

110TH CONGRESS
1ST SESSION

S. 1593

To amend the Internal Revenue Code of 1986 to provide tax relief and protections to military personnel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2007

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. CONRAD, Mr. BINGAMAN, Ms. SNOWE, Mr. KERRY, Mrs. LINCOLN, Mr. SMITH, Mr. SCHUMER, Ms. STABENOW, Ms. CANTWELL, Mr. ROBERTS, and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax relief and protections to 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,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Defenders of Freedom Tax Relief Act of 2007”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Extension of statute of limitations to file claims for refunds relating to disability determinations by Department of Veterans Affairs.
- Sec. 3. Permanent extension of election to treat combat pay as earned income for purposes of earned income credit.
- Sec. 4. Treatment of differential military pay as wages.
- Sec. 5. Permanent extension of penalty-free withdrawals from retirement plans by individual called to active duty.
- Sec. 6. State payments to service members treated as qualified military benefits.
- Sec. 7. Permanent extension of disclosure authority to Department of Veterans Affairs.
- Sec. 8. Three-year extension of qualified mortgage bond program rules for veterans.
- Sec. 9. Permanent exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
- Sec. 10. Contributions of military death gratuities to Roth IRAs.
- Sec. 11. Credit for employer differential wage payments to employees who are active duty members of the uniformed services.
- Sec. 12. Revision of tax rules on expatriation of individuals.

6 **SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS TO FILE**
 7 **CLAIMS FOR REFUNDS RELATING TO DIS-**
 8 **ABILITY DETERMINATIONS BY DEPARTMENT**
 9 **OF VETERANS AFFAIRS.**

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

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

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

5 “(i) the reduction of uniformed serv-
6 ices retired pay computed under section
7 1406 or 1407 of title 10, United States
8 Code, or

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

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

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

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

4 (c) TRANSITION RULES.—In the case of a determina-
5 tion described in paragraph (8) of section 6511(d) of the
6 Internal Revenue Code of 1986 (as added by this section)
7 which is made by the Secretary of Veterans Affairs after
8 December 31, 2000, and on or before the date of the en-
9 actment of this Act, such paragraph—

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

12 (2) shall be applied by substituting “the date of
13 the enactment of the Defenders of Freedom Tax Re-
14 lief Act of 2007” for “the date of such determina-
15 tion” in subparagraph (A) thereof.

16 **SEC. 3. PERMANENT EXTENSION OF ELECTION TO TREAT**
17 **COMBAT PAY AS EARNED INCOME FOR PUR-**
18 **POSES OF EARNED INCOME CREDIT.**

19 (a) IN GENERAL.—Clause (vi) of section 32(c)(2)(B)
20 (defining earned income) is amended to read as follows:

21 “(vi) a taxpayer may elect to treat
22 amounts excluded from gross income by
23 reason of section 112 as earned income.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 2007.

4 **SEC. 4. TREATMENT OF DIFFERENTIAL MILITARY PAY AS**
5 **WAGES.**

6 (a) INCOME TAX WITHHOLDING ON DIFFERENTIAL
7 WAGE PAYMENTS.—

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

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

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), any differential wage payment shall be treated
15 as a payment of wages by the employer to the em-
16 ployee.

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

20 “(A) is made by an employer to an indi-
21 vidual with respect to any period during which
22 the individual is performing service in the uni-
23 formed services while on active duty for a pe-
24 riod of more than 30 days, and

1 “(B) represents all or a portion of the
2 wages the individual would have received from
3 the employer if the individual were performing
4 service for the employer.”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by this subsection shall apply to remuneration paid
7 after December 31, 2007.

8 (b) TREATMENT OF DIFFERENTIAL WAGE PAY-
9 MENTS FOR RETIREMENT PLAN PURPOSES.—

10 (1) PENSION PLANS.—

11 (A) IN GENERAL.—Section 414(u) (relat-
12 ing to special rules relating to veterans’ reem-
13 ployment rights under USERRA) is amended
14 by adding at the end the following new para-
15 graph:

16 “(11) TREATMENT OF DIFFERENTIAL WAGE
17 PAYMENTS.—

18 “(A) IN GENERAL.—Except as provided in
19 this paragraph, for purposes of applying this
20 title to a retirement plan to which this sub-
21 section applies—

22 “(i) an individual receiving a differen-
23 tial wage payment shall be treated as an
24 employee of the employer making the pay-
25 ment,

1 “(ii) the differential wage payment
2 shall be treated as compensation, and

3 “(iii) the plan shall not be treated as
4 failing to meet the requirements of any
5 provision described in paragraph (1)(C) by
6 reason of any contribution or benefit which
7 is based on the differential wage payment.

