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H. R. 1308

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2003

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MARCH 21, 2003

Read the second time and placed on the calendar

AN ACT

To amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
 2 **TENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Tax Relief, Simplification, and Equity Act of 2003”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 6 wise expressly provided, whenever in this Act an amend-
 7 ment or repeal is expressed in terms of an amendment
 8 to, or repeal of, a section or other provision, the reference
 9 shall be considered to be made to a section or other provi-
 10 sion of the Internal Revenue Code of 1986.

11 (c) **TABLE OF CONTENTS.**—The table of contents of
 12 this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—ENDING ABUSIVE TAX PRACTICES

Sec. 101. Individual expatriation to avoid tax.

Sec. 102. Suspension of tax-exempt status of terrorist organizations.

Sec. 103. Expressing the sense of the Congress that tax reform is needed to
 address the issue of corporate expatriation.

TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

Sec. 201. Special rule for members of Foreign Service in determining exclusion
 of gain from sale of principal residence.

Sec. 202. Tax relief and assistance for families of astronauts who lose their
 lives on a space mission.

TITLE III—HEALTH PROVISIONS

Sec. 301. Vaccine tax to apply to hepatitis A vaccine.

Sec. 302. Expansion of human clinical trials qualifying for orphan drug credit.

TITLE IV—FOREST CONSERVATION ACTIVITIES

Sec. 401. Pilot project for forest conservation activities.

TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

Sec. 501. Simplification of excise tax imposed on bows and arrows.

Sec. 502. Capital gain treatment under section 631(b) to apply to outright
 sales by landowners.

Sec. 503. Repeal of excise tax on fishing tackle boxes.

Sec. 504. Treatment under at-risk rules of publicly traded nonrecourse debt.

TITLE VI—EQUITY FOR FARMERS

Sec. 601. Special rules for livestock sold on account of weather-related conditions.

Sec. 602. Income averaging for farmers not to increase alternative minimum tax.

Sec. 603. Payment of dividends on stock of cooperatives without reducing patronage dividends.

TITLE VII—PROTECTION OF SOCIAL SECURITY

Sec. 701. Protection of social security.

1 **TITLE I—ENDING ABUSIVE TAX**
 2 **PRACTICES**

3 **SEC. 101. INDIVIDUAL EXPATRIATION TO AVOID TAX.**

4 (a) EXPATRIATION TO AVOID TAX.—

5 (1) IN GENERAL.—Subsection (a) of section
 6 877 (relating to treatment of expatriates) is amend-
 7 ed to read as follows:

8 “(a) TREATMENT OF EXPATRIATES.—

9 “(1) IN GENERAL.—Every nonresident alien in-
 10 dividual to whom this section applies and who, with-
 11 in the 10-year period immediately preceding the
 12 close of the taxable year, lost United States citizen-
 13 ship shall be taxable for such taxable year in the
 14 manner provided in subsection (b) if the tax imposed
 15 pursuant to such subsection (after any reduction in
 16 such tax under the last sentence of such subsection)
 17 exceeds the tax which, without regard to this section,
 18 is imposed pursuant to section 871.

1 “(2) INDIVIDUALS SUBJECT TO THIS SEC-
2 TION.—This section shall apply to any individual
3 if—

4 “(A) the average annual net income tax
5 (as defined in section 38(c)(1)) of such indi-
6 vidual for the period of 5 taxable years ending
7 before the date of the loss of United States citi-
8 zenship is greater than \$122,000,

9 “(B) the net worth of the individual as of
10 such date is \$2,000,000 or more, or

11 “(C) such individual fails to certify under
12 penalty of perjury that he has met the require-
13 ments of this title for the 5 preceding taxable
14 years or fails to submit such evidence of such
15 compliance as the Secretary may require.

16 In the case of the loss of United States citizenship
17 in any calendar year after 2003, such \$122,000
18 amount shall be increased by an amount equal to
19 such dollar amount multiplied by the cost-of-living
20 adjustment determined under section 1(f)(3) for
21 such calendar year by substituting ‘2002’ for ‘1992’
22 in subparagraph (B) thereof. Any increase under the
23 preceding sentence shall be rounded to the nearest
24 multiple of \$1,000.”.

1 (2) REVISION OF EXCEPTIONS FROM ALTER-
2 NATIVE TAX.—Subsection (c) of section 877 (relat-
3 ing to tax avoidance not presumed in certain cases)
4 is amended to read as follows:

5 “(c) EXCEPTIONS.—

6 “(1) IN GENERAL.—Subparagraphs (A) and
7 (B) of subsection (a)(2) shall not apply to an indi-
8 vidual described in paragraph (2) or (3).

9 “(2) DUAL CITIZENS.—

10 “(A) IN GENERAL.—An individual is de-
11 scribed in this paragraph if—

12 “(i) the individual became at birth a
13 citizen of the United States and a citizen
14 of another country and continues to be a
15 citizen of such other country, and

16 “(ii) the individual has had no sub-
17 stantial contacts with the United States.

18 “(B) SUBSTANTIAL CONTACTS.—An indi-
19 vidual shall be treated as having no substantial
20 contacts with the United States only if the indi-
21 vidual—

22 “(i) was never a resident of the
23 United States (as defined in section
24 7701(b)),

1 “(ii) has never held a United States
2 passport, and

3 “(iii) was not present in the United
4 States for more than 30 days during any
5 calendar year which is 1 of the 10 calendar
6 years preceding the individual’s loss of
7 United States citizenship.

