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Tax Information for Those Affected by Operation Desert Storm

For use in preparing
1995 Returns



Contents

Important Changes for 1995	1
Highlights	2
Introduction	2
Combat Zone Exclusion	3
Combat Zone	3
Serving in a Combat Zone	3
Amount of Exclusion	3
Extension of Deadline	4
Filing Returns	6
Decedents	6
Combat Zone Forgiveness.....	6
Terroristic or Military Action Forgiveness.....	7
Claims for Tax Forgiveness.....	7
Questions and Answers	9
Part 1 — Serving in Combat Zone.....	9
Combat Zone Exclusion	9
Extension of Deadline.....	10
Decedents	11
Miscellaneous	12
Part 2 — Not Serving in Combat Zone.....	12
Index	15

Important changes for 1995

Earned income credit. Beginning with 1995 tax returns, the following changes are in effect:

- The amount you can earn and still be eligible for the credit has increased to \$9,230 if you have no qualifying children, \$24,396 if you have one qualifying child, and \$26,673 if you have two or more qualifying children.
- The credit amount has increased for all persons eligible for the credit.
- Military personnel stationed outside the United States on extended active duty are considered to live in the United States for purposes of the credit.
- Taxpayers claiming the credit on their 1995 tax returns must provide a social security number for each qualifying child born before November 1, 1995.
- Earned income that is not taxed, such as BAQ, BAS, and combat pay, will be shown on the W-2s of military personnel.
- Nonresident aliens must be married to a U.S. citizen or resident and agree to be treated as U.S. residents for U.S. tax purposes to be eligible for the credit.

Note. Beginning in 1996, taxpayers who have more than \$2,350 in certain investment income will not qualify for the credit.

For more information on the earned income credit, see Publication 596, *Earned Income Credit*.

Highlights

- Pay for service in a combat zone is not taxed if you are an enlisted member of the U.S. military. If you are a commissioned officer serving in a combat zone, you can exclude up to \$500 a month from income.
- The deadline for filing tax returns, paying taxes, and taking other actions with the Internal Revenue Service is automatically extended if you serve in a combat zone.
- The income tax liability of a member of the Armed Forces is forgiven if the member dies as a result of service in a combat zone or from a terroristic or military action outside the United States.

Introduction

This publication describes the tax benefits available to those involved in Operation Desert Shield, Operation Desert Storm, or stationed in the Persian Gulf area combat zone and includes the latest legislative and administrative changes. It also includes a Question and Answer section that will help explain many of the relief provisions that apply to those who have served or are serving in the combat zone, to members of the military reserves not serving in the combat zone, and to those who had to leave the Persian Gulf area because of the conflict.

Use this publication to find information on the exclusion of certain pay for serving in a combat zone, the deadlines for filing income tax returns and taking other actions involving taxes, and the forgiveness of tax liability for persons who die in a combat zone or in a terroristic or military action. For other tax information affecting active members of the U.S. Armed Forces, see *Publication 3*.

At the time we went to print, the area designated by the President as a combat zone was still in effect. If you receive a notice about tax collection or examination from the Internal Revenue Service and you are serving in the U.S. military in the area still designated as a combat zone, you have been granted relief. Simply mark the notice "Desert Storm" and return it to the IRS. See *Extension of Deadline*, later.

In the event the area ceases to be a combat zone (by Presidential Executive Order), we will do our best to notify you. Some of the relief provisions, such as the combat zone exclusion, will end at that time. Other provisions, such as the extension of time to file a return and

the suspension of collection and examination activities will end approximately 9 months later.

If you are a spouse of someone serving in the Persian Gulf area combat zone or you are representing someone serving in the combat zone and you need help in filing tax returns or obtaining other tax information, you should call the IRS at 1-800-TAX-1040 (1-800-829-1040) or visit the nearest IRS office.

Useful Items

You may want to see:

Publication

- ☐ **3** Tax Information for Military Personnel
- ☐ **54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- ☐ **559** Survivors, Executors, and Administrators
- ☐ **596** Earned Income Credit

Form (and Instructions)

- ☐ **1040X** Amended U.S. Individual Income Tax Return
- ☐ **1310** Statement of Person Claiming Refund Due A Deceased Taxpayer
- ☐ **2848** Power of Attorney and Declaration of Representative
- ☐ **4868** Application for Automatic Extension of Time To File U.S. Individual Income Tax Return

Ordering publications and forms. To order free publications and forms, call 1-800-TAX-FORM (1-800-829-3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address.

Free tax help. You can get free tax help from IRS throughout the year. Publication 910, *Guide to Free Tax Services*, describes many of the free tax information and services you can receive, including telephone help, next.

Telephone help. You can call the IRS with your tax questions Monday through Friday during regular business hours. Check your telephone book for the local number or you can call **1-800-829-1040**.

Telephone help for hearing-impaired persons. If you have access to TDD equipment, you can call **1-800-829-4059** with your tax questions or to order forms and publications. See your tax package for the hours of operation.

Combat Zone Exclusion

If you are a member of the U.S. Armed Forces who serves in a combat zone (defined later), you can exclude certain pay from your income. You do not have to receive the pay while in a combat zone, but it must be paid for service performed there or for a period during which you were hospitalized as a result of your service there. The following military pay can be excluded from your income.

- 1) Active duty pay earned in any month you served in a combat zone. Also see *Qualifying service outside combat zone*, later, for an exception.
- 2) A dislocation allowance if the move begins or ends in a month you served in a combat zone.
- 3) A reenlistment bonus if the voluntary extension or reenlistment occurs in a month you served in a combat zone.
- 4) Pay for accrued leave earned in any month you served in a combat zone. The Department of Defense must determine that the unused leave was earned during that period.
- 5) Pay received for duties as a member of the Armed Forces in clubs, messes, post and station theaters, and other nonappropriated fund activities. The pay must be earned in a month you served in a combat zone.
- 6) Awards for suggestions, inventions, or scientific achievements you are entitled to because of a submission you made in a month you served in a combat zone.