8 “(B) SPECIAL RULE FOR DISTRIBUTIONS.—
9

10 “(i) IN GENERAL.—Notwithstanding
11 subparagraph (A)(i), for purposes of sec-
12 tion 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii),
13 403(b)(11)(A), or 457(d)(1)(A)(ii), an in-
14 dividual shall be treated as having been
15 severed from employment during any pe-
16 riod the individual is performing service in
17 the uniformed services described in section
18 3401(h)(2)(A).

19 “(ii) LIMITATION.—If an individual
20 elects to receive a distribution by reason of
21 clause (i), the plan shall provide that the
22 individual may not make an elective defer-
23 ral or employee contribution during the 6-
24 month period beginning on the date of the
25 distribution.

1 “(C) NONDISCRIMINATION REQUIRE-
 2 MENT.—Subparagraph (A)(iii) shall apply only
 3 if all employees of an employer (as determined
 4 under subsections (b), (c), (m), and (o)) per-
 5 forming service in the uniformed services de-
 6 scribed in section 3401(h)(2)(A) are entitled to
 7 receive differential wage payments on reason-
 8 ably equivalent terms and, if eligible to partici-
 9 pate in a retirement plan maintained by the
 10 employer, to make contributions based on the
 11 payments on reasonably equivalent terms. For
 12 purposes of applying this subparagraph, the
 13 provisions of paragraphs (3), (4), and (5) of
 14 section 410(b) shall apply.

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

19 (B) CONFORMING AMENDMENT.—The
 20 heading for section 414(u) is amended by in-
 21 serting “AND TO DIFFERENTIAL WAGE PAY-
 22 MENTS TO MEMBERS ON ACTIVE DUTY” after
 23 “USERRA”.

24 (2) DIFFERENTIAL WAGE PAYMENTS TREATED
 25 AS COMPENSATION FOR INDIVIDUAL RETIREMENT

1 PLANS.—Section 219(f)(1) (defining compensation)
2 is amended by adding at the end the following new
3 sentence: “The term ‘compensation’ includes any dif-
4 ferential wage payment (as defined in section
5 3401(h)(2)).”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to years beginning
8 after December 31, 2007.

9 (c) PROVISIONS RELATING TO PLAN AMEND-
10 MENTS.—

11 (1) IN GENERAL.—If this subsection applies to
12 any plan or annuity contract amendment—

13 (A) such plan or contract shall be treated
14 as being operated in accordance with the terms
15 of the plan or contract during the period de-
16 scribed in paragraph (2)(B)(i), and

17 (B) except as provided by the Secretary of
18 the Treasury, such plan shall not fail to meet
19 the requirements of the Internal Revenue Code
20 of 1986 or the Employee Retirement Income
21 Security Act of 1974 by reason of such amend-
22 ment.

23 (2) AMENDMENTS TO WHICH SECTION AP-
24 PLIES.—

1 (A) IN GENERAL.—This subsection shall
2 apply to any amendment to any plan or annuity
3 contract which is made—

4 (i) pursuant to any amendment made
5 by this section, and

6 (ii) on or before the last day of the
7 first plan year beginning on or after Janu-
8 ary 1, 2009.

9 (B) CONDITIONS.—This subsection shall
10 not apply to any plan or annuity contract
11 amendment unless—

12 (i) during the period beginning on the
13 date the amendment described in subpara-
14 graph (A)(i) takes effect and ending on the
15 date described in subparagraph (A)(ii) (or,
16 if earlier, the date the plan or contract
17 amendment is adopted), the plan or con-
18 tract is operated as if such plan or con-
19 tract amendment were in effect, and

20 (ii) such plan or contract amendment
21 applies retroactively for such period.

