

In the Senate of the United States,

December 12, 2007.

Resolved, That the bill from the House of Representatives (H.R. 3997) entitled “An Act to amend the Internal Revenue Code of 1986 to provide earnings assistance and tax relief to members of the uniformed services, volunteer firefighters, and Peace Corps volunteers, and for other purposes.”, do pass with the following

AMENDMENTS:

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 “De-*
3 *fenders of Freedom Tax Relief Act of 2007”.*

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

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

Sec. 1. Short title; etc.

*TITLE I—TAX RELIEF AND PROTECTIONS FOR MILITARY
PERSONNEL*

- Sec. 101. Permanent extension of qualified mortgage bond program rules for veterans.*
Sec. 102. Exclusion of certain amounts from income for purposes of eligibility for certain housing provisions.
Sec. 103. Permanent extension of election to treat combat pay as earned income for purposes of earned income credit.
Sec. 104. Extension of statute of limitations to file claims for refunds relating to disability determinations by Department of Veterans Affairs.
Sec. 105. Credit for employer differential wage payments to employees who are active duty members of the uniformed services.
Sec. 106. Permanent extension of penalty-free withdrawals from retirement plans by individual called to active duty.
Sec. 107. State payments to service members treated as qualified military benefits.
Sec. 108. Survivor and disability payments with respect to qualified military service.
Sec. 109. Treatment of differential military pay as wages.
Sec. 110. Disclosure of return information relating to veterans programs made permanent.
Sec. 111. Contributions of military death gratuities to Roth IRAs and Education Savings Accounts.

*TITLE II—CERTAIN HOUSING BENEFITS FOR INTELLIGENCE
COMMUNITY AND PEACE CORPS VOLUNTEERS*

- Sec. 201. Permanent exclusion of gain from sale of a principal residence by certain employees of the intelligence community.*
Sec. 202. Suspension of 5-year period during service with the Peace Corps.

TITLE III—REVENUE PROVISIONS

- Sec. 301. Revision of tax rules on expatriation.*
Sec. 302. Special enrollment option by employer health plans for members of uniform services who lose health care coverage.
Sec. 303. Increase in minimum penalty on failure to file a return of tax.

1 **TITLE I—TAX RELIEF AND PRO-**
2 **TECTIONS FOR MILITARY**
3 **PERSONNEL**

4 **SEC. 101. PERMANENT EXTENSION OF QUALIFIED MORT-**
5 **GAGE BOND PROGRAM RULES FOR VET-**
6 **ERANS.**

7 (a) *IN GENERAL.*—Section 143(d)(2)(D) (relating to
8 exception) is amended by striking “in the case of bonds
9 issued after the date of the enactment of this subparagraph
10 and before January 1, 2008.”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
12 section shall apply to bonds issued after December 31, 2007.

13 **SEC. 102. EXCLUSION OF CERTAIN AMOUNTS FROM INCOME**
14 **FOR PURPOSES OF ELIGIBILITY FOR CERTAIN**
15 **HOUSING PROVISIONS.**

16 (a) *IN GENERAL.*—The last sentence of 142(d)(2)(B)
17 (relating to income of individuals; area median gross in-
18 come) is amended to read as follows “For purposes of deter-
19 mining income under this subparagraph, subsections (g)
20 and (h) of section 7872 shall not apply and any payments
21 to a member of the Armed Forces under section 403 of title
22 37, United States Code, as a basic pay allowance for hous-
23 ing, shall be disregarded.”.

24 (b) *EFFECTIVE DATE.*—The amendments made by this
25 section shall apply to—

1 (1) *housing credit dollar amounts allocated after*
2 *the date of the enactment of this Act, and*

3 (2) *buildings placed in service after such date to*
4 *the extent paragraph (1) of section 42(h) of the Inter-*
5 *nal Revenue Code of 1986 does not apply to such*
6 *building by reason of paragraph (4) thereof, but only*
7 *with respect to bonds issued after such date.*

8 **SEC. 103. PERMANENT EXTENSION OF ELECTION TO TREAT**
9 **COMBAT PAY AS EARNED INCOME FOR PUR-**
10 **POSES OF EARNED INCOME CREDIT.**

11 (a) *IN GENERAL.*—*Clause (vi) of section 32(c)(2)(B)*
12 *(defining earned income) is amended to read as follows:*

13 “(vi) *a taxpayer may elect to treat*
14 *amounts excluded from gross income by rea-*
15 *son of section 112 as earned income.”.*

16 (b) *EFFECTIVE DATE.*—*The amendment made by this*
17 *section shall apply to taxable years ending after December*
18 *31, 2007.*

19 **SEC. 104. EXTENSION OF STATUTE OF LIMITATIONS TO**
20 **FILE CLAIMS FOR REFUNDS RELATING TO**
21 **DISABILITY DETERMINATIONS BY DEPART-**
22 **MENT OF VETERANS AFFAIRS.**

23 (a) *IN GENERAL.*—*Subsection (d) of section 6511 (re-*
24 *lating to special rules applicable to income taxes) is amend-*
25 *ed by adding at the end the following new paragraph:*

1 “(8) *SPECIAL RULES WHEN UNIFORMED SERV-*
2 *ICES RETIRED PAY IS REDUCED AS A RESULT OF*
3 *AWARD OF DISABILITY COMPENSATION.—*

4 “(A) *PERIOD OF LIMITATION ON FILING*
5 *CLAIM.—If the claim for credit or refund relates*
6 *to an overpayment of tax imposed by subtitle A*
7 *on account of—*

8 “(i) *the reduction of uniformed services*
9 *retired pay computed under section 1406 or*
10 *1407 of title 10, United States Code, or*

11 “(ii) *the waiver of such pay under sec-*
12 *tion 5305 of title 38 of such Code,*
13 *as a result of an award of compensation under*
14 *title 38 of such Code pursuant to a determina-*
15 *tion by the Secretary of Veterans Affairs, the 3-*
16 *year period of limitation prescribed in subsection*
17 *(a) shall be extended, for purposes of permitting*
18 *a credit or refund based upon the amount of such*
19 *reduction or waiver, until the end of the 1-year*
20 *period beginning on the date of such determina-*
21 *tion.*

22 “(B) *LIMITATION TO 5 TAXABLE YEARS.—*
23 *Subparagraph (A) shall not apply with respect*
24 *to any taxable year which began more than 5*
25 *years before the date of such determination.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall apply to claims for credit or refund filed*
3 *after the date of the enactment of this Act.*

4 (c) *TRANSITION RULES.*—*In the case of a determina-*
5 *tion described in paragraph (8) of section 6511(d) of the*
6 *Internal Revenue Code of 1986 (as added by this section)*
7 *which is made by the Secretary of Veterans Affairs after*
8 *December 31, 2000, and on or before the date of the enact-*
9 *ment of this Act, such paragraph—*

10 (1) *shall not apply with respect to any taxable*
11 *year which began before January 1, 2001, and*

12 (2) *shall be applied by substituting “the date of*
13 *the enactment of the Defenders of Freedom Tax Relief*
14 *Act of 2007” for “the date of such determination” in*
15 *subparagraph (A) thereof.*

16 **SEC. 105. CREDIT FOR EMPLOYER DIFFERENTIAL WAGE**
17 **PAYMENTS TO EMPLOYEES WHO ARE ACTIVE**
18 **DUTY MEMBERS OF THE UNIFORMED SERV-**
19 **ICES.**

20 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
21 *A of chapter 1 (relating to business credits) is amended by*
22 *adding at the end the following new section:*

1 **“SEC. 450. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
2 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
3 **FORMED SERVICES.**

4 “(a) *GENERAL RULE.*—For purposes of section 38, in
5 the case of an eligible small business employer, the differen-
6 tial wage payment credit for any taxable year is an amount
7 equal to 20 percent of the sum of the eligible differential
8 wage payments for each of the qualified employees of the
9 taxpayer during such taxable year.

10 “(b) *DEFINITIONS.*—For purposes of this section—

11 “(1) *ELIGIBLE DIFFERENTIAL WAGE PAY-*
12 *MENTS.*—The term ‘eligible differential wage pay-
13 ments’ means, with respect to each qualified employee,
14 so much of the differential wage payments (as defined
15 in section 3401(h)(2)) paid to such employee for the
16 taxable year as does not exceed \$20,000.

