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Tax Information for Military Personnel (Including Reservists Called to Active Duty)

For use in preparing
1995 Returns



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Important Changes for 1995

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

- The amount you can earn has increased to \$9,230 with no qualifying children, \$24,396 with one qualifying child, and \$26,673 with two or more qualifying children.
- The credit amount has increased for all three categories listed above.
- 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. Qualifying children born between November 1 and December 31, 1995, must have social security numbers for tax year 1996.
- Untaxed earned income, such as BAQ, BAS, combat pay, and certain in-kind equivalents, will be shown on the W-2s of military personnel in box 13.
- A nonresident alien must be married to a citizen or resident of the United States and agree to be treated as a U.S. resident for U.S. tax purposes to be eligible for the credit.

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

For more information on the EIC, see Publication 596, *Earned Income Credit*.

Introduction

This publication covers the special tax situations of active members of the U.S. Armed Forces. It does not cover military retirees' or veterans' benefits or give the basic tax rules that apply to all taxpayers. If you need the basic tax rules or information on a subject not covered here, you can check our other free publications.

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 your 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. Many of the relief provisions will end at that time.

Useful Items

You may want to see:

Publication

- 54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- 463** Travel, Entertainment, and Gift Expenses
- 501** Exemptions, Standard Deduction, and Filing Information
- 508** Educational Expenses
- 516** Tax Information for U.S. Government Civilian Employees Stationed Abroad
- 519** U.S. Tax Guide for Aliens
- 521** Moving Expenses
- 523** Selling Your Home
- 527** Residential Rental Property
- 529** Miscellaneous Deductions
- 553** Highlights of 1995 Tax Changes
- 555** Federal Tax Information on Community Property
- 559** Survivors, Executors, and Administrators
- 570** Tax Guide for Individuals With Income From U.S. Possessions
- 590** Individual Retirement Arrangements (IRAs)
- 596** Earned Income Credit
- 945** Tax Information for Those Affected by Operation Desert Storm

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
- 2688** Application for Additional Extension of Time To File U.S. Individual Income Tax Return
- 8822** Change of Address
- 9465** Installment Agreement Request

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.

If you have access to a personal computer and a modem, you can also get many forms and publications electronically. See *How To Get Forms and Publications* in your tax package for details.

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.

For federal tax purposes, the U.S. Armed Forces includes commissioned officers and enlisted personnel in all regular and reserve units under control of the Secretaries of the Defense, Army, Navy, and Air Force. The Armed Forces also includes the Coast Guard. It does not include members of the U.S. Merchant Marine or the American Red Cross.

Gross Income

Members of the Armed Forces receive many different types of pay and allowances. Some are includible in gross income while others are excludable from gross income. Includible items are subject to tax and must be reported on your tax return. Excludable items are not subject to tax, but may have to be shown on your tax return.

For information on the exclusion of pay for service in a combat zone and other tax benefits for combat zone participants, see the sections *Combat Zone Exclusion* and *Extension of Deadline*.

Includible Items

These items are includible in gross income, **unless** the pay is for service in a combat zone declared by an Executive Order of the President.

Basic pay for such items as:

- Active duty,
- Attendance at a designated service school,
- Back wages,
- Drills,
- Reserve training, and
- Training duty.

Special pay for such items as:

- Aviation career incentives,

- Diving duty,
- Foreign duty (for serving outside the 48 contiguous states and the District of Columbia),
- Hazardous duty,
- Imminent danger,
- Medical and dental officers,
- Nuclear-qualified officers, and
- Special duty assignment pay.

Bonuses for such items as:

- Enlistment, and
- Re-enlistment.

Payments for such items as:

- Accrued leave,
- Mustering-out payments,
- Personal money allowances paid to high-ranking officers,
- Scholarships such as the Armed Forces Health Professions Scholarship Program (AFHPSP) and similar programs, and
- Student loan repayment from programs such as the General Educational Loan Repayment Program.

Excludable Items

These items are excludable from gross income. The exclusion applies whether the item is furnished in-kind or is a reimbursement or allowance. There is no exclusion for the personal use of a government-provided vehicle.

Living allowances for:

- BAQ (Basic Allowance for Quarters). You can deduct mortgage interest and real estate taxes on your home even if you pay these expenses with money from your BAQ,
- BAS (Basic Allowance for Subsistence),
- Housing and cost-of-living allowances abroad whether paid by the U.S. Government or by a foreign government, and
- VHA (Variable Housing Allowance).

Family allowances for:

- Certain educational expenses for dependents,
- Emergencies,
- Evacuation to a place of safety, and
- Separation.

Death allowances for:

- Burial services,
- Death gratuity payments to eligible survivors, and
- Travel of dependents to burial site.

Moving allowances for:

- Dislocation,

Move-in housing,
Moving household and personal items,
Moving trailers or mobile homes,
Storage, and
Temporary lodging and temporary lodging expenses.

Travel allowances for:

Annual round trip for dependent students,
Leave between consecutive overseas tours,
Reassignment in a dependent-restricted status, and
Transportation for you or your dependents during ship overhaul or inactivation.

Other payments for:

Defense counseling,
Disability,
Group-term life insurance,
Professional education,
ROTC educational and subsistence allowances,
Survivor and retirement protection plan premiums,
Uniform allowances paid to officers, and
Uniforms furnished to enlisted personnel.

In-kind military benefits such as:

Legal assistance,
Space-available travel on government aircraft,
Medical/dental care, and
Commissary/exchange discounts.

Missing Status

Compensation is excluded from income if it is received for active service as a member of the U.S. Armed Forces or as a civilian federal employee while in a missing status because of the Vietnam conflict. The full exclusion is allowable to commissioned officers as well as to enlisted personnel and civilian employees.

An individual is in a missing status because of the Vietnam conflict if immediately before being declared missing, the individual was performing service in Vietnam or in Southeast Asia in direct support of military operations in Vietnam. The status continues as long as the member or employee is officially carried as missing. Missing status does not include any period a member of the Armed Forces is officially absent from a post of duty without authority.

Foreign Earned Income

Certain taxpayers can exclude up to \$70,000 of income earned in each year in foreign countries. However, this foreign earned income exclusion **does not** apply to the wages and salaries of military and civilian employees of

the U.S. Government. U.S. Government employees include those of Armed Forces post exchanges, officers' and enlisted personnel clubs, Embassy commissaries, and similar personnel paid from nonappropriated funds. Other foreign income earned by military personnel or their spouses may be eligible for the foreign earned income exclusion.

For more information on the exclusion, get Publication 54, *Tax Guide for U.S. Citizens and Resident Aliens Abroad*.

Residents of American Samoa may be able to exclude income from certain possessions. This possession exclusion does not apply to wages and salaries of military and civilian employees of the U.S. Government. If you need information on the possession exclusion, get Publication 570, *Tax Guide for Individuals With Income From U.S. Possessions*.

Community Property

The pay you earn as a member of the Armed Forces may be subject to community property laws depending on your **marital status**, your **domicile**, and the **nature of the payment**. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

Marital status. Community property rules apply to married persons whose domicile during the tax year was in a community property state. The rules may affect your tax liability if you file separate returns or are divorced during the year.

Domicile. Your domicile is a permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. It is not always where you presently live.

Nature of the payment. Active duty military pay is subject to community property laws. Armed Forces retired or retainer pay may be subject to community property laws.

For more information on community property laws, get Publication 555, *Federal Tax Information on Community Property*.

Adjustments to Income

There are certain adjustments to income you can take. For purposes of a deduction for contributions to an Individual Retirement Arrangement (IRA), Armed Forces members (including reservists on active duty for more than 90 days) are considered to be active participants in an employer-maintained retirement plan.

