

26 USC 7508: Time for performing certain acts postponed by reason of service in combat zone or contingency operation

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From Title 26-INTERNAL REVENUE CODE

Subtitle F-Procedure and Administration

CHAPTER 77-MISCELLANEOUS PROVISIONS

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§7508. Time for performing certain acts postponed by reason of service in combat zone or contingency operation

(a) Time to be disregarded

In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a "combat zone" for purposes of section 112, or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section or at any time during the period of such contingency operation, or hospitalized as a result of injury received while serving in such an area or operation during such time, the period of service in such area or operation, plus the period of continuous qualified hospitalization attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual-

(1) Whether any of the following acts was performed within the time prescribed therefor:

- (A) Filing any return of income, estate, gift, employment, or excise tax;
- (B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;
- (C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;
- (D) Allowance of a credit or refund of any tax;
- (E) Filing a claim for credit or refund of any tax;
- (F) Bringing suit upon any such claim for credit or refund;
- (G) Assessment of any tax;
- (H) 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;
- (I) Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;
- (J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and
- (K) Any other act required or permitted under the internal revenue laws specified by the Secretary;

(2) The amount of any credit or refund; and

(3) Any certification of a seriously delinquent tax debt under section 7345.

(b) Special rule for overpayments

(1) In general

Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) Special rules

If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section

6611 shall not apply.

(c) Application to spouse

The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone.

(d) Missing status

The period of service in the area or contingency operation referred to in subsection (a) shall include the period during which an individual entitled to benefits under subsection (a) is in a missing status, within the meaning of section 6013(f)(3).

(e) Exceptions

(1) Tax in jeopardy; cases under title 11 of the United States Code and receiverships; and transferred assets

Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) Action taken before ascertainment of right to benefits

The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(3) Collection period after assessment not extended as a result of hospitalization

With respect to any period of continuous qualified hospitalization described in subsection (a) and the next 180 days thereafter, subsection (a) shall not apply in the application of section 6502.

(f) Treatment of individuals performing Desert Shield services

(1) In general

Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

(2) Desert Shield services

For purposes of this subsection, the term "Desert Shield services" means any services in the Armed Forces of the United States or in support of such Armed Forces if-

(A) such services are performed in the area designated by the President pursuant to this subparagraph as the "Persian Gulf Desert Shield area", and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112.

(g) Qualified hospitalization

For purposes of subsection (a), the term "qualified hospitalization" means-

(1) any hospitalization outside the United States, and

(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may

be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 898 ; Pub. L. 93-597, §5(a), Jan. 2, 1975, 88 Stat. 1952 ; Pub. L. 94-455, title XIX, §1906(a)(51), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831 , 1834; Pub. L. 94-569, §3(e), Oct. 20, 1976, 90 Stat. 2700 ; Pub. L. 96-589, §6(i)(14), Dec. 24, 1980, 94 Stat. 3411 ; Pub. L. 97-448, title III, §307(d), Jan. 12, 1983, 96 Stat. 2407 ; Pub. L. 99-514, title XVII, §1708(a)(4), Oct. 22, 1986, 100 Stat. 2782 ; Pub. L. 102-2, §1(a)-(c), Jan. 30, 1991, 105 Stat. 5 ; Pub. L. 107-134, title I, §112(b), Jan. 23, 2002, 115 Stat. 2434 ; Pub. L. 108-121, title I, §104(a)-(b)(2), Nov. 11, 2003, 117 Stat. 1338 ; Pub. L. 109-73, title IV, §403 (a), Sept. 23, 2005, 119 Stat. 2027 ; Pub. L. 114-94, div. C, title XXXII, §32101(d), Dec. 4, 2015, 129 Stat. 1732 ; Pub. L. 114-113, div. Q, title III, §309(a), Dec. 18, 2015, 129 Stat. 3089 .)

AMENDMENTS

2015-Subsec. (a)(3). Pub. L. 114-94 added par. (3).

Subsec. (e)(3). Pub. L. 114-113 added par. (3).

2005-Subsec. (a)(1)(A), (B). Pub. L. 109-73 amended subpars. (A) and (B) generally. Prior to amendment, text read as follows:

"(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

"(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;"

2003-Pub. L. 108-121, §104(b)(2), inserted "or contingency operation" after "combat zone" in section catchline.

