

In the Senate of the United States,

March 27, 2003.

Resolved, That the bill from the House of Representatives (H.R. 1307) entitled “An Act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; ETC.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Armed Forces Tax Fairness Act of 2003”.*

1 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 2 *expressly provided, whenever in this Act an amendment or*
 3 *repeal is expressed in terms of an amendment to, or repeal*
 4 *of, a section or other provision, the reference shall be consid-*
 5 *ered to be made to a section or other provision of the Inter-*
 6 *nal Revenue Code of 1986.*

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

Sec. 1. Short title; etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.

Sec. 102. Exclusion from gross income of certain death gratuity payments.

Sec. 103. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.

Sec. 104. Expansion of combat zone filing rules to contingency operations.

Sec. 105. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 106. Clarification of treatment of certain dependent care assistance programs.

Sec. 107. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.

Sec. 108. Suspension of tax-exempt status of terrorist organizations.

Sec. 109. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

Sec. 110. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE II—OTHER PROVISIONS

Sec. 201. Extension of IRS user fees.

Sec. 202. Partial payment of tax liability in installment agreements.

Sec. 203. Revision of tax rules on expatriation.

1 **TITLE I—IMPROVING TAX EQ-**
2 **UITY FOR MILITARY PER-**
3 **SONNEL**

4 **SEC. 101. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
5 **RESIDENCE BY A MEMBER OF THE UNI-**
6 **FORMED SERVICES OR THE FOREIGN SERV-**
7 **ICE.**

8 (a) *IN GENERAL.*—Subsection (d) of section 121 (relat-
9 ing to exclusion of gain from sale of principal residence)
10 is amended by redesignating paragraph (9) as paragraph
11 (10) and by inserting after paragraph (8) the following new
12 paragraph:

13 “(9) *MEMBERS OF UNIFORMED SERVICES AND*
14 *FOREIGN SERVICE.*—

15 “(A) *IN GENERAL.*—At the election of an
16 individual with respect to a property, the run-
17 ning of the 5-year period described in subsections
18 (a) and (c)(1)(B) and paragraph (7) of this sub-
19 section with respect to such property shall be sus-
20 pended during any period that such individual
21 or such individual’s spouse is serving on quali-
22 fied official extended duty as a member of the
23 uniformed services or of the Foreign Service of
24 the United States.

1 “(B) *MAXIMUM PERIOD OF SUSPENSION.*—
2 *The 5-year period described in subsection (a)*
3 *shall not be extended more than 10 years by rea-*
4 *son of subparagraph (A).*

5 “(C) *QUALIFIED OFFICIAL EXTENDED*
6 *DUTY.*—*For purposes of this paragraph—*

7 “(i) *IN GENERAL.*—*The term ‘qualified*
8 *official extended duty’ means any extended*
9 *duty while serving at a duty station which*
10 *is at least 50 miles from such property or*
11 *while residing under Government orders in*
12 *Government quarters.*

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

18 “(iii) *FOREIGN SERVICE OF THE*
19 *UNITED STATES.*—*The term ‘member of the*
20 *Foreign Service of the United States’ has*
21 *the meaning given the term ‘member of the*
22 *Service’ by paragraph (1), (2), (3), (4), or*
23 *(5) of section 103 of the Foreign Service Act*
24 *of 1980, as in effect on the date of the enact-*
25 *ment of this paragraph.*

1 “(iv) *EXTENDED DUTY*.—The term ‘ex-
2 tended duty’ means any period of active
3 duty pursuant to a call or order to such
4 duty for a period in excess of 90 days or for
5 an indefinite period.

6 “(D) *SPECIAL RULES RELATING TO ELEC-*
7 *TION*.—

8 “(i) *ELECTION LIMITED TO 1 PROP-*
9 *ERTY AT A TIME*.—An election under sub-
10 paragraph (A) with respect to any property
11 may not be made if such an election is in
12 effect with respect to any other property.

13 “(ii) *REVOCATION OF ELECTION*.—An
14 election under subparagraph (A) may be re-
15 voked at any time.”.

16 (b) *EFFECTIVE DATE; SPECIAL RULE*.—

17 (1) *EFFECTIVE DATE*.—The amendments made
18 by this section shall take effect as if included in the
19 amendments made by section 312 of the Taxpayer Re-
20 lief Act of 1997.

21 (2) *WAIVER OF LIMITATIONS*.—If refund or cred-
22 it of any overpayment of tax resulting from the
23 amendments made by this section is prevented at any
24 time before the close of the 1-year period beginning on
25 the date of the enactment of this Act by the operation

1 of any law or rule of law (including *res judicata*),
2 such refund or credit may nevertheless be made or al-
3 lowed if claim therefor is filed before the close of such
4 period.

5 **SEC. 102. EXCLUSION FROM GROSS INCOME OF CERTAIN**
6 **DEATH GRATUITY PAYMENTS.**

7 (a) *IN GENERAL.*—Subsection (b)(3) of section 134 (re-
8 lating to certain military benefits) is amended by adding
9 at the end the following new subparagraph:

10 “(C) *EXCEPTION FOR DEATH GRATUITY AD-*
11 *JUSTMENTS MADE BY LAW.*—Subparagraph (A)
12 shall not apply to any adjustment to the amount
13 of death gratuity payable under chapter 75 of
14 title 10, United States Code, which is pursuant
15 to a provision of law enacted after September 9,
16 1986.”.

17 (b) *CONFORMING AMENDMENT.*—Subparagraph (A) of
18 section 134(b)(3) is amended by striking “subparagraph
19 (B)” and inserting “subparagraphs (B) and (C)”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply with respect to deaths occurring after
22 September 10, 2001.

1 **SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
2 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
3 **SISTANCE PROGRAM.**

4 (a) *IN GENERAL.*—Section 132(a) (relating to the ex-
5 clusion from gross income of certain fringe benefits) is
6 amended by striking “or” at the end of paragraph (6), by
7 striking the period at the end of paragraph (7) and insert-
8 ing “, or”, and by adding at the end the following new
9 paragraph:

10 “(8) *qualified military base realignment and clo-*
11 *sure fringe.*”.