1 **SEC. 5. PERMANENT EXTENSION OF PENALTY-FREE WITH-**
2 **DRAWALS FROM RETIREMENT PLANS BY IN-**
3 **DIVIDUAL CALLED TO ACTIVE DUTY.**

4 Clause (iv) of section 72(t)(2)(G) (relating to dis-
5 tributions from retirement plans to individuals called to
6 active duty) is amended by striking all after “September
7 11, 2001” and inserting a period.

8 **SEC. 6. STATE PAYMENTS TO SERVICE MEMBERS TREATED**
9 **AS QUALIFIED MILITARY BENEFITS.**

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

13 “(6) CERTAIN STATE PAYMENTS.—The term
14 ‘qualified military benefit’ includes any bonus pay-
15 ment by a State or political subdivision thereof to
16 any member or former member of the uniformed
17 services of the United States or any dependent of
18 such member only by reason of such member’s serv-
19 ice in an combat zone (as defined in section
20 112(c)(2), determined without regard to the par-
21 enthetical).”.

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

1 **SEC. 7. PERMANENT EXTENSION OF DISCLOSURE AUTHOR-**
2 **ITY TO DEPARTMENT OF VETERANS AFFAIRS.**

3 Section 6103(l)(7)(D) (relating to program to which
4 rule applies) is amended by striking the last sentence.

5 **SEC. 8. THREE-YEAR EXTENSION OF QUALIFIED MORT-**
6 **GAGE BOND PROGRAM RULES FOR VET-**
7 **ERANS.**

8 Section 143(d)(2)(D) (relating to exception) is
9 amended by striking “January 1, 2008” and inserting
10 “January 1, 2011”.

11 **SEC. 9. PERMANENT EXCLUSION OF GAIN FROM SALE OF A**
12 **PRINCIPAL RESIDENCE BY CERTAIN EMPLOY-**
13 **EES OF THE INTELLIGENCE COMMUNITY.**

14 (a) IN GENERAL.—Section 417(e) of division A of the
15 Tax Relief and Health Care Act of 2006 is amended by
16 striking “and before January 1, 2011”.

17 (b) DUTY STATION MAY BE OUTSIDE UNITED
18 STATES.—

19 (1) IN GENERAL.—Section 121(d)(9)(C) (defin-
20 ing qualified official extended duty) is amended by
21 striking clause (vi).

22 (2) EFFECTIVE DATE.—The amendment made
23 by this subsection shall apply to sales or exchanges
24 after the date of the enactment of this Act.

1 **SEC. 10. CONTRIBUTIONS OF MILITARY DEATH GRATUITIES**
2 **TO ROTH IRAS.**

3 (a) PROVISION IN EFFECT BEFORE PENSION PRO-
4 TECTION ACT.—Subsection (e) of section 408A (relating
5 to qualified rollover contribution), as in effect before the
6 amendments made by section 824 of the Pension Protec-
7 tion 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 to a Roth
12 IRA from another such account, or from an indi-
13 vidual retirement plan, but only if such rollover con-
14 tribution meets the requirements of section
15 408(d)(3). Such term includes a rollover contribu-
16 tion described in section 402A(c)(3)(A). For pur-
17 poses of section 408(d)(3)(B), there shall be dis-
18 regarded any qualified rollover contribution from an
19 individual retirement plan (other than a Roth IRA)
20 to a Roth IRA.

21 “(2) MILITARY DEATH GRATUITY.—

22 “(A) IN GENERAL.—The term ‘qualified
23 rollover contribution’ includes a contribution to
24 a Roth IRA maintained for the benefit of an in-
25 dividual to the extent that such contribution
26 does not exceed the amount received by such in-

1 dividual under section 1477 of title 10, United
2 States Code, or under section 1967 of title 38
3 of such Code, if such contribution is made not
4 later than 1 year after the day on which such
5 individual receives such amount.

6 “(B) ANNUAL LIMIT ON NUMBER OF
7 ROLLOVERS NOT TO APPLY.—Section
8 408(d)(3)(B) shall not apply with respect to
9 amounts treated as a rollover by the subpara-
10 graph (A).

11 “(C) APPLICATION OF SECTION 72.—For
12 purposes of applying section 72 in the case of
13 a distribution which is not a qualified distribu-
14 tion, the amount treated as a rollover by reason
15 of subparagraph (A) shall be treated as invest-
16 ment in the contract.”.

