

2008

Federal Tax Return Tips

for Members of the U.S. Military

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This article is meant to assist members of the Reserve community (including those serving on active duty) in filing your 2008 Federal Income Tax Return (Form 1040), and to make you aware of available tax credits and deductions and lower your tax burden.

Preparation of Your 2008 Federal Income Tax Return

Unless an extension is filed, your 2008 Federal Income Tax Return must be filed with the Internal Revenue Service on or before 15 April 2009. The following portion of this article will assist you in preparation of your 2008 Form 1040 Federal Income Tax Return.

Lines 1-5: Filing Status: The type of taxpayer(s) that is filing the return: single; married filing jointly; married filing separate return; head of a household; or qualifying widow with dependent child.

Line 6: Exemptions: The number of individuals (single, married couple, and dependents) claimed on the return and information (Social Security number(s) and relationship to you) about them. You may be able to deduct \$3,500 on line 42 for each exemption listed in this section. The exemption benefit will be phased out if your adjusted gross income is between: \$159,950 – \$282,450 for single taxpayers; \$199,950 – \$322,450 for heads of household; and \$239,950 – \$362,450 for married taxpayers filing jointly or a qualifying widow(er).

Lines 7-22: Income: Your 2008 income and benefits:

Civilian income: salary or wages; tips; taxable interest; capital gains and losses; foreign earned income (exclusion amount applicable); bonus; back pay; dividend income; alimony received; deferred compensation; dependent care benefits provided by your employer; education expenses reimbursed by your employer; business expense reimbursements; pensions and annuities; rental real estate income; royalties; business income; trust income; employer contributions to medical savings accounts; employer-provided vehicles; Social Security benefits; excess salary deferrals; moving expense reimbursements; severance pay; and unemployment benefits received.

Military income: Drill and active duty pay; special pay (career incentives, language proficiency, foreign duty, hardship duty, hostile fire, or imminent danger); bonuses (career status, enlistment, overseas extension, reenlistment, referral fee); and incentive pay (submarine, flight, hazardous duty, etc.).

Foreign Source Income: Income (earned and unearned) from sources outside the United States must be reported unless exempt by U.S. law. Certain taxpayers can exclude up to \$85,700 of income earned in foreign countries.

Military exclusion from income: Living (Basic Allowance for Housing, Basic Allowance for Subsistence, housing and cost-of-living allowances abroad); moving allowances (dislocation, base realignment and closure benefit paid after 11 Nov. 2003, moving household and personal items, storage, temporary lodging, and associated expenses); travel allowances; combat zone pay (limited for officers); family allowances (education expenses for dependents, emergencies, evacuation to a place of safety); death allowances (burial services, death gratuity payments to eligible survivors, travel of dependents to burial site, counseling); ROTC education and subsistence allowances; survivor and retirement protection plan premiums; uniform allowances; in-kind military benefits (dependent-care assistance program, legal assistance, medical/dental care, commissary/exchange discounts, space-available travel on government aircraft).

IMPORTANT NOTE: *Individuals mobilized or who performed Active Duty for Special Work (ADSW) will receive two W-2 statements for the tax year.*

Methods to Reduce Taxable Income:

Retirement Account(s): A member is permitted to participate in a retirement account.

- a. *Employer Established Retirement Plans:* The 401(k), 403(b), and 457 plan elective deferral limits are \$15,500. If you will be 50 years old by 31 December 2008, you may contribute an additional \$5,000 (catch-up contribution).
- b. *Individual Retirement Accounts:* IRA contributions, to be deductible, are subject to various limitations (filing status and "Modified Adjusted Gross Income"). Individuals can contribute to an IRA on a non-deductible basis. In addition, deductible IRA contributions up to \$5,000 (plus a \$1,000 makeup allowance for those over the age of 50) may be made for each spouse (including a non-income producing spouse) as long as the combined compensation of both spouses at least equals the contributed amount.
- c. *Thrift Savings Plan:* In 2008, the IRS elective deferral limit is \$15,500. If you are over age 50, you may also make an additional catch-up contribution of \$5,000. Those that contribute to the TSP from their basic pay may also contribute from their incentive or special pay (including bonus pay).

Capital Gains Tax Planning: Holding investment assets for more than one year allows a taxpayer to utilize the more favorable long-term capital gains tax rate structure. The federal tax rate on most long-term gains are 15% (taxpayers in the 25%, 28%, 33%, and 35% tax brackets) and 5% (taxpayers in the 10% and 15% tax brackets).