12 (b) *QUALIFIED MILITARY BASE REALIGNMENT AND*
13 *CLOSURE FRINGE.*—Section 132 is amended by redesign-
14 ating subsection (n) as subsection (o) and by inserting
15 after subsection (m) the following new subsection:

16 “(n) *QUALIFIED MILITARY BASE REALIGNMENT AND*
17 *CLOSURE FRINGE.*—For purposes of this section—

18 “(1) *IN GENERAL.*—The term ‘*qualified military*
19 *base realignment and closure fringe*’ means 1 or more
20 payments under the authority of section 1013 of the
21 *Demonstration Cities and Metropolitan Development*
22 *Act of 1966 (42 U.S.C. 3374) (as in effect on the date*
23 *of the enactment of this subsection) to offset the ad-*
24 *verse effects on housing values as a result of a mili-*
25 *tary base realignment or closure.*

1 “(2) *LIMITATION.*—With respect to any property,
2 such term shall not include any payment referred to
3 in paragraph (1) to the extent that the sum of all of
4 such payments related to such property exceeds the
5 maximum amount described in clause (1) of sub-
6 section (c) of such section (as in effect on such date).”.

7 (c) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to payments made after the date of the
9 enactment of this Act.

10 **SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO**
11 **CONTINGENCY OPERATIONS.**

12 (a) *IN GENERAL.*—Section 7508(a) (relating to time
13 for performing certain acts postponed by reason of service
14 in combat zone) is amended—

15 (1) by inserting “, or when deployed outside the
16 United States away from the individual’s permanent
17 duty station while participating in an operation des-
18 ignated by the Secretary of Defense as a contingency
19 operation (as defined in section 101(a)(13) of title 10,
20 United States Code) or which became such a contin-
21 gency operation by operation of law” after “section
22 112”,

23 (2) by inserting in the first sentence “or at any
24 time during the period of such contingency operation”
25 after “for purposes of such section”,

1 (3) *by inserting “or operation” after “such an*
2 *area”, and*

3 (4) *by inserting “or operation” after “such*
4 *area”.*

5 (b) *CONFORMING AMENDMENTS.—*

6 (1) *Section 7508(d) is amended by inserting “or*
7 *contingency operation” after “area”.*

8 (2) *The heading for section 7508 is amended by*
9 *inserting “**OR CONTINGENCY OPERATION**” after*
10 *“**COMBAT ZONE**”.*

11 (3) *The item relating to section 7508 in the table*
12 *of sections for chapter 77 is amended by inserting “or*
13 *contingency operation” after “combat zone”.*

14 (c) *EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to any period for performing an act*
16 *which has not expired before the date of the enactment of*
17 *this Act.*

18 ***SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT***
19 ***FOR EXEMPTION FROM TAX FOR CERTAIN***
20 ***VETERANS’ ORGANIZATIONS.***

21 (a) *IN GENERAL.—Subparagraph (B) of section*
22 *501(c)(19) (relating to list of exempt organizations) is*
23 *amended by striking “or widowers” and inserting “, wid-*
24 *owers, ancestors, or lineal descendants”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after the date*
3 *of the enactment of this Act.*

4 **SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN**
5 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

6 (a) *IN GENERAL.*—*Section 134(b) (defining qualified*
7 *military benefit) is amended by adding at the end the fol-*
8 *lowing new paragraph:*

9 “(4) *CLARIFICATION OF CERTAIN BENEFITS.*—
10 *For purposes of paragraph (1), such term includes*
11 *any dependent care assistance program (as in effect*
12 *on the date of the enactment of this paragraph) for*
13 *any individual described in paragraph (1)(A).”*

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *Section 134(b)(3)(A), as amended by section*
16 *102, is amended by inserting “and paragraph (4)”*
17 *after “subparagraphs (B) and (C)”*.

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

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

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

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2002.*

4 (d) *NO INFERENCE.*—*No inference may be drawn from*
5 *the amendments made by this section with respect to the*
6 *tax treatment of any amounts under the program described*
7 *in section 134(b)(4) of the Internal Revenue Code of 1986*
8 *(as added by this section) for any taxable year beginning*
9 *before January 1, 2003.*

10 ***SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM***
11 ***ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS,***
12 ***ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.***
13
14

15 (a) *IN GENERAL.*—*Subparagraph (B) of section*
16 *530(d)(4) (relating to exceptions from additional tax for*
17 *distributions not used for educational purposes) is amended*
18 *by striking “or” at the end of clause (iii), by redesignating*
19 *clause (iv) as clause (v), and by inserting after clause (iii)*
20 *the following new clause:*

21 *“(iv) made on account of the attend-*
22 *ance of the designated beneficiary at the*
23 *United States Military Academy, the*
24 *United States Naval Academy, the United*
25 *States Air Force Academy, the United*

1 *States Coast Guard Academy, or the United*
2 *States Merchant Marine Academy, to the*
3 *extent that the amount of the payment or*
4 *distribution does not exceed the costs of ad-*
5 *vanced education (as defined by section*
6 *2005(e)(3) of title 10, United States Code,*
7 *as in effect on the date of the enactment of*
8 *this section) attributable to such attendance,*
9 *or”.*

10 **(b) EFFECTIVE DATE.**—*The amendments made by this*
11 *section shall apply to taxable years beginning after Decem-*
12 *ber 31, 2002.*

13 **SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
14 **RORIST ORGANIZATIONS.**

15 **(a) IN GENERAL.**—*Section 501 (relating to exemption*
16 *from tax on corporations, certain trusts, etc.) is amended*
17 *by redesignating subsection (p) as subsection (q) and by in-*
18 *serting after subsection (o) the following new subsection:*

19 **“(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
20 **RORIST ORGANIZATIONS.**—

21 **“(1) IN GENERAL.**—*The exemption from tax*
22 *under subsection (a) with respect to any organization*
23 *described in paragraph (2), and the eligibility of any*
24 *organization described in paragraph (2) to apply for*
25 *recognition of exemption under subsection (a), shall*

1 *be suspended during the period described in para-*
2 *graph (3).*

3 “(2) *TERRORIST ORGANIZATIONS.—An organiza-*
4 *tion is described in this paragraph if such organiza-*
5 *tion is designated or otherwise individually*
6 *identified—*

7 “(A) *under section 212(a)(3)(B)(vi)(II) or*
8 *219 of the Immigration and Nationality Act as*
9 *a terrorist organization or foreign terrorist orga-*
10 *nization,*

11 “(B) *in or pursuant to an Executive order*
12 *which is related to terrorism and issued under*
13 *the authority of the International Emergency*
14 *Economic Powers Act or section 5 of the United*
15 *Nations Participation Act of 1945 for the pur-*
16 *pose of imposing on such organization an eco-*
17 *nomie or other sanction, or*

18 “(C) *in or pursuant to an Executive order*
19 *issued under the authority of any Federal law*
20 *if—*

21 “(i) *the organization is designated or*
22 *otherwise individually identified in or pur-*
23 *suant to such Executive order as supporting*
24 *or engaging in terrorist activity (as defined*
25 *in section 212(a)(3)(B) of the Immigration*

1 *and Nationality Act) or supporting ter-*
2 *rorism (as defined in section 140(d)(2) of*
3 *the Foreign Relations Authorization Act,*
4 *Fiscal Years 1988 and 1989); and*