Individuals serving in the U.S. Armed Forces or in support of the U.S. Armed Forces in designated "combat zones" have additional time to make a qualified retirement contribution to an IRA. For more information on this extension of deadline provision, see *Extension of*

Deadline, later. For information on IRAs, get Publication 590, *Individual Retirement Arrangements (IRAs)*.

Moving Expenses

To deduct moving expenses, you must generally meet certain time and distance tests. However, members of the Armed Forces who move because of a permanent change of station do not have to meet these tests. In addition, unlike civilian employees, members of the Armed Forces do not report the value of moving reimbursements unless the reimbursements are more than the expenses. Moving expenses are reported on Form 3903, *Moving Expenses*, or Form 3903-F, *Foreign Moving Expenses*.

Permanent change of station. A permanent change of station includes:

- 1) A move from home to the first post of active duty,
- 2) A move from one permanent post of duty to another, and
- 3) A move from the last post of duty to your home or to a nearer point in the United States if you move within one year of ending active duty or according to the Joint Travel Regulations.

Desertion, imprisonment, or death. If a member of the Armed Forces deserts, is imprisoned, or dies, a permanent change of station for the spouse or dependent includes a move to the place of enlistment or to the member's, spouse's, or dependent's home of record or nearer point in the United States.

Separate moves. If the government moves you and your spouse or dependents to or from separate locations, the moves are considered a single move to your post of duty. All expenses are combined.

Reimbursements. Do not include in income the value of moving and storage services provided by the government in connection with a permanent change of station. Similarly, do not include in income amounts received as a dislocation allowance, temporary lodging expense, temporary lodging allowance, or move-in housing allowance. Because these allowances are excluded from gross income, you may not deduct the expenses incurred in connection with a permanent change of station if you paid them from an excluded allowance. You may still deduct other nonreimbursed moving expenses. However, if you receive reimbursements or allowances (other than those mentioned above) from the government that are more than your actual moving expenses, include the excess in income.

If you must relocate and your spouse and dependents move to or from a different location, do not include in income reimbursements, allowances, or the value of moving and storage services provided by the government to move you and your spouse and dependents to and from the separate locations.

Do not deduct any expenses for moving services that were provided by the government, or that were reimbursed to you, that you did not include in income.

Deductible moving expenses. You can deduct only reasonable unreimbursed moving expenses that are incurred by you and members of your household. A member of your household is anyone who has both your former and your new home as his or her home. It does not include a tenant or employee, unless you can claim that person as a dependent. You cannot deduct costs for unnecessary side trips or lavish and extravagant lodging.

You can deduct expenses (if not reimbursed or furnished in-kind) for:

- 1) **Moving household goods and personal effects**, including expenses for hauling a trailer, packing, crating, in-transit storage, and insurance. You **cannot** deduct expenses for moving furniture or other goods you bought on the way from the old home to the new home.
- 2) **Reasonable travel and lodging expenses** from the old home to the new home, including automobile expenses (either actual expenses or 9¢ a mile), and air fare. You cannot deduct any expenses for meals.

Foreign moves. A foreign move is one from the United States or its possessions to a foreign country, or from one foreign country to another foreign country. It is **not** a move from a foreign country to the United States or its possessions.

For a foreign move, the deductible moving expenses described earlier include the reasonable expenses of:

- 1) Moving your household goods and personal effects to and from storage, and
- 2) Storing these items for part or all of the period during which the new place of work continues to be your principal place of work.

Reporting moving expenses. Figure moving expense deductions on Form 3903 for moves to a home in the United States or its possessions, even if you are moving from a location overseas. Use Form 3903-F if the home to which you are moving is outside the United States or its possessions. Carry the deduction from Form 3903 or Form 3903-F to line 24, Form 1040. For more information, get Publication 521 and see the Form 3903 instructions.

Combat Zone Exclusion

If you are a member of the U.S. Armed Forces who serves in a combat zone (defined later), you may exclude certain pay from your income. You do not have to receive the pay while in a combat zone, while you are

hospitalized, or in the same year of service in a combat zone. However, your entitlement to the pay must have fully accrued in a month during which you served in the combat zone or were hospitalized as a result of wounds, disease, or injury incurred while serving in the combat zone. Enlisted personnel, warrant officers, and commissioned warrant officers exclude the following amounts from their income (officer personnel are discussed later).

- 1) Active duty pay earned in any month you served in a combat zone.
- 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 and pensions do not qualify for the combat zone exclusion.

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 engaging or have 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.

This combat zone is referred to in this publication as the Persian Gulf area combat zone.

Serving in a Combat Zone

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 member, warrant officer, or 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 specific disease after serving in a combat zone for 3 weeks, 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 (other than a commissioned warrant officer), you may 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.

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

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.

Alien Status

For tax purposes, an alien is an individual who is not a U.S. citizen. An alien is in one of three categories: resident, nonresident, or dual-status. Determining the correct status is crucial in determining what income to report and what forms to file. For details about alien status other than the information given next, get Publication 519, *U.S. Tax Guide for Aliens*.

Most members of the Armed Forces are U.S. citizens or resident aliens. However, if you have questions about your alien status or the alien status of your dependents or spouse, you should read the following section.

Under peacetime enlistment rules, you generally cannot enlist in the Armed Forces unless you are a citizen or have been legally admitted to the United States for permanent residence. If you are an alien enlistee in the Armed Forces, you are probably a resident alien. If, under an income tax treaty, you are considered a resident of a foreign country, see your base legal officer. Other aliens who are in the United States only because of military assignments and who have a residence outside the United States are nonresident aliens. Guam and Puerto Rico have special rules. Residents of those

areas should contact their taxing authority with their questions.

Resident Aliens

You are considered a U.S. resident alien for tax purposes if you meet either the **green card test** or the **substantial presence test** for the calendar year (January 1–December 31). These tests are explained in Publication 519. Generally, resident aliens are taxed on their worldwide income, just like U.S. citizens, and file the same forms as U.S. citizens.

Treating nonresident alien spouse as resident alien.

A nonresident alien spouse can be treated as a resident alien if **all** the following conditions are met:

- 1) One spouse is a U.S. citizen or resident alien at the end of the tax year.
- 2) That spouse is married to the nonresident alien at the end of the tax year.
- 3) You **both** choose to treat the nonresident alien spouse as a resident alien.

Making the choice. You must both sign a statement and attach it to your joint return for the first tax year for which the choice applies. Include on the statement:

- 1) A declaration that one spouse was a nonresident alien and the other was a U.S. citizen or resident alien on the last day of the year.
- 2) A declaration that both spouses choose to be treated as U.S. residents for the entire tax year.
- 3) The name, address, and social security number of each spouse.

Once you make this choice, the nonresident alien spouse's worldwide income is subject to U.S. tax. If the nonresident alien spouse has substantial foreign income, there may be no advantage to making this choice.

Ending the choice. Once you make this choice, it applies to all later years unless one of the following situations occurs:

- 1) You or your spouse revokes the choice.
- 2) You or your spouse dies.
- 3) You and your spouse become legally separated under a decree of divorce or separate maintenance.
- 4) The Internal Revenue Service ends the choice because of inadequate records.

For specific details on these situations, get Publication 519.

If the choice is ended for any of these reasons, neither spouse can make a choice for any later year. This applies to a divorced individual who previously made the choice and later remarries.

Choice not made. If you and your nonresident alien spouse do not make this choice:

- You cannot file a joint return. You can file as married filing separately, or head of household, if you qualify.
- You can claim an exemption for your nonresident alien spouse if he or she has no gross income for U.S. tax purposes and is not another taxpayer's dependent (see *Dependency Exemptions*, later).
- The nonresident alien spouse generally does not have to file a federal income tax return if he or she had no income from sources in the United States. If a return has to be filed, see the next discussion.
- The nonresident alien spouse is not eligible for the earned income credit.

