

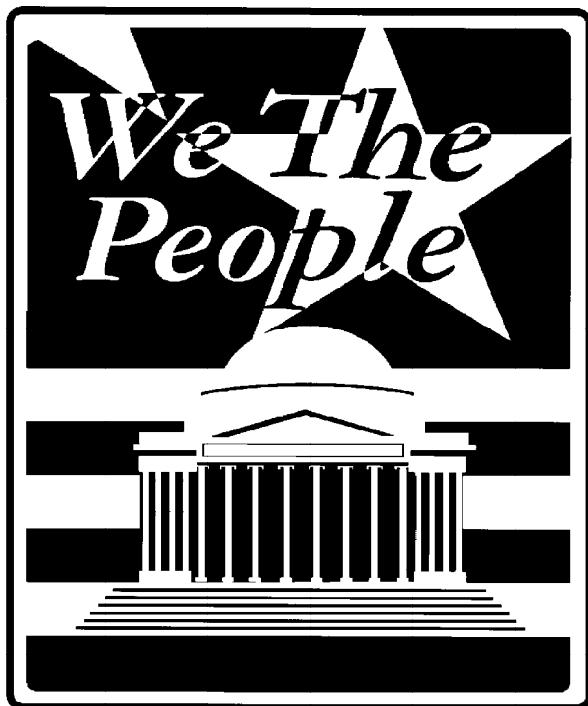


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Tax Information for Those Affected by Operation Desert Storm

For use in preparing
1994 Returns



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Important change for 1994

Earned income credit. Beginning with 1994 tax returns, the following changes are in effect:

- The credit amount has increased for persons who work and have one or more qualifying children.
- The amount a person can earn and still be eligible for the credit has increased.
- The credit has been expanded to include persons who work but do not have any qualifying children.
- The health insurance credit and the extra credit for a child born during the year are no longer available.

The new law also affects the amount of advance earned income credit payments a taxpayer can receive in 1995.

You may be able to claim the earned income credit if you earned less than \$9,000 and do not have a qualifying child who lives with you. If you earned less than \$23,755, and you have a qualifying child, you may be able to claim the credit. If you have two or more qualifying children, you can earn up to \$25,296. The credit reduces the tax you owe, or if you do not owe any tax, the credit will be refunded to you.

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

Caution—Pending legislation. At the time this publication went to print, Congress was considering legislation that would deny the earned income credit beginning in 1994 to inmates at a penal institution and beginning in 1995 to certain nonresident aliens.

Also under consideration, beginning in 1995, U.S. military personnel stationed outside the United States could be eligible for the earned income credit and may be entitled to receive the advance payment of the earned income credit. See Publication 553, *Highlights of 1994 Tax Changes*, for any further developments.

Highlights

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

Introduction

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

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

At the time we went to print, the area designated by the President as a combat zone was still in effect. Therefore, if you receive a notice about tax collection or examination from the Internal Revenue Service and you are serving in the U.S. military in the **area still designated** as a combat zone, you have been granted relief. Simply

mark the notice "Desert Storm" and return it to the IRS. See *Extension of Deadline*, later.

In the event the area ceases to be a combat zone (by Presidential Executive Order), we will do our best to notify you. Some of the relief provisions, such as the combat zone exclusion, will end at that time. Other provisions, such as the extension of time to file a return and the suspension of collection and examination activities will end approximately 9 months later.

If you are a spouse, or other person representing someone serving in Operation Desert Storm, and you need help in filing tax returns or obtaining other tax information, you should call the IRS at 1-800-TAX-1040 (1-800-829-1040) or visit the nearest IRS office.

Useful Items

You may want to see:

Publication

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

Form (and Instructions)

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

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

Free tax help. You can get free tax help from IRS throughout the year. Publication 910, *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 toll-free **1-800-829-1040**.

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

publications. See your tax package for the hours of operation.

Combat Zone Exclusion

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

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

Retirement pay does not qualify for the combat zone exclusion.

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

Combat Zone

A combat zone is any area the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are 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.