5 *“(ii) such Executive order refers to this*
6 *subsection.*

7 *“(3) PERIOD OF SUSPENSION.—With respect to*
8 *any organization described in paragraph (2), the pe-*
9 *riod of suspension—*

10 *“(A) begins on the later of—*

11 *“(i) the date of the first publication of*
12 *a designation or identification described in*
13 *paragraph (2) with respect to such organi-*
14 *zation, or*

15 *“(ii) the date of the enactment of this*
16 *subsection, and*

17 *“(B) ends on the first date that all designa-*
18 *tions and identifications described in paragraph*
19 *(2) with respect to such organization are re-*
20 *scinded pursuant to the law or Executive order*
21 *under which such designation or identification*
22 *was made.*

23 *“(4) DENIAL OF DEDUCTION.—No deduction*
24 *shall be allowed under any provision of this title, in-*
25 *cluding sections 170, 545(b)(2), 556(b)(2), 642(c),*

1 2055, 2106(a)(2), and 2522, with respect to any con-
2 tribution to an organization described in paragraph
3 (2) during the period described in paragraph (3).

4 “(5) *DENIAL OF ADMINISTRATIVE OR JUDICIAL*
5 *CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-*
6 *TION.—Notwithstanding section 7428 or any other*
7 *provision of law, no organization or other person may*
8 *challenge a suspension under paragraph (1), a des-*
9 *ignation or identification described in paragraph (2),*
10 *the period of suspension described in paragraph (3),*
11 *or a denial of a deduction under paragraph (4) in*
12 *any administrative or judicial proceeding relating to*
13 *the Federal tax liability of such organization or other*
14 *person.*

15 “(6) *ERRONEOUS DESIGNATION.—*

16 “(A) *IN GENERAL.—If—*

17 “(i) *the tax exemption of any organi-*
18 *zation described in paragraph (2) is sus-*
19 *pending under paragraph (1),*

20 “(ii) *each designation and identifica-*
21 *tion described in paragraph (2) which has*
22 *been made with respect to such organization*
23 *is determined to be erroneous pursuant to*
24 *the law or Executive order under which*

1 *such designation or identification was*
2 *made, and*

3 *“(iii) the erroneous designations and*
4 *identifications result in an overpayment of*
5 *income tax for any taxable year by such or-*
6 *ganization,*

7 *credit or refund (with interest) with respect to*
8 *such overpayment shall be made.*

9 *“(B) WAIVER OF LIMITATIONS.—If the cred-*
10 *it or refund of any overpayment of tax described*
11 *in subparagraph (A)(iii) is prevented at any*
12 *time by the operation of any law or rule of law*
13 *(including res judicata), such credit or refund*
14 *may nevertheless be allowed or made if the claim*
15 *therefor is filed before the close of the 1-year pe-*
16 *riod beginning on the date of the last determina-*
17 *tion described in subparagraph (A)(ii).*

18 *“(7) NOTICE OF SUSPENSIONS.—If the tax ex-*
19 *emption of any organization is suspended under this*
20 *subsection, the Internal Revenue Service shall update*
21 *the listings of tax-exempt organizations and shall*
22 *publish appropriate notice to taxpayers of such sus-*
23 *pension and of the fact that contributions to such or-*
24 *ganization are not deductible during the period of*
25 *such suspension.”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to designations made before, on, or after*
3 *the date of the enactment of this Act.*

4 **SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
5 **TRAVEL EXPENSES OF NATIONAL GUARD AND**
6 **RESERVE MEMBERS.**

7 (a) *DEDUCTION ALLOWED.*—*Section 162 (relating to*
8 *certain trade or business expenses) is amended by redesignig-*
9 *nating subsection (p) as subsection (q) and inserting after*
10 *subsection (o) the following new subsection:*

11 “(p) *TREATMENT OF EXPENSES OF MEMBERS OF RE-*
12 *SERVE COMPONENT OF ARMED FORCES OF THE UNITED*
13 *STATES.*—*For purposes of subsection (a)(2), in the case of*
14 *an individual who performs services as a member of a re-*
15 *serve component of the Armed Forces of the United States*
16 *at any time during the taxable year, such individual shall*
17 *be deemed to be away from home in the pursuit of a trade*
18 *or business for any period during which such individual*
19 *is away from home in connection with such service.”.*

20 (b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
21 *PAYER ELECTS TO ITEMIZE.*—*Section 62(a)(2) (relating to*
22 *certain trade and business deductions of employees) is*
23 *amended by adding at the end the following new subpara-*
24 *graph:*

1 “(E) *CERTAIN EXPENSES OF MEMBERS OF*
2 *RESERVE COMPONENTS OF THE ARMED FORCES*
3 *OF THE UNITED STATES.—The deductions al-*
4 *lowed by section 162 which consist of expenses,*
5 *determined at a rate not in excess of the rates for*
6 *travel expenses (including per diem in lieu of*
7 *subsistence) authorized for employees of agencies*
8 *under subchapter I of chapter 57 of title 5,*
9 *United States Code, paid or incurred by the tax-*
10 *payer in connection with the performance of*
11 *services by such taxpayer as a member of a re-*
12 *serve component of the Armed Forces of the*
13 *United States for any period during which such*
14 *individual is more than 100 miles away from*
15 *home in connection with such services.”.*

16 (c) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to amounts paid or incurred in taxable*
18 *years beginning after December 31, 2002.*

19 **SEC. 110. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF**
20 **SPACE SHUTTLE COLUMBIA HEROES.**

21 (a) *INCOME TAX RELIEF.—*

22 (1) *IN GENERAL.—Subsection (d) of section 692*
23 *(relating to income taxes of members of Armed Forces*
24 *and victims of certain terrorist attacks on death) is*

1 *amended by adding at the end the following new*
2 *paragraph:*

3 “(5) *RELIEF WITH RESPECT TO ASTRONAUTS.*—
4 *The provisions of this subsection shall apply to any*
5 *astronaut whose death occurs in the line of duty, ex-*
6 *cept that paragraph (3)(B) shall be applied by using*
7 *the date of the death of the astronaut rather than Sep-*
8 *tember 11, 2001.”.*

9 (2) *CONFORMING AMENDMENTS.*—

10 (A) *Section 5(b)(1) is amended by inserting*
11 *“, astronauts,” after “Forces”.*

12 (B) *Section 6013(f)(2)(B) is amended by*
13 *inserting “, astronauts,” after “Forces”.*

14 (3) *CLERICAL AMENDMENTS.*—

15 (A) *The heading of section 692 is amended*
16 *by inserting “, **ASTRONAUTS,**” after*
17 *“**FORCES**”.*

18 (B) *The item relating to section 692 in the*
19 *table of sections for part II of subchapter J of*
20 *chapter 1 is amended by inserting “, astro-*
21 *nauts,” after “Forces”.*

22 (4) *EFFECTIVE DATE.*—*The amendments made*
23 *by this subsection shall apply with respect to any as-*
24 *tronaut whose death occurs after December 31, 2002.*

25 (b) *DEATH BENEFIT RELIEF.*—

1 (1) *IN GENERAL.*—Subsection (i) of section 101
2 (relating to certain death benefits) is amended by
3 adding at the end the following new paragraph:

4 “(4) *RELIEF WITH RESPECT TO ASTRONAUTS.*—
5 The provisions of this subsection shall apply to any
6 astronaut whose death occurs in the line of duty.”.

