

NEW YORK STATE INCOME TAX INFORMATION FOR MILITARY PERSONNEL AND VETERANS

For tax year 2009



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New York State



Free e-file! Active duty military personnel may be eligible to e-file their 2009 New York State tax return for free through the Free File Alliance. This program provides access to free tax preparation software and free e-filing. Please visit us on the web at www.tax.ny.gov for more information and to access this free service.

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General

If you are a New York State resident and a member of the United States armed forces or the New York State organized militia in active service, or you are a veteran, you may have some questions about filing your New York State income tax return.

The information in this publication will help you understand what is meant by a *New York State resident* and a *New York State nonresident*. It also explains how to file your New York State income tax return, if you must file one.

Information for military personnel is also available on our Web site at www.tax.ny.gov

Definitions

The following definitions will help you determine your resident status for income tax purposes. To determine your resident status, you have to consider where your domicile was and where you maintained a permanent place of abode during the tax year.

In general, your *domicile* is the place that you intend to have as your permanent home. Your domicile is, in effect, where your permanent home is located. It is the place you intend to return to after being away (as on vacation abroad, business assignment, education leave, or military assignment).

You can have only one domicile. Your New York domicile does not change until you move to a new location and definitely intend to make your permanent home there. If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change.

Military assignments do not affect your domicile. If your permanent home (domicile) was in New York State when you entered the military, you are still domiciled in New York State even if you are presently assigned to duty in another state or country.

A *permanent place of abode* is a residence (a building or structure where a person can live) that you permanently maintain, whether you own it or not, and usually includes a residence your husband or wife owns or leases.

The determination as to whether an individual in the military maintains a permanent place of abode outside New York State does not depend solely upon whether the individual lives on or off a military base. This is only one of many factors to be considered in determining whether a permanent place of abode is being maintained outside New York State. Other factors include the type and location of quarters occupied by the individual and members of the individual's immediate family, as well as how and by whom such quarters are maintained. Barracks, bachelor officers' quarters,

quarters assigned on vessels, or any structure that contains only bachelor/bachelorette-type quarters and does not contain facilities ordinarily found in a dwelling (such as facilities for cooking or bathing) generally do not qualify as permanent places of abode maintained by an individual in the military. If an individual in the military maintains a place of abode outside New York State, it will not be considered permanent if it is maintained only during a temporary duty assignment.

Resident and nonresident

If your permanent home (domicile) was in New York State when you entered the military but you were later assigned to another state or country, your domicile does not change. You are still a New York State resident and must file a resident return and pay any tax due, unless you meet **all three** conditions in **either** Group A **or** Group B:

Group A

1. You did not maintain any permanent place of abode in New York State during the tax year; and
2. you maintained a permanent place of abode outside New York State during the entire tax year; and
3. you spent **30 days or less** (any part of a day is a day for this purpose) in New York State during the tax year.

Group B

1. You were in a foreign country for at least 450 days during any period of 548 consecutive days; and
2. you, your spouse (unless legally separated) and minor children spent **90 days or less** (any part of a day is a day for this purpose) in New York State during this 548-day period; and
3. during the nonresident portion of the taxable year in which the 548-day period begins, and during the nonresident portion of the taxable year in which the 548-day period ends, you were present in New York State for no more than the number of days which bears the same ratio to 90 as the number of days in such portion of the taxable year bears to 548. This condition is illustrated by the following formula:

$$\frac{\text{Number of days in the nonresident portion}}{548} \times 90 \quad \text{Maximum number of days allowed in New York State}$$

If you meet all of the conditions in either Group A or Group B, you are considered a *nonresident* for the tax year. However, you may still be subject to tax as explained in the following section.

Note: For purposes of determining your resident status for income tax purposes, your presence in New York does not count as a day or part of a day for purposes of determining your total days in New York, if any of the following apply:

1. You travel to New York for the sole purpose of boarding a plane, ship, train, or bus for a destination outside New York State.
2. You are continuing travel that began outside of New York State that takes you through the state by automobile, plane, ship, train, or bus, to a destination outside New York State.
3. You are seeking treatment for an illness at a New York medical facility or are confined to a New York nursing home facility.

Nonresident members of the armed forces

If your domicile was not New York State when you entered the military and you were later assigned to active duty in New York State, you do not become a New York State resident even if you establish a permanent place of abode here. You are a nonresident and your military compensation is not subject to New York State income tax.

