

**COMPARISON OF THE PROVISIONS OF H.R. 5063, THE
“ARMED FORCES TAX FAIRNESS ACT OF 2002,”
AS PASSED BY THE HOUSE AND THE SENATE**

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



October 4, 2002
JCX-90-02

INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the provisions of H.R. 5063, the “Armed Forces Tax Fairness Act of 2002,” as passed by the House and the Senate.

¹ This document may be cited as follows: Joint Committee on Taxation, *Comparison of the Provisions of H.R. 5063, the “Armed Forces Tax Fairness Act of 2002,” as passed by the House and the Senate* (JCX-90-02), October 4, 2002.

ITEM	PRESENT LAW	HOUSE BILL	SENATE AMENDMENT
<p>I. IMPROVING TAX EQUITY FOR MILITARY PERSONNEL</p> <p>A. Exclusion from Gross Income of Certain Death Gratuity Payments (sec. 3 of the House bill and sec. 101 of the Senate amendment)</p>	<p>Qualified military benefits (including certain death gratuities) are excludable from gross income subject to certain restrictions. Generally, other than certain cost of living adjustments no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.</p>	<p>Extends the exclusion for certain death gratuities to any adjustment to the amount of the death gratuity payable pursuant to a provision of law enacted before December 31, 1991.</p> <p><u>Effective date.</u>—Deaths occurring after September 10, 2001.</p>	<p>Extends the exclusion for certain death gratuities to any adjustment to the amount of death gratuities payable (including but not limited to any adjustment to the amount of the death gratuity payable pursuant to a provision of law enacted before December 31, 1991).</p> <p><u>Effective date.</u>—Same as House bill.</p>
<p>B. Exclusion of Gain on Sale of a Principal Residence by a Member of the Uniformed Services (sec. 2 of the House bill and sec. 102 of the Senate amendment)</p>	<p>An individual may elect to exclude up to \$250,000 (\$500,000 for joint returns) of gain from the sale or exchange of a principal residence. A five-year test period for ownership and use of the property is generally applied to determine eligibility for the exclusion. There are no special rules with respect to the sale or exchange of a principal residence for members of the uniformed services, or the Foreign Service of the United States.</p>	<p>An individual may elect to suspend for a maximum of five years the five-year test period for ownership and use during certain absences due to service in the uniformed services. Such absences must be with respect to any period of extended duty by a member of the uniformed services of the United States while serving at a place of duty at least 250 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters.</p>	<p>Same as House bill with the following modifications:</p> <ol style="list-style-type: none"> 1. Allows a maximum 10-year suspension. 2. Extends the suspension to members of the Foreign Service. 3. Reduces 250 miles to 50 miles. 4. Reduces 180 days to 90 days. <p><u>Effective date.</u>—Sales or exchanges after May 6, 1997.</p>

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		<p>Extended duty is defined as any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.</p> <p><u>Effective date.</u>—Elections made after the date of enactment for periods after such date.</p>	
<p>C. Exclusion for Amounts Received Under Department of Defense Homeowners Assistance Program (sec. 103 of the Senate amendment)</p>	<p>Amounts received under the Department of Defense Homeowners Assistance Program are includable in gross income as compensation for services. Such amounts are “wages” for FICA tax purposes (including Medicare).</p>	<p>No provision.</p>	<p>Amounts received under the Program are excludable from income and not considered wages for FICA tax purposes (including Medicare).</p> <p><u>Effective date.</u>—Date of enactment.</p>
<p>D. Expansion of Combat Zone Filing Rules to Contingency Operations (sec 104 of the Senate amendment)</p>	<p>In general, the period of time for performing certain acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities.</p>	<p>No provision.</p>	<p>Applies the combat zone rules to any contingency operation or operation that becomes a contingency operation.</p> <p><u>Effective date.</u>—Applies to any period for performing an act that has not expired before the date of enactment.</p>