8 “(3) CERTAIN MINORS.—An individual is de-
9 scribed in this paragraph if—

10 “(A) the individual became at birth a cit-
11 izen of the United States,

12 “(B) neither parent of such individual was
13 a citizen of the United States at the time of
14 such birth,

15 “(C) the individual’s loss of United States
16 citizenship occurs before such individual attains
17 age 18 ½, and

18 “(D) the individual was not present in the
19 United States for more than 30 days during
20 any calendar year which is 1 of the 10 calendar
21 years preceding the individual’s loss of United
22 States citizenship.”.

23 (3) CONFORMING AMENDMENT.—Section
24 2107(a) is amended to read as follows:

1 “(a) TREATMENT OF EXPATRIATES.—A tax com-
2 puted in accordance with the table contained in section
3 2001 is hereby imposed on the transfer of the taxable es-
4 tate, determined as provided in section 2106, of every de-
5 cedent nonresident not a citizen of the United States if
6 the date of death occurs during a taxable year with respect
7 to which the decedent is subject to tax under section
8 877(b).”.

9 (b) SPECIAL RULES FOR DETERMINING WHEN AN
10 INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN
11 OR LONG-TERM RESIDENT.—Section 7701 (relating to
12 definitions) is amended by redesignating subsection (n) as
13 subsection (o) and by inserting after subsection (m) the
14 following new subsection:

15 “(n) SPECIAL RULES FOR DETERMINING WHEN AN
16 INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN
17 OR LONG-TERM RESIDENT.—An individual who would not
18 (but for this subsection) be treated as a citizen or resident
19 of the United States shall continue to be treated as a cit-
20 izen or resident of the United States until such indi-
21 vidual—

22 “(1) gives notice of an expatriating act or ter-
23 mination of residency (with the requisite intent to
24 relinquish citizenship or terminate residency) to the

1 Secretary of State or the Secretary of Homeland Se-
2 curity, and

3 “(2) provides a statement in accordance with
4 section 6039G.”.

5 (c) PHYSICAL PRESENCE IN THE UNITED STATES
6 FOR MORE THAN 30 DAYS.—Section 877 (relating to ex-
7 patriation to avoid tax) is amended by adding at the end
8 the following new subsection:

9 “(g) PHYSICAL PRESENCE.—This section shall not
10 apply to any individual for any taxable year during the
11 10-year period referred to in subsection (a) in which such
12 individual is present in the United States for more than
13 30 days in the calendar year ending in such taxable year,
14 and such individual shall be treated for purposes of this
15 title as a citizen or resident of the United States for such
16 taxable year.”.

17 (d) TRANSFERS SUBJECT TO GIFT TAX.—Subsection
18 (a) of section 2501 (relating to taxable transfers) is
19 amended by adding at the end the following:

20 “(6) TRANSFERS OF CERTAIN STOCK.—

21 “(A) IN GENERAL.—Paragraph (3) shall
22 not apply to the transfer of stock described in
23 subparagraph (B) by any individual to whom
24 section 877(b) applies, and section 2511(a)
25 shall be applied without regard to whether such

1 stock is property which is situated within the
2 United States.

3 “(B) VALUATION.—For purposes of sub-
4 paragraph (A), the value of stock shall be deter-
5 mined as provided in section 2103, except
6 that—

7 “(i) if the donor owned (within the
8 meaning of section 958(a)) at the time of
9 such transfer 10 percent or more of the
10 total combined voting power of all classes
11 of stock entitled to vote of a foreign cor-
12 poration, and

13 “(ii) if such donor owned (within the
14 meaning of section 958(a)), or is consid-
15 ered to have owned (by applying the own-
16 ership rules of section 958(b)), at the time
17 of such transfer, more than 50 percent
18 of—

19 “(I) the total combined voting
20 power of all classes of stock entitled
21 to vote of such corporation, or

22 “(II) the total value of the stock
23 of such corporation, then that propor-
24 tion of the fair market value of the
25 stock of such foreign corporation

1 owned (within the meaning of section
2 958(a)) by such donor at the time of
3 such transfer, which the fair market
4 value of any assets owned by such for-
5 eign corporation and situated in the
6 United States, at the time of such
7 transfer, bears to the total fair mar-
8 ket value of all assets owned by such
9 foreign corporation at the time of
10 such transfer, shall be included in the
11 value of such property.

12 For purposes of the preceding sentence, a donor
13 shall be treated as owning stock of a foreign
14 corporation at the time of such transfer if, at
15 such time, by trust or otherwise, within the
16 meaning of sections 2035 to 2038, inclusive, he
17 owned such stock.”.

18 (e) ENHANCED INFORMATION REPORTING FROM IN-
19 DIVIDUALS LOSING UNITED STATES CITIZENSHIP.—

20 (1) IN GENERAL.—Subsection (a) of section
21 6039G is amended to read as follows:

22 “(a) IN GENERAL.—Notwithstanding any other pro-
23 vision of law, any individual to whom section 877(b) ap-
24 plies for any taxable year shall provide a statement for

1 such taxable year which includes the information described
2 in subsection (b).”.

3 (2) INFORMATION TO BE PROVIDED.—Sub-
4 section (b) of section 6039G is amended to read as
5 follows:

6 “(b) INFORMATION TO BE PROVIDED.—Information
7 required under subsection (a) shall include—

8 “(1) the taxpayer’s TIN,

9 “(2) the mailing address of such individual’s
10 principal foreign residence,

11 “(3) the foreign country, in which such indi-
12 vidual is residing,

13 “(4) the foreign country of which such indi-
14 vidual is a citizen,

15 “(5) information detailing the assets and liabil-
16 ities of such individual,

17 “(6) the number of days that the individual was
18 present in the United States during the taxable year,

19 and

20 “(7) such other information as the Secretary
21 may prescribe.”.

