
State of South Carolina
Department of Revenue
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SC REVENUE RULING #09-16

SUBJECT: Certain Nontaxable National Guard or Reserve Pay and Withholding for South Carolina Income Tax Purposes (Income and Withholding Taxes)

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: SC Technical Advice Memorandum #89-16

REFERENCES: S. C. Code Ann. Section 12-6-1120(7) (Supp. 2000)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 2008)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2008)
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

INTRODUCTION:

South Carolina's income tax laws regarding the taxation of military servicemembers are very similar to federal income tax laws. For example, basic pay and reenlistment bonuses are taxable under both federal and South Carolina income tax laws, unless earned in a combat zone (see Internal Revenue Code Sections 61 and 112 and SC Code Sections 12-6-40 and 12-6-50). Generally combat pay and certain fringe benefits, such as housing allowances and subsistence allowances, are not included in federal or South Carolina taxable income (see Internal Revenue Code Sections 112 and 134 and SC Code Sections 12-6-40 and 12-6-50). One difference, however, is the taxation of a National Guard or United States Armed Forces Reserve member's pay for customary annual training, weekend drills, and other inactive duty training. This pay is subject to federal income tax, but it is generally exempt from South Carolina income tax (see South Carolina Code Section 12-6-1120(7)).

The purpose of this advisory opinion is to address questions concerning the eligibility of a servicemember for this income exclusion on the South Carolina income tax return (referred to in this advisory opinion as a South Carolina adjustment or subtraction), to provide guidance on the South Carolina income adjustment computation and amount,¹ and to publish the federal government's procedure on withholding South Carolina income taxes on a South Carolina servicemember's pay (see Question 11.)

LAW:

South Carolina Code Section 12-6-1120(7) provides that South Carolina gross income does not include compensation received from the United States or any state for service in a National Guard or a reserve component of the Armed Forces of the United States for (1) the customary annual training period not to exceed 15 days for guard members or 14 days plus travel time for reserve members, (2) weekend drills, and (3) other inactive duty training.

The statute further provides that for National Guard or reserve members called to active duty, South Carolina gross income does not include 15 days of active duty pay received, providing any pay received for completing the annual training period is not excluded on the South Carolina tax return for the tax year.

QUESTIONS AND ANSWERS:

General Provisions:

1. Q. Who qualifies for the income adjustment in Code Section 12-6-1120(7)?
 - A. The following servicemembers qualify for the South Carolina income adjustment:
 1. A member of the "National Guard" (*i.e.*, Army National Guard or Air National Guard)². This includes a full time federal civil service employee

¹Federal taxable income is the starting point for determining South Carolina taxable income. There are a variety of adjustments on the South Carolina income tax return; adjustments are either an increase or decrease to federal taxable income reported on the South Carolina tax return. This exclusion is a subtraction on the SC Form 1040 and reduces the servicemember's income subject to South Carolina tax.

²For purposes of this advisory opinion, members of the National Guard of any state (*e.g.*, the South Carolina National Guard, the Georgia National Guard, the Mississippi National Guard) qualifying for the exclusion in Code Section 12-6-1120(7) are referred to as National Guard servicemembers. See United States Code Title 10 (Armed Forces) and Title 32 (National Guard), specifically 32 U.S.C.A. Sections 101 and 502 (definitions and required drills and exercises, respectively) and 10 U.S.C.A. Sections 101 and 10147 (definitions and ready reserve training requirements, respectively.)

who is also a part time National Guard servicemember. It does not include a “State Guard” member.³

2. A member of a reserve component of the Armed Forces of the United States (*i.e.*, the Army, Navy, Air Force, Marine Corps, or Coast Guard), referred to in this advisory opinion as a “Reservist.”
3. Active Guard and Reserve personnel (referred to as “AGR”).⁴ AGR personnel are full time permanent federal employees on full time active duty status who are assigned to the National Guard or Reserves to provide support for the purpose of organizing, administering, recruiting, or training. AGR personnel are members of the National Guard or Reserve as a condition of their federal employment and are required to participate in annual training and weekend drills; they do not receive additional compensation for the annual training or weekend drills.

2. Q. What training activities qualify for the South Carolina income adjustment and what pay does a servicemember receive for these activities?

A. The following training activities qualify for the South Carolina income adjustment, subject to the time and pay limitations discussed in Question 3:

1. Customary annual training period completed (also referred to as “active duty for training” or “ADT”). For National Guard members, this training period is usually 15 days per year, but can be 21 days or more in certain situations, such as training outside the United States. For Reservist, this training period is usually 14 days, but can be up to 29 days.

A servicemember is issued official orders to report to active duty for training for the period shown on the orders. Basic pay is received for the customary annual training period, except for AGR personnel. AGR personnel do not receive additional compensation for the annual training period.