Nonresident Aliens

A nonresident alien is an individual who does not meet the requirements for being considered a resident alien as discussed earlier. If required to file a federal tax return, nonresident aliens must file either Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, or Form 1040NR-EZ, *U.S. Tax Return for Certain Nonresident Aliens with No Dependents*. See the form instructions for information on who must file and filing status.

Nonresident aliens generally must pay tax on income from sources in the United States. A nonresident alien's income that is from conducting a trade or business in the United States is taxed at regular U.S. tax rates. Other income from U.S. sources is taxed at a 30% rate or a lower treaty rate, if it applies. For example, dividends from a U.S. corporation paid to a nonresident alien generally are subject to a 30% (or lower treaty) rate.

Dual-Status Aliens

An alien may be both a nonresident and resident alien during the same tax year, usually the year of arrival or departure. Dual-status aliens are taxed on income from all sources for the part of the year they are resident aliens. Generally, they are taxed only on income from sources in the United States for the part of the year they are nonresident aliens.

Dependency Exemptions

Exemptions reduce your income subject to tax. For 1995, you generally can deduct \$2,500 for each exemption you claim for yourself, your spouse, and each person who qualifies as your **dependent**. If another taxpayer can claim an exemption for you or your spouse, you cannot also claim the exemption on your tax return. If you can claim an exemption for a dependent, that dependent cannot claim a personal exemption on his or her own tax return.

To claim a dependent on your tax return, you must list the social security number for dependents born before November 1, 1995. If you do not provide a dependent's social security number when the form asks for it, or if you

list an incorrect number, you may be subject to a \$50 penalty. This penalty may be waived if you can show reasonable cause for not providing your dependent's social security number.

Dependents

A person is your **dependent** if all 5 of the following tests are met:

- Member of household or relationship test,
- Citizenship test,
- Joint return test,
- Gross income test, and
- Support test.

For specific information on these tests, get Publication 501, *Exemptions, Standard Deduction, and Filing Information*.

For the **member of household or relationship** test, the person must be related to you or be a member of your household for the entire year.

For the **joint return** test, the person generally cannot file a joint return.

For the **gross income** test, the person must have gross income of less than \$2,500. This test does not apply if the person is your child and is under age 19 or is a full-time student under age 24.

The **citizenship** test and the **support** test are of special interest to members of the Armed Forces. They are discussed next.

Citizenship Test

To be considered your dependent, the person must be a U.S. citizen or resident, or a resident of Canada or Mexico.

Your child. Children are usually citizens or residents of the country of their parents.

Child born in a foreign country. If you were a U.S. citizen when your child was born, the child may be considered a U.S. citizen for tax purposes. This applies even if the other parent was a nonresident alien (see *Aliens*, earlier) and the child was born in a foreign country.

Child living abroad. You can claim your child's exemption if the child is a U.S. citizen and meets the other dependency tests. It does not matter if the child lives abroad with the nonresident alien parent.

Legal adoption. If you legally adopt a child who is not a U.S. citizen, you can claim the child's exemption if the other dependency tests are met and the child has your home as his or her main home and is a member of your household for the entire year.

Example. Sergeant John Smith is a U.S. citizen and has been in the U.S. Army for 16 years. He is stationed in Germany. He and his wife, a German citizen, have a 2-year-old son who was born in Germany and who has dual citizenship — U.S. and German. Sgt. Smith's stepdaughter, a German citizen whom Sgt. Smith has not

adopted, also lives with them. Only his son can be considered a U.S. citizen for whom a dependency exemption can be claimed. His stepdaughter does not qualify as a U.S. citizen or resident.

Support Test

To be considered your dependent, the person must receive more than half of his or her support from you during the year. To figure if you provided more than half the support of a person, you must first determine the total support provided for that person.

Total support includes amounts spent to provide food, lodging, clothing, education, medical and dental care, recreation, transportation, and similar necessities.

Generally, the amount of an item of support is the amount of the expense incurred in providing that item. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among members of the household. If the item is property or lodging, the amount of such item is its fair rental value.

Divorced or separated parents. Different rules apply to the support test for children of divorced or separated parents. These rules are discussed in Publication 501.

Dependency allotments. You can authorize an allotment from your pay for the support of your dependents. The amount is considered provided by you in figuring whether you provide more than half the dependent's support.

If an allotment is used to support persons other than those you name, you can claim their exemptions if they otherwise qualify as your dependents.

Example. Army Sergeant Jeff Banks authorizes an allotment for his widowed mother. She uses the money to support herself and Jeff's 10-year-old sister. If that amount provides more than half of their support, Jeff can claim an exemption for each of them, even though he only authorized the allotment for his mother.

Dependent in the Armed Forces. Generally, a person who is in the Armed Forces or is at one of the Armed Forces academies for the entire year cannot be claimed as a dependent because the support test will not have been met. However, if your dependent receives only partial support from the Armed Forces, you can still claim the exemption if you provided more than half of his or her support and the other dependency tests are met.

Example. Leslie James is 18 and single. She graduated from high school in June 1995 and entered the U.S. Air Force in September 1995. Leslie provided \$4,400 (her wages of \$3,400 and \$1,000 for other items of support provided by the Air Force) for her support that year. Her parents provided \$4,100. Her parents cannot claim a dependency exemption for her for 1995 because they did not provide more than half of her support.

Sale of Home

If you sell your home, get Publication 523, *Selling Your Home*. The rules discussed in that publication apply to all taxpayers.

You may have to pay tax on all or part of the gain from the sale of your home. But you must postpone paying tax on some or all of the gain if you meet certain requirements. One requirement is that you buy and live in a new home within the replacement period. As a member of the Armed Forces, your replacement period after the sale of your old home is suspended for a limited time if you are on extended active duty. An even longer suspension period may apply if you are on an overseas assignment. These replacement periods are discussed next.

The other requirement depends on the cost (including construction costs) of the new home and the sales price of the old home. This is discussed in detail in Publication 523.

If you sell your home, you must file Form 2119, *Sale of Your Home*, even if you are postponing the payment of tax on the gain.

Replacement Period

When you sell your home and replace it with another, you must buy (or build) and live in the new home within a specified period of time (replacement period) to be able to postpone tax on any gain from the sale of the old home.

The **normal replacement period** is 2 years before or 2 years after the date of sale of the old home. This replacement period is suspended for members of the Armed Forces, as described under *Extended active duty, Overseas assignment, or Operation Desert Shield/Desert Storm*, later.

If you have a gain on the sale of your old home and do not replace it within the replacement period, you have no more time to do so. This is true even if the delay is from conditions beyond your control, such as a military requirement to live in government quarters for a period that is longer than the suspended replacement period.