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<p>E. Above-the-Line Deduction for Overnight Travel Expenses of National Guard and Reserve Members (sec. 105 of the Senate amendment)</p>	<p>National Guard and Reserve members may claim itemized deductions for their nonreimbursable expenses for travel, meals, and lodging when they must travel away from home (and stay overnight) to attend National Guard and Reserve meetings.</p>	<p>No provision.</p>	<p>Provides an above-the-line deduction (up to Federal per diem) for the overnight travel, meals, and lodging expenses of National Guard and Reserve members who must travel away from home (and stay overnight) to attend National Guard and Reserve meetings.</p> <p><u>Effective date.</u>—Amounts paid or incurred in taxable years beginning after December 31, 2001.</p>
<p>F. Modification of Membership Requirement for Exemption From Tax for Certain Veteran’s Organizations (sec. 106 of the Senate amendment)</p>	<p>A veterans’ organization as described in section 501(c)(19) of the Code generally is exempt from Federal income tax. In order to qualify for the exemption (1) at least 75 percent of the organization’s members must be past or present members of the Armed Forces of the United States, and (2) “substantially all” of the remaining members must be cadets or spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets.</p>	<p>No provision.</p>	<p>Permits ancestors or lineal descendants of past or present members of the Armed Forces of the United States or of cadets to qualify as members for purposes of the “substantially all” test.</p> <p><u>Effective date.</u>—Taxable years beginning after the date of enactment.</p>

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<p>G. Clarification of Treatment of Certain Dependent Care Assistance Programs Provided to Members of the Uniformed Services of the United States (sec. 107 of the Senate amendment)</p>	<p>Qualified military benefits are excludable from gross income subject to certain restrictions. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.</p> <p>There may be some confusion regarding the treatment of dependent care assistance as qualified military benefits.</p>	<p>No provision.</p>	<p>Clarifies that dependent care assistance provided under a dependent care assistance program for a member of the uniformed services by reason of such member's status or service as a member of the uniformed services is excludable from gross income as a qualified military benefit. For these purposes, the amount of dependent care assistance excludable as a qualified military benefit is not limited to the amount of benefit excludable on September 9, 1986.</p> <p><u>Effective date.</u>—Taxable years beginning after December 31, 2001. No inference is intended as to the tax treatment of such amounts for prior taxable years.</p>

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<p>II. OTHER PROVISIONS</p> <p>A. Impose Mark-to-Market Tax on Individuals Who Expatriate (sec. 201 of the Senate amendment)</p>	<p>In general, an individual who relinquishes U.S. citizenship or terminates U.S. residency with a principal purpose of avoiding U.S. taxes is subject to an alternative tax regime for income tax purposes for the 10 taxable years ending after expatriation or residency termination. The alternative tax regime generally expands the category of income that is considered taxable U.S.-source income, and imposes gain recognition on certain transactions that otherwise might convert U.S.-source income into foreign-source income. Special rules apply to such individuals for estate and gift tax purposes. A special immigration rule denies certain former citizens re-entry into the United States if the Attorney General determines that their expatriation was tax-motivated.</p>	<p>No provision.</p>	<p>Generally subjects certain U.S. citizens who relinquish U.S. citizenship and certain long-term U.S. residents who terminate U.S. residency to tax on the net unrealized gain in their property as if such property were sold for fair market value on the day before the expatriation or residency termination (a so-called “mark-to-market” approach), without regard to the individual’s purpose for expatriation or residency termination. Exceptions apply if the deemed gain is below a certain amount, or if the individual falls within certain categories. Special rules are provided for interests in trusts, qualified retirement plans and foreign pension plans. The present-law rules applicable to expatriates are replaced by the bill’s mark-to-market provisions prospectively. The bill generally requires a U.S. taxpayer who receives a gift or inheritance from an expatriate to recognize the value of the</p>

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			<p>property as gross income. In addition, the bill conforms the present-law immigration rule to the mark-to-market tax regime.</p> <p><u>Effective date.</u>—Generally effective for U.S. citizens who relinquish citizenship or long-term residents who terminate their U.S. residency on or after September 12, 2002. The gift and inheritance provision is effective for gifts and inheritances received from expatriates on or after September 12, 2002, whose expatriation or residency termination occurs on or after that date. The immigration provision is effective on or after date of enactment.</p>
<p>B. Extension of IRS User Fees (sec. 202 of the Senate amendment)</p>	<p>The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104-117 extended</p>	<p>No provision.</p>	<p>Extends the statutory authorization for these user fees through September 30, 2012. Also moves the statutory authorization for these fees into the Internal Revenue Code.</p> <p><u>Effective date.</u>—For requests made after the date of enactment.</p>

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	the statutory authorization for these user fees through September 30, 2003.		
C. Authorize IRS to Enter into Installment Agreements that Provide for Partial Payment (sec. 203 of the Senate amendment)	The IRS is authorized to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed.	No provision.	Clarifies that the IRS is authorized to enter into installment agreements with taxpayers that do not provide for full payment of the taxpayer's liability over the life of the agreement. The provision also requires the IRS to review partial payment installment agreements at least every two years. <u>Effective date.</u> —Installment agreements entered into on or after the date of enactment.