

Summary of H.R. 6081 - The Heroes Earnings Assistance and Relief Tax Act of 2008 as Agreed to by the Senate and the House

The bill, as introduced, 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. Also clarify the status of adopted children for purposes of the stimulus rebate payment.
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 for an additional 5 years beyond 2010, as provided for in H.R. 3648 (through 2015), the modified tax treatment for certain rebates of deductible State and local taxes for volunteer firefighters and exclude from income certain reimbursable expenses incurred in the line of duty by volunteer firefighters;
7. Extend the limitations period for filing tax refund credit claims arising from Department of Veterans Affairs (DVA) disability determinations;
8. Make permanent the expiring Internal Revenue Code provision that permits active duty reservists to make penalty-free withdrawals from retirement plans;
9. 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;
10. Permit recipients of military death benefit gratuities to roll over the amounts received, tax-free, to a Roth IRA or an Education Savings Account;
 - I. Clarify the application of the "five-year requirement" to the sale of a principal residence by a Peace Corps volunteer;
 - II. Allow most military cash allowances beyond basic pay to be treated as earned income for the purpose of determining Supplemental Security Income (SSI) eligibility and benefit amounts for military families;
 - III. Disregard state annuity payments paid to blind veterans when determining SSI eligibility and benefits;
 - IV. Disregard allowances paid to all Americorps volunteers for the purpose of determining SSI eligibility and benefit amounts;
 - V. Extend the suspension of the 5 year period for the exclusion of gain on the sale of a principal residence by certain employees of the intelligence community for an additional 10 years;
 - VI. Permit individuals called to active duty to receive a distribution of amounts held in a Flexible Spending Account (FSA);

VII. Extend for one year a \$100 per day excise tax on group health plans that impose limits on mental health benefits that are not imposed on medical and surgical benefits; and

VIII. Make several technical corrections to previously enacted tax legislation.

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 \$846 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 \$125 or 100 percent of the amount required to be shown on such return. *This proposal is estimated to raise \$296 million over ten years.*