

**DESCRIPTION OF PRESENT LAW AND A PROPOSAL  
RELATING TO TAX RELIEF FOR PERSONNEL  
IN THE FEDERAL REPUBLIC OF YUGOSLAVIA  
(SERBIA/MONTENEGRO), ALBANIA, THE ADRIATIC SEA,  
AND THE NORTHERN IONIAN SEA**

Scheduled for Markup

by the

HOUSE COMMITTEE ON WAYS AND MEANS

on April 13, 1999

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION



April 12, 1999

JCX-17-99

**CONTENTS**

	<b><u>Page</u></b>
INTRODUCTION .....	1
I. PRESENT LAW .....	2
II. DESCRIPTION OF PROPOSAL .....	8

## INTRODUCTION

The House Committee on Ways and Means has scheduled a markup on April 13, 1999, on a proposal to provide tax relief to personnel performing "Operation Allied Force" services.

This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of present-law tax treatment of certain military personnel and of the proposal. Part I is a description of present law; Part II is a description of the proposal.

---

<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, Description of Present Law and a Proposal Relating to Tax Relief for Personnel in the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Northern Ionian Sea (JCX-17-99), April 12, 1999.

## 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 on April 15 of the following year (the otherwise applicable due date of the return) outside the United States (Treas. Reg. sec. 1.6081-5(a)(6)). No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, 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 timely 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 qualified

hospitalization resulting from injury received in the combat zone<sup>2</sup> or (2) time in missing in action status, plus the 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; and
- (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.

---

<sup>2</sup> 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 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.

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.

#### **Exclusion for combat zone compensation**

Gross income does not include certain combat zone compensation 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 the maximum enlisted amount<sup>3</sup> of military pay.

Income tax withholding does not apply to military pay to the extent that 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)).

---

<sup>3</sup> This is defined as the highest rate of basic pay at the highest pay grade applicable for that month to any enlisted member of the Armed Forces of the United States, plus, in the case of an officer entitled to combat pay, the amount of combat pay payable to that officer for that month. (sec. 112(c)(5)).

### **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.

### **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 announced<sup>4</sup> 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."

### **Operation Joint Endeavor and Operation Able Sentry: Legislative treatment as if a combat zone**

---

<sup>4</sup> Letter dated December 12, 1995, from John T. Lyons, Assistant Commissioner (International), Internal Revenue Service, to Lt. Col. David M. Pronchick, Armed Forces Tax Counsel, Department of Defense.

Pursuant to Public Law 104-117,<sup>5</sup> a qualified hazardous duty area is 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).<sup>6</sup> Members of the Armed Forces are in Macedonia as part of "Operation Able Sentry" (the United Nations operation). In addition, persons other than Members of the Armed Forces who are serving in support of these operations of the Armed Forces are eligible for the suspension

---

<sup>5</sup> 110 Stat. 827 (March 20, 1996).

<sup>6</sup> Operation Joint Endeavor has been replaced by Operation Joint Forge. The IRS has stated that personnel serving under Operation Joint Forge will be treated the same as personnel under Operation Joint Endeavor because Joint Forge is "the substantive continuation" of Joint Endeavor. Letter dated July 17, 1998, from Tommy G. DeWeese, District Director for the International District, Internal Revenue Service, to LTC Thomas K. Emswiler, Armed Forces Tax Council, Department of Defense.



of time provisions in section 7508 of the Code.<sup>7</sup> This provision was effective on November 21, 1995 (the date the Dayton Accord was initialed).

**Suspension of time provisions for other Operation Joint Endeavor personnel**

An individual who is performing services as part of Operation Joint Endeavor outside the United States while deployed away from the individual's permanent duty station will qualify for the suspension of time provisions in section 7508 of the Code during the period that hostile fire/imminent danger pay is paid in Bosnia and Herzegovina, Croatia, or Macedonia.

**Announcement of Intention to Issue Executive Order Designating Kosovo Area of Operations as a Combat Zone**

On April 12, 1999, President Clinton announced his intention to issue an Executive Order designating the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (including all of their air spaces) as a combat zone for purposes of the Internal Revenue Code.

---

<sup>7</sup> In addition, persons other than Members of the Armed Forces are eligible for some of the other seven provisions listed above (on page 6), under specified circumstances. For example, civilian employees of the United States are eligible for the forgiveness of income tax provisions of section 692 if they die as a result of injuries sustained overseas in specified terroristic or military actions.

## II. DESCRIPTION OF PROPOSAL

The proposal contains two elements. First, the proposal would treat the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (including all of their air spaces) as a qualified hazardous duty area. Consequently, military personnel serving in those areas would be entitled to relief under all eight of the hazardous duty area provisions listed on page 6, above. Several special rules would apply to civilian personnel. Civilian personnel serving in those areas in support of the Armed Forces would be entitled to the suspension of time provisions in section 7508 of the Code. In addition, civilian employees of the United States serving in those areas would be entitled to (a) 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)); (b) forgiveness of income taxes of employees dying in the combat zone or by reason of combat-zone incurred wounds (sec. 692); and (c) 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)).

Second, the proposal would also provide that military personnel performing services outside of those areas but still a part of Operation Allied Force would qualify for the suspension of time provisions in section 7508 of the Code during the period that hostile fire/imminent danger pay is paid with respect to those areas, provided that those services are performed both outside the United States and while deployed away from that individual's duty station.

Accordingly, the proposal would provide the same treatment for those serving in (or in support of) Operation Allied Force as is provided under present law to those serving in (or in support of) Operation Joint Endeavor.

### Effective Date

The proposal would be effective on March 24, 1999 (the date on which Operation Allied Force commenced).