Caution: If you sell your old home and do not plan to replace it, you must include the gain in income for the year of sale. If you later buy (or build) and live in another home within the replacement period and meet the requirements to postpone gain, you will have to file an amended return (Form 1040X) for the year of the sale to claim a refund. An amended return can be filed by the later of:

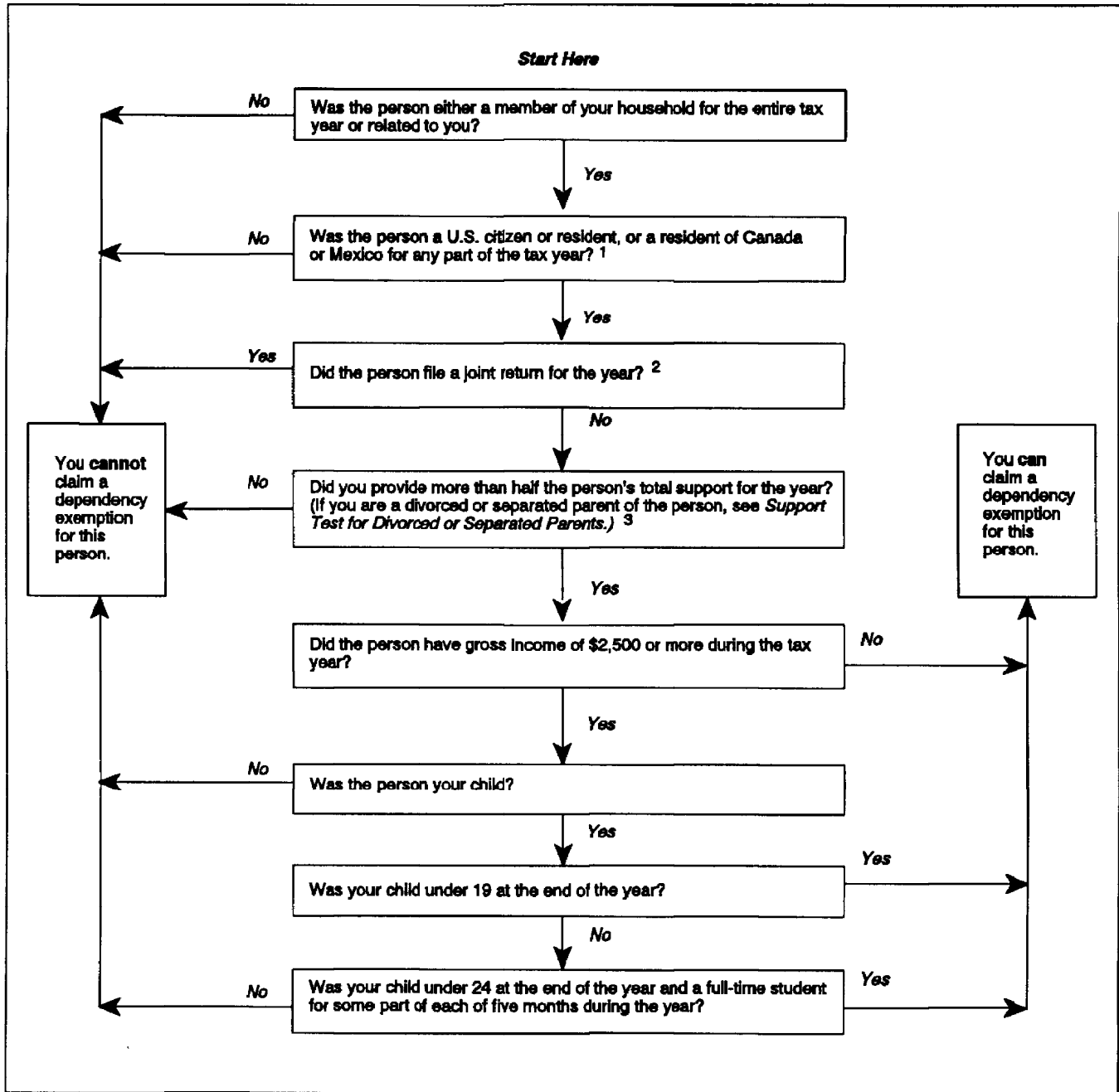
- 1) 3 years from the date the return was filed, or
- 2) 2 years from the date the tax was paid.

A return filed before the due date is treated as filed on the due date.

You may be entitled to additional time beyond the normal replacement period if you:

- 1) Serve on extended active duty (discussed later),

Figure A. Can You Claim a Dependency Exemption?



¹ If the person was your legally adopted child and lived in your home as a member of your household for the entire tax year, answer "yes" to this question.

² If neither the person nor the person's spouse is required to file a return but they file a joint return to claim a refund of tax withheld, you may answer "no" to this question.

³ Answer "yes" to this question if you meet the multiple support requirements under *Multiple Support Agreement*.

- 2) Serve a tour of duty outside the United States (discussed later), or
- 3) Served in the Persian Gulf area combat zone (discussed later).

This extended replacement period may cause difficulties if you have already paid the tax on the gain from the sale of your old home. If you are entitled to any of the extended replacement periods (listed above), the replacement period may go beyond the last date you can file an amended return claiming a refund for the year of sale. If a possibility exists that you may purchase another home during the extended replacement period, you should file a **protective claim for refund**. You should file this claim at the time the return for the year of sale is filed or anytime within the period allowed for filing an amended return for the year of sale. Publication 523 explains how to file a protective claim.

You must physically live in the new home as your main home within the required period. If you move furniture or other personal belongings into the new home but do not actually live in it, you do not meet this requirement.

Extended active duty. This means you are called or ordered to duty for an indefinite period or for a period of more than 90 days. If you are on extended active duty, your replacement period after the sale of your old home is suspended. The suspension applies only if your extended active duty begins before the 2-year period after the sale ends. Your replacement period plus any period of suspension is limited to 4 years from the sale of your old home. If your duty is outside the United States, see *Overseas assignment* or *Operation Desert Shield/Desert Storm*, next.

Example 1. John Guy sold his home on April 2, 1995. On July 2, 1995, he entered the Armed Forces on active duty, and he will be released on July 1, 1999. He must replace his home by April 2, 1999. This is a total replacement period of 4 years (3 months before he joined the Armed Forces, plus 3 years and 9 months of the time he was on active duty). The replacement period cannot exceed 4 years.

Example 2. Use the same facts as in the previous example except that John will be released on January 1, 1997. He must replace his home by October 2, 1998. This is a total replacement period of 3½ years (3 months before he joined the Armed Forces, plus the 1 year and 6-month suspension while he was on active duty, plus the 1 year and 9 months after his discharge).

Overseas assignment. If you are on extended active duty outside the United States, your replacement period is suspended while you are overseas and up to 1 year after the last day you are stationed overseas. However, your total replacement period cannot be more than 8 years after you sell your old home.

Example. Lieutenant Virginia Rogers sells her condominium on July 1, 1991. From January 1, 1993, to

March 31, 1999, she is on an overseas assignment. She must replace her home by July 1, 1999. This is a total replacement period of 8 years (1½ years before she left on an overseas assignment, plus the 6-year and 3-month suspension while she was on an overseas assignment, plus 3 months after she returned from her overseas assignment). She does not have 1 full year after returning from overseas because the total replacement period cannot be more than 8 years.

Remote site. If you return from an overseas assignment and must live in on-base quarters because adequate off-base housing is unavailable at the remote site, your replacement period is suspended while you must live in these quarters and up to 1 year after the last day you had to live in these quarters. To qualify for this provision, the Secretary of Defense must determine that adequate off-base housing is unavailable at the remote site. However, the total replacement period, including the time you are overseas and at the remote site, cannot be more than 8 years after you sell your old home.

Example. Lieutenant Sam Green sells his home on August 1, 1991. He was on an overseas assignment from January 1, 1992, to May 31, 1995. On returning to the United States, he is stationed at a remote site and must live in on-base housing until December 31, 1996, because off-base housing is not available. He must replace his home by July 31, 1999. This is a total replacement period of 8 years (5 months before he left on an overseas assignment, plus the 3-year and 5-month suspension while he was on an overseas assignment, plus the 1-year and 7-month suspension while he had to live in on-base quarters at the remote site after returning from his overseas assignment, plus the 1-year suspension after the last day he had to live in on-base quarters, plus 1 year and 7 months).

