



IRS Nationwide
TaxForum

| 2018

ADVOCATING
FOR
MILITARY CLIENTS



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Learning Objectives

By the end of this training you will be able to:

- Understand and explain particular tax issues to your military clients;
- Recognize when your client is facing a military tax issue; and
- Protect your clients' rights under the Taxpayer Bill of Rights and other applicable law.



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Acronyms

- **SM** - Service Member
- **CZ** - Combat Zone
- **QHDA** - Qualified Hazardous Duty Area
- **IRA** – Individual Retirement Account
- **TSP** – Thrift Savings Plan
- **MIA** – Missing in Action



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Acronyms (#2)

- **SPOL** – Statutory Period of Limitation under IRC § 6511
- **BAH** – Basic Allowance for Housing
- **BAS** – Basic Allowance for Subsistence
- **EITC** – Earned Income Tax Credit
- **SCRA** – Servicemembers Civil Relief Act
- **MSRRA** – Military Spouses Residency Relief Act
- **DSP** – Disability Severance Pay



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Extension to File for Service Member Overseas

- Returns due June 15
- Extension is to file and pay, but interest still accrues
- To claim, a statement must be attached to the return

Extension of Tax Return Filing Deadlines

- This extension falls under IRC § 7508
- Service members in combat zone allowed additional time to:
 - File annual tax return;
 - Pay any tax due, and
 - File claim for refund
- There are **NO** interest or penalties attributable to delay



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Extension of Tax Return Filing Deadlines (cont.)

- Deadline extended for 180 days after latter of:
 - Last day taxpayer is in combat zone, or
 - Last day of any continuous qualified hospitalization
- Additionally, deadline extended by number of days left to file when service member entered combat zone
- Email combatzone@irs.gov
- Write “COMBAT ZONE” and deployment date on return



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Extension to Pay Tax under SCRA

- Additional extension if ability to pay tax is “materially affected”
- Applies to all SMs, whether deployed or not
- May be deferred up to 180 days, with no interest or penalties
- Collection is suspended:
 - During military service
 - **PLUS** 270 days
- SM must request in writing

Combat Pay Income Exclusion

- Income for that month is generally tax-free if SM is:
 - Serving in a combat zone for any part of a month, or
 - Hospitalized as result of wounds or injury in combat zone
- Service outside combat zone will qualify if:
 - In direct support, and
 - Receiving hostile fire or imminent danger pay



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What Income is Excluded?

- Base & Special pay:
 - Enlisted or warrant officer: all pay
 - Commissioned Officer: Max enlisted pay -\$8,361.00
(SMA monthly pay for 2018)
- Any imminent danger pay/hostile fire pay (max \$225/mo)
- Bonuses and pay for accrued leave

Combat Zones and QHDAs

- **EO 13239** (19 September 2001): Afghanistan
 - **Direct support locations:**
 - Jordan & Pakistan (as of 19 SEP 2001)
 - Philippines (9 JAN 2002 – 30 SEP 2015)
 - Djibouti (as of 1 JUL 2002)
 - Yemen (as of 10 APR 2002)
 - Somalia & Syria (as of 1 JAN 2004)





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Combat Zones and QHDAs (#2)

- **EO 13119**, Kosovo Area (24 March 1999): Serbia, Montenegro, Albania, Kosovo, Adriatic Sea, and the Ionian Sea (north of 39th parallel)
 - **Direct support locations:** None.



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Combat Zones and QHDAs (#3)

- **EO 12744**, Arabian Peninsula (17 January 1991): Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, the UAE, Persian Gulf, Red Sea, Gulf of Oman, portions of Arabian Sea, and the Gulf of Aden.
 - **Direct support locations:**
 - Jordan (as of 19 MAR 2003)
 - Lebanon (as of 12 FEB 2015 through 11 FEB 2020)
 - Portions of Turkey (as of 19 SEP 2016)



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Combat Zones and QHDAs (#4)

- Sinai Peninsula of Egypt (June 9, 2015 – Dec 31, 2025)
- Bosnia and Herzegovina, Croatia, and Macedonia (June 21, 1995 – TBD)
- The Federal Republic of Yugoslavia, Albania, the Adriatic Sea, and the Ionian Sea north of the 39th parallel (March 24, 1999 – TBD)



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IRA and TSP Contributions from Combat Pay

- Tax-free combat pay counts as compensation for IRA purposes
- SMs may also contribute up to \$55,000 to a Thrift Savings Plan (TSP) if serving in a combat zone



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Capital Gains Exclusion for Sale of Primary Residence

- SM can suspend 5-year period for up to 10 years when assigned to a duty station that is:
 - at least 50 miles from the house
 - for a period of 90 days or more
- Period of suspension cannot last longer than 10 years and can be used only for one property at a time



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Relocation Expenses

- Service members may deduct reasonable unreimbursed expenses
- No need to meet distance / time test if the move is due to a Permanent Change of Station (PCS)

Travel Expenses for Reservists

- Tax Year 2018 and beyond
- Reservists called more than 100 miles away from home
- Above-the-line deductions are allowed
- Miscellaneous itemized deductions eliminated



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IRA Early Withdrawals

- Early withdrawal penalties for SMs may be waived
- 10 % early withdrawal tax does not apply to a qualified reservist distribution



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Earned Income

- Generally, a SM's nontaxable pay (i.e., combat pay, BAH, and BAS) is not included in earned income
- However, SMs can choose to have nontaxable combat pay included in earned income for purposes of EITC



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State Residency for Tax Purposes

- Servicemember's Civil Relief Act (SCRA), 50 U.S.C. § 4001(a)(1)
- “A servicemember shall neither lose nor acquire a **residence or domicile for purposes of taxation** with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely **in compliance with military orders.**”



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State Residency for Tax Purposes (continued)

- Military Spouses Residency Relief Act (MSRRA) amended SCRA to allow spouses similar protection
- Broader protection for spouses than service members
- Real property is taxed at its situs – No SCRA protections



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Tax Forgiveness for Combat Zone Death

- Forgives all tax liability attributable to all income, not just military compensation
- Subject to the statutory period of limitations (SPOL)
- However, IRC § 7508 can hold previous tax years open longer



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What Years are Forgiven?

- IRC § 692(a) forgives year of death and any year ending on or after the first day the person served in a combat zone
- Can go back and amend prior years if SM has ever served in a combat zone previously
- BUT subject to SPOL
- Must coordinate with IRC § 7508 extension for filing a return for year in combat zone



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Example

- SM first served in the Afghanistan combat zone from Jan. 1 to Dec. 31, 2014
- SM next served in the Iraq combat zone from Jan. 1 to Mar. 23, 2018 (date of death)
- In which tax years is the SM eligible for tax abatement?
2018, 2017, 2016, 2015, and possibly 2014
- What tax years are still open for a claim of refund?
2018, 2017, 2016, 2015, and possibly 2014



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Forgiveness by Year

2018

- Eligible for tax abatement
- 2018 Tax Return due April 15, 2019
- SPOL for claim of refund is April 15, 2022

2017

- Eligible for tax abatement
- 2017 Tax Return due Dec. 10, 2018
- SPOL for claim of refund is Dec. 10, 2021

Forgiveness by Year (#2)

2016

- Eligible for tax abatement
- 2016 Tax Return due April 15, 2017
- SPOL for claim of refund April 15, 2020

2015

- Eligible for tax abatement
- 2015 Tax Return due April 15, 2016
- SPOL for claim of refund April 15, 2019





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Forgiveness by Year (#3)

2014

- Eligible for tax abatement
- 2014 Tax Return due June 30, 2015
- SPOL for claim of refund June 30, 2018



Joint Return Example

- MFJ tax liability of \$20,000
- W dies in Afghanistan
- MFS(W) = \$10,000 tax, MFS(H) = \$15,000 tax
- 692(a) forgiveness = \$8,000:
- $10,000 / 25,000 = .40$
- $20,000 \times 0.4 = \$8,000$
- MFJ tax = $(\$20,000 - \$8,000) = \$12,000$



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Final Return

- Return is due for year of death and prior years not filed.
- Who files the return?
 - Personal Representative, if one
 - Surviving Spouse, if MFJ
- Filing status
 - Surviving Spouse can file MFJ
 - If Surviving Spouse remains unmarried and has dependent child, can file as qualifying widow(er) for 2 years.



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Severance Pay for Disabled Veterans

- DoD has separate disability evaluation process from VA
- Historically, DFAS would wait to receive final VA rating decision to determine the taxability of DSP
- If DFAS received rating in the same year as payment was made, DFAS could refund the taxes
- If DFAS received rating after the year of payment, the service member would have to deal directly with the IRS



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Severance Pay for Disabled Veterans (#2)

- The Combat-Injured Veterans Tax Fairness Act of 2016 permits affected veterans to file a claim for refunds for improperly withheld taxes after January 17, 1991
- Notice and instructions as to how to file an amended return were mailed to veterans between July 9 – 20, 2018.
- Veterans have up to one year from the date of notice to file a claim for refund



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Severance Pay for Disabled Veterans (#3)

- Veterans may claim standard refund amounts:
 - \$1,750 for tax years 1991-2005
 - \$2,400 for tax years 2006-2010
 - \$3,200 for tax years 2011-2016
- Special IRS toll free #: (833) 558-5245, ext. 378.
- Include with the 1040X:
 - DoD Notice Letter (mailed by the IRS)
 - VA Determination Letter confirming disability
 - Confirmation of Disability Severance Pay



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Contact TAS

- [IRS.gov/Advocate](https://www.irs.gov/Advocate)
- [YouTube.com/tasnta](https://www.YouTube.com/tasnta)
- [Facebook.com/YourVoiceAtIRS](https://www.Facebook.com/YourVoiceAtIRS)
- [Twitter.com/YourVoiceatIRS](https://www.Twitter.com/YourVoiceatIRS)
- Call 1-877-777-4778
- Form 911, Request for Taxpayer Advocate Service Assistance
- LITC – www.taxpayeradvocate.irs.gov/litcmap



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Questions

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