

FEDERAL INCOME TAX FORGIVENESS FOR CERTAIN  
 U.S. MILITARY AND CIVILIAN EMPLOYEES KILLED  
 OVERSEAS

MARCH 12, 1984.—Ordered to be printed

Mr. DOLE, from the Committee on Finance,  
 submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4206]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 4206) to provide special Federal income tax rules for certain individuals who die while in active service as a member of the Armed Forces or as a civilian employee of the U.S. Government as a result of wounds or injuries incurred overseas, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

I. SUMMARY

The bill provides special Federal income tax rules for certain individuals who die while in active service as a member of the Armed Forces of the United States or as a civilian employee of the United States as a result of wounds or injuries incurred overseas.

Generally, if such individual's death occurs as a result of wounds or injuries incurred (after 1979) outside the United States in a terrorist or military action, then no U.S. income tax will apply with respect to the income of such individual for the year of death or for any earlier year in the period beginning with the last year ending before the year in which the wound or injuries were incurred.

## II. EXPLANATION OF THE BILL

### *Present law*

The Federal income tax does not apply to the income of U.S. military personnel in active service who die while serving in a combat zone, or as a result of wounds, disease, or injury incurred while serving in a combat zone, for the year of death and for any prior year ending on or after the first day such individual served in a combat zone after June 24, 1950 (Code sec. 692(a)). The Congress has delegated the designation of combat zones to the President (sec. 112(c)(2)).<sup>1</sup>

In addition, if a serviceperson is reported in a missing status for a number of years, and it is subsequently determined that he or she actually died at an earlier time, there is no Federal income tax on income for years after the year of actual death. This exclusion for individuals who were in a missing status applies to the year of death and to years after death that precede and include the year of determination of death, but only for years beginning (1) on or before December 31, 1982, in the case of the combat zone designated for purposes of the Vietnam conflict,<sup>2</sup> or (2) within 2 years after termination of any other combat zone designation (sec. 692(b)).

### *Prior Legislation*

In 1970, the Congress enacted legislation treating individuals who had been removed from a U.S. vessel and who died while being illegally detained by the Democratic People's Republic of Korea during 1968 as serving in a combat zone (Public Law 91-235). Thus, service personnel who were members of the crew of the U.S.S. *Pueblo*, illegally detained in 1968 by North Korea, and who died during the detention were eligible for the income tax exclusion (and other special tax rules) available for service personnel who die in combat zones.

Under legislation enacted in 1980, if any American hostage held captive in Iran between November 4, 1979, and December 31, 1981, died as a result of injury or disease or physical or mental disability incurred or aggravated while in captive status, no Federal income tax would have applied with respect to the year in which the individual died or any prior year ending on or after the first day the individual was in captive status (sec. 202 of Public Law 96-449). This treatment would have applied to military and civilian personnel of the United States and to certain other individuals, as well as to certain other U.S. taxpayers taken captive outside Iran on or before December 31, 1981. Moreover, if there had been any unpaid income tax liability of such an individual from years prior to captivity, the liability would have been forgiven. This total income tax exemption for American hostages who died as a result of captive status would have been available only if death had occurred within 2 years after the individual ceased to be in captive status.

<sup>1</sup> Presidential designation of a combat zone entails other Federal tax consequences, including (1) exclusion from gross income of certain amounts of military pay of personnel serving there (sec. 112), (2) reduced estate taxes for personnel dying as a result of service there (sec. 2201), and (3) postponement of deadlines for filing returns, paying tax, and performing other acts for personnel serving there (sec. 7508).

<sup>2</sup> Vietnam was designated a combat zone as of Jan. 1, 1964.

### *Reasons for Change*

Recent events in Lebanon and Grenada have focused the attention of the Nation on the sacrifice that members of the U.S. Armed Forces and other U.S. Government employees must be prepared to make for our country when they leave our borders. The committee believes that Federal income taxes should not be imposed on the income of U.S. military or civilian employees who in the course of duty lose their lives at the hands of foreign enemies of the United States. The committee believes that the families of these employees of the United States have withstood sufficient burdens, and they should not have the additional burden of Federal income tax imposed on the employee's income.

The committee concluded that a forgiveness of income tax only for the period from the year of the death-causing injuries or wounds to the year of death would have inequitable results. Under such a limitation, a soldier killed in a terroristic attack on a U.S. base in a foreign country on January 31 of a year would be exempt from income tax only on 1 month's income, which a soldier killed in an attack on December 31 of the prior year would be exempt from income tax on an entire year's income. Accordingly, the committee concluded that it is more equitable to extend the tax forgiveness under the provision to income for the year preceding the year of injury. For example, if on January 21, 1985, a soldier is killed in a terroristic attack overseas, the forgiveness applies under the bill with respect to income of the soldier for both 1984 and 1985.

### *Explanation of Provision*

The bill provides special Federal income tax rules for certain individuals who die while in active service as a member of the Armed Forces of the United States or while in the civilian employment of the Government of the United States.

If death occurs as a result of wounds or injuries incurred outside the United States in a terroristic or military action, then no Federal income tax applies with respect to income of the individual for the year of death or for any earlier year in the period beginning with the last year ending before the year in which the wounds or injuries were incurred. The term "terroristic or military action" means any terroristic activity directed against the United States or any of its allies, or any military action (not including training exercises) involving U.S. Armed Forces and resulting from violence or aggression against the United States or any of its allies (or the threat of such violence or aggression). The term "military action" includes a military accident, such as a military helicopter crash. The term "allies of the United States" includes any multinational force in which the United States is participating.