7 (2) *CLERICAL AMENDMENT.*—The heading for
8 subsection (i) of section 101 is amended by inserting
9 “*OR ASTRONAUTS*” after “*VICTIMS*”.

10 (3) *EFFECTIVE DATE.*—The amendments made
11 by this subsection shall apply to amounts paid after
12 December 31, 2002, with respect to deaths occurring
13 after such date.

14 (c) *ESTATE TAX RELIEF.*—

15 (1) *IN GENERAL.*—Section 2201(b) (defining
16 qualified decedent) is amended by striking “and” at
17 the end of paragraph (1)(B), by striking the period
18 at the end of paragraph (2) and inserting “, and”,
19 and by adding at the end the following new para-
20 graph:

21 “(3) any astronaut whose death occurs in the
22 line of duty.”.

23 (2) *CLERICAL AMENDMENTS.*—

1 (A) *The heading of section 2201 is amended*
2 *by inserting “, DEATHS OF ASTRONAUTS,”*
3 *after “FORCES”.*

4 (B) *The item relating to section 2201 in the*
5 *table of sections for subchapter C of chapter 11*
6 *is amended by inserting “, deaths of astronauts,”*
7 *after “Forces”.*

8 (3) *EFFECTIVE DATE.—The amendments made*
9 *by this subsection shall apply to estates of decedents*
10 *dying after December 31, 2002.*

11 **TITLE II—OTHER PROVISIONS**

12 **SEC. 201. EXTENSION OF INTERNAL REVENUE SERVICE**

13 **USER FEES.**

14 (a) *IN GENERAL.—Chapter 77 (relating to miscella-*
15 *neous provisions) is amended by adding at the end the fol-*
16 *lowing new section:*

17 **“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

18 **“(a) GENERAL RULE.—***The Secretary shall establish*
19 *a program requiring the payment of user fees for—*

20 **“(1)** *requests to the Internal Revenue Service for*
21 *ruling letters, opinion letters, and determination let-*
22 *ters, and*

23 **“(2)** *other similar requests.*

24 **“(b) PROGRAM CRITERIA.—**

1 “(1) *IN GENERAL.*—*The fees charged under the*
2 *program required by subsection (a)—*

3 “(A) *shall vary according to categories (or*
4 *subcategories) established by the Secretary,*

5 “(B) *shall be determined after taking into*
6 *account the average time for (and difficulty of)*
7 *complying with requests in each category (and*
8 *subcategory), and*

9 “(C) *shall be payable in advance.*

10 “(2) *EXEMPTIONS, ETC.*—

11 “(A) *IN GENERAL.*—*The Secretary shall*
12 *provide for such exemptions (and reduced fees)*
13 *under such program as the Secretary determines*
14 *to be appropriate.*

15 “(B) *EXEMPTION FOR CERTAIN REQUESTS*
16 *REGARDING PENSION PLANS.*—*The Secretary*
17 *shall not require payment of user fees under such*
18 *program for requests for determination letters*
19 *with respect to the qualified status of a pension*
20 *benefit plan maintained solely by 1 or more eli-*
21 *gible employers or any trust which is part of the*
22 *plan. The preceding sentence shall not apply to*
23 *any request—*

24 “(i) *made after the later of—*

1 “(I) the fifth plan year the pen-
2 sion benefit plan is in existence, or

3 “(II) the end of any remedial
4 amendment period with respect to the
5 plan beginning within the first 5 plan
6 years, or

7 “(ii) made by the sponsor of any proto-
8 type or similar plan which the sponsor in-
9 tends to market to participating employers.

10 “(C) DEFINITIONS AND SPECIAL RULES.—

11 For purposes of subparagraph (B)—

12 “(i) PENSION BENEFIT PLAN.—The
13 term ‘pension benefit plan’ means a pen-
14 sion, profit-sharing, stock bonus, annuity,
15 or employee stock ownership plan.

16 “(ii) ELIGIBLE EMPLOYER.—The term
17 ‘eligible employer’ means an eligible em-
18 ployer (as defined in section
19 408(p)(2)(C)(i)(I)) which has at least 1 em-
20 ployee who is not a highly compensated em-
21 ployee (as defined in section 414(q)) and is
22 participating in the plan. The determina-
23 tion of whether an employer is an eligible
24 employer under subparagraph (B) shall be

1 *made as of the date of the request described*
 2 *in such subparagraph.*

3 “(iii) *DETERMINATION OF AVERAGE*
 4 *FEES CHARGED.—For purposes of any de-*
 5 *termination of average fees charged, any re-*
 6 *quest to which subparagraph (B) applies*
 7 *shall not be taken into account.*

8 “(3) *AVERAGE FEE REQUIREMENT.—The average*
 9 *fee charged under the program required by subsection*
 10 *(a) shall not be less than the amount determined*
 11 *under the following table:*

“Category	Average fee
<i>Employee plan ruling and opinion</i>	\$250
<i>Exempt organization ruling</i>	\$350
<i>Employee plan determination</i>	\$300
<i>Exempt organization determination</i>	\$275
<i>Chief counsel ruling</i>	\$200.

12 “(c) *TERMINATION.—No fee shall be imposed under*
 13 *this section with respect to requests made after September*
 14 *30, 2013.”.*

15 (b) *CONFORMING AMENDMENTS.—*

16 (1) *The table of sections for chapter 77 is amend-*
 17 *ed by adding at the end the following new item:*

“Sec. 7528. Internal Revenue Service user fees.”.

18 (2) *Section 10511 of the Revenue Act of 1987 is*
 19 *repealed.*

20 (3) *Section 620 of the Economic Growth and*
 21 *Tax Relief Reconciliation Act of 2001 is repealed.*

1 (c) *LIMITATIONS.*—Notwithstanding any other provi-
 2 sion of law, any fees collected pursuant to section 7528 of
 3 the Internal Revenue Code of 1986, as added by subsection
 4 (a), shall not be expended by the Internal Revenue Service
 5 unless provided by an appropriations Act.

