

Fast Approaching Deadline To Apply for Refund

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

6.0—Military service and tax laws

The Combat-Injured Veterans Tax Fairness Act of 2016 applies to any veteran who received a one-time, lump sum disability severance payment after separating from military service between January 17, 1991 (the start of Operation Desert Storm, the fight to liberate Kuwait from Iraq) and January 1, 2017. If the veteran reported the payment as income and paid federal income tax on it, he or she can file an amended tax return and receive a refund of up to \$3,200. *The deadline for doing so is fast approaching.* Please see the Internal Revenue Service (IRS) press release Inserted below

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 1800 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1600 of the articles.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

07 | 12 | 19

Time is running out for some combat-injured veterans to claim tax refunds of up to \$3,200

IR-2019-125

WASHINGTON — The Internal Revenue Service is reminding veterans who received disability severance payments after 1991 and claimed it as income that time may be running out to claim their refund.

Veterans should take action soon if they received a notice (letters 6060-A and 6060-D) and have not already filed [Form 1040X](#), Amended U.S. Individual Income Tax Return, to claim a refund or credit of the overpayment attributable to the disability severance payment should do so soon.

“We appreciate the service and sacrifice of our nation’s combat-injured veterans, and the IRS is pleased to help deliver refunds under this special provision,” said IRS Commissioner Chuck Rettig. “Time is running out this month for many people who qualify for this refund. We urge combat-injured veterans to take time review the provisions to see if they are eligible.”

The Combat-Injured Veterans Tax Fairness Act of 2016 provides that most veterans who received a one-time, lump-sum, disability severance payment when they separated from military service are entitled to a refund if that payment was claimed as income. The payment must have been received after Jan. 17, 1991, and before Jan. 1, 2017. Eligible veterans should have received a mailed notice from the Department of Defense in July of 2018 explaining how to claim their tax refunds.

Some veterans have yet to act

Deadlines are soon approaching as the time available for claiming these tax refunds is limited to:

- One year from the date of the Department of Defense notice, or
- Three years after the due date for filing the original return for the year the disability severance payment was made, or
- Two years after tax was paid for the year the disability severance payment was made.

Veterans claiming their refund have the normal limitations period for claiming a refund or one year from the date of their letter from the DoD, whichever expires later. As taxpayers can usually only claim tax refunds within three years from the due date of the return, this alternative time frame is especially important since some of the claims may be for refunds of taxes paid as

far back as 1991. While many veterans have claimed their refunds in the past year, many others have not, and time is running short.

Two options for claiming the tax refund:

- Option 1: File a claim based on the actual amount of the overpayment attributable to your lump sum disability severance payment, or
- Option 2: Choose to claim the standard refund amount listed below that corresponds to the year the disability severance payment was made. Simply write “Disability Severance Payment” on Form 1040X, line 15, and enter the standard refund amount listed below on line 15, column B, and on line 22, leaving the remaining lines blank.

Veterans can submit a claim based on the actual amount of their disability severance payment by completing Form 1040X and carefully following the [instructions](#). An original return is not necessary if the information for that tax year is available. Veterans without the required information to complete the Form 1040X, you can request a transcript online at [IRS.gov/transcript](https://www.irs.gov/transcript).

Option 2, claiming a standard refund amount, is the easiest way to request a refund because it does not require finding the original tax return or requesting information about the return from the IRS. It may result in a larger or smaller refund based on the actual amount from the return. The standard refund amounts are:

- \$1,750 for tax years 1991 – 2005
- \$2,400 for tax years 2006 – 2010
- \$3,200 for tax years 2011 – 2016

Special Instructions

Carefully follow the instructions in the notice mailed by the Department of Defense in July 2018:

- Complete and file IRS Form 1040X, Amended U.S. Individual Income Tax Return, for the tax year the disability severance payment was made
- Write either “Veteran Disability Severance” or “St. Clair Claim” across the top of the front page of the Form 1040X
- All amended returns are filed on paper, so veterans should mail their completed Form 1040X, with a copy of the DoD letter, to:

Internal Revenue Service
333 W. Pershing Street, Stop 6503, P5
Kansas City, MO 64108

Eligible but never received a DoD notice

Veterans who did not receive the notice from the Department of Defense and received a disability severance payment after Jan. 17, 1991, that was reported as taxable income, can still file a claim. They must include the necessary documentation to file with their Form 1040X. Veterans should contact the [National Archives, National Personnel Records Center](#), or the [Department of Veterans Affairs](#) to obtain the required documentation for submission with their Form 1040X.

The IRS has posted [detailed information](#) on IRS.gov. [Veterans](#) with questions about claiming a tax refund for disability severance payment, can call the IRS toll free at (833) 558-5245 ext. 378 between 7 a.m. and 7 p.m. local time (Alaska and Hawaii follow Pacific time).

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This article is one of 1800-plus “Law Review” articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation’s seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:
Reserve Officers Association, 1 Constitution Ave. NE, Washington, DC 20002