

KANSAS INCOME TAX INSTRUCTIONS FOR ARMED FORCES PERSONNEL

The following information may be of assistance in determining whether or not service personnel are liable for Kansas income tax and when returns should be filed.

Kansas law (K.S.A. 79-32,110) imposes a tax upon the Kansas taxable income of every Kansas resident, regardless of where earned, and upon the Kansas taxable income of every nonresident where such income is derived from sources within the state.

The service pay of members of the armed forces is taxable only by the state of their legal residence, regardless of where they may be stationed in the line of duty.

The place of residency at the time of induction into the service is normally presumed to be the legal state of residence of service members. It remains so until they actually establish residency in another state and change their service records in recognition thereof.

If you are an enlisted member, warrant officer, or commissioned warrant officer and you serve in a combat zone during any part of a month, all of your military pay for that month is excluded from your income. You can also exclude military pay earned while you are hospitalized as a result of wounds, disease, or injury incurred in the combat zone. The exclusion of your military pay while you are hospitalized does not apply to any month that begins more than 2 years after the end of combat activities in that combat zone. Your hospitalization does not have to be in the combat zone.

If you are a commissioned officer (other than a commissioned warrant officer), you may exclude your pay according to the rules just discussed. However, the amount of your exclusions is limited to the highest rate of enlisted pay (plus imminent danger/hostile fire pay you received) for each month during any part of which you served in a combat zone or were hospitalized as a result of your service there. See IRS Publication 3, *Armed Forces Tax Guide*, and 26 USC 112.

Pursuant to K.S.A. 79-32,117, the Kansas adjusted gross income of an individual shall mean the individual's federal adjusted gross income for the taxable year with specific modifications. Therefore, the beginning point for computing Kansas income tax shall be the federal adjusted gross income. Thus, to the extent compensation earned in a combat zone is excluded from federal adjusted gross income, it shall also be excluded from Kansas adjusted gross income, and therefore shall be exempt from Kansas income tax.

Kansas state income tax returns are due on or before the 15th day of the fourth month following the close of the taxable year. K.S.A. 79-3221(c) allows the Director of Taxation to grant a reasonable extension of time for filing a Kansas individual income tax return. The Department of Revenue shall recognize and accept as a properly approved extension of time a copy of federal Form 4868, application for automatic extension of time for filing individual income tax returns; and an approved copy of Form 2688, application for extension of time for filing individual income tax returns.

K.S.A. 79-3221(d) provides that the time of service shall be disregarded in the case of an individual serving in the armed forces of the United States, in an area designated as a "combat zone" by the President of the United States, or the period of service plus the period of continuous hospitalization shall be disregarded in the case of an individual who has been hospitalized outside the states as a result of injury received while serving in such area, and the next 180 days thereafter in calculating any tax liability (including any interest, penalty, additional amount, or addition to the tax) of the individual. This shall mean that an individual shall have 180 days after their return from the combat zone to file their Kansas income tax return, without incurring any interest or penalties.

The individual who delays filing his/her Kansas income tax return under the above provisions must enclose a statement with their tax return, when it is filed, stating they were on active duty in the "combat zone", and giving the date they returned to the United States.

RESIDENTS

If a resident received income from another state and was required to pay income tax to that other state, they may be entitled to claim a tax credit against their Kansas income tax liability to avoid double taxation of that income. The credit will be the actual tax liability in the other state; or the amount determined by limitation formulas set forth in the Kansas Individual Income Tax Booklet. A copy of the return filed with the other state and supporting schedules must be enclosed with the Kansas return to support the credit claimed.

NONRESIDENTS

Nonresident individuals stationed in Kansas due to military orders are not subject to Kansas income tax on their military pay.

However, nonresident military personnel or their spouses (when filing a married filing joint return) must file a Kansas income tax return when they have income from Kansas sources. Beginning with Tax Year 2003, nonresident military compensation is a subtraction modification on the front of Schedule S, line A10, Form K-40 for those required to file a Kansas return. Due to the subtraction of the nonresident military compensation, only the Kansas source income is used to determine the Kansas income tax. Nonresident military personnel must continue to complete Part B, Kansas Allocation, on the back of Schedule S, Form K-40 to determine the percentage of their income from Kansas sources.

If the individual or spouse is a resident and the other is a nonresident and they have filed a joint federal return, their Kansas taxable income shall be reported and taxed on the basis of a joint nonresident Kansas return. They must use Part B, Nonresident Allocation, on the back Schedule S, Form K-40 to determine the percentage of their income from Kansas sources and the proportion of their tax owed to Kansas.

RETIREMENT BENEFITS

Amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States are a subtraction modification from federal adjusted gross income. Use Part "A" on the front of Schedule S, Form K-40 to subtract (exempt) military retirement benefits from Kansas Income Tax.