

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5063

---

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2002

Received; read twice and referred to the Committee on Finance

---

## AN ACT

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services 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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Armed Forces Tax  
5 Fairness Act of 2002”.

6 **SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED**  
7 **SERVICES IN DETERMINING EXCLUSION OF**  
8 **GAIN FROM SALE OF PRINCIPAL RESIDENCE.**

9 (a) IN GENERAL.—Subsection (d) of section 121 of  
10 the Internal Revenue Code of 1986 (relating to exclusion  
11 of gain from sale of principal residence) is amended by  
12 adding at the end the following new paragraph:

13 “(9) MEMBERS OF UNIFORMED SERVICES.—

14 “(A) IN GENERAL.—At the election of an  
15 individual with respect to a property, the run-  
16 ning of the 5-year period described in sub-  
17 section (a) with respect to such property shall  
18 be suspended during any period that such indi-  
19 vidual or such individual’s spouse is serving on  
20 qualified official extended duty as a member of  
21 the uniformed services.

22 “(B) MAXIMUM PERIOD OF SUSPENSION.—  
23 The 5-year period described in subsection (a)  
24 shall not be extended more than 5 years by rea-  
25 son of subparagraph (A).

1           “(C) QUALIFIED OFFICIAL EXTENDED  
2 DUTY.—For purposes of this paragraph—

3           “(i) IN GENERAL.—The term ‘quali-  
4 fied official extended duty’ means any ex-  
5 tended duty while serving at a duty station  
6 which is at least 250 miles from such prop-  
7 erty or while residing under Government  
8 orders in Government quarters.

9           “(ii) UNIFORMED SERVICES.—The  
10 term ‘uniformed services’ has the meaning  
11 given such term by section 101(a)(5) of  
12 title 10, United States Code, as in effect  
13 on the date of the enactment of this para-  
14 graph.

15           “(iii) EXTENDED DUTY.—The term  
16 ‘extended duty’ means any period of active  
17 duty pursuant to a call or order to such  
18 duty for a period in excess of 180 days or  
19 for an indefinite period.

20           “(D) SPECIAL RULES RELATING TO ELEC-  
21 TION.—

22           “(i) ELECTION LIMITED TO 1 PROP-  
23 erty AT A TIME.—An election under sub-  
24 paragraph (A) with respect to any property

1           may not be made if such an election is in  
2           effect with respect to any other property.

3           “(ii) REVOCATION OF ELECTION.—An  
4           election under subparagraph (A) may be  
5           revoked at any time.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to elections made after the date  
8 of the enactment of this Act for suspended periods under  
9 section 121(d)(9) of the Internal Revenue Code of 1986  
10 (as added by this section) beginning after such date.

11 **SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS**  
12 **INCOME OF DEATH GRATUITY PAYMENT.**

13           (a) IN GENERAL.—Subsection (b)(3) of section 134  
14 of the Internal Revenue Code of 1986 (relating to certain  
15 military benefits) is amended by adding at the end the  
16 following new subparagraph:

17           “(C) EXCEPTION FOR DEATH GRATUITY  
18           ADJUSTMENTS MADE BY LAW.—Subparagraph  
19           (A) shall not apply to any adjustment to the  
20           amount of death gratuity payable under chapter  
21           75 of title 10, United States Code, which is  
22           pursuant to a provision of law enacted before  
23           December 31, 1991.”.

24           (b) CONFORMING AMENDMENT.—Subparagraph (A)  
25 of section 134(b)(3) of such Code is amended by striking

1 “subparagraph (B)” and inserting “subparagraphs (B)  
2 and (C)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to deaths occurring  
5 after September 10, 2001.

Passed the House of Representatives July 9, 2002.

Attest:

JEFF TRANDAHL,

*Clerk.*

By MARTHA C. MORRISON,

*Deputy Clerk.*