

PROVIDING FOR CONSIDERATION OF H.R. 878, ARMED
FORCES TAX FAIRNESS ACT OF 2003

MARCH 5, 2003.—Referred to the House Calendar and ordered to be printed

Mrs. MYRICK, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 126]

The Committee on Rules, having had under consideration House Resolution 126, by a record vote of 6 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 878, the Armed Forces Tax Fairness Act of 2003, under a closed rule. The rule provides one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in this report, shall be considered as adopted. Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order against consideration of the bill includes a waiver of clause 4(a)(1) of rule XIII (requiring a three-day layover of the committee report). The waiver is needed because the Committee on Ways and Means report (H. Rept. 108-23) was not filed until Wednesday, March 5, 2003 and the bill may be considered in the House as early as Thursday, March 6, 2003.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 7

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Frost.

Summary of motion: To make in order the amendment offered by Representative Rangel which provides \$851 million in tax relief for the National Guard and Reserves over the next 10 years. Includes an exclusion of gain from the sale of a principal residence by a member of the uniformed services or the foreign service. Exempts from gross income certain death gratuity payments. Includes tax-free treatment for amounts received under the DOD homeowners assistance program. Expands combat zone filing rules to contingency operations. Modifies the membership requirement for exemption from tax for certain veterans' organizations. Clarifies the treatment of certain dependent care assistance programs. Suspends tax-exempt status of terrorist organizations. Provides capital gains relief for sales of principal residences for members of the military. Extend IRS user fees. Provides for partial payment of tax liability installment agreements. Denies certain tax benefits to individuals when they renounce their US citizenship for tax purposes.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 8

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Frost.

Summary of motion: To make in order the amendment offered by Representatives Frost and Hefley which extends to civilian employees of the DOD serving in combat zones the tax treatment given to members of the Armed Forces serving in the same combat zones. Ensures that additional estate tax will not apply to civilian employees in case of death. Provides that no tax on telephone calls originating in a combat zone will apply to civilian employee phone calls.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 9

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Frost.

Summary of motion: To make in order the amendment offered by Representative Frost which allows the INS to conduct citizenship interviews and other ceremonies for military personnel stationed abroad. Reduces from three years to two years the amount of military service required for citizenship and exempt non-citizen personnel from paying fees related to naturalization.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 10

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Frost.

Summary of motion: To make in order the amendment offered by Representative Frost which removes the \$500 cap on the amount of overnight travel expenses that can be deducted by the National Guard and Reserves.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 11

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order the amendment offered by Delegate Bordallo which reconciles the discrepancy in the Internal Revenue Code between coordination of withholding taxes for members of the Armed Forces on temporary duty for more than 30 days in a U.S. Territory with those duty stationed therein.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 12

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. McGovern.

Summary of motion: To make in order the amendment offered by Representative McGovern which denies tax benefits to former American companies that reincorporate offshore to avoid U.S. income taxes. Applies to any corporate expatriation transaction completed after September 11, 2001. Applies to any corporate expatriation transaction prior to September 11, 2001, but only with respect to taxable years beginning after December 31, 2003.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 13

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. McGovern.

Summary of motion: To make in order the amendment offered by Representative McGovern which requires the President to report to Congress specific information relating to certain possible costs and consequences of the use of United States Armed Forces against Iraq.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 14

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order the amendment offered by Representative Jefferson which allows that in addition to the exclusion from gross income allowed under Tax Code section 112 (combat zone compensation), for reservists and or their spouse to exclude up to \$30,000 of income, provided the section 112 compensation does not exceed \$40,000. Extends the benefits of section 112 to civilian employees of the DOD.

Results: Defeated 4 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 15

Date: March 5, 2003.

Measure: H.R. 878, Armed Forces Tax Fairness Act of 2003.

Motion by: Mr. Goss.

Summary of motion: To report the resolution.

Results: Agreed to 6 to 4.

Vote by Members: Goss—Yea; Linder—Yea; Myrick—Yea; Sessions—Yea; Reynolds—Yea; Frost—Nay; Slaughter—Nay; McGovern—Nay; Hastings (FL)—Nay; Dreier—Yea.

SUMMARY OF AMENDMENT CONSIDERED AS ADOPTED

(Summary derived from information provided by amendment sponsors.)

McInnis/Johnson (CT)/Houghton—Provides a two-year moratorium on corporate inversions where the corporation has done little more than change its corporate residence for tax purposes. Provides that modifications made in the underlying bill to the orphan drug tax credit will expire after December 31, 2010. Provides that it is the sense of Congress that the tax laws of the United States are overly complex and burdensome and that tax reform is needed to address the issue of corporate expatriation.

TEXT OF AMENDMENT CONSIDERED AS ADOPTED

Redesignate section 302 as section 304 and insert after section 301 the following new sections (and conform the table of contents accordingly):

SEC. 302. TAX TREATMENT OF CORPORATE EXPATRIATION.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

“SEC. 7874. TAX TREATMENT OF CORPORATE EXPATRIATION.

“(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

“(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

“(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

“(A) the entity completes after March 4, 2003, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

“(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

“(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

“(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

“(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

“(3) TERMINATION.—This subsection shall not apply to any acquisition completed after December 31, 2004.

“(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) FOREIGN INCORPORATED ENTITY.—The term ‘foreign incorporated entity’ means any entity which is, or but for subsection (a) would be, treated as a foreign corporation for purposes of this title.

“(2) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a) but without regard to paragraphs (2), (3), and (4) of section 1504(b), except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(3) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership under subsection (a)(3)(B)—

“(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

“(ii) stock of such foreign incorporated entity which is sold in a public offering related to the acquisition described in subsection (a)(3)(A).

“(4) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(3)(B) are met, such actions shall be treated as pursuant to a plan.

“(5) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

“(6) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(3)(B) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to determine whether a corporation is an inverted domestic corporation, including regulations—

“(A) to treat warrants, options, contracts to acquire stock, convertible debt interests, and other similar interests as stock, and

“(B) to treat stock as not stock.

“(c) SPECIAL RULE FOR TREATIES.—Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.

“(d) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

“(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

“(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.”

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

“Sec. 7874. Tax treatment of corporate expatriation.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 4, 2003.

SEC. 303. EXPRESSING THE SENSE OF THE CONGRESS THAT TAX REFORM IS NEEDED TO ADDRESS THE ISSUE OF CORPORATE EXPATRIATION.

(a) FINDINGS.—The Congress finds that—

(1) the tax laws of the United States are overly complex;

(2) the tax laws of the United States are among the most burdensome and uncompetitive in the world;

(3) the tax laws of the United States make it difficult for domestically-owned United States companies to compete abroad and in the United States;

(4) a domestically-owned corporation is disadvantaged compared to a United States subsidiary of a foreign-owned corporation; and

(5) international competitiveness is forcing many United States corporations to make a choice they do not want to

make—go out of business, sell the business to a foreign competitor, or become a subsidiary of a foreign corporation (i.e., engage in an inversion transaction).

(b) SENSE OF CONGRESS.—It is the sense of Congress that passage of legislation to fix the underlying problems with our tax laws is essential and should occur as soon as possible, so United States corporations will not face the current pressures to engage in inversion transactions.

Subparagraph (C) of section 45C(b)(2) of the Internal Revenue Code of 1986 (as proposed to be added by section 208 of the bill) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply with respect to any expense incurred after December 31, 2010.”.

