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1600 DEFENSE PENTAGON
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JUL 11 2001

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The Department of Defense proposes the enclosed legislation relating to income and transportation taxes on our military and civilian personnel. These proposals are part of the departmental legislative program for the First Session of the 107th Congress and we urge their enactment. The purpose of each proposal is stated in its accompanying sectional analysis.

The Department proposes that members serving in a contingency operation have the same tax benefits as members serving in a combat zone or qualified hazardous duty area; that emergency-essential civilian employees who serve in a combat zone be exempt from death taxes in the event they are killed while so serving; and that the Department of Defense, rather than individual space-available travelers on military chartered or military aircraft, pay required fees for use of international travel facilities.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these initiatives for your consideration and the consideration of the Congress.

Sincerely,


William J. Haynes II

Enclosures
As Stated





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JUL 11 2001

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

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Sincerely,

A handwritten signature in black ink, appearing to read "W. J. Haynes II".

William J. Haynes II

Enclosures
As Stated



**SEC. ____ . PROVIDING MEMBERS SERVING IN A CONTINGENCY OPERATION
THE SAME TAX FILING DELAY PROVIDED TO MEMBERS SERVING
IN A COMBAT ZONE OR IN A QUALIFIED HAZARDOUS DUTY AREA.**

1 (a) IN GENERAL.— Section 7508 of the Internal Revenue Code of 1986 (26 U.S.C. 7508)
2 is amended—

3 (1) in the heading, by inserting at the end "or contingency operation";

4 (2) in the first sentence of subsection (a), by inserting after "section 112," the
5 following: "or when deployed outside the United States away from the individual's
6 permanent duty station while participating in an operation designated by the Secretary of
7 Defense as a contingency operation or which became a contingency operation by
8 operation of law, pursuant to section 101 of title 10,"; and

9 (3) in the first sentence of subsection (a), by inserting after "for purposes of such
10 section" the following: "or at any time during the period of a section 101, title 10,
11 contingency operation,".

12 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 of
13 such Internal Revenue Code is amended by striking the item relating to section 7508 and
14 inserting the following new item:
15 "7508. Time for performing certain acts postponed by reason of service in combat zone or contingency operation".

Sectional Analysis

This initiative would amend the Internal Revenue Code of 1986 (I.R.C.) to allow members of the Armed Forces serving in a "contingency operation," as designated by the Secretary of Defense or designated by operation of law, to qualify for the automatic extension of time provided by section 7508 of the Code for performing certain acts specified by the I.R.C.

Section 7508 suspends, for individuals serving in a "combat zone," a "qualified hazardous duty area" (QHDA), or deployed overseas away from their regular duty station in support of Operation Joint Endeavor or Operation Allied Force, the requirement to file taxes for at least 180 days after such service ends.

Section 7508 includes not only members of the Armed Forces of the United States, as defined in section 7701(a)(15) of the I.R.C., but also Red Cross workers, accredited correspondents, and civilian employees of the Federal Government serving in a combat zone. These taxpayers would also receive filing delays while serving in support of contingency operations.

Like other tax matters which involve the Armed Forces, the Department of Defense would provide information to the Internal Revenue Service to assist in the administration of tax issues involving contingency operations.

The President, by Executive Order, declares the existence of a combat zone. Public Laws 104-117 and 106-21 created QHDA's. As a result, the provisions of section 7508 of the I.R.C. were made applicable to all individuals of the Armed Forces deployed overseas, away from their regular duty station, in support of Operation Joint Endeavor and Operation Allied Force. These operations were included, providing filing delays (and other tax relief), due to Congressional recognition of the arduous nature of the mission and the difficulties involved with filing tax returns while deployed overseas.

Individuals deployed overseas, away from their regular duty station in support of contingency operations, need the protections and benefits of section 7508. These individuals will still face the same unnecessary administrative burdens and difficulty in filing a timely Federal tax return and taking related actions, especially considering that contingency operations involve long-term deployments.

In addition, the Department of Defense, with ever increasing frequency, is called upon to deploy its members on contingency operations that present the same difficulties in timely filing tax returns and performing other acts under the Code which are subject to deadlines as those faced by members serving in a combat zone or QHDA.