Retirement pay does not qualify for the combat zone exclusion.

Members of the U.S. Armed Forces include commissioned officers and enlisted personnel in all regular and reserve units under control of the Secretaries of the Defense, Army, Navy, and Air Force. They also include the Coast Guard. They do not include members of the U.S. Merchant Marine or the American Red Cross.

Combat Zone

A combat zone is any area the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are, or have been, engaged in combat. An area becomes a combat zone and ceases to be a combat zone on the dates the President designates by Executive Order.

The President has designated by Executive Order 12744 the following locations (including airspace) as a combat zone beginning January 17, 1991:

- The Persian Gulf,
- The Red Sea,
- The Gulf of Oman,
- The part of the Arabian Sea that is north of 10 degrees north latitude and west of 68 degrees east longitude,

- The Gulf of Aden, and
- The total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.
The preceding areas make up the Persian Gulf area combat zone.

Serving in a Combat Zone

For purposes of the combat zone exclusion, service is performed in the Persian Gulf area combat zone only if it is performed on or after January 17, 1991. Service in the combat zone includes any periods you are absent from duty because of sickness, wounds, or leave. If, as a result of serving in a combat zone, a person becomes a prisoner of war or is missing in action, that person is considered to be serving in the combat zone as long as he or she keeps that status for military pay purposes.

Qualifying service outside combat zone. Military service outside a combat zone is considered to be performed in a combat zone if:

- 1) The service is in direct support of military operations in the combat zone, and
- 2) The service qualifies you for special military pay for duty subject to hostile fire or imminent danger.

Military pay received for this service will qualify for the combat zone exclusion if the other requirements are met.

Nonqualifying presence in combat zone. The following military service does not qualify as service in a combat zone.

- 1) Presence in a combat zone while on leave from a duty station located outside the combat zone.
- 2) Passage over or through a combat zone during a trip between 2 points that are outside a combat zone.
- 3) Presence in a combat zone solely for your personal convenience.

Amount of Exclusion

If you are an enlisted person or a commissioned warrant officer and you serve in a combat zone during any part of a month, all of your military pay for that month is excluded from your income. You can also exclude military pay earned while you are hospitalized as a result of wounds, disease, or injury incurred in the combat zone. The exclusion of your military pay while you are hospitalized does not apply to any month that begins more than 2 years after the end of combat activities in that combat zone. Your hospitalization does not have to be in the combat zone.

Hospitalized while serving in the combat zone. If you are hospitalized while serving in the combat zone, the

wound, disease, or injury causing the hospitalization will be presumed to have been incurred while serving in the combat zone unless there is clear evidence to the contrary.

Example. You are hospitalized for a disease while in your fourth week of service in a combat zone, and the disease for which you are hospitalized has an incubation period of 2 to 4 weeks. The disease is presumed to have been incurred while you were serving in the combat zone. On the other hand, if the incubation period of the disease is one year, the disease would not have been incurred while you were serving in the combat zone.

Hospitalized after leaving the combat zone. In some cases the wound, disease, or injury may have been incurred while you were serving in the combat zone even though you were not hospitalized until after you left.

Example. You were hospitalized for a specific disease 3 weeks after you left the combat zone. The incubation period of the disease is from 2 to 4 weeks. The disease is presumed to have been incurred while serving in the combat zone.

Officers. If you are a commissioned officer, you can exclude your pay according to the rules just discussed. However, the amount of your exclusion is limited to \$500 of your military pay for each month during any part of which you served in a combat zone or were hospitalized as a result of your service there. Commissioned officers include officers holding a temporary commission.

If you are a commissioned warrant officer, you are considered to be an enlisted person and your exclusion is not limited to \$500 a month.

Form W-2. The wages shown in box 1 of your 1995 Form W-2, *Wage and Tax Statement*, should not include military pay excluded from your income under the combat zone exclusion provisions.

Extension of Deadline

You are allowed additional time to take care of tax matters if you are a member of the Armed Forces who served in a combat zone. The law provides that certain periods of time are disregarded in determining whether these tax matters are taken care of on time. For ease of understanding, this publication refers to such provisions as extensions of deadlines. This "deadline extension" should not be confused with other parts of the tax law that refer to extensions of time for performing acts.

Extension. The deadline for filing tax returns, paying taxes, filing claims for refund, and taking other actions with the IRS is extended if you serve in the Armed Forces in a combat zone. The deadline for the IRS to take certain actions, such as collection and examination actions, is also extended.

See the earlier description of a combat zone. However, for purposes of the deadline extension provision, combat zone service is performed in the Persian Gulf area if it is performed on or after August 2, 1990.

Your deadline for taking actions with the IRS is extended for at least 180 days after the later of:

- 1) The last day you are in a combat zone (or the last day the area qualifies as a combat zone), or
- 2) The last day of any continuous qualified hospitalization (defined later) for injury from service in the combat zone.

Time in a missing status (missing in action or prisoner of war) counts as time in a combat zone.

In addition to the 180 days, your deadline is also extended by the number of days left for you to take the action with the IRS when you entered a combat zone. If you entered the combat zone before the period of time to take the action began, your deadline is extended by the entire period of time you have to take the action. For example, you had 3½ months (Jan. 1 – Apr. 17, 1995) to file your 1994 tax return. Any days of this 3½-month period that were left when you entered the combat zone (or the entire 3½ months if you entered the combat zone by January 1) are added to the 180 days to find the last day allowed for filing your 1994 tax return.