Serving in a Combat Zone

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

Qualifying service outside combat zone. Military service outside of 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.

This service will not, therefore, qualify you for the combat zone exclusion.

Amount of Exclusion

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

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

Example. You are hospitalized for a 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, 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 each month during any part of which you served in a combat zone or were hospitalized as a result of your service there. Commissioned officers include officers holding a temporary commission.

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

Form W-2. The wages shown in box 1 of your 1994 Form W-2, *Wage and Tax Statement*, should not include military pay excluded from your income under the combat zone exclusion provisions.

Extension of Deadline

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

Extension. The deadline for filing tax returns, paying taxes, filing claims for refund, and taking other actions

with the IRS is extended if you serve in the Armed Forces in a combat zone. The deadline for the IRS to take certain actions, such as collection and examination actions, is also extended.

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

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

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

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

In addition to the 180 days, your deadline is also extended by the number of days left for you to take the action with the IRS when you entered a combat zone. If you entered the combat zone before the period of time to take the action began, your deadline is extended by the entire period of time you have to take the action. For example, you had 3½ months (Jan. 1 – Apr. 15, 1994) to file your 1993 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 on or before January 1) are added to the 180 days to find the last day allowed for filing your 1993 tax return.

Example 1. Capt. Margaret Jones entered Saudi Arabia on December 1, 1992. She remained there through March 31, 1994, 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' 1992, 1993, and 1994 returns are figured as follows:

The 1992 tax return deadline is January 10, 1995. Capt. Jones has 285 days (180 plus 105) after her last day in the combat zone, March 31, to file her 1992 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 1993 filing period.

The 1993 tax return deadline is January 10, 1995. 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. There are 105 days in the 1994 filing period.

The 1994 tax return deadline is not extended. This is because the 180-day extension period after March 31, 1994, ends on September 27, 1994, which is before the start of the filing period for her 1994 return.

Example 2. Petty Officer Leonard Brown's ship entered the Persian Gulf on January 5, 1993. On February 15, 1993, Leonard was injured and flown to a U.S. hospital. He remained in the hospital through April 21, 1994. The deadlines for filing Petty Officer Brown's 1992, 1993, and 1994 returns are figured as follows:

The 1992 tax return deadline is January 27, 1995. Petty Officer Brown has 281 days (180 plus 101) after his last day in the hospital, April 21, 1994, to file his 1992 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 1993 filing period.

The 1993 tax return deadline is January 31, 1995. Petty Officer Brown has 285 days (180 plus 105) after April 21, 1994, to file his 1993 tax return.

The 1994 tax return deadline is April 17, 1995. The 180-day period after April 21, 1994, ends October 18, 1994, which is before the start of the filing period for his 1994 return. Therefore, Leonard has until the normal due date to file his 1994 tax return.

Example 3. Maj. Rob Willard served in the combat zone from January 1 through July 31, 1994, and was not injured. He has 285 days (180 plus 105) after his last day in the combat zone, July 31, to file his 1993 income tax return. The 105 additional days are the number of days that were left in the 3½ month filing period when he entered the combat zone (January 1 – April 15). His 1993 tax return is due by May 12, 1995.

The due date of Maj. Willard's 1994 return is also extended. This is because part of the 180-day extension period, after July 31, 1994, falls within the filing period for his 1994 return. He has 285 days (180 plus 105) after his last day in the combat zone, July 31, 1994, to file his 1994 return. The 105 additional days are the number of days in the 3½ month filing period for 1994 returns that he has after the 180-day extension period ends on January 27, 1995. Under this provision, his 1994 return is due by May 12, 1995.

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 12, 1995, he can extend the final date for filing his 1993 return to September 12, 1995. Likewise, if he files Form 4868 for 1994 by May 12, 1995, he has until September 12, 1995, to file his 1994 return.