17 “(2) *QUALIFIED EMPLOYEE.*—The term ‘quali-
18 fied employee’ means a person who has been an em-
19 ployee of the taxpayer for the 91-day period imme-
20 diately preceding the period for which any differen-
21 tial wage payment is made.

22 “(3) *ELIGIBLE SMALL BUSINESS EMPLOYER.*—

23 “(A) *IN GENERAL.*—The term ‘eligible small
24 business employer’ means, with respect to any
25 taxable year, any employer which—

1 “(i) employed an average of less than
2 50 employees on business days during such
3 taxable year, and

4 “(ii) under a written plan of the em-
5 ployer, provides eligible differential wage
6 payments to every qualified employee of the
7 employer.

8 “(B) CONTROLLED GROUPS.—For purposes
9 of subparagraph (A), all persons treated as a
10 single employer under subsection (b), (c), (m), or
11 (o) of section 414 shall be treated as a single em-
12 ployer.

13 “(c) COORDINATION WITH OTHER CREDITS.—The
14 amount of credit otherwise allowable under this chapter
15 with respect to compensation paid to any employee shall
16 be reduced by the credit determined under this section with
17 respect to such employee.

18 “(d) DISALLOWANCE FOR FAILURE TO COMPLY WITH
19 EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS
20 OF THE RESERVE COMPONENTS OF THE ARMED FORCES
21 OF THE UNITED STATES.—No credit shall be allowed under
22 subsection (a) to a taxpayer for—

23 “(1) any taxable year, beginning after the date
24 of the enactment of this section, in which the taxpayer
25 is under a final order, judgment, or other process

1 *issued or required by a district court of the United*
2 *States under section 4323 of title 38 of the United*
3 *States Code with respect to a violation of chapter 43*
4 *of such title, and*

5 “(2) *the 2 succeeding taxable years.*”

6 “(e) *CERTAIN RULES TO APPLY.—For purposes of this*
7 *section, rules similar to the rules of subsections (c), (d), and*
8 *(e) of section 52 shall apply.*”

9 “(f) *TERMINATION.—This section shall not apply to*
10 *any payments made after December 31, 2009.*”

11 (b) *CREDIT TREATED AS PART OF GENERAL BUSI-*
12 *NESS CREDIT.—Section 38(b) (relating to general business*
13 *credit) is amended by striking “plus” at the end of para-*
14 *graph (30), by striking the period at the end of paragraph*
15 *(31) and inserting “, plus”, and by adding at the end of*
16 *following new paragraph:*

17 “(32) *the differential wage payment credit deter-*
18 *mined under section 45O(a).*”

19 (c) *NO DEDUCTION FOR COMPENSATION TAKEN INTO*
20 *ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule*
21 *for employment credits) is amended by inserting “45O(a),”*
22 *after “45A(a),”.*

23 (d) *CLERICAL AMENDMENT.—The table of sections for*
24 *subpart D of part IV of subchapter A of chapter 1 is amend-*
25 *ed by adding at the end the following new item:*

“Sec. 450. *Employer wage credit for employees who are active duty members of the uniformed services.*”.

1 (e) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to amounts paid after the date of the*
 3 *enactment of this Act.*

4 **SEC. 106. PERMANENT EXTENSION OF PENALTY-FREE WITH-**
 5 **DRAWALS FROM RETIREMENT PLANS BY INDI-**
 6 **VIDUAL CALLED TO ACTIVE DUTY.**

7 *Clause (iv) of section 72(t)(2)(G) (relating to distribu-*
 8 *tions from retirement plans to individuals called to active*
 9 *duty) is amended by striking all after “September 11,*
 10 *2001” and inserting a period.*

11 **SEC. 107. STATE PAYMENTS TO SERVICE MEMBERS TREAT-**
 12 **ED AS QUALIFIED MILITARY BENEFITS.**

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

16 “(6) *CERTAIN STATE PAYMENTS.*—*The term*
 17 *‘qualified military benefit’ includes any bonus pay-*
 18 *ment by a State or political subdivision thereof to*
 19 *any member or former member of the uniformed serv-*
 20 *ices of the United States or any dependent of such*
 21 *member only by reason of such member’s service in an*
 22 *combat zone (as defined in section 112(c)(2), deter-*
 23 *mined without regard to the parenthetical).”.*

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

4 **SEC. 108. SURVIVOR AND DISABILITY PAYMENTS WITH RE-**
5 **SPECT TO QUALIFIED MILITARY SERVICE.**

6 (a) *PLAN QUALIFICATION REQUIREMENT FOR DEATH*
7 *BENEFITS UNDER USERRA-QUALIFIED ACTIVE MILITARY*
8 *SERVICE.*—*Subsection (a) of section 401 (relating to re-*
9 *quirements for qualification) is amended by inserting after*
10 *paragraph (36) the following new paragraph:*

11 “(37) *DEATH BENEFITS UNDER USERRA-QUALI-*
12 *FIED ACTIVE MILITARY SERVICE.*—*A trust shall not*
13 *constitute a qualified trust unless the plan provides*
14 *that, in the case of a participant who dies while per-*
15 *forming qualified military service (as defined in sec-*
16 *tion 414(u)), the survivors of the participant are enti-*
17 *tled to any additional benefits (other than benefit ac-*
18 *cruals relating to the period of qualified military*
19 *service) provided under the plan had the participant*
20 *resumed and then terminated employment on account*
21 *of death.”.*

22 (b) *TREATMENT IN THE CASE OF DEATH OR DIS-*
23 *ABILITY RESULTING FROM ACTIVE MILITARY SERVICE FOR*
24 *BENEFIT ACCRUAL PURPOSES.*—*Subsection (u) of section*
25 *414 (relating to special rules relating to veterans’ reemploy-*

1 *ment rights under USERRA) is amended by redesignating*
2 *paragraphs (9) and (10) as paragraphs (10) and (11), re-*
3 *spectively, and by inserting after paragraph (8) the fol-*
4 *lowing new paragraph:*

5 “(9) *TREATMENT IN THE CASE OF DEATH OR*
6 *DISABILITY RESULTING FROM ACTIVE MILITARY SERV-*
7 *ICE.—*

8 “(A) *IN GENERAL.—For benefit accrual*
9 *purposes, an employer sponsoring a retirement*
10 *plan may treat an individual who dies or be-*
11 *comes disabled (as defined under the terms of the*
12 *plan) while performing qualified military service*
13 *with respect to the employer maintaining the*
14 *plan as if the individual has resumed employ-*
15 *ment in accordance with the individual’s reem-*
16 *ployment rights under chapter 43 of title 38,*
17 *United States Code, on the day preceding death*
18 *or disability (as the case may be) and termi-*
19 *nated employment on the actual date of death or*
20 *disability. In the case of any such treatment,*
21 *and subject to subparagraphs (B) and (C), any*
22 *full or partial compliance by such plan with re-*
23 *spect to the benefit accrual requirements of para-*
24 *graph (8) with respect to such individual shall*
25 *be treated for purposes of paragraph (1) as if*

1 *such compliance were required under such chap-*
2 *ter 43.*

3 *“(B) NONDISCRIMINATION REQUIREMENT.—*
4 *Subparagraph (A) shall apply only if all indi-*
5 *viduals performing qualified military service*
6 *with respect to the employer maintaining the*
7 *plan (as determined under subsections (b), (c),*
8 *(m), and (o)) who die or became disabled as a*
9 *result of performing qualified military service*
10 *prior to reemployment by the employer are cred-*
11 *ited with service and benefits on reasonably*
12 *equivalent terms.*

13 *“(C) DETERMINATION OF BENEFITS.—The*
14 *amount of employee contributions and the*
15 *amount of elective deferrals of an individual*
16 *treated as reemployed under subparagraph (A)*
17 *for purposes of applying paragraph (8)(C) shall*
18 *be determined on the basis of the individual’s av-*
19 *erage actual employee contributions or elective*
20 *deferrals for the lesser of—*

21 *“(i) the 12-month period of service*
22 *with the employer immediately prior to*
23 *qualified military service, or*

24 *“(ii) if service with the employer is less*
25 *than such 12-month period, the actual*

1 *length of continuous service with the em-*
2 *ployer.”.*

3 (c) *CONFORMING AMENDMENTS.—*

4 (1) *Section 404(a)(2) is amended by striking*
5 *“and (31)” and inserting “(31), and (37)”.*

6 (2) *Section 403(b) is amended by adding at the*
7 *end the following new paragraph:*