³CAUTION: The South Carolina National Guard is not the same as the South Carolina Guard. A servicemember that is a member of the South Carolina Guard (*i.e.*, State Guard) does not qualify for the exclusion in Code Section 12-6-1120(7). A State Guard member may qualify for an annual income tax deduction of up to \$3,000 per year as provided in Code Section 12-6-1140. To qualify, a State Guard member must complete at least 16 hours of training or drill each month (192 hours per year) and the member’s commanding officer must certify in writing to the member that these requirements have been met.

⁴See 10 U.S.C.A. Section 101(b)(17) for the definition of the term “Active Guard and Reserve,” 10 U.S.C.A. Section 12301(d), and 32 U.S.C.A. Section 502(f).

2. Weekend drills completed (referred to as inactive duty training or “IDT” by National Guard members or as Battle Assembly Training or “BA” by Reservists). A servicemember (except AGR personnel) is not on active duty at weekend drills or battle assemblies. In general, weekend drills and battle assemblies are held one weekend per month.

For National Guard members, weekend drills are divided into drill periods. For example, Saturday a.m. is one drill, Saturday p.m. is one drill, Sunday a.m. is one drill, and Sunday p.m. is one drill. As a result, a National Guard member completing 4 drill periods in one weekend receives one day of basic pay for each of the 4 drills (in other words, the pay received for Saturday is twice the servicemember’s daily pay rate and the pay received for Sunday is twice the servicemember’s daily pay rate.)

A Reservist receives credit for 4 multiple unit training assembly’s (“MUTA’s”) for completing one weekend battle assembly training. As a result, a Reservist completing 4 MUTA’s in one weekend receives one day of basic pay for each of the 4 MUTA’s (in other words, the pay received for Saturday and the pay received for Sunday is each twice the servicemember’s daily pay rate.)

Basic pay is received for each drill period or MUTA, except for AGR personnel. AGR personnel do not receive additional compensation for weekend drills.

3. Other inactive duty training completed (referred to as “IDT”). Examples of other inactive duty training include readiness management periods, mandatory training requirements, such as flight training hours required for pilots, and special soldier training, such as simulator shooting training for a servicemember assigned to tank detail.

Basic pay is received for inactive duty training. Usually, these training periods are a minimum of 4 hours.

3. Q. Are there limitations on the amount of training or pay that may be excluded?
 - A. Except as otherwise provided, the South Carolina income adjustment applies to the actual amount of federal taxable pay received for the customary annual training period (subject to certain limitations), weekend drills, and other inactive duty training. The limitations are as follows:
 1. Customary Annual Training period (general rule for part time servicemembers) – the South Carolina income adjustment for pay received for customary annual training may not exceed:
 - (a) 15 days of annual training for a National Guard member and

(b) 14 days of annual training plus travel time for a Reservist.

Multiple Annual Training Periods in a Tax Year. It is possible for a servicemember attending annual training based upon the federal government's fiscal year to attend two annual training periods in one tax year (Year 1) and no annual training period in the subsequent tax year (Year 2). The South Carolina income adjustment is allowed for all annual training periods attended in the current tax year (Year 1) but may not exceed 15 annual training days for any National Guard member and 14 annual training days (plus travel time) for a part time Reservist. In this example, the South Carolina adjustment in the subsequent tax year (Year 2) would only apply to weekend drills and any other inactive duty training actually completed in Year 2.

Full time Active Duty (exception to general rule). Code Section 12-6-1120(7) provides that for National Guard or reserve members called to active duty, South Carolina income does not include 15 days of active duty pay received, providing any pay received for completing the annual training period is not excluded on the South Carolina tax return for the tax year. See Question 4 below for the South Carolina income adjustment for 15 days of active duty pay received by a National Guard member or 15 days of active duty pay received by a Reservist activated to full time active duty (this adjustment may be viewed as the "equivalent" of the customary annual training period exclusion allowed for a part time National Guard or Reservist discussed above.) The income adjustment cannot exceed the amount of taxable pay on the servicemember's W-2.

2. Weekend drills (general rule) – the South Carolina income adjustment applies to the actual number of drill/assembly periods completed; it is not limited to a specific number of drill periods or assembly periods. In general, a National Guard member completes 4 drill periods per weekend each month or a total of 48 drill periods per year (4 x 12); in general, a Reservist completes 4 multiple unit training assembly periods per weekend or a total of 48 assembly periods per year.

The weekend drill amount qualifying for the exclusion when the typical 48 drill periods or assembly periods are not completed are as follows:

Servicemember attends more than 48 weekend drill periods. If weekend drills or assembly periods are completed more frequently than one time per month or exceed 48 drill periods per year or 48 assembly periods per year, then the South Carolina adjustment is allowed for pay received for all weekend drill periods or assembly periods actually completed in the current tax year. It is not limited to any specific number of drill periods or assembly periods.

