIREFIGHTERS AND EMERGENCY MED-**  
8 **ICAL RESPONDERS.**

9 (a) SOCIAL SECURITY TAXES.—

10 (1) Section 3121(a) (relating to definition of  
11 wages) is amended by striking “or” at the end of  
12 paragraph (21), by striking the period at the end of  
13 paragraph (22) and inserting “; or”, and by insert-  
14 ing after paragraph (22) the following new para-  
15 graph:

16 “(23) any benefit or payment which is exclud-  
17 able from the gross income of the employee under  
18 section 139B(b).”.

19 (2) Section 209(a) of the Social Security Act is  
20 amended by striking “or” at the end of paragraph  
21 (18), by striking the period at the end of paragraph  
22 (19) and inserting “; or”, and by inserting after  
23 paragraph (19) the following new paragraph:

24 “(20) Any benefit or payment which is exclud-  
25 able from the gross income of the employee under

1 section 139B(b) of the Internal Revenue Code of  
2 1986).”.

3 (b) UNEMPLOYMENT TAXES.—Section 3306(b) (re-  
4 lating to definition of wages) is amended by striking “or”  
5 at the end of paragraph (18), by striking the period at  
6 the end of paragraph (19) and inserting “; or”, and by  
7 inserting after paragraph (19) the following new para-  
8 graph:

9 “(20) any benefit or payment which is exclud-  
10 able from the gross income of the employee under  
11 section 139B(b).”.

12 (c) WAGE WITHHOLDING.—Section 3401(a) (defin-  
13 ing wages) is amended by striking “or” at the end of para-  
14 graph (21), by striking the period at the end of paragraph  
15 (22) and inserting “; or”, and by inserting after para-  
16 graph (22) the following new paragraph:

17 “(23) for any benefit or payment which is ex-  
18 cludable from the gross income of the employee  
19 under section 139B(b).”.

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect as if included in section 5  
22 of the Mortgage Forgiveness Debt Relief Act of 2007.

1 **TITLE II—IMPROVEMENTS IN**  
2 **SUPPLEMENTAL SECURITY**  
3 **INCOME**

4 **SEC. 201. TREATMENT OF UNIFORMED SERVICE CASH RE-**  
5 **MUNERATION AS EARNED INCOME.**

6 (a) IN GENERAL.—Section 1612(a)(1)(A) of the So-  
7 cial Security Act (42 U.S.C. 1382a(a)(1)(A)) is amended  
8 by inserting “(and, in the case of cash remuneration paid  
9 for service as a member of a uniformed service (other than  
10 payments described in paragraph (2)(H) of this subsection  
11 or subsection (b)(20)), without regard to the limitations  
12 contained in section 209(d))” before the semicolon.

13 (b) CERTAIN HOUSING PAYMENTS TREATED AS IN-  
14 KIND SUPPORT AND MAINTENANCE.—Section 1612(a)(2)  
15 of such Act (42 U.S.C. 1382a(a)(2)) is amended—

16 (1) by striking “and” at the end of subpara-  
17 graph (F);

18 (2) by striking the period at the end of sub-  
19 paragraph (G) and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(H) payments to or on behalf of a mem-  
22 ber of a uniformed service for housing of the  
23 member (and his or her dependents, if any) on  
24 a facility of a uniformed service, including pay-  
25 ments provided under section 403 of title 37,

1 United States Code, for housing that is ac-  
2 quired or constructed under subchapter IV of  
3 chapter 169 of title 10 of such Code, or any re-  
4 lated provision of law, and any such payments  
5 shall be treated as support and maintenance in  
6 kind subject to subparagraph (A) of this para-  
7 graph.”.

8 **SEC. 202. STATE ANNUITIES FOR CERTAIN VETERANS TO**  
9 **BE DISREGARDED IN DETERMINING SUPPLE-**  
10 **MENTAL SECURITY INCOME BENEFITS.**

11 (a) **INCOME DISREGARD.**—Section 1612(b) of the So-  
12 cial Security Act (42 U.S.C. 1382a(b)) is amended—

13 (1) by striking “and” at the end of paragraph  
14 (22);

15 (2) by striking the period at the end of para-  
16 graph (23) and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(24) any annuity paid by a State to the indi-  
19 vidual (or such spouse) on the basis of the individ-  
20 ual’s being a veteran (as defined in section 101 of  
21 title 38, United States Code), and blind, disabled, or  
22 aged.”.

23 (b) **RESOURCE DISREGARD.**—Section 1613(a) of  
24 such Act (42 U.S.C. 1382b(a)) is amended—

1 (1) by striking “and” at the end of paragraph  
2 (14);

3 (2) by striking the period at the end of para-  
4 graph (15) and inserting “; and”; and

5 (3) by inserting after paragraph (15) the fol-  
6 lowing:

7 “(16) for the month of receipt and every month  
8 thereafter, any annuity paid by a State to the indi-  
9 vidual (or such spouse) on the basis of the individ-  
10 ual’s being a veteran (as defined in section 101 of  
11 title 38, United States Code), and blind, disabled, or  
12 aged.”.