Example 1. Capt. Margaret Jones entered Saudi Arabia on December 1, 1993. She remained there through March 31, 1995, when she departed for the United States. She was not injured and did not return to the combat zone. The deadlines for filing Capt. Jones' 1993, 1994, and 1995 returns are figured as follows:

The 1993 tax return deadline is January 10, 1996. Capt. Jones has 285 days (180 plus 105) after her last day in the combat zone, March 31, to file her 1993 income tax return. The 105 additional days are the number of days in the 3½-month filing period that were left when she entered the combat zone (Jan. 1 – Apr. 15). There are 105 days in the 1994 filing period.

The 1994 tax return deadline is January 10, 1996. Capt. Jones has 285 days (180 plus 105) after her last day in the combat zone, March 31, to file her 1994 income tax return. There are 107 days in the 1995 filing period.

The 1995 tax return deadline is not extended because the 180-day extension period after March 31, 1995, ends on September 27, 1995, which is before the start of the filing period for her 1995 return.

Example 2. Petty Officer Leonard Brown's ship entered the Persian Gulf on January 5, 1994. On February 15, 1994, Leonard was injured and flown to a U.S. hospital. He remained in the hospital through April 21, 1995. The deadlines for filing Petty Officer Brown's 1993, 1994, and 1995 returns are figured as follows:

The 1993 tax return deadline is January 27, 1996. Petty Officer Brown has 281 days (180 plus 101) after his last day in the hospital, April 21, 1995, to file his 1993 return. The 101 additional days are the number of days

in the 3½ month filing period that were left when he entered the combat zone (Jan. 5 – Apr. 15). There are 105 days in the 1994 filing period. He has until January 29 to file his return because January 27 falls on a Saturday.

The 1994 tax return deadline is January 31, 1996. Petty Officer Brown has 285 days (180 plus 105) after April 21, 1995, to file his 1994 tax return.

The 1995 tax return deadline is April 15, 1996. The 180-day period after April 21, 1995, ends October 18, 1995, which is before the start of the filing period for his 1995 return. Leonard has until the normal due date to file his 1995 tax return.

Example 3. Maj. Rob Willard served in the combat zone from January 1 through July 31, 1995, and was not injured. He has 285 days (180 plus 105) after his last day in the combat zone, July 31, to file his 1994 income tax return. The 105 additional days are the number of days that were left in the 3½ month filing period when he entered the combat zone (January 1 – April 15). His 1994 tax return is due by May 11, 1996. He has until May 13 to file his return because May 11 falls on a Saturday.

The due date of Maj. Willard's 1995 return is also extended because part of the 180-day extension period falls within the filing period for his 1995 return. He has 285 days (180 plus 105) after his last day in the combat zone, July 31, 1995, to file his 1995 return. The 105 additional days are the number of days in the 3½ month filing period for 1995 returns that he has after the 180-day extension period ends on January 27, 1996. Under this provision, his 1995 return is due by May 12, 1996. He has until May 13 to file his return because May 12 falls on a Sunday.

Note. If you know that you cannot file your return by the extended deadline, you can file Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*, by the extended deadline. Filing Form 4868 will give you an additional 4 months to file your return. It will not extend the time you have to pay any tax you owe. You must make an estimate of your tax for the year with the form. See the instructions for Form 4868 for more information.

In the above example, if Maj. Willard files Form 4868 by May 13, 1996, he can extend the final date for filing his 1994 return to September 12, 1996. Likewise, if he files Form 4868 for 1995 by May 13, 1996, he has until September 12, 1996, to file his 1995 return.

Example 4. You generally have 3 years from April 15, 1992, to file a claim for refund against your timely filed 1991 income tax return. If you wish to amend that return, your claim normally must be filed by April 15, 1995. However, if you served in the combat zone from November 1, 1994, through March 23, 1995, and were not injured, your deadline for filing that claim is extended 346 days (180 plus 166) after you leave the combat zone. This extends your deadline to March 4, 1996. The 166 additional days are the number of days in the 3-year period for filing the refund claim that were left when you entered

the combat zone on November 1 (Nov. 1, 1994 – Apr. 15, 1995).

Support personnel. The deadline extension provision also applies if you are serving in a combat zone in support of the Armed Forces. This includes Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those forces.

Qualified hospitalization. The hospitalization must be the result of an injury received while serving in the area designated as a combat zone. In the case of the Persian Gulf area, the injury must have occurred between August 2, 1990, and the date the President, by Executive Order, terminates the combat zone. Qualified hospitalization includes:

- 1) Any hospitalization outside the United States, and
- 2) Up to 5 years of hospitalization in the United States.

Actions extended. The actions to which the deadline extension provision applies include:

- 1) Filing any return of income, estate, or gift tax (except employment and withholding taxes),
- 2) Paying any income, estate, or gift tax (except employment and withholding taxes),
- 3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a Tax Court decision,
- 4) Filing a claim for credit or refund of any tax,
- 5) Bringing suit for any claim for credit or refund,
- 6) Purchasing a replacement residence to postpone paying tax on the gain on the sale of the old residence,
- 7) Making a qualified retirement contribution to an IRA,
- 8) Allowing a credit or refund of any tax by IRS,
- 9) Assessment of any tax by the IRS,
- 10) Giving or making any notice or demand by the IRS for the payment of any tax, or for any liability for any tax,
- 11) Collection by the IRS of any tax due, and
- 12) Bringing suit by the United States for any tax due.

If the IRS takes any actions covered by these provisions or sends you a notice of examination before learning that you are entitled to an extension of the deadline, you do not have to take any action. Simply return the notice with "Desert Storm" written across the top. No penalties or interest will be imposed for failure to file a return or pay taxes during the extension period.

You can choose to take an action during the extension period even though the deadline for that action is extended. For example, you may want to file a return to receive any refund due. See *Filing Returns*, later.

Interest. If your returns are timely filed after applying the deadline extension, the IRS will pay interest on:

- Your 1991 refund from April 15, 1992,
- Your 1992 refund from April 15, 1993,
- Your 1993 refund from April 15, 1994,
- Your 1994 refund from April 15, 1995, and
- Your 1995 refund from April 15, 1996.