Servicemember attends no weekend drills. If a National Guard servicemember or Reservist does not actually complete any weekend drills or assembly periods, then there is no South Carolina income adjustment allowed on the South Carolina income tax return.

Servicemember attends some but less than 48 weekend drill periods. Further, if a portion, but not all, of the scheduled weekend drills or assembly periods are completed during the tax year (for example a servicemember cannot participate in the remaining drills due to an illness in November or a reservist is new to the unit in November), then the South Carolina adjustment is allowed only for the actual weekend drills or assembly periods completed (in the second example the adjustment is allowed for the drills or periods completed in November and December.)

3. Other inactive duty training – The South Carolina income adjustment is not limited to a specific number of training days. The adjustment applies to the actual number of inactive duty training periods completed. If a servicemember does not actually attend inactive duty training, then there is no South Carolina income adjustment.

NOTE: See Appendix 1 for more examples of the eligible income adjustment for each type of servicemember who is performing different amounts of training activities.

Adjustment Determination and Substantiation:

4. Q. What pay amounts received for qualifying training activities are **not** subject to South Carolina income tax and are subtracted on the South Carolina individual income tax return?
 - A. The following chart is a brief summary written in general terms to illustrate the maximum amounts of each qualifying training activity (shown in days or periods) that may be subtracted from the South Carolina income tax of each category of qualifying servicemember (*e.g.*, National Guard, Reservist, AGR, part time, full time, etc.) The income adjustment allowed cannot exceed the amount of taxable pay on the servicemember's W-2.

Note: In general, the amount of compensation received for these training activities is taxable for federal income tax purposes. An exception applies to combat pay which is generally nontaxable for federal and South Carolina income tax purposes.

See Appendix 1 for common rules and calculation examples of the income adjustment amount that would be made on the servicemember's South Carolina individual income tax return (SC 1040).

	Customary Annual Training Period (“ADT”)⁵	Weekend Drills or Battle Assembly Training (“IDT”)⁶	Other Inactive Duty Training (“IDT”)
National Guard (Part time)⁷ <i>(Includes a full time federal civil service employee who is a part time National Guard)</i>	Actual amount paid, not to exceed 15 days of daily pay for annual training per year, is subtracted on the SC1040.	Actual amount paid; typically the daily pay rate for 48 drill periods per year (<i>i.e.</i> , 4 drill periods per weekend) is subtracted on the SC1040.	Actual amount paid for other inactive duty training is subtracted on the SC1040.
Reservist (Part time)⁸	Actual amount paid, not to exceed 14 days of daily pay for annual training per year (plus travel time), is subtracted on the SC1040.	Actual amount paid; typically the daily pay rate for 48 multiple unit training assemblies (<i>i.e.</i> , 4 training assemblies per weekend) is subtracted on the SC1040.	Actual amount paid for other inactive duty training is subtracted on the SC1040.
National Guard or Reservist <i>(on active duty, outside combat zone, all year)</i>	15 days of active duty pay is subtracted on the SC1040.	None. This SC adjustment does not apply.	None. This SC adjustment does not apply.
National Guard or Reservist <i>(on active duty in a combat zone all year)</i>	This SC adjustment does not apply and no adjustment is made on the SC1040 to the extent combat pay is exempt from federal income tax.	None. This SC adjustment does not apply.	None. This SC adjustment does not apply.
National Guard or Reservist <i>(on active duty some of year and part time some of year)</i>	A subtraction on the SC1040 for the actual amount paid for annual training actually attended, not to exceed 15 days of pay for National Guard or 14 days (plus travel time) for Reservist <u>or</u> if not applicable, then 15 days of active duty pay is subtracted for National Guard or Reservist.	Actual amount paid for weekend drills or multiple unit training assemblies actually attended. If none attended, the SC adjustment does not apply.	Actual amount paid for other inactive duty training actually attended. If none attended, the SC adjustment does not apply.
Active Guard and Reserve (“AGR”)	Actual amount paid, not to exceed 15 days of active duty pay per year, is subtracted on the SC1040.	Actual amount paid, not to exceed 24 days of daily pay for weekend drills (<i>i.e.</i> 12 weekends). ⁹	None. This SC adjustment does not apply. ¹⁰

Note: Any income adjustment illustrated in the above chart cannot exceed the taxable pay on the servicemember’s W-2.

⁵The customary annual training period is also referred to as active duty for training or ADT.

⁶ The weekend drills or battle assemblies are referred to as inactive duty training or IDT for National Guard members or Battle Assembly Training or BA for Reservists.

