

108TH CONGRESS
1ST SESSION

S. 803

To amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces reserves for contributions to savings accounts which may be used when the members are called to active duty.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2003

Mr. NELSON of Nebraska (for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. LEVIN, Mr. LEAHY, Mrs. CLINTON, Mr. CHAMBLISS, and Ms. COLLINS) 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 allow a deduction to members of the Armed Forces reserves for contributions to savings accounts which may be used when the members are called to active duty.

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 “Mobilized Reserve Sav-
5 ings Account Act”.

1 **SEC. 2. DEDUCTION FOR CONTRIBUTIONS TO SAVINGS AC-**
 2 **COUNTS OF ARMED FORCES RESERVES.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 additional itemized deductions for individuals) is amended
 6 by redesignating section 223 as section 224 and by insert-
 7 ing after section 222 the following new section:

8 **“SEC. 223. CONTRIBUTIONS TO ARMED FORCES RESERVE**
 9 **SAVINGS ACCOUNTS.**

10 “(a) DEDUCTION ALLOWED.—

11 “(1) IN GENERAL.—In the case of an individual
 12 who is a qualified reservist, there shall be allowed as
 13 a deduction for the taxable year an amount equal to
 14 the contributions of the individual to an Armed
 15 Forces reserve savings account of the individual for
 16 the taxable year.

17 “(2) MAXIMUM AMOUNT.—The amount allow-
 18 able as a deduction under subsection (a) to any indi-
 19 vidual for a taxable year shall not exceed the lesser
 20 of—

21 “(A) \$5,000, or

22 “(B) \$25,000, reduced by the aggregate
 23 contributions by such individual to Armed
 24 Forces reserve savings accounts for all pre-
 25 ceding taxable years.

1 “(b) QUALIFIED RESERVIST.—For purposes of this
 2 section, the term ‘qualified reservist’ means an individual
 3 who, on the last day of the taxable year, is a member of
 4 a reserve component of the Armed Forces.

5 “(c) ARMED FORCES RESERVE SAVINGS AC-
 6 COUNT.—For purposes of this section, the term ‘Armed
 7 Forces reserve savings account’ means a trust created or
 8 organized in the United States for the exclusive benefit
 9 of an individual and the individual’s beneficiaries, but only
 10 if the written governing instrument creating the trust
 11 meets the following requirements:

12 “(1) No contribution will be accepted unless it
 13 is in cash.

14 “(2) The trustee is a bank (as defined in sec-
 15 tion 408(n)) or another person who demonstrates to
 16 the satisfaction of the Secretary that the manner in
 17 which that person will administer the trust will be
 18 consistent with the requirements of this section.

19 “(3) No part of the trust assets will be invested
 20 in life insurance contracts.

21 “(4) The assets of the trust will not be commin-
 22 gled with other property except in a common trust
 23 fund or common investment fund.

24 “(5) The interest of an individual in the bal-
 25 ance of the individual’s account is nonforfeitable.

1 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

2 “(1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, any amount paid or distrib-
4 uted out of an Armed Forces reserve savings ac-
5 count shall be included in the gross income of the
6 payee or distributee for the taxable year in which the
7 payment or distribution is received in the manner
8 provided under section 72.

9 “(2) EXCESS CONTRIBUTIONS RETURNED BE-
10 FORE DUE DATE OF RETURN.—Paragraph (1) shall
11 not apply to the distribution of any contribution paid
12 during a taxable year to an Armed Forces reserve
13 savings account to the extent that such contribution
14 exceeds the amount allowable as a deduction under
15 subsection (a) if—

16 “(A) such distribution is received on or be-
17 fore the day prescribed by law (including exten-
18 sions of time) for filing such individual’s return
19 for such taxable year,

20 “(B) no deduction is allowed under sub-
21 section (a) with respect to such excess contribu-
22 tion, and

23 “(C) such distribution is accompanied by
24 the amount of net income attributable to such
25 excess contribution.

1 Any net income described in subparagraph (C) shall
2 be included in the gross income of the individual for
3 the taxable year in which such excess contribution
4 was made.

5 “(3) ROLLOVER CONTRIBUTION.—

6 “(A) IN GENERAL.—Paragraph (1) shall
7 not apply to any amount paid or distributed
8 from an Armed Forces reserve savings account
9 to the account holder to the extent the amount
10 received is paid to another such account for the
11 benefit of such holder not later than the 60th
12 day on which the holder receives the payment
13 or distribution.

14 “(B) LIMITATION.—If an individual re-
15 ceives more than 1 payment or distribution dur-
16 ing any 12-month period, this paragraph shall
17 not apply to any such payment or distribution
18 to the individual if this paragraph previously
19 applied to any such payment or distribution.

20 “(4) ADDITIONAL TAX ON CERTAIN DISTRIBU-
21 TIONS.—

22 “(A) IN GENERAL.—The tax imposed by
23 this chapter on the account holder for any tax-
24 able year in which there is a payment or dis-
25 tribution from an Armed Forces reserve ac-

1 count which is includible in gross income shall
2 be increased by 10 percent of the amount which
3 is so includible.

4 “(B) EXCEPTIONS RELATED TO MILITARY
5 SERVICE.—Subparagraph (A) shall not apply if
6 the payment or distribution is made—

7 “(i) during any period during which
8 the account holder is serving on active
9 duty to which called or ordered under a
10 provision of law referred to in section
11 101(a)(13)(B) of title 10, United States
12 Code, or

13 “(ii) after the account holder ceases to
14 be a member of a reserve component of the
15 Armed Forces or is transferred to the re-
16 tired list of such a reserve component.

17 For purposes of clause (i), a payment made
18 during the 60-day period immediately preceding
19 or following the period described in clause (i)
20 shall be treated as made during the period so
21 described.