13 **SEC. 203. EXCLUSION OF AMERICORPS BENEFITS FOR PUR-**  
14 **POSES OF DETERMINING SUPPLEMENTAL SE-**  
15 **CURITY INCOME ELIGIBILITY AND BENEFIT**  
16 **AMOUNTS.**

17 Section 1612(b) of the Social Security Act (42 U.S.C.  
18 1382a(b)), as amended by section 202(a) of this Act, is  
19 amended—

20 (1) in paragraph (23), by striking “and” at the  
21 end;

22 (2) in paragraph (24), by striking the period  
23 and inserting “; and”; and

24 (3) by adding at the end the following:

1           “(25) any benefit (whether cash or in-kind)  
2           conferred upon (or paid on behalf of) a participant  
3           in an AmeriCorps position approved by the Corpora-  
4           tion for National and Community Service under  
5           section 123 of the National and Community Service  
6           Act of 1990 (42 U.S.C. 12573).”.

7 **SEC. 204. EFFECTIVE DATE.**

8           The amendments made by this title shall be effective  
9           with respect to benefits payable for months beginning  
10          after 60 days after the date of the enactment of this Act.

11                           **TITLE III—REVENUE**  
12                                   **PROVISIONS**

13 **SEC. 301. REVISION OF TAX RULES ON EXPATRIATION.**

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

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

18          “(a) GENERAL RULES.—For purposes of this sub-  
19          title—

20                  “(1) MARK TO MARKET.—All property of a cov-  
21                  ered expatriate shall be treated as sold on the day  
22                  before the expatriation date for its fair market  
23                  value.

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

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

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

10       Proper adjustment shall be made in the amount of  
11 any gain or loss subsequently realized for gain or  
12 loss taken into account under the preceding sen-  
13 tence, determined without regard to paragraph (3).

14       “(3) EXCLUSION FOR CERTAIN GAIN.—

15           “(A) IN GENERAL.—The amount which  
16 would (but for this paragraph) be includible in  
17 the gross income of any individual by reason of  
18 paragraph (1) shall be reduced (but not below  
19 zero) by \$600,000.

20           “(B) ADJUSTMENT FOR INFLATION.—

21           “(i) IN GENERAL.—In the case of any  
22 taxable year beginning in a calendar year  
23 after 2008, the dollar amount in subpara-  
24 graph (A) shall be increased by an amount  
25 equal to—



1                   “(I) such dollar amount, multi-  
2                   plied by

3                   “(II) the cost-of-living adjust-  
4                   ment determined under section 1(f)(3)  
5                   for the calendar year in which the tax-  
6                   able year begins, by substituting ‘cal-  
7                   endar year 2007’ for ‘calendar year  
8                   1992’ in subparagraph (B) thereof.

9                   “(ii) ROUNDING.—If any amount as  
10                  adjusted under clause (i) is not a multiple  
11                  of \$1,000, such amount shall be rounded  
12                  to the nearest multiple of \$1,000.

13               “(b) ELECTION TO DEFER TAX.—

14               “(1) IN GENERAL.—If the taxpayer elects the  
15               application of this subsection with respect to any  
16               property treated as sold by reason of subsection (a),  
17               the time for payment of the additional tax attrib-  
18               utable to such property shall be extended until the  
19               due date of the return for the taxable year in which  
20               such property is disposed of (or, in the case of prop-  
21               erty disposed of in a transaction in which gain is not  
22               recognized in whole or in part, until such other date  
23               as the Secretary may prescribe).

24               “(2) DETERMINATION OF TAX WITH RESPECT  
25               TO PROPERTY.—For purposes of paragraph (1), the

1 additional tax attributable to any property is an  
2 amount which bears the same ratio to the additional  
3 tax imposed by this chapter for the taxable year  
4 solely by reason of subsection (a) as the gain taken  
5 into account under subsection (a) with respect to  
6 such property bears to the total gain taken into ac-  
7 count under subsection (a) with respect to all prop-  
8 erty to which subsection (a) applies.

9 “(3) TERMINATION OF EXTENSION.—The due  
10 date for payment of tax may not be extended under  
11 this subsection later than the due date for the re-  
12 turn of tax imposed by this chapter for the taxable  
13 year which includes the date of death of the expa-  
14 triate (or, if earlier, the time that the security pro-  
15 vided with respect to the property fails to meet the  
16 requirements of paragraph (4), unless the taxpayer  
17 corrects such failure within the time specified by the  
18 Secretary).

