

Tax Relief for Those Affected by Operation Allied Force

Notice 99-30

PURPOSE

This notice provides guidance in a question and answer format on the tax relief provided under Executive Order No. 13119, 64 Fed. Reg. 18797 (April 16, 1999) (Executive Order), and the Act of April 19, 1999 (Act), Pub. L. No. 106-21, 113 Stat. 34 (1999), for U.S. military and support personnel involved in the military operations in the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Ionian Sea north of the 39th parallel.

BACKGROUND

The Executive Order, effective March 24, 1999, designates the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Ionian Sea north of the 39th parallel (including the airspace above these areas) as a combat zone for purposes of § 112 of the Internal Revenue Code.

The Act generally provides that, for purposes of certain provisions of the Code, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone under § 112. The Act defines the term “qualified hazardous duty area” to mean any area of the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (above the 39th parallel) if, as of the date of enactment of the Act, any member of the U.S. Armed Forces is entitled to special pay under section 310 of title 37, United States Code (relating to special pay: duty subject to hostile fire or imminent danger), for services performed in any of these areas, but only during the period the entitlement is in effect. On the date of the enactment of the Act, members of the U.S. Armed Forces were entitled to special pay for services performed in all these areas.

The provisions of the Code within the scope of the Act are as follows:

(1) Section 2(a)(3) (relating to the special rule where a deceased spouse was in missing status);

(2) Section 112 (relating to the exclusion from gross income of certain combat pay received by members of the U.S. Armed Forces);

(3) Section 692 (relating to income taxes of members of the U.S. Armed Forces on death);

(4) Section 2201 (relating to members of the U.S. Armed Forces dying in a combat zone or by reason of combat-zone-incurred wounds, etc.);

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the U.S. Armed Forces);

(6) Section 4253(d) (relating to taxation of phone service originating from members of the U.S. Armed Forces in a combat zone);

(7) Section 6013(f)(1) (relating to a joint return where an individual is in missing status); and

(8) Section 7508 (relating to the time for performing certain acts (including filing, paying, assessing, collecting, claiming a refund, and litigating) postponed by reason of service in a combat zone).

Under both the Executive Order and the Act, the deadline extension provisions under § 7508 apply to members of the U.S. Armed Forces (and those serving in support of the U.S. Armed Forces) in the combat zone or qualified hazardous duty area. Under the Act, during the period the special pay entitlement is in effect in the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (above the 39th parallel), the deadline extension provisions under § 7508 also apply to an individual in other areas who (1) is performing services as part of Operation Allied Force, (2) is outside the United States, and (3) is deployed away from that individual’s permanent duty station.

The Act is generally effective on March 24, 1999, except for the modifications to the income tax withholding rules of § 3401(a)(1), which apply to amounts paid after April 19, 1999, the date of enactment of the Act.

This notice is in addition to the guidance provided under Notice 96-34, 1996-1 C.B. 379. Notice 96-34 provides tax relief under the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996), for U.S. military and support per-

sonnel involved in the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia.

QUESTIONS AND ANSWERS

The following questions and answers generally apply to members of the U.S. Armed Forces on active duty and are patterned after the questions and answers in Notice 96-34, 1996-1 C.B. 379 (Tax Relief for Those Affected by Operation Joint Endeavor). Any reference in the following questions and answers to a “combat zone” also includes a “qualified hazardous duty area” that, under the Act, is treated as a combat zone. For additional information on the tax treatment of members of the U.S. Armed Forces including reservists, decedents, or persons missing in action, consult Publication 3, Armed Forces’ Tax Guide.

PART 1 – MILITARY PAY EXCLUSION

Q-1: Which geographic areas are included in the combat zone covered by this notice?

A-1: The geographic areas included in the combat zone are the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea above of the 39th parallel (including the airspace above these areas).

Q-2: I am a member of the U.S. Armed Forces assigned to perform services in the Adriatic Sea. Is any part of my 1999 military pay for serving in this area excluded from gross income?