22 (3) INCREASE IN PENALTY.—Subsection (d) of
23 section 6039G is amended to read as follows:

24 “(d) PENALTY.—If—

1 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
2 RORIST ORGANIZATIONS.—

3 “(1) IN GENERAL.—The exemption from tax
4 under subsection (a) with respect to any organiza-
5 tion described in paragraph (2), and the eligibility of
6 any organization described in paragraph (2) to apply
7 for recognition of exemption under subsection (a),
8 shall be suspended during the period described in
9 paragraph (3).

10 “(2) TERRORIST ORGANIZATIONS.—An organi-
11 zation is described in this paragraph if such organi-
12 zation is designated or otherwise individually identi-
13 fied—

14 “(A) under section 212(a)(3)(B)(vi)(II) or
15 219 of the Immigration and Nationality Act as
16 a terrorist organization or foreign terrorist or-
17 ganization,

18 “(B) in or pursuant to an Executive order
19 which is related to terrorism and issued under
20 the authority of the International Emergency
21 Economic Powers Act or section 5 of the
22 United Nations Participation Act of 1945 for
23 the purpose of imposing on such organization
24 an economic or other sanction, or

1 “(C) in or pursuant to an Executive order
2 issued under the authority of any Federal law
3 if—

4 “(i) the organization is designated or
5 otherwise individually identified in or pur-
6 suant to such Executive order as sup-
7 porting or engaging in terrorist activity (as
8 defined in section 212(a)(3)(B) of the Im-
9 migration and Nationality Act) or sup-
10 porting terrorism (as defined in section
11 140(d)(2) of the Foreign Relations Author-
12 ization Act, Fiscal Years 1988 and 1989);
13 and

14 “(ii) such Executive order refers to
15 this subsection.

16 “(3) PERIOD OF SUSPENSION.—With respect to
17 any organization described in paragraph (2), the pe-
18 riod of suspension—

19 “(A) begins on the later of—

20 “(i) the date of the first publication of
21 a designation or identification described in
22 paragraph (2) with respect to such organi-
23 zation, or

24 “(ii) the date of the enactment of this
25 subsection, and

1 “(B) ends on the first date that all des-
2 ignations and identifications described in para-
3 graph (2) with respect to such organization are
4 rescinded pursuant to the law or Executive
5 order under which such designation or identi-
6 fication was made.

7 “(4) DENIAL OF DEDUCTION.—No deduction
8 shall be allowed under section 170, 545(b)(2),
9 556(b)(2), 642(e), 2055, 2106(a)(2), or 2522 for
10 any contribution to an organization described in
11 paragraph (2) during the period described in para-
12 graph (3).

13 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
14 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
15 TION.—Notwithstanding section 7428 or any other
16 provision of law, no organization or other person
17 may challenge a suspension under paragraph (1), a
18 designation or identification described in paragraph
19 (2), the period of suspension described in paragraph
20 (3), or a denial of a deduction under paragraph (4)
21 in any administrative or judicial proceeding relating
22 to the Federal tax liability of such organization or
23 other person.

24 “(6) ERRONEOUS DESIGNATION.—

25 “(A) IN GENERAL.—If—

1 “(i) the tax exemption of any organi-
2 zation described in paragraph (2) is sus-
3 pended under paragraph (1),

4 “(ii) each designation and identifica-
5 tion described in paragraph (2) which has
6 been made with respect to such organiza-
7 tion is determined to be erroneous pursu-
8 ant to the law or Executive order under
9 which such designation or identification
10 was made, and

11 “(iii) the erroneous designations and
12 identifications result in an overpayment of
13 income tax for any taxable year by such
14 organization,

15 credit or refund (with interest) with respect to
16 such overpayment shall be made.

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

1 determination described in subparagraph
2 (A)(ii).

3 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
4 emption of any organization is suspended under this
5 subsection, the Internal Revenue Service shall up-
6 date the listings of tax-exempt organizations and
7 shall publish appropriate notice to taxpayers of such
8 suspension and of the fact that contributions to such
9 organization are not deductible during the period of
10 such suspension.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to designations made before, on,
13 or after the date of the enactment of this Act.

14 **SEC. 103. EXPRESSING THE SENSE OF THE CONGRESS THAT**
15 **TAX REFORM IS NEEDED TO ADDRESS THE**
16 **ISSUE OF CORPORATE EXPATRIATION.**

17 (a) FINDINGS.—The Congress finds that—

18 (1) the tax laws of the United States are overly
19 complex;

20 (2) the tax laws of the United States are among
21 the most burdensome and uncompetitive in the
22 world;

23 (3) the tax laws of the United States make it
24 difficult for domestically-owned United States com-
25 panies to compete abroad and in the United States;

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 referred to in sub-
4 sections (a) and (c)(1)(B) and paragraph (7) of
5 this subsection with respect to such property
6 shall be suspended during any period that such
7 individual or such individual’s spouse is serving
8 on qualified official extended duty as a member
9 of the Foreign Service.

10 “(B) MAXIMUM PERIOD OF SUSPENSION.—
11 Such 5-year period shall not be extended more
12 than 5 years by reason of subparagraph (A).

