

Summary of H.R. 6081

The Heroes Earnings Assistance and Relief Tax Act of 2008

The bill under consideration would make the following changes:

1. Clarify that active military who file a joint tax return would be eligible for the stimulus rebate payment even if the spouse does not have a Social Security number.
2. Make permanent the ability to include combat pay as earned income for purposes of the Earned Income Tax Credit (EITC);
3. Make permanent and modify qualified mortgage bonds used to finance residences for veterans;
4. Modify the Uniformed Services Employment and Re-employment Rights Act (USERRA) to allow the day prior to the date of death to be treated as the date the employee returned to work for purposes of triggering payment of benefits under a qualified plan; permit an employer to make certain contributions to a qualified pension plan on behalf of an employee who is killed or become disabled in combat;
5. Treat differential wages paid by an employer to an employee who becomes active duty military as wages for withholding and retirement plan purposes;
6. Extend the limitations period for filing tax refund credit claims arising from Department of Veterans Affairs (DVA) disability determinations;
7. Make permanent the expiring Internal Revenue Code provision that permits active duty reservists to make penalty-free withdrawals from retirement plans;
8. Make permanent the expiring provision that authorizes the Social Security Administration (SSA) to disclose tax return information to the DVA for purposes of determining eligibility for certain veteran's programs;
9. Permit recipients of military death benefit gratuities to roll over the amounts received, tax-free, to a Roth IRA or an Education Savings Account;

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10. Clarify the application of the “five-year requirement” to the sale of a principal residence by a Peace Corps volunteer;
11. Provide a tax credit for small employers with respect to differential wage payments to employees who are on active military duty;
12. Clarify that State payments to service members are treated as qualified military benefits;
13. Permanent exclusion of gain from the sale of a principal residence by certain employees of the intelligence community;
14. Permit members of the reserves members called to active duty to withdraw amounts held in a Flexible Spending Account (FSA) without penalty;
15. Clarify that certain property tax rebates and other benefits made with respect to volunteer firefighters and excluded from gross income are not subject to Social Security tax or unemployment tax.

Provisions for Supplemental Social Security Income

1. Allow most military cash allowances beyond basic pay to be treated as earned income for purposes of determining Supplemental Security Income (SSI) eligibility and benefit amounts for military families, and treat certain housing payments as in-kind support and maintenance;
2. Disregard state annuity payments paid to blind, disabled, and aged veterans when determining SSI eligibility and benefits;
3. Disregard allowances paid to all Americorps volunteers for the purpose of determining SSI eligibility and benefit amounts;

Revenue Provisions:

1. **Revision of tax rules on expatriation.** U.S. citizens and long-term U.S. residents are subject to tax on their worldwide income. Taxpayers can avoid taxes by renouncing their U.S. citizenship or terminating their residence. This provision would tighten current law rules to ensure that certain high net-worth taxpayers cannot renounce their U.S. citizenship or terminate their U.S. residence in order to avoid U.S. taxes. Under this provision, high net-worth individuals will be treated as if they sold all of their property for its fair market value on the day

before such individual expatriates or terminates their residency. Gain will be recognized to the extent that the aggregate gain recognized exceeds \$600,000 (which will be adjusted for cost of living in the future). *This provision is estimated to raise \$411 million over 10 years.*

2. **Certain domestically controlled foreign persons performing services under contract with United States government treated as American employers.** The bill generally would treat foreign subsidiaries of U.S. companies performing services under a U.S. government contract as American employers for employment tax purposes. The domestic parent would be jointly liable for employment taxes imposed on the foreign subsidiary. *This proposal is estimated to raise \$840 million over ten years.*
3. **Increase general failure to file return penalty.** The bill would increase the general penalty for failure to file tax returns. The bill would increase the failure to file penalty to the lesser of \$135 or 100 percent of the amount required to be shown on such return. *This proposal is estimated to raise \$83 million over ten years.*

Mental Health Parity

1. Extend current law excise tax for failure to comply with the mental health parity requirements for benefits for services furnished on or after the date of enactment through December 31, 2008.