With the enactment of this proposal, the President need not declare that U.S. Armed Forces are engaged in "combat," which implicitly requires a finding that there exists an enemy of the U.S. Moreover, the Congress need not declare the individuals to be serving in a QHDA in order for them to qualify for the provisions of section 7508. Rather, section 7508 would apply to those military operations which meet the definition of contingency operations as described in section 101(13) of title 10, United States Code. Requiring individuals to serve in a designated contingency operation to qualify for relief under section 7508 of the I.R.C. makes its threshold requirement similar to serving in a QHDA or combat zone. This clear prerequisite would also serve to prevent objections that it is too broad and could apply to any military exercise or

operation.

Making the automatic extension provisions of section 7508 applicable to members of the Armed Forces serving in contingency operations would minimize the distractions from the operational focus of future contingency operations. For maximum effectiveness, the provisions of section 7508 of the I.R.C. should be applicable to returns due on and after the effective date of the contingency operation.

The proposal has no effect on the budget of the Department of Defense and has a negligible, if any, effect on Treasury receipts and tax expenditures. It does not excuse the payment of taxes, as the effect is merely to allow for filing delays and waivers of interest and penalties with respect to taxpayers who are under withheld.

**SEC. ____ . EXTENSION OF TAX BENEFITS TO EMERGENCY-ESSENTIAL
CIVILIAN EMPLOYEES ASSIGNED TO A COMBAT ZONE.**

1 (a) EXCLUSION.—Section 692(a) of the Internal Revenue Code of 1986 is amended by
2 inserting "or as an Emergency-Essential civilian employee as having been determined to be such
3 by the Secretary of Defense" after "In the case of an individual who dies while in active service
4 as a member of the Armed Forces of the United States."

5 (b) ESTATE TAXES.—Section 2201 of such code is amended by inserting "or as an
6 Emergency-Essential civilian employee as having been determined to be such by the Secretary of
7 Defense" after "dying while in active service as a member of the Armed Forces of the United
8 States."

Sectional Analysis

Emergency-Essential civilian employees who are deployed to combat zones do not receive the same compensation and tax incentives received by the military members and contractors who are deployed to the same area. Civilians are increasingly necessary to our military contingencies. Their numbers have increased significantly since the Gulf War and they are critical to the operations in Bosnia and Kosovo. Failure to offer benefits similar to those enjoyed by military members could adversely affect the components' ability to obtain sufficient civilian volunteers to support continuing and future operations.

This section would amend the Internal Revenue Code to provide the same tax treatment afforded military members to Emergency-Essential civilian employees who are deployed to combat zones and who die as the result of wounds, disease, or injury suffered in that combat zone. This includes exclusion of salary as income in the tax year in which the employee dies and exemption from certain estate taxes.

Any loss in revenue to the Treasury from the enactment of this proposal should be less than \$100,000 in any tax year based on the number of such deaths in past operations.

**SEC. ____ . EXEMPTION FROM TAXES FOR USE OF INTERNATIONAL
TRAVEL FACILITIES.**

1 Section 4261(c)(1) of the Internal Revenue Code of 1986 (26 U. S. C.4261(c)), is
2 amended by adding at the end the following new paragraph:

3 “(4) The fees imposed by this subsection shall not be imposed on
4 personnel travelling on an aircraft chartered by the Department of Defense,
5 by any branch of the United States Armed Forces, or any component of
6 either the Department of Defense or any branch of the United States
7 Armed Forces. The Department of Defense will provide an annual
8 payment from the government appropriation or fund available for
9 transportation purposes directly to the agency based on the total number of
10 passengers on these aircraft.”.

Sectional Analysis

 This provision would amend section 4261(c) of the Internal Revenue Code of 1986. This provision would exempt Space Available (Space A) passengers, predominantly members of the Armed Forces of the United States and their spouses and dependents, and retirees and their dependents, from certain fees for use of international facilities when they are travelling on aircraft chartered by the Department of Defense, by any branch of the United States Armed Forces, or any component of either the Department of Defense or any branch of the United States Armed Forces. The Department of Defense will obtain efficiencies by paying these fees directly to the Internal Revenue Service on an annual basis. This is also a quality of life issue for personnel assigned to overseas locations.