13 “(C) QUALIFIED OFFICIAL EXTENDED
14 DUTY.—For purposes of this paragraph—

15 “(i) IN GENERAL.—The term ‘quali-
16 fied official extended duty’ means any ex-
17 tended duty while serving at a duty station
18 which is at least 150 miles from such prop-
19 erty or while residing under Government
20 orders in Government quarters.

21 “(ii) FOREIGN SERVICE.—The term
22 ‘member of the Foreign Service’ has the
23 meaning given the term ‘member of the
24 Service’ by paragraph (1), (2), (3), (4), or
25 (5) of section 103 of the Foreign Service

1 Act of 1980, as in effect on the date of the
2 enactment of this paragraph.

3 “(iii) EXTENDED DUTY.—The term
4 ‘extended duty’ means any period of active
5 duty pursuant to a call or order to such
6 duty for a period in excess of 180 days or
7 for an indefinite period.

8 “(D) SPECIAL RULES RELATING TO ELEC-
9 TION.—

10 “(i) ELECTION LIMITED TO 1 PROP-
11 ERTY AT A TIME.—An election under sub-
12 paragraph (A) with respect to any property
13 may not be made if such an election is in
14 effect with respect to any other property.

15 “(ii) REVOCATION OF ELECTION.—An
16 election under subparagraph (A) may be
17 revoked at any time.”.

18 (b) EFFECTIVE DATE; SPECIAL RULE.—

19 (1) EFFECTIVE DATE.—The amendment made
20 by this section shall take effect as if included in the
21 amendments made by section 312 of the Taxpayer
22 Relief Act of 1997.

23 (2) WAIVER OF LIMITATIONS.—If refund or
24 credit of any overpayment of tax resulting from the
25 amendment made by this section is prevented at any

1 time before the close of the 1-year period beginning
2 on the date of the enactment of this Act by the oper-
3 ation of any law or rule of law (including res judi-
4 cata), such refund or credit may nevertheless be
5 made or allowed if claim therefor is filed before the
6 close of such period.

7 **SEC. 202. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF**
8 **ASTRONAUTS WHO LOSE THEIR LIVES ON A**
9 **SPACE MISSION.**

10 (a) INCOME TAX RELIEF.—

11 (1) IN GENERAL.—Subsection (d) of section
12 692 (relating to income taxes of members of Armed
13 Forces and victims of certain terrorist attacks on
14 death) is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(5) RELIEF WITH RESPECT TO ASTRO-
17 NAUTS.—The provisions of this subsection shall
18 apply to any astronaut whose death occurs while on
19 a space mission, except that paragraph (3)(B) shall
20 be applied by using the date of the death of the as-
21 tronaut rather than September 11, 2001.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 5(b)(1) is amended by insert-
24 ing “, astronauts,” after “Forces”.

1 (B) Section 6013(f)(2)(B) is amended by
2 inserting “, astronauts,” after “Forces”.

3 (3) CLERICAL AMENDMENTS.—

4 (A) The heading of section 692 is amended
5 by inserting “, **ASTRONAUTS,**” after
6 “**FORCES**”.

7 (B) The item relating to section 692 in the
8 table of sections for part II of subchapter J of
9 chapter 1 is amended by inserting “, astro-
10 nauts,” after “Forces”.

11 (4) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply with respect to any as-
13 tronaut whose death occurs after December 31,
14 2002.

15 (b) DEATH BENEFIT RELIEF.—

16 (1) IN GENERAL.—Subsection (i) of section 101
17 (relating to certain death benefits) is amended by
18 adding at the end the following new paragraph:

19 “(4) RELIEF WITH RESPECT TO ASTRO-
20 NAUTS.—The provisions of this subsection shall
21 apply to any astronaut whose death occurs while on
22 a space mission.”.

23 (2) CLERICAL AMENDMENT.—The heading for
24 subsection (i) of section 101 is amended by inserting
25 “OR ASTRONAUTS” after “VICTIMS”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to amounts paid after
3 December 31, 2002, with respect to deaths occurring
4 after such date.

5 (c) ESTATE TAX RELIEF.—

6 (1) IN GENERAL.—Subsection (b) of section
7 2201 (defining qualified decedent) is amended by
8 striking “and” at the end of paragraph (1)(B), by
9 striking the period at the end of paragraph (2) and
10 inserting “, and”, and by adding at the end the fol-
11 lowing new paragraph:

12 “(3) any astronaut whose death occurs while on
13 a space mission.”.

14 (2) CLERICAL AMENDMENTS.—

15 (A) The heading of section 2201 is amend-
16 ed by inserting “, **DEATHS OF ASTRO-**
17 **NAUTS,**” after “**FORCES**”.

18 (B) The item relating to section 2201 in
19 the table of sections for subchapter C of chap-
20 ter 11 is amended by inserting “, deaths of as-
21 tronauts,” after “Forces”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to estates of decedents
24 dying after December 31, 2002.

1 **TITLE III—HEALTH PROVISIONS**

2 **SEC. 301. VACCINE TAX TO APPLY TO HEPATITIS A VAC-**
3 **CINE.**

4 (a) IN GENERAL.—Paragraph (1) of section 4132(a)
5 (defining taxable vaccine) is amended by redesignating
6 subparagraphs (I), (J), (K), and (L) as subparagraphs
7 (J), (K), (L), and (M), respectively, and by inserting after
8 subparagraph (H) the following new subparagraph:

9 “(I) Any vaccine against hepatitis A.”

10 (b) EFFECTIVE DATE.—

11 (1) SALES, ETC.—The amendments made by
12 subsection (a) shall apply to sales and uses on or
13 after the first day of the first month which begins
14 more than 4 weeks after the date of the enactment
15 of this Act.