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

21 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
22 purposes of this section—

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

1 “(A) to a Roth IRA from another such ac-
2 count,

3 “(B) from an eligible retirement plan, but
4 only if—

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

8 “(ii) in the case of any eligible retire-
9 ment plan (as defined in section
10 402(c)(8)(B) other than clauses (i) and (ii)
11 thereof), such rollover contribution meets
12 the requirements of section 402(e),
13 403(b)(8), or 457(e)(16), as applicable.

14 For purposes of section 408(d)(3)(B), there shall be
15 disregarded any qualified rollover contribution from
16 an individual retirement plan (other than a Roth
17 IRA) to a Roth IRA.

18 “(2) MILITARY DEATH GRATUITY.—

19 “(A) IN GENERAL.—The term ‘qualified
20 rollover contribution’ includes a contribution to
21 a Roth IRA maintained for the benefit of an in-
22 dividual to the extent that such contribution
23 does not exceed the amount received by such in-
24 dividual under section 1477 of title 10, United
25 States Code, or under section 1967 of title 38

1 of such Code, if such contribution is made not
2 later than 1 year after the day on which such
3 individual receives such amount.

4 “(B) ANNUAL LIMIT ON NUMBER OF
5 ROLLOVERS NOT TO APPLY.—Section
6 408(d)(3)(B) shall not apply with respect to
7 amounts treated as a rollover by the subpara-
8 graph (A).

9 “(C) APPLICATION OF SECTION 72.—For
10 purposes of applying section 72 in the case of
11 a distribution which is not a qualified distribu-
12 tion, the amount treated as a rollover by reason
13 of subparagraph (A) shall be treated as invest-
14 ment in the contract.”.

15 (c) EFFECTIVE DATES.—

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

21 (2) APPLICATION OF AMENDMENTS TO DEATHS
22 FROM INJURIES OCCURRING ON OR AFTER OCTOBER
23 7, 2001, AND BEFORE ENACTMENT.—The amend-
24 ments made by this section shall apply to any con-
25 tribution made pursuant to section 408A(e)(2) of

1 the Internal Revenue Code of 1986, as amended by
 2 this Act, with respect to amounts received under sec-
 3 tion 1477 of title 10, United States Code, or under
 4 section 1967 of title 38 of such Code, for deaths
 5 from injuries occurring on or after October 7, 2001,
 6 and before the date of the enactment of this Act if
 7 such contribution is made not later than 1 year after
 8 the date of the enactment of this Act.

9 (3) PENSION PROTECTION ACT CHANGES.—Sec-
 10 tion 408A(e)(1) of the Internal Revenue Code of
 11 1986 (as in effect after the amendments made by
 12 subsection (b)) shall apply to taxable years begin-
 13 ning after December 31, 2007.

14 **SEC. 11. CREDIT FOR EMPLOYER DIFFERENTIAL WAGE**
 15 **PAYMENTS TO EMPLOYEES WHO ARE ACTIVE**
 16 **DUTY MEMBERS OF THE UNIFORMED SERV-**
 17 **ICES.**

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

21 **“SEC. 450. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
 22 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
 23 **FORMED SERVICES.**

24 “(a) GENERAL RULE.—For purposes of section 38,
 25 in the case of an eligible small business employer, the dif-

1 differential wage payment credit for any taxable year is an
2 amount equal to 20 percent of the sum of the eligible dif-
3 ferential wage payments for each of the qualified employ-
4 ees of the taxpayer during such taxable year.

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

6 “(1) ELIGIBLE DIFFERENTIAL WAGE PAY-
7 MENTS.—The term ‘eligible differential wage pay-
8 ments’ means, with respect to each qualified em-
9 ployee, so much of the differential wage payments
10 (as defined in section 3401(h)(2)) paid to such em-
11 ployee for the taxable year as does not exceed
12 \$20,000.

13 “(2) QUALIFIED EMPLOYEE.—The term ‘quali-
14 fied employee’ means a person who has been an em-
15 ployee of the taxpayer for the 91-day period imme-
16 diately preceding the period for which any differen-
17 tial wage payment is made.

18 “(3) ELIGIBLE SMALL BUSINESS EMPLOYER.—

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

22 “(i) employed an average of less than
23 50 employees on business days during such
24 taxable year, and

1 “(ii) under a written plan of the em-
2 ployer, provides eligible differential wage
3 payments to every qualified employee of
4 the employer.