Operation Desert Shield/Desert Storm. The running of the replacement period (including any period of suspension) is suspended for any period you served in the Persian Gulf area combat zone. For this suspension, the designation of the area as a combat zone is effective August 2, 1990.

If you performed military service in an area outside the combat zone but in direct support of military operations in the combat zone **and** you received special pay for duty subject to hostile fire or imminent danger, you are treated as if you served in the combat zone.

This suspension ends 180 days after the later of:

- 1) The last day you were in the combat zone (or if earlier, the last day the area qualified as a combat zone), or
- 2) The last day of any continuous hospitalization (limited to 5 years if hospitalized in the U.S.) for an injury sustained while serving in the combat zone.

Example. Sergeant James Smith, on extended active duty in an Army unit stationed in Virginia, had a gain from the sale of his home on June 4, 1991. He had not yet purchased a replacement home when he entered

the Persian Gulf area combat zone on September 4, 1991. He left the combat zone on May 4, 1992, and returned with his unit to Virginia. He remains on active duty in Virginia.

Sergeant Smith's replacement period began on June 4, 1991, the date he sold the home. His replacement period would have ended 4 years later on June 4, 1995. When he entered the combat zone on September 4, 1991, Sergeant Smith had used 3 months of the replacement period.

The replacement period was then suspended for the time he served in the combat zone plus 180 days. The replacement period started again on November 1, 1992, after the end of the 180 day period (May 5, 1992, to October 31, 1992) following his last day in the combat zone. Sergeant Smith then has 45 months remaining in his replacement period (4 years minus the 3 months already used). His replacement period will end July 31, 1996 (45 months after October 31, 1992).

For information on other tax benefits available to those who served in a combat zone, get Publication 945, *Tax Information for Those Affected by Operation Desert Storm*.

Spouse. This suspension generally applies to your spouse (even if you file separate returns). However, any suspension for hospitalization within the U.S. does not apply to your spouse. Also, the suspension for your spouse does not apply for any tax year beginning more than 2 years after the last day the area qualified as a combat zone.

Married taxpayers. As long as one spouse is a member of the Armed Forces, the suspension of the replacement period applies whether the old home is owned by one of the spouses or by both spouses. However, both the old home and the new home must be used by both spouses as their main home.

If you are divorced or separated during the suspension period, the suspension period ends for the nonmilitary member spouse on the day of the divorce or separation.

Special Situations

Some special situations about home ownership can affect military personnel.

Rental. If you *temporarily* rent out either your old home before selling it or your new home before moving into it (for convenience or for some other *nonbusiness* purpose), you can still postpone paying tax on the gain under the rules just discussed. If you own rental property, even if it once was your main home, get Publication 527, *Residential Rental Property*.

Example. Chief Petty Officer Ellen Glynn transfers from San Diego to Norfolk. She engages a real estate agent to sell her house and moves to Norfolk. Three months later, the house in San Diego has not been sold. The real estate agent suggests renting the San Diego

house, and Ellen does so while still trying to sell it. Eight months later, the house is sold. The house in San Diego is her old home, not rental property, so Ellen can postpone paying tax on any gain on the sale.

Property used for business. Some taxpayers use part of their home for business. For example, a military member's spouse uses a room of their house for a pet-grooming business. If the house is sold, the rules for postponing the tax apply only to the part used as a home. Rules for the sale of business property apply to the part used for business. To determine what part of the gain to treat each way, see *Property used partly as your home and partly for business or rental*, under *Old Home*, in Publication 523.

More than one main home. If you buy more than one main home during the *normal* replacement period, only the last home bought can qualify as your new home for the purpose of postponing the tax. All other homes bought and sold during the replacement period are subject to the regular capital gain and loss rules. However, see *Exception for work-related move*, next.

Exception for work-related move. If you sell your main home because of a work-related move for which moving expenses are deductible (see *Deductible Moving Expenses*, earlier), you can postpone paying tax on the gain on the sale of more than one home during the replacement period.

Example. Sergeant Steve Foster sold his home in Washington, D.C., in November 1994 for \$120,000 when he was transferred to Salem, Massachusetts. In December 1994, he bought a home in Salem for \$135,000. In June 1995, he was transferred to Jacksonville, Florida. He then sold his home in Salem for \$140,000 before purchasing one in Jacksonville for \$145,000. He postponed paying tax on the gain on the sale of the Washington home based on the purchase price of the replacement home in Salem, and he postponed paying tax on the gain on the sale of the Salem home based on the purchase price of the home in Jacksonville.

Caution. As this publication was being prepared for print, Congress was considering tax law changes that could affect your 1995 tax return and 1996 estimated taxes. These changes include the sale of your home. See Publication 553, *Highlights of 1995 Tax Changes* for further developments. Information on these changes will also be available electronically through our bulletin board or via Internet (see page 34 of the Form 1040 instructions).

Itemized Deductions

To figure your taxable income, you must subtract either your standard deduction or your itemized deductions from adjusted gross income. For information on the

standard deduction, get Publication 501, *Exemptions, Standard Deduction, and Filing Information*.

Itemized deductions are figured on Schedule A (Form 1040). This chapter discusses itemized deductions of particular interest to members of the Armed Forces. For information on other itemized deductions, get the publications listed below.

Publication 502, *Medical and Dental Expenses*

Publication 526, *Charitable Contributions*

Publication 547, *Nonbusiness Disasters, Casualties, and Thefts*

Publication 550, *Investment Income and Expenses*

Miscellaneous Itemized Deductions

Most miscellaneous itemized deductions are deductible only if they total more than 2% of your adjusted gross income. For information on deductions that are not subject to the 2% limitation, get Publication 529, *Miscellaneous Deductions*.

Note: You must reduce deductible expenses by any allowance or reimbursement you receive to pay for them.

Employee Business Expenses

Beginning in 1995, the standard mileage rate has been increased to 30 cents for each mile of business use.

Deductible employee business expenses are miscellaneous itemized deductions subject to the 2% limit. For information on employee business expenses, get Publication 463, *Travel, Entertainment, and Gift Expenses*, and Publication 917, *Business Use of a Car*.

Generally, you must file Form 2106, *Employee Business Expenses*, or Form 2106-EZ, *Unreimbursed Employee Business Expenses*, to claim these expenses. You do not have to file Form 2106 or Form 2106-EZ if you are claiming only expenses for uniforms, professional society dues, and work-related educational expenses (all discussed later). You can deduct these expenses directly on Schedule A (Form 1040).

Reimbursement. Generally, to receive reimbursement, per diem, or another allowance from the government, you must adequately account for your expenses and return any excess reimbursement. Therefore, the amount you receive is not included on your Form W-2 and the expenses for which you receive this reimbursement are not deductible.

If your expenses exceed your reimbursement, the excess expenses are deductible (subject to the 2% limit) if you can substantiate them. If this is your situation, you must file Form 2106.

You may be able to use Form 2106-EZ if you meet both of the following conditions.

- 1) You were not reimbursed for your expenses, or if you were reimbursed, the reimbursement was included in your income in box 1 of your Form W-2.
- 2) If you claim car expenses, you use the standard mileage rate.

Travel expenses. You can deduct unreimbursed travel expenses only if they are incurred while traveling **away from home**. To be deductible, your travel expenses must be work related. You cannot deduct any expenses for personal travel, such as visits to family while on furlough, leave, or liberty.

Away from home. Home is your permanent duty station (which can be your ship or base), regardless of where you or your family live. You are away from home if you are away from your permanent duty station substantially longer than an ordinary day's work, and you need to get sleep or rest to meet the demands of your work while away from home.

Common travel expenses include:

- 1) Expenses for meals (subject to the 50% limit), lodging, taxicabs, business telephone calls, tips, laundry, and cleaning while you are away from home on temporary duty or temporary additional duty,
- 2) Expenses of carrying out official business while on "No Cost" orders.