A-2: Yes. The Adriatic Sea is in the combat zone. If you serve in the combat zone as an enlisted person for any part of a month, all your military pay received for military service that month is excluded from gross income. Commissioned officers have a similar exclusion, but it is limited to the maximum enlisted amount per month (currently \$4,653). Amounts excluded from gross income are not subject to federal income tax.

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

A-3: Yes. Each of you qualifies for the income tax exclusion for your military pay.

Q-4: I am a member of the U.S. Armed Forces stationed in Italy. I fly missions over Yugoslavia as part of the military operations in the combat zone. Is any part of my military pay excluded from gross income?

A-4: Yes. You are serving in the combat zone. See Q & A 2 for a discussion of the amount of your military pay that is excluded.

Q-5: If I am injured and hospitalized while serving in the U.S. Armed Forces in the combat zone, is any of my military pay excluded from gross income?

A-5: Yes. Military pay received by enlisted personnel who are hospitalized as a result of injuries sustained while serving in the combat zone is excluded from gross income for the period of hospitalization, subject to the 2-year limitation provided below. Commissioned officers have a similar exclusion, but it is limited to the maximum enlisted amount per month. See Q & A 2. These exclusions from gross income for hospitalized enlisted personnel and commissioned officers end 2 years after the date of termination of the combat zone.

Q-6: My wife is currently serving in the U.S. Armed Forces in the combat zone and will be eligible for discharge when she returns home. If she is discharged upon her return, will the payment for the annual leave that she accrued during her service in the combat zone be excluded from gross income?

A-6: Yes. Annual leave payments made to enlisted members of the U.S. Armed Forces at the time of their discharge from the service are excluded from gross income to the extent the leave was accrued during any month in any part of which the member served in the combat zone. If your wife is a commissioned officer, a portion of the annual leave payment she receives for leave accrued during any month in any part of which she served in the combat zone may be excluded. The leave payment cannot be excluded to the extent it exceeds the maximum enlisted amount (see Q & A 2) for the month of service to which it relates less the amount of military pay already excluded for that month.

Q-7: My brother, who is a civilian in the merchant marine, is on a ship that transports military supplies between the United States and the combat zone. Is he entitled to the combat zone military pay exclusion?

A-7: No. Those serving in the merchant marine are not members of the U.S. Armed Forces. The combat zone military pay exclusion applies only to members of the U.S. Armed Forces. The U.S. Armed Forces 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.

Q-8: My husband is a member of the U.S. Armed Forces performing services as part of Operation Allied Force in Italy. He is not receiving hostile fire/imminent danger pay. Is he entitled to the military pay exclusion?

A-8: No. U.S. Armed Forces personnel serving outside the combat zone are not entitled to the military pay exclusion, unless they are serving in direct support of military operations in the combat zone for which they receive hostile fire/imminent danger pay. For a more detailed discussion of the tax treatment of military personnel, see Publication 3. For a discussion of possible extension of deadlines, see Q & A's 26 and 27.

PART 2 – EXTENSION OF DEADLINES

Q-9: I have been serving in the Adriatic Sea since April 1, 1999. 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 deadline extensions begin?

A-9: The deadline extension provisions apply to most tax actions required to be performed on or after March 24, 1999, or the date you began serving in the combat zone, whichever is later. In your case, the date that the deadline extensions began is April 1, 1999.

Q-10: My son is a member of the U.S. Armed Forces who is now serving in the 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?

A-10: For both questions, the answer is yes. In general, the deadlines for performing certain actions applicable to his federal taxes are extended for the period of his service in the combat zone on or after March 24, 1999, plus 180 days thereafter. During this extension period, assessment and collection deadlines will be extended, and interest and penalties attributable to the extension period will not be charged.

Q-11: Assuming the same facts as in question 10, would my son still have an extension for filing and paying his federal individual income taxes if he has unearned income from investments?