8 *“(14) DEATH BENEFITS UNDER USERRA-QUALI-*
9 *FIED ACTIVE MILITARY SERVICE.—This subsection*
10 *shall not apply to an annuity contract unless such*
11 *contract meets the requirements of section*
12 *401(a)(37).”.*

13 (3) *Section 457(g) is amended by adding at the*
14 *end the following new paragraph:*

15 *“(4) DEATH BENEFITS UNDER USERRA-QUALI-*
16 *FIED ACTIVE MILITARY SERVICE.—A plan described*
17 *in paragraph (1) shall not be treated as an eligible*
18 *deferred compensation plan unless such plan meets*
19 *the requirements of section 401(a)(37).”.*

20 (d) *EFFECTIVE DATE*

21 (1) *IN GENERAL.—The amendments made by*
22 *this section shall apply with respect to deaths and*
23 *disabilities occurring on or after January 1, 2007.*

24 (2) *PROVISIONS RELATING TO PLAN AMEND-*
25 *MENTS.—*

1 (A) *IN GENERAL.*—*If this subparagraph ap-*
2 *plies to any plan or contract amendment, such*
3 *plan or contract shall be treated as being oper-*
4 *ated in accordance with the terms of the plan*
5 *during the period described in subparagraph*
6 *(B)(iii).*

7 (B) *AMENDMENTS TO WHICH SUBPARA-*
8 *GRAPH (A) APPLIES.*—

9 (i) *IN GENERAL.*—*Subparagraph (A)*
10 *shall apply to any amendment to any plan*
11 *or annuity contract which is made—*

12 (I) *pursuant to the amendments*
13 *made by subsection (a) or pursuant to*
14 *any regulation issued by the Secretary*
15 *of the Treasury under subsection (a),*
16 *and*

17 (II) *on or before the last day of*
18 *the first plan year beginning on or*
19 *after January 1, 2009.*

20 *In the case of a governmental plan (as de-*
21 *defined in section 414(d) of the Internal Rev-*
22 *enue Code of 1986), this clause shall be ap-*
23 *plied by substituting “2011” for “2009” in*
24 *subclause (II).*

1 (ii) *CONDITIONS.*—*This paragraph*
2 *shall not apply to any amendment unless—*

3 (I) *the plan or contract is oper-*
4 *ated as if such plan or contract*
5 *amendment were in effect for the pe-*
6 *riod described in clause (iii), and*

7 (II) *such plan or contract amend-*
8 *ment applies retroactively for such pe-*
9 *riod.*

10 (iii) *PERIOD DESCRIBED.*—*The period*
11 *described in this clause is the period—*

12 (I) *beginning on the effective date*
13 *specified by the plan, and*

14 (II) *ending on the date described*
15 *in clause (i)(II) (or, if earlier, the date*
16 *the plan or contract amendment is*
17 *adopted).*

18 **SEC. 109. TREATMENT OF DIFFERENTIAL MILITARY PAY AS**
19 **WAGES.**

20 (a) *INCOME TAX WITHHOLDING ON DIFFERENTIAL*
21 *WAGE PAYMENTS.*—

22 (1) *IN GENERAL.*—*Section 3401 (relating to defi-*
23 *initions) is amended by adding at the end the fol-*
24 *lowing new subsection:*

1 “(h) *DIFFERENTIAL WAGE PAYMENTS TO ACTIVE*
2 *DUTY MEMBERS OF THE UNIFORMED SERVICES.*—

3 “(1) *IN GENERAL.*—*For purposes of subsection*
4 *(a), any differential wage payment shall be treated as*
5 *a payment of wages by the employer to the employee.*

6 “(2) *DIFFERENTIAL WAGE PAYMENT.*—*For pur-*
7 *poses of paragraph (1), the term ‘differential wage*
8 *payment’ means any payment which—*

9 “(A) *is made by an employer to an indi-*
10 *vidual with respect to any period during which*
11 *the individual is performing service in the uni-*
12 *formed services while on active duty for a period*
13 *of more than 30 days, and*

14 “(B) *represents all or a portion of the wages*
15 *the individual would have received from the em-*
16 *ployer if the individual were performing service*
17 *for the employer.”.*

18 “(2) *EFFECTIVE DATE.*—*The amendment made by*
19 *this subsection shall apply to remuneration paid after*
20 *December 31, 2007.*

21 “(b) *TREATMENT OF DIFFERENTIAL WAGE PAYMENTS*
22 *FOR RETIREMENT PLAN PURPOSES.*—

23 “(1) *PENSION PLANS.*—

24 “(A) *IN GENERAL.*—*Section 414(u) (relating*
25 *to special rules relating to veterans’ reemploy-*

1 *ment rights under USERRA), as amended by*
2 *this Act, is amended by redesignating para-*
3 *graphs (10) and (11) as paragraphs (11) and*
4 *(12), respectively, and by inserting after para-*
5 *graph (9) the following new paragraph:*

6 “(10) *TREATMENT OF DIFFERENTIAL WAGE PAY-*
7 *MENTS.—*

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

12 “(i) *an individual receiving a differen-*
13 *tial wage payment shall be treated as an*
14 *employee of the employer making the pay-*
15 *ment,*

16 “(ii) *the differential wage payment*
17 *shall be treated as compensation, and*

18 “(iii) *the plan shall not be treated as*
19 *failing to meet the requirements of any pro-*
20 *vision described in paragraph (1)(C) by*
21 *reason of any contribution or benefit which*
22 *is based on the differential wage payment.*

23 “(B) *SPECIAL RULE FOR DISTRIBUTIONS.—*

24 “(i) *IN GENERAL.—Notwithstanding*
25 *subparagraph (A)(i), for purposes of section*

1 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii),
2 403(b)(11)(A), or 457(d)(1)(A)(ii), an indi-
3 vidual shall be treated as having been sev-
4 ered from employment during any period
5 the individual is performing service in the
6 uniformed services described in section
7 3401(h)(2)(A).

8 “(ii) *LIMITATION.*—If an individual
9 elects to receive a distribution by reason of
10 clause (i), the plan shall provide that the
11 individual may not make an elective defer-
12 ral or employee contribution during the 6-
13 month period beginning on the date of the
14 distribution.

15 “(C) *NONDISCRIMINATION REQUIREMENT.*—
16 Subparagraph (A)(iii) shall apply only if all
17 employees of an employer (as determined under
18 subsections (b), (c), (m), and (o)) performing
19 service in the uniformed services described in sec-
20 tion 3401(h)(2)(A) are entitled to receive dif-
21 ferential wage payments on reasonably equiva-
22 lent terms and, if eligible to participate in a re-
23 tirement plan maintained by the employer, to
24 make contributions based on the payments on
25 reasonably equivalent terms. For purposes of ap-

1 *plying this subparagraph, the provisions of*
2 *paragraphs (3), (4), and (5) of section 410(b)*
3 *shall apply.*

4 “(D) *DIFFERENTIAL WAGE PAYMENT.*—*For*
5 *purposes of this paragraph, the term ‘differential*
6 *wage payment’ has the meaning given such term*
7 *by section 3401(h)(2).”.*

8 “(B) *CONFORMING AMENDMENT.*—*The head-*
9 *ing for section 414(u) is amended by inserting*
10 “*AND TO DIFFERENTIAL WAGE PAYMENTS TO*
11 “*MEMBERS ON ACTIVE DUTY” after “USERRA”.*

12 “(2) *DIFFERENTIAL WAGE PAYMENTS TREATED AS*
13 “*COMPENSATION FOR INDIVIDUAL RETIREMENT*
14 “*PLANS.*—*Section 219(f)(1) (defining compensation) is*
15 “*amended by adding at the end the following new sen-*
16 “*tence: ‘The term ‘compensation’ includes any dif-*
17 “*ferential wage payment (as defined in section*
18 “*3401(h)(2)).”.*

19 “(3) *EFFECTIVE DATE.*—*The amendments made*
20 “*by this subsection shall apply to years beginning after*
21 “*December 31, 2007.*

22 “(c) *PROVISIONS RELATING TO PLAN AMENDMENTS.*—

23 “(1) *IN GENERAL.*—*If this subsection applies to*
24 “*any plan or annuity contract amendment—*

1 (A) *such plan or contract shall be treated as*
2 *being operated in accordance with the terms of*
3 *the plan or contract during the period described*
4 *in paragraph (2)(B)(i), and*

5 (B) *except as provided by the Secretary of*
6 *the Treasury, such plan shall not fail to meet the*
7 *requirements of the Internal Revenue Code of*
8 *1986 or the Employee Retirement Income Secu-*
9 *urity Act of 1974 by reason of such amendment.*

10 (2) *AMENDMENTS TO WHICH SECTION AP-*
11 *PLIES.—*

12 (A) *IN GENERAL.—This subsection shall*
13 *apply to any amendment to any plan or annu-*
14 *ity contract which is made—*

15 (i) *pursuant to any amendment made*
16 *by this section, and*

17 (ii) *on or before the last day of the first*
18 *plan year beginning on or after January 1,*
19 *2009.*

20 (B) *CONDITIONS.—This subsection shall not*
21 *apply to any plan or annuity contract amend-*
22 *ment unless—*

23 (i) *during the period beginning on the*
24 *date the amendment described in subpara-*
25 *graph (A)(i) takes effect and ending on the*

1 date described in subparagraph (A)(ii) (or,
2 if earlier, the date the plan or contract
3 amendment is adopted), the plan or con-
4 tract is operated as if such plan or contract
5 amendment were in effect, and

6 (ii) such plan or contract amendment
7 applies retroactively for such period.

8 **SEC. 110. DISCLOSURE OF RETURN INFORMATION RELAT-**
9 **ING TO VETERANS PROGRAMS MADE PERMA-**
10 **NENT.**

11 (a) *IN GENERAL.*—Subparagraph (D) of section
12 6103(l)(7) (relating to disclosure of return information to
13 Federal, State, and local agencies administering certain
14 programs under the Social Security Act, the Food Stamp
15 Act of 1977, or title 38, United States Code or certain hous-
16 ing assistance programs) is amended by striking the last
17 sentence.

18 (b) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to requests made after September 30,
20 2008.

21 **SEC. 111. CONTRIBUTIONS OF MILITARY DEATH GRATU-**
22 **ITIES TO ROTH IRAS AND EDUCATION SAV-**
23 **INGS ACCOUNTS.**

24 (a) *PROVISION IN EFFECT BEFORE PENSION PROTEC-*
25 *TION ACT.*—Subsection (e) of section 408A (relating to

1 *qualified rollover contribution), as in effect before the*
2 *amendments made by section 824 of the Pension Protection*
3 *Act of 2006, is amended to read as follows:*

4 “(e) *QUALIFIED ROLLOVER CONTRIBUTION.*—*For pur-*
5 *poses of this section—*

6 “(1) *IN GENERAL.*—*The term ‘qualified rollover*
7 *contribution’ means a rollover contribution to a Roth*
8 *IRA from another such account, or from an indi-*
9 *vidual retirement plan, but only if such rollover con-*
10 *tribution meets the requirements of section 408(d)(3).*
11 *Such term includes a rollover contribution described*
12 *in section 402A(c)(3)(A). For purposes of section*
13 *408(d)(3)(B), there shall be disregarded any qualified*
14 *rollover contribution from an individual retirement*
15 *plan (other than a Roth 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 made before the end of the 1-year period*
21 *beginning on the date on which such individual*
22 *receives an amount under section 1477 of title*
23 *10, United States Code, or section 1967 of title*
24 *38 of such Code, with respect to a person, to the*
25 *extent that such contribution does not exceed—*

1 “(i) the sum of the amounts received
2 during such period by such individual
3 under such sections with respect to such
4 person, reduced by

5 “(ii) the amounts so received which
6 were contributed to a Coverdell education
7 savings account under section 530(d)(9).

8 “(B) ANNUAL LIMIT ON NUMBER OF ROLL-
9 OVERS NOT TO APPLY.—Section 408(d)(3)(B)
10 shall not apply with respect to amounts treated
11 as a rollover by subparagraph (A).

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

18 (b) PROVISION IN EFFECT AFTER PENSION PROTEC-
19 TION ACT.—Subsection (e) of section 408A, as in effect after
20 the amendments made by section 824 of the Pension Protec-
21 tion Act of 2006, is amended to read as follows:

22 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For pur-
23 poses of this section—

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

1 “(A) to a Roth IRA from another such ac-
2 count,

3 “(B) from an eligible retirement plan, but
4 only if—

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

8 “(ii) in the case of any eligible retire-
9 ment plan (as defined in section
10 402(c)(8)(B) other than clauses (i) and (ii)
11 thereof), such rollover contribution meets the
12 requirements of section 402(c), 403(b)(8), or
13 457(e)(16), as applicable.

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

18 “(2) *MILITARY DEATH GRATUITY.*—

19 “(A) *IN GENERAL.*—The term ‘qualified
20 rollover contribution’ includes a contribution to
21 a Roth IRA maintained for the benefit of an in-
22 dividual made before the end of the 1-year period
23 beginning on the date on which such individual
24 receives an amount under section 1477 of title
25 10, United States Code, or section 1967 of title

1 38 of such Code, with respect to a person, to the
2 extent that such contribution does not exceed—

3 “(i) the sum of the amounts received
4 during such period by such individual
5 under such sections with respect to such
6 person, reduced by

7 “(ii) the amounts so received which
8 were contributed to a Coverdell education
9 savings account under section 530(d)(9).

10 “(B) ANNUAL LIMIT ON NUMBER OF ROLL-
11 OVERS NOT TO APPLY.—Section 408(d)(3)(B)
12 shall not apply with respect to amounts treated
13 as a rollover by the subparagraph (A).

14 “(C) APPLICATION OF SECTION 72.—For
15 purposes of applying section 72 in the case of a
16 distribution which is not a qualified distribu-
17 tion, the amount treated as a rollover by reason
18 of subparagraph (A) shall be treated as invest-
19 ment in the contract.”.

20 (c) EDUCATION SAVINGS ACCOUNTS.—Subsection (d)
21 of section 530 is amended by adding at the end the following
22 new paragraph:

23 “(9) MILITARY DEATH GRATUITY.—

24 “(A) IN GENERAL.—For purposes of this
25 section, the term ‘rollover contribution’ includes

1 *a contribution to a Coverdell education savings*
2 *account made before the end of the 1-year period*
3 *beginning on the date on which the contributor*
4 *receives an amount under section 1477 of title*
5 *10, United States Code, or section 1967 of title*
6 *38 of such Code, with respect to a person, to the*
7 *extent that such contribution does not exceed—*

8 *“(i) the sum of the amounts received*
9 *during such period by such contributor*
10 *under such sections with respect to such*
11 *person, reduced by*

12 *“(ii) the amounts so received which*
13 *were contributed to a Roth IRA under sec-*
14 *tion 408A(e)(2) or to another Coverdell edu-*
15 *cation savings account.*

16 *“(B) ANNUAL LIMIT ON NUMBER OF ROLL-*
17 *OVERS NOT TO APPLY.—The last sentence of*
18 *paragraph (5) shall not apply with respect to*
19 *amounts treated as a rollover by the subpara-*
20 *graph (A).*

21 *“(C) APPLICATION OF SECTION 72.—For*
22 *purposes of applying section 72 in the case of a*
23 *distribution which is includible in gross income*
24 *under paragraph (1), the amount treated as a*

1 *rollover by reason of subparagraph (A) shall be*
2 *treated as investment in the contract.”.*

3 *(d) EFFECTIVE DATES.—*

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

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

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

1 (b)) shall apply to taxable years beginning after De-
2 cember 31, 2007.

3 **TITLE II—CERTAIN HOUSING**
4 **BENEFITS FOR INTELLIGENCE COMMUNITY AND**
5 **PEACE CORPS VOLUNTEERS**

7 **SEC. 201. PERMANENT EXCLUSION OF GAIN FROM SALE OF**
8 **A PRINCIPAL RESIDENCE BY CERTAIN EM-**
9 **PLOYEES OF THE INTELLIGENCE COMMU-**
10 **NITY.**

11 (a) *IN GENERAL.*—Section 417(e) of division A of the
12 *Tax Relief and Health Care Act of 2006* is amended by
13 striking “and before January 1, 2011”.

14 (b) *DUTY STATION MAY BE OUTSIDE UNITED*
15 *STATES.*—Section 121(d)(9)(C) (defining qualified official
16 extended duty) is amended by striking clause (vi).

17 (c) *EFFECTIVE DATE.*—The amendments made by this
18 section shall apply to sales or exchanges after December 31,
19 2010.

