

The Military Family Tax Relief Act of 2003 and How It Affects You

By *LT Marc J. Soss, SC, USNR*

On 11 November 2003, after both the House and Senate unanimously passed HR 3365 (the Military Family Tax Relief Act of 2003), President Bush signed it into law. The new law provides tax breaks to military personnel and their families in the following areas:

Travel Expenses:

Retroactive to 1 January 2003, members of the military are eligible to use an above-the-line deduction for the overnight transportation, meals and lodging expenses they incur when traveling more than 100 miles away from home and staying overnight to attend meetings. The deduction amount will be calculated at the maximum rate allowed for travel expenses for employees of agencies under subchapter I of chapter 57 of title 5, United States Code. This provision will provide a substantial benefit to members of the military, regardless of whether they itemize on their income tax returns, since the prior law only allowed members who itemized their expenses to deduct unreimbursed travel expenses to the extent they exceeded two (2%) percent of their adjusted gross income.

Exclusion from Gross Income:

The law extends the gross income exclusion to include any adjustment in the amount of death gratuity payable with respect to the death of a member of the U.S. military. This provision includes a member serving on active duty, inactive duty training, or engaged in authorized travel. In addition, retroactive to 10 September 2001, the exclusion amount is increased from \$6,000 to \$12,000.

Sale of Principal Residence:

Under current law, individuals who reside in their principal residence for two of the preceding five years before sale may exclude up to \$250,000 (single) or \$500,000 (married filing jointly) of gain. The new law allows military personnel to elect to disregard, a period not exceeding ten years, the time away from home on official extended duty for purposes of determining this requirement. If the service member makes this election, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period of up to ten years during which the taxpayer or the taxpayer's spouse served on official extended duty as a member of the uniformed services.

For definition purposes, qualified official extended duty is "any period of extended duty while serving at a duty station at least 50 miles away from the taxpayer's principal residence or under orders requiring residence in government-furnished quarters." Extended duty is any period of duty under a call or order to such duty for a period of more than 90 days or for an

indefinite period. The election may be made with respect to only one property for a suspension period, and may be revoked at any time. The law is effective for sales or exchanges after 6 May 1997, with the statute of limitations on refund claims suspended for a one-year period.

Homeowners Assistance Program (HAP):

Income received, under the Department of Defense Homeowners Assistance Program, will be classified as a tax-free benefit and not included as wages for federal income tax purposes. The excludible amount will be limited to the reduction in the fair market value of the property. The program was originally created to compensate members of the military for any decrease in the value of their home resulting from military base closures or realignments.

Dependent Care Assistance:

The law clarifies that dependent care assistance, provided under a military dependent care assistance program, is tax-free to the recipient member and not considered wages for federal income tax purposes. The law is retroactive to 1 January 2003.

Terrorism:

The law suspends a tax-exempt organization's status for any period during which it is identified, by U.S. federal authorities, as a terrorist organization or supporter of terrorism. The suspension period will commence on the date the organization is first classified or identified as a terrorist organization or supporter and will terminate on the date, if any, when rescinded pursuant to the law or executive order under which it was made.

For definition purposes, a terrorist organization is "an organization that has been designated or otherwise individually identified: (1) as a terrorist organization or foreign terrorist organization under either §212(a)(3)(B)(vi)(II) or §219 of the Immigration and Nationality Act; (2) in or pursuant to an executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or §5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an executive order that refers to the Act and is issued under the authority of any federal law if the organization is designated or otherwise individually identified in or pursuant to such executive order as supporting or engaging in terrorist activity (as defined in the Immigration and Nationality Act, §212(a)(3)(B)) or supporting terrorism (as defined in the Foreign Relations Authorization Act, §140(d)(2), for fiscal years 1988 and 1989)." During the suspension period, no contribution deduction will be allowed.