A-11: Yes. The extension applies without regard to the source of your son's income.

Q-12: Assuming the same facts as in question 10, will the deadline extension provisions continue to apply if my son is hospitalized as a result of an injury sustained in the combat zone?

A-12: Yes. The deadline extension provisions will apply for the period that your son is continuously hospitalized outside of the United States as a result of injuries sustained while serving in the combat zone, including 180 days thereafter. For hospitalization inside the United States, the extension period cannot be more than 5 years.

Q-13: Do the deadline extension provisions apply only to members of the U.S. Armed Forces serving in the combat zone?

A-13: No. The deadline extension provisions also apply to individuals serving in the 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.

Q-14: My son is a civilian explosive specialist who is in the combat zone training U.S. Armed Forces personnel serving in the combat zone. Do the deadline extension provisions apply to my son?

A-14: Yes. The deadline extension provisions apply to your son because he is serving in the combat zone in support of the U.S. Armed Forces.

Q-15: My husband is a private businessman working in Albania on nonmilitary

projects. Do the deadline extension provisions apply to my husband?

A-15: No. Other than military personnel, the only individuals working in the combat zone that are entitled to the deadline extension provisions are those serving in support of the U.S. Armed Forces.

Q-16: I am a member of the U.S. Armed Forces serving in the combat zone. Do the deadline extension provisions apply to my husband who is in the United States?

A-16: Yes. The deadline extension provisions apply not only to members serving in the U.S. Armed Forces (or individuals serving in support thereof) in the combat zone, but to their spouses as well, with two exceptions. First, if you are hospitalized in the United States as a result of injuries received while serving in the combat zone, the deadline extension provisions would not apply to your husband. Second, the deadline extension provisions for your husband do not apply for any tax year beginning more than 2 years after the date of the termination of the combat zone designation.

Q-17: Assuming the same facts as in question 16, will my husband have to file a joint tax return in order to benefit from the deadline extension provisions?

A-17: No. The deadline extension provisions apply to both spouses whether joint or separate returns are filed. If your husband chooses to file a separate return, he will have the same extension of time to file and pay his taxes that you have.

Q-18: My husband is serving in the U.S. Armed Forces in the combat zone. In 1998, 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 individual income tax return. Are federal individual income tax returns required to be filed for our children while my husband is in the combat zone?

A-18: No. Federal individual income tax returns for your dependent children are not required to be filed while your husband is in the combat zone. Instead, these returns will be considered timely if filed on or before the deadline for filing your federal individual income tax return under the deadline extension provisions. The

U.S. Armed Forces will provide your husband with instructions on how to notify the IRS of your children's eligibility to receive this extension of time to file. Since your older child may be entitled to a refund of tax, she may want to file her federal individual income tax return and obtain her refund.

Q-19: I am a member of the U.S. Armed Forces serving in the combat zone. My spouse and our three children live in our home in the United States. During 1998, a child care provider took care of our children in our home. We are required to file a Schedule H, Household Employment Taxes, as an attachment to our federal individual income tax return to report the federal employment taxes on wages we paid to our child care provider. Do the deadline extension provisions apply to the filing of Schedule H as an attachment to our federal individual income tax return?

A-19: Yes. The deadline extension provisions apply to all schedules and forms that are filed as attachments to the federal individual income tax return.

Q-20: I am a member of the U.S. Armed Forces who served in the combat zone beginning on March 24, 1999. If I serve in the combat zone until May 17, 1999, when will I be required to file my federal individual income tax return for 1998?

A-20: You must file your 1998 federal individual income tax return on or before December 6, 1999, 203 days after you left the combat zone. The deadline extension period consists of the sum of the following:

- (1) 180 days from the date you left the area 180
 - (2) The number of days remaining (as of the date you entered the area) to perform the required act (in your case, filing your 1998 federal individual income tax return, 3/24/99 to 4/15/99). 23
- Total 203

Q-21: My wife is a member of the U.S. Armed Forces serving in the combat zone. Can she make a timely qualified retirement contribution for 1998 to her individual retirement account (IRA) after April 15, 1999, and on or before the due date of her 1998 federal individual income tax return after applying the deadline extension provisions?