20 **SEC. 202. SUSPENSION OF 5-YEAR PERIOD DURING SERVICE**
21 **WITH THE PEACE CORPS.**

22 (a) *IN GENERAL.*—Subsection (d) of section 121 (relat-
23 ing to special rules) is amended by adding at the end the
24 following new paragraph:

25 “(12) *PEACE CORPS.*—

1 “(A) *IN GENERAL.*—*At the election of an*
2 *individual with respect to a property, the run-*
3 *ning of the 5-year period described in subsections*
4 *(a) and (c)(1)(B) and paragraph (7) of this sub-*
5 *section with respect to such property shall be sus-*
6 *pending during any period that such individual*
7 *or such individual’s spouse is serving outside the*
8 *United States—*

9 “(i) *on qualified official extended duty*
10 *(as defined in paragraph (9)(C)) as an em-*
11 *ployee of the Peace Corps, or*

12 “(ii) *as an enrolled volunteer or volun-*
13 *teer leader under section 5 or 6 (as the case*
14 *may be) of the Peace Corps Act (22 U.S.C.*
15 *2504, 2505).*

16 “(B) *APPLICABLE RULES.*—*For purposes of*
17 *subparagraph (A), rules similar to the rules of*
18 *subparagraphs (B) and (D) shall apply.”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
20 *section (a) shall apply to taxable years beginning after De-*
21 *cember 31, 2007.*

1 **TITLE III—REVENUE**
2 **PROVISIONS**

3 **SEC. 301. REVISION OF TAX RULES ON EXPATRIATION.**

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

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

8 “(a) *GENERAL RULES.*—For purposes of this
9 *subtitle—*

10 “(1) *MARK TO MARKET.*—All property of a cov-
11 *ered expatriate shall be treated as sold on the day be-*
12 *fore the expatriation date for its fair market value.*

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

15 “(A) *notwithstanding any other provision of*
16 *this title, any gain arising from such sale shall*
17 *be taken into account for the taxable year of the*
18 *sale, and*

19 “(B) *any loss arising from such sale shall*
20 *be taken into account for the taxable year of the*
21 *sale to the extent otherwise provided by this title,*
22 *except that section 1091 shall not apply to any*
23 *such loss.*

24 *Proper adjustment shall be made in the amount of*
25 *any gain or loss subsequently realized for gain or loss*

1 *taken into account under the preceding sentence, de-*
2 *termined without regard to paragraph (3).*

3 *“(3) EXCLUSION FOR CERTAIN GAIN.—*

4 *“(A) IN GENERAL.—The amount which*
5 *would (but for this paragraph) be includible in*
6 *the gross income of any individual by reason of*
7 *paragraph (1) shall be reduced (but not below*
8 *zero) by \$600,000.*

9 *“(B) ADJUSTMENT FOR INFLATION.—*

10 *“(i) IN GENERAL.—In the case of any*
11 *taxable year beginning in a calendar year*
12 *after 2008, the dollar amount in subpara-*
13 *graph (A) shall be increased by an amount*
14 *equal to—*

15 *“(I) such dollar amount, multi-*
16 *plied by*

17 *“(II) the cost-of-living adjustment*
18 *determined under section 1(f)(3) for*
19 *the calendar year in which the taxable*
20 *year begins, by substituting ‘calendar*
21 *year 2007’ for ‘calendar year 1992’ in*
22 *subparagraph (B) thereof.*

23 *“(ii) ROUNDING.—If any amount as*
24 *adjusted under clause (i) is not a multiple*

1 of \$1,000, such amount shall be rounded to
2 the nearest multiple of \$1,000.

3 “(b) *ELECTION TO DEFER TAX.*—

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

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

24 “(3) *TERMINATION OF EXTENSION.*—The due
25 date for payment of tax may not be extended under

1 *this subsection later than the due date for the return*
2 *of tax imposed by this chapter for the taxable year*
3 *which includes the date of death of the expatriate (or,*
4 *if earlier, the time that the security provided with re-*
5 *spect to the property fails to meet the requirements of*
6 *paragraph (4), unless the taxpayer corrects such fail-*
7 *ure within the time specified by the Secretary).*

8 “(4) SECURITY.—

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

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

17 “(i) it is a bond which is furnished to,
18 and accepted by, the Secretary, which is
19 conditioned on the payment of tax (and in-
20 terest thereon), and which meets the require-
21 ments of section 6325, or

22 “(ii) it is another form of security for
23 such payment (including letters of credit)
24 that meets such requirements as the Sec-
25 retary may prescribe.

1 “(5) *WAIVER OF CERTAIN RIGHTS.*—No election
2 may be made under paragraph (1) unless the tax-
3 payer makes an irrevocable waiver of any right under
4 any treaty of the United States which would preclude
5 assessment or collection of any tax imposed by reason
6 of this section.

7 “(6) *ELECTIONS.*—An election under paragraph
8 (1) shall only apply to property described in the elec-
9 tion and, once made, is irrevocable.

10 “(7) *INTEREST.*—For purposes of section 6601,
11 the last date for the payment of tax shall be deter-
12 mined without regard to the election under this sub-
13 section.

14 “(c) *EXCEPTION FOR CERTAIN PROPERTY.*—Sub-
15 section (a) shall not apply to—

16 “(1) any deferred compensation item (as defined
17 in subsection (d)(4)),

18 “(2) any specified tax deferred account (as de-
19 fined in subsection (e)(2)), and

20 “(3) any interest in a nongrantor trust (as de-
21 fined in subsection (f)(3)).

22 “(d) *TREATMENT OF DEFERRED COMPENSATION*
23 *ITEMS.*—

24 “(1) *WITHHOLDING ON ELIGIBLE DEFERRED*
25 *COMPENSATION ITEMS.*—

1 “(A) *IN GENERAL.*—*In the case of any eligi-*
2 *ble deferred compensation item, the payor shall*
3 *deduct and withhold from any taxable payment*
4 *to a covered expatriate with respect to such item*
5 *a tax equal to 30 percent thereof.*

6 “(B) *TAXABLE PAYMENT.*—*For purposes of*
7 *subparagraph (A), the term ‘taxable payment’*
8 *means with respect to a covered expatriate any*
9 *payment to the extent it would be includible in*
10 *the gross income of the covered expatriate if such*
11 *expatriate continued to be subject to tax as a cit-*
12 *izen or resident of the United States. A deferred*
13 *compensation item shall be taken into account as*
14 *a payment under the preceding sentence when*
15 *such item would be so includible.*

16 “(2) *OTHER DEFERRED COMPENSATION*
17 *ITEMS.*—*In the case of any deferred compensation*
18 *item which is not an eligible deferred compensation*
19 *item—*

20 “(A)(i) *with respect to any deferred com-*
21 *penetration item to which clause (ii) does not*
22 *apply, an amount equal to the present value of*
23 *the covered expatriate’s accrued benefit shall be*
24 *treated as having been received by such indi-*

1 *vidual on the day before the expatriation date as*
2 *a distribution under the plan, and*

3 “(i) *with respect to any deferred compensa-*
4 *tion item referred to in paragraph (4)(D), the*
5 *rights of the covered expatriate to such item shall*
6 *be treated as becoming transferable and not sub-*
7 *ject to a substantial risk of forfeiture on the day*
8 *before the expatriation date,*

9 “(B) *no early distribution tax shall apply*
10 *by reason of such treatment, and*

11 “(C) *appropriate adjustments shall be made*
12 *to subsequent distributions from the plan to re-*
13 *flect such treatment.*

14 “(3) *ELIGIBLE DEFERRED COMPENSATION*
15 *ITEMS.—For purposes of this subsection, the term ‘eli-*
16 *gible deferred compensation item’ means any deferred*
17 *compensation item with respect to which—*

18 “(A) *the payor of such item is—*

19 “(i) *a United States person, or*

20 “(ii) *a person who is not a United*
21 *States person but who elects to be treated as*
22 *a United States person for purposes of*
23 *paragraph (1) and meets such requirements*
24 *as the Secretary may provide to ensure that*

1 *the payor will meet the requirements of*
2 *paragraph (1), and*

3 “(B) *the covered expatriate—*

4 “(i) *notifies the payor of his status as*
5 *a covered expatriate, and*

6 “(ii) *makes an irrevocable waiver of*
7 *any right to claim any reduction under any*
8 *treaty with the United States in with-*
9 *holding on such item.*

10 “(4) *DEFERRED COMPENSATION ITEM.—For pur-*
11 *poses of this subsection, the term ‘deferred compensa-*
12 *tion item’ means—*