Charitable Giving from an IRA: Taxpayers over age 70 may make a direct transfer of up to \$100,000 from their retirement account (IRAs and Roth IRAs) to charity without having to count the distributions as taxable income. The transfer will count as the taxpayers required minimum distribution (RMD) thereby decreasing his or her taxable income.

Lines 23-37: Adjusted Gross Income. This section consists of deductions (standard or itemized) to the income and benefits calculated under lines 7-22 above.

Standard Deduction: The 2008 amounts are: \$5,450 for single or married filing separately; \$10,900 for married filing jointly or qualified widow; and \$8,000 for a head of household.

Miscellaneous Itemized Deductions:

These deductions phase out at \$159,950 for single and joint tax filers and at \$79,975 for separate returns filed by a married individual. Itemized deductions will also be reduced by 3% of the amount by which the taxpayer's adjusted gross income (AGI) exceeds the income threshold up to a maximum of 80% of allowable deductions. The following is a list of the available deductions and their respective limits, if any:

Itemized Deductions (Not subject to 2% limitation):

These deductions consist of: Educator expense (\$250 deduction if certain qualifications are met); business expenses of a Reservist; \$2,500 maximum student loan interest deduction (subject to \$145,000 if married filing jointly; or \$70,000 single or head of household AGI phase out; and not available to individuals who are married and file separately); health savings account deduction; moving expenses; one-half of self-employment tax; real estate taxes; self-employed health insurance deduction; Keogh Retirement Plan; Self-Employed SEP and SIMPLE contribution deduction; alimony payments; penalty on early withdrawal of savings; and mortgage interest paid (subject to limitations).

State and Local Sales Tax: State and local sales taxes are deductible (actual purchase amount) or pursuant to an IRS created table. If the IRS table is used, the sales tax paid on automobiles, boats, and other items specified by the IRS are also deductible.

Charitable Contributions: Contributions to a church, temple, not-for-profit organization, etc., are eligible for the deduction. Contributions made solely for recreation, amusement, or welfare (MWR) of service personnel are also deductible. Charities are now required to inform you of the deduction limits for quid pro quo contributions when you make a payment of more than \$75.00. If you make a gift of appreciated property, you can receive a tax deduction for the property's full market value without having to pay tax on its appreciation in value.

IMPORTANT NOTE: The Emergency Economic Stabilization Act of 2008 provides for tax-free distributions from an IRA (regular or ROTH) to a charity. To qualify, the distribution must be made directly by the IRA trustee to a qualifying organization after the IRA owner attains age 70. The maximum contribution amount is \$100,000. This provision only remains in effect, unless extended or modified, through 31 December 2009.

Capital Loss Carryover: Up to \$3,000 (\$1,500 if married filing separately) of capital losses, in excess of capital gains, can be deducted as an offset against other income. Capital losses may also be carried forward to offset a capital gain in the next year.

Exceptions:

The business expense deduction provides eligible Reservists an above-the-line deduction for their transportation, meals, and lodging expenses (nonreimbursed) incurred when traveling more than one hundred (100) miles away from home and staying overnight to attend meetings. The deduction amount will be calculated at the maximum travel rate expense allowed for federal government employees. This deduction benefits all applicable Reservists regardless of whether they itemize on their income tax returns. To receive the deduction, you must complete Form 2106, Employee Business Expenses, or Form 2106-EZ, Unreimbursed Employee Business Expenses. Then, include the amount from Form 2106 or Form 2106-EZ on line 24 of Form 1040. Write "RC" and the amount of expense in the space to the left of line 24 on Form 1040.

Itemized Deductions (Subject to 7.5% limitation):

Medical expenses must total at least 7.5% (10% if in AMT) of adjusted gross income (AGI) to be deductible. Deductible expenses include the following: doctor, dentist, and chiropractors' fees; lab fees; contact lenses and eye glasses; and medical supplies. Health insurance premiums may be included to reach the deductible limitation unless paid by an employer.

Itemized Deductions (Subject to the 2% limitation):

Unreimbursed Travel Expense: A Reservist attending drill under competent orders, either in a pay or nonpay status, is entitled to deduct the cost of the travel between the city or general area which constitutes your principal or regular place of employment and the drill site (NOSC, base, or post) located outside such general area (if you stay overnight or the location is in excess of 50 miles from your tax home). If you are unemployed or a student, you are not entitled to any mileage deductions as an Employee Business Expense.