16 (2) DELIVERIES.—For purposes of paragraph
17 (1) and section 4131 of the Internal Revenue Code
18 of 1986, in the case of sales on or before the effec-
19 tive date described in such paragraph for which de-
20 livery is made after such date, the delivery date shall
21 be considered the sale date.

1 **SEC. 302. EXPANSION OF HUMAN CLINICAL TRIALS QUALI-**
2 **FYING FOR ORPHAN DRUG CREDIT.**

3 (a) IN GENERAL.—Paragraph (2) of section 45C(b)
4 (relating to qualified clinical testing expenses) is amended
5 by adding at the end the following new subparagraph:

6 “(C) TREATMENT OF CERTAIN EXPENSES
7 INCURRED BEFORE DESIGNATION.—For pur-
8 poses of subparagraph (A)(ii)(I), if a drug is
9 designated under section 526 of the Federal
10 Food, Drug, and Cosmetic Act not later than
11 the due date (including extensions) for filing
12 the return of tax under this subtitle for the tax-
13 able year in which the application for such des-
14 ignation of such drug was filed, such drug shall
15 be treated as having been designated on the
16 date that such application was filed. The pre-
17 ceding sentence shall not apply with respect to
18 any expense incurred after December 31,
19 2010.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to expenses incurred after the
22 date of the enactment of this Act.

1 **TITLE IV—FOREST**
2 **CONSERVATION ACTIVITIES**

3 **SEC. 401. PILOT PROJECT FOR FOREST CONSERVATION AC-**
4 **TIVITIES.**

5 (a) TAX-EXEMPT BOND FINANCING.—

6 (1) IN GENERAL.—For purposes of the Internal
7 Revenue Code of 1986, any qualified forest con-
8 servaion bond shall be treated as an exempt facility
9 bond under section 142 of such Code.

10 (2) QUALIFIED FOREST CONSERVATION
11 BOND.—For purposes of this section, the term
12 “qualified forest conservaion bond” means any bond
13 issued as part of an issue if—

14 (A) 95 percent or more of the net proceeds
15 (as defined in section 150(a)(3) of such Code)
16 of such issue are to be used for qualified project
17 costs,

18 (B) such bond is an obligation of the State
19 of Washington or any political subdivision
20 thereof and is issued for the Evergreen Forest
21 Trust, and

22 (C) such bond is issued before October 1,
23 2004.

24 (3) LIMITATION ON AGGREGATE AMOUNT
25 ISSUED.—The maximum aggregate face amount of

1 bonds which may be issued under this section shall
2 not exceed \$250,000,000.

3 (4) QUALIFIED PROJECT COSTS.—For purposes
4 of this subsection, the term “qualified project costs”
5 means the sum of—

6 (A) the cost of acquisition by the Ever-
7 green Forest Trust from an unrelated person of
8 forests and forest land—

9 (i) which are located in the State of
10 Washington, and

11 (ii) which at the time of acquisition or
12 immediately thereafter are subject to a
13 conservation restriction described in sub-
14 section (c)(2),

15 (B) capitalized interest on the qualified
16 forest conservation bonds for the 3-year period
17 beginning on the date of issuance of such
18 bonds, and

19 (C) credit enhancement fees which con-
20 stitute qualified guarantee fees (within the
21 meaning of section 148 of such Code).

22 (5) SPECIAL RULES.—In applying the Internal
23 Revenue Code of 1986 to any qualified forest con-
24 servation bond, the following modifications shall
25 apply:

1 (A) Section 146 of such Code (relating to
2 volume cap) shall not apply.

3 (B) For purposes of section 147(b) of such
4 Code (relating to maturity may not exceed 120
5 percent of economic life), the land and standing
6 timber acquired with proceeds of qualified for-
7 est conservation bonds shall have an economic
8 life of 35 years.

9 (C) Subsections (c) and (d) of section 147
10 of such Code (relating to limitations on acquisi-
11 tion of land and existing property) shall not
12 apply.

13 (D) Section 57(a)(5) of such Code (relat-
14 ing to tax-exempt interest) shall not apply to
15 interest on qualified forest conservation bonds.

16 (6) TREATMENT OF CURRENT REFUNDING
17 BONDS.—Paragraphs (2)(C) and (3) shall not apply
18 to any bond (or series of bonds) issued to refund a
19 qualified forest conservation bond issued before Oc-
20 tober 1, 2004, if—

21 (A) the average maturity date of the issue
22 of which the refunding bond is a part is not
23 later than the average maturity date of the
24 bonds to be refunded by such issue,

1 (B) the amount of the refunding bond does
2 not exceed the outstanding amount of the re-
3 funded bond, and

4 (C) the net proceeds of the refunding bond
5 are used to redeem the refunded bond not later
6 than 90 days after the date of the issuance of
7 the refunding bond.

8 For purposes of subparagraph (A), average maturity
9 shall be determined in accordance with section
10 147(b)(2)(A) of such Code.

11 (7) EFFECTIVE DATE.—This subsection shall
12 apply to obligations issued after the date of the en-
13 actment of this Act.

14 (b) ITEMS FROM QUALIFIED HARVESTING ACTIVI-
15 TIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

16 (1) IN GENERAL.—Income, gains, deductions,
17 losses, or credits from a qualified harvesting activity
18 conducted by the Evergreen Forest Trust shall not
19 be subject to tax or taken into account under sub-
20 title A of the Internal Revenue Code of 1986.