13 “(A) *any interest in a plan or arrangement*
14 *described in section 219(g)(5),*

15 “(B) *any interest in a foreign pension plan*
16 *or similar retirement arrangement or program,*

17 “(C) *any item of deferred compensation,*
18 *and*

19 “(D) *any property, or right to property,*
20 *which the individual is entitled to receive in con-*
21 *nection with the performance of services to the*
22 *extent not previously taken into account under*
23 *section 83 or in accordance with section 83.*

24 “(5) *EXCEPTION.—Paragraphs (1) and (2) shall*
25 *not apply to any deferred compensation item which*

1 *is attributable to services performed outside the*
2 *United States while the covered expatriate was not a*
3 *citizen or resident of the United States.*

4 “(6) *SPECIAL RULES.—*

5 “(A) *APPLICATION OF WITHHOLDING*
6 *RULES.—Rules similar to the rules of subchapter*
7 *B of chapter 3 shall apply for purposes of this*
8 *subsection.*

9 “(B) *APPLICATION OF TAX.—Any item sub-*
10 *ject to the withholding tax imposed under para-*
11 *graph (1) shall be subject to tax under section*
12 *871.*

13 “(C) *COORDINATION WITH OTHER WITH-*
14 *HOLDING REQUIREMENTS.—Any item subject to*
15 *withholding under paragraph (1) shall not be*
16 *subject to withholding under section 1441 or*
17 *chapter 24.*

18 “(e) *TREATMENT OF SPECIFIED TAX DEFERRED AC-*
19 *COUNTS.—*

20 “(1) *ACCOUNT TREATED AS DISTRIBUTED.—In*
21 *the case of any interest in a specified tax deferred ac-*
22 *count held by a covered expatriate on the day before*
23 *the expatriation date—*

24 “(A) *the covered expatriate shall be treated*
25 *as receiving a distribution of his entire interest*

1 *in such account on the day before the expatria-*
2 *tion date,*

3 *“(B) no early distribution tax shall apply*
4 *by reason of such treatment, and*

5 *“(C) appropriate adjustments shall be made*
6 *to subsequent distributions from the account to*
7 *reflect such treatment.*

8 *“(2) SPECIFIED TAX DEFERRED ACCOUNT.—For*
9 *purposes of paragraph (1), the term ‘specified tax de-*
10 *ferred account’ means an individual retirement plan*
11 *(as defined in section 7701(a)(37)) other than any ar-*
12 *rangement described in subsection (k) or (p) of section*
13 *408, a qualified tuition program (as defined in sec-*
14 *tion 529), a Coverdell education savings account (as*
15 *defined in section 530), a health savings account (as*
16 *defined in section 223), and an Archer MSA (as de-*
17 *fined in section 220).*

18 *“(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—*

19 *“(1) IN GENERAL.—In the case of a distribution*
20 *(directly or indirectly) of any property from a non-*
21 *grantor trust to a covered expatriate—*

22 *“(A) the trustee shall deduct and withhold*
23 *from such distribution an amount equal to 30*
24 *percent of the taxable portion of the distribution,*
25 *and*

1 “(B) if the fair market value of such prop-
2 erty exceeds its adjusted basis in the hands of the
3 trust, gain shall be recognized to the trust as if
4 such property were sold to the expatriate at its
5 fair market value.

6 “(2) TAXABLE PORTION.—For purposes of this
7 subsection, the term ‘taxable portion’ means, with re-
8 spect to any distribution, that portion of the distribu-
9 tion which would be includible in the gross income of
10 the covered expatriate if such expatriate continued to
11 be subject to tax as a citizen or resident of the United
12 States.

13 “(3) NONGRANTOR TRUST.—For purposes of this
14 subsection, the term ‘nongrantor trust’ means the por-
15 tion of any trust that the individual is not considered
16 the owner of under subpart E of part I of subchapter
17 J. The determination under the preceding sentence
18 shall be made immediately before the expatriation
19 date.

20 “(4) SPECIAL RULES RELATING TO WITH-
21 HOLDING.—For purposes of this subsection—

22 “(A) rules similar to the rules of subsection
23 (d)(6) shall apply, and

24 “(B) the covered expatriate shall be treated
25 as having waived any right to claim any reduc-

1 *tion under any treaty with the United States in*
2 *withholding on any distribution to which para-*
3 *graph (1)(A) applies.*

4 “(5) *APPLICATION.*—*This subsection shall apply*
5 *to a nongrantor trust only if the covered expatriate*
6 *was a beneficiary of the trust on the day before the*
7 *expatriation date.*

8 “(g) *DEFINITIONS AND SPECIAL RULES RELATING TO*
9 *EXPATRIATION.*—*For purposes of this section—*

10 “(1) *COVERED EXPATRIATE.*—

11 “(A) *IN GENERAL.*—*The term ‘covered expa-*
12 *triate’ means an expatriate who meets the re-*
13 *quirements of subparagraph (A), (B), or (C) of*
14 *section 877(a)(2).*

15 “(B) *EXCEPTIONS.*—*An individual shall*
16 *not be treated as meeting the requirements of*
17 *subparagraph (A) or (B) of section 877(a)(2)*
18 *if—*

19 “(i) *the individual—*

20 “(I) *became at birth a citizen of*
21 *the United States and a citizen of an-*
22 *other country and, as of the expatria-*
23 *tion date, continues to be a citizen of,*
24 *and is taxed as a resident of, such*
25 *other country, and*

1 “(II) has been a resident of the
2 United States (as defined in section
3 7701(b)(1)(A)(ii)) for not more than
4 10 taxable years during the 15-taxable
5 year period ending with the taxable
6 year during which the expatriation
7 date occurs, or

8 “(ii)(I) the individual’s relinquishment
9 of United States citizenship occurs before
10 such individual attains age 18¹/₂, and

11 “(II) the individual has been a resi-
12 dent of the United States (as so defined) for
13 not more than 10 taxable years before the
14 date of relinquishment.

15 “(C) COVERED EXPATRIATES ALSO SUBJECT
16 TO TAX AS CITIZENS OR RESIDENTS.—In the
17 case of any covered expatriate who is subject to
18 tax as a citizen or resident of the United States
19 for any period beginning after the expatriation
20 date, such individual shall not be treated as a
21 covered expatriate during such period for pur-
22 poses of subsections (d)(1) and (f) and section
23 2801.

24 “(2) EXPATRIATE.—The term ‘expatriate’
25 means—

1 “(A) any United States citizen who relin-
2 quishes his citizenship, and

3 “(B) any long-term resident of the United
4 States who ceases to be a lawful permanent resi-
5 dent of the United States (within the meaning of
6 section 7701(b)(6)).

7 “(3) *EXPATRIATION DATE*.—The term ‘expatria-
8 tion date’ means—

9 “(A) the date an individual relinquishes
10 United States citizenship, or

11 “(B) in the case of a long-term resident of
12 the United States, the date on which the indi-
13 vidual ceases to be a lawful permanent resident
14 of the United States (within the meaning of sec-
15 tion 7701(b)(6)).

16 “(4) *RELINQUISHMENT OF CITIZENSHIP*.—A cit-
17 izen shall be treated as relinquishing his United
18 States citizenship on the earliest of—

19 “(A) the date the individual renounces his
20 United States nationality before a diplomatic or
21 consular officer of the United States pursuant to
22 paragraph (5) of section 349(a) of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1481(a)(5)),

24 “(B) the date the individual furnishes to the
25 United States Department of State a signed

1 *statement of voluntary relinquishment of United*
2 *States nationality confirming the performance of*
3 *an act of expatriation specified in paragraph*
4 *(1), (2), (3), or (4) of section 349(a) of the Im-*
5 *migration and Nationality Act (8 U.S.C.*
6 *1481(a)(1)–(4)),*

7 *“(C) the date the United States Department*
8 *of State issues to the individual a certificate of*
9 *loss of nationality, or*

10 *“(D) the date a court of the United States*
11 *cancels a naturalized citizen’s certificate of natu-*
12 *ralization.*

13 *Subparagraph (A) or (B) shall not apply to any in-*
14 *dividual unless the renunciation or voluntary relin-*
15 *quishment is subsequently approved by the issuance to*
16 *the individual of a certificate of loss of nationality by*
17 *the United States Department of State.*

