

110TH CONGRESS
1ST SESSION

S. 455

To amend the Internal Revenue Code of 1986 to provide tax relief to active duty military personnel and employers who assist them, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2007

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax relief to active duty military personnel and employers who assist them, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Active Duty Military
5 Tax Relief Act of 2007”.

1 **SEC. 2. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOY-**
 2 **MENT OF ACTIVATED MILITARY RESERVIST**
 3 **AND REPLACEMENT PERSONNEL.**

4 (a) IN GENERAL.—Subpart B of part IV of sub-
 5 chapter A of chapter 1 of the Internal Revenue Code of
 6 1986 (relating to foreign tax credit, etc.) is amended by
 7 adding at the end the following new section:

8 **“SEC. 30C. EMPLOYER WAGE CREDIT FOR ACTIVATED MILI-**
 9 **TARY RESERVISTS.**

10 “(a) GENERAL RULE.—There shall be allowed as a
 11 credit against the tax imposed by this chapter for the tax-
 12 able year an amount equal to the sum of—

13 “(1) in the case of an eligible small business
 14 employer, the employment credit with respect to all
 15 qualified employees and qualified replacement em-
 16 ployees of the taxpayer, plus

17 “(2) the self-employment credit of a qualified
 18 self-employed taxpayer.

19 “(b) EMPLOYMENT CREDIT.—For purposes of this
 20 section—

21 “(1) QUALIFIED EMPLOYEES.—

22 “(A) IN GENERAL.—The employment cred-
 23 it with respect to a qualified employee of the
 24 taxpayer for any taxable year is equal to 40
 25 percent of so much of the excess (if any) paid
 26 by the taxpayer to such qualified employee of—

1 “(i) the qualified employee’s average
 2 daily qualified compensation for the tax-
 3 able year, over

4 “(ii) the average daily military pay
 5 and allowances received by the qualified
 6 employee during the taxable year while
 7 participating in qualified reserve compo-
 8 nent duty to the exclusion of the qualified
 9 employee’s normal employment duties,
 10 for the aggregate number of days the qualified
 11 employee participates in qualified reserve com-
 12 ponent duty during the taxable year (including
 13 time spent in a travel status) as does not ex-
 14 ceed \$25,000. The employment credit, with re-
 15 spect to all qualified employees, is equal to the
 16 sum of the employment credits for each quali-
 17 fied employee under this subsection.

18 “(B) AVERAGE DAILY QUALIFIED COM-
 19 PENSATION AND AVERAGE DAILY MILITARY PAY
 20 AND ALLOWANCES.—As used with respect to a
 21 qualified employee—

22 “(i) the term ‘average daily qualified
 23 compensation’ means the qualified com-
 24 pensation of the qualified employee for the
 25 taxable year divided by 365, and

1 “(ii) the term ‘average daily military
2 pay and allowances’ means—

3 “(I) the amount paid to the
4 qualified employee during the taxable
5 year as military pay and allowances
6 on account of the qualified employee’s
7 participation in qualified reserve com-
8 ponent duty, divided by

9 “(II) the total number of days
10 the qualified employee participates in
11 qualified reserve component duty, in-
12 cluding time spent in travel status.

13 “(C) QUALIFIED COMPENSATION.—When
14 used with respect to the compensation paid to
15 a qualified employee for any period during
16 which the qualified employee participates in
17 qualified reserve component duty, the term
18 ‘qualified compensation’ means—

19 “(i) compensation which is normally
20 contingent on the qualified employee’s
21 presence for work and which would be de-
22 ductible from the taxpayer’s gross income
23 under section 162(a)(1) if the qualified
24 employee were present and receiving such
25 compensation,

“(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

“(iii) group health plan costs (if any) with respect to the qualified employee.