21 (2) QUALIFIED HARVESTING ACTIVITY.—For
22 purposes of paragraph (1)—

23 (A) IN GENERAL.—The term “qualified
24 harvesting activity” means the sale, lease, or
25 harvesting, of standing timber—

1 (i) on land owned by the Evergreen
2 Forest Trust which was acquired with pro-
3 ceeds of qualified forest conservation
4 bonds, and

5 (ii) pursuant to a qualified conserva-
6 tion plan adopted by the Evergreen Forest
7 Trust.

8 (B) EXCEPTIONS.—

9 (i) CESSATION AS QUALIFIED ORGANI-
10 ZATION.—The term “qualified harvesting
11 activity” shall not include any sale, lease,
12 or harvesting during any period that the
13 Evergreen Forest Trust is not a qualified
14 organization.

15 (ii) EXCEEDING LIMITS ON HAR-
16 VESTING.—The term “qualified harvesting
17 activity” shall not include any sale, lease,
18 or harvesting of standing timber on land
19 acquired with proceeds of qualified forest
20 conservation bonds to the extent that—

21 (I) the average annual area of
22 timber harvested from such land ex-
23 ceeds 2.5 percent of the total area of
24 such land, or

1 (II) the quantity of timber re-
2 moved from such land exceeds the
3 quantity which can be removed from
4 such land annually in perpetuity on a
5 sustained-yield basis with respect to
6 such land.

7 The limitations under subclauses (I) and
8 (II) shall not apply to salvage or sanitation
9 harvesting of timber stands which are sub-
10 stantially damaged by fire, windthrow, or
11 other catastrophe, or which are in immi-
12 nent danger from insect or disease attack.

13 (3) TERMINATION.—This subsection shall not
14 apply to any qualified harvesting activity occurring
15 after the date on which there is no outstanding
16 qualified forest conservation bond or any such bond
17 ceases to be a tax-exempt bond.

18 (4) PARTIAL RECAPTURE OF BENEFITS IF HAR-
19 VESTING LIMIT EXCEEDED.—If, as of the date that
20 this subsection ceases to apply under paragraph (3),
21 the average annual area of timber harvested from
22 the land exceeds the requirement of paragraph
23 (2)(B)(ii)(I), the tax imposed by chapter 1 of the In-
24 ternal Revenue Code of 1986 shall be increased,
25 under rules prescribed by the Secretary, by the sum

1 of the tax benefit attributable to such excess and in-
2 terest at the underpayment rate under section 6621
3 for the period of the underpayment.

4 (c) DEFINITIONS.—For purposes of this section—

5 (1) QUALIFIED CONSERVATION PLAN.—The
6 term “qualified conservation plan” means a multiple
7 land use program or plan which—

8 (A) is designed and administered primarily
9 for the purposes of protecting and enhancing
10 wildlife and fish, timber, scenic attributes,
11 recreation, and soil and water quality of the
12 forest and forest land,

13 (B) mandates that conservation of forest
14 and forest land is the single-most significant
15 use of the forest and forest land,

16 (C) requires that timber harvesting be con-
17 sistent with—

18 (i) restoring and maintaining ref-
19 erence conditions for the Westside Douglas
20 Fir forest type,

21 (ii) restoring and maintaining a rep-
22 resentative sample of young, mid, and late
23 successional forest age classes,

24 (iii) maintaining or restoring the re-
25 sources’ ecological health for purposes of

1 preventing damage from fire, insect, or dis-
2 ease,

3 (iv) maintaining or enhancing wildlife
4 or fish habitat,

5 (v) enhancing research opportunities
6 in sustainable renewable resource uses, or

7 (vi) preserving or protecting open
8 space.

9 (2) CONSERVATION RESTRICTION.—The con-
10 servation restriction described in this paragraph is a
11 restriction which—

12 (A) is granted in perpetuity to an unre-
13 lated person which is described in section
14 170(h)(3) of such Code and which, in the case
15 of a nongovernmental unit, is organized and op-
16 erated for conservation purposes,

17 (B) meets the requirements of clause (ii)
18 or (iii)(II) of section 170(h)(4)(A) of such
19 Code,

20 (C) obligates the Evergreen Forest Trust
21 to pay the costs incurred by the holder of the
22 conservation restriction in monitoring compli-
23 ance with such restriction, and

1 (D) requires an increasing level of con-
2 servation benefits to be provided whenever cir-
3 cumstances allow it.

4 (3) QUALIFIED ORGANIZATION.—The term
5 “qualified organization” means an organization—

6 (A) which is a nonprofit organization orga-
7 nized and operated exclusively for charitable,
8 scientific, or educational purposes including but
9 not limited to acquiring, protecting, restoring,
10 managing, and developing forest lands and
11 other renewable resources for the long-term
12 charitable, educational, scientific, and public
13 benefit of the State of Washington,

14 (B) more than half of the value of the
15 property of which consists of forests and forest
16 land acquired with the proceeds from qualified
17 forest conservation bonds,

18 (C) which periodically conducts educational
19 programs designed to inform the public of envi-
20 ronmentally sensitive forestry management and
21 conservation techniques,

22 (D) which has a board of directors that at
23 all times is comprised of 9 members—

1 (i) at least 2 of whom represent the
2 holders of the conservation restriction de-
3 scribed in paragraph (2), and

4 (ii) at least 2 of whom are public offi-
5 cials,

6 (E) of which not more than one-third of
7 the members of the board of directors is com-
8 prised of individuals who are or were at any
9 time within 5 years before the beginning of a
10 term of membership on the board, an employee
11 of, independent contractor with respect to, offi-
12 cer of, director of, or held a material financial
13 interest in, a commercial forest products enter-
14 prise with which the Evergreen Forest Trust
15 has a contractual or other financial arrange-
16 ment,

17 (F) the bylaws of which require at least
18 two-thirds of the members of the board of direc-
19 tors to vote affirmatively to approve the quali-
20 fied conservation program and any change
21 thereto, and

22 (G) upon dissolution, is required to dedi-
23 cate its assets to—

24 (i) an organization described in sec-
25 tion 501(c)(3) of such Code which is orga-

1 nized and operated for conservation pur-
2 poses, or

3 (ii) a governmental unit described in
4 section 170(c)(1) of such Code.