Example 4. You generally have 3 years from April 15, 1991, to file a claim for refund against your timely filed 1990 income tax return. Therefore, if you wish to amend that return, your claim normally must be filed by April 15, 1994. However, if you served in the combat zone from November 1, 1993, through March 23, 1994, 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, 1995. 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, 1993 – Apr. 15, 1994). Since March 4, 1995, falls on a Saturday, your deadline is extended to March 6, 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 the following:

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

If the IRS takes any actions covered by these provisions, or sends you a notice of examination, before learning that you are entitled to an extension of the deadline, you are not required 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*, later.

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

- Your 1990 refund from April 15, 1991,
- Your 1991 refund from April 15, 1992,
- Your 1992 refund from April 15, 1993,
- Your 1993 refund from April 15, 1994, and
- Your 1994 refund from April 15, 1995.

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***. See the answers to questions 3A, B, and C under *Part 2* in the Question and Answer section of this publication for more information.

Filing Returns

You can choose to file your return before the end of your extension period. You may have a tax refund that you would rather receive now. 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, such as extension of time to file, suspension of all collection and examination actions, and the suspension of interest charges and penalties on any back taxes.

If you are acting on behalf of someone still serving in Operation Desert Storm and you do not have a power of attorney specifying that you can handle federal tax matters, the IRS will accept a general power of attorney or other statement signed by the person for whom you are acting. The general power of attorney or statement must authorize you to act on the other person's behalf even though federal tax matters are not specified. A copy must be attached to the tax return.

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

Outside the combat zone. If you do not qualify for the deadline extension provision, your 1994 return is due by the normal due date, April 17, 1995 (June 15, 1995, if you are stationed outside the United States and Puerto Rico on April 15). Interest on any unpaid tax will be charged from April 17.

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

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

Decedents

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

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

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

For other information concerning decedents, 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, and any military action involving the U.S. Armed Forces and resulting from violence or aggression (or the threat of such 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 1994 because of wounds incurred outside the United States in a terroristic attack in 1993. His income tax liability is forgiven for all tax years from 1992 through 1994. 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 apply to a prior year's tax that has been paid, and the period for filing a refund claim has not ended, the tax will be refunded; if any tax is still due, it will be canceled. The normal period for filing a claim for credit or refund of income tax is 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later.

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

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

- 1) File Form 1040 if a U.S. individual income tax return (Form 1040, 1040A, or 1040EZ) has not been filed

for the tax year. Form W-2, *Wage and Tax Statement*, must accompany the return.

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

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

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 should accompany any return or claim and should include a computation of the decedent's tax liability before any amount is forgiven and the amount that is to be forgiven. 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 required 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 part attributable to the decedent, the person filing the claim must complete the following steps:

- 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.

Questions and Answers

This section answers the tax questions most often asked about Operation Desert Storm. They are divided into two parts:

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

Part 2 — Questions about military members not serving in the combat zone or about those noncombatants who had to leave the Persian Gulf area because of the crisis.

Part 1 — Serving in Combat Zone

Combat Zone Exclusion

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

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

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

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

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

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

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

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

5) How will the current combat zone be terminated?

The current combat zone will be terminated by an Executive Order issued by the President with a specific termination date.

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

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

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

qualify for the combat zone exclusion?

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

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

No. A member of the U.S. Armed Forces in active service in a combat zone who is missing in action or becomes a prisoner of war is deemed to continue in active service in the combat zone for military pay purposes. Thus, the combat zone exclusion continues to apply to the same extent provided in question (1), depending on whether you were an enlisted person or a commissioned officer.

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

Yes. Accrued annual leave payments, attributable to active service in a combat zone and paid to enlisted members of the U.S. Armed Forces at the time of their discharge from the service, are excludable from gross income. If your wife is a

commissioned officer, this exclusion cannot exceed \$500 per month, after taking into account any other military pay attributable to that same period of service.

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

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

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

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

Extension of Deadline

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

The deadline extension provisions apply to most tax actions required to be performed after the later of August 2, 1990, or the date you began serving in the Persian Gulf Desert Shield area.

13) My son is a member of the U.S. Armed Forces who served in

the Persian Gulf area combat zone. Is he entitled to an extension of time for filing and paying his federal income taxes? Are any assessment or collection deadlines extended?