6 (d) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to requests made after the date of the
 8 enactment of this Act.

9 **SEC. 202. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALL-**
 10 **MENT AGREEMENTS.**

11 (a) *IN GENERAL.*—

12 (1) Section 6159(a) (relating to authorization of
 13 agreements) is amended—

14 (A) by striking “satisfy liability for pay-
 15 ment of” and inserting “make payment on”, and

16 (B) by inserting “full or partial” after “fa-
 17 cilitate”.

18 (2) Section 6159(c) (relating to Secretary re-
 19 quired to enter into installment agreements in certain
 20 cases) is amended in the matter preceding paragraph

21 (1) by inserting “full” before “payment”.

22 (b) *REQUIREMENT TO REVIEW PARTIAL PAYMENT*
 23 *AGREEMENTS EVERY TWO YEARS.*—Section 6159 is
 24 amended by redesignating subsections (d) and (e) as sub-

1 sections (e) and (f), respectively, and inserting after sub-
 2 section (c) the following new subsection:

3 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
 4 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
 5 *YEARS.*—*In the case of an agreement entered into by the*
 6 *Secretary under subsection (a) for partial collection of a*
 7 *tax liability, the Secretary shall review the agreement at*
 8 *least once every 2 years.”.*

9 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 10 *section shall apply to agreements entered into on or after*
 11 *the date of the enactment of this Act.*

12 ***SEC. 203. REVISION OF TAX RULES ON EXPATRIATION.***

13 (a) *IN GENERAL.*—*Subpart A of part II of subchapter*
 14 *N of chapter 1 is amended by inserting after section 877*
 15 *the following new section:*

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

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

19 “(1) *MARK TO MARKET.*—*Except as provided in*
 20 *subsections (d) and (f), all property of a covered expa-*
 21 *triate to whom this section applies shall be treated as*
 22 *sold on the day before the expatriation date for its*
 23 *fair market value.*

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

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

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

10 *Proper adjustment shall be made in the amount of*
11 *any gain or loss subsequently realized for gain or loss*
12 *taken into account under the preceding sentence.*

13 “(3) *EXCLUSION FOR CERTAIN GAIN.*—

14 “(A) *IN GENERAL.*—*The amount which, but*
15 *for this paragraph, would be includible in the*
16 *gross income of any individual by reason of this*
17 *section shall be reduced (but not below zero) by*
18 *\$600,000. For purposes of this paragraph, allo-*
19 *cable expatriation gain taken into account under*
20 *subsection (f)(2) shall be treated in the same*
21 *manner as an amount required to be includible*
22 *in gross income.*

23 “(B) *COST-OF-LIVING ADJUSTMENT.*—

24 “(i) *IN GENERAL.*—*In the case of an*
25 *expatriation date occurring in any calendar*

1 year after 2003, the \$600,000 amount under
2 subparagraph (A) shall be increased by an
3 amount equal to—

4 “(I) such dollar amount, multi-
5 plied by

6 “(II) the cost-of-living adjustment
7 determined under section 1(f)(3) for
8 such calendar year, determined by sub-
9 stituting ‘calendar year 2002’ for ‘cal-
10 endar year 1992’ in subparagraph (B)
11 thereof.

12 “(i) *ROUNDING RULES.*—If any
13 amount after adjustment under clause (i) is
14 not a multiple of \$1,000, such amount shall
15 be rounded to the next lower multiple of
16 \$1,000.

17 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
18 *UNITED STATES CITIZEN.*—

19 “(A) *IN GENERAL.*—If a covered expatriate
20 elects the application of this paragraph—

21 “(i) this section (other than this para-
22 graph and subsection (i)) shall not apply to
23 the expatriate, but

24 “(ii) in the case of property to which
25 this section would apply but for such elec-

1 *tion, the expatriate shall be subject to tax*
2 *under this title in the same manner as if*
3 *the individual were a United States citizen.*

4 *“(B) REQUIREMENTS.—Subparagraph (A)*
5 *shall not apply to an individual unless the*
6 *individual—*

7 *“(i) provides security for payment of*
8 *tax in such form and manner, and in such*
9 *amount, as the Secretary may require,*

10 *“(ii) consents to the waiver of any*
11 *right of the individual under any treaty of*
12 *the United States which would preclude as-*
13 *essment or collection of any tax which may*
14 *be imposed by reason of this paragraph,*
15 *and*

16 *“(iii) complies with such other require-*
17 *ments as the Secretary may prescribe.*

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

1 “(b) *ELECTION TO DEFER TAX.*—

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

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

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

1 *of the expatriate (or, if earlier, the time that the secu-*
2 *rity provided with respect to the property fails to*
3 *meet the requirements of paragraph (4), unless the*
4 *taxpayer corrects such failure within the time speci-*
5 *fied by the Secretary).*

6 “(4) *SECURITY.—*

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

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

15 “(i) *it is a bond in an amount equal*
16 *to the deferred tax amount under paragraph*
17 *(2) for the property, or*

18 “(ii) *the taxpayer otherwise establishes*
19 *to the satisfaction of the Secretary that the*
20 *security is adequate.*

21 “(5) *WAIVER OF CERTAIN RIGHTS.—No election*
22 *may be made under paragraph (1) unless the tax-*
23 *payer consents to the waiver of any right under any*
24 *treaty of the United States which would preclude as-*

1 *assessment or collection of any tax imposed by reason*
2 *of this section.*

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

9 “(7) *INTEREST.*—*For purposes of section 6601—*

10 “(A) *the last date for the payment of tax*
11 *shall be determined without regard to the election*
12 *under this subsection, and*

13 “(B) *section 6621(a)(2) shall be applied by*
14 *substituting ‘5 percentage points’ for ‘3 percent-*
15 *age points’ in subparagraph (B) thereof.*

16 “(c) *COVERED EXPATRIATE.*—*For purposes of this*
17 *section—*

18 “(1) *IN GENERAL.*—*Except as provided in para-*
19 *graph (2), the term ‘covered expatriate’ means an ex-*
20 *patriate.*

21 “(2) *EXCEPTIONS.*—*An individual shall not be*
22 *treated as a covered expatriate if—*

23 “(A) *the individual—*

24 “(i) *became at birth a citizen of the*
25 *United States and a citizen of another*

1 *country and, as of the expatriation date,*
2 *continues to be a citizen of, and is taxed as*
3 *a resident of, such other country, and*

4 “(ii) *has not been a resident of the*
5 *United States (as defined in section*
6 *7701(b)(1)(A)(ii)) during the 5 taxable*
7 *years ending with the taxable year during*
8 *which the expatriation date occurs, or*

