

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide additional tax equity for military personnel and for other purposes.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

H.R. 5557

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 On page 10, strike line 10, and insert the following:

1 **SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM**
2 **ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PRO-**
3 **GRAMS, ETC. ON ACCOUNT OF ATTENDANCE**
4 **AT MILITARY ACADEMY.**
5

6 (a) IN GENERAL.—Subparagraph (B) of section
7 530(d)(4) of the Internal Revenue Code of 1986 (relating
8 to exceptions from additional tax for distributions not
9 used for educational purposes) is amended by striking
10 “or” at the end of clause (iii), by redesignating clause (iv)
11 as clause (v), and by inserting after clause (iii) the fol-
12 lowing new clause:

13 “(iv) made on account of the attend-
14 ance of the account holder at the United
15 States Military Academy, the United
16 States Naval Academy, the United States
17 Air Force Academy, the United States
18 Coast Guard Academy, or the United
19 States Merchant Marine Academy, to the
20 extent that the amount of the payment or
21 distribution does not exceed the costs of
22 advanced education (as defined by section
23 2005(e)(3) of title 10, United States Code,
24 as in effect on the date of the enactment
25 of this section) attributable to such attend-
26 ance, or”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect as if included in the amend-
3 ments made by section 402 of the Economic Growth and
4 Tax Relief Reconciliation Act of 2001.

5 **SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF DES-**
6 **IGNATED TERRORIST ORGANIZATIONS.**

7 (a) IN GENERAL.—Section 501 of the Internal Rev-
8 enue Code of 1986 (relating to exemption from tax on cor-
9 porations, certain trusts, etc.) is amended by redesi-
10 gnating subsection (p) as subsection (q) and by inserting
11 after subsection (o) the following new subsection:

12 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF DES-
13 IGNATED TERRORIST ORGANIZATIONS.—

14 “(1) IN GENERAL.—The exemption from tax
15 under subsection (a) with respect to any organiza-
16 tion shall be suspended during any period in which
17 the organization is a designated terrorist organiza-
18 tion.

19 “(2) DESIGNATED TERRORIST ORGANIZA-
20 TION.—For purposes of this subsection, the term
21 ‘designated terrorist organization’ means an organi-
22 zation which—

23 “(A) is designated as a terrorist organiza-
24 tion in or pursuant to an Executive order, or
25 otherwise designated, under the authority of—

1 “(i) section 212(a)(3) or 219 of the
2 Immigration and Nationality Act,

3 “(ii) the International Emergency
4 Economic Powers Act, or

5 “(iii) section 5 of the United Nations
6 Participation Act, or

7 “(B) is designated in or pursuant to an
8 Executive order as supporting terrorist activity
9 (as defined in section 212(a)(3)(B) of the Im-
10 migration and Nationality Act) or terrorism (as
11 defined in section 140(d)(2) of the Foreign Re-
12 lations Authorization Act, Fiscal Years 1988
13 and 1989).

14 “(3) DENIAL OF DEDUCTION.—No deduction
15 shall be allowed under section 170, 545(b)(2),
16 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for
17 any contribution to an organization during the pe-
18 riod such organization is a designated terrorist orga-
19 nization.

20 “(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL
21 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
22 TION.—Notwithstanding section 7428 or any other
23 provision of law, no organization or other person
24 may challenge a suspension under paragraph (1), a
25 designation described in paragraph (2), or a denial

1 of a deduction under paragraph (3) in any adminis-
2 trative or judicial proceeding relating to the Federal
3 tax liability of such organization or other person.

4 “(5) CREDIT OR REFUND IN CASE OF ERRO-
5 NEOUS DESIGNATION.—

6 “(A) IN GENERAL.—If a designation of an
7 organization pursuant to 1 or more of the pro-
8 visions of law described in paragraph (2) is de-
9 termined to be erroneous pursuant to such law
10 and the erroneous designation results in an
11 overpayment of income tax for any taxable year
12 with respect to such organization, credit or re-
13 fund (with interest) with respect to such over-
14 payment shall be made.