22 “(C) EXCEPTIONS FOR DISABILITY OR
23 DEATH.—Subparagraph (A) shall not apply if
24 the payment or distribution is made after the

1 account holder becomes disabled within the
 2 meaning of section 72(m)(7) or dies.

3 “(5) INVESTMENT IN COLLECTIBLES TREATED
 4 AS DISTRIBUTIONS.—Rules similar to the rules of
 5 section 408(m) shall apply for purposes of this sec-
 6 tion.

7 “(e) TAX TREATMENT OF ACCOUNTS.—

8 “(1) EXEMPTION FROM TAX.—An Armed
 9 Forces reserve savings account is exempt from tax-
 10 ation under this subtitle unless such account has
 11 ceased to be an Armed Forces reserve savings ac-
 12 count by reason of paragraph (2). Notwithstanding
 13 the preceding sentence, any such account is subject
 14 to the taxes imposed by section 511 (relating to im-
 15 position of tax on unrelated business income of char-
 16 itable, etc. organizations).

17 “(2) LOSS OF EXEMPTION OF ACCOUNT WHERE
 18 INDIVIDUAL ENGAGES IN PROHIBITED TRANS-
 19 ACTION.—

20 “(A) IN GENERAL.—If the individual for
 21 whose benefit an Armed Forces reserve savings
 22 account is established or any individual who
 23 contributes to such account engages in any
 24 transaction prohibited by section 4975 with re-
 25 spect to the account, the account shall cease to

be an Armed Forces reserve savings account as of the first day of the taxable year (of the individual so engaging in such transaction) during which such transaction occurs.

“(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an Armed Forces reserve savings account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (d) shall apply as if there was a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

“(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an Armed Forces reserve savings account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to the individual so using such portion.

“(f) SPECIAL RULES.—

“(1) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution to an Armed Forces reserve savings ac-

1 count on the last day of the preceding taxable year
2 if the contribution is made on account of such tax-
3 able year and is made not later than the time pre-
4 scribed by law for filing the return for such taxable
5 year (not including extensions thereof).

6 “(2) DEATH AND DIVORCE.—Rules similar to
7 the rules of sections 401(a)(9), 401(a)(11), and
8 408(d)(6) shall apply for purposes of this section.

9 “(3) COMMUNITY PROPERTY LAWS.—This sec-
10 tion shall be applied without regard to any commu-
11 nity property laws.

12 “(g) REPORTS.—The trustee of an Armed Forces re-
13 serve savings account shall make such reports regarding
14 such account to the Secretary and to the account holder
15 with respect to contributions, distributions, and such other
16 matters as the Secretary may require under regulations.
17 The reports required by this subsection shall be filed at
18 such time and in such manner and furnished to such indi-
19 viduals at such time and in such manner as may be re-
20 quired by those regulations.”

21 (b) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
22 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
23 such Code (defining adjusted gross income) is amended
24 by inserting after paragraph (18) the following new para-
25 graph:

1 “(19) CONTRIBUTIONS TO ARMED FORCES RE-
 2 SERVE SAVINGS ACCOUNTS.—The deduction allowed
 3 by section 223(a).”

4 (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973
 5 of such Code (relating to tax on excess contributions to
 6 certain tax-favored accounts and annuities) is amended—
 7 (1) in subsection (a), by striking “or” at the
 8 end of paragraph (3), by inserting “or” at the end
 9 of paragraph (4), and by inserting after paragraph
 10 (4) the following new paragraph:

11 “(5) an Armed Forces reserve savings account
 12 (as defined in section 223(c)),”, and

13 (2) by adding at the end the following new sub-
 14 section:

15 “(g) EXCESS CONTRIBUTIONS TO AN ARMED FORCES
 16 RESERVE SAVINGS ACCOUNT.—For purposes of this sec-
 17 tion, in the case of an Armed Forces reserve savings ac-
 18 count, the term ‘excess contributions’ means the sum of—

19 “(1) the aggregate amount contributed for the
 20 taxable year to the account which is not allowable as
 21 a deduction under section 223 for such taxable year,
 22 and

23 “(2) the amount determined under this sub-
 24 section for the preceding taxable year, reduced by—

1 “(A) the distributions out of the accounts
2 which were included in gross income under sec-
3 tion 223(d)(1) for the taxable year, over

4 “(B) the amount contributed to the ac-
5 counts for the taxable year.

6 For purposes of this subsection, any contribution
7 which is distributed out of the Armed Forces reserve
8 savings account in a distribution to which section
9 223(d)(2) applies shall be treated as an amount not
10 contributed.”.

11 (d) TAX ON PROHIBITED TRANSACTIONS.—Section
12 4975 of such Code (relating to prohibited transactions)
13 is amended—

14 (1) by adding at the end of subsection (c) the
15 following new paragraph:

16 “(6) SPECIAL RULE FOR ARMED FORCES RE-
17 SERVE SAVINGS ACCOUNTS.—An individual for
18 whose benefit an Armed Forces reserve savings ac-
19 count is established and any contributor to such ac-
20 count shall be exempt from the tax imposed by this
21 section with respect to any transaction concerning
22 such account (which would otherwise be taxable
23 under this section) if, with respect to such trans-
24 action, the account ceases to be an Armed Forces re-

(2) in subsection (e)(1), by striking “or” at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

8 “(F) an Armed Forces reserve savings ac-
9 count described in section 223, or”.

(e) FAILURE TO PROVIDE REPORTS ON ARMED FORCES RESERVE SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a) of such Code (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

18 “(E) section 223(g) (relating to Armed
19 Forces reserve savings accounts).”.

(f) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 223 and inserting the following new items:

“Sec. 223. Contributions to Armed Forces reserve savings accounts.

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

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