“(D) QUALIFIED EMPLOYEE.—The term ‘qualified employee’ means a person who—

“(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

“(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

1 “(2) QUALIFIED REPLACEMENT EMPLOYEES.—

2 “(A) IN GENERAL.—The employment cred-
 3 it with respect to a qualified replacement em-
 4 ployee of the taxpayer for any taxable year is
 5 equal to 40 percent of so much of the individ-
 6 ual’s qualified compensation attributable to
 7 service rendered as a qualified replacement em-
 8 ployee as does not exceed \$15,000. The employ-
 9 ment credit, with respect to all qualified re-
 10 placement employees, is equal to the sum of the
 11 employment credits for each qualified replace-
 12 ment employee under this subsection.

13 “(B) QUALIFIED COMPENSATION.—When
 14 used with respect to the compensation paid to
 15 a qualified replacement employee, the term
 16 ‘qualified compensation’ means—

17 “(i) compensation which is normally
 18 contingent on the qualified replacement
 19 employee’s presence for work and which is
 20 deductible from the taxpayer’s gross in-
 21 come under section 162(a)(1),

22 “(ii) compensation which is not char-
 23 acterized by the taxpayer as vacation or
 24 holiday pay, or as sick leave or pay, or as

1 any other form of pay for a nonspecific
2 leave of absence, and

3 “(iii) group health plan costs (if any)
4 with respect to the qualified replacement
5 employee.

6 “(C) QUALIFIED REPLACEMENT EM-
7 PLOYEE.—The term ‘qualified replacement em-
8 ployee’ means an individual who is hired to re-
9 place a qualified employee or a qualified self-
10 employed taxpayer, but only with respect to the
11 period during which such employee or taxpayer
12 participates in qualified reserve component
13 duty, including time spent in travel status, and,
14 in the case of a qualified employee, is receiving
15 qualified compensation (as defined in paragraph
16 (1)(C)) for which an employment credit is al-
17 lowed as determined under paragraph (1).

18 “(c) SELF-EMPLOYMENT CREDIT.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The self-employment credit
21 of a qualified self-employed taxpayer for any taxable
22 year is equal to 40 percent of so much of the excess
23 (if any) of—

1 “(A) the qualified self-employed taxpayer’s
 2 average daily qualified compensation for the
 3 taxable year, over

4 “(B) the average daily military pay and al-
 5 lowances received by the taxpayer during the
 6 taxable year while participating in qualified re-
 7 serve component duty to the exclusion of the
 8 taxpayer’s normal self-employment duties,
 9 for the aggregate number of days the taxpayer par-
 10 ticipates in qualified reserve component duty during
 11 the taxable year (including time spent in a travel
 12 status) as does not exceed \$25,000.

13 “(2) AVERAGE DAILY QUALIFIED COMPENSA-
 14 TION AND AVERAGE DAILY MILITARY PAY AND AL-
 15 LOWANCES.—As used with respect to a qualified
 16 self-employed taxpayer—

17 “(A) the term ‘average daily qualified com-
 18 pensation’ means the qualified compensation of
 19 the qualified self-employed taxpayer for the tax-
 20 able year divided by 365 days, and

21 “(B) the term ‘average daily military pay
 22 and allowances’ means—

23 “(i) the amount paid to the taxpayer
 24 during the taxable year as military pay
 25 and allowances on account of the tax-

1 payer's participation in qualified reserve
2 component duty, divided by

3 “(ii) the total number of days the tax-
4 payer participates in qualified reserve com-
5 ponent duty, including time spent in travel
6 status.

7 “(3) QUALIFIED COMPENSATION.—When used
8 with respect to the compensation paid to a qualified
9 self-employed taxpayer for any period during which
10 the qualified self-employed taxpayer participates in
11 qualified reserve component duty, the term ‘qualified
12 compensation’ means—

13 “(A) the self-employment income (as de-
14 fined in section 1402(b) of the taxpayer which
15 is normally contingent on the taxpayer's pres-
16 ence for work,

17 “(B) compensation which is not character-
18 ized by the taxpayer as vacation or holiday pay,
19 or as sick leave or pay, or as any other form
20 of pay for a nonspecific leave of absence, and

21 “(C) the amount paid for insurance which
22 constitutes medical care for the taxpayer for
23 such year (within the meaning of section
24 162(l)).