5 “(B) CONTROLLED GROUPS.—For pur-
6 poses of subparagraph (A), all persons treated
7 as a single employer under subsection (b), (c),
8 (m), or (o) of section 414 shall be treated as a
9 single employer.

10 “(c) COORDINATION WITH OTHER CREDITS.—The
11 amount of credit otherwise allowable under this chapter
12 with respect to compensation paid to any employee shall
13 be reduced by the credit determined under this section
14 with respect to such employee.

15 “(d) DISALLOWANCE FOR FAILURE TO COMPLY
16 WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF
17 MEMBERS OF THE RESERVE COMPONENTS OF THE
18 ARMED FORCES OF THE UNITED STATES.—No credit
19 shall be allowed under subsection (a) to a taxpayer for—

20 “(1) any taxable year, beginning after the date
21 of the enactment of this section, in which the tax-
22 payer is under a final order, judgment, or other
23 process issued or required by a district court of the
24 United States under section 4323 of title 38 of the

1 United States Code with respect to a violation of
2 chapter 43 of such title, and

3 “(2) the 2 succeeding taxable years.

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

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

9 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
10 NESS CREDIT.—Section 38(b) (relating to general busi-
11 ness credit) is amended by striking “plus” at the end of
12 paragraph (30), by striking the period at the end of para-
13 graph (31) and inserting “, plus”, and by adding at the
14 end of following new paragraph:

15 “(32) the differential wage payment credit de-
16 termined under section 45O(a).”.

17 (c) NO DEDUCTION FOR COMPENSATION TAKEN
18 INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating
19 to rule for employment credits) is amended by inserting
20 “45O(a),” after “45A(a),”.

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

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

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

4 **SEC. 12. REVISION OF TAX RULES ON EXPATRIATION OF IN-**
5 **DIVIDUALS.**

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

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

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

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

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

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

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

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

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

7 “(3) EXCLUSION FOR CERTAIN GAIN.—

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

17 “(B) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of an
19 expatriation date occurring in any calendar
20 year after 2007, the \$600,000 amount
21 under subparagraph (A) shall be increased
22 by an amount equal to—

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

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for such calendar year, determined by
4 substituting ‘calendar year 2006’ for
5 ‘calendar year 1992’ in subparagraph
6 (B) thereof.

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

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

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

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

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

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

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

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

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

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

23 “(b) ELECTION TO DEFER TAX.—

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

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

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

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

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

3 “(4) SECURITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(A) the individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(D) ALLOCABLE EXPATRIATION GAIN.—

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

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

3 “(E) TAX DEDUCTED AND WITHHELD.—

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

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

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

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

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

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

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

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

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

18 “(G) DEFINITIONS AND SPECIAL RULES.—

19 For purposes of this paragraph—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(h) IMPOSITION OF TENTATIVE TAX.—

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

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

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

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

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

14 “(1) IMPOSITION OF LIEN.—

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

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

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

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

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

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

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

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

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

8 “(1) TREATMENT OF GIFTS AND INHERIT-
9 ANCES.—

10 “(A) IN GENERAL.—Subsection (a) shall
11 not exclude from gross income the value of any
12 property acquired by gift, bequest, devise, or in-
13 heritance from a covered expatriate after the
14 expatriation date.

15 “(B) DETERMINATION OF BASIS.—Not-
16 withstanding sections 1015 or 1022, the basis
17 of any property described in subparagraph (A)
18 in the hands of the donee or the person acquir-
19 ing such property from the decedent shall be
20 equal to the fair market value of the property
21 at the time of the gift, bequest, devise, or inher-
22 itance.

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

1 “(A) the gift, bequest, devise, or inherit-
2 ance is—

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

6 “(ii) included in the gross estate of
7 the covered expatriate for purposes of
8 chapter 11 and shown on a timely filed re-
9 turn of tax imposed by chapter 11 of the
10 estate of the covered expatriate, or

11 “(B) no such return was timely filed but
12 no such return would have been required to be
13 filed even if the covered expatriate were a cit-
14 izen or long-term resident of the United States.