⁷For purposes of this advisory opinion, a “part time” National Guard member or a “part time” Reservist is a servicemember who attends the customary annual training, weekend drills or battle training assemblies, and other inactive duty training (*i.e.*, their only active duty is the customary annual training period.)

⁸See Footnote #7.

⁹This is the longstanding position of the Department as provided in SC Technical Advice Memorandum #89-16.

¹⁰See Footnote #9.

5. Q. How is the basic pay or daily drill pay amount determined when computing the South Carolina income adjustment amount for qualifying servicemember's training?
- A. Basic pay and drill pay are based on a servicemember's grade and length of service. For "part time" National Guard and Reservist (*i.e.*, those attending only the customary annual training period for no more than 15 days (14 days plus travel for a Reservist)), weekend drills or assembly periods, and other inactive duty training), the amount reflected on the servicemember's W-2, "Wage and Tax Statement" line 16, "State wages, tips, etc. may contain the appropriate pay amount to subtract as the income adjustment on the SC 1040.

For others and those who may not know their daily pay rate, it may be necessary to refer to the pay rate schedules published by the Defense Finance and Accounting Service ("DFAS") at www.dfas.mil when making the South Carolina income adjustment on the SC 1040. The DFAS published pay charts are available for both monthly "basic pay" (showing pay for a 30 day period) and "drill pay" (showing pay for a 30 day period, pay for 1 drill, and pay for 4 drills, *i.e.*, the entire weekend) as appropriate for a servicemember's rank and years of service.

The daily pay for any monthly period can also be computed as 1/30 of the monthly "basic pay".) For example, if the 2009 "basic pay" is \$1,993.50 for a Grade E-5 with 2 or less years service, then the "daily pay" for that servicemember to use in computing the South Carolina adjustment is \$66.45 ($\$1,993.50 \times 1/30$). For example, assume this National Guard member is a resident of South Carolina and only attends 15 days of annual training and 12 weekends of weekend drills (*i.e.*, 4 drill periods per weekend x 12 weekends = 48 drill periods qualifying for the income adjustment.) The pay amount used in the adjustment computation is \$66.45 per annual training day and \$66.45 per drill period (*i.e.*, he is paid twice his per day rate for each full day at drill.)

Annual training	15 days x \$66.45 "daily rate"	\$ 997
Weekend drills	48 x \$66.45 "per drill period"	\$3,190
SC 1040 Adjustment Amount		\$4,187

Note: The Department has determined that the South Carolina adjustment may be based upon the servicemember's (1) actual pay rate received for the customary annual training, weekend drills, and inactive duty training or (2) pay rate at the end of the tax year. Using the year end pay rate simplifies the computation if a pay raise is received during the year. In no instance can the income adjustment be more than the amount of pay reported on the servicemember's W-2.

6. Q. How can a National Guard member calculate and substantiate the number of qualifying training hours, periods, or days eligible for the South Carolina income adjustment?

A. To assist servicemembers, the South Carolina National Guard has informed the Department that it intends to provide all members a year end summary of the completed customary annual training, weekend drill periods, and other inactive duty training. For questions regarding the year end summary, please contact the Comptroller, USPFO (United States Property Fiscal Office) at 803-806-1428.

This information along with the pay rate of the National Guard member is used to calculate the South Carolina income adjustment amount (see Question 5 for a discussion on pay rates.) This information should be maintained with the servicemember's tax records in the event it is requested by the Department.

7. Q. How can a Reservist calculate and substantiate the number of qualifying training hours, periods, or days eligible for the South Carolina income adjustment?

A. A Reservist should receive a letter from the Department of the Army with orders to report to annual training and a memorandum from the Department of the Army listing the calendar year battle assembly dates. These letters from the Army or a letter from the Reservist's employer authorizing time allowed off from work for training may be used to determine the training activities that qualify for the South Carolina income adjustment and the pay rate of the Reservist (see also Question 5 for a discussion on pay rates.) This information should be maintained with the Reservist's tax records in the event it is requested by the Department.

Form SC 1040 Income Tax Filing and Withholding Rules:

8. Q. My home of record is South Carolina. Since I am a member of the National Guard or Reserves in a state other than South Carolina, is my pay for the training activities subject to South Carolina tax or eligible for the South Carolina adjustment?

A. Under the Servicemembers Civil Relief Act of 2003 a servicemember's liability for state income tax on service pay is restricted to his state of domicile. Since the servicemember is a resident of South Carolina, the income earned for service in the National Guard or Reserves in a state other than South Carolina is subject to South Carolina tax, to the extent it is not otherwise excluded. A South Carolina income tax return (SC 1040) should be filed and the "adjustment" made in the same manner as if the servicemember was part of a South Carolina unit.