Note. You cannot deduct any expenses for travel away from your tax home if the period of temporary employment is more than one year. For more information, see Publication 463 and Form 2106 instructions.

Reservists. You can deduct travel expenses if you are under competent orders, with or without compensation, and are away from your main place of business overnight to perform drills and training duty.

If you are called to active duty, you can deduct travel expenses if you keep your regular job while on active duty, return to your job after release, and are stationed away from the general area of your regular job or business. However, you can deduct these expenses only if you pay for them at your official military post and only to the extent the expenses exceed BAQ and BAS.

Transportation expenses. Transportation expenses are the costs incurred of getting from one workplace to another while not traveling away from home. These expenses include the costs of operating and maintaining a car, but not meals and lodging. If you must go from one workplace to another while on duty (for example, as a courier or messenger or to attend meetings or briefings) without being away from home, your unreimbursed transportation expenses are deductible. If you must use your own vehicle, you can deduct the expenses of using it. However, the expenses of getting to and from your regular place of work are **not** deductible.

Temporary work location. If you have a regular place of business and commute to a temporary work location, you can deduct the expenses of the daily round-

trip transportation between your residence and the temporary location. A temporary location is one where you work on an irregular or short-term basis (generally a matter of days or weeks).

If you do not have a regular place of business, but you ordinarily work in the metropolitan area where you live, you can deduct daily transportation expenses between your home and a temporary worksite **outside** your metropolitan area. However, you cannot deduct daily transportation costs between your home and temporary worksites within your metropolitan area.

Uniforms. You usually **cannot** deduct the expenses for uniform cost and upkeep. Generally, you **must** wear uniforms when on duty and you **can** wear them when off duty. If military regulations prohibit you from wearing certain uniforms off duty, you can deduct their cost and upkeep, but you must reduce the expenses by any allowance or reimbursement you receive.

Expenses for the cost and upkeep of the following articles are deductible.

- 1) Military fatigue uniforms if you cannot wear them off duty,
- 2) Articles not replacing regular clothing, including insignia of rank, corps devices, epaulets, aiguillettes, and swords, and
- 3) Reservists' uniforms if you can wear the uniform only while performing duties as a reservist.

Professional dues. You can deduct dues paid to professional societies directly related to your military position. For example, Lt. Margaret Allen, an electrical engineer at Maxwell Air Force Base, can deduct professional dues paid to the American Society of Electrical Engineers.

However, you **cannot** deduct amounts paid to an officers' club or a noncommissioned officers' club.

Educational expenses. You can deduct educational expenses if they meet certain rules.

You cannot deduct the cost of travel that is itself a form of education. However, if your educational expenses qualify for a deduction, travel for that education, including transportation, meals (subject to the 50% limit), and lodging, can be deducted. Educational services provided in kind, such as base-provided transportation to or from class, are not deductible.

Qualifications. You **can** deduct educational expenses if the education:

- 1) Is required by your employer or by law or regulations for you to keep your salary, status, or job, or
- 2) Maintains or improves the skills required in your present work.

Even if the above requirements are met, you **cannot** deduct educational expenses if the education is necessary to meet the minimum educational requirements needed to qualify you in your trade or business or is part

of a course of study that will qualify you for a new trade or business, even if you have no plans to enter that trade or business.

Example 1. Lieutenant Commander Mason has a degree in financial management and is in charge of base finance at her post of duty. She incurred educational expenses to take an advanced finance course. She can deduct educational expenses that are more than the educational allowance she received because she already meets the minimum qualifications of her job. By taking the course, she is improving skills in her current position. The course does not qualify her for a new trade or business.

Example 2. Major Williams worked in the military base legal office as a legal intern. He was placed in "excess leave status" by his employer to attend law school. He paid all his educational expenses and was not reimbursed. After obtaining his law degree, he passed the state bar exam and worked as a judge advocate. His educational expenses are not deductible because the law degree qualified him for a new trade or business, even though the education maintained and improved his skills in his work.

If you need more information on educational expenses, get Publication 508, *Educational Expenses*.

Tax Liability

Now that you have determined your gross income, exemptions, and deductions, you can figure your taxable income and tax liability. You can also determine any tax credits you are entitled to. Most tax credits do not have special rules for members of the Armed Forces. However, the **earned income credit**, discussed next, may be of some interest to you.

Earned Income Credit

The earned income credit (EIC) is a special credit for certain persons who work. The credit reduces the amount of tax you owe (if any) and is intended to offset some of the increases in living expenses and social security taxes.

Persons With A Qualifying Child

If you have a qualifying child, you must meet **all** of the following rules to claim the earned income credit:

- 1) You must have a qualifying child who lived with you in the United States for more than half the year (the whole year for an eligible foster child). U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States. To determine if you have a qualifying child, see *Qualifying Child*, later. See *Social security number* and *Birth or death of a child*, later, for more information.
- 2) You must have earned income during the year.

- 3) Your earned income and adjusted gross income must each be less than
 - \$24,396 if you have one qualifying child, or
 - \$26,673 if you have more than one qualifying child. If you do not have a qualifying child and earn less than \$9,230, see *Persons without a qualifying child*.
- 4) Your filing status can be any filing status EXCEPT married filing a separate return. See *Married persons*, later, for an exception.
- 5) You cannot be a qualifying child of another person.
- 6) Your qualifying child cannot be the qualifying child of another person whose adjusted gross income is more than yours.
- 7) You usually must claim a qualifying child who is married as a dependent.
- 8) You did not file Form 2555, *Foreign Earned Income* (or Form 2555–EZ, *Foreign Earned Income Exclusion*) to exclude from your gross income any income earned in foreign countries, or deduct or exclude a foreign housing amount. See Publication 54, *Tax Guide for U.S. Citizens and Resident Aliens Abroad*, for more information.
- 9) You must be married to a U.S. citizen or resident if you are a nonresident alien. In addition, you must choose to be treated as a resident alien for the entire year. See Publication 519 for more information.

Important Note. If you meet *all* these rules, fill out Schedule EIC and attach it to either Form 1040 or Form 1040A. Also complete a separate EIC Worksheet to figure the amount of your credit. If you have a qualifying child, you cannot claim the credit on Form 1040EZ.

Enter “NO” next to line 57 (Form 1040) or line 29c (Form 1040A) if you **cannot** claim the credit because:

- 1) Your total taxable and nontaxable income was \$24,396 or more if you have one qualifying child (or \$26,673 or more if you have more than one qualifying child),
- 2) You were a qualifying child for another person in 1995, or
- 3) Your qualifying child was also the qualifying child of another person whose adjusted gross income is higher than yours.

Social security number. You must provide a correct and valid social security number (SSN) for each qualifying child born before November 1, 1995. Qualifying children born between November 1 and December 31, 1995, must have SSNs for 1996.

If you need to get an SSN, apply for one by filing Form SS–5 with your local Social Security Administration office. It takes approximately two weeks to receive an SSN.

Refund could be delayed. If you did not provide correct and valid SSNs, the processing of your tax return will be delayed.

If the filing deadline is approaching and you still don't have an SSN, you can:

- 1) Request an automatic extension to August 15 (Form 4868). This extension does not give you extra time to pay any tax owed. You should pay any amount you expect to owe to avoid interest or penalty charges (see the instructions for Form 4868), or
- 2) File the return on time without Schedule EIC and file an amended return (Form 1040X) after receiving the SSN.

