

Revenue Information Bulletin No. 19-021

December 4, 2019

Individual Income Tