

Public Law 93-597

AN ACT

January 2, 1975
[H. R. 8214]

To modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

Internal Revenue Code of 1954, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise provided in this Act, whenever an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 et seq.

SEC. 2. CERTAIN COMBAT PAY OF MEMBERS OF THE ARMED FORCES.

(a) **AMENDMENT OF SUBSECTIONS (a) AND (b) OF SECTION 112.**—Subsections (a) and (b) of section 112 (relating to certain combat pay of members of the Armed Forces) are each amended—

(1) by striking out “during an induction period” in paragraph (1).

(2) by striking out “during an induction period; but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone as determined under subsection (c) (3) of this section” in paragraph (2), and inserting in lieu thereof “; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone”, and

(3) by adding at the end thereof the following new sentence: “With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month beginning more than 2 years after the date of the enactment of this sentence.”

(b) **CONFORMING AMENDMENT.**—Subsection (c) of section 112 is amended by striking out paragraph (5).

26 USC 112 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on July 1, 1973.

SEC. 3. JOINT RETURNS; SURVIVING SPOUSE.

26 USC 6013.

(a) **JOINT RETURNS.**—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsection:

“(f) **JOINT RETURN WHERE INDIVIDUAL IS IN MISSING STATUS.**—For purposes of this section and subtitle A—

“(1) **ELECTION BY SPOUSE.**—If—

“(A) an individual is in a missing status (within the meaning of paragraph (3)) as a result of service in a combat zone (as determined for purposes of section 112), and

“(B) the spouse of such individual is otherwise entitled to file a joint return for any taxable year which begins on or before the day which is 2 years after the date designated under section 112 as the date of termination of combatant activities in such zone,

then such spouse may elect under subsection (a) to file a joint return for such taxable year. With respect to service in the combat zone designated for purposes of the Vietnam conflict, no such election may be made for any taxable year beginning more than 2 years after the date of the enactment of this sentence.

"(2) EFFECT OF ELECTION.—If the spouse of an individual described in paragraph (1)(A) elects to file a joint return under subsection (a) for a taxable year, then, until such election is revoked—

"(A) such election shall be valid even if such individual died before the beginning of such year, and

"(B) except for purposes of section 692 (relating to income taxes of members of the Armed Forces on death), the income tax liability of such individual, his spouse, and his estate shall be determined as if he were alive throughout the taxable year.

26 USC 692.

"(3) MISSING STATUS.—For purposes of this subsection—

"(A) UNIFORMED SERVICES.—A member of a uniformed service (within the meaning of section 101(3) of title 37 of the United States Code) is in a missing status for any period for which he is entitled to pay and allowances under section 552 of such title 37.

"(B) CIVILIAN EMPLOYEES.—An employee (within the meaning of section 5561(2) of title 5 of the United States Code) is in a missing status for any period for which he is entitled to pay and allowances under section 5562 of such title 5.

"(4) MAKING OF ELECTION; REVOCATION.—An election described in this subsection with respect to any taxable year may be made by filing a joint return in accordance with subsection (a) and under such regulations as may be prescribed by the Secretary or his delegate. Such an election may be revoked by either spouse on or before the due date (including extensions) for such taxable year, and, in the case of an executor or administrator, may be revoked by disaffirming as provided in the last sentence of subsection (a)(3)."

(b) SURVIVING SPOUSE.—Section 2(a) (defining surviving spouse) is amended by adding at the end thereof the following new paragraph:

26 USC 2.

"(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone (as determined for purposes of section 112) and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual died shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

Ante, p. 1950.
26 USC 112.

"(A) the date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status, or

"(B) the date which is 2 years after—

"(i) the date of the enactment of this paragraph, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) 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 clause (i)."

26 USC 6013
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending on or after February 28, 1961.

SEC. 4. INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.

26 USC 692.

(a) **AMENDMENT OF SECTION 692.**—Section 692 (relating to income taxes of members of Armed Forces on death) is amended—

(1) by striking out “In the case” and inserting in lieu thereof

“(a) **GENERAL RULE.**—In the case”;

(2) by striking out “during an induction period (as defined in section 112(c)(5))”; and

(3) by adding at the end thereof the following new subsection:

“(b) **INDIVIDUALS IN MISSING STATUS.**—For purposes of this section, in the case of an individual who was in a missing status within the meaning of section 6013(f)(3)(A), the date of his death shall be treated as being not earlier than the date on which a determination of his death is made under section 556 of title 37 of the United States Code. The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after—

Ante, p. 1950.

“(1) the date of the enactment of this subsection, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

26 USC 112.

“(2) 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).”

26 USC 692
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to taxable years ending on or after February 28, 1961.

26 USC 692
note.

(c) **REFUNDS AND CREDITS RESULTING FROM SECTION 692 OF CODE.**—If the refund or credit of any overpayment for any taxable year ending on or after February 28, 1961, resulting from the application of section 692 of the Internal Revenue Code of 1954 (as amended by subsection (a) of this section) is prevented at any time before the expiration of one year after the date of the enactment of this Act by the operation of any law or rule of law, but would not have been so prevented if claim for refund or credit therefor were made on the due date for the return for the taxable year of his death (or any later year), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such one-year period.

SEC. 5. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF WAR.

26 USC 7508.

(a) **AMENDMENT OF SECTION 7508.**—Section 7508 (relating to time for performing acts postponed by reason of war) is amended by redesignating subsection (b) as subsection (d) and by inserting after subsection (a) the following new subsections:

“(b) **APPLICATION TO SPOUSE.**—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after—

“(1) the date of the enactment of this subsection, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

“(2) 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).”

“(c) **MISSING STATUS.**—The period of service in the area 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).”

Ante, p. 1950.

26 USC 7508
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to taxable years ending on or after February 28, 1961.

SEC. 6. TECHNICAL AMENDMENTS SO THAT CERTAIN PROVISIONS WILL APPLY WITHOUT REGARD TO WHETHER OR NOT AN INDUCTION PERIOD EXISTS.

(a) **SALE OF RESIDENCE.**—Section 1034(h) (relating to sale or exchange of residence by members of the Armed Forces) is amended by striking out “and during an induction period (as defined in section 112(c)(5))”.

26 USC 1034.

(b) **NONAPPLICATION OF ADDITIONAL ESTATE TAX.**—

(1) Section 2210 (relating to members of the Armed Forces dying during induction period) is amended by striking out “during an induction period (as defined in section 112(c)(5))”.

26 USC 2201.

(2) The heading for such section 2201 is amended to read as follows:

“SEC. 2201. MEMBERS OF THE ARMED FORCES DYING IN COMBAT ZONE OR BY REASON OF COMBAT-ZONE-INCURRED WOUNDS, ETC.”.

(3) The table of sections for subchapter C of chapter 11 of such Code is amended by striking out the item relating to section 2201 and inserting in lieu thereof the following:

“Sec. 2201. Members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on July 1, 1973.

26 USC 1034
note.

SEC. 7. EXTENSION OF SECTION 112(d) OF CODE TO CERTAIN MEMBERS OF ARMED FORCES AND CIVILIANS ILLEGALLY DETAINED IN 1968.

26 USC 112.

(a) **IN GENERAL.**—The first section of the Act of April 24, 1970, entitled “An Act to provide that, for purposes of the Internal Revenue Code of 1954, individuals who were illegally detained during 1968 by the Democratic People’s Republic of Korea shall be treated as serving in a combat zone” (Public Law 91-235) is amended by adding at the end thereof the following new sentence: “For purposes of section 112(d) of the Internal Revenue Code of 1954, the period during which any member of the Armed Forces of the United States or any employee was so detained shall be treated as a period in which such member or employee is in a missing status during the Vietnam conflict as a result of such conflict.”

84 Stat. 200.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to compensation received for periods of active service after December 31, 1967, in taxable years ending after such date. If refund or credit of any overpayment for any taxable year resulting from the application of the amendment made by subsection (a) is prevented at any time before the expiration of one year after the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such one-year period.

Approved January 2, 1975.