

108TH CONGRESS
2D SESSION

H. R. 4207

To amend the Internal Revenue Code of 1986 to increase the refundability
of the child tax credit.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2004

Ms. DELAURO (for herself, Mr. OBERSTAR, Mr. RANGEL, Mr. SANDERS, Mr. EMANUEL, Mr. LYNCH, Mr. LEVIN, Ms. LEE, Mr. BRADY of Pennsylvania, Ms. SCHAKOWSKY, Mr. FORD, Ms. WATERS, Ms. MILLENDER-MCDONALD, Mr. RODRIGUEZ, Mr. ETHERIDGE, Mr. FRANK of Massachusetts, Mr. CONYERS, Ms. BALDWIN, Ms. CARSON of Indiana, Mr. FROST, Ms. SOLIS, Mr. MICHAUD, Mr. SERRANO, Mr. BISHOP of New York, Mr. MCGOVERN, Mr. HOFFEL, Mr. BERMAN, Mr. MARSHALL, Mr. OWENS, Ms. WOOLSEY, Mr. VAN HOLLEN, Mr. CROWLEY, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to increase
the refundability of the child tax credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Working
5 Americans Act of 2004”.

1 **SEC. 2. INCREASE IN REFUNDABILITY OF THE CHILD TAX**
 2 **CREDIT.**

3 (a) ACCELERATION OF REFUNDABILITY.—Clause (i)
 4 of section 24(d)(1)(B) of the Internal Revenue Code of
 5 1986 (relating to portion of credit refundable) is amended
 6 by striking “(10 percent in the case of taxable years begin-
 7 ning before January 1, 2005)”.

8 (b) EARNED INCOME INCLUDES COMBAT PAY.—
 9 Paragraph (1) of section 24(d) of such Code is amended
 10 by adding at the end the following new sentence: “For
 11 purposes of subparagraph (B), any amount excluded from
 12 gross income by reason of section 112 shall be treated as
 13 earned income which is taken into account in computing
 14 taxable income for the taxable year.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 2003.

18 **SEC. 3. PREVENTION OF CORPORATE EXPATRIATION TO**
 19 **AVOID UNITED STATES INCOME TAX.**

20 (a) IN GENERAL.—Paragraph (4) of section 7701(a)
 21 of the Internal Revenue Code of 1986 (defining domestic)
 22 is amended to read as follows:

23 “(4) DOMESTIC.—

24 “(A) IN GENERAL.—Except as provided in
 25 subparagraph (B), the term ‘domestic’ when ap-
 26 plied to a corporation or partnership means cre-

1 ated or organized in the United States or under
2 the law of the United States or of any State
3 unless, in the case of a partnership, the Sec-
4 retary provides otherwise by regulations.

5 “(B) CERTAIN CORPORATIONS TREATED
6 AS DOMESTIC.—

7 “(i) IN GENERAL.—The acquiring cor-
8 poration in a corporate expatriation trans-
9 action shall be treated as a domestic cor-
10 poration.

11 “(ii) CORPORATE EXPATRIATION
12 TRANSACTION.—For purposes of this sub-
13 paragraph, the term ‘corporate expatria-
14 tion transaction’ means any transaction
15 if—

16 “(I) a nominally foreign corpora-
17 tion (referred to in this subparagraph
18 as the ‘acquiring corporation’) ac-
19 quires, as a result of such transaction,
20 directly or indirectly substantially all
21 of the properties held directly or indi-
22 rectly by a domestic corporation, and

23 “(II) immediately after the trans-
24 action, more than 80 percent of the
25 stock (by vote or value) of the acquir-

1 ing corporation is held by former
2 shareholders of the domestic corpora-
3 tion by reason of holding stock in the
4 domestic corporation.

5 “(iii) LOWER STOCK OWNERSHIP RE-
6 QUIREMENT IN CERTAIN CASES.—Sub-
7 clause (II) of clause (ii) shall be applied by
8 substituting ‘50 percent’ for ‘80 percent’
9 with respect to any nominally foreign cor-
10 poration if—

11 “(I) such corporation does not
12 have substantial business activities
13 (when compared to the total business
14 activities of the expanded affiliated
15 group) in the foreign country in which
16 or under the law of which the corpora-
17 tion is created or organized, and

18 “(II) the stock of the corporation
19 is publicly traded and the principal
20 market for the public trading of such
21 stock is in the United States.

22 “(iv) PARTNERSHIP TRANSACTIONS.—
23 The term ‘corporate expatriation trans-
24 action’ includes any transaction if—

1 “(I) a nominally foreign corpora-
2 tion (referred to in this subparagraph
3 as the ‘acquiring corporation’) ac-
4 quires, as a result of such transaction,
5 directly or indirectly properties consti-
6 tuting a trade or business of a domes-
7 tic partnership,

8 “(II) immediately after the trans-
9 action, more than 80 percent of the
10 stock (by vote or value) of the acquir-
11 ing corporation is held by former
12 partners of the domestic partnership
13 or related foreign partnerships (deter-
14 mined without regard to stock of the
15 acquiring corporation which is sold in
16 a public offering related to the trans-
17 action), and

18 “(III) the acquiring corporation
19 meets the requirements of subclauses
20 (I) and (II) of clause (iii).

21 “(v) SPECIAL RULES.—For purposes
22 of this subparagraph—

23 “(I) a series of related trans-
24 actions shall be treated as 1 trans-
25 action, and

1 “(II) stock held by members of
2 the expanded affiliated group which
3 includes the acquiring corporation
4 shall not be taken into account in de-
5 termining ownership.

6 “(vi) OTHER DEFINITIONS.—For pur-
7 poses of this subparagraph—

8 “(I) NOMINALLY FOREIGN COR-
9 PORATION.—The term ‘nominally for-
10 eign corporation’ means any corpora-
11 tion which would (but for this sub-
12 paragraph) be treated as a foreign
13 corporation.

14 “(II) EXPANDED AFFILIATED
15 GROUP.—The term ‘expanded affili-
16 ated group’ means an affiliated group
17 (as defined in section 1504(a) without
18 regard to section 1504(b)).

19 “(III) RELATED FOREIGN PART-
20 NERSHIP.—A foreign partnership is
21 related to a domestic partnership if
22 they are under common control (with-
23 in the meaning of section 482), or
24 they shared the same trademark or
25 tradename.”

1 (b) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendment made by
3 this section shall apply to corporate expatriation
4 transactions completed after September 11, 2001.

5 (2) SPECIAL RULE.—The amendment made by
6 this section shall also apply to corporate expatriation
7 transactions completed on or before September 11,
8 2001, but only with respect to taxable years of the
9 acquiring corporation beginning after December 31,
10 2003.

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