19 “(4) SECURITY.—

20 “(A) IN GENERAL.—No election may be  
21 made under paragraph (1) with respect to any  
22 property unless adequate security is provided  
23 with respect to such property.

24 “(B) ADEQUATE SECURITY.—For purposes  
25 of subparagraph (A), security with respect to

1 any property shall be treated as adequate secu-  
2 rity if—

3 “(i) it is a bond which is furnished to,  
4 and accepted by, the Secretary, which is  
5 conditioned on the payment of tax (and in-  
6 terest thereon), and which meets the re-  
7 quirements of section 6325, or

8 “(ii) it is another form of security for  
9 such payment (including letters of credit)  
10 that meets such requirements as the Sec-  
11 retary may prescribe.

12 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-  
13 tion may be made under paragraph (1) unless the  
14 taxpayer makes an irrevocable waiver of any right  
15 under any treaty of the United States which would  
16 preclude assessment or collection of any tax imposed  
17 by reason of this section.

18 “(6) ELECTIONS.—An election under paragraph  
19 (1) shall only apply to property described in the elec-  
20 tion and, once made, is irrevocable.

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

1       “(c) EXCEPTION FOR CERTAIN PROPERTY.—Sub-  
2 section (a) shall not apply to—

3               “(1) any deferred compensation item (as de-  
4 fined in subsection (d)(4)),

5               “(2) any specified tax deferred account (as de-  
6 fined in subsection (e)(2)), and

7               “(3) any interest in a nongrantor trust (as de-  
8 fined in subsection (f)(3)).

9       “(d) TREATMENT OF DEFERRED COMPENSATION  
10 ITEMS.—

11               “(1) WITHHOLDING ON ELIGIBLE DEFERRED  
12 COMPENSATION ITEMS.—

13                       “(A) IN GENERAL.—In the case of any eli-  
14 gible deferred compensation item, the payor  
15 shall deduct and withhold from any taxable  
16 payment to a covered expatriate with respect to  
17 such item a tax equal to 30 percent thereof.

18                       “(B) TAXABLE PAYMENT.—For purposes  
19 of subparagraph (A), the term ‘taxable pay-  
20 ment’ means with respect to a covered expa-  
21 triate any payment to the extent it would be in-  
22 cludible in the gross income of the covered ex-  
23 patriate if such expatriate continued to be sub-  
24 ject to tax as a citizen or resident of the United  
25 States. A deferred compensation item shall be

1 taken into account as a payment under the pre-  
2 ceding sentence when such item would be so in-  
3 cludible.

4 “(2) OTHER DEFERRED COMPENSATION  
5 ITEMS.—In the case of any deferred compensation  
6 item which is not an eligible deferred compensation  
7 item—

8 “(A)(i) with respect to any deferred com-  
9 pensation item to which clause (ii) does not  
10 apply, an amount equal to the present value of  
11 the covered expatriate’s accrued benefit shall be  
12 treated as having been received by such indi-  
13 vidual on the day before the expatriation date  
14 as a distribution under the plan, and

15 “(ii) with respect to any deferred com-  
16 pensation item referred to in paragraph (4)(D),  
17 the rights of the covered expatriate to such item  
18 shall be treated as becoming transferable and  
19 not subject to a substantial risk of forfeiture on  
20 the day before the expatriation date,

21 “(B) no early distribution tax shall apply  
22 by reason of such treatment, and

23 “(C) appropriate adjustments shall be  
24 made to subsequent distributions from the plan  
25 to reflect such treatment.

1           “(3) ELIGIBLE DEFERRED COMPENSATION  
2 ITEMS.—For purposes of this subsection, the term  
3 ‘eligible deferred compensation item’ means any de-  
4 ferred compensation item with respect to which—

5                   “(A) the payor of such item is—

6                           “(i) a United States person, or

7                           “(ii) a person who is not a United  
8 States person but who elects to be treated  
9 as a United States person for purposes of  
10 paragraph (1) and meets such require-  
11 ments as the Secretary may provide to en-  
12 sure that the payor will meet the require-  
13 ments of paragraph (1), and

14                   “(B) the covered expatriate—

15                           “(i) notifies the payor of his status as  
16 a covered expatriate, and

17                           “(ii) makes an irrevocable waiver of  
18 any right to claim any reduction under any  
19 treaty with the United States in with-  
20 holding on such item.

21           “(4) DEFERRED COMPENSATION ITEM.—For  
22 purposes of this subsection, the term ‘deferred com-  
23 pensation item’ means—

24                   “(A) any interest in a plan or arrangement  
25 described in section 219(g)(5),

1           “(B) any interest in a foreign pension plan  
2 or similar retirement arrangement or program,

3           “(C) any item of deferred compensation,  
4 and

5           “(D) any property, or right to property,  
6 which the individual is entitled to receive in  
7 connection with the performance of services to  
8 the extent not previously taken into account  
9 under section 83 or in accordance with section  
10 83.