1 “(4) QUALIFIED SELF-EMPLOYED TAXPAYER.—

2 The term ‘qualified self-employed taxpayer’ means a
3 taxpayer who—

4 “(A) has net earnings from self-employ-
5 ment (as defined in section 1402(a)) for the
6 taxable year, and

7 “(B) is a member of the Ready Reserve of
8 a reserve component of an Armed Force of the
9 United States.

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

15 “(e) LIMITATIONS.—

16 “(1) APPLICATION WITH OTHER CREDITS.—

17 The credit allowed under subsection (a) for any tax-
18 able year shall not exceed the excess (if any) of—

19 “(A) the regular tax for the taxable year
20 reduced by the sum of the credits allowable
21 under subpart A and sections 27, 29, and 30,
22 over

23 “(B) the tentative minimum tax for the
24 taxable year.

1 “(2) DISALLOWANCE FOR FAILURE TO COMPLY
2 WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF
3 MEMBERS OF THE RESERVE COMPONENTS OF THE
4 ARMED FORCES OF THE UNITED STATES.—No credit
5 shall be allowed under subsection (a) to a taxpayer
6 for—

7 “(A) any taxable year, beginning after the
8 date of the enactment of this section, in which
9 the taxpayer is under a final order, judgment,
10 or other process issued or required by a district
11 court of the United States under section 4323
12 of title 38 of the United States Code with re-
13 spect to a violation of chapter 43 of such title,
14 and

15 “(B) the 2 succeeding taxable years.

16 “(3) DISALLOWANCE WITH RESPECT TO PER-
17 SONS ORDERED TO ACTIVE DUTY FOR TRAINING.—
18 No credit shall be allowed under subsection (a) to a
19 taxpayer with respect to any period by taking into
20 account any person who is called or ordered to active
21 duty for any of the following types of duty:

22 “(A) Active duty for training under any
23 provision of title 10, United States Code.

1 “(B) Training at encampments, maneu-
 2 vers, outdoor target practice, or other exercises
 3 under chapter 5 of title 32, United States Code.

4 “(C) Full-time National Guard duty, as
 5 defined in section 101(d)(5) of title 10, United
 6 States Code.

7 “(f) GENERAL DEFINITIONS AND SPECIAL RULES.—
 8 For purposes of this section—

9 “(1) ELIGIBLE SMALL BUSINESS EMPLOYER.—

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

13 “(i) employed an average of 100 or
 14 fewer employees on business days during
 15 such taxable year, and

16 “(ii) under a written plan of the em-
 17 ployer, provides the excess amount de-
 18 scribed in subsection (b)(1)(A) to every
 19 qualified employee of the employer.

20 “(B) CONTROLLED GROUPS.—For pur-
 21 poses of subparagraph (A), all persons treated
 22 as a single employer under subsection (b), (c),
 23 (m), or (o) of section 414 shall be treated as a
 24 single employer.

1 “(2) MILITARY PAY AND ALLOWANCES.—The
 2 term ‘military pay’ means pay as that term is de-
 3 fined in section 101(21) of title 37, United States
 4 Code, and the term ‘allowances’ means the allow-
 5 ances payable to a member of the Armed Forces of
 6 the United States under chapter 7 of that title.

7 “(3) QUALIFIED RESERVE COMPONENT
 8 DUTY.—The term ‘qualified reserve component duty’
 9 includes only active duty performed, as designated in
 10 the reservist’s military orders, in support of a con-
 11 tingency operation as defined in section 101(a)(13)
 12 of title 10, United States Code.

13 “(4) CARRYBACK AND CARRYFORWARD AL-
 14 LOWED.—

15 “(A) IN GENERAL.—If the credit allowable
 16 under subsection (a) for a taxable year exceeds
 17 the amount of the limitation under subsection
 18 (f)(1) for such taxable year (in this paragraph
 19 referred to as the ‘unused credit year’), such
 20 excess shall be a credit carryback to the taxable
 21 year preceding the unused credit year and a
 22 credit carryforward to each of the 20 taxable
 23 years following the unused credit year.

24 “(B) RULES.—Rules similar to the rules of
 25 section 39 shall apply with respect to the credit

1 carryback and credit carryforward under sub-
 2 paragraph (A).

3 “(5) CERTAIN RULES TO APPLY.—Rules similar
 4 to the rules of subsections (c), (d), and (e) of section
 5 52 shall apply.”.

6 (b) NO DEDUCTION FOR COMPENSATION TAKEN
 7 INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the In-
 8 ternal Revenue Code of 1986 (relating to rule for employ-
 9 ment credits) is amended—

10 (1) by inserting “or compensation” after “sala-
 11 ries”, and

12 (2) by inserting “30C,” before “45A(a),”.

13 (c) CONFORMING AMENDMENT.—Section 55(c)(2) of
 14 the Internal Revenue Code of 1986 is amended by insert-
 15 ing “30C(e)(1),” after “30(b)(3),”.

16 (d) CLERICAL AMENDMENT.—The table of sections
 17 for subpart B of part IV of subchapter A of chapter 1
 18 of the Internal Revenue Code of 1986 is amended by add-
 19 ing at the end of 30A the following new item:

“Sec. 30C. Employer wage credit for activated military reservists.”.

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to amounts paid in taxable years
 22 beginning after December 31, 2006.

23 **SEC. 3. DIFFERENTIAL WAGE PAYMENTS.**

24 (a) INCOME TAX WITHHOLDING ON DIFFERENTIAL
 25 WAGE PAYMENTS.—

1 (1) IN GENERAL.—Section 3401 of the Internal
2 Revenue Code of 1986 (relating to definitions) is
3 amended by adding at the end the following new
4 subsection:

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

7 “(1) IN GENERAL.—For purposes of subsection
8 (a), any differential wage payment shall be treated
9 as a payment of wages by the employer to the em-
10 ployee.

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

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

19 “(B) represents all or a portion of the
20 wages the individual would have received from
21 the employer if the individual were performing
22 service for the employer.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall apply to remuneration paid
25 after December 31, 2007.

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

3 (1) PENSION PLANS.—

4 (A) IN GENERAL.—Section 414(u) of the
5 Internal Revenue Code of 1986 (relating to spe-
6 cial rules relating to veterans’ reemployment
7 rights under USERRA) is amended by adding
8 at the end the following new paragraph:

9 “(11) TREATMENT OF DIFFERENTIAL WAGE
10 PAYMENTS.—

11 “(A) IN GENERAL.—Except as provided in
12 this paragraph, for purposes of applying this
13 title to a retirement plan to which this sub-
14 section applies—

15 “(i) an individual receiving a differen-
16 tial wage payment shall be treated as an
17 employee of the employer making the pay-
18 ment,

19 “(ii) the differential wage payment
20 shall be treated as compensation, and

21 “(iii) the plan shall not be treated as
22 failing to meet the requirements of any
23 provision described in paragraph (1)(C) by
24 reason of any contribution or benefit which
25 is based on the differential wage payment.

1 “(B) SPECIAL RULE FOR DISTRIBUTIONS.—

2

3 “(i) IN GENERAL.—Notwithstanding

4 subparagraph (A)(i), for purposes of sec-

5 tion 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii),

6 403(b)(11)(A), or 457(d)(1)(A)(ii), an in-

7 dividual shall be treated as having been

8 severed from employment during any pe-

9 riod the individual is performing service in

10 the uniformed services described in section

11 3401(h)(2)(A).

12 “(ii) LIMITATION.—If an individual

13 elects to receive a distribution by reason of

14 clause (i), the plan shall provide that the

15 individual may not make an elective defer-

16 ral or employee contribution during the 6-

17 month period beginning on the date of the

18 distribution.

19 “(C) NONDISCRIMINATION REQUIRE-

20 MENT.—Subparagraph (A)(iii) shall apply only

21 if all employees of an employer (as determined

22 under subsections (b), (c), (m), and (o)) per-

23 forming service in the uniformed services de-

24 scribed in section 3401(h)(2)(A) are entitled to

25 receive differential wage payments on reason-

ably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

“(D) DIFFERENTIAL WAGE PAYMENT.—

For purposes of this paragraph, the term ‘differential wage payment’ has the meaning given such term by section 3401(h)(2).”.