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Distributions from Qualified Tuition Programs and Education Savings Accounts:

Under current law, distributions from a qualified tuition program or a Coverdell Education Savings Account are subject to a ten-percent penalty if they are not used for qualified higher education expenses. An exception is available if the student receives a scholarship. The law clarifies this issue and provides that appointments to a military academy will be treated as scholarships for purposes of the exception to the ten-percent penalty.

Extended Tax Filing Rules:

The law applies the current deadline extensions available under the Tax Code (for filing tax returns and making tax payments) for individuals serving in a combat zone to those serving in “contingency operations.” Contingency operations are defined as “operations designated by the Secretary of Defense in which personnel are or may become involved in military actions during a war or national emergency declared by the President or Congress.”

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O-1E Through O-3E Pay, AGAIN

By CAPT Tom McAtee, USNR (Ret)

NDA 2004 amends an amendment enacted with NDA 2002 and finally gets it right for commissioned Reservists with at least four years of enlisted service.

Prior to NDA 2004, section 203 of Title 37, USC, provided for the payment of O-1E through O-3E pay to those commissioned Reservists who accrued at least 1460 points as a warrant officer and/or as an enlisted member. However, whether or not you receive such pay depended upon the type of duty performed or the fund account which paid for the orders — Reserve Personnel Navy (RPN) or Military Personnel Navy (MPN). For IDT, if entitled, you would receive O-1E through O-3E pay. If entitled and performed active duty (regardless of type) paid from the RPN account, you would receive O-1E through O-3E pay. However, if on active duty orders, regardless of type, paid from the MPN account, you were denied O-1E through O-3E basic pay.

The latter situation has been corrected by a NDA 2004 amendment. Now, regardless of type duty or funding source, if a commissioned Reservist has at least 1460 points of warrant and/or enlisted service, he/she is entitled to be paid from the O-1E through O-3E basic pay tables. This amendment became effective 24 November 2003 for pay purposes, which is significant to an eligible officer on mobilization orders or orders funded by MPN on that date. ¶

New HM to BSN Reserve Drill Option

*By CAPT (Sel) Karen Kreutzberg, NC, USNR
Director for Medical Reserve Recruiting Programs*

Program Details:

A new program is now offered to Hospital Corpsman (HM) and Dental Technician (DT) drilling Reservists who are interested in pursuing a Baccalaureate in Nursing Degree. (BSN). This new drilling option allows a drilling HM or DT to earn drill pay and credit for attending school.

Eligibility:

Interested Selected Reservists (SELRES) must be U.S. citizens; have a letter of acceptance or be enrolled in an accredited baccalaureate nursing program (verified by <www.nlnac.org> or <www.aacn.nche.edu>); and be enrolled for a minimum of six credits/semester or session. This program is offered to Program 32 (MTF) and Program 46 (Fleet Hospital) units. Participation is limited to a maximum of three years.

How to Apply:

SELRES will need to have a Letter of Endorsement for approval from their Unit Commanding Officer. While in the program, the student must maintain a GPA of 2.5 or better. If, at any time, the SELRES stops taking courses, he/she must muster and drill with his/her unit in the traditional manner.

While in school, the SELRES must drill with his/her unit twice annually (4 drills) in order to complete all required Reserve unit and Naval Reserve Activity (NRA) or Reserve Center administrative requirements. This includes the twice-annual Physical Fitness Assessment (PFA) test. While in this program, the HM is eligible for mobilization, but may request a deferment from BUPERS.

After earning a BSN degree and passing a state board of nursing licensure exam (NCLEX), the member may apply for a Nurse Corps commission. There will be no additional Reserve obligation if the member is not selected for Nurse Corps.

It is the expectation that anyone interested in this program ultimately desires to continue his or her Naval Reserve career as a commissioned Nurse Corps Officer. This program is designed to assist that goal by allowing the Reservist time to pursue school while continuing his/her Naval career.

For more information on this program, contact CAPT (Sel) Karen Kreutzberg, NC, USNR, Director for Medical Reserve Recruiting Programs at (202) 762-3824 or e-mail <kmkreutzberg@us.med.navy.mil>. ¶