However, other income that you receive from New York State sources while you are a nonresident may be subject to tax. If you have a civilian job in New York State during your off-duty hours, the income you receive is subject to income tax. Income or gain from property located in New York State, or from a business, trade, or profession carried on in New York State, is also subject to tax.

Generally, your domicile does not change when you are serving temporarily in the military. However, if your domicile was New York State when you entered the military and **you meet all three conditions in Group A** (on page 6 of this publication) for the tax year, you will be treated as a New York State nonresident for the full tax year.

You may claim a refund of any New York State income tax withheld from your military pay by filing Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, with the Tax Department, and attaching an explanation that contains all of the following:

1. a statement that you did not have a permanent place of abode in New York State during the tax year;

2. the location and a brief description of the permanent place of abode you maintained outside New York State, and the beginning and ending dates of your stay there; and
3. the exact number of days you were in New York State during the tax year.

If you meet all three of the Group B conditions beginning on page 6 of this publication, you will be treated as a nonresident for the entire 548-day period. You must file Form IT-203 for the tax year in which the 548-day period began. For the part-year resident period, include any items of income, gain, loss, or deduction received or accrued up to the time of change of residence. For the nonresident period, include any items of income, gain, loss, or deduction derived from or connected with New York State sources. In the year you return to New York State, you may also be required to file Form IT-203.

To obtain Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, see *Need help?* on the back cover of this publication.

Spouses of nonresident members of the armed forces

The Military Spouses Residency Relief Act of 2009 (MSRRA) (Public Law 111-97) provides that the spouse of a servicemember cannot lose or acquire a residence or domicile for income tax purposes when he or she is present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders.

In accordance with the MSRRA, if you and your servicemember spouse were residents or domiciliaries in a state other than New York State prior to being located in New York, and you are present in the state solely to be with your servicemember spouse who is in the state in compliance with his or her military orders, you will not be considered a resident of New York State for income tax purposes even if you establish a permanent place of abode here. You are a nonresident. Furthermore, under MSRRA, your income earned in New York State, as described on page 9, is not subject to New York State income tax. Previously, only the nonresident servicemember's military income was exempt from taxation.

However, if a servicemember enters New York State in compliance with military orders and marries a New York State resident, the spouse will continue to be considered a resident since the spouse was a resident prior to the marriage and did not enter New York State for the sole purpose of being with the nonresident servicemember as required under the MSSRA. The spouse would continue to be a New York State resident for personal income tax purposes until such time as he/she becomes a resident and establishes a domicile with the nonresident servicemember in a home state other than New York State.

If you are a military spouse who is a nonresident under the rules previously described, your income earned in New York State is exempt from New York income tax. For purposes of the MSRRA exemption, *income earned in New York State* includes:

- wages, salaries, and other compensation for services performed by a military spouse in New York State as an employee,
- any business income or loss (other than a capital gain or loss from the sale of real property located in New York State) a military spouse has from a sole proprietorship carried on in New York State or from a partnership, including an LLC treated as a partnership, where the partnership or the LLC carries on business in New York State, if the income or loss or any part of the income or loss is required to be included in the computation of net earnings from self-employment for purposes of the federal Self-Employment tax (SE tax).

Example: A servicemember from Georgia is ordered to active duty in New York State. The servicemember's spouse accompanies him/her from their home in Georgia to New York solely to be with the servicemember. The spouse obtains employment at a neighborhood store. The spouse is not considered a New York State resident and the income the spouse receives is not subject to New York State tax.

Note: A nonresident servicemember's non-military income earned in New York State is still subject to tax.

If a military spouse has met the conditions for relief under these rules, and the servicemember is subsequently assigned outside the United States or to another state, and the military spouse remains in New York State, the rules will continue to apply as long as New York State remains the servicemember's permanent United States duty station. However, the rules will no longer apply if the servicemember's permanent United States duty station is no longer in New York State and the military spouse remains in New York State.

If your wages are exempt from New York tax under the MSRRA, you may claim an exemption from New York withholding by submitting a properly completed Form IT-2104-E, *Certificate of Exemption from Withholding*, to your employer.

The MSRRA does not relieve you of the obligation to file an income tax return or pay income tax to your home state if your home state has an income tax. You should check with your home state for its requirements.

For further information regarding the MSRRA, including how to file your 2009 nonresident return, see TSB-M-10(1)I, *Military Spouses Residency Relief Act*.