Married persons. Married persons living apart usually must file a joint return to claim the earned income credit. Even though you are married, you may file as head of household and claim the credit on your return if:

- 1) Your spouse did not live in your home at any time during the last 6 months of the year,
- 2) You paid more than half the cost to keep up your home for the entire year, and
- 3) You and your child lived in the same main home for more than half the year. You must also be entitled to claim your child as your dependent.

You will meet (3), even if you cannot claim your child as your dependent, if:

- You released your claim in writing to the other parent, or
- There is a pre-1985 agreement (decree of divorce or separate maintenance or written agreement) granting the exemption to your child's other parent.

Qualifying Child

You have a qualifying child if your child meets three tests:

- 1) Relationship,
- 2) Residency, and
- 3) Age.

Each test has separate rules.

Important Note. If you do not have a qualifying child and you earned less than \$9,230, you may be able to take the credit. See *Persons without a qualifying child*, later.

Relationship test. To meet the relationship test, the child must be your:

- Son, daughter, or adopted child (or a descendant of your son, daughter, or adopted child—for example, your grandchild),
- Stepson or stepdaughter, or
- Eligible foster child.

Residency test. To meet the residency test:

- A qualifying child must have lived with you for more than half the year (for the whole year if your child is an eligible foster child), and
- The home must be in the United States (one of the 50 states or the District of Columbia). U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States.

Birth or death of a child. You will meet the rule for a child living with you for more than one-half of the year if:

- The child was alive for one-half of the year or less, **and**
- The child lived with you for the part of the year he or she was alive.

If your qualifying child is an eligible foster child, you will meet the rule for a child living with you for the entire year (12 months) if:

- The child was born or died during the year, **and**
- The child lived with you for the part of the year he or she was alive.

Temporary absences. You will meet the residency test if you or the qualifying child is away from home on a temporary absence due to a special circumstance. Examples of a temporary absence include:

- Illness,
- Attending school,
- Business,
- Vacation, or
- Military service.

Note: You may be eligible for the earned income credit if you are absent temporarily only because of military service. To be eligible for the credit, you must plan to return to your main home where your qualifying child lives at the end of your assignment. Service in the Persian Gulf area combat zone is a temporary absence.

Age test. The age test is met if your child is:

- 1) Under age 19 at the end of the year,
- 2) A full-time student under age 24 at the end of the year, or
- 3) Permanently and totally disabled at any time during the tax year, regardless of age.

Qualifying child of more than one person. If you and someone else have the same qualifying child, only the person with the higher adjusted gross income may be eligible to take the credit. This is true even if the person with the higher adjusted gross income does not

meet all the rules to claim the credit. Adjusted gross income is the amount on line 31, Form 1040 or line 16, Form 1040A.

Qualifying child of another person. If you are a qualifying child of another person, you cannot claim the credit—no matter how many qualifying children you have.

Persons without a qualifying child. If you do not have a qualifying child and want to take the credit, you must meet **all** of the following rules:

- 1) You must have earned income during 1995.
- 2) Your earned income and adjusted gross income must each be less than \$9,230.
- 3) Your filing status can be any filing status **except** married filing a separate return. See *Married persons*, discussed earlier, for an exception.
- 4) You cannot be a qualifying child of another person. See *Qualifying child of another person*, earlier.
- 5) You (or your spouse, if filing a joint return) must be at least age 25 but under age 65 at the end of your tax year.
- 6) You cannot be eligible to be claimed as a dependent on anyone else's return.
- 7) Your main home must be in the United States for more than half of the year. U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States.
- 8) You did not file Form 2555, *Foreign Earned Income*, or Form 2555-EZ, *Foreign Earned Income Exclusion*.
- 9) You must be married to a U.S. citizen or resident if you are a nonresident alien. In addition, you must choose to be treated as a resident alien for the entire year.

If you meet **all** these rules, fill out the EIC Worksheet to figure the amount of your credit.

Enter "NO" next to line 57 (Form 1040), line 29c (Form 1040A), or line 8 (Form 1040EZ) if you **cannot** claim the credit because:

- 1) Your total taxable and nontaxable earned income was \$9,230 or more,
- 2) You (and your spouse if filing a joint return) were under age 25 or over age 64,
- 3) Your home was not in the United States for more than half the year, or
- 4) You were a qualifying child of another person in 1995.

Earned Income

For purposes of the earned income credit, earned income includes:

- Wages, salaries, tips,
- Long-term disability benefits you received prior to minimum retirement age,
- Voluntary salary deferrals,
- Quarters and subsistence allowances and in-kind equivalents received by military members,
- Pay for service in a combat zone,
- Net earnings from self-employment, and
- Anything else of value, even if not taxable, that you received for providing services.

For purposes of the earned income credit, the term “quarters and subsistence allowances” means the Basic Allowance for Quarters (BAQ) and the Basic Allowance for Subsistence (BAS) received by military personnel (with respect to grade and status) and the value of meals and lodging furnished in-kind to military personnel residing on military bases. To calculate the value of meals and lodging furnished in-kind, you may assume that the value is equal to the combined BAQ and BAS that the military member would have received had he or she been entitled to the allowance. Beginning in 1995, earned income that is not taxable, such as combat pay, BAQ, BAS, and certain in-kind equivalents, will be reported in box 13 of Form W-2.

Earned income does not include:

- Interest and dividends,
- Social security payments,
- Welfare benefits,
- Pensions or annuities,
- Veterans’ benefits,
- Variable housing allowances,
- Workers’ compensation, or
- Unemployment compensation.

Example 1. Corporal John Andrews and his wife Doris file a joint return for 1995. They have 2 children—Mark who is age 3, and Connie who was born in May of 1995. Their total earned income is \$22,227 (basic pay \$15,264, BAQ \$4,450, BAS \$2,513). John and Doris qualify for the earned income credit.

Example 2. Staff Sgt. Brad Wilson and his wife Judy file a joint return for 1995. They have two children—Angela who is 6 years old and Eric who is 4 years old. Their total earned income is \$29,228 (basic pay \$21,023, which includes \$7,408 nontaxable pay for service in a combat zone, plus BAQ \$5,692 and BAS \$2,513). Even though the Wilsons’ adjusted gross income is \$13,615, they do not qualify for the earned income credit because their total earned income is not less than \$26,673.

Military members should receive a Leave and Earnings Statement at the end of the year that includes some of the pertinent allowance information. You should refer to that statement or your Form W-2 when determining earned income for EIC purposes. You can also contact

your legal assistance office or unit tax advisor if you need additional help.

Advance Earned Income Credit

You must meet the following rules to qualify for the advance earned income credit in 1996:

- 1) Work and earn less than a certain amount. The amount in 1995 was \$24,396. The amount for 1996 will be higher (see Form W-5 for the 1996 amount),
- 2) Have a qualifying child,
- 3) Meet all the rules explained in the instructions for Form W-5, *Earned Income Credit Advance Payment Certificate*, and
- 4) Have investment income of not more than \$2,350.

If you expect to qualify for the earned income credit for 1996, you can choose to get part of the credit in advance by giving a completed Form W-5 to your appropriate finance office. The credit will be included regularly in your pay. The advance payment is only available if you have a qualifying child.

If you received advance earned income credit payments in 1995, you must file either Form 1040 or 1040A for 1995 to report the payments.

How to claim the credit and report the advance payment. To receive your credit, you **must** file a tax return. You can use either Form 1040 or Form 1040A and attach Schedule EIC.

If you file a tax return because you met the gross income filing requirements, had taxes withheld from your wages, or received advance earned income credit payments, enter your earned income credit on line 57, Form 1040 (or line 29c, Form 1040A). Include any advance earned income credit payments you received during the year on line 52, Form 1040 (or line 26, Form 1040A). Form W-2, box 9, shows the amount of advance payments you received during 1995.