Spouses. Spouses of individuals who served in a combat zone are entitled to the same deadline extension with two exceptions.

- 1) The extension does not apply to a spouse for any tax year beginning more than 2 years after the last day the area qualifies as a combat zone.
- 2) The extension does not apply to a spouse for any period the qualifying individual is hospitalized in the United States for injuries incurred in a combat zone.

Not in a combat zone. If you are a reservist called to active duty or a regular military member but are not in a combat zone, you may still qualify to defer the payment of back taxes. To qualify, you must be serving your **initial period of service** and you must show that your ability to pay the back taxes has been **materially impaired**. See the answers to questions 3A, B, and C under *Part 2* in the Question and Answer section of this publication for more information.

Filing Returns

You can choose to file your return before the end of your extension period. When you file, write "Desert Storm" at the top of your return and on the envelope in which you mail it. This will alert the IRS that you are entitled to the various forms of relief mentioned earlier.

If you are acting on behalf of someone still serving in the Persian Gulf area combat zone and you do not have a power of attorney from that person specifying that you can handle federal tax matters, the IRS will accept a general power of attorney or other statement signed by the person that authorizes you to act on his or her behalf. A copy of the form or statement must be attached to the tax return.

If it is not possible for the spouse of someone serving in the Persian Gulf area combat zone to obtain that person's signature on a joint return, power of attorney, or other signed authorization to act on his or her behalf, the IRS will accept a written statement explaining that the husband or wife is serving in the combat zone. The statement must be signed by the spouse filing the tax return and attached to the return.

Outside the combat zone. If you do not qualify for the deadline extension provision, your 1995 return is due by the normal due date, April 15, 1996 (June 17, 1996, if you are stationed outside the United States and Puerto Rico on April 15 (June 15 falls on a Saturday.)). Interest on any unpaid tax will be charged from April 15.

There are other provisions that extend the time for filing your return. See the instructions for your tax return or Publication 3 for more information.

Where to file. Military members follow the same rules as taxpayers in general concerning where to file. You should file your return with the Internal Revenue Service Center for the place where you reside. The instructions for Forms 1040, 1040A, and 1040EZ give the addresses for the service centers. If you are overseas and have an APO or FPO address, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

Decedents

This section discusses the special tax forgiveness provisions that apply to individuals who:

- 1) Die while serving in a combat zone or from wounds, disease, or injury incurred while serving in a combat zone, or
- 2) Die from wounds or injury incurred in a terroristic or military action outside the United States while a U.S. employee.

This section also explains how to claim this special tax forgiveness.

For other information concerning decedents, see Publication 559, *Survivors, Executors, and Administrators*.

Combat Zone Forgiveness

If a member of the U.S. Armed Forces dies while on active service in a combat zone or from wounds, disease, or other injury received in a combat zone, the decedent's entire income tax liability is forgiven for the year death occurred and for any earlier tax year beginning with the year before the year in which the wounds, disease, or other injury occurred. That tax liability is also forgiven for any earlier tax year in which the member served at least one day in a combat zone. Any forgiven tax liability that has already been paid will be refunded, and any unpaid tax liability at the date of death will be forgiven.

In addition, any unpaid taxes for prior years will be forgiven, and any prior year taxes that are paid after date of death will be refunded.

This forgiveness provision also applies to a member of the Armed Forces serving outside the combat zone if the service:

- 1) Was in direct support of military operations in the zone, and
- 2) Qualified the member for special military pay for duty subject to hostile fire or imminent danger.

For a description of the combat zone, see *Combat Zone*, earlier.

Missing status. The date of death for a member of the Armed Forces who was in a missing status (missing in action or prisoner of war) is the date his or her name is removed from missing status for military pay purposes. This is true even if death actually occurred earlier.

Terroristic or Military Action Forgiveness

Tax liability is forgiven for an individual who:

- 1) Is a military or civilian U.S. employee at death, and
- 2) Dies from wounds or injury incurred while a U.S. employee in a terroristic or military action outside the United States.

The forgiveness applies to the tax year death occurred and to any earlier tax year beginning with the year before the year in which the wounds or injury occurred. A **terroristic or military action** is any terroristic activity primarily directed against the United States or its allies or any military action involving the U.S. Armed Forces resulting from violence or aggression (or the threat of violence or aggression) against the United States or its allies.

Any multinational force in which the United States participates is considered an ally of the United States.

Example. Army Private John Kane died in 1995 of wounds incurred outside the United States in a terroristic attack in 1993. His income tax liability is forgiven for all tax years from 1992 through 1995. Refunds are allowed for the tax years for which the period for filing a claim for refund has not ended.

Claims for Tax Forgiveness

If either of these tax-forgiveness provisions (combat zone forgiveness or terroristic or military action forgiveness) apply to a prior year's tax that has been paid and the period for filing a refund claim has not ended, the tax will be refunded. If any tax is still due, it will be canceled. The normal period for filing a claim for credit or refund of income tax is 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later.

If death occurred in a combat zone or from wounds, disease, or injury incurred in a combat zone, the deadline for filing a claim for credit or refund is extended using the rules discussed earlier under *Extension of Deadline*.

Procedures for claiming forgiveness. If the individual died in a combat zone or in a terroristic or military action, use the following procedures in filing a claim for tax forgiveness:

- 1) File Form 1040 if a tax return (Form 1040, 1040A, or 1040EZ) has not been filed for the tax year. Form W-2, *Wage and Tax Statement*, must accompany the return.

- 2) File Form 1040X if a tax return has been filed. A separate Form 1040X must be filed for each year in question.

These returns and claims must be filed with the Internal Revenue Service Center, P.O. Box 267, Covington, KY 41019, Attn: Stop 28, Desert Storm —KIA (or KITA, if it is not associated with the Persian Gulf area combat zone).

All returns and claims must be identified by writing "Desert Storm — KIA" (or "KITA") in bold letters on the top of page 1 of the return or claim. On Forms 1040 and 1040X, the phrase "Desert Storm — KIA" (or "KITA") must be written on the line for "Total tax."

An attachment that includes a computation of the decedent's tax liability before any amount is forgiven and the amount that is to be forgiven should accompany any return or claim. For joint returns, see *Joint returns*, later.

Necessary documents. The following documents must accompany all returns and claims for refund:

- 1) Form 1310, *Statement of Person Claiming Refund Due a Deceased Taxpayer*.
- 2) A certification from the Department of Defense or the Department of State.

For military employees and civilian employees of the Department of Defense, certification must be made by that Department on Form DOD 1300, *REPORT OF CASUALTY*. For civilian employees of all other agencies, certification must be a letter signed by the Director General of the Foreign Service, Department of State, or his or her delegate. The certification must include the deceased individual's name and social security number, the date of injury, the date of death, and a statement that the individual died in a combat zone or from a terroristic or military action outside the United States. If the individual died as a result of a terroristic or military action, the statement must also include the fact that the individual was a U.S. employee at the date of injury and at the date of death.

If the certification has been received, but there is not enough tax information to file a timely claim for refund, Form 1040X must be filed along with Form 1310 and a statement that an amended claim will be filed as soon as the necessary tax information is available.

Joint returns. Only the decedent's part of the joint income tax liability is eligible for the refund or tax forgiveness. To determine the decedent's part, the person filing the claim must:

- 1) Figure the income tax for which the decedent would have been liable as if a separate return had been filed.
- 2) Figure the income tax for which the spouse would have been liable as if a separate return had been filed.
- 3) Multiply the joint tax liability by a fraction. The top number of the fraction is the amount in (1), above.

The bottom number of the fraction is the total of (1) and (2).

The amount in (3) is the decedent's tax liability that is eligible for the refund or tax forgiveness. If you are unable to complete this process, you should attach a statement of all income and deductions, indicating which belong to each spouse, and the IRS will make the proper division.

Residents of community property states. If the decedent was domiciled in a community property state and the surviving spouse reported half of the military pay on a separate return, the spouse can get a refund of taxes paid on his or her share of the pay for the years involved. The forgiveness of unpaid tax on such military pay would also apply to the half owed by the surviving spouse for the years involved.

Questions and Answers

This section answers the tax questions most often asked about the Persian Gulf area combat zone. The section is divided into two parts:

Part 1 — Questions about those serving in the combat zone, and

Part 2 — Questions about military members not serving in the combat zone and non-combatants who had to leave the Persian Gulf area because of the crisis.

Part 1 — Serving in Combat Zone

Combat Zone Exclusion

1) I am a member of the U.S. Armed Forces who was assigned to the Persian Gulf area combat zone. Is any part of my military pay for serving in the combat zone excluded from taxation?

Yes. Military pay (compensation) enlisted personnel receive for active service in an area designated by the President as a combat zone is excluded from gross income. Commissioned officers have a similar exclusion, but it is limited to \$500 per month. The areas designated by the President as a combat zone were listed earlier.

2) While serving in the U.S. Armed Forces in the combat zone as an enlisted man, I was temporarily appointed as a commissioned officer. How do I determine the amount of my military pay that is excludable from gross income?

You are entitled to exclude from gross income the entire amount of your compensation for your active service below the grade of commissioned officer and up to \$500 per month of your compensation for your active service as a temporary commissioned officer.

3) My husband and I are both enlisted personnel who served in the U.S. Armed Forces in the combat zone. Are we both entitled to the income tax exclusion for military pay?

Yes. Each of you qualifies for the income tax exclusion for your military pay.

4) What is the duration of the military pay exclusion for active service in the U.S. Armed Forces in the combat zone?

The exclusion applies to military pay for any month during any part of which an enlisted person or a commissioned officer serves in the combat zone.

5) When will the current combat zone designation end?

The current combat zone designation will end when the President issues an Executive Order with a specific termination date.

6) If I was injured and hospitalized while serving in the U.S. Armed Forces in the combat zone, is any of my military pay excluded from taxation?

Yes. Military pay received by enlisted personnel who are hospitalized as a result of injuries sustained while serving in a combat zone is not included in gross income. Commissioned officers have a similar exclusion, but it is limited to \$500 per month. These exclusions from gross income for hospitalized enlisted personnel and commissioned officers end 2 years after the date of termination of combatant activities in the combat zone.

7) I received imminent danger pay for military service in the U.S. Armed Forces outside the combat zone that was in direct support of military actions inside that zone, as determined by the Department of Defense. Do I

qualify for the combat zone exclusion?

Yes. Members of the U.S. Armed Forces who perform military service in an area outside the combat zone qualify for the combat zone exclusion if their service is in direct support of military operations in the combat zone and they receive special pay for duty subject to hostile fire or imminent danger. Because you meet these two conditions as determined by the Department of Defense, your military compensation for active service (including the imminent danger pay) is treated as if you were serving in the combat zone.

8) I was in a "missing in action" status as a result of active service in the U.S. Armed Forces in the combat zone. Is my military pay taxable while I was carried in this missing status?

No. A member of the U.S. Armed Forces in active service in a combat zone who is missing in action or becomes a prisoner of war is deemed to continue in active service in the combat zone for military pay purposes. The combat zone exclusion continues to apply to the same extent provided in question (1).

9) My wife served in the U.S. Armed Forces in the combat zone and will be eligible for discharge. If she is discharged, will the payment for the annual leave that she accrued during her service in the combat zone be excludable from gross income?

Yes. Accrued annual leave payments accrued during active service in a combat zone and paid to enlisted members of the U.S. Armed Forces at the time of their discharge from the service are excludable from gross income. If your wife is a commissioned officer, this exclusion cannot exceed \$500 per month, after taking into account any other military pay for that same period of service.

10) My brother, who is a civilian in the merchant marine, was on a ship that transports military supplies between the United States and the Persian Gulf. Is he entitled to the combat zone exclusion?

No. Those serving in the merchant marine are not members of the U.S. Armed Forces. The combat zone exclusion applies only to members of the U.S. Armed Forces. The term "Armed Forces of the United States" is defined to include all regular and reserve components of the uniformed services that are under the control of the Secretaries of Defense, Army, Navy, and Air Force, as well as the Coast Guard.

11) Can members of the U.S. Armed Forces who served in the Persian Gulf area combat zone in Operation Desert Shield exclude military pay received for such services performed during 1990?

No. Desert Shield service before January 17, 1991, was not active service in a combat zone, and members of the U.S. Armed Forces cannot exclude their military pay received for that service.

Extension of Deadline

12) I served in Operation Desert Shield. I understand that the deadline for performing certain actions required by the internal revenue laws is extended as a result of my service. On what date did these tax benefits begin?

The deadline extension provisions apply to most tax actions required after August 2, 1990, or the date you began serving in the Persian Gulf area combat zone, whichever is later.

13) My son is a member of the U.S. Armed Forces who served in the Persian Gulf area combat zone. Is he entitled to an extension of time for filing and paying his federal income taxes? Are any assessment or collection deadlines extended?

Yes. In general, all time limitations that apply to his federal taxes are suspended for the period of his combat zone service plus 180 additional days. Interest and penalties will not be charged for the suspension period.

14) Assuming the same facts as in question 13, would my son still have an extension for filing and paying his federal income taxes if he has unearned income from investments?

Yes. The extension applies without regard to the source of your son's income.

15) Assuming the same facts as in question 13, will the extension of deadline provisions continue to apply if my son is hospitalized as a result of an injury sustained in the Persian Gulf area?

Yes. The suspension provisions will apply for an unlimited period while your son is continuously hospitalized outside the United States as a result of injuries sustained while serving in the Persian Gulf combat zone. For hospitalization inside the United States, the extension period cannot be more than 5 years.

16) I was receiving imminent danger pay for military service in the U.S. Armed Forces outside the combat zone that was in direct support of military actions inside that zone, as determined by the Department of Defense. Do the extension of deadline provisions apply to me?

Yes. Members of the U.S. Armed Forces who performed military service in an area outside the combat zone qualify for the deadline extension if their service was in direct support of military operations in the combat zone and if they received special pay for duty subject to hostile fire or imminent danger. Because you meet these two conditions, as determined by the Department of Defense, you are treated as if you were serving in the combat zone.

17) Do the deadline extension provisions apply only to members of the U.S. Armed Forces who served in the combat zone?

No. The deadline extension provisions also apply to individuals who served in a combat zone in support of the U.S. Armed Forces, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the U.S. Armed Forces in support of those forces.

18) My husband is a private businessman working in Saudi Arabia on nonmilitary projects. Is he entitled to a combat zone deadline extension?

No. Other than military personnel, only individuals serving in a combat zone in support of the U.S. Armed Forces can benefit from the deadline extension provisions.

19) My son is a civilian chemical decontamination specialist who was in Saudi Arabia training U.S. Armed Forces personnel serving in the combat zone. Can he use the deadline extension provisions?

Yes. Your son was serving in a combat zone in support of the U.S. Armed Forces, and the deadline extension provisions are available to him.

20) I am a member of the U.S. Armed Forces who served in the combat zone. Do the extension of deadline provisions apply to my husband who was in the United States?

Yes. The deadline extension provisions apply not only to members who serve in the U.S. Armed Forces (or in support thereof) in the combat zone, but to their spouses as well. However, any extension of time associated with your hospitalization inside the United States would not apply to your husband. The deadline extension provisions for your husband do not apply for any tax year beginning more than 2

years after termination of the combat zone.

21) Assuming the same facts as in question 20, will my husband have to file a joint tax return in order to benefit from the deadline extension provisions?

No. The deadline extension applies to both spouses whether joint or separate returns are filed. If your husband chooses to file a separate return, he generally will have the same extension of time to file and pay his taxes that you do.

22) My husband served in the U.S. Armed Forces in the combat zone. In 1995, our son, who is 12 years old, received \$700 of interest income. Our daughter, who is 17 years old, received \$2,000 of earned income from part-time work and \$900 of interest income. We claim both children as dependents on our federal income tax returns. Do the extension of deadline provisions apply to our children?

Yes. The deadline extension provisions apply to your dependent children to the same extent that they apply to you. However, since your older child may be entitled to a refund of tax, she may want to file her tax return to obtain her refund.

23) My wife is a member of the U.S. Armed Forces and served in the combat zone. Can she make a timely qualified contribution for 1994 to her individual retirement account (IRA) after April 15, 1995, and before the due date of her 1994 income tax return after applying the deadline extension provisions?

Yes. Your wife can make a timely qualified contribution for 1994 to her IRA by the extended deadline for filing her 1994 income tax return under the deadline extension provisions.

24) My husband and I sold our principal residence on March 1, 1993, and we have not bought a

replacement residence yet. He is in the U.S. Armed Forces and reported to active duty in the Persian Gulf area on October 1, 1994. Do the extension of deadline provisions apply to the period we have to replace our old residence to defer gain on that residence?

Yes. The running of the replacement period is suspended for the period your husband is in the Persian Gulf combat zone plus 180 days. Your replacement period starts again after the end of the 180 day period after he leaves the combat zone. Because your husband was overseas on extended active duty (more than 90 days) your remaining replacement period is 8 years minus the 19 months of the time already used (March 1, 1993, to September 30, 1994).