A-21: Yes. Your wife can make a timely qualified retirement contribution for 1998 to her IRA on or before the extended deadline for filing her 1998 income tax return under the deadline extension provisions.

Q-22: My brother, who began serving in the U.S. Armed Forces in the combat zone on March 24, 1999, did not make his first estimated tax payment for 1999 which was due April 15, 1999. Will my brother be liable for estimated tax penalties?

A-22: No. Your brother is covered by the deadline extension provisions and will not be liable for any penalties if he files and pays any tax due by his extended filing due date. The U.S. Armed Forces will provide your brother with instructions on how to notify the IRS of his eligibility to receive tax relief.

Q-23: My son, who is a member of the U.S. Armed Forces, was on an installment payment plan with the IRS for back income taxes before he was assigned to the combat zone. What should be done now that he is in the combat zone?

A-23: The IRS office where your son was making payments should be contacted. Because your son is 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 180 days. No additional penalties or interest will be charged during the deadline extension period.

Q-24: My son, who is a member of the U.S. Armed Forces serving in the combat zone, will file his federal individual income tax return for 1998 after April 15, 1999, but on or before the end of the deadline extension for filing that return. He expects to receive a refund. Will the IRS pay interest on the refund?

A-24: Yes. The IRS will pay interest from April 15, 1999, on a refund issued to your son if he files his 1998 federal individual income tax return on or before the due date of that return after applying the deadline extension provisions. The U.S. Armed Forces will provide your son with instructions on how to notify the IRS of his eligibility to receive tax relief. If his 1998 return is not timely filed on or before the due date after applying the deadline extension provisions, no interest will be paid on the refund except as provided under the normal refund rules.

Q-25: Do the deadline extension provisions apply to federal tax returns other than the federal individual income tax return?

A-25: Yes. The deadline extension provisions also apply to federal estate and gift tax returns. However, the deadline extension provisions do not apply to other federal tax and information returns, such as those for corporate income tax or employment taxes.

Q-26: I am a member of the U.S. Army that was deployed to Italy to perform services as part of Operation Allied Force. My permanent duty station is in the United States where my spouse resides. Do the deadline extension provisions for filing and paying our federal individual income taxes apply to me?

A-26: Yes. Any member of the U.S. Armed Forces who is performing services as part of Operation Allied Force outside of the United States while deployed away from that individual's permanent duty station qualifies for the deadline extension for filing and paying federal individual income taxes. The deadline extension provisions also apply to that member's spouse.

Q-27: My husband, who is a member of the U.S. Armed Forces, is at his permanent duty station in Italy performing services as part of Operation Allied Force. Do the deadline extension provisions apply?

A-27: No. U.S. Armed Forces personnel serving at their permanent duty station outside the combat zone are not entitled to the deadline extension provisions. For a more detailed discussion of the tax treatment of military personnel, see Publication 3.

Q-28: I am a Department of Defense civilian employee stationed in Hungary away from my permanent duty station in the United States. I am performing services as part of Operation Allied Force. Do the deadline extension provisions apply to me?

A-28: Yes. The deadline extension provisions apply to you. Although you are not serving in the combat zone, you are a Department of Defense civilian employee performing services away from your permanent duty station as part of Operation Allied Force.

Q-29: My husband and I are civilian employees of defense contractors. I work in the United States and my husband temporarily works in Germany. Our jobs involve the production of equipment used by the U.S. Armed Forces for Operation Allied Force. Do the deadline extension provisions apply to either of us?

A-29: No. The deadline extension provisions do not apply to civilian employees of defense contractors unless they are serving in the combat zone in support of the U.S. Armed Forces.

