

**DESCRIPTION OF PRESENT LAW,
H.R. 2778, AND AN AMENDMENT IN THE NATURE OF A
SUBSTITUTE RELATING TO TAX RELIEF
FOR PEACEKEEPING PERSONNEL
IN THE FORMER YUGOSLAVIA**

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INTRODUCTION

The House Committee on Ways and Means has scheduled a markup on H.R. 2778 on February 28, 1996. H.R. 2778 (introduced by Mr. Bunning on December 14, 1995) provides tax relief to United States Armed Forces (and support) personnel performing "Operation Joint Endeavor" services.

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of present-law tax treatment of certain military personnel, the provisions of H.R. 2778, and of a substitute amendment. Part I is a description of present law; Part II is a description of H.R. 2778; and Part III is a description of an amendment in the nature of a substitute (to be offered by Mr. Archer and Mr. Gibbons).

¹ This document may be cited as follows: Joint Committee on Taxation, Description of Present Law, H.R. 2778, and an Amendment in the Nature of a Substitute Relating to Tax Relief for Peacekeeping Personnel in the Former Yugoslavia (JCX-2-96), February 27, 1996.

I. PRESENT LAW

General time limits for filing tax returns

Present law provides that individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year (sec. 6072). Present law also provides that the Secretary may grant reasonable extensions of time for filing such returns (sec. 6081). Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty outside the United States (Treas. Reg. sec. 1.6081-5(a)(6)). No action is necessary to apply for this extension. This extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual properly filing that form and paying the amount of tax estimated to be due (Treas. Reg. sec. 1.6081-4).

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, present law suspends the period of time for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities (sec. 7508). An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous hospitalization resulting from injury received in the combat zone² or (2) time in missing in action status, plus the

² Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States

next 180 days.

The suspension of time applies to the following acts:

- (1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);
- (2) Payment of 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 decision rendered by the Tax Court;
- (4) Allowance of a credit or refund of any tax;
- (5) Filing a claim for credit or refund of any tax;
- (6) Bringing suit upon any such claim for credit or refund;
- (7) Assessment of any tax;
- (8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;
- (9) Collection of the amount of any liability in respect of any tax;
- (10) Bringing suit by the United States in respect of any liability in respect of any tax;
- (11) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under section 7508 by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension.

Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

are applicable only to the hospitalized individual, they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In addition, if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone, military pay for that month is also excluded from gross income; this exclusion is limited, however, to hospitalization during any part of any month beginning not more than two years after the end of combat in the zone. In the case of commissioned officers, these exclusions from income are limited to \$500 per month of military pay.

Income tax withholding does not apply to military pay for any month in which an employee (whether enlisted personnel or commissioned officer) is entitled to the exclusion from income for combat pay (sec. 3401(a)(1)).

Exemption from tax upon death in a combat zone

An individual in active service as a member of the Armed Forces who dies while serving in a combat zone (or as a result of wounds, disease, or injury received while serving in a combat zone) is not subject to income tax for the year of death (as well as for any prior taxable year ending on or after the first day the individual served in the combat zone) (sec. 692). Special computational rules apply in the case of joint returns. A reduction in estate taxes is also provided with respect to individuals dying under these circumstances (sec. 2201).

Special rules permit the filing of a joint return where a spouse is in missing status as a result of service in a combat zone (sec. 6013(f)(1)). Special rules for determining surviving spouse status apply where the deceased spouse was in missing status as a result of service in a combat zone (sec. 2(a)(3)).

Exemption from telephone excise tax

The telephone excise tax is not imposed on "any toll telephone service" that originates in a combat zone (sec. 4253(d)).

Operation Desert Storm: Executive Order designating Persian Gulf Area as a combat zone

On January 21, 1991, President Bush signed Executive Order 12744, designating the Persian Gulf Area as a combat zone. This designation was retroactive to January 17, 1991, the date combat commenced in that area, and continues in effect until terminated by another Executive Order. An Executive Order terminating this combat zone designation has not been issued. Thus, individuals serving in the Persian Gulf Area are eligible for the suspension of time provisions and military pay exclusions (among other provisions) described above, beginning on January 17, 1991.

The Executive Order specifies that the Persian Gulf Area is the Persian Gulf, the Red Sea, the Gulf of Oman, part of the Arabian Sea, the Gulf of Aden, and the entire land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

The Department of Defense provides to the Internal Revenue Service, on a monthly basis, a computer tape with information regarding the military personnel whose service is in the combat zone designated by the Executive Order and who are therefore eligible for, among other provisions, the extension of time provisions of section 7508 and the exclusion from income provisions of section 112.