9 “(B)(i) *the individual’s relinquishment of*
10 *United States citizenship occurs before such indi-*
11 *vidual attains age 18½, and*

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

16 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
17 *SION PLANS.—*

18 “(1) *EXEMPT PROPERTY.—This section shall not*
19 *apply to the following:*

20 “(A) *UNITED STATES REAL PROPERTY IN-*
21 *TERESTS.—Any United States real property in-*
22 *terest (as defined in section 897(c)(1)), other*
23 *than stock of a United States real property hold-*
24 *ing corporation which does not, on the day before*

1 *the expatriation date, meet the requirements of*
2 *section 897(c)(2).*

3 “(B) *SPECIFIED PROPERTY.*—*Any property*
4 *or interest in property not described in subpara-*
5 *graph (A) which the Secretary specifies in regu-*
6 *lations.*

7 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
8 *PLANS.*—

9 “(A) *IN GENERAL.*—*If a covered expatriate*
10 *holds on the day before the expatriation date any*
11 *interest in a retirement plan to which this para-*
12 *graph applies—*

13 “(i) *such interest shall not be treated*
14 *as sold for purposes of subsection (a)(1), but*

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

20 “(B) *TREATMENT OF SUBSEQUENT DIS-*
21 *TRIBUTIONS.*—*In the case of any distribution on*
22 *or after the expatriation date to or on behalf of*
23 *the covered expatriate from a plan from which*
24 *the expatriate was treated as receiving a dis-*
25 *tribution under subparagraph (A), the amount*

1 *otherwise includible in gross income by reason of*
2 *the subsequent distribution shall be reduced by*
3 *the excess of the amount includible in gross in-*
4 *come under subparagraph (A) over any portion*
5 *of such amount to which this subparagraph pre-*
6 *viously applied.*

7 “(C) *TREATMENT OF SUBSEQUENT DIS-*
8 *TRIBUTIONS BY PLAN.—For purposes of this title,*
9 *a retirement plan to which this paragraph ap-*
10 *plies, and any person acting on the plan’s behalf,*
11 *shall treat any subsequent distribution described*
12 *in subparagraph (B) in the same manner as*
13 *such distribution would be treated without re-*
14 *gard to this paragraph.*

15 “(D) *APPLICABLE PLANS.—This paragraph*
16 *shall apply to—*

17 “(i) *any qualified retirement plan (as*
18 *defined in section 4974(c)),*

19 “(ii) *an eligible deferred compensation*
20 *plan (as defined in section 457(b)) of an el-*
21 *igible employer described in section*
22 *457(e)(1)(A), and*

23 “(iii) *to the extent provided in regula-*
24 *tions, any foreign pension plan or similar*
25 *retirement arrangements or programs.*

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

2 “(1) *EXPATRIATE.*—*The term ‘expatriate’*
3 *means—*

4 “(A) *any United States citizen who relin-*
5 *quishes citizenship, and*

6 “(B) *any long-term resident of the United*
7 *States who—*

8 “(i) *ceases to be a lawful permanent*
9 *resident of the United States (within the*
10 *meaning of section 7701(b)(6)), or*

11 “(ii) *commences to be treated as a resi-*
12 *dent of a foreign country under the provi-*
13 *sions of a tax treaty between the United*
14 *States and the foreign country and who*
15 *does not waive the benefits of such treaty*
16 *applicable to residents of the foreign coun-*
17 *try.*

18 “(2) *EXPATRIATION DATE.*—*The term ‘expatria-*
19 *tion date’ means—*

20 “(A) *the date an individual relinquishes*
21 *United States citizenship, or*

22 “(B) *in the case of a long-term resident of*
23 *the United States, the date of the event described*
24 *in clause (i) or (ii) of paragraph (1)(B).*

1 “(3) *RELINQUISHMENT OF CITIZENSHIP.*—A cit-
2 izen shall be treated as relinquishing United States
3 citizenship on the earliest of—

4 “(A) *the date the individual renounces such*
5 *individual’s United States nationality before a*
6 *diplomatic or consular officer of the United*
7 *States pursuant to paragraph (5) of section*
8 *349(a) of the Immigration and Nationality Act*
9 *(8 U.S.C. 1481(a)(5)),*

10 “(B) *the date the individual furnishes to the*
11 *United States Department of State a signed*
12 *statement of voluntary relinquishment of United*
13 *States nationality confirming the performance of*
14 *an act of expatriation specified in paragraph*
15 *(1), (2), (3), or (4) of section 349(a) of the Im-*
16 *migration and Nationality Act (8 U.S.C.*
17 *1481(a)(1)–(4)),*

18 “(C) *the date the United States Department*
19 *of State issues to the individual a certificate of*
20 *loss of nationality, or*

21 “(D) *the date a court of the United States*
22 *cancela a naturalized citizen’s certificate of natu-*
23 *ralization.*

24 *Subparagraph (A) or (B) shall not apply to any in-*
25 *dividual unless the renunciation or voluntary relin-*

1 *quishment is subsequently approved by the issuance to*
2 *the individual of a certificate of loss of nationality by*
3 *the United States Department of State.*

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

7 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
8 *INTERESTS IN TRUST.*—

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

13 “(A) *the individual shall not be treated as*
14 *having sold such interest,*

15 “(B) *such interest shall be treated as a sep-*
16 *arate share in the trust, and*

17 “(C)(i) *such separate share shall be treated*
18 *as a separate trust consisting of the assets allo-*
19 *cable to such share,*

20 “(ii) *the separate trust shall be treated as*
21 *having sold its assets on the day before the expa-*
22 *triation date for their fair market value and as*
23 *having distributed all of its assets to the indi-*
24 *vidual as of such time, and*

1 “(iii) the individual shall be treated as hav-
2 ing recontributed the assets to the separate trust.
3 Subsection (a)(2) shall apply to any income, gain, or
4 loss of the individual arising from a distribution de-
5 scribed in subparagraph (C)(ii). In determining the
6 amount of such distribution, proper adjustments shall
7 be made for liabilities of the trust allocable to an in-
8 dividual’s share in the trust.