Resident members of the armed forces

If you are a New York State resident in the military and you meet **any** of the following conditions, you must file a resident income tax return on Form IT-150 or Form IT-201:

- You have to file a federal income tax return.
- You are single, cannot be claimed as a dependent on another taxpayer's return, and your federal adjusted gross income (plus New York additions) is more than \$4,000.
- You are single, can be claimed as a dependent on another taxpayer's return, and your federal adjusted gross income (plus New York additions) is more than \$3,000.
- You are married filing a joint return or married filing a separate return, and your federal adjusted gross income (plus New York additions) is more than \$4,000.
- You are a head of household or qualifying widow(er), and your federal adjusted gross income (plus New York additions) is more than \$4,000.
- You want to claim a refund of any New York State, New York City, or Yonkers income taxes withheld from your pay.
- You want to claim a refund or carryover of any New York State, New York City, or Yonkers credits.
- You are subject to the minimum income tax.
- You are subject to the separate tax on lump-sum distributions.

Taxability of military pay for residents

If you are a New York State resident, your military pay is subject to New York State income tax. Your military pay is taxable on your New York State return in the same way it is taxable on your federal return. However, if your federal income includes any combat zone pay (see *Exemption for military pay* on page 15 or any compensation or bonuses for active service while a prisoner of war or missing in action during the Vietnam conflict, those amounts are not taxed on your New York State return. In addition, income received for performing active duty service within New York State as a member of the New York State organized militia may not be taxed on your New York State return. See *Members of the New York State organized militia* on page 11.

Note: Military personnel serving in a combat zone, qualified hazardous duty area, or a contingency operation: see page 13 of this publication.

Tuition payments, subsistence allowances, and any other benefits paid to, or on account of, a veteran or beneficiary under the laws relating to veterans, are treated the same for New York State tax purposes as for federal tax purposes. If these amounts are excluded from gross income for federal income tax purposes, they are not subject to New York State income tax. However, pension payments received by retired military personnel or their beneficiaries are totally exempt from New York State tax.

The Internal Revenue Service announced in 2008 that payments made under the Department of Veterans Affairs Compensated Work Therapy program are no longer taxable by the federal government and that veterans who paid federal income tax on these benefits may claim a refund for certain tax years. As a result, these benefit payments are no longer taxable by New York State. Therefore, eligible taxpayers who paid New York State income tax on these benefits may also file amended New York State income tax returns to claim a refund for these years. For more information, see Important Notice N-08-5, *Important Information for Veterans Receiving Payments Under the Compensated Work Therapy Program*.

New York City and Yonkers residents: New York State administers the New York City and Yonkers personal income taxes. If you were a New York City or Yonkers resident when you entered the military and your military pay is subject to New York State income tax, it is also subject to the New York City or Yonkers resident tax. You have to report your New York City or Yonkers resident tax on your New York State resident return, Form IT-150 or Form IT-201.

However, if you meet the conditions for nonresident status in Group A or Group B beginning on page 6 of this publication, your military pay is not subject to the New York City or Yonkers taxes.

Members of the New York State organized militia

If you are a resident or nonresident member of the New York State organized militia and you included in your federal adjusted gross income any income you received as a member of the New York State organized militia for performing active service within New York State due to: (1) state active duty orders issued under New York Military Law section 6.1, or (2) active service of the United States pursuant to federal active duty orders, for service other than training, issued under United States Code Title 10, you are entitled to a New York subtraction modification for that income in computing your New York adjusted gross income. However, income received for regular duties in the organized militia (for example, pay received for the annual two-week training program), does not qualify for this subtraction modification. The New York State organized militia includes the New York Army National Guard, the New York Air National Guard, the New York Naval Militia, and the New York Guard.

When to file your return

As a member of the armed forces, you must file your New York State return at the same time and in the same manner as any other taxpayer. File your return as soon as you can after January 1, 2010, but not later than the filing deadline, April 15, 2010.

Note: Military personnel serving in a combat zone, qualified hazardous duty area, or contingency operation: see page 13 of this publication.

Extension of time to file returns

If you cannot meet the filing deadline (see *When to file your return*), and need to extend the time for filing your return, you must use Form IT-370, *Application for Automatic Six-Month Extension of Time to File for Individuals*. The time to file your return will be automatically extended six months. File Form IT-370 on or before the due date for filing your return. Your Form IT-370 must show the properly estimated amount of tax liability and be accompanied by a full payment of that amount.

