

TAX RELIEF FOR PERSONNEL IN THE FEDERAL REPUBLIC
OF YUGOSLAVIA (SERBIA/MONTENEGRO) AND CERTAIN
OTHER AREAS

APRIL 13, 1999.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 1376]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means to whom was referred the bill (H.R. 1376) to extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

In section 1(b) insert “(above the 39th parallel)” after “the northern Ionian Sea”.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

The bill (H.R. 1376): (1) provides that service in a qualified hazardous duty area (Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Northern Ionian Sea) is to be treated as if it were a combat zone; and (2) makes the suspension of time provisions of Code section 7508 applicable to personnel serving as part of “Operation Allied Force” outside those areas.

B. BACKGROUND AND NEED FOR LEGISLATION

The bill is intended to treat service by United States Armed Forces (and support) personnel in the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Northern Ionian Sea as if it were combat zone service for purposes of the Internal Revenue Code. The bill also makes the suspension of time provisions of Code section 7508 applicable to personnel serving as part of Operation Allied Force outside those areas.

C. LEGISLATIVE HISTORY

H.R. 1376 was introduced by Mr. Archer and others on April 13, 1999, and was marked up by the Committee on April 13, 1999. The bill was ordered favorably reported (by voice vote) with amendment on April 13, 1999.

II. EXPLANATION OF THE BILL

PRESENT LAW

General time limits for filing tax returns

Present law provides that individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year (sec. 6072). Present law also provides that the Secretary may grant reasonable extensions of time for filing such returns (sec. 6081). Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States (Treas. Reg. sec. 1.6081-5(a)(6)). No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due (Treas. Reg. sec. 1.6081-4).

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, present law suspends the period of time for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any individual serving in the Armed Forces of the United States in an area designated as a “combat zone” during the period of combatant activities (sec. 7508). An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous qualified hospitalization resulting from injury received in the combat zone¹ or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

- (1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);
- (2) Payment of any income, estate, or gift tax (except employment and withholding taxes);
- (3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;
- (4) Allowance of a credit or refund of any tax;
- (5) Filing a claim for credit or refund of any tax;
- (6) Bringing suit upon any such claim for credit or refund;
- (7) Assessment of any tax;
- (8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;
- (9) Collection of the amount of any liability in respect of any tax;
- (10) Bringing suit by the United States in respect of any liability in respect of any tax; and

¹ Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

(11) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under section 7508 by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension.

Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

Exclusion for combat zone compensation

Gross income does not include certain combat zone compensation of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In addition, if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone, military pay for that month is also excluded from gross income; this exclusion is limited, however, to hospitalization during any part of any month beginning not more than two years after the end of combat in the zone. In the case of commissioned officers, these exclusions from income are limited to the maximum enlisted amount² of military pay.

Income tax withholding does not apply to military pay to the extent that an employee (whether enlisted personnel or commissioned officer) is entitled to the exclusion from income for combat pay (sec. 3401(a)(1)).

Exemption from tax upon death in a combat zone

An individual in active service as a member of the Armed Forces who dies while serving in a combat zone (or as a result of wounds, disease, or injury received while serving in a combat zone) is not subject to income tax for the year of death (as well as for any prior taxable year ending on or after the first day the individual served in the combat zone) (sec. 692). Special computational rules apply in the case of joint returns. A reduction in estate taxes is also provided with respect to individuals dying under these circumstances (sec. 2201).

Special rules permit the filing of a joint return where a spouse is in missing status as a result of service in a combat zone (sec. 6013(f)(1)). Special rules for determining surviving spouse status apply where the deceased spouse was in missing status as a result of service in a combat zone (sec. 2(a)(3)).

Exemption from telephone excise tax

The telephone excise tax is not imposed on “any toll telephone service” that originates in a combat zone (sec. 4253(d)).

²This is defined as the highest rate of basic pay at the highest pay grade applicable for that month to any enlisted member of the Armed Forces of the United States, plus, in the case of an officer entitled to combat pay, the amount of combat pay payable to that officer for that month. (sec. 112(c)(5)).

Operation Desert Storm: Executive Order designating Persian Gulf Area as a combat zone

On January 21, 1991, President Bush signed Executive Order 12744, designating the Persian Gulf Area as a combat zone. This designation was retroactive to January 17, 1991, the date combat commenced in that area, and continues in effect until terminated by another Executive Order. An Executive Order terminating this combat zone designation has not been issued. Thus, individuals serving in the Persian Gulf Area are eligible for the suspension of time provisions and military pay exclusions (among other provisions) described above, beginning on January 17, 1991.