IRS will figure your credit for you. There are certain instructions you must follow before the IRS can figure the credit for you. These instructions are in Publication 596.

Decedents

If a member of the Armed Forces dies, a surviving spouse or **personal representative** handles such duties as filing any tax returns and claims for refund of withheld tax or estimated tax. A personal representative can be an executor, administrator, or anyone who is in charge of the decedent’s assets.

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, get 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 for 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 1994. His income tax liability is forgiven for all tax years from 1993 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 applies 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 later 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 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 Form 1040, 1040A, or 1040EZ 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 belongs to each spouse, and the IRS will make the proper division.

Residents of community property states. If the member of the Armed Forces was domiciled in a community property state and the 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 spouse for the years involved.

Filing Returns

This section discusses the special problems military personnel encounter when filing federal tax returns. For information on filing returns for those involved in the Persian Gulf area combat zone, see *Extension of Deadline*, later.

Where to File

Send your federal return to the Internal Revenue Service Center for the place where you reside. For example, Sgt. Kane, who is stationed in Maine but whose permanent home address is in California, should send her federal return to the service center for Maine. 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.

When to File

Most individual tax returns cover a calendar year, January through December. The normal due date for these tax returns is April 15 of the following year. If April 15 falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. For 1995 tax returns, the due date is April 15, 1996.

Extensions

You can receive an extension of time to file your return. Different rules apply if you live within the United States or outside the United States.

Within the United States. You can receive an automatic 4-month extension to file your return by filing Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*. File the application by the normal due date for the return with the service center where you will file your return.

You **cannot** use the automatic extension if:

You choose to have IRS figure the tax, or

You are under a court order to file your return by the regular due date.

The extension of time to file is automatic, and you will not receive any notice of approval. However, if you file Form 4868 late, your request for extension will be denied. The IRS will inform you of the denial.

Having an extension to file does not mean you have an extension to pay any tax due. On Form 4868, you must estimate your tax, taking into account any tax withheld or estimated tax payments. You should (but do not have to) send in any tax due when you file Form 4868. However, if you pay the tax due after the original due date, interest will be charged from the original due date to the date the tax is paid. Enter any amount you send on line 58, Form 1040, add the

amount to the total on line 29d, Form 1040A, or include in the total on line 9, Form 1040EZ.

You will have to pay a late payment penalty unless you pay at least 90 percent of your tax liability by the original due date of the return. This can be paid through withholding, estimated tax payments, or payment accompanying Form 4868. If you are unable to pay the tax owed by the end of the automatic 4-month extension period, you should attach Form 9465, *Installment Agreement Request*, to your return. The IRS will attempt to arrange an installment payment agreement that reflects your ability to pay the tax owed. In addition, you will have to pay interest on any tax due when you file your return. For more details, see the instructions on Form 4868.

Outside the United States and Puerto Rico. If you are a U.S. citizen or resident, you can qualify for an automatic extension of time until June 15 without filing Form 4868 if:

- 1) You live outside the United States and Puerto Rico and your main place of business or post of duty is outside the United States and Puerto Rico.
- 2) You are in military or naval service on an assigned tour of duty outside the United States and Puerto Rico for a period that includes the entire due date of the return.

Interest will be charged on any amount not paid by the normal due date until the date the tax is paid.

If you use this automatic extension, you must attach a statement to the return showing that you met the requirement.

You can request an additional 2-month extension to file by August 15 by filing Form 4868 by June 15. To obtain the additional extension, write "Taxpayer Abroad" in the top margin of the Form 4868.

Joint returns. For married persons filing a joint return, only one spouse needs to meet the requirements to take advantage of the automatic extension to June 15.

Separate returns. For married persons filing separate returns, only the spouse who met the requirements qualifies for the automatic extension.

Additional extension beyond August 15. You can request an extension beyond the 4-month period by filing Form 2688, *Application for Additional Extension of Time To File U.S. Individual Income Tax Return*, or by letter. Except in undue hardship cases, this additional extension will be granted only if Form 4868 has already been filed. Form 2688 or your letter will not be considered if filed after the extended due date. If you file Form 2688 and an extension is granted, and later it is discovered that the information you gave was false or misleading, the extension is void. You may then be subject to a penalty for filing late.

Signing Returns

Generally, you must sign your return. However, if you are overseas or incapacitated, you may grant a **power of attorney** to an agent to file and sign your return.

A **power of attorney** can be granted by filing Form 2848, *Power of Attorney and Declaration of Representative*. In Part I of the form, you must be sure to indicate that you are granting the power to sign the return, the form number, and the tax year for which the form is being filed. Attach the power of attorney to the tax return. If you are acting on behalf of someone serving in the Persian Gulf area combat zone, see *Filing Returns for Combat Zone Participants*, later.

Joint returns. Generally, joint returns must be signed by both spouses. In some cases, however, one spouse may not be able to sign—for example, when a spouse is overseas, in a missing status, incapacitated, or deceased. In some of these situations, a power of attorney may need to be granted for a joint return to be filed.

Spouse overseas. If one spouse is overseas on military duty, there are two options when filing a joint return. One spouse can prepare the return, sign it, and send it to the other spouse to sign early enough so that it can be filed by the due date. Or, the spouse who expects to be overseas on the due date of the return can file Form 2848, specifically designating that the spouse who remains in the United States can sign the return for the absent spouse.

Spouse in missing status. The spouse of a member of the Armed Forces who is in a missing status in a combat zone can still file a joint return. A joint return can be filed for any year beginning not more than 2 years after the end of the combat zone activities. The 2-year limit does not apply to combat zone activities in Vietnam. A joint return filed under these conditions is valid even if it is later determined that the missing spouse died before the year covered by the return.

Spouse incapacitated. If your spouse cannot sign because of disease or injury and tells you to sign, you may sign your spouse's name in the proper space on the return, followed by the words "by (your name), Husband (or Wife)." Be sure to also sign in the space provided for your signature. Attach a dated statement, signed by you, to your return. The statement should include the number of the return you are filing, the tax year, the reason your spouse could not sign, and that your spouse has agreed to your signing for him or her.

Spouse deceased. If one spouse is deceased, the remaining spouse can file a joint return for the year of death, writing in the signature area, "Filing as surviving spouse." If an executor or administrator has been appointed, he or she **and** the surviving spouse must sign the return filed for the decedent.

Refunds

In general, military personnel follow the same rules as other taxpayers concerning tax refunds. See the instructions for your tax form for information on not receiving an expected refund or calling to check on your refund status.

Note: Use Form 8822, *Change of Address*, to notify the IRS if you move or change your address after filing your return. This form is available by calling 1-800-829-3676 or by writing to the IRS Forms Distribution Center for your area.

Extension of Deadline

Note. Certain periods of time are disregarded in determining whether certain tax matters are taken care of on time. For ease of understanding, this publication refers to such provisions as extensions of deadlines. These “deadline extensions” 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 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 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 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 the 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 may 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*, earlier.

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 date that combat activities end.
- 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**.

Initial period of service. 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.

Material impairment. To indicate “material impairment,” you must show that your income dropped as a result of going into military service.

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

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 may call the IRS at 1-800-829-1040 to discuss your situation.

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.

Maximum rate of interest. Section 526 of the Soldiers’ and Sailors’ Relief Act limits the maximum interest rate to be charged to 6% per year for obligations or liabilities incurred prior to your entry into active service. The reduced rate applies only to the period of your active duty.

To substantiate your claim for this reduced interest rate, you must furnish a copy of your orders or reporting instructions that detail the call to active duty.

Filing Returns for Combat Zone Participants

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 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 that person that authorizes you to act on his or her behalf. A copy 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 form, 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). 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 for more information.