5 (4) EVERGREEN FOREST TRUST.—The term
6 “Evergreen Forest Trust” means a nonprofit cor-
7 poration known as the Evergreen Forest Trust
8 which was incorporated on February 25, 2000,
9 under chapter 24.03 of the Revised Code of Wash-
10 ington and which, on May 11, 2001, was recognized
11 as an organization described in section 501(c)(3) of
12 the Internal Revenue Code of 1986.

13 (5) UNRELATED PERSON.—The term “unre-
14 lated person” means a person who is not a related
15 person.

16 (6) RELATED PERSON.—A person shall be
17 treated as related to another person if—

18 (A) such person bears a relationship to
19 such other person described in section 267(b)
20 (determined without regard to paragraph (9)
21 thereof), or 707(b)(1), of such Code, deter-
22 mined by substituting “25 percent” for “50
23 percent” each place it occurs therein, and

24 (B) in the case such other person is a non-
25 profit organization, if such person controls di-

1 rectly or indirectly more than 25 percent of the
2 governing body of such organization.

3 **TITLE V—RELIEF AND EQUITY**
4 **FOR SMALL BUSINESSES**

5 **SEC. 501. SIMPLIFICATION OF EXCISE TAX IMPOSED ON**
6 **BOWS AND ARROWS.**

7 (a) BOWS.—Paragraph (1) of section 4161(b) (relat-
8 ing to bows) is amended to read as follows:

9 “(1) BOWS.—

10 “(A) IN GENERAL.—There is hereby im-
11 posed on the sale by the manufacturer, pro-
12 ducer, or importer of any bow which has a draw
13 weight of 30 pounds or more, a tax equal to 11
14 percent of the price for which so sold.

15 “(B) ARCHERY EQUIPMENT.—There is
16 hereby imposed on the sale by the manufac-
17 turer, producer, or importer—

18 “(i) of any part or accessory suitable
19 for inclusion in or attachment to a bow de-
20 scribed in subparagraph (A), and

21 “(ii) of any quiver or broadhead suit-
22 able for use with an arrow described in
23 paragraph (3),

24 a tax equal to 11 percent of the price for which
25 so sold.”.

1 (b) ARROWS.—Subsection (b) of section 4161 (relat-
2 ing to bows and arrows, etc.) is amended by redesignating
3 paragraph (3) as paragraph (4) and inserting after para-
4 graph (2) the following:

5 “(3) ARROWS.—

6 “(A) IN GENERAL.—There is hereby im-
7 posed on the sale by the manufacturer, pro-
8 ducer, or importer of any arrow, a tax equal to
9 12 percent of the price for which so sold.

10 “(B) EXCEPTION.—The tax imposed by
11 subparagraph (A) on an arrow shall not apply
12 if the arrow contains an arrow shaft subject to
13 the tax imposed by paragraph (2).

14 “(C) ARROW.—For purposes of this para-
15 graph, the term ‘arrow’ means any shaft de-
16 scribed in paragraph (2) to which additional
17 components are attached.”.

18 (c) CONFORMING AMENDMENT.—The heading of sec-
19 tion 4161(b)(2) is amended by striking “ARROWS.—” and
20 inserting “ARROW COMPONENTS.—”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to articles sold by the manufac-
23 turer, producer, or importer after the 90th day after the
24 date of the enactment of this Act.

1 **SEC. 502. CAPITAL GAIN TREATMENT UNDER SECTION**
2 **631(b) TO APPLY TO OUTRIGHT SALES BY**
3 **LANDOWNERS.**

4 (a) IN GENERAL.—The first sentence of section
5 631(b) (relating to disposal of timber with a retained eco-
6 nomic interest) is amended by striking “retains an eco-
7 nomic interest in such timber” and inserting “either re-
8 tains an economic interest in such timber or makes an
9 outright sale of such timber”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) The third sentence of section 631(b) is
12 amended by striking “The date of disposal” and in-
13 serting “In the case of disposal of timber with a re-
14 tained economic interest, the date of disposal”.

15 (2) The heading for section 631(b) is amended
16 by striking “WITH A RETAINED ECONOMIC INTER-
17 EST”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to sales after the date of the enact-
20 ment of this Act.

21 **SEC. 503. REPEAL OF EXCISE TAX ON FISHING TACKLE**
22 **BOXES.**

23 (a) REPEAL.—Paragraph (6) of section 4162(a) (de-
24 fining sport fishing equipment) is amended by striking
25 subparagraph (C) and by redesignating subparagraphs

1 (D) through (J) as subparagraphs (C) through (I), respec-
2 tively.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect 30 days after the date of the
5 enactment of this Act.