11           “(5) EXCEPTION.—Paragraphs (1) and (2)  
12 shall not apply to any deferred compensation item to  
13 the extent attributable to services performed outside  
14 the United States while the covered expatriate was  
15 not a citizen or resident of the United States.

16           “(6) SPECIAL RULES.—

17           “(A) APPLICATION OF WITHHOLDING  
18 RULES.—Rules similar to the rules of sub-  
19 chapter B of chapter 3 shall apply for purposes  
20 of this subsection.

21           “(B) APPLICATION OF TAX.—Any item  
22 subject to the withholding tax imposed under  
23 paragraph (1) shall be subject to tax under sec-  
24 tion 871.

1           “(C) COORDINATION WITH OTHER WITH-  
2           HOLDING REQUIREMENTS.—Any item subject to  
3           withholding under paragraph (1) shall not be  
4           subject to withholding under section 1441 or  
5           chapter 24.

6           “(e) TREATMENT OF SPECIFIED TAX DEFERRED AC-  
7           COUNTS.—

8           “(1) ACCOUNT TREATED AS DISTRIBUTED.—In  
9           the case of any interest in a specified tax deferred  
10          account held by a covered expatriate on the day be-  
11          fore the expatriation date—

12                  “(A) the covered expatriate shall be treat-  
13                  ed as receiving a distribution of his entire inter-  
14                  est in such account on the day before the expa-  
15                  triation date,

16                  “(B) no early distribution tax shall apply  
17                  by reason of such treatment, and

18                  “(C) appropriate adjustments shall be  
19                  made to subsequent distributions from the ac-  
20                  count to reflect such treatment.

21           “(2) SPECIFIED TAX DEFERRED ACCOUNT.—  
22          For purposes of paragraph (1), the term ‘specified  
23          tax deferred account’ means an individual retirement  
24          plan (as defined in section 7701(a)(37)) other than  
25          any arrangement described in subsection (k) or (p)



1 of section 408, a qualified tuition program (as de-  
2 fined in section 529), a Coverdell education savings  
3 account (as defined in section 530), a health savings  
4 account (as defined in section 223), and an Archer  
5 MSA (as defined in section 220).

6 “(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—

7 “(1) IN GENERAL.—In the case of a distribu-  
8 tion (directly or indirectly) of any property from a  
9 nongrantor trust to a covered expatriate—

10 “(A) the trustee shall deduct and withhold  
11 from such distribution an amount equal to 30  
12 percent of the taxable portion of the distribu-  
13 tion, and

14 “(B) if the fair market value of such prop-  
15 erty exceeds its adjusted basis in the hands of  
16 the trust, gain shall be recognized to the trust  
17 as if such property were sold to the expatriate  
18 at its fair market value.

19 “(2) TAXABLE PORTION.—For purposes of this  
20 subsection, the term ‘taxable portion’ means, with  
21 respect to any distribution, that portion of the dis-  
22 tribution which would be includible in the gross in-  
23 come of the covered expatriate if such expatriate  
24 continued to be subject to tax as a citizen or resi-  
25 dent of the United States.

1           “(3) NONGRANTOR TRUST.—For purposes of  
2 this subsection, the term ‘nongrantor trust’ means  
3 the portion of any trust that the individual is not  
4 considered the owner of under subpart E of part I  
5 of subchapter J. The determination under the pre-  
6 ceding sentence shall be made immediately before  
7 the expatriation date.

8           “(4) SPECIAL RULES RELATING TO WITH-  
9 HOLDING.—For purposes of this subsection—

10                   “(A) rules similar to the rules of sub-  
11 section (d)(6) shall apply, and

12                   “(B) the covered expatriate shall be treat-  
13 ed as having waived any right to claim any re-  
14 duction under any treaty with the United  
15 States in withholding on any distribution to  
16 which paragraph (1)(A) applies unless the cov-  
17 ered expatriate agrees to such other treatment  
18 as the Secretary determines appropriate.

19           “(5) APPLICATION.—This subsection shall  
20 apply to a nongrantor trust only if the covered expa-  
21 triate was a beneficiary of the trust on the day be-  
22 fore the expatriation date.

23           “(g) DEFINITIONS AND SPECIAL RULES RELATING  
24 TO EXPATRIATION.—For purposes of this section—

25                   “(1) COVERED EXPATRIATE.—

1           “(A) IN GENERAL.—The term ‘covered ex-  
2           patriate’ means an expatriate who meets the re-  
3           quirements of subparagraph (A), (B), or (C) of  
4           section 877(a)(2).

