

TAX FORGIVENESS FOR DECEASED COMBAT SERVICE MEMBER'S

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Since the events of September 11, 2001, our country has seen the loss of thousands of U.S. Military service member's (active duty and reservists) and resulting hardships for their families and friends. The Internal Revenue Service has provided a small silver lining for their families by forgiving all income tax they owed at death. The deceased service member's surviving spouse or personal representative will have the responsibility of filing their final tax returns and claim(s) for refund (withheld or estimated tax).

Combat Zone Tax Forgiveness:

Federal income tax will be forgiven for the tax year in which a service member dies while serving in a combat zone or from wounds, disease, or injury sustained in a combat zone. The forgiveness will apply to taxes owed in the current year and for any earlier tax year ending on or after the first day the member served in the combat zone. Any tax liability that has been paid and is to be forgiven will also be refunded. The forgiveness insures that no tax liability will be imposed on the decedent's beneficiary(s).

Criteria:

Eligibility is based upon the following criteria: (i) death resulting from active service, wounds, disease, or injury sustained in a combat zone; or (ii) death occurring while serving outside the combat zone but in direct support of military operations in the zone, and the member qualifying for hostile fire or imminent danger pay. The forgiveness provision also applies to any U.S. employee that dies from wounds or injury incurred in a terrorist or military action (activity primarily directed against the United States or its allies or any military action involving the U.S. Armed Forces resulting from violence or aggression against the United States or its allies).

Missing status:

A member of the military, classified in a missing in action or prisoner of war status, will receive a date of death on the date his or her name is removed from the status for military pay purposes. This result is regardless of the actual date when the death occurred.

Claims and Procedure for Tax Forgiveness:

If the forgiveness provisions apply to a prior year's tax, that has been paid and the refund period has not expired, it will be refunded. Alternatively, if the tax has not been paid it will be forgiven.

Combat Zone Death: File Form 1040 (if no tax return has been previously filed) for the tax year; or Form 1040X (if a tax return has been previously filed). Every tax return must be identified, in bold letters on the top of page 1 and on the line for total tax, by writing: "Enduring Freedom – KIA;" "Kosovo Operation – KIA;" "Desert Storm – KIA;" or

“Former Yugoslavia – KIA.” Include a separate computation of the decedent’s tax liability (amount to be forgiven).

Terrorist or Military Action Death: Same procedure as above, except replace “KIA” with “KITA.”

Necessary documents:

The following documents must accompany all returns and claims for refund: (i) Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, and (ii) Certification from the Department of Defense or Department of State. The certification must include the following: (i) deceased individual's name; (ii) social security number; (iii) date of injury; (iv) date of death; and (v) statement that the individual died in a combat zone or from a terrorist or military action.

Military and civilian employees of the Department of Defense must obtain certification on Form DoD 1300, REPORT OF CASUALTY. Civilian employees of all other agencies must obtain a letter signed by the Director General of the Foreign Service, Department of State, or his or her delegate.

Joint returns:

Only the deceased spouse’s part of the joint income tax liability is eligible for the refund or tax forgiveness. The decedent's portion is determined by calculating the income tax for which the decedent and surviving spouse would each have been liable if a separate tax return were filed.