

Taxes: Update Tax Laws and Policies to Reflect Changes in the Military

ROA urges Congress to exempt Title 26 USC 401(k) Guard and Reserve employee and government contribution limits from the new “blended retirement” plan.

TSP Contribution Limits

Under the new blended retirement program some Guard and Reserve members will be forced to surrender some of their civilian retirement if they want to contribute to their military retirement because of contribution limits set by the IRS. When not in military service, many individuals are working in civilian jobs that have 401k retirement programs. For example, while members could split the \$18,000 (2015) limit between the two places of employment, that would mean they would be undercutting their retirement pensions in both their civilian and military retirement plans. ROA met with senior leaders from the Pentagon and they expressed that it was not their intent to reduce retirement benefits for Guard and Reserve through tax law. ROA believes this was an unintended consequence due to being unfamiliar with Title 26.

ROA urges Congress to amend Title 26 USC §62(a)(2)(E) to decrease the distance for the above-the-line deduction for travel expenses.

Travel Expenses

It is time to amend the tax code to change the above-the-line deductions for Guard and Reserve members who travel more than 50 miles from their residence. Currently the law only allows the deduction when performing military duty at locations 100 miles from their residence. This change would bring the Guard and Reserve in line with comparable 50-mile criteria for other deductions such as for moving expenses and funeral honors. One might say that this is a change that should have occurred 10 years ago, when the 2005 Defense Base Realignment and Closure Commission recommended a total of 182 closures or realignment recommendations. History has shown that BRAC implementations result in fewer installations which increases the distance Guard and Reserve members must travel to perform duty. In the 114th Congress this bi-partisan legislation was proposed as H.R. 4658 *The Fair Treatment for our National Guard and Reservists Act*.

ROA urges Congress to update IRS Revenue Procedure 2016-47 to allow Guard and Reserve members on military deployment to qualify for a waiver of the 60-day rollover requirement.

Tax Penalties

Of the eleven conditions specified by the IRS as acceptable reasons to request a penalty waiver for exceeding the 60-day rollover requirement, none allow for a waiver in the event of a military deployment. Some of the conditions the IRS

does consider valid to justify a waiver include the taxpayer losing the check, if a taxpayer's family member died or was seriously ill, and even if the taxpayer was incarcerated. ROA believes that a taxpayer who is a military member on deployment should be afforded at least the same consideration as a taxpayer who is in jail, who faced a postal error, or family illness.

IRS Revenue Procedure 2016-47 "... provides guidance concerning waivers of the 60-day rollover requirement contained in §§ 402(c)(3) and 408(d)(3)" in Title 26. The full list of valid conditions, can be found at (<https://www.irs.gov/pub/irs-drop/rp-16-47.pdf>)

ROA urges Congress to establish a tax credit for employers who hire Guard and Reserve members in high-demand specialties, such as cyber, counterdrug, pilots, and security.

Tax Credit for Employers

Guard and Reserve service members continue to experience problems maintaining employment because of the demands for meeting the increased operational support provided to active duty. Per the Department of Labor in February 2017, Gulf War-era II veterans continue to have higher unemployment rates than their civilian counterparts. While employers have tried to support national security, it would be naïve to think they are not encountering their own problems during these times. Companies are absorbing the cost of replacing servicemembers with temporary employees or increasing overtime to fill the vacancy of mobilizations. Servicemembers have told ROA that they are seeing fewer and fewer Guard and Reserve being hired because of the cost and disruption to companies. That is exacerbated in high-demand specialties. Because the purpose of tax credits is to promote a specific behavior, ROA believes offering tax credits to companies will encourage them to hire Guard and Reserve members.