9. Q. My home of record is a state other than South Carolina. Since I am a member of the National Guard or a reserve component in South Carolina, is my pay for the training activities subject to South Carolina tax or eligible for the South Carolina income adjustment?

A. Under the Servicemembers Civil Relief Act of 2003, compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders. Since the servicemember is on military orders while performing annual training in South Carolina, pay received by the nonresident for annual training is not subject to South Carolina income tax. Further, pay received for the weekend drills and inactive duty is not taxable in South Carolina. Providing the servicemember does not have South Carolina income from other sources, a South Carolina income tax return (SC 1040) does not need to be filed.

10. Q. If money is withheld from pay I received for annual training, weekend drills or battle training assemblies, and other inactive duty training, then how can I get the South Carolina income taxes withheld back?

A. The only way to get all, or any portion, of the withholding back is to file a South Carolina income tax return. The servicemember should file a Form SC 1040 to report any South Carolina income tax due. The amount withheld is applied against any income tax due; any excess withholding is refunded.

11. Q. What is the federal government's procedure for income tax withholding on a South Carolina resident servicemember's annual training, weekend drills or battle training assemblies, and other inactive duty training?

A. The Department has been informed by the Defense Finance and Accounting Service ("DFAS") that the current procedure of withholding South Carolina income taxes on National Guard or Reserve pay for customary training, weekend drills, and other inactive duty training that is taxable for federal income tax purposes has been revised. A South Carolina resident who is a part time National Guard or Reservist on inactive duty training or annual training duty has the option to have the federal government withhold, or not withhold, South Carolina income taxes on their pay. The revised procedure is set forth below.

General Procedure. No SC Withholding; SC Withholding only upon Request

No SC Withholding. A part time National Guard member or Reservist is exempt from South Carolina income tax on pay received for (1) customary annual training not to exceed 15 days (for guard members) or 14 days plus travel (for reserve members), (2) weekend drills, and (3) other inactive duty training. This

withholding option allows a part time servicemember who is a South Carolina resident to request an “exemption” from South Carolina withholding. Withholding will not resume until a revised Form W-4, “Employee’s Withholding Allowance Certificate,” is submitted.

Procedure to Request “Exemption” from SC Withholding. To request the withholding “exemption,” a servicemember should indicate on Form W-4, “Employee’s Withholding Allowance Certificate” the words “Exempt from SC Tax.” The exempt reason code to be used is “1.”¹¹ For recordkeeping purposes, it is recommended that Form W-4 include a statement that the servicemember is exempt from SC withholding due to inactive duty training or annual training duty status as a part time National Guard or Reserve member. There will be federal withholding, but no South Carolina withholding. This “exempt” option is not applicable to an Active Guard and Reserve Employee. See “caution” below.

Procedure to Change Withholding Request. A servicemember using this procedure having military pay taxable in South Carolina should begin South Carolina withholding by completing a new Form W-4, “Employee’s Withholding Allowance Certificate” and indicating the number of withholding exemptions claimed. South Carolina income tax will be withheld based on this information. If exemption again becomes appropriate, a new Form W-4 can be completed using the above “exemption” procedure and submitted to the pay office. A new Form W-4 can be submitted to the pay office changing the withholding request as often as necessary during a calendar year.

The procedure to change an exemption or withholding request is applicable in the following situations:

- A. 1. A servicemember’s number of days on annual training duty exceeds 15 days (for guard members) or 14 days plus travel (for reserve members.) A new W-4 should be submitted to request South Carolina withholding begin.
2. The servicemember returns to inactive duty. A new W-4 can be submitted to request an “exemption” from South Carolina withholding.
- B. 1. A servicemember reports for duty other than inactive duty training or annual training duty. A new W-4 should be submitted to request South Carolina withholding begin.

¹¹The Defense Finance and Accounting Service (“DFAS”) has determined that they will use “Exempt Reason 1” to allow a SC resident servicemember to request no withholding on Form W-4 on military income subject to federal income tax but exempt from South Carolina income tax. This reason is normally used for residency status, but will be used for this purpose since it is not otherwise used for South Carolina.

2. The servicemember returns to inactive duty training or annual training duty not exceeding 15 days (for guard members) or 14 days plus travel (for reserve members.) A new W-4 should be submitted to request an “exemption” from South Carolina withholding.

Caution. A servicemember should exercise caution when using this option since too little South Carolina withholding may result in a servicemember owing taxes when his South Carolina individual income tax return is filed, needing to file estimated tax payments, and being subject to penalties or interest. Withholding too little most often occurs when the part time servicemember receives pay that is subject to South Carolina income tax, such as when he attends more than 15 days (or 14 days plus travel) of customary annual training or he is activated or mobilized.