You may deduct your round-trip transportation expenses, provided free transportation between such locations is not furnished to you. The deduction is applicable, regardless of whether the Reservist attends drills in the evening after his/her regular working hours or on an otherwise non-working day. If you are required to remain away from your principal place of employment overnight in performance of authorized drills (IDTs) and training duty (AT/ADT), you may deduct all of the cost of the travel expenses including meals (subject to 50% limitation) and lodging (if not furnished), whether or not you are compensated for such drills and training duty, as long as you are not on per diem.

Example:

If your normal work week is Monday through Friday and you attend a drill of your Reserve unit in the general area of your regular place of work and you return to your home on Saturday night, the cost of transportation from your home to the drill site is a commuting expense; and you cannot deduct it unless you go from the center to a "temporary drill site" rather than to the center.

If the meetings are held outside, the general area (fifty (50) miles or more from a Navy Reserve Center) you can deduct the cost of your transportation to attend the drill. If you stay away from home overnight, the lodging and food cost incurred, if not furnished or reimbursed, is deductible.

Out-Of-Pocket Meals (Reduced By 50%):

Officers may deduct their meals on Form 2106. To deduct the expense, a member may either (1) maintain records of each meal purchased; or, (2) utilize the maximum rate authorized paid by the federal government for meals and incidental expenses in the locality where the travel was performed.

Uniforms, Uniform Accessories, and Maintenance:

Members are allowed to list, on Form 2106, all expense pertaining to the unreimbursed uniform expenses incurred. The expenses include maintenance, repair, or alteration of uniforms and equipment especially required by the military, which doesn't take the place of civilian clothing.

Professional Societies, Subscriptions to Military-Related Periodicals, and Purchase of Books:

The cost of membership, subscribing to military-related periodicals, and the purchase of books which enhance the training or potential of the member are deductible on Form 2106. This includes technical reference material, historical data, and computer programs detailing the strategy and tactics of historical battles and language training materials.

Other Deductible Expenses: The following expenses may also be deductible: (1) Change of Command or Change of Office and Special Award Ceremony expenses (printing, reception, etc.); and, (2) Legal expenses incurred by a member in the defense of certain allegations. [IRS Publication 529, *Miscellaneous Deductions*.]

Additional Civilian Deductions: Home office expense (if your “principal” place of business); tax return preparation costs; job search expenses; and educational expenses (if (1) required by your employer or by law or regulations to retain your salary, status, or job, or (2) to maintain or improve your skills required in your job).

Lines 38-44. Tax.

This section of the tax return calculates the amount of your taxable income by deducting your standard or itemized deductions from your adjusted gross income. It may also be impacted by the Kiddie Tax (Form 8814). The Kiddie Tax applies to unearned income, in excess of \$900, of a child under age 19 or 24 if a full-time student. The child’s unearned income between \$900 and \$1,799 will be taxed at his or her marginal income tax rate (typically 10%). Income in excess of \$1,800 will be taxed at the parent’s marginal tax rate.

Line 45. Alternative Minimum Tax.

The alternative minimum tax (AMT) is a separately figured tax that eliminates many deductions and credits, thus increasing tax liability for an individual who would otherwise pay less tax. The tentative minimum tax rates on ordinary income are 26% (on the first \$175,000) and 28% (excess amount). The 2008 exemption amounts are the following: \$69,950 for married (filing jointly) and surviving spouses; \$46,200 for single or head of household filers; and \$34,975 for married (filing separately). The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual’s AMTI exceeds (1) \$175,000 in the case of married individuals filing a joint return and surviving spouses; (2) \$112,500 in the case of other unmarried individuals; and, (3) \$87,500 in the case of married individuals filing separate returns.

Lines 47-56. Credits. Foreign Tax Credit (Form 1116); child care (child under age 13); dependent care (physically or mentally incapable of self-care); credit for the elderly or disabled (Schedule R); and HOPE credit (qualified tuition and fees paid on behalf of a student).

5. Child Tax Credit (\$1,000 per qualifying child under age 17). Phased out for adjusted gross income levels: (1) \$110,000 for joint filers; (2) \$55,000 for married individuals filing separately; and, (3) \$75,000 for single filers. Under the phase out rule, the credit amount is reduced at the rate of \$50 for each \$1,000 (or fraction) by which a taxpayer’s “modified adjusted gross income” exceeds the threshold amount.