25) Will the IRS assess estimated tax penalties against my brother who served in the U.S. Armed Forces in the Persian Gulf area combat zone from August 1994 through January 1995? He did not make the third and fourth estimated tax payments for 1994.

No. When your brother files his 1994 federal income tax return, he should write "Desert Storm" at the top of the return.

26) My son, who is a member of the U.S. Armed Forces, was on a payment plan with the IRS for back taxes before he was assigned to the combat zone. What should be done now that he is back from the combat zone?

The IRS office where your son was making payments should be contacted. Because your son was serving in the combat zone, he will not have to make payments on his past due taxes for his period of service in the combat zone plus 180 days. No penalty or interest will be charged during the extension period.

27) My daughter lives in the United States and is a civilian employee of a defense contractor.

She was injured on her job, which involved the production of equipment used by the U.S. Armed Forces in the combat zone. Do the deadline extension provisions apply to her?

No. These provisions do not apply to your daughter because she was not serving in the combat zone in support of the U.S. Armed Forces.

28) Do the deadline extension provisions apply to taxes other than the income tax?

Yes. The deadlines for federal, state, and gift taxes are also extended. However, other deadlines, such as the payment of withholding, employment, and corporate taxes, are not affected by the deadline extension provisions.

Decedents

29) What is the income tax liability of a member of the U.S. Armed Forces who was wounded and died on January 18, 1995, while in active service in the combat zone?

In general, when a member of the U.S. Armed Services dies in a combat zone or as a result of injuries incurred in a combat zone, the member's income tax liability is forgiven for the year of death, for any earlier tax year beginning with the year prior to the year of injury, and for any other prior years beginning with the year in which the individual first served in the combat zone. In addition, any income tax that is unpaid at the date of death is forgiven. The member's income tax liability for 1994 and 1995 and any unpaid tax owed for years before 1994 are forgiven.

30) What is the income tax liability of a member of the U.S. Armed Forces whom the Department of Defense certified was injured on January 7, 1992, and died on January 10, 1993, as a result of serving in the Persian Gulf Desert Shield area military action?

In general, when a member of the U.S. Armed Services dies as a result of wounds or injury incurred in a military action, the member's tax liability is forgiven for the year of death and for any earlier tax year beginning with the year prior to the year of injury. The member's income tax liability is forgiven for 1991, 1992, and 1993.

31) What is the income tax liability of a civilian employee of the Department of Defense whom the Department certified died February 25, 1995, as a result of injury received on December 15, 1994, during the Persian Gulf military action?

The employee's income tax liability is forgiven for 1993 through 1995. See Q & A 30 for the tax forgiveness rules when death results from a military action.

Miscellaneous

32) My daughter was a member of the U.S. Armed Forces serving in the combat zone. She made collect calls to me here in the U.S. Are these calls exempt from the federal excise tax on telephone service?

Yes. Telephone calls that originate within the combat zone and that are made by members of the U.S. Armed Forces serving there are exempt from the federal excise tax on toll telephone service, provided a properly executed certificate of exemption is furnished to the person receiving payment for the call. The exemption certificate should be signed and dated by the telephone subscriber and contain the following information: the amount, time, date, and place of origin of the call; the name of the person who called from the combat zone and a statement that such person was a member of the U.S. Armed Forces performing service in the combat zone; the name and address of the telephone subscriber; and the name of the telephone carrier.

33) How will my military pay for active service in the U.S. Armed Forces in the combat zone be reported on my 1995 Form W-2?

Military pay for your active service in the combat zone that is not taxable will not be reported on Form W-2 in the box marked "Wages, tips, other compensation." However, earned income that is not taxable, such as combat pay, allowances for quarters and subsistence (BAQ and BAS), and certain in-kind equivalents will be reported in box 13. Basic pay (including combat pay) is subject to FICA tax and will be reported in the box marked "Social security wages."

Part 2 — Not Serving in Combat Zone

1) As a reservist called to active duty, I receive allowances similar to those provided to regular military personnel. Are these allowances exempt from tax?

Some allowances you may receive are tax free. These include BAQ (basic allowance for quarters), BAS (basic allowance for subsistence), certain family allowances, and uniform allowances for officers and enlisted personnel.

However, as with the regular military, special pay for foreign or hazardous duty is subject to tax.

See Publication 3 for a complete list of allowances and payments that are not taxable. It also lists payments and bonuses that are taxable to military personnel.

2) I am a member of the U.S. Armed Forces assigned overseas. Do I have to file my return by April 15?

No. U.S. military personnel on duty outside the United States and Puerto Rico on the due date of their return are allowed an automatic extension until June 15 for filing their federal income tax return. This means that if your return is due April 15, 1996, you have until June 17, 1996 (June 15 falls on a Saturday), to file your return. Interest on any

unpaid tax will be charged from April 15.

For married persons filing a joint return, only one spouse needs to meet the requirement to qualify for the extension.

If you use the 2-month extension to June 15, attach a statement to your return explaining how you qualify. Interest on unpaid tax will be charged from April 15.

You may also have additional time to file beyond the June 15 extended filing date. See your tax form instructions or Publication 3 for more information.

3A) Because I am a reservist called to active military duty, I am unable to pay past due federal income taxes that I owe. Can I get an extension of time to pay an income tax assessment for these back taxes?

Yes. You may be able to qualify for an extension. Reservists called to active duty and regular military personnel may request a deferment of the collection of past due tax. If granted, no penalty or interest will be charged on the back taxes for the period of time the deferment is in effect.

You have to meet certain conditions to be eligible for a deferment. In addition, approval for the deferment must be granted by the IRS. To qualify for a deferment, you have to be serving in your "initial period of service," and you have to show that your ability to pay the back taxes has been "materially impaired."