The Executive Order specifies that the Persian Gulf Area is the Persian Gulf, the Red Sea, the Gulf of Oman, part of the Arabian Sea, the Gulf of Aden, and the entire land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

Operation Desert Shield: Legislative extension of time

On January 30, 1991, President Bush signed Public Law 102-2. This Act amended section 7508 by providing that any individual who performs Desert Shield services (and the spouse of such an individual) is entitled to the benefits of the suspension of time provisions of section 7508. Desert Shield services are defined as services in the Armed Forces of the United States (or in support of those Armed Forces) if such services are performed in the area designated by the President as the "Persian Gulf Desert Shield area" and such services are performed during the period beginning August 2, 1990, and ending on the date on which any portion of the area was designated by the President as a combat zone pursuant to section 112 (which was January 17, 1991).

Operation Joint Endeavor: Administrative extension of time

On December 12, 1995, the Internal Revenue Service announced³ that it was administratively extending the time to file tax returns until December 15, 1996, for members of the Armed Forces "departing 'Operation Joint Endeavor'" on or after March 1, 1996. In addition, the IRS stated that the penalties for failure to file tax returns and failure to pay taxes would not be assessed with respect to these individuals. Also, the IRS stated that it would administratively place any balance due accounts into suspense status and suspend examinations while the member is serving in "Operation Joint Endeavor."

Operation Joint Endeavor and Operation Able Sentry: Legislative treatment as if a combat zone

Pursuant to Public Law 104-117,⁴ a qualified hazardous duty area is treated in the same manner as if it were a combat zone for purposes of the following provisions of the Code:

³Letter dated December 12, 1995, from John T. Lyons, Assistant Commissioner (International), Internal Revenue Service, to Lt. Col. David M. Pronchick, Armed Forces Tax Counsel, Department of Defense.

⁴110 Stat. 827 (March 20, 1996).

(1) the special rule for determining surviving spouse status where the deceased spouse was in missing status as a result of service in a combat zone (sec. 2(a)(3));

(2) the exclusions from income for combat pay (sec. 112);

(3) forgiveness of income taxes of members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 692);

(4) the reduction in estate taxes for members of the Armed Forces dying in the combat zone or by reason of combat-zone incurred wounds (sec. 2201);

(5) the exemption from income tax withholding for military pay for any month in which an employee is entitled to the exclusion from income (sec. 3401(a)(1));

(6) the exemption from the telephone excise tax for toll telephone service that originates in a combat zone (sec. 4253(d));

(7) the special rule permitting filing of a joint return where a spouse is in missing status as a result of service in a combat zone (sec. 6013(f)(1)); and

(8) the suspension of time provisions (sec. 7508).

A qualified hazardous duty area means Bosnia and Herzegovina, Croatia, or Macedonia, if, as of the date of enactment, any member of the Armed Forces is entitled to hostile fire/imminent danger pay for services performed in such country. Members of the Armed Forces are in Bosnia and Herzegovina and Croatia as part of "Operation Joint Endeavor" (the NATO operation).⁵ Members of the Armed Forces are in Macedonia as part of "Operation Able Sentry" (the United Nations operation). In addition, persons other than Members of the Armed Forces who are serving in support of these operations of the Armed Forces are eligible for the suspension of time provisions in section 7508 of the Code.⁶ This provision was effective on November 21, 1995 (the date the Dayton Accord was initialed).

Suspension of time provisions for other Operation Joint Endeavor personnel

An individual who is performing services as part of Operation Joint Endeavor outside the United States while deployed away from the individual's permanent duty station will qualify for the suspension of time provisions in section 7508 of the Code during the period that hostile fire/imminent danger pay is paid in Bosnia and Herzegovina, Croatia, or Macedonia.

Announcement of Intention to Issue Executive Order Designating Kosovo Area of Operations as a Combat Zone

On April 12, 1999, President Clinton announced his intention to issue an Executive Order designating the Federal Republic of Yugo-

⁵ Operation Joint Endeavor has been replaced by Operation Joint Forge. The IRS has stated that personnel serving under Operation Joint Forge will be treated the same as personnel under Operation Joint Endeavor because Joint Forge is "the substantive continuation" of Joint Endeavor. Letter dated July 17, 1998, from Tommy G. DeWeese, District Director for the International District, Internal Revenue Service, to LTC Thomas K. Emswiler, Armed Forces Tax Council, Department of Defense.