6. Adoption Credit (Form 8839). Up to \$11,650 credit for each child (a special needs child receives the full credit regardless of the amount of expenses).

7. Mortgage Interest Credit.

a. Home Loan Mortgage Interest. Deductible up to \$1 million in home acquisition debt.

b. Home Equity Loan Interest. There is a \$100,000 (\$50,000 if married filing separately) limit on the amount of debt that can be treated as home equity debt (disallowed under AMT). Interest on amounts up to the home equity debt limit are deductible while amounts in excess are treated as personal interest and not deductible.

c. The interest on excess equity loan amounts used for investment, business, or other deductible purposes may be deductible.

8. Saver’s Credit. A nonrefundable tax credit based on qualified retirement savings contributions to an employer plan made by an eligible individual (AGI of \$53,000 or less on joint returns; \$39,750 or less on head of household returns; and \$26,500 or less on single returns). The credit is equal to the applicable percentage (based on filing status and AGI) of qualified retirement savings contributions up to \$2,000.

9. Other Credits. Prior Year Minimum Tax; Qualified Electric Vehicle; Business; etc.

Lines 57-61. Other Taxes.

This section includes taxes on the following: Self-employment; tip income not reported to your employer; IRA or qualified retirement plans (early distribution, excess contribution, minimum required distribution); nontaxable combat pay election; and, household employment.

Lines 62-71. Payments.

This section includes: Federal Income Tax withheld (W-2 and 1099); estimated tax payments (2008 payments and amounts applied from 2007); earned income credit (Form EIC); excess Social Security; Medicare, and RRTA tax withheld; nontaxable combat pay election; additional child tax credit; and amounts paid with an extension request.

Lines 72-76. Refund or Amount You Owe.

This section either makes the taxpayer happy, if they are due a refund, or a scowl, if money is owed to the government.

The following are additional factors that must be considered when completing your 2008 Form 1040 Federal Income Tax Return.

MILITARY SERVICE IN A COMBAT ZONE AND THE IRS

The following is a short list of tax benefits available to our brave men and women who served in a combat zone in 2008.

Exclusion from Gross Income.

Enlisted members or warrant officers (including commissioned warrant officers) who perform service in a combat zone will have their military pay excluded (not included as a part of your W-2 income) from their gross income for all or any part of the month of their service in a combat zone under IRC Section 112(a). For commissioned officers, the monthly amount that will be excluded from their gross income will be capped at the highest enlisted pay, plus any hostile fire or imminent danger pay received under IRC Section 112(b). Any income, dividends, interest, and bonuses received from sources other than the military will not be tax exempt.

The combat zone income exemption will apply to the following members: (1) those serving directly inside a combat zone and those who participate in operations within the zone, including the airspace over it; (2) any military pay received by a member who is hospitalized as a result of injuries sustained while serving in a combat zone, subject to a two-year limitation. (The two-year limitation period begins to run on the date of termination of service in the combat zone.); (3) annual leave payments upon discharge from the service to the extent the leave was accrued during any month in any part of which the member served in a combat zone; and (4) a reenlistment bonus received in a month that the member is outside the combat zone if they completed the necessary action for entitlement to the reenlistment bonus in a month during which they served in the combat zone. In order to be eligible for the income tax exclusion, your service branch must certify your entitlement to the military pay exclusion on your Form W-2.

Federal and State Grants:

The federal government and many states offer returning and retired veterans different types of grants. The grants come in the form of special monetary compensation (returning veteran bonus, combat zone grant, property tax rebate, aid for OIF/OEF veterans, Appreciation Fund, funds to adapt a residence for disabilities, etc.) or benefits (free college and university tuition, ad valorem tax relief, small business grants, etc.). All funds and benefits received from a federal or state grant program will be tax free to the recipient.

IRS Extensions.

The deadline extension provision applies to most tax actions that are required to be performed on or after the beginning date for your combat zone, or the date you began serving in that combat zone, whichever is later. The deadline for performing certain actions, applicable to your federal taxes, will be extended for the period of your service in the combat zone plus 180 days thereafter. During the extension period, assessment and collection deadlines will be extended and interest and penalties attributable to the extension period will not be charged. The extensions will apply without regard to the source of the income. The deadline extension provisions will also apply for a period of hospitalization inside the United States not in excess of five years.