9 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
10 FIED TRUSTS.—

11 “(A) IN GENERAL.—If the trust interest de-
12 scribed in paragraph (1) is an interest in a
13 qualified trust—

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

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

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

24 “(i) the highest rate of tax imposed by
25 section 1(e) for the taxable year which in-

1 *cludes the day before the expatriation date,*
2 *multiplied by the amount of the distribu-*
3 *tion, or*

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

9 *“(C) DEFERRED TAX ACCOUNT.—For pur-*
10 *poses of subparagraph (B)(i)—*

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

19 *“(ii) INCREASE FOR INTEREST.—The*
20 *balance in the deferred tax account shall be*
21 *increased by the amount of interest deter-*
22 *mined (on the balance in the account at the*
23 *time the interest accrues), for periods after*
24 *the 90th day after the expatriation date, by*
25 *using the rates and method applicable*

1 *under section 6621 for underpayments of*
2 *tax for such periods, except that section*
3 *6621(a)(2) shall be applied by substituting*
4 *‘5 percentage points’ for ‘3 percentage*
5 *points’ in subparagraph (B) thereof.*

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 dis-*
11 *tribution to the person holding the*
12 *trust interest, and*

13 “(II) *in the case of a person hold-*
14 *ing a nonvested interest, to the extent*
15 *provided in regulations, by the amount*
16 *of taxes imposed by subparagraph (A)*
17 *on distributions from the trust with re-*
18 *spect to nonvested interests not held by*
19 *such person.*

20 “(D) *ALLOCABLE EXPATRIATION GAIN.—For*
21 *purposes of this paragraph, the allocable expa-*
22 *triation gain with respect to any beneficiary’s*
23 *interest in a trust is the amount of gain which*
24 *would be allocable to such beneficiary’s vested*
25 *and nonvested interests in the trust if the bene-*

1 *beneficiary held directly all assets allocable to such*
2 *interests.*

3 *“(E) TAX DEDUCTED AND WITHHELD.—*

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

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

1 *or a covered expatriate holding an interest in a*
2 *qualified trust dies, then, in lieu of the tax im-*
3 *posed by subparagraph (A)(ii), there is hereby*
4 *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 ac-*
11 *count immediately before such date.*

12 *Such tax shall be imposed on the trust and each*
13 *trustee shall be personally liable for the amount*
14 *of such tax and any other beneficiary of the trust*
15 *shall be entitled to recover from the covered expa-*
16 *triate or the estate the amount of such tax im-*
17 *posed 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, is*
2 *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 the*
8 *maximum exercise of discretion in favor of*
9 *the beneficiary and the occurrence of all*
10 *contingencies in favor of the beneficiary.*

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

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

22 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
23 *EST IN TRUST.—*

24 “(A) *DETERMINATIONS UNDER PARAGRAPH*
25 *(1).—For purposes of paragraph (1), a bene-*

1 *beneficiary's interest in a trust shall be based upon*
2 *all relevant facts and circumstances, including*
3 *the terms of the trust instrument and any letter*
4 *of wishes or similar document, historical pat-*
5 *terns of trust distributions, and the existence of*
6 *and functions performed by a trust protector or*
7 *any similar adviser.*

8 *“(B) OTHER DETERMINATIONS.—For pur-*
9 *poses of this section—*

10 *“(i) CONSTRUCTIVE OWNERSHIP.—If a*
11 *beneficiary of a trust is a corporation, part-*
12 *nership, trust, or estate, the shareholders,*
13 *partners, or beneficiaries shall be deemed to*
14 *be the trust beneficiaries for purposes of this*
15 *section.*

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

19 *“(I) the methodology used to de-*
20 *termine that taxpayer's trust interest*
21 *under this section, and*

22 *“(II) if the taxpayer knows (or*
23 *has reason to know) that any other*
24 *beneficiary of such trust is using a dif-*
25 *ferent methodology to determine such*

1 *beneficiary's trust interest under this*
2 *section.*

3 “(g) *TERMINATION OF DEFERRALS, ETC.—In the case*
4 *of any covered expatriate, notwithstanding any other provi-*
5 *sion of this title—*

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

9 “(2) *any extension of time for payment of tax*
10 *shall cease to apply on the day before the expatriation*
11 *date and the unpaid portion of such tax shall be due*
12 *and payable at the time and in the manner pre-*
13 *scribed by the Secretary.*

14 “(h) *IMPOSITION OF TENTATIVE TAX.—*

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

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

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

5 “(4) *DEFERRAL OF TAX.*—The provisions of sub-
6 *section (b) shall apply to the tax imposed by this sub-*
7 *section to the extent attributable to gain includible in*
8 *gross income by reason of this section.*

9 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

10 “(1) *IMPOSITION OF LIEN.*—

11 “(A) *IN GENERAL.*—If a covered expatriate
12 *makes an election under subsection (a)(4) or (b)*
13 *which results in the deferral of any tax imposed*
14 *by reason of subsection (a), the deferred amount*
15 *(including any interest, additional amount, ad-*
16 *dition to tax, assessable penalty, and costs at-*
17 *tributable to the deferred amount) shall be a lien*
18 *in favor of the United States on all property of*
19 *the expatriate located in the United States (with-*
20 *out regard to whether this section applies to the*
21 *property).*

22 “(B) *DEFERRED AMOUNT.*—For purposes of
23 *this subsection, the deferred amount is the*
24 *amount of the increase in the covered expatri-*
25 *ate’s income tax which, but for the election under*

1 *subsection (a)(4) or (b), would have occurred by*
2 *reason of this section for the taxable year includ-*
3 *ing the expatriation date.*

4 *“(2) PERIOD OF LIEN.—The lien imposed by this*
5 *subsection shall arise on the expatriation date and*
6 *continue until—*

7 *“(A) the liability for tax by reason of this*
8 *section is satisfied or has become unenforceable*
9 *by reason of lapse of time, or*

10 *“(B) it is established to the satisfaction of*
11 *the Secretary that no further tax liability may*
12 *arise by reason of this section.*

13 *“(3) CERTAIN RULES APPLY.—The rules set forth*
14 *in paragraphs (1), (3), and (4) of section 6324A(d)*
15 *shall apply with respect to the lien imposed by this*
16 *subsection as if it were a lien imposed by section*
17 *6324A.*

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

21 *(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS*
22 *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*
23 *FROM EXPATRIATES.—Section 102 (relating to gifts, etc.*
24 *not included in gross income) is amended by adding at the*
25 *end the following new subsection:*

1 “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*
2 *PATRIATES.*—

3 “(1) *IN GENERAL.*—*Subsection (a) shall not ex-*
4 *clude from gross income the value of any property ac-*
5 *quired by gift, bequest, devise, or inheritance from a*
6 *covered expatriate after the expatriation date. For*
7 *purposes of this subsection, any term used in this sub-*
8 *section which is also used in section 877A shall have*
9 *the same meaning as when used in section 877A.*

10 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
11 *SUBJECT TO ESTATE OR GIFT TAX.*—*Paragraph (1)*
12 *shall not apply to any property if either—*

13 “(A) *the gift, bequest, devise, or inheritance*
14 *is—*

15 “(i) *shown on a timely filed return of*
16 *tax imposed by chapter 12 as a taxable gift*
17 *by the covered expatriate, or*