(B) CONFORMING AMENDMENT.—The

heading for section 414(u) of such Code is amended by inserting “AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY” after “USERRA”.

(2) DIFFERENTIAL WAGE PAYMENTS TREATED

AS COMPENSATION FOR INDIVIDUAL RETIREMENT

PLANS.—Section 219(f)(1) of the Internal Revenue

Code of 1986 (defining compensation) is amended

by adding at the end the following new sentence:

“The term ‘compensation’ includes any differential wage payment (as defined in section 3401(h)(2)).”.

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

4 (c) PROVISIONS RELATING TO PLAN AMEND-
 5 MENTS.—

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

8 (A) such plan or contract shall be treated
 9 as being operated in accordance with the terms
 10 of the plan or contract during the period de-
 11 scribed in paragraph (2)(B)(i), and

12 (B) except as provided by the Secretary of
 13 the Treasury, such plan shall not fail to meet
 14 the requirements of the Internal Revenue Code
 15 of 1986 or the Employee Retirement Income
 16 Security Act of 1974 by reason of such amend-
 17 ment.

18 (2) AMENDMENTS TO WHICH SECTION AP-
 19 PLIES.—

20 (A) IN GENERAL.—This subsection shall
 21 apply to any amendment to any plan or annuity
 22 contract which is made—

23 (i) pursuant to any amendment made
 24 by this section, and

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

4 (B) CONDITIONS.—This subsection shall
 5 not apply to any plan or annuity contract
 6 amendment unless—

7 (i) during the period beginning on the
 8 date the amendment described in subpara-
 9 graph (A)(i) takes effect and ending on the
 10 date described in subparagraph (A)(ii) (or,
 11 if earlier, the date the plan or contract
 12 amendment is adopted), the plan or con-
 13 tract is operated as if such plan or con-
 14 tract amendment were in effect, and

15 (ii) such plan or contract amendment
 16 applies retroactively for such period.

17 **SEC. 4. CONTRIBUTIONS OF MILITARY DEATH GRATUITIES**
 18 **TO CERTAIN TAX-FAVORED ACCOUNTS.**

19 (a) ROTH IRAS.—

20 (1) PROVISION IN EFFECT BEFORE PENSION
 21 PROTECTION ACT.—Subsection (e) of section 408A
 22 of the Internal Revenue Code of 1986 (relating to
 23 qualified rollover contribution), as in effect before
 24 the amendments made by section 824 of the Pension

1 Protection Act of 2006, is amended to read as fol-
2 lows:

3 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
4 purposes of this section—

5 “(1) IN GENERAL.—The term ‘qualified rollover
6 contribution’ means a rollover contribution to a Roth
7 IRA from another such account, or from an indi-
8 vidual retirement plan, but only if such rollover con-
9 tribution meets the requirements of section
10 408(d)(3). Such term includes a rollover contribu-
11 tion described in section 402A(c)(3)(A). For pur-
12 poses of section 408(d)(3)(B), there shall be dis-
13 regarded any qualified rollover contribution from an
14 individual retirement plan (other than a Roth IRA)
15 to a Roth IRA.

16 “(2) MILITARY DEATH GRATUITY.—

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

1 later than 1 year after the day on which such
 2 individual receives such amount.

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

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

14 (2) PROVISION IN EFFECT AFTER PENSION
 15 PROTECTION ACT.—Subsection (e) of section 408A,
 16 as in effect after the amendments made by section
 17 824 of the Pension Protection Act of 2006, is
 18 amended to read as follows:

19 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
 20 purposes of this section—

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

23 “(A) to a Roth IRA from another such ac-
 24 count,

1 “(B) from an eligible retirement plan, but
2 only if—

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

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

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

16 “(2) MILITARY DEATH GRATUITY.—

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

1 later than 1 year after the day on which such
 2 individual receives such amount.