6 **SEC. 504. TREATMENT UNDER AT-RISK RULES OF PUBLICLY**
7 **TRADED NONRECOURSE DEBT.**

8 (a) **IN GENERAL.**—Subparagraph (A) of section
9 465(b)(6) (relating to qualified nonrecourse financing
10 treated as amount at risk) is amended by striking “share
11 of” and all that follows and inserting “share of—

12 “(i) any qualified nonrecourse financ-
13 ing which is secured by real property used
14 in such activity, and

15 “(ii) any other financing which—

16 “(I) would (but for subparagraph
17 (B)(ii)) be qualified nonrecourse fi-
18 nancing,

19 “(II) is qualified publicly traded
20 debt, and

21 “(III) is not borrowed by the tax-
22 payer from a person described in sub-
23 clause (I), (II), or (III) of section
24 49(a)(1)(D)(iv).”.

1 (b) QUALIFIED PUBLICLY TRADED DEBT.—Para-
 2 graph (6) of section 465(b) is amended by adding at the
 3 end the following new subparagraph:

4 “(F) QUALIFIED PUBLICLY TRADED
 5 DEBT.—For purposes of subparagraph (A), the
 6 term ‘qualified publicly traded debt’ means any
 7 debt instrument which is readily tradable on an
 8 established securities market. Such term shall
 9 not include any debt instrument which has a
 10 yield to maturity which equals or exceeds the
 11 limitation in section 163(i)(1)(B).”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to debt instruments issued after
 14 the date of the enactment of this Act.

15 **TITLE VI—EQUITY FOR** 16 **FARMERS**

17 **SEC. 601. SPECIAL RULES FOR LIVESTOCK SOLD ON AC-** 18 **COUNT OF WEATHER-RELATED CONDITIONS.**

19 (a) RULES FOR REPLACEMENT OF INVOLUNTARILY
 20 CONVERTED LIVESTOCK.—Subsection (e) of section 1033
 21 (relating to involuntary conversions) is amended—

22 (1) by striking “CONDITIONS.—For purposes”
 23 and inserting “CONDITIONS.—

24 “(1) IN GENERAL.—For purposes”, and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) EXTENSION OF REPLACEMENT PERIOD.—

4 “(A) IN GENERAL.—In the case of
5 drought, flood, or other weather-related condi-
6 tions described in paragraph (1) which result in
7 the area being designated as eligible for assist-
8 ance by the Federal Government, subsection
9 (a)(2)(B) shall be applied with respect to any
10 converted property by substituting ‘4 years’ for
11 ‘2 years’.

12 “(B) FURTHER EXTENSION BY SEC-
13 RETARY.—The Secretary may extend on a re-
14 gional basis the period for replacement under
15 this section (after the application of subpara-
16 graph (A)) for such additional time as the Sec-
17 retary determines appropriate if the weather-re-
18 lated conditions which resulted in such applica-
19 tion continue for more than 3 years.”.

20 (b) INCOME INCLUSION RULES.—Subsection (e) of
21 section 451 (relating to special rule for proceeds from live-
22 stock sold on account of drought, flood, or other weather-
23 related conditions) is amended by adding at the end the
24 following new paragraph:

1 “(3) SPECIAL ELECTION RULES.—If section
2 1033(e)(2) applies to a sale or exchange of livestock
3 described in paragraph (1), the election under para-
4 graph (1) shall be deemed valid if made during the
5 replacement period described in such section.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to any taxable year with respect
8 to which the due date (without regard to extensions) for
9 the return is after December 31, 2002.

10 **SEC. 602. INCOME AVERAGING FOR FARMERS NOT TO IN-**
11 **CREASE ALTERNATIVE MINIMUM TAX.**

12 (a) IN GENERAL.—Subsection (c) of section 55 (de-
13 fining regular tax) is amended by redesignating paragraph
14 (2) as paragraph (3) and by inserting after paragraph (1)
15 the following new paragraph:

16 “(2) COORDINATION WITH INCOME AVERAGING
17 FOR FARMERS.—Solely for purposes of this section,
18 section 1301 (relating to averaging of farm income)
19 shall not apply in computing the regular tax liabil-
20 ity.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to taxable years beginning after
23 December 31, 2002.

1 **SEC. 603. PAYMENT OF DIVIDENDS ON STOCK OF COOPERA-**
2 **TIVES WITHOUT REDUCING PATRONAGE**
3 **DIVIDENDS.**

4 (a) IN GENERAL.—Subsection (a) of section 1388
5 (relating to patronage dividend defined) is amended by
6 adding at the end the following: “For purposes of para-
7 graph (3), net earnings shall not be reduced by amounts
8 paid during the year as dividends on capital stock or other
9 proprietary capital interests of the organization to the ex-
10 tent that the articles of incorporation or bylaws of such
11 organization or other contract with patrons provide that
12 such dividends are in addition to amounts otherwise pay-
13 able to patrons which are derived from business done with
14 or for patrons during the taxable year.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to distributions in taxable years
17 beginning after the date of the enactment of this Act.

18 **TITLE VII—PROTECTION OF**
19 **SOCIAL SECURITY**

20 **SEC. 701. PROTECTION OF SOCIAL SECURITY.**

21 The amounts transferred to any trust fund under
22 title II of the Social Security Act shall be determined as

- 1 if this Act (other than title I, section 301, and this section)
- 2 had not been enacted.

Passed the House of Representatives March 19,
2003.

Attest:

JEFF TRANDAHL,

Clerk.

Calendar No. 52

108TH CONGRESS
1ST SESSION

H. R. 1308

AN ACT

To amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

MARCH 21, 2003

Read the second time and placed on the calendar