The committee is aware of several circumstances in which the bill is intended to apply. The bill is to apply with respect to U.S. military or civilian employees who die (or who have died) as a result of the bombing of the U.S. Embassy in Beirut, Lebanon, or as a result of the bombing of U.S. Marine headquarters there. Similarly, the bill is to apply with respect to other U.S. personnel who were participating in a United Nations peacekeeping force when killed in Lebanon

by land mines or snipers in 1982 or 1983 (or thereafter). The bill also applies with respect to the U.S. service personnel who died as a result of the Government's attempt to rescue the American hostages in Iran, inasmuch as that rescue attempt constituted a military action involving U.S. Armed Forces within the meaning of the bill. The bill also is to apply to U.S. service personnel who died (or who have died) in a military action in Grenada.

For the bill to apply, the injury or wound which causes death must be incurred in a terroristic or military action. Thus, for example, the bill does not apply with respect to a U.S. serviceperson stationed in Lebanon who dies as a result of an accidental fall; that is, if not caused by hostile forces, since such an injury is not incurred in a terroristic or military action. Also, the bill does not apply if the wound or injury causing death occurs within the United States. Where otherwise applicable, the bill does apply even if the individual dies within the United States (for example, in a military hospital) from a wound or injury incurred in a terroristic or military action outside the United States.

The rules of the bill do not apply to the extent that the combat zone rules of current law apply to the individual.

### *Effective Date*

The bill applies with respect to all taxable years (whether beginning before or after the date of the enactment of the bill) of individuals dying as a result of wounds or injury incurred after December 31, 1979. The bill extends (to the extent necessary) the statute of limitations for filing claims for credit or refund of any overpayment of tax that results from the bill until 1 year after the date of enactment.

## **III. BUDGET EFFECTS AND VOTE OF THE COMMITTEE**

### *Budget Effects*

In compliance with paragraph 11 (a) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the budget effects of H.R. 4206, as reported.

The provisions of the bill are estimated to reduce budget receipts by less than \$5 million annually. The Treasury Department agrees with this estimate.

The Congressional Budget Office also agrees with the methodology used and this estimate, and submitted the following statement.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C. March 12, 1984.*

HON. ROBERT J. DOLE,  
*Chairman, Committee on Finance, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4206 as reported by the Committee on Finance. The bill would grant an income tax exemption to certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

The CBO has reviewed and concurs with the estimate of the bill's revenue impact prepared by the staff of the Joint Committee on Taxation. The bill would expand an existing tax expenditure and reduce revenues by less than \$5 million per year.

With best wishes,  
Sincerely,

RUDOLPH G. PENNER,

### *Vote of the Committee*

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the bill. The bill, H.R. 4206, was ordered favorably reported by voice vote.

## **IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES**

### **A. Regulatory Impact**

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of H.R. 4206, as reported.

#### ***Numbers of individuals and businesses who would be regulated***

The bill does not involve new or expanded regulation of individuals or businesses.

#### ***Economic impact of regulation on individuals, consumers, and business***

The bill does not have an economic impact on the regulation of individuals, consumers, or businesses.

#### ***Impact on personal privacy***

The bill does not relate to the personal privacy of individuals.

#### ***Determination of the amount of paperwork***

The bill generally will not involve additional paperwork for taxpayers, although taxpayers seeking relief under the bill may be required to demonstrate entitlements to such relief.

### **B. Other Matters**

#### ***New budget authority***

In compliance with section 308(a) (1) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the bill involves no new budget authority.

#### ***Tax expenditures***

In compliance with section 308(a) (2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the bill involve an increase in an existing tax expenditure of less than \$5 million annually.

## V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS AMENDED

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the provisions of H.R. 4206, as reported by the committee).

## VI. ADDITIONAL VIEWS OF MR. ARMSTRONG

In the aftermath of the massacre of U.S. Marines in Lebanon and those soldiers who have lost their lives in Grenada, we are all painfully aware of how little we as a nation can do to relieve the anguish of the families who have lost their loved ones in hostile action overseas. There is, however, one small way in which we can perhaps relieve at least a part of the economic hardship to those families.

Section 692 of the IRS Code provides for an exemption from Federal income taxes of any income earned by a deceased member of the armed services during the years he or she served overseas. However, this section is applicable only when the death was a result of "wounds, disease or injury" while serving in a "combat zone" which had already been defined as a combat zone by an executive order of the President.

No such combat zone has been so designated since the Vietnam war.

The Senate Finance Committee has approved legislation nearly identical to legislation I introduced earlier this year to extend this tax exemption to all members of the armed services who die as a result of hostile action overseas. This bill makes the change retroactively so that it will apply to all service men or women killed overseas in the tax years beginning after December 31, 1979. It will also apply to all cases in the future where American soldiers die as a result of hostile action—thereby eliminating the need for a President to designate a specific area as a combat zone for the purpose of applying this section of the Tax Code.

Certainly this is a small way, but perhaps an important one, in which we can tell the families of our service men and women that we will not allow our tax laws to add to the loss they already feel. I commend Senator Robert Dole and the Finance Committee for swiftly approving this measure.

WILLIAM L. ARMSTRONG.

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