Alternative Procedure. SC Withholding

A servicemember may request the federal government withhold South Carolina income taxes on National Guard or Reserve pay, including pay for customary training, weekend drills, and other inactive duty training, that is taxable for federal income tax purposes. This option has been the current withholding policy of the federal government since April 1, 2009.

Procedure to Request SC Withholding. To request withholding, a servicemember should complete Form W-4, “Employee’s Withholding Allowance Certificate.” South Carolina income tax will be withheld on National Guard and Reserve compensation earned for all pay taxable for federal income tax purposes, including pay for annual training, weekend drills, and other inactive duty training. The servicemember should file Form SC 1040 to report any South Carolina income tax due. The withholding is applied against any income tax due and any excess withholding will be refunded.

Note: A servicemember currently withholding does not have to complete a new Form W-4 if the information remains correct.

Form SC 1040 Adjustment Rules and Examples:

12. Q. How is the “adjustment” to exclude pay for qualifying training made on the servicemember’s South Carolina Form 1040?
 - A. Wages paid to a National Guard or Reserve member for customary annual training, weekend drills, and inactive duty training are included in a servicemember’s federal taxable income. An “adjustment” (*i.e.*, a subtraction from federal taxable income) to reduce South Carolina income subject to tax is made on the servicemember’s South Carolina individual income tax return (SC 1040) for the pay amount qualifying for the adjustment in Code Section 12-6-1120(7).

Note: The subtraction on the SC 1040 may not exceed the amount of taxable pay on the servicemember's W-2 (*e.g.*, it may not be used to offset a servicemember's income from other sources or a spouse's income, if any.)

Where the adjustment is made on the SC 1040 depends on whether the servicemember is a South Carolina resident or not, as explained in the following questions.

1. Resident Taxpayer. If the servicemember is a South Carolina resident taxpayer, the adjustment is currently made on Form SC 1040, page 2, line 46, "National Guard or Reserve annual training and drill pay."
2. Nonresident Taxpayer. If the servicemember is a South Carolina nonresident taxpayer, the adjustment is currently made on Form SC 1040, Schedule NR, page 2, line 40, "Other Subtractions." See Question 9 for nonresident taxpayer filing requirements.

13. Q. Can the Department provide some examples illustrating the calculation of the income adjustment on the South Carolina Form 1040 for different training scenarios?

A. Below are four examples that illustrate the income adjustment for the following servicemembers:

Example 1 – A part time National Guard member (*i.e.*, a servicemember attending only the annual training, weekend drills, and other inactive duty training.)

Example 2 – A National Guard member on active duty in a combat zone for the entire tax year

Example 3 – A National Guard member or Reservist ordered for active duty during the tax year before completing annual training

Example 4 - Active Guard and Reserve personnel (AGR) (*i.e.*, full time, permanent active duty status federal employees assigned to the National Guard or Reserves)

EXAMPLE 1 – Part Time National Guard Member – SC 1040 Adjustment Calculation

Assume the South Carolina resident taxpayer is a part time National Guard servicemember (Grade E-5 with 2 or less years service). He attends annual training and weekend drills (12 weekends or 48 drill periods); he attends no other inactive duty training during the tax year. His drill pay is \$66.45 per drill period (*i.e.*, he is paid twice his per day rate for each full day at drill.) For annual training compensation, his annual pay is \$1,993.50 per month or \$66.45 per day. What amount may be subtracted from federal taxable income on his South Carolina individual income tax return?

Annual training	15 days x \$66.45 daily rate	\$ 997
Annual training – travel time	n/a to National Guard	n/a
Weekend drills	48 x \$66.45 per drill period	\$3,190
Other Inactive Duty	None attended this year ¹²	\$0
SC 1040 Adjustment Amount (Amount subtracted on the SC 1040)		\$4,187

EXAMPLE 2 - Active Duty for Entire Year (In a combat zone all year) – SC 1040 Adjustment Calculation

Assume that last year the National Guard servicemember received mobilization orders for 18 months (including the entire current tax year.) He is in a combat zone for the entire tax year. If his year of combat pay is not taxable for federal and South Carolina tax purposes, then there is no SC adjustment to make.

EXAMPLE 3 – Active Duty for a Portion of the Year (Annual Training Not Completed) – SC 1040 Adjustment Calculation

Assume the National Guard servicemember (Grade E-5 with 2 or less years service) received mobilization orders to go to Texas on April 1 and was not sent to a combat zone during the tax year. The servicemember attended weekend drills from January – March (3 weekends with each having 4 drill periods for a total of 12 drill periods). He has **not** attended annual training, and is therefore allowed to reduce his South Carolina taxable income by 15 days of active duty pay (referred to in this advisory opinion as an “annual training equivalent.”) His basic pay per month is \$1,993.50 or \$66.45 per day (\$1,993.50 x 1/30.) His drill pay is 66.45 per drill period (*i.e.*, he is paid twice his per day rate for each full day of drill attended.) What amount may be subtracted from federal taxable income on his South Carolina individual income tax return?