This extension does not extend your time to pay; full payment must be made of any balance due with this automatic extension of item to file. You may pay by check, money order, through a direct transfer of funds from your bank account (electronic funds withdrawal), or credit card (credit card service providers charge a fee). Extension requests may also be filed via the Internet. If you want to make your payment by electronic funds withdrawal, you must use the Tax Department's Web application or e-file your extension request. For more information, access *Online Services* on the Tax Department's Web site at www.ny.tax.gov.

If you qualify for an automatic two-month extension of time to file your federal income tax return because you are stationed in a foreign country when your 2009 return is due, you are entitled to a similar automatic two-month extension to file your New York income tax return until June 15, 2010. You do not have to request or apply for this two-month extension. The time to pay your New York State, New York City and Yonkers income taxes, and any New York State or local sales or use tax you owe, is also automatically extended to June 15, 2010. However, interest on any balance of tax you owe must be paid from the April 15, 2010, original due date of your return to the date of payment.

To receive an automatic additional four-month extension (for a total extension of six months) of time to file beyond June 15, 2010, you must file Form IT-370 by June 15, 2010, and pay any income tax and sales or use tax due with it. The time to file will be extended to October 15, 2010.

Late returns

If you have not filed your required income tax return(s) or paid any taxes you owe because of your military service, do so as soon as possible. Attach to your return(s) and payment(s) a statement that you were on active duty at the time, and include the exact dates of your duty. This information may allow the Tax Department to accept your late return(s) or payment(s) without imposing penalties.

If there is an excessive or unreasonable delay between the time you leave the service or are relieved from active duty, and the time you file your return(s) or pay your taxes, you will be subject to penalties and interest charges.

Note: Military personnel serving in a combat zone, qualified hazardous duty area, or contingency operation: see below.

Combat zone, qualified hazardous duty area, and contingency operations

If you are a member of the armed forces or support personnel who served or are currently serving in a combat zone or qualified hazardous duty area (hereafter: *combat zone*), or are serving in a contingency operation deployed outside the United States, the following New York State tax relief provisions are available to you.

Extension of time to file returns and perform certain other acts

Extension of time to file – The deadline for filing your New York State income tax return and paying your tax is extended (without requesting an extension of time to file or to pay and with no penalty or interest charges) for at least 180 days* after the later of:

- the last day you are in a combat zone or serve in a contingency operation (or the last day the area qualifies as a combat zone or the operation qualifies as a contingency operation), or
- the last day of hospitalization inside or outside New York State as a result of injury received while serving in a combat zone or contingency operation.

*In addition to the 180 days, your deadline to file and to pay is further extended by the number of days you have available to file your New York State return when you enter the combat zone or begin serving in a contingency operation. If you enter the combat zone or begin serving in the contingency operation before April 15, 2010, your deadline is extended by the entire time you have available to file your return. For example, you have from January 1 through April 15, 2010, to file your 2009 New York State income tax return. Any days of this 105-day period that are left when you enter the combat zone (or the entire 105-day filing period if you enter the combat zone before January 1, 2010) are added to the 180 days to find the last day allowed for timely filing your 2009 New York State income tax return and paying any tax due.

If you qualify for an extension of time to file and pay your tax due under the combat zone or contingency operation relief provisions, enter the special condition code **C7** in the space provided on your personal income tax return.

Amended returns – Generally, an amended return claiming a refund must be filed within three years of the date that the original return was filed, or within two years of the date the tax was paid, whichever is later.

Example: If you file your 2009 New York State return, and pay any tax due on or before April 15, 2010, you must file your amended New York State return no later than April 15, 2013.

However, if (for example) you served in a combat zone from November 1, 2008, to August 4, 2009, your deadline for filing an amended 2005 New York return claiming a refund is extended 346 days (180 plus 166) after you leave the combat zone. The 166 additional days (November 1, 2008, through April 15, 2009) are the number of days in the three-year period for filing the refund claim that were left when you entered the combat zone on November 1, 2008. In this example, you must file any claim for refund by July 15, 2010.