15 “(B) WAIVER OF LIMITATIONS.—If credit
16 or refund of any overpayment of tax described
17 in subparagraph (A) is prevented at any time
18 before the close of the 1-year period beginning
19 on the date of the determination of such credit
20 or refund by the operation of any law or rule
21 of law (including res judicata), such refund or
22 credit may nevertheless be made or allowed if
23 claim therefor is filed before the close of such
24 period.”.

1 (b) NOTICE OF SUSPENSIONS.—If the tax exemption
2 of any organization is suspended under section 501(p) of
3 the Internal Revenue Code of 1986 (as added by sub-
4 section (a)), the Internal Revenue Service shall update the
5 listings of tax-exempt organizations and shall publish ap-
6 propriate notice to taxpayers of such suspension and of
7 the fact that contributions to such organization are not
8 deductible during the period of such suspension.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
13 **TRAVEL EXPENSES OF NATIONAL GUARD**
14 **AND RESERVE MEMBERS.**

15 (a) DEDUCTION ALLOWED.—Section 162 of the In-
16 ternal Revenue Code of 1986 (relating to certain trade or
17 business expenses) is amended by redesignating subsection
18 (p) as subsection (q) and inserting after subsection (o) the
19 following new subsection:

20 “(p) TREATMENT OF EXPENSES OF MEMBERS OF
21 RESERVE COMPONENT OF ARMED FORCES OF THE
22 UNITED STATES.—For purposes of subsection (a)(2), in
23 the case of an individual who performs services as a mem-
24 ber of a reserve component of the Armed Forces of the
25 United States at any time during the taxable year, such

1 individual shall be deemed to be away from home in the
2 pursuit of a trade or business for any period during which
3 such individual is away from home in connection with such
4 services.”.

5 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
6 PAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating
7 to certain trade and business deductions of employees) is
8 amended by adding at the end the following new subpara-
9 graph:

10 (E) CERTAIN EXPENSES OF MEMBERS OF
11 RESERVE COMPONENTS OF THE ARMED FORCES
12 OF THE UNITED STATES.—The deductions al-
13 lowed by section 162 which consist of expenses,
14 not in excess of \$1,500, paid or incurred by the
15 taxpayer in connection with the performance of
16 services by such taxpayer as a member of a re-
17 serve component of the Armed Forces of the
18 United States for any period during which such
19 individual is more than 100 miles away from
20 home in connection with such services.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2002.

1 **SEC. 11. EXTENSION OF INTERNAL REVENUE SERVICE**
2 **USER FEES.**

3 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
4 enue Code of 1986 (relating to miscellaneous provisions)
5 is amended by adding at the end the following new section:

6 **“SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.**

7 “(a) GENERAL RULE.—The Secretary shall establish
8 a program requiring the payment of user fees for—

9 “(1) requests to the Internal Revenue Service
10 for ruling letters, opinion letters, and determination
11 letters, and

12 “(2) other similar requests.

13 “(b) PROGRAM CRITERIA.—

14 “(1) IN GENERAL.—The fees charged under the
15 program required by subsection (a)—

16 “(A) shall vary according to categories (or
17 subcategories) established by the Secretary,

18 “(B) shall be determined after taking into
19 account the average time for (and difficulty of)
20 complying with requests in each category (and
21 subcategory), and

22 “(C) shall be payable in advance.

23 “(2) EXEMPTIONS, ETC.—

24 “(A) IN GENERAL.—The Secretary shall
25 provide for such exemptions (and reduced fees)

1 under such program as the Secretary deter-
2 mines to be appropriate.

3 “(B) EXEMPTION FOR CERTAIN REQUESTS
4 REGARDING PENSION PLANS.—The Secretary
5 shall not require payment of user fees under
6 such program for requests for determination
7 letters with respect to the qualified status of a
8 pension benefit plan maintained solely by 1 or
9 more eligible employers or any trust which is
10 part of the plan. The preceding sentence shall
11 not apply to any request—

12 “(i) made after the later of—

13 “(I) the fifth plan year the pen-
14 sion benefit plan is in existence, or

15 “(II) the end of any remedial
16 amendment period with respect to the
17 plan beginning within the first 5 plan
18 years, or

19 “(ii) made by the sponsor of any pro-
20 totype or similar plan which the sponsor
21 intends to market to participating employ-
22 ers.