Annual training “equivalent”	15 days x \$66.45 daily rate	\$ 997
Annual training – travel time	n/a	n/a
Weekend drills (3 months x 4 drill periods per month = 12 drill periods)	12 x \$66.45 per drill period	\$ 797
Other Inactive Duty	none	\$0
SC 1040 Adjustment Amount (Amount subtracted on the SC 1040)		\$1,794

¹²If the servicemember had completed other inactive duty, the \$66.45 daily pay rate would be used for the income adjustment.

EXAMPLE 4 – Active Guard and Reserve (AGR) personnel – SC 1040 Adjustment Calculation

Assume an Active Guard and Reserve personnel (Grade 0-1 with over 6 years service but not over 8 years service) attends annual training and all weekend drills (2 days per month for 12 months). His monthly basic pay is \$3,340.50 or \$111.35 per day. As a full time active duty servicemember he does not receive additional compensation for attending these training activities (*i.e.*, he does not receive twice his per day rate for each full day at drill.) What amount may be subtracted from federal taxable income on his South Carolina individual income tax return?

Annual training	15 days x \$111.35 daily rate	\$1,670.25
Annual training – travel time	n/a to AGR	n/a
Weekend drills	24 days x \$111.35 daily rate	\$2,672.40
Other Inactive Duty	n/a to AGR	n/a
SC 1040 Adjustment Amount (Amount subtracted on the SC 1040.)		\$4,342.65

Tax Resources and Questions:

Federal Income Tax Resources and Questions. Federal income tax questions concerning military servicemembers should be directed to the Internal Revenue Service at 1-800-829-1040. Military personnel affected by the federal combat zone rules should contact the Internal Revenue Service at 1-866-562-5227 for assistance. Federal income tax forms and instructions can be obtained on the Internal Revenue Service’s website at www.irs.gov.

South Carolina Income Tax Resources and Questions. Information regarding South Carolina income tax statutes, Department advisory opinions, income tax forms, and form instructions can be obtained on the Department’s website at www.sctax.org. Relevant advisory opinions can be found in the “Income Taxes” section of the advisory opinion index under the category “Military Personnel.”

South Carolina income tax questions concerning military servicemembers and the South Carolina income adjustment should be directed to the Department’s Research and Review Section at 803-898-5838.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

November 17 _____, 2009
Columbia, South Carolina

Appendix 1
Adjustment Rules and Form SC 1040 Calculations

Below are common rules to assist the following servicemembers determine the South Carolina income adjustment amount for annual training, weekend drills, and other inactive duty training on their SC 1040:

- General Rules – Part time National Guard or Reservist
- Special Rules – Activated National Guard or Reservist for Entire Tax Year
 - Both Part Time and Activated National Guard or Reservist for Tax Year
 - Active Guard and Reserve Employee (AGR)

GENERAL RULES - Part time National Guard or Reservist

These general rules and calculations apply to a part time National Guard or Reservist, including a full time federal civil service employee also in the National Guard or Reserves. The examples are intended to illustrate the training activities and pay eligible for the South Carolina income adjustment.

I am a servicemember listed below performing CUSTOMARY ANNUAL TRAINING:	If I receive pay for completing the activity listed below	Then the amount of pay subtracted on the SC tax return and not subject to SC tax is
1. Part time National Guard	15 days of annual training	15 days of pay at your basic daily pay rate
2. Part time National Guard	21 days of annual training	15 days of pay at your basic daily pay rate (adjustment is capped at 15 days)
3. Part time National Guard	7 days of annual training	7 days of pay at your basic daily pay rate (adjustment is limited to 15 days or actual days attended, whichever is less)
4. Part time Reservist	14 days of annual training (plus 2 travel days listed on official orders)	14 days of pay at your basic daily pay rate plus pay for 2 travel days indicated on orders at your basic daily pay rate
5. Part time Reservist	29 days of annual training (no travel days listed on official orders)	14 days of pay at your basic daily pay rate (0 travel days since none are listed on orders)

I am a servicemember listed below performing WEEKEND DRILLS:	If I receive pay for completing the activity listed below	Then the amount of pay subtracted on the SC tax return and not subject to SC tax is
1. Part time National Guard or Reservist	48 periods of drills or training assemblies (12 weekends)	48 drill periods or training assemblies at your basic daily pay rate
2. Part time National Guard or Reservist	56 periods of drills or training assemblies (14 weekends)	56 drill periods or training assemblies at your basic daily pay rate