The "initial period of service" is defined as the period of active duty following recall to active duty from an inactive reserve or National Guard unit. For regular military personnel, it is the period following induction or first enlistment in the armed forces or the first period of reenlistment for a person who has been out of the service for a year or more. For an officer, the initial period of service is limited to two years of active service after one of the above occurrences.

To show "material impairment," you will need to show that your income dropped as a result of going into military service.

3B) How would I seek approval from IRS to defer payment of back income tax if my active reserve duty causes a financial hardship?

If you have a current payment agreement, you must make a written request for deferment to the IRS office where you have the agreement.

If you have received a notice requesting payment, you must make your written request for deferment to the IRS office that issued the notice.

In either of these situations, you must include your name, social security number, monthly income and source of income before military service, current monthly income, military rank, date you entered military service, and date you are eligible for discharge. If possible, enclosing a copy of your orders would be helpful.

The IRS will review your request and advise you in writing of their decision.

Should you need further assistance, you can call the IRS at 1-800-829-1040 to discuss your situation.

3C) How much additional time will I have to pay back taxes if deferment is granted?

If your request for deferment is granted by the IRS, you will be able to defer payment of back taxes until 6 months after the end of your initial period of service.

4A) I have heard a lot about how reservists called to active duty can get the interest rate on any outstanding debt reduced to 6%. Will the IRS also reduce the interest to 6% for back taxes that I owe?

Yes. However, reservists who have been called to active duty generally

will qualify for a deferment of payment on their back taxes, without interest, if their ability to pay has been materially impaired.

In those instances where they do not meet this test, the IRS generally will grant a reduction of interest to the 6% rate on taxes owed before they entered active service. This applies to reservists and regular military personnel during their period of active service.

4B) Will the money I save due to a reduced interest rate on any outstanding debt need to be reported as taxable income on my tax return?

No. The portion of interest you are not charged (the amount over 6%) is not taxable.

However, if you itemize deductions on your tax return, you may end up with smaller interest deductions, particularly for deductible mortgage interest. This would have the effect of increasing your taxable income. You will need to consider whether you should make adjustments to withholding or estimated tax payments to make sure you paid enough tax prior to filing.

5) Will I still be covered by my employer-provided health plan when I report for active duty as a reservist?

Any employer who provides employee health plan coverage, including a group health plan, must allow the Service member to elect to continue personal coverage and coverage for his or her dependents during the Service member's absence for up to 18-months **or** the day after the date the person is required to apply for, or return to, a position of employment and fails to do so, whichever occurs first. A person who elects to continue health plan coverage may be required to pay up to 102 percent of the full premium under the plan. However, a person on active duty for less than 31 days cannot be required to pay more than the employee share, if any, for the coverage.

6) I sold my house just before I was called up to active duty. How long do I have to replace it and still postpone tax on the gain?

The general rule is that you can postpone paying tax on capital gains from the sale of a principal residence if you buy a new one within 2 years before or 2 years after you sold the old one. If you are on extended active duty in the Armed Forces, the time for replacing your old residence is extended for 2 more years. This extension allows you up to 4 years after selling an old residence to replace it and still postpone the gain. Extended active duty is defined as a call up for more than 90 days or for an indefinite period.

If you are on extended active duty **outside** the United States, the replacement period described above is suspended until 1 year after the last day you are stationed outside the country. However, the total replacement period is limited to 8 years after you sold your old residence.

If you served in the Persian Gulf area combat zone, the time for replacing your residence is further extended for the time you served in the combat zone plus 180 days. See question 24 in Part I.

7A) Because my wife is being called up to active military reserve duty, it will not be easy to get her signature on tax returns or other documents. Will the IRS accept my signature only?

No. On a joint income tax return, the signatures of both husband and wife are needed. To avoid mailing tax documents to your spouse to obtain a signature, the IRS encourages taxpayers in this situation to obtain a power of attorney. This empowers someone else to sign the income tax return on behalf of a taxpayer who is unable to do so because of absence or disability.

A properly completed Form 2848, *Power of Attorney and Declaration of Representative*, should be used for this purpose. However, the

IRS will accept a properly completed general power of attorney that specifically authorizes a person to prepare, execute, and file income tax returns. A copy of the power of attorney should be attached to any return or document which you are signing for your spouse.

7B) My brother is currently serving on active duty. Before he left, he completed a general power of attorney form provided by his reserve unit. This authorizes me generally to act for my brother and specifically to prepare, execute, and file income tax returns. Yesterday, I received a letter from the IRS stating that an adjustment had been made to his 1993 tax return. Will this power of attorney allow me to discuss this account with IRS?

Yes. However, you will need to provide the IRS office that you contact

with a copy of the general power of attorney.

8) My husband is a civilian working in Saudi Arabia on nonmilitary projects. Until this year he always prepared our tax returns. Now that he's not home, where can we get help?

Free help is available from IRS tax assistants by calling 1-800-829-1040. You can also call 1-800-829-3676 to order any of the nearly 150 free tax information publications or call 1-800-829-4477 to listen to a series of recorded tax information tapes.

During the January through April 15 tax filing season, Volunteer Income Tax Assistance (VITA) is available throughout the country to help persons with relatively simple tax returns. During that time, you

can call 1-800-829-1040 to find the VITA site nearest you.

Taxpayers living abroad can get information about overseas tax assistance locations by calling their nearest U.S. embassy or consulate. In addition, VITA help is offered at numerous U.S. military bases and other overseas locations. Contact your JAG officer or the IRS for more information.

The IRS has overseas offices in Riyadh, Bonn, London, Mexico City, Nassau, Ottawa, Paris, Rome, Santiago, Singapore, Sydney, and Tokyo. Overseas military and civilian taxpayers also can get information and answers to their tax questions by calling the IRS International tax assistance office in Washington, D.C. at 202-874-1460. δ