 Recent changes to Federal Transportation Tax have raised the combination of taxes and fees paid by service members travelling Space A on DOD-chartered civilian aircraft to the point that it is having a significant adverse affect on the quality of life of service members stationed overseas. The Commanders-in-Chief in Europe and South America have determined that these charges are a serious morale issue. The Commander-in-Chief, United States Transportation Command, agrees that relief is needed.

These charges are imposed on service members, their dependents, retirees and their dependents traveling Space A on DOD chartered civilian aircraft (the military has recently come to rely more heavily on chartered flights to bring its members deployed overseas back to the United States for morale and welfare leave). These taxes/fees are currently not imposed on service members traveling Space A on military aircraft.

From March 1997 through February 1998, Air Mobility Command carried 47,467 Space A passengers on charter flights ending in the United States and 52,777 Space A passengers on charter flights originating in the United States. At the current rate (\$12.40 per person), this represents \$1,243,025.60 in transportation taxes. The military pays these taxes for the member and then must obtain reimbursement from the member (no authority exists for the military to absorb these expenses as Space A travel is classified as morale and welfare travel and not official travel).

Space A travelers on international military charter flights must pay a fee for use of international facilities of \$12.40 per passenger on any flight that begins or ends in the United States. See 26 U.S.C. § 4261(c)(1). Prior to October 1, 1997, this tax was only \$6 and it was imposed only on international flights from the U.S. This two-fold increase (from \$6 to \$12.40) is a new hardship for overseas military members. In addition to the International Air Transportation Tax, service members traveling Space A on DOD-chartered civilian aircraft must pay a customs user fee of \$5; See 19 U.S.C. § 58c(a)(5)(B); and an Immigration Inspection fee of \$6 per passenger; See 8 U.S.C. § 1536(d).

Thus, since October 1997, the round-trip tax imposed on service members travelling on DOD chartered civilian aircraft has increased from \$17 to \$35.80.

**TAXES/FEES IMPOSED ON EACH SERVICE MEMBERS AND FAMILY MEMBER
TRAVELLING SPACE A
ON DOD CHARTERED CIVILIAN AIRCRAFT**

	<u>Pre-October 1, 1997</u>	<u>Post-October 1, 1997</u>
Immigration inspection fees	\$ 6	\$ 6
Custom fees	\$ 5	\$ 5
Fees for use of international facilities	<u>\$ 6</u>	<u>\$24.80</u>
	\$17	\$35.80

While \$35.80 may not seem excessive for a round-trip airfare from an overseas duty station and the United States, for a young enlisted member with a spouse and two children the \$140 in taxes/fees may preclude them from being able to take a mid-tour break to visit family and friends.

In addition to the obvious effect on morale, a mid-tour Space A flight to the United States from overseas is a factor in voluntary tour extensions (which saves money by reducing the frequency of moves and can improve mission capability by increasing the continuity of personnel).

No group of travelers deserves less to be seen as a source of revenue than those who are serving the armed forces overseas. Enacting these narrow exceptions to Titles 8, 19, and 26 of the United States will both improve morale, quality of life, and contribute to mission readiness.

If enacted, this proposal may cause a slight increase to the budgetary requirements of the Department of Defense. However, as noted above, the proposal would equalize the treatment of personnel traveling on charter flights with that of personnel traveling on military aircraft. Additionally, unlike many international travelers, the majority of military members traveling Space A on charter aircraft are transiting to and from overseas locations to which they have been assigned by their employer, the Department of Defense. To extract extra revenues from them because of their assigned location appears inequitable at best. The Department of Defense will receive some benefit by eliminating the costs associated with collection and accounting for fees from small numbers of passengers and a streamlined payment method to the agencies involved. Because of the small dollar amount involved in the fee and the expenses of collecting the same, DOD is requesting waiver of PAY GO considerations for this proposal.