5           “(B) EXCEPTIONS.—An individual shall  
6           not be treated as meeting the requirements of  
7           subparagraph (A) or (B) of section 877(a)(2)  
8           if—

9                   “(i) the individual—

10                   “(I) became at birth a citizen of  
11                   the United States and a citizen of an-  
12                   other country and, as of the expatria-  
13                   tion date, continues to be a citizen of,  
14                   and is taxed as a resident of, such  
15                   other country, and

16                   “(II) has been a resident of the  
17                   United States (as defined in section  
18                   7701(b)(1)(A)(ii)) for not more than  
19                   10 taxable years during the 15-tax-  
20                   able year period ending with the tax-  
21                   able year during which the expatria-  
22                   tion date occurs, or

23                   “(ii)(I) the individual’s relinquishment  
24                   of United States citizenship occurs before  
25                   such individual attains age 18½, and

1                   “(II) the individual has been a resi-  
2                   dent of the United States (as so defined)  
3                   for not more than 10 taxable years before  
4                   the date of relinquishment.

5                   “(C) COVERED EXPATRIATES ALSO SUB-  
6                   JECT TO TAX AS CITIZENS OR RESIDENTS.—In  
7                   the case of any covered expatriate who is sub-  
8                   ject to tax as a citizen or resident of the United  
9                   States for any period beginning after the expa-  
10                  triation date, such individual shall not be treat-  
11                  ed as a covered expatriate during such period  
12                  for purposes of subsections (d)(1) and (f) and  
13                  section 2801.

14                  “(2) EXPATRIATE.—The term ‘expatriate’  
15                  means—

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

18                         “(B) any long-term resident of the United  
19                         States who ceases to be a lawful permanent  
20                         resident of the United States (within the mean-  
21                         ing of section 7701(b)(6)).

22                  “(3) EXPATRIATION DATE.—The term ‘expa-  
23                  triation date’ means—

24                         “(A) the date an individual relinquishes  
25                         United States citizenship, or

1           “(B) in the case of a long-term resident of  
2           the United States, the date on which the indi-  
3           vidual ceases to be a lawful permanent resident  
4           of the United States (within the meaning of  
5           section 7701(b)(6)).

6           “(4) RELINQUISHMENT OF CITIZENSHIP.—A  
7           citizen shall be treated as relinquishing his United  
8           States citizenship on the earliest of—

9           “(A) the date the individual renounces his  
10          United States nationality before a diplomatic or  
11          consular officer of the United States pursuant  
12          to paragraph (5) of section 349(a) of the Immi-  
13          gration and Nationality Act (8 U.S.C.  
14          1481(a)(5)),

15          “(B) the date the individual furnishes to  
16          the United States Department of State a signed  
17          statement of voluntary relinquishment of  
18          United States nationality confirming the per-  
19          formance of an act of expatriation specified in  
20          paragraph (1), (2), (3), or (4) of section 349(a)  
21          of the Immigration and Nationality Act (8  
22          U.S.C. 1481(a)(1)–(4)),

23          “(C) the date the United States Depart-  
24          ment of State issues to the individual a certifi-  
25          cate of loss of nationality, or

1           “(D) the date a court of the United States  
2           cancels a naturalized citizen’s certificate of nat-  
3           uralization.

4           Subparagraph (A) or (B) shall not apply to any indi-  
5           vidual unless the renunciation or voluntary relin-  
6           quishment is subsequently approved by the issuance  
7           to the individual of a certificate of loss of nationality  
8           by the United States Department of State.

9           “(5) LONG-TERM RESIDENT.—The term ‘long-  
10          term resident’ has the meaning given to such term  
11          by section 877(e)(2).

12          “(6) EARLY DISTRIBUTION TAX.—The term  
13          ‘early distribution tax’ means any increase in tax im-  
14          posed under section 72(t), 220(e)(4), 223(f)(4),  
15          409A(a)(1)(B), 529(c)(6), or 530(d)(4).

16          “(h) OTHER RULES.—

17          “(1) TERMINATION OF DEFERRALS, ETC.—In  
18          the case of any covered expatriate, notwithstanding  
19          any other provision of this title—

20                 “(A) any time period for acquiring prop-  
21                 erty which would result in the reduction in the  
22                 amount of gain recognized with respect to prop-  
23                 erty disposed of by the taxpayer shall terminate  
24                 on the day before the expatriation date, and

1           “(B) any extension of time for payment of  
2           tax shall cease to apply on the day before the  
3           expatriation date and the unpaid portion of  
4           such tax shall be due and payable at the time  
5           and in the manner prescribed by the Secretary.