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

21 *“(6) EARLY DISTRIBUTION TAX.—The term*
22 *‘early distribution tax’ means any increase in tax im-*
23 *posed under section 72(t), 220(e)(4), 223(f)(4),*
24 *409A(a)(1)(B), 529(c)(6), or 530(d)(4).*

25 *“(h) OTHER RULES.—*

1 “(1) *TERMINATION OF DEFERRALS, ETC.*—*In the*
2 *case of any covered expatriate, notwithstanding any*
3 *other provision of this title—*

4 “(A) *any time period for acquiring prop-*
5 *erty which would result in the reduction in the*
6 *amount of gain recognized with respect to prop-*
7 *erty disposed of by the taxpayer shall terminate*
8 *on the day before the expatriation date, and*

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

14 “(2) *STEP-UP IN BASIS.*—*Solely for purposes of*
15 *determining any tax imposed by reason of subsection*
16 *(a), property which was held by an individual on the*
17 *date the individual first became a resident of the*
18 *United States (within the meaning of section 7701(b))*
19 *shall be treated as having a basis on such date of not*
20 *less than the fair market value of such property on*
21 *such date. The preceding sentence shall not apply if*
22 *the individual elects not to have such sentence apply.*
23 *Such an election, once made, shall be irrevocable.*

24 “(3) *COORDINATION WITH SECTION 684.*—*If the*
25 *expatriation of any individual would result in the*

1 *recognition of gain under section 684, this section*
 2 *shall be applied after the application of section 684.*

3 “(i) *REGULATIONS.—The Secretary shall prescribe*
 4 *such regulations as may be necessary or appropriate to*
 5 *carry out the purposes of this section.”.*

6 ***(b) TAX ON GIFTS AND BEQUESTS RECEIVED BY***
 7 ***UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-***
 8 ***TRIATES.—***

9 ***(1) IN GENERAL.—****Subtitle B (relating to estate*
 10 *and gift taxes) is amended by inserting after chapter*
 11 *14 the following new chapter:*

12 **“CHAPTER 15—GIFTS AND BEQUESTS**
 13 **FROM EXPATRIATES**

“Sec. 2801. Imposition of tax.

14 **“SEC. 2801. IMPOSITION OF TAX.**

15 “(a) *IN GENERAL.—If, during any calendar year, any*
 16 *United States citizen or resident receives any covered gift*
 17 *or bequest, there is hereby imposed a tax equal to the prod-*
 18 *uct of—*

19 “(1) *the highest rate of tax specified in the table*
 20 *contained in section 2001(c) as in effect on the date*
 21 *of such receipt (or, if greater, the highest rate of tax*
 22 *specified in the table applicable under section 2502(a)*
 23 *as in effect on the date), and*

24 “(2) *the value of such covered gift or bequest.*

1 “(b) *TAX TO BE PAID BY RECIPIENT.*—*The tax im-*
2 *posed by subsection (a) on any covered gift or bequest shall*
3 *be paid by the person receiving such gift or bequest.*

4 “(c) *EXCEPTION FOR CERTAIN GIFTS.*—*Subsection (a)*
5 *shall apply only to the extent that the value of covered gifts*
6 *and bequests received by any person during the calendar*
7 *year exceeds \$10,000.*

8 “(d) *TAX REDUCED BY FOREIGN GIFT OR ESTATE*
9 *TAX.*—*The tax imposed by subsection (a) on any covered*
10 *gift or bequest shall be reduced by the amount of any gift*
11 *or estate tax paid to a foreign country with respect to such*
12 *covered gift or bequest.*

13 “(e) *COVERED GIFT OR BEQUEST.*—

14 “(1) *IN GENERAL.*—*For purposes of this chapter,*
15 *the term ‘covered gift or bequest’ means—*

16 “(A) *any property acquired by gift directly*
17 *or indirectly from an individual who, at the*
18 *time of such acquisition, is a covered expatriate,*
19 *and*

20 “(B) *any property acquired directly or in-*
21 *directly by reason of the death of an individual*
22 *who, immediately before such death, was a cov-*
23 *ered expatriate.*

1 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
2 *SUBJECT TO ESTATE OR GIFT TAX.*—*Such term shall*
3 *not include—*

4 “(A) *any property shown on a timely filed*
5 *return of tax imposed by chapter 12 which is a*
6 *taxable gift by the covered expatriate, and*

7 “(B) *any property included in the gross es-*
8 *tate of the covered expatriate for purposes of*
9 *chapter 11 and shown on a timely filed return*
10 *of tax imposed by chapter 11 of the estate of the*
11 *covered expatriate.*

12 “(3) *TRANSFERS IN TRUST.*—

13 “(A) *DOMESTIC TRUSTS.*—*In the case of a*
14 *covered gift or bequest made to a domestic*
15 *trust—*

16 “(i) *subsection (a) shall apply in the*
17 *same manner as if such trust were a United*
18 *States citizen, and*

19 “(ii) *the tax imposed by subsection (a)*
20 *on such gift or bequest shall be paid by such*
21 *trust.*

22 “(B) *FOREIGN TRUSTS.*—

23 “(i) *IN GENERAL.*—*In the case of a*
24 *covered gift or bequest made to a foreign*
25 *trust, subsection (a) shall apply to any dis-*

1 *tribution attributable to such gift or bequest*
2 *from such trust (whether from income or*
3 *corpus) to a United States citizen or resi-*
4 *dent in the same manner as if such dis-*
5 *tribution were a covered gift or bequest.*

6 “(ii) *DEDUCTION FOR TAX PAID BY RE-*
7 *CIPIENT.—There shall be allowed as a de-*
8 *duction under section 164 the amount of tax*
9 *imposed by this section which is paid or ac-*
10 *crued by a United States citizen or resident*
11 *by reason of a distribution from a foreign*
12 *trust, but only to the extent such tax is im-*
13 *posed on the portion of such distribution*
14 *which is included in the gross income of*
15 *such citizen or resident.*

16 “(iii) *ELECTION TO BE TREATED AS*
17 *DOMESTIC TRUST.—Solely for purposes of*
18 *this section, a foreign trust may elect to be*
19 *treated as a domestic trust. Such an election*
20 *may be revoked with the consent of the Sec-*
21 *retary.*

22 “(f) *COVERED EXPATRIATE.—For purposes of this sec-*
23 *tion, the term ‘covered expatriate’ has the meaning given*
24 *to such term by section 877A(g)(1).”.*

1 (2) *CLERICAL AMENDMENT.*—*The table of chap-*
2 *ters for subtitle B is amended by inserting after the*
3 *item relating to chapter 14 the following new item:*

 “CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.”.

4 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
5 *CITIZENSHIP.*—

6 (1) *IN GENERAL.*—*Section 7701(a) is amended*
7 *by adding at the end the following new paragraph:*

8 “(50) *TERMINATION OF UNITED STATES CITIZEN-*
9 *SHIP.*—

10 “(A) *IN GENERAL.*—*An individual shall not*
11 *cease to be treated as a United States citizen be-*
12 *fore the date on which the individual’s citizen-*
13 *ship is treated as relinquished under section*
14 *877A(g)(4).*

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

20 (2) *CONFORMING AMENDMENTS.*—

21 (A) *Paragraph (1) of section 877(e) is*
22 *amended to read as follows:*

23 “(1) *IN GENERAL.*—*Any long-term resident of*
24 *the United States who ceases to be a lawful perma-*
25 *nent resident of the United States (within the mean-*

1 *ing of section 7701(b)(6)) shall be treated for purposes*
2 *of this section and sections 2107, 2501, and 6039G in*
3 *the same manner as if such resident were a citizen of*
4 *the United States who lost United States citizenship*
5 *on the date of such cessation or commencement.”.*

6 (B) *Paragraph (6) of section 7701(b) is*
7 *amended by adding at the end the following flush*
8 *sentence:*

9 *“An individual shall cease to be treated as a lawful*
10 *permanent resident of the United States if such indi-*
11 *vidual commences to be treated as a resident of a for-*
12 *foreign country under the provisions of a tax treaty be-*
13 *tween the United States and the foreign country, does*
14 *not waive the benefits of such treaty applicable to*
15 *residents of the foreign country, and notifies the Sec-*
16 *retary of the commencement of such treatment.”.*

17 (C) *Section 7701 is amended by striking*
18 *subsection (n) and by redesignating subsections*
19 *(o) and (p) as subsections (n) and (o), respec-*
20 *tively.*

21 (d) *INFORMATION RETURNS.—Section 6039G is*
22 *amended—*

23 (1) *by inserting “or 877A” after “section 877(b)”*
24 *in subsection (a), and*

1 (2) by inserting “or 877A” after “section
2 877(a)” in subsection (d).