Other extensions – In addition, the same extension that applies to filing returns also extends the date for the taxpayer or the Tax Department to perform the following actions:

- Paying of income taxes (except employment and withholding taxes) and any sales or use tax reportable on a personal income tax return. For more information on sales and use taxes reportable on a personal income tax return, see Publication 774, *Purchaser's Obligations to Pay Sales and Use Taxes Directly to the Tax Department*.
- Filing a petition with the Division of Tax Appeals for a credit or refund, or for review by an administrative law judge or Tax Appeals Tribunal decision.
- Allowing a credit or refund of income tax by the Tax Department.
- Filing a claim for credit or refund of income tax.
- Assessment of any income tax by the Tax Department.
- Giving or making any notice or demand by the Tax Department for the payment of any income tax.
- Collection by the Tax Department of any income tax due.
- Bringing suit by the Tax Department for any income tax due.

If the Tax Department takes any action covered by these provisions or sends you a notice of examination before learning that you are entitled to an extension, contact the Tax Department or your legal assistance office.

No penalties or interest will be imposed for failure to file a return or pay taxes during the extension period.

Spouses and dependents of individuals who served in a combat zone or served in a contingency operation are entitled to the same extensions with the following exception: the extension does not apply to a spouse or dependent for any tax year beginning more than two years after the date the area ceases to be a combat zone or the area ceases to be a contingency operation.

Signing and filing of the return by a spouse

Married couples filing a joint return. If you are serving in a combat zone or contingency operation and are unable to sign your and your spouse's joint personal income tax return, your spouse may sign and file the return on your behalf. Your spouse must attach a signed statement to the return explaining that you are serving in a specified combat zone (for example, Iraq) or a contingency operation and therefore, not available to sign the return. Write **COMBAT ZONE** on the top of your return. Married couples filing separate returns cannot take advantage of this option.

Hostile fire pay

If you qualified for hostile fire pay for providing services in direct support of a combat zone military operation in an area not designated as the combat zone, you are deemed to have served in the combat zone for that period of qualifying service and you are entitled to the combat zone tax relief provisions.

Interest on refunds

We will pay interest on refunds back to the original due date for returns filed after April 15, but on or before your extended due date.

Exemption for military pay

Any income received by a member of the armed services of the United States for service in an area designated as a combat zone is exempt from New York State, New York City, and Yonkers taxes. If you included any combat zone pay in your federal adjusted gross income, you are entitled to a New York subtraction modification for that income in computing your New York adjusted gross income.

Decedents

If a member of the armed forces dies while serving in a combat zone or as a result of injuries received while serving in a combat zone, no New York State tax (or additions to tax) will be imposed for any tax year the decedent served in the combat zone. We will waive any unpaid tax for years prior to service in the combat zone.

If the deceased paid any tax while in the combat zone, we will refund the full amount of the tax paid, to the estate or the surviving spouse. If any tax was assessed but not paid, we will cancel the assessments.

Procedures for claiming forgiveness. If the individual dies while serving in a combat zone or as a result of injuries received while serving in a combat zone, use the following procedures for filing a claim for income tax forgiveness.

- File Form IT-150, Form IT-201, or Form IT-203 if a tax return has not been filed for the tax year and attach Form IT-2, *Summary of W-2 Statements* (Federal Form(s) W-2 for tax years prior to 2005). For tax years 2007, 2008 and 2009, enter the special condition code **K2** in the space provided on the personal income tax return. For tax years 2005 and 2006, enter the special condition code number **02** in the space provided on the personal income tax return. For tax years prior to 2005, identify the original return by writing **COMBAT ZONE-KIA** on the front of the form.
- File Form IT-150-X, Form IT-201-X, or Form IT-203-X if a tax return has been filed. A separate return must be filed for each eligible year. For tax years 2007, 2008 and 2009, enter the special condition code **K2** in the space provided on the amended return. For tax years 2005 and 2006, enter the special condition code number **02** in the space provided on the amended return. For tax years prior to 2005, identify the amended return by writing **COMBAT ZONE-KIA** on the front of the form.

An attachment showing the computation of the decedent's tax liability before any amount is forgiven and the amount that is to be forgiven should accompany any return or claim. For joint returns, see *Joint returns* on page 17.

If the provisions apply to a prior year's tax that has been paid and the period for filing a claim for a refund is still open, the tax will be refunded. Generally, the period for filing an amended return claiming a refund of tax is three years from the time the return was filed or two years from the time the tax was paid, whichever is later.