6           “(2) STEP-UP IN BASIS.—Solely for purposes of  
7           determining any tax imposed by reason of subsection  
8           (a), property which was held by an individual on the  
9           date the individual first became a resident of the  
10          United States (within the meaning of section  
11          7701(b)) shall be treated as having a basis on such  
12          date of not less than the fair market value of such  
13          property on such date. The preceding sentence shall  
14          not apply if the individual elects not to have such  
15          sentence apply. Such an election, once made, shall  
16          be irrevocable.

17          “(3) COORDINATION WITH SECTION 684.—If the  
18          expatriation of any individual would result in the  
19          recognition of gain under section 684, this section  
20          shall be applied after the application of section 684.

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

1 (b) TAX ON GIFTS AND BEQUESTS RECEIVED BY  
2 UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-  
3 TRIATES.—

4 (1) IN GENERAL.—Subtitle B (relating to estate  
5 and gift taxes) is amended by inserting after chapter  
6 14 the following new chapter:

7 **“CHAPTER 15—GIFTS AND BEQUESTS**  
8 **FROM EXPATRIATES**

“Sec. 2801. Imposition of tax.

9 **“SEC. 2801. IMPOSITION OF TAX.**

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

14 “(1) the highest rate of tax specified in the  
15 table contained in section 2001(c) as in effect on the  
16 date of such receipt (or, if greater, the highest rate  
17 of tax specified in the table applicable under section  
18 2502(a) as in effect on the date), and

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

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

23 “(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection  
24 (a) shall apply only to the extent that the value of covered



1 gifts and bequests received by any person during the cal-  
2 endar year exceeds the dollar amount in effect under sec-  
3 tion 2503(b) for such calendar year.

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

9 “(e) COVERED GIFT OR BEQUEST.—

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

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

16 “(B) any property acquired directly or in-  
17 directly by reason of the death of an individual  
18 who, immediately before such death, was a cov-  
19 ered 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 covered expatriate, and

1           “(B) any property included in the gross es-  
2           tate of the covered expatriate for purposes of  
3           chapter 11 and shown on a timely filed return  
4           of tax imposed by chapter 11 of the estate of  
5           the covered expatriate.

6           “(3) EXCEPTIONS FOR TRANSFERS TO SPOUSE  
7           OR CHARITY.—Such term shall not include any prop-  
8           erty with respect to which a deduction would be al-  
9           lowed under section 2055, 2056, 2522, or 2523,  
10          whichever is appropriate, if the decedent or donor  
11          were a United States person.

12          “(4) TRANSFERS IN TRUST.—

13                 “(A) DOMESTIC TRUSTS.—In the case of a  
14                 covered gift or bequest made to a domestic  
15                 trust—

16                         “(i) subsection (a) shall apply in the  
17                         same manner as if such trust were a  
18                         United States citizen, and

19                                 “(ii) the tax imposed by subsection (a)  
20                                 on such gift or bequest shall be paid by  
21                                 such trust.

22          “(B) FOREIGN TRUSTS.—

23                 “(i) IN GENERAL.—In the case of a  
24                 covered gift or bequest made to a foreign  
25                 trust, subsection (a) shall apply to any dis-

1           tribution attributable to such gift or be-  
2           quest from such trust (whether from in-  
3           come or corpus) to a United States citizen  
4           or resident in the same manner as if such  
5           distribution were a covered gift or bequest.

6           “(ii) DEDUCTION FOR TAX PAID BY  
7           RECIPIENT.—There shall be allowed as a  
8           deduction under section 164 the amount of  
9           tax imposed by this section which is paid  
10          or accrued by a United States citizen or  
11          resident by reason of a distribution from a  
12          foreign trust, but only to the extent such  
13          tax is imposed on the portion of such dis-  
14          tribution which is included in the gross in-  
15          come of such citizen or resident.

16          “(iii) ELECTION TO BE TREATED AS  
17          DOMESTIC TRUST.—Solely for purposes of  
18          this section, a foreign trust may elect to be  
19          treated as a domestic trust. Such an elec-  
20          tion may be revoked with the consent of  
21          the Secretary.

22          “(f) COVERED EXPATRIATE.—For purposes of this  
23          section, the term ‘covered expatriate’ has the meaning  
24          given to such term by section 877A(g)(1).”.

1           (2) CLERICAL AMENDMENT.—The table of  
2 chapters for subtitle B is amended by inserting after  
3 the item relating to chapter 14 the following new  
4 item:

“CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.”.

5           (c) DEFINITION OF TERMINATION OF UNITED  
6 STATES CITIZENSHIP.—

7           (1) IN GENERAL.—Section 7701(a) is amended  
8 by adding at the end the following new paragraph:

9           “(50) TERMINATION OF UNITED STATES CITI-  
10 ZENSHIP.—

11           “(A) IN GENERAL.—An individual shall  
12 not cease to be treated as a United States citi-  
13 zen before the date on which the individual’s  
14 citizenship is treated as relinquished under sec-  
15 tion 877A(g)(4).