PART 3 – MISCELLANEOUS PROVISIONS

Q-30: My daughter is a member of the U.S. Armed Forces serving in the combat zone. She makes calls to me here in the United States. Are these calls exempt from the federal excise tax on toll telephone service?

A-30: 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. If a calling card or collect call is made, a certificate of exemption must be furnished to the telephone service provider receiving payment for the call. The exemption certificate (which may be obtained from the telephone service provider) should be signed and dated by the telephone subscriber and contain the following information: the amount and point of origin of the call, the name of the member of the U.S. Armed Forces performing service in the combat zone originating the call, the name of the telephone service provider, and a statement that the charges are exempt from tax under § 4253(d) of the Internal Revenue Code.

Q-31: If the federal excise tax has already been paid on the toll telephone service in Q & A 30, can a refund be obtained?

A-31: Yes. If the federal excise tax has already been paid on that toll telephone service, a refund may be obtained either from the telephone service provider that collected the tax, or from the IRS by filing Form 8849, Claim for Refund of Excise Taxes, and providing the exemption certificate described in A-30.

Q-32: How will my military pay for active service in the U.S. Armed Forces in

the combat zone be reported on my 1999 Form W-2, Wage and Tax Statement?

A-32: Military pay attributable to your active service in the combat zone that is excluded from gross income will not be reported on your 1999 Form W-2 in the box marked "Wages, tips, other compensation." However, military pay for such service is subject to social security and medicare taxes and will be reported on your 1999 Form W-2 in the boxes marked "Social security wages" and "Medicare wages and tips."

Q-33: I'm an officer serving in the combat zone. I have made monthly contributions to an individual retirement account (IRA) for 1999. In view of the military pay exclusion for my service in the combat zone, I may have little or no taxable compensation for 1999 and may not be eligible to make an IRA contribution for 1999. If my taxable compensation is less than \$2000, should I withdraw the portion of my contributions that exceeds my taxable compensation?

A-33: Yes. In general, any amount contributed to your IRA that is more than the smaller of (1) your taxable compensation, or (2) \$2000, is an excess contribution and must be withdrawn to avoid a 6 percent excise tax. Once you are sure that your taxable compensation will be less than \$2000, you should withdraw the portion of your contributions that exceeds your taxable compensation. You will not be taxed on the distributed amount if you receive the distribution on or before the deadline for filing your 1999 federal individual income tax return after applying the deadline extension provisions. You may not take a deduction with respect to these distributed contributions. You must also withdraw the amount of net income attributable to the distributed contributions while they were assets of the IRA. Any of that net income is includible in your gross income for 1999. For further information, see Publication 590, Individual Retirement Arrangements (IRAs) (Including Roth IRAs and Education IRAs).

Q-34: Assuming the same facts as question 33, how will the financial institution that distributes my 1999 IRA contributions to me report this distribution?

A-34: The financial institution will report the entire amount of the distribution

(1999 distributed contributions and attributable net income) on Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. However, it should report only the amount of any net income attributable to the distributed contributions as the “Taxable amount” on Form 1099-R.

PART 4 – INQUIRIES

Taxpayers within the United States

may seek assistance by calling the IRS at 1-800-829-1040.

The IRS offices in Rome, Italy, Bonn, Germany, Paris, France, and London, England, can also assist you with your federal income tax questions. You may contact the Rome office by calling [39] (06) 4674-2560, or via fax at [39] (06) 4674-2223; the Bonn office by calling [49] (228) 339-2119, or via fax at [49] (228) 339-2810; the Paris Office at (33) (1) 4312-2555, or via fax at (33) (1) 4312-

4577; and the London Office at (44) (171) 408-8077, or via fax at (44) (171) 495-4224.

Taxpayers with access to e-mail may direct questions relating to the tax relief discussed in this notice to *Alliedforce@ccmail.irs.gov which is the IRS e-mail address for this information.