23 “(C) DEFINITIONS AND SPECIAL RULES.—

24 For purposes of subparagraph (B)—

1 “(i) PENSION BENEFIT PLAN.—The
 2 term ‘pension benefit plan’ means a pen-
 3 sion, profit-sharing, stock bonus, annuity,
 4 or employee stock ownership plan.

5 “(ii) ELIGIBLE EMPLOYER.—The
 6 term ‘eligible employer’ means an eligible
 7 employer (as defined in section
 8 408(p)(2)(C)(i)(I)) which has at least 1
 9 employee who is not a highly compensated
 10 employee (as defined in section 414(q))
 11 and is participating in the plan. The deter-
 12 mination of whether an employer is an eli-
 13 gible employer under subparagraph (B)
 14 shall be made as of the date of the request
 15 described in such subparagraph.

16 “(iii) DETERMINATION OF AVERAGE
 17 FEES CHARGED.—For purposes of any de-
 18 termination of average fees charged, any
 19 request to which subparagraph (B) applies
 20 shall not be taken into account.

21 “(3) AVERAGE FEE REQUIREMENT.—The aver-
 22 age fee charged under the program required by sub-
 23 section (a) shall not be less than the amount deter-
 24 mined under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250

“Category	Average Fee
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

1 “(c) **TERMINATION.**—No fee shall be imposed under
2 this section with respect to requests made after September
3 30, 2012.”.

4 (b) **CONFORMING AMENDMENTS.**—

5 (1) The table of sections for chapter 77 of the
6 Internal Revenue Code of 1986 is amended by add-
7 ing at the end the following new item:

“Sec. 7527. Internal Revenue Service user fees.”.

8 (2) Section 10511 of the Revenue Act of 1987
9 is repealed.

10 (3) Section 620 of the Economic Growth and
11 Tax Relief Reconciliation Act of 2001 is repealed.

12 (c) **LIMITATIONS.**—Notwithstanding any other provi-
13 sion of law, any fees collected pursuant to section 7527
14 of the Internal Revenue Code of 1986, as added by sub-
15 section (a), shall not be expended by the Internal Revenue
16 Service unless provided by an appropriations Act.

17 (d) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to requests made after the date
19 of the enactment of this Act.

1 **SEC. 12. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALL-**
2 **MENT AGREEMENTS.**

3 (a) IN GENERAL.—

4 (1) Section 6159(a) of the Internal Revenue
5 Code of 1986 (relating to authorization of agree-
6 ments) is amended—

7 (A) by striking “satisfy liability for pay-
8 ment of” and inserting “make payment on”,
9 and

10 (B) by inserting “full or partial” after “fa-
11 cilitate”.

12 (2) Section 6159(c) of such Code (relating to
13 Secretary required to enter into installment agree-
14 ments in certain cases) is amended in the matter
15 preceding paragraph (1) by inserting “full” before
16 “payment”.

17 (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT
18 AGREEMENTS EVERY TWO YEARS.—Section 6159 of the
19 Internal Revenue Code of 1986 is amended by redesign-
20 ating subsections (d) and (e) as subsections (e) and (f),
21 respectively, and inserting after subsection (c) the fol-
22 lowing new subsection:

23 “(d) SECRETARY REQUIRED TO REVIEW INSTALL-
24 MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY
25 TWO YEARS.—In the case of an agreement entered into
26 by the Secretary under subsection (a) for partial collection

1 of a tax liability, the Secretary shall review the agreement
2 at least once every 2 years.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to agreements entered into on or
5 after the date of the enactment of this Act.

6 **SEC. 13. PROTECTION OF SOCIAL SECURITY.**