⁶ In addition, persons other than Members of the Armed Forces are eligible for some of the other seven provisions listed above, under specified circumstances. For example, civilian employees of the United States are eligible for the forgiveness of income tax provisions of section 692 if they die as a result of injuries sustained overseas in specified terroristic or military actions.

slavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (including all of their air spaces) as a combat zone for purposes of the Internal Revenue Code.

REASONS FOR CHANGE

The Committee believes that it is appropriate to apply the special tax rules applicable to combat zones to service in the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Northern Ionian Sea in the same manner as if those areas were a combat zone. In addition, the Committee believes that it is appropriate to provide that military personnel performing services outside of those areas but still a part of Operation Allied Force qualify for the suspension of time provisions in section 7508 of the Code during the period that hostile fire/imminent danger pay is paid with respect to those areas, provided that those services are performed both outside the United States and while deployed away from that individual's duty station.

EXPLANATION OF PROVISION

The bill contains two elements. First, the bill treats the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea above the 39th parallel (including all of their air spaces) as a qualified hazardous duty area. Consequently, military personnel serving in those areas are entitled to relief under all eight of the hazardous duty area provisions listed above. Several special rules apply to civilian personnel. Civilian personnel serving in those areas in support of the Armed Forces are entitled to the suspension of time provisions in section 7508 of the Code. In addition, civilian employees of the United States serving in those areas are entitled to (a) the special rule for determining surviving spouse status where the deceased spouse was in missing status as a result of service in a combat zone (sec. 2(a)(3)); (b) forgiveness of income taxes of employees dying in the combat zone or by reason of combat-zone incurred wounds (sec. 692); and (c) the special rule permitting filing of a joint return where a spouse is in missing status as a result of service in a combat zone (sec. 6013(f)(1)).

Second, the bill also provides that military personnel performing services outside of those areas but still a part of Operation Allied Force qualify for the suspension of time provisions in section 7508 of the Code during the period that hostile fire/imminent danger pay is paid with respect to those areas, provided that those services are performed both outside the United States and while deployed away from that individual's duty station.

Accordingly, the bill provides the same treatment for those serving in (or in support of) Operation Allied Force as is provided under present law to those serving in (or in support of) Operation Joint Endeavor.

EFFECTIVE DATE

The provision is effective on March 24, 1999 (the date on which Operation Allied Force commenced).

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee in its consideration of the bill, H.R. 1376.

The bill, H.R. 1376, was ordered favorably reported by voice vote on April 13, 1999, with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1376, as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 1999–2003:

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The bill involves increased tax expenditures for the income tax benefit provisions related to combat pay (for amounts, see Part IV.A., above).

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office (CBO), the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 13, 1999.

Hon. BILL ARCHER,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for a bill to extend the tax benefits available to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Hester Grippando.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. —To extend the tax benefits available to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes

This bill would provide tax benefits to the members of the Armed Forces who are receiving special pay while subject to hostile fire or imminent danger while serving in the Federal Republic of Yugoslavia, Albania, the Adriatic Sea, or the northern Ionic Sea. They would receive the same tax benefits available to services performed in a combat zone. The bill would also allow those service members outside the United States who are deployed away from their permanent duty station as part of Operation Allied Force to delay filing income tax returns without penalty. The Joint Committee on Taxation (JCT) has estimated that this bill would reduce governmental receipts by \$22 million in fiscal year 1999, and by \$123 million over the 1999–2009 period. The President currently has the authority to declare the area designated by this bill a combat zone. If the President does so before this bill is enacted, the revenue loss of the bill would be negligible.

JCT has determined that this bill contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal years, in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in receipts	-22	-47	-23	-16	-10	-5	-1	0	0	0	0

This estimate was prepared by Hester Grippando and approved by G. Thomas Woodward, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee’s oversight activities concerning the tax treatment of military (and support) personnel serving in “Operation Allied Force” that the Committee concluded that it is appropriate to enact the provisions contained in the bill as reported.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform with respect to the provisions contained in the bill.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee’s action in reporting this bill is derived from Article I of the Constitution, Section 8 (“The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *”), and from the 16th Amendment to the Constitution.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not involve any Federal mandate on the private sector nor does it involve any Federal intergovernmental mandate on State, local, or tribal governments.

E. APPLICABILITY OF HOUSE RULE XXI5(B)

Rule XXI5(b) of the Rules of the House of Representatives provides, in part, that “No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless determined by a vote of not less than three-fifths of the Members.” The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the “IRS Reform Act”) requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the “Code”) and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