15 “(3) DEFINITIONS.—For purposes of this sub-
16 section, any term used in this subsection which is
17 also used in section 877A shall have the same mean-
18 ing as when used in section 877A.”.

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

22 “(50) TERMINATION OF UNITED STATES CITI-
23 ZENSHIP.—

1 “(A) IN GENERAL.—An individual shall
2 not cease to be treated as a United States cit-
3 izen before the date on which—

4 “(i) the individual’s citizenship is
5 treated as relinquished under section
6 877A(e)(3), and

7 “(ii) the individual provides a state-
8 ment in accordance with section 6039G (if
9 such a statement is otherwise required).

10 “(B) DUAL CITIZENS.—Under regulations
11 prescribed by the Secretary, subparagraph (A)
12 shall not apply to an individual who became at
13 birth a citizen of the United States and a cit-
14 izen of another country.”.

15 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
16 UNITED STATES.—

17 (1) IN GENERAL.—Section 212(a)(10)(E) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1182(a)(10)(E)) is amended to read as follows:

20 “(E) FORMER CITIZENS NOT IN COMPLI-
21 ANCE WITH EXPATRIATION REVENUE PROVI-
22 SIONS.—Any alien who is a former citizen of
23 the United States who relinquishes United
24 States citizenship (within the meaning of sec-
25 tion 877A(e)(3) of the Internal Revenue Code

1 of 1986) and who is not in compliance with sec-
2 tion 877A of such Code (relating to expatria-
3 tion) is inadmissible.”.

4 (2) AVAILABILITY OF INFORMATION.—

5 (A) IN GENERAL.—Section 6103(l) (relat-
6 ing to disclosure of returns and return informa-
7 tion for purposes other than tax administration)
8 is amended by adding at the end the following
9 new paragraph:

10 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
11 SION TO CERTAIN EXPATRIATES.—Upon written re-
12 quest of the Attorney General or the Attorney Gen-
13 eral’s delegate, the Secretary shall disclose whether
14 an individual is in compliance with section 877A
15 (and if not in compliance, any items of noncompli-
16 ance) to officers and employees of the Federal agen-
17 cy responsible for administering section
18 212(a)(10)(E) of the Immigration and Nationality
19 Act solely for the purpose of, and to the extent nec-
20 essary in, administering such section
21 212(a)(10)(E).”.

22 (B) SAFEGUARDS.—Section 6103(p)(4)
23 (relating to safeguards) is amended by striking
24 “or (20)” each place it appears and inserting
25 “(20), or (21)”.

1 (3) EFFECTIVE DATES.—The amendments
2 made by this subsection shall apply to individuals
3 who relinquish United States citizenship on or after
4 the date of the enactment of this Act.

5 (e) CONFORMING AMENDMENTS.—

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

8 “(h) APPLICATION.—This section shall not apply to
9 an expatriate (as defined in section 877A(e)) whose expa-
10 triation date (as so defined) occurs on or after the date
11 of the enactment of this subsection.”.

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

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

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

18 “(C) APPLICATION.—This paragraph shall
19 not apply to any expatriate subject to section
20 877A.”.

21 (4) Section 6039G(a) is amended by inserting
22 “or 877A” after “section 877(b)”.

23 (5) The second sentence of section 6039G(d) is
24 amended by inserting “or who relinquishes United

1 States citizenship (within the meaning of section
2 877A(e)(3))” after “section 877(a)”.

3 (6) Section 7701(n) is amended by adding at
4 the end the following new paragraph:

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

7 (f) CLERICAL AMENDMENT.—The table of sections
8 for subpart A of part II of subchapter N of chapter 1
9 is amended by inserting after the item relating to section
10 877 the following new item:

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

11 (g) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in this
13 subsection, the amendments made by this section
14 shall apply to expatriates (within the meaning of
15 section 877A(e) of the Internal Revenue Code of
16 1986, as added by this section) whose expatriation
17 date (as so defined) occurs on or after the date of
18 the enactment of this Act.

19 (2) GIFTS AND BEQUESTS.—Section 102(d) of
20 the Internal Revenue Code of 1986 (as added by
21 subsection (b)) shall apply to gifts and bequests re-
22 ceived on or after the date of the enactment of this
23 Act, from an individual or the estate of an individual
24 whose expatriation date (as so defined) occurs after
25 such date.

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

○