

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.

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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

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## 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 Representatives 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,

1                         “(ii) compensation which is not char-  
2                         acterized by the taxpayer as vacation or  
3                         holiday pay, or as sick leave or pay, or as  
4                         any other form of pay for a nonspecific  
5                         leave of absence, and with respect to which  
6                         the number of days the qualified employee  
7                         participates in qualified reserve component  
8                         duty does not result in any reduction in  
9                         the amount of vacation time, sick leave, or  
10                         other nonspecific leave previously credited  
11                         to or earned by the qualified employee, and

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

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

16                         “(i) has been an employee of the tax-  
17                         payer for the 91-day period immediately  
18                         preceding the period during which the em-  
19                         ployee participates in qualified reserve  
20                         component duty, and

21                         “(ii) is a member of the Ready Re-  
22                         serve of a reserve component of an Armed  
23                         Force of the United States as defined in  
24                         sections 10142 and 10101 of title 10,  
25                         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, maneuvers, outdoor target practice, or other exercises  
2                   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.—

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.”.

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.—

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-

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

8           “(D) DIFFERENTIAL WAGE PAYMENT.—  
9           For purposes of this paragraph, the term ‘dif-  
10           ferential wage payment’ has the meaning given  
11           such term by section 3401(h)(2).”.

12           (B) CONFORMING AMENDMENT.—The  
13           heading for section 414(u) of such Code is  
14           amended by inserting “AND TO DIFFERENTIAL  
15           WAGE PAYMENTS TO MEMBERS ON ACTIVE  
16           DUTY” after “USERRA”.

17           (2) DIFFERENTIAL WAGE PAYMENTS TREATED  
18           AS COMPENSATION FOR INDIVIDUAL RETIREMENT  
19           PLANS.—Section 219(f)(1) of the Internal Revenue  
20           Code of 1986 (defining compensation) is amended  
21           by adding at the end the following new sentence:  
22           “The term ‘compensation’ includes any differential  
23           wage payment (as defined in section 3401(h)(2)).”.

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—

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—

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.”.

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”.

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:

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