Necessary documents to attach. The following documents must be filed with the returns claiming a refund:

- A certification from the Department of Defense (for example, Department of Defense Form DD 1300, *Report of Casualty*); and
- Form DTF-281, *Survivor's Affidavit*. Contact the Tax Department at 1 800 225-5829 to obtain a copy of this form.

The certification must include the deceased individual's name and social security number, the date of injury, the date of death, and a statement that the individual died in a combat zone. If the certification has been received but there is not enough tax information to file a timely claim for refund,

file the return or amended return with Form DTF-281. Include a statement saying that an amended claim will be filed as soon as the necessary tax information is available.

Joint returns. Only the decedent's part of the tax liability is eligible for income tax forgiveness. To determine the decedent's portion of the joint liability, allocate income, deductions and New York addition and subtraction modifications in the same manner they would have been allocated if the spouses had filed separate returns. Allocate wages and salaries to the spouse who performed the services and received the Form W-2. Allocate personal deductions, such as itemized deductions for mortgage interest and taxes, equally between the spouses unless there is evidence that shows a different allocation is appropriate. When computing the total tax as if a separate return had been filed, allocate credits and other taxes, if any, in the same manner as they would have been allocated if the spouses had filed separate returns. Compute the tax liability that is eligible for the refund as follows:

1. Compute the decedent's total tax as if a separate return had been filed.
2. Compute the surviving spouse's total tax as if a separate return had been filed.
3. Multiply the joint tax liability by a fraction, the numerator being the amount in item 1 and the denominator being the total of items 1 and 2.

The result of item 3 is the amount eligible for a refund. If you are unable to compute the amount, you should attach a statement of all income and deductions, indicating the part that belongs to each spouse. The Tax Department will determine the amount to be refunded.

For information on obtaining tax forgiveness for a member of the military who died while serving in a combat zone or as a result of injuries received while in a combat zone, see *Need help?* on the back cover of this publication.

Areas designated as a combat zone, qualified hazardous duty area, or contingency operation

An area usually becomes a combat zone, and ceases to be a combat zone, on the dates the President designates by Executive Order. A *contingency operation* is a military operation that is designated as such by the Secretary of Defense or results in calling members of the uniformed services to active duty (or retains them on active duty) during a war or a national emergency declared by the President or Congress.

The following is a brief description of the areas currently designated as combat zones and qualified hazardous duty areas by Executive Order of the President of the United States that existed at the time this publication was printed.

Afghanistan area. By Executive Order No. 13239, Afghanistan, including the airspace above it, has been designated as a combat zone, beginning September 19, 2001.

Kosovo area. By Executive Order No. 13119 and Public Law 106-21, the following locations, including the airspace above them, were designated as combat zones and qualified hazardous duty areas, beginning March 24, 1999:

- Federal Republic of Yugoslavia (Serbia/Montenegro)
- Albania
- The Adriatic Sea
- The Ionian Sea – north of the 39th parallel (including the airspace in connection with the Kosovo operation)

Persian Gulf area. By Executive Order No. 12744, the following locations, including the airspace above them, were designated as combat zones, 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 North 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

In addition, the following areas beginning November 21, 1995, have been designated qualified hazardous duty areas by Public Law 104-117. A qualified hazardous duty area in the former Yugoslavia is treated as if it were a combat zone and includes:

- Bosnia and Herzegovina
- Croatia
- Macedonia

The following areas have been designated as serving in direct support of a combat zone by the Assistant Secretary of Defense:

In support of Operation Enduring Freedom (Afghanistan combat zone):

- Incerlik Air Base in Turkey, effective September 21, 2001 through December 31, 2005
- Pakistan, Tajikistan, and Jordan, effective September 19, 2001
- Uzbekistan and Kyrgyzstan, effective October 1, 2001
- The Philippines (only troops with orders referencing Operation Enduring Freedom), effective January 9, 2002
- Yemen, effective April 10, 2002
- Djibouti, effective July 1, 2002
- Somalia, effective January 1, 2004

In support of Operation Iraqi Freedom (Persian Gulf area combat zone):

- Turkey, effective January 1, 2003, through December 31, 2005
- Israel, effective January 1, 2003, through July 31, 2003
- The Mediterranean Sea – east of 30 degrees East longitude, effective March 19, 2003, through July 31, 2003
- Egypt, effective March 19, 2003, through April 20, 2003
- Jordan, effective March 19, 2003

If you are or were a member of the armed forces or support personnel serving in one of the above listed combat zones or qualified hazardous duty areas, you are entitled to the New York State tax relief provisions as described in the section titled *Combat zone, qualified hazardous duty area, and contingency operations* beginning on page 13 of this publication.