18 “(ii) *included in the gross estate of the*
19 *covered expatriate for purposes of chapter*
20 *11 and shown on a timely filed return of*
21 *tax imposed by chapter 11 of the estate of*
22 *the covered expatriate, or*

23 “(B) *no such return was timely filed but no*
24 *such return would have been required to be filed*

1 *even if the covered expatriate were a citizen or*
2 *long-term resident of the United States.”.*

3 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
4 *CITIZENSHIP.—Section 7701(a) is amended by adding at*
5 *the end the following new paragraph:*

6 “(48) *TERMINATION OF UNITED STATES CITIZEN-*
7 *SHIP.—*

8 “(A) *IN GENERAL.—An individual shall not*
9 *cease to be treated as a United States citizen be-*
10 *fore the date on which the individual’s citizen-*
11 *ship is treated as relinquished under section*
12 *877A(e)(3).*

13 “(B) *DUAL CITIZENS.—Under regulations*
14 *prescribed by the Secretary, subparagraph (A)*
15 *shall not apply to an individual who became at*
16 *birth a citizen of the United States and a citizen*
17 *of another country.”.*

18 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
19 *UNITED STATES.—*

20 (1) *IN GENERAL.—Section 212(a)(10)(E) of the*
21 *Immigration and Nationality Act (8 U.S.C.*
22 *1182(a)(10)(E)) is amended to read as follows:*

23 “(E) *FORMER CITIZENS NOT IN COMPLI-*
24 *ANCE WITH EXPATRIATION REVENUE PROVI-*
25 *SIONS.—Any alien who is a former citizen of the*

1 *United States who relinquishes United States*
2 *citizenship (within the meaning of section*
3 *877A(e)(3) of the Internal Revenue Code of 1986)*
4 *and who is not in compliance with section 877A*
5 *of such Code (relating to expatriation).”.*

6 (2) *AVAILABILITY OF INFORMATION.*—

7 (A) *IN GENERAL.*—*Section 6103(l) (relating*
8 *to disclosure of returns and return information*
9 *for purposes other than tax administration) is*
10 *amended by adding at the end the following new*
11 *paragraph:*

12 “(19) *DISCLOSURE TO DENY VISA OR ADMISSION*
13 *TO CERTAIN EXPATRIATES.*—*Upon written request of*
14 *the Attorney General or the Attorney General’s dele-*
15 *gate, the Secretary shall disclose whether an indi-*
16 *vidual is in compliance with section 877A (and if not*
17 *in compliance, any items of noncompliance) to offi-*
18 *cers and employees of the Federal agency responsible*
19 *for administering section 212(a)(10)(E) of the Immi-*
20 *gration and Nationality Act solely for the purpose of,*
21 *and to the extent necessary in, administering such*
22 *section 212(a)(10)(E).”.*

23 (B) *SAFEGUARDS.*—

24 (i) *TECHNICAL AMENDMENTS.*—*Para-*
25 *graph (4) of section 6103(p) of the Internal*

1 *Revenue Code of 1986, as amended by sec-*
2 *tion 202(b)(2)(B) of the Trade Act of 2002*
3 *(Public Law 107–210; 116 Stat. 961), is*
4 *amended by striking “or (17)” after “any*
5 *other person described in subsection (l)(16)”*
6 *each place it appears and inserting “or*
7 *(18)”.*

8 *(ii) CONFORMING AMENDMENTS.—Sec-*
9 *tion 6103(p)(4) (relating to safeguards), as*
10 *amended by clause (i), is amended by strik-*
11 *ing “or (18)” after “any other person de-*
12 *scribed in subsection (l)(16)” each place it*
13 *appears and inserting “(18), or (19)”.*

14 (3) *EFFECTIVE DATES.—*

15 (A) *IN GENERAL.—Except as provided in*
16 *subparagraph (B), the amendments made by this*
17 *subsection shall apply to individuals who relin-*
18 *quish United States citizenship on or after the*
19 *date of the enactment of this Act.*

20 (B) *TECHNICAL AMENDMENTS.—The*
21 *amendments made by paragraph (2)(B)(i) shall*
22 *take effect as if included in the amendments*
23 *made by section 202(b)(2)(B) of the Trade Act of*
24 *2002 (Public Law 107–210; 116 Stat. 961).*

25 (e) *CONFORMING AMENDMENTS.—*

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

3 “(g) *APPLICATION.—This section shall not apply to an*
4 *expatriate (as defined in section 877A(e)) whose expatria-*
5 *tion date (as so defined) occurs on or after February 5,*
6 *2003.”.*

7 (2) *Section 2107 is amended by adding at the*
8 *end the following new subsection:*

9 “(f) *APPLICATION.—This section shall not apply to*
10 *any expatriate subject to section 877A.”.*

11 (3) *Section 2501(a)(3) is amended by adding at*
12 *the end the following new subparagraph:*

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

16 (4)(A) *Paragraph (1) of section 6039G(d) is*
17 *amended by inserting “or 877A” after “section 877”.*

18 (B) *The second sentence of section 6039G(e) is*
19 *amended by inserting “or who relinquishes United*
20 *States citizenship (within the meaning of section*
21 *877A(e)(3))” after “877(a)”.*

22 (C) *Section 6039G(f) is amended by inserting*
23 *“or 877A(e)(2)(B)” after “877(e)(1)”.*

24 (f) *CLERICAL AMENDMENT.—The table of sections for*
25 *subpart A of part II of subchapter N of chapter 1 is amend-*

1 *ed by inserting after the item relating to section 877 the*
2 *following new item:*

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

3 *(g) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—Except as provided in this*
5 *subsection, the amendments made by this section shall*
6 *apply to expatriates (within the meaning of section*
7 *877A(e) of the Internal Revenue Code of 1986, as*
8 *added by this section) whose expatriation date (as so*
9 *defined) occurs on or after February 5, 2003.*

10 *(2) GIFTS AND BEQUESTS.—Section 102(d) of*
11 *the Internal Revenue Code of 1986 (as added by sub-*
12 *section (b)) shall apply to gifts and bequests received*
13 *on or after February 5, 2003, from an individual or*
14 *the estate of an individual whose expatriation date*
15 *(as so defined) occurs after such date.*

16 *(3) DUE DATE FOR TENTATIVE TAX.—The due*
17 *date under section 877A(h)(2) of the Internal Revenue*
18 *Code of 1986, as added by this section, shall in no*
19 *event occur before the 90th day after the date of the*
20 *enactment of this Act.*

Attest:

Secretary.

108TH CONGRESS
1ST SESSION

H. R. 1307

AMENDMENT