The IRS deadline extension provisions also apply to individuals serving in the combat zone in support of the U.S. Armed Forces, such as Merchant Marines serving aboard vessels under the operational control of the Department of Defense, Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the U.S. Armed Forces in support of those forces. In addition, members who perform military service in an area outside the combat zone can qualify for the extension provisions if their service is in direct support of military operations in the combat zone, and they receive special pay for duty subject to hostile fire or imminent danger as certified by the Department of Defense. The deadline extension provisions apply to both spouses whether joint or separate tax returns are filed.

The deadline extension provisions apply only to federal estate and gift tax returns. Federal tax and information returns, such as corporate income tax or employment taxes, are not entitled to the extension provisions. The extension provisions will also suspend compliance actions, such as audits or enforced collections.

Qualified Retirement Contribution.

Qualification for an extension will entitle a service member to make a timely qualified retirement contribution for the prior tax year to his or her retirement account on or before the extended deadline for filing the income tax return for that year. Any amount contributed to an IRA that is more than the smaller of (1) your taxable compensation or (2) \$5,000 (\$6,000 if you are age 50 or over) is an excess contribution and must be withdrawn to avoid the excise tax. If your taxable compensation will be less than \$5,000 (\$6,000 if you are age 50 or over), you should withdraw the portion of your contribution that exceeds your taxable compensation.

Estimated Tax Payments.

The deadline extension provisions apply to estimated tax payments and will prevent penalties and interest from accruing if the tax is paid in full by the extended filing due date. In order to insure this protection, it is recommended that you print "COMBAT ZONE" across the top of the return.

Installment Payment Plans.

While serving in a combat zone and for 180 days thereafter, a service member will not be required to make payments on past due taxes. Also, no additional penalties or interest will be charged during this extension period. In order to receive this benefit, you will need to contact the IRS office where you were making the payments.

Form W-2, Wage and Tax Statement.

Military pay attributable to service in a combat zone is not reported on a service member's Form W-2 in the box marked "Wages, tips, other compensation." The military pay will be subject to Social Security and Medicare taxes and will be reported under "Social Security wages" and "Medicare wages and tips."

Earned Income Tax Credit (EITC).

The U.S. Tax Code does not include combat pay, Basic Allowance for Housing (BAH), and Basic Allowance for Subsistence (BAS) in the definition of "earned income" for purposes of the EITC. These exclusions may leave a taxpayer with no earned income and the inability to claim the credit. Eligibility for the credit: more than one qualifying child and less than \$38,646 (\$41,646 if married filing jointly) in AGI; one qualifying child and less than \$33,995 (\$36,995 if married filing jointly) in AGI; or no qualifying children and less than \$12,880 (\$15,880 if married filing jointly) in AGI. The earned income credit will be denied if your investment income exceeds \$2,950.

Hospitalization.

The deadline extension provisions will apply to an injury sustained in a combat zone for the period that you are continuously hospitalized as follows: (1) outside of the United States, including 180 days thereafter; or (2) not in excess of five years inside the United States. Also, subject to a two-year limitation after the end of hostilities and recession of the combat zone designation, military pay received by a hospitalized enlisted member as a result of injuries sustained while serving in a combat zone will be excluded from gross income. Commissioned officers are entitled to the same benefit subject to the maximum enlisted per month amount discussed above. The exclusion will only apply to income taxes and not FICA taxes.

Dependent Children Tax Returns.

No income tax return is required to be filed for a dependent child while one or more spouses serves in a combat zone. The service member's extension to file his/her federal individual income tax return will apply.

Accrued Annual Leave.

Combat zone leave payments will be excluded from gross income (subject to the maximum enlisted pay limitation). The exclusion will also apply when a service member sells back his/her leave upon separation from the military or active duty.

Reenlistment Bonus.

A reenlistment bonus earned as a direct result of the completion of actions necessary for its entitlement in a combat zone will be excluded from gross income. The exclusion will apply even if the bonus is received while outside the combat zone.

MILITARY TAX DEFERRAL

The Servicemembers Civil Relief Act allows Reservists called to active duty a deferral of taxes owed if they can show that their ability to pay the taxes was affected by their military service. The deferral applies to taxes that fall due before or during military service and extends the payment deadline to six months (180 days) after the military service ends. No interest or penalty will accrue during the deferral period.

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.

NOTE: This article does not attempt to address all tax law changes made this year. It is important to consult a tax specialist when preparing your federal income tax return.