Yes. In general, all time limitations applicable to his federal taxes are suspended for the period of his Desert Shield/Storm combat zone service plus at least 180 days thereafter. During this suspension period, interest and penalties attributable to the suspension period will not be charged.

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

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

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

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

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

Yes. Members of the U.S. Armed Forces who performed military service in an area outside the combat

zone qualify for the deadline extension if their service was in direct support of military operations in the combat zone, and they received special pay for duty subject to hostile fire or imminent danger. Because you meet these two conditions as determined by the Department of Defense, you are treated as if you were serving in the combat zone itself, and thus the deadline extension provisions apply to you.

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

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

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

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

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

Yes. Your son was serving in a combat zone in support of the U.S. Armed Forces and, therefore, the deadline extension provisions are available to him to delay filing and paying his income taxes and to delay other acts required under the internal revenue law.

20) I am a member of the U.S. Armed Forces who served in the

combat zone. Do the extension of deadline provisions apply to my husband who was in the United States?

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

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

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

22) My husband served in the U.S. Armed Forces in the combat zone. In 1994, our son who is 12 years old, received \$700 of interest income. Our daughter who is 17 years old, received \$2,000 of earned income from part-time work and \$900 of interest income. We claim both children as dependents on our federal income tax returns. Do the extension of deadline provisions apply to our children?

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

23) My wife is a member of the U.S. Armed Forces and served in the combat zone. Can she make a timely qualified contribution for

1993 to her individual retirement account (IRA) after April 15, 1994, and before the due date of her 1993 income tax return after applying the deadline extension provisions?

Yes. Your wife can make a timely qualified contribution for 1993 to her IRA on or before the extended deadline for filing her 1993 income tax return under the deadline extension provisions.

24) My husband and I sold our principal residence on March 1, 1992, and we have not bought a replacement residence yet. He is in the U.S. Armed Forces and reported to active duty in the Persian Gulf area on October 1, 1993. Do the extension of deadline provisions apply to the period we have to replace our old residence to defer gain on that residence?

Yes. The 4-year replacement period for those on extended active duty (more than 90 days) and the maximum 8-year replacement period for those on overseas extended active duty are extended for the period of time your husband was in the Persian Gulf area combat zone, plus 180 days thereafter. The remaining portion of the applicable 4-year or maximum 8-year period (that is the original 4-year or maximum 8-year period minus 19 months for the March 1, 1992, to September 30, 1993, period) will apply after the extension period (combat zone time plus 180 days) is over.

25) Will the IRS assert estimated tax penalties against my brother, who served in the U.S. Armed Forces in Operation Desert Storm from August 1993 through January 1994 and did not make the third and fourth estimated tax payments for 1993?

No. When your brother files his 1993 federal income tax return, he should write "Desert Storm" at the top of that return.

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

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

27) My daughter lives in the United States and is a civilian employee of a defense contractor. She was injured on her job, which involved the production of equipment used by the U.S. Armed Forces in the combat zone. Do the deadline extension provisions apply to her?

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

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

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

Decedents

29) What is the income tax liability of a member of the U.S. Armed Forces who was wounded and died on January 18, 1994, while in active service in the combat zone?

In general, when the member dies in a combat zone or as a result of injuries incurred in a combat zone, the member's income tax liability is forgiven for the year of death, for

any earlier tax year beginning with the year prior to the year of injury, and for any other prior years beginning with the year in which the individual first served in the combat zone. In addition, any unpaid income tax at the date of death is forgiven. Thus, the member's income tax liability for 1993 and 1994, and any unpaid tax owed for years before 1993 are forgiven.

30) What is the income tax liability of a member of the U.S. Armed Forces whom the Department of Defense certifies as having been injured on January 7, 1991, and having died on January 10, 1992, as a result of serving in the Persian Gulf Desert Shield area military action?

In general, when a member dies as a result of wounds or injury incurred in a military action, the member's tax liability is forgiven for the year of death, and for any earlier tax year beginning with the year prior to the year of injury. Thus, the member's income tax liability is forgiven for 1990, 1991, and 1992.

31) What is the income tax liability of a civilian employee of the Department of Defense whom the Department certifies as having died February 25, 1994, as a result of injury received on December 15, 1993, during the Persian Gulf military action?

The member's income tax liability is forgiven for 1992 through 1994. See Q & A 30 for the tax forgiveness rules when death results from a military action.

Miscellaneous

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

Yes. Telephone calls that originate within the combat zone and that are made by members of the U.S.

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

33) How will my military pay for active service in the U.S. Armed Forces in the combat zone be reported on my 1994 Form W-2?

Military pay attributable to your active service in the combat zone that is excluded from income will not be reported in the box marked "Wages, tips, other compensation." However, basic pay for such service, just like basic pay for service outside the combat zone, is subject to FICA tax and will be reported in the box marked "Social security wages" on the W-2.

Part 2 — Not Serving in Combat Zone

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

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

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

See Publication 3 for a complete list of allowances and payments that are excludable from gross income in computing your taxes. It

also lists payments and bonuses that are taxable to military personnel.

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

No. U.S. military personnel on duty outside the United States and Puerto Rico on the due date of their return are allowed an automatic extension until June 15 for filing their federal income tax return. This means that if your return is due April 17, 1995 (April 15 falls on a Saturday), you have until June 15, 1995, to file your return and pay any tax due for 1994.

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

To claim the extension to June 15, attach a statement to your return explaining how you qualified. Interest will be charged on any amount not paid by the normal due date, until the date the tax is paid.

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

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

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

You have to meet certain conditions to be eligible for a deferment. In addition, approval for the deferment must be granted by the IRS. To qualify for a deferment, you have to be serving in your "initial period of service," and you have to show

that your ability to pay the back taxes has been “materially impaired.”

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

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

3B) How would I seek approval from IRS to defer payment of back income tax if my active reserve duty impairs me financially?

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.

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

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

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

Yes. However, reservists who have been called to active duty generally will qualify for a deferment of payment on their back taxes, without interest, if their ability to pay has been materially impaired.

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

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

No. The reduction of interest to 6% is provided for by law. For that reason, the portion of interest you are not charged (the amount in excess of 6%) is not taxable.

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

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

Employers must offer to reservists and their families an opportunity for continued health coverage, even though these individuals will be covered under military health plans. Employers may choose to voluntarily maintain the health coverage of these employees while they are on active military duty. If not, group health plans generally are required to offer reservists, and their families if covered under the plan, an election to continue coverage at their own expense.

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

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

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

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

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

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

A properly completed Form 2848, *Power of Attorney and Declaration of Representative*, should be used for this purpose. However, the IRS will accept a properly completed general power of attorney that specifically authorizes a person to prepare, execute, and file income tax returns. A copy of the power of attorney should be attached to any return or document which you are signing for your spouse.

7B) My brother is currently serving on active duty. Before he left, he completed a general power of attorney form provided by his reserve unit. This power of attorney authorizes me generally to act for my brother, and specifically to prepare, execute, and file

income tax returns. Yesterday, I received a letter from IRS stating that an adjustment had been made to his 1992 tax return. Will this power of attorney allow me to discuss this account with IRS?

Yes. However, you will need to provide the IRS office that you contact with a copy of the general power of attorney.

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

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

During the January through April 15 tax filing season, Volunteer Income Tax Assistance (VITA) is

available throughout the country to help persons with relatively simple tax returns. At that time, you can call 1-800-829-1040 to find the VITA site nearest you.

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

The IRS has an overseas office in Riyadh, Saudi Arabia, as well as in Bonn, Caracas, Guam, London, Mexico City, Nassau, Ottawa, Paris, Puerto Rico, Rome, Sao Paulo, Singapore, Sydney, and Tokyo. Overseas military and civilian taxpayers also can get information and answers to their tax questions by calling the IRS International tax assistance office in Washington, D.C. at 202-874-1460. ■