I am a servicemember performing OTHER INACTIVE TRAINING DUTIES:	If I receive pay for completing the activity listed below	Then the amount of pay subtracted on the SC tax return and not subject to SC tax is
1. Part time National Guard or Reservist	Management Preparedness Day – 1 per month or 12 total	12 days of pay at your basic daily pay rate
2. Part time National Guard or Reservist	Pilot Flights – 36 additional drill periods	Pay for 36 drill periods at your basic daily pay rate

SPECIAL RULE 1 – Activated for Entire Tax Year

These rules and calculations apply to a servicemember (National Guard or Reservist) activated for the entire tax year. The examples are intended to illustrate: (1) the training activities and pay eligible for the South Carolina income adjustment (even though no annual training, weekend drills, or other inactive duty training were attended) and (2) calculating the adjustment that is subtracted on the SC 1040.

If I am a full time active duty servicemember in the following location	Then the amount of pay subtracted on the SC tax return and not subject to SC tax under Code Section 12-6-1120(7) is
1. Activated or Mobilized for the entire tax year but not in a combat zone	15 days of active duty pay ¹³ (this is the equivalent of the adjustment for annual training made by qualifying part time servicemembers illustrated in the general rules above)
2. Activated or Mobilized in a combat zone for part of the year and out of a combat zone for part of the year	15 days of active duty pay; ¹⁴ the income adjustment cannot be more than the amount of taxable pay reported on the servicemember’s W-2. (This is the equivalent of the adjustment for annual training made by qualifying part time servicemembers illustrated in the general rules above).
3. Activated or Mobilized in a combat zone for entire year	To the extent combat pay is exempt from federal income tax, it is also exempt from SC income tax. Accordingly, there is no SC income adjustment since the pay is not taxable for federal income tax purposes.

¹³There is no “equivalent” adjustment for weekend drills, other inactive duty training, or travel time (for Reservist) for these activated servicemembers.

¹⁴ See Footnote #13.

SPECIAL RULE 2 – Both Part Time and Activated in Tax Year

These rules and calculations apply to a servicemember (National Guard or Reservist) that is both a part time National Guard member or Reservist during a portion of the tax year and activated during a portion of the tax year. The examples are intended to illustrate: (1) the training activities and pay eligible for the South Carolina income adjustment and (2) calculating the adjustment that is subtracted on the SC 1040.

I am a servicemember on active duty	If I receive pay for these activities listed below	Then the amount of pay subtracted on the SC tax return and not subject to SC tax is
1. National Guard activated or mobilized for part of tax year (in a combat zone or not in a combat zone)	15 days of annual training and 8 drill periods were <u>completed</u> before activation	15 days of annual training pay and pay for the actual number of drill periods completed (8 in this example)
2. Reservist activated or mobilized for part of tax year (in a combat zone or not in a combat zone)	14 days of annual training plus 2 travel days on orders and 8 training assemblies were <u>completed</u> before activation	14 days of annual training pay plus 2 travel days pay and pay for the actual number of training assemblies completed (8 in this example)
3. National Guard or Reservist activated or mobilized for part of tax year (in a combat zone or not in a combat zone)	<u>No</u> customary annual training was completed before activated; 36 drill/assembly periods were <u>completed</u> before activation	15 days of active duty pay (this is the equivalent of the adjustment for annual training made by qualifying part time servicemembers illustrated in the general rules above) and pay for 36 drill/assembly periods actually completed (not 48 scheduled drill/assembly periods). The income adjustment cannot be more than the amount of taxable pay reported on the servicemember’s W-2.

SPECIAL RULE 3 – Activated Guard and Reserve Employee (AGR)

These rules and calculations apply to a full time Active Guard and Reserve employee (AGR). The examples are intended to illustrate: (1) the training activities and pay eligible for the South Carolina income adjustment and (2) calculating the adjustment that is subtracted on the SC 1040. Reminder: As a full time active duty servicemember, an AGR employee does not receive additional compensation for attending these training activities (*i.e.*, an AGR employee does not receive twice the per day rate for each full day at drill or battle assembly.)

I am a full time AGR employee and I attend the following training activities as a condition of my employment	Then the amount of pay subtracted on the SC tax return and not subject to SC tax is
1. 15 days of annual training and 24 days of weekend drills (48 drill periods)	39 days (15 + 24) of pay at your daily pay rate
2. 21 days of annual training and 30 days of weekend drills or battle assemblies (60 drill periods)	39 days of pay at your daily pay rate (15 days of annual training attended is the maximum allowed for any AGR and 24 days of weekend drills attended is the maximum allowed for any AGR) ¹⁵

¹⁵This is the longstanding administrative position of the Department as set forth in SC Technical Advice Memorandum #89-16.