Military personnel qualifying to defer the payment of back income taxes

If you are a reservist called to active duty or a regular military member (regardless of the location in which you are serving), you may qualify to defer the payment of back income taxes. To qualify, you must show that your ability to pay the back taxes has been materially impaired. You must have received a notice of tax due, or be on an installment payment agreement with New York State, before applying for the deferral.

If you have received a billing or collection document and believe that you qualify for this deferral, please write ***Military Duty Deferral Request*** on the top of the document received, attach an explanation concerning how your military service has created an inability to pay, and send the document and explanation back in the return envelope. If you currently have an installment payment agreement or make automated payments with the New York State Department of Taxation and Finance and believe that you qualify, please contact our Collections and Civil Enforcement Division at (518) 457-5434 and inform the representative about your situation.

Interest rate benefit

If you are an active duty member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, who has a New York State tax liability, and your service has materially affected your ability to pay the liability, you may be

eligible for an interest rate benefit under the Federal Soldiers' and Sailors' Civil Relief Act ("the Act"). Section 526 of the Act limits the maximum interest rate that can be charged to 6% per year for obligations or liabilities incurred before entry into active service. The reduced rate applies only if the service materially affects your ability to pay, and only applies to the interest charged during your period of active duty. Reservists, including the National Guard, must be placed on active duty to qualify. National Guard personnel not serving in a federalized status (for example, on state active duty for disaster relief) are not covered by the Act and are therefore not eligible for this relief.

If you have received a billing or collection document and believe that you qualify for this benefit, please write ***Military Duty Interest Reduction Request*** on the top of the document received, attach a copy of your orders or reporting instructions that detail the call to active duty, and send the document and attachment back in the return envelope.

Income tax withholding and payment of estimated tax

If you are a New York State resident, your military pay is subject to withholding of New York State income tax. However, if you think that you will meet all three of the conditions for nonresident status in Group A or Group B, beginning on page 6 of this publication, you can request that no New York State income tax be withheld from your pay. Get Form IT 2104-MS, *New York State Withholding Exemption Certificate for Military Service Personnel*, from the Tax Department, or Department of Defense Form 2058-1, *State Income Tax Exemption Test Certificate*, and file it with your military finance officer. Do not send it to New York State.

Generally, you must pay estimated tax if you expect to owe, after subtracting:

1. your withholding;
2. estimated income tax paid with Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, and/or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*;
3. estimated income tax paid on your behalf by a partnership or S corporation; and
4. credits;

at least \$300 of either New York State, New York City, or Yonkers tax for 2010, and you expect your withholding, estimated income tax paid with Form IT-2663 and/or Form IT-2664, estimated income tax paid on your behalf by a partnership or S corporation, and credits to be less than the smaller of:

1. 90% of the personal income tax shown on the 2010 return, or
2. 100% of the personal income tax shown on the 2009 return (110% of that amount if you are not a farmer or a fisherman and the New York adjusted gross income shown on that return is more than \$150,000 or, if married filing separately for 2010, more than \$75,000).

However, if you did not file a 2009 New York State tax return, or your 2009 return did not cover all 12 months, item (2) above does not apply. (For more information, see Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, and the instructions for Form IT-2105).

You can make estimated tax payments, check your balance, and reconcile your estimated income tax account online by accessing the Tax Department's Web site at www.nystax.gov. Estimated tax payments may also be made by check, money order, or credit card. For more information, see Publication 94, *New York State Tax Information - Should You Be Paying Estimated Tax in 2010?*

When the amount withheld from your pay or the amount you paid as estimated tax is more than the New York State income tax you owe, you must file a return to get your refund. If you are a New York State resident, file Form IT-150 or IT-201, whichever is applicable, with the Tax Department. If you are a nonresident or part-year resident, file Form IT-203.



Free e-file! Active duty military personnel may be eligible to e-file their 2009 New York State tax return for free through the Free File Alliance. This program provides access to free tax preparation software and free e-filing. Please visit us on the web at www.nystax.gov for more information and to access this free service.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Automated income tax refund status: (518) 457-5149

Personal Income Tax Information Center: (518) 457-5181

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.