3 (e) *CLERICAL AMENDMENT.*—The table of sections for
4 subpart A of part II of subchapter N of chapter 1 is amend-
5 ed by inserting after the item relating to section 877 the
6 following new item:

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

7 (f) *EFFECTIVE DATE.*—

8 (1) *IN GENERAL.*—Except as provided in this
9 subsection, the amendments made by this section shall
10 apply to expatriates (as defined in section 877A(g) of
11 the Internal Revenue Code of 1986, as added by this
12 section) whose expatriation date (as so defined) is on
13 or after the date of the enactment of this Act.

14 (2) *GIFTS AND BEQUESTS.*—Chapter 15 of the
15 Internal Revenue Code of 1986 (as added by sub-
16 section (b)) shall apply to covered gifts and bequests
17 (as defined in section 2801 of such Code, as so added)
18 received on or after the date of the enactment of this
19 Act from transferors whose expatriation date is on or
20 after such date of enactment.

1 **SEC. 302. SPECIAL ENROLLMENT OPTION BY EMPLOYER**
2 **HEALTH PLANS FOR MEMBERS OF UNIFORM**
3 **SERVICES WHO LOSE HEALTH CARE COV-**
4 **ERAGE.**

5 (a) *IN GENERAL.*—Section 9801(f) (relating to special
6 enrollment periods) is amended by adding at the end the
7 following new paragraph:

8 “(3) *LOSS OF MILITARY HEALTH COVERAGE.*—

9 “(A) *IN GENERAL.*—Notwithstanding para-
10 graphs (1) and (2), a group health plan shall
11 permit an employee who is eligible, but not en-
12 rolled, for coverage under the terms of the plan
13 (or a dependent of such an employee if the de-
14 pendent is eligible, but not enrolled, for coverage
15 under such terms) to enroll for coverage under
16 the terms of the plan if each of the following con-
17 ditions is met:

18 “(i) *The employee or dependent, by*
19 *reason of service in the uniformed services*
20 *(within the meaning of section 4303 of title*
21 *38, United States Code), was covered under*
22 *a Federal health care benefit program (in-*
23 *cluding coverage under the TRICARE pro-*
24 *gram (as that term is defined in section*
25 *1072 of title 10, United States Code) or by*
26 *reason of entitlement to health care benefits*

1 *under the laws administered by the Sec-*
2 *retary of Veterans Affairs or as a member*
3 *of the uniformed services on active duty),*
4 *and the employee or dependent loses eligi-*
5 *bility for such coverage.*

6 “(ii) *The employee or dependent is oth-*
7 *erwise eligible to enroll for coverage under*
8 *the terms of the plan.*

9 “(iii) *The employee requests such cov-*
10 *erage not later than 90 days after the date*
11 *on which the coverage described in clause (i)*
12 *terminated.*

13 “(B) *EFFECTIVE DATE OF COVERAGE.—*
14 *Coverage requested under subparagraph (A)(iii)*
15 *shall become effective not later than the first day*
16 *of the first month after the date of such request.”.*

17 (b) *EMPLOYEE RETIREMENT INCOME SECURITY ACT*
18 *OF 1974.—Section 701(f) of the Employee Retirement In-*
19 *come Security Act of 1974 (29 U.S.C. 1181(f)) is amended*
20 *by adding at the end the following:*

21 “(3) *LOSS OF MILITARY HEALTH COVERAGE.—*

22 “(A) *IN GENERAL.—Notwithstanding para-*
23 *graphs (1) and (2), a group health plan, and a*
24 *health insurance issuer offering group health in-*
25 *surance coverage in connection with a group*

1 *health plan, shall permit an employee who is eli-*
2 *gible, but not enrolled, for coverage under the*
3 *terms of the plan (or a dependent of such an em-*
4 *ployee if the dependent is eligible, but not en-*
5 *rolled, for coverage under such terms) to enroll*
6 *for coverage under the terms of the plan if each*
7 *of the following conditions is met:*

8 “(i) *The employee or dependent, by*
9 *reason of service in the uniformed services*
10 *(within the meaning of section 4303 of title*
11 *38, United States Code), was covered under*
12 *a Federal health care benefit program (in-*
13 *cluding coverage under the TRICARE pro-*
14 *gram (as that term is defined in section*
15 *1072 of title 10, United States Code) or by*
16 *reason of entitlement to health care benefits*
17 *under the laws administered by the Sec-*
18 *retary of Veterans Affairs or as a member*
19 *of the uniformed services on active duty),*
20 *and the employee or dependent loses eligi-*
21 *bility for such coverage.*

22 “(ii) *The employee or dependent is oth-*
23 *erwise eligible to enroll for coverage under*
24 *the terms of the plan.*

1 “(iii) *The employee requests such cov-*
2 *erage not later than 90 days after the date*
3 *on which the coverage described in clause (i)*
4 *terminated.*

5 “(B) *EFFECTIVE DATE OF COVERAGE.—*
6 *Coverage requested under subparagraph (A)(iii)*
7 *shall become effective not later than the first day*
8 *of the first month after the date of such request.”.*

9 (c) *PUBLIC HEALTH SERVICE ACT.—Section 2701(f)*
10 *of the Public Health Service Act (42 U.S.C. 300gg(f)) is*
11 *amended by adding at the end the following:*

12 “(3) *LOSS OF MILITARY HEALTH COVERAGE.—*

13 “(A) *IN GENERAL.—Notwithstanding para-*
14 *graphs (1) and (2), a group health plan, and a*
15 *health insurance issuer offering group health in-*
16 *surance coverage in connection with a group*
17 *health plan, shall permit an employee who is eli-*
18 *gible, but not enrolled, for coverage under the*
19 *terms of the plan (or a dependent of such an em-*
20 *ployee if the dependent is eligible, but not en-*
21 *rolled, for coverage under such terms) to enroll*
22 *for coverage under the terms of the plan if each*
23 *of the following conditions is met:*

24 “(i) *The employee or dependent, by*
25 *reason of service in the uniformed services*

1 *(within the meaning of section 4303 of title*
2 *38, United States Code), was covered under*
3 *a Federal health care benefit program (in-*
4 *cluding coverage under the TRICARE pro-*
5 *gram (as that term is defined in section*
6 *1072 of title 10, United States Code) or by*
7 *reason of entitlement to health care benefits*
8 *under the laws administered by the Sec-*
9 *retary of Veterans Affairs or as a member*
10 *of the uniformed services on active duty),*
11 *and the employee or dependent loses eligi-*
12 *bility for such coverage.*

13 *“(ii) The employee or dependent is oth-*
14 *erwise eligible to enroll for coverage under*
15 *the terms of the plan.*

16 *“(iii) The employee requests such cov-*
17 *erage not later than 90 days after the date*
18 *on which the coverage described in clause (i)*
19 *terminated.*

20 *“(B) EFFECTIVE DATE OF COVERAGE.—*
21 *Coverage requested under subparagraph (A)(iii)*
22 *shall become effective not later than the first day*
23 *of the first month after the date of such request.”.*

24 *(d) REGULATIONS.—The Secretary of the Treasury, the*
25 *Secretary of Labor, and the Secretary of Health and*

1 *Human Services, consistent with section 104 of the Health*
2 *Insurance Portability and Accountability Act of 1996 (42*
3 *U.S.C. 300gg-92 note), may promulgate such regulations*
4 *as may be necessary or appropriate to require the notifica-*
5 *tion of individuals (or their dependents) of their rights*
6 *under the amendment made by this Act.*

7 (e) *EFFECTIVE DATE.*—*The amendments made by this*
8 *section shall take effect 90 days after the date of the enact-*
9 *ment of this Act.*

10 **SEC. 303. INCREASE IN MINIMUM PENALTY ON FAILURE TO**
11 **FILE A RETURN OF TAX.**

12 (a) *IN GENERAL.*—*Subsection (a) of section 6651 is*
13 *amended by striking “\$100” in the last sentence and insert-*
14 *ing “\$225”.*

15 (b) *EFFECTIVE DATE.*—*The amendment made by this*
16 *section shall apply to returns the due date for the filing*
17 *of which (including extensions) is after December 31, 2007.*

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes.”.

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

H. R. 3997

AMENDMENTS