Subsec. (a). Pub. L. 108-121, §104(a), in introductory provisions, inserted ", or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112", "or at any time during the period of such contingency operation" after "for purposes of such section", "or operation" after "such an area", and "or operation" after "such area".

Subsec. (d). Pub. L. 108-121, §104(b)(1), inserted "or contingency operation" after "area".

2002-Subsec. (a)(1)(K). Pub. L. 107-134 struck out "in regulations prescribed under this section" before "by the Secretary".

1991-Subsec. (a). Pub. L. 102-2, §1(c)(1), in introductory provisions, struck out "outside the United States" before "as a result of injury" and substituted "the period of continuous qualified hospitalization" for "the period of continuous hospitalization outside the United States".

Subsec. (a)(2). Pub. L. 102-2, §1(b)(2), struck out "(including interest)" after "refund".

Subsecs. (b) to (e). Pub. L. 102-2, §1(b)(1), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

Subsecs. (f), (g). Pub. L. 102-2, §1(a), (c)(2), added subsecs. (f) and (g).

1986-Subsec. (b). Pub. L. 99-514 amended last sentence generally. Prior to amendment, last sentence read as follows: "The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning-

"(1) after December 31, 1982, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

1983-Subsec. (b)(1). Pub. L. 97-448 substituted "December 31, 1982" for "January 2, 1978".

1980-Subsec. (d). Pub. L. 96-589 substituted "cases under title 11 of the United States Code and receiverships" for "bankruptcy and receiverships" in par. (1) heading.

1976-Pub. L. 94-455, §1906(a)(51)(A), substituted "by reason of service in combat zone" for "by reason of war" in section catchline.

Subsec. (a). Pub. L. 94–455, §1906(a)(51)(B), (b)(13)(A), substituted "United States" for "States of the Union and the District of Columbia" in two places after "hospitalized outside the" and "hospitalization outside the", and struck out "or his delegate" after "Secretary".

Subsec. (b). Pub. L. 94–569 substituted "taxable year beginning" for "taxable year beginning more than 2 years after" in provisions preceding par. (1), substituted "after January 2, 1978" for "the date of the enactment of this subsection" in par. (1), and substituted "more than 2 years after the date designated" for "the date designated" in par. (2).

Subsec. (d). Pub. L. 94–455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

1975-Subsecs. (b) to (d). Pub. L. 93–597 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. Q, title III, §309(b), Dec. 18, 2015, 129 Stat. 3090 , provided that: "The amendment made by this section [amending this section] shall apply to taxes assessed before, on, or after the date of the enactment of this Act [Dec. 18, 2015]."

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–73, title IV, §403(c), Sept. 23, 2005, 119 Stat. 2027 , provided that: "The amendment made by subsection (a) [amending this section] shall apply for any period for performing an act which has not expired before August 25, 2005."

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–121, title I, §104(c), Nov. 11, 2003, 117 Stat. 1338 , provided that: "The amendments made by this section [amending this section] shall apply to any period for performing an act which has not expired before the date of the enactment of this Act [Nov. 11, 2003]."

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107–134, set out as a note under section 6081 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–2, §1(d), Jan. 30, 1991, 105 Stat. 6 , provided that: "The amendments made by this section [amending this section] shall take effect on August 2, 1990."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1982, see section 1708(b) of Pub. L. 99–514, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93–597, §5(b), Jan. 2, 1975, 88 Stat. 1953 , provided that: "The amendments made

by subsection (a) [amending this section] shall apply to taxable years ending on or after February 28, 1961."

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773 , set out as a note under section 201 of Title 39, Postal Service.

EX. ORD. NO. 12750. DESIGNATION OF ARABIAN PENINSULA AREAS, AIRSPACE, AND ADJACENT WATERS AS PERSIAN GULF DESERT SHIELD AREA

Ex. Ord. No. 12750, Feb. 14, 1991, 56 F.R. 6785, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7508 of the Internal Revenue Code of 1986 (26 U.S.C. 7508), I hereby designate, for purposes of that section, the following locations, including the air space above such locations, as the Persian Gulf Desert Shield area in which any individual who performed Desert Shield services (including the spouse of such individual) is entitled to the benefits of section 7508 of the Internal Revenue Code of 1986:

- the Persian Gulf
- the Red Sea
- the Gulf of Oman
- that portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude
- the Gulf of Aden
- the total land area of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

GEORGE BUSH.