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State of South Carolina  
Department of Revenue  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

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SC REVENUE PROCEDURE #08-3

**SUBJECT:** Tax Relief for Military Personnel Serving in Areas Classified as Combat Zones by the United States.

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

**SUPERSEDES:** SC Revenue Procedure #03-2  
SC Revenue Procedural Bulletin #02-1  
SC Revenue Procedure #99-2  
SC Revenue Procedure #96-2  
All previous advisory opinions and any oral directives in conflict herewith.

**REFERENCES:** S. C. Code Ann. Section 12-4-320(6) (2000)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2000 and Supp. 2007)  
S. C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #05-2

**SCOPE:** The purpose of a Revenue Procedure is to provide procedural guidance to the public and Department personnel. It is an advisory opinion issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

## **Introduction**

Military personnel serving in areas designated or treated as combat zones are granted certain tax relief for federal income tax purposes. Many of these tax relief provisions are outlined in “Internal Revenue Service Armed Forces’ Tax Guide, Publication 3” (IRS Publication 3).<sup>1</sup>

South Carolina Code Section 12-4-320(6) allows the Department to establish special tax relief procedures and assistance programs for military personnel, and states that the Department may:

for damage caused by war, terrorist act, or natural disaster or service with the United States armed forces or national guard in or near a hazard duty zone, extend

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<sup>1</sup> A copy of this publication can be found on the IRS website at <http://www.irs.gov/pub/irs-pdf/p3.pdf>.

the date for filing returns, payments of taxes, collection of taxes, and conducting audits, and waive interest and penalties.

The purpose of this advisory opinion is to summarize the special tax relief provisions established by the Department available for military personnel serving in areas designated or treated as combat zones.

According to IRS Publication 3, any of the following categories of military service qualifies for federal extensions for filing tax returns, paying taxes, filing claims for refunds, and certain other actions with the IRS:

- Serving in the Armed Forces in a combat zone or having qualifying service outside of a combat zone;
- Serving in the Armed Forces in a qualified hazardous duty area or deployed overseas away from the individual's permanent duty station in support of operations in a qualified hazardous duty area if the individual's deployment station is outside the qualified hazardous duty area;
- Serving in the Armed Forces on deployment outside the United States away from the individual's permanent duty station while participating in a contingency operation as defined in IRS Publication 3.

Armed forces are considered to be serving in a combat zone if they are either assigned on official temporary duty to a combat zone or if they qualify for hostile fire/imminent danger pay while in a combat zone. Service in a combat zone includes periods when an individual is absent from duty because of sickness, wounds, or leave and periods served as a prisoner of war or missing in action so long as the individual keeps combat status for military pay purposes. Publication 3 provides additional information about hospitalization while serving in a combat zone and after leaving a combat zone.

Qualified hazardous duty areas are determined by Congress and contingency operations are designated by the Department of Defense.

Service outside a combat zone is considered to be performed in a combat zone if the following two requirements are met:

- Department of Defense designated that the service is in direct support of military operations in the combat zone, and
- The service qualifies the individual for special military pay for duty subject to hostile fire or imminent danger.

The federal extensions of time are at least 180 days after the last day the individual is in the combat zone or qualifying area. IRS Publication 3 describes and gives examples of extension periods that exceed the 180 days.

## **Combat Zone Areas**

Persian Gulf area. By Executive Order No. 12744, the following Persian Gulf area locations (and airspace above) were designated as a combat zone beginning January 17, 1991:

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

Afghanistan area. By Executive Order No. 13239, Afghanistan (and airspace above) was designated as a combat zone beginning September 19, 2001.

The Kosovo area. By Executive Order No. 13119, the following locations (including air space above) were designated as a combat zone beginning March 24, 1999.

- Federal Republic of Yugoslavia (Serbia/Montenegro)
- Albania
- The Adriatic Sea
- The Ionian Sea – north of the 39<sup>th</sup> parallel

Other qualified hazardous duty areas. Beginning November 21, 1995 and ending November 1, 2007, the following areas were qualified hazardous duty areas and are treated as combat zones.

- Bosnia and Herzegovina
- Croatia
- Macedonia

## **Special South Carolina Tax Relief Provisions Available for Military Personnel**

### Extension of Time to File and Pay Individual Income Taxes

The Department has extended the time for filing and paying South Carolina individual income taxes of affected military personnel and their spouses for the same time periods and for the same areas as provided by the Internal Revenue Service in IRS Publication 3. This extension is automatic and military personnel do not need to file an extension form to receive this extension.

### Extension of time to File a Claim for Refunds of Individual Income Taxes

The Department has extended the time for filing a South Carolina claim for refund for individual income taxes of affected military personnel and their spouses for the same time periods and for the same areas as provided by the Internal Revenue Service in IRS Publication 3.

## Documentation Required upon Filing a Delayed Claim for Refund or an Extended Return

A taxpayer filing a delayed claim for refund or a return extended under the provisions of this document should attach to the back of the return a copy of his or her military orders establishing participation. Further, "Military Combat Zone" should be written across the top of the tax return with a description of the combat zone where the individual served.

## Penalties and Interest

Penalties and interest are not due when an extension is available or when collection activity should be suspended pursuant to this document. Penalties and interest are also not due as a result of the failure to pay estimated individual income taxes for any estimated taxes due for the same time periods and for the same areas as provided by the Internal Revenue Service in IRS Publication 3.

Penalties and interest will be assessed, however, if the income tax returns are not filed or taxes are not paid by the extended due date authorized by the Department. The Department will review all other tax liabilities with respect to penalties and interest on a case by case basis.

If a taxpayer is inadvertently assessed failure to file or pay penalties or interest that are not due pursuant to this document, the taxpayer should submit a request for removal of those penalties and interest in writing. The request and any documentation should be sent to:

Problems Resolution Office  
P.O. Box 11189  
Columbia, South Carolina 29211-1189  
Attn: Military Combat Service

## Collection Activities

The Department will suspend the enforced collection of any assessed liability of military personnel for the same time periods and for the same combat zones or qualifying areas as provided in IRS Publication 3 if the assessed liability is (1) the sole obligation of the taxpayer or (2) the joint obligation of the taxpayer and his or her spouse. The time period is at least 180 days after the last day the individual is in the combat zone or qualifying area. The Department will review all other tax liabilities with respect to the possible suspension of enforced collections on a case by case basis.

## Combat Pay

South Carolina has adopted Internal Revenue Code Section 112 which excludes certain combat pay from the definition of "gross income." To the extent that combat pay is exempt from federal income tax, the combat pay is also exempt from South Carolina income tax.

## **Taxpayer Assistance**

### Other State Taxes

Other South Carolina tax matters concerning military persons and their families affected by service in combat zones or areas treated as combat zones will be reviewed by the Department on a case by case basis.

Additional assistance may be obtained at the Department's Taxpayer Service Centers. A list of the Service Centers with their locations and telephone numbers is located on the Department's website at [www.sctax.org](http://www.sctax.org) under "Contact Information."

### County Property Taxes

Questions concerning county property taxes should be addressed to the individual counties.

### Federal Income Taxes

In addition to IRS Publication 3, the Internal Revenue Service has established a toll-free number, 1-866-562-5227, which military personnel and their spouses who are affected by the combat zone rules may call to discuss any federal income tax matter.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens  
Ray N. Stevens, Director

June 20, 2008  
Columbia, South Carolina