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

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

14 (b) HEALTH SAVINGS ACCOUNTS AND ARCHER
 15 MSAs.—Sections 220(f)(5) and 223(f)(5) of the Internal
 16 Revenue Code of 1986 are each amended by adding at
 17 the end the following flush sentence:

18 “For purposes of subparagraphs (A) and (B), rules
 19 similar to the rules of section 408A(e)(2) (relating
 20 to rollover treatment for contributions of military
 21 death gratuity) shall apply.”.

22 (c) EDUCATION SAVINGS ACCOUNTS.—Section
 23 530(d)(5) of the Internal Revenue Code of 1986 is amend-
 24 ed by adding at the end the following new sentence: “For
 25 purposes of this paragraph, rules similar to the rules of

1 section 408A(e)(2) (relating to rollover treatment for con-
2 tributions of military death gratuity) shall apply.”.

3 (d) EFFECTIVE DATES.—

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

9 (2) APPLICATION OF AMENDMENTS TO DEATHS
10 FROM INJURIES OCCURRING ON OR AFTER OCTOBER
11 7, 2001, AND BEFORE ENACTMENT.—The amend-
12 ments made by this section shall apply to any con-
13 tribution made pursuant to section 408A(e)(2),
14 220(f)(5), 223(f)(5), or 530(d)(5) of the Internal
15 Revenue Code of 1986, as amended by this Act, with
16 respect to amounts received under section 1477 of
17 title 10, United States Code, or under section 1967
18 of title 38 of such Code, for deaths from injuries oc-
19 ccurring on or after October 7, 2001, and before the
20 date of the enactment of this Act if such contribu-
21 tion is made not later than 1 year after the date of
22 the enactment of this Act.

23 (3) PENSION PROTECTION ACT CHANGES.—Sec-
24 tion 408A(e)(1) of the Internal Revenue Code of
25 1986 (as in effect after the amendments made by

1 subsection (a)(2)) shall apply to taxable years begin-
 2 ning after December 31, 2007.

3 **SEC. 5. TEMPORARY INCREASE IN STANDARD DEDUCTION**
 4 **FOR ACTIVE DUTY MILITARY PERSONNEL.**

5 (a) IN GENERAL.—Paragraph (3) of section 63(c) of
 6 the Internal Revenue Code of 1986 (defining additional
 7 standard deduction for the aged and blind) is amended
 8 to read as follows:

9 “(3) ADDITIONAL STANDARD DEDUCTION.—For
 10 the purposes of paragraph (1), the additional stand-
 11 ard deduction is the sum of—

12 “(A) the sum of each additional amount to
 13 which the taxpayer is entitled under subsection
 14 (f), plus

15 “(B) in the case of a taxable year begin-
 16 ning in 2007 or 2008, an additional amount of
 17 \$1,000 for an individual for such taxable year
 18 if the individual who at any time during such
 19 taxable year is performing service in the uni-
 20 formed services while on active duty for a pe-
 21 riod of more than 30 days.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 3402(m)(3) of the the Internal Rev-
 24 enue Code of 1986 is amended by striking “for the
 25 aged and blind”.

1 (2) Section 6012(a)(1)(B) of such Code is
 2 amended by adding at the end the following new
 3 sentence: “The preceding sentence shall be applied
 4 without regard to section 63(c)(3)(B) and each of
 5 the amounts specified in subparagraph (A) shall be
 6 increased by the portion of any additional standard
 7 deduction to which the individual is entitled by rea-
 8 son of section 63(c)(3)(B).”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2006.

12 **SEC. 6. PERMANENT EXTENSION OF ELECTION TO INCLUDE**
 13 **COMBAT PAY AS EARNED INCOME FOR PUR-**
 14 **POSES OF EARNED INCOME CREDIT.**

15 (a) IN GENERAL.—Section 32(c)(2)(B)(vi) of the In-
 16 ternal Revenue Code of 1986, as amended by section 106
 17 of division A of the Tax Relief and Health Care Act of
 18 2006, is amended to read as follows:

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

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 December 31, 2007.

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