16           “(B) DUAL CITIZENS.—Under regulations  
17 prescribed by the Secretary, subparagraph (A)  
18 shall not apply to an individual who became at  
19 birth a citizen of the United States and a citi-  
20 zen of another country.”.

21           (2) CONFORMING AMENDMENTS.—

22           (A) Paragraph (1) of section 877(e) is  
23 amended to read as follows:

24           “(1) IN GENERAL.—Any long-term resident of  
25 the United States who ceases to be a lawful perma-

1       nent resident of the United States (within the mean-  
2       ing of section 7701(b)(6)) shall be treated for pur-  
3       poses of this section and sections 2107, 2501, and  
4       6039G in the same manner as if such resident were  
5       a citizen of the United States who lost United States  
6       citizenship on the date of such cessation or com-  
7       mencement.”.

8               (B) Paragraph (6) of section 7701(b) is  
9               amended by adding at the end the following  
10              flush sentence:

11       “An individual shall cease to be treated as a lawful  
12       permanent resident of the United States if such in-  
13       dividual commences to be treated as a resident of a  
14       foreign country under the provisions of a tax treaty  
15       between the United States and the foreign country,  
16       does not waive the benefits of such treaty applicable  
17       to residents of the foreign country, and notifies the  
18       Secretary of the commencement of such treatment.”.

19              (C) Section 7701 is amended by striking  
20              subsection (n) and by redesignating subsections  
21              (o) and (p) as subsections (n) and (o), respec-  
22              tively.

23       (d) TERMINATION OF SECTION 877.—Section 877 is  
24       amended by adding at the end the following new sub-  
25       section:

1       “(h) TERMINATION.—This section shall not apply to  
2 any individual whose expatriation date (as defined in sec-  
3 tion 877A(g)(3)) is on or after the date of the enactment  
4 of this subsection.”.

5       (e) INFORMATION RETURNS.—Section 6039G is  
6 amended—

7           (1) by inserting “or 877A” after “section  
8 877(b)” in subsection (a), and

9           (2) by inserting “or 877A” after “section  
10 877(a)” in subsection (d).

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

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

15       (g) EFFECTIVE DATE.—

16           (1) IN GENERAL.—Except as provided in this  
17 subsection, the amendments made by this section  
18 shall apply to any individual whose expatriation date  
19 (as so defined) is on or after the date of the enact-  
20 ment of this Act.

21           (2) GIFTS AND BEQUESTS.—Chapter 15 of the  
22 Internal Revenue Code of 1986 (as added by sub-  
23 section (b)) shall apply to covered gifts and bequests  
24 (as defined in section 2801 of such Code, as so  
25 added) received on or after the date of the enact-

1       ment of this Act from transferors (or from the es-  
2       tates of transferors) whose expatriation date is on or  
3       after such date of enactment.

4   **SEC. 302. CERTAIN DOMESTICALLY CONTROLLED FOREIGN**  
5                   **PERSONS PERFORMING SERVICES UNDER**  
6                   **CONTRACT WITH UNITED STATES GOVERN-**  
7                   **MENT TREATED AS AMERICAN EMPLOYERS.**

8       (a) FICA TAXES.—Section 3121 (relating to defini-  
9       tions) is amended by adding at the end the following new  
10      subsection:

11       “(z) TREATMENT OF CERTAIN FOREIGN PERSONS AS  
12      AMERICAN EMPLOYERS.—

13           “(1) IN GENERAL.—If any employee of a for-  
14      eign person is performing services in connection with  
15      a contract between the United States Government  
16      (or any instrumentality thereof) and any member of  
17      any domestically controlled group of entities which  
18      includes such foreign person, such foreign person  
19      shall be treated for purposes of this chapter as an  
20      American employer with respect to such services per-  
21      formed by such employee.

22           “(2) DOMESTICALLY CONTROLLED GROUP OF  
23      ENTITIES.—For purposes of this subsection—

24           “(A) IN GENERAL.—The term ‘domesti-  
25      cally controlled group of entities’ means a con-

1           trolled group of entities the common parent of  
2           which is a domestic corporation.

3           “(B) CONTROLLED GROUP OF ENTITIES.—

4           The term ‘controlled group of entities’ means a  
5           controlled group of corporations as defined in  
6           section 1563(a)(1), except that—

7                   “(i) ‘more than 50 percent’ shall be  
8                   substituted for ‘at least 80 percent’ each  
9                   place it appears therein, and

10                   “(ii) the determination shall be made  
11                   without regard to subsections (a)(4) and  
12                   (b)(2) of section 1563.

13           A partnership or any other entity (other than a  
14           corporation) shall be treated as a member of a  
15           controlled group of entities if such entity is con-  
16           trolled (within the meaning of section  
17           954(d)(3)) by members of such group (includ-  
18           ing any entity treated as a member of such  
19           group by reason of this sentence).

20           “(3) LIABILITY OF COMMON PARENT.—In the  
21           case of a foreign person who is a member of any do-  
22           mestically controlled group of entities, the common  
23           parent of such group shall be jointly and severally  
24           liable for any tax under this chapter for which such  
25           foreign person is liable by reason of this subsection,



1 and for any penalty imposed on such person by this  
2 title with respect to any failure to pay such tax or  
3 to file any return or statement with respect to such  
4 tax or wages subject to such tax. No deduction shall  
5 be allowed under this title for any liability imposed  
6 by the preceding sentence.

7 “(4) PROVISIONS PREVENTING DOUBLE TAX-  
8 ATION.—

9 “(A) AGREEMENTS.—Paragraph (1) shall  
10 not apply to any services which are covered by  
11 an agreement under subsection (l).

12 “(B) EQUIVALENT FOREIGN TAXATION.—  
13 Paragraph (1) shall not apply to any services if  
14 the employer establishes to the satisfaction of  
15 the Secretary that the remuneration paid by  
16 such employer for such services is subject to a  
17 tax imposed by a foreign country which is sub-  
18 stantially equivalent to the taxes imposed by  
19 this chapter.

20 “(5) CROSS REFERENCE.—For relief from taxes  
21 in cases covered by certain international agreements,  
22 see sections 3101(c) and 3111(c).”.

23 (b) SOCIAL SECURITY BENEFITS.—Subsection (e) of  
24 section 210 of the Social Security Act (42 U.S.C. 410(e))  
25 is amended—

1           (1) by striking “(e) The term” and inserting  
2           “(e)(1) The term”,

3           (2) by redesignating clauses (1) through (6) as  
4           clauses (A) through (F), respectively, and

5           (3) by adding at the end the following new  
6           paragraph:

7           “(2)(A) If any employee of a foreign person is per-  
8           forming services in connection with a contract between the  
9           United States Government (or any instrumentality there-  
10          of) and any member of any domestically controlled group  
11          of entities which includes such foreign person, such foreign  
12          person shall be treated as an American employer with re-  
13          spect to such services performed by such employee.

14          “(B) For purposes of this paragraph—

15                 “(i) The term ‘domestically controlled group of  
16                 entities’ means a controlled group of entities the  
17                 common parent of which is a domestic corporation.

18                 “(ii) The term ‘controlled group of entities’  
19                 means a controlled group of corporations as defined  
20                 in section 1563(a)(1) of the Internal Revenue Code  
21                 of 1986, except that—

22                         “(I) ‘more than 50 percent’ shall be sub-  
23                         stituted for ‘at least 80 percent’ each place it  
24                         appears therein, and



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to returns required to be filed after  
3 December 31, 2008.

4 **TITLE IV—PARITY IN THE APPLI-**  
5 **CATION OF CERTAIN LIMITS**  
6 **TO MENTAL HEALTH BENE-**  
7 **FITS**

8 **SEC. 401. PARITY IN THE APPLICATION OF CERTAIN LIMITS**  
9 **TO MENTAL HEALTH BENEFITS.**

10 (a) INTERNAL REVENUE CODE OF 1986.—Sub-  
11 section (f) of section 9812 is amended—

12 (1) by striking “and” at the end of paragraph

13 (2), and

14 (2) by striking paragraph (3) and inserting the  
15 following new paragraphs:

16 “(3) on or after January 1, 2008, and before  
17 the date of the enactment of the Heroes Earnings  
18 Assistance and Relief Tax Act of 2008, and

19 “(4) after December 31, 2008.”.

20 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
21 OF 1974.—Subsection (f) of section 712 of the Employee  
22 Retirement Income Security Act of 1974 (29 U.S.C.  
23 1185a(f)) is amended by striking “services furnished after  
24 December 31, 2007” and inserting “services furnished—

1           “(1) on or after January 1, 2008, and before  
2           the date of the enactment of the Heroes Earnings  
3           Assistance and Relief Tax Act of 2008, and

4           “(2) after December 31, 2008.”.

5           (c) PUBLIC HEALTH SERVICE ACT.—Subsection (f)  
6 of section 2705 of the Public Health Service Act (42  
7 U.S.C. 300gg-5(f)) is amended by striking “services fur-  
8 nished after December 31, 2007” and inserting “services  
9 furnished—

10           “(1) on or after January 1, 2008, and before  
11           the date of the enactment of the Heroes Earnings  
12           Assistance and Relief Tax Act of 2008, and

13           “(2) after December 31, 2008.”.

Passed the House of Representatives May 20, 2008.

Attest:

LORRAINE C. MILLER,

*Clerk.*