Operation Desert Shield: Legislative extension of time

On January 30, 1991, President Bush signed Public Law 102-2. This Act amended section 7508 by providing that any individual who performs Desert Shield services (and the spouse of such an individual) is entitled to the benefits of the suspension of time provisions of section 7508. Desert Shield services are defined as services in the Armed Forces of the United States (or in support of those Armed Forces) if such services are performed in the area designated by the President as the "Persian Gulf Desert Shield area" and such services are performed during the period beginning August 2, 1990, and ending on the date on which any portion of the area was designated by the President as a combat zone pursuant to section 112 (which was January 17, 1991).

Operation Joint Endeavor: Administrative extension of time

On December 12, 1995, the Internal Revenue Service announced³ that it was administratively extending the time to file tax returns until December 15, 1996, for members of the Armed Forces "departing 'Operation Joint Endeavor'" on or after March 1, 1996. In addition, the IRS stated that the penalties for failure to file tax returns and failure to pay taxes would not be assessed with respect to these individuals. Also, the IRS stated that it would administratively place any balance due accounts into suspense status and suspend examinations while the member is serving in "Operation Joint Endeavor."

³ Letter from John T. Lyons, Assistant Commissioner (International), Internal Revenue Service, to Lt. Col. David M. Pronchick, Armed Forces Tax Counsel, Department of Defense.

II. DESCRIPTION OF H.R. 2778 (Mr. Bunning)

Description of the Bill

The bill (H.R. 2778) provides that any individual who performs Joint Endeavor services is entitled to the benefits of the following four provisions of the Code: (1) the exclusion from income for combat pay (sec. 112); (2) forgiveness of income taxes of members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 692); (3) the reduction in estate taxes for members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 2201); and (4) the suspension of time provisions (sec. 7508). Joint Endeavor services are defined as services in the Armed Forces of the United States if such services are performed in the area designated by the President as the "Operation Joint Endeavor Area," and such services are performed during the period beginning on December 4, 1995, and ending on the date designated by the President as the date on which substantial termination of such operations occurs. For purposes of the suspension of time provisions, services in support of the Armed Forces are treated in the same manner as services in the Armed Forces.

Effective Date

The bill is effective on December 4, 1995.

**III. DESCRIPTION OF AN AMENDMENT IN THE NATURE
OF A SUBSTITUTE (to be offered by Mr. Archer and Mr. Gibbons)**

Description of Amendment

Treatment of portions of former Yugoslavia as if they were a combat zone

The amendment would provide that a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone for purposes of the following provisions of the Code:

- (1) the special rule for determining surviving spouse status where the deceased spouse was in missing status as a result of service in a combat zone (sec. 2(a)(3));
- (2) the exclusions from income for combat pay (sec. 112);
- (3) forgiveness of income taxes of members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 692);
- (4) the reduction in estate taxes for members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 2201);
- (5) the exemption from income tax withholding for military pay for any month in which an employee is entitled to the exclusion from income (sec. 3401(a)(1));
- (6) the exemption from the telephone excise tax for toll telephone service that originates in a combat zone (sec. 4253(d));
- (7) the special rule-permitting filing of a joint return where a spouse is in missing status as a result of service in a combat zone (sec. 6013(f)(1)); and
- (8) the suspension of time provisions (sec. 7508).

A qualified hazardous duty area means Bosnia and Herzegovina, Croatia, or Macedonia, if, as of the date of enactment, any member of the Armed Forces is entitled to hostile fire/imminent danger pay for services performed in such country. Members of the Armed Forces are in Bosnia and Herzegovina and Croatia as part of "Operation Joint Endeavor" (the NATO operation). Members of the Armed Forces are in Macedonia as part of "Operation Able Sentry" (the United Nations operation).

Combat pay exclusion for officers

In addition, the amendment would raise the dollar value of the exclusion from income for combat pay for officers in section 112 of the Code from the present-law level of \$500 per month to the highest rate of basic pay at the highest pay grade that enlisted personnel may receive plus

the amount of hostile fire/imminent danger pay which the officer receives. Currently, the highest level of basic pay received by enlisted members of the Armed Forces is \$4,104.80 per month. The amendment would also conform the wage withholding rules to the income exclusion rules for officers.

Revenue offset: Extension of IRS user fees

As a revenue offset for these provisions, the amendment would extend IRS user fees for three additional years (until October 1, 2003). The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The Uruguay Round Agreements Act extended the IRS user fee program for five years (until October 1, 2000).

Effective Date

The amendment generally would be effective on November 21, 1995 (the date on which the Dayton Accord was initialed); the modifications to the wage withholding rules would apply to remuneration paid after the date of enactment. The amendment relating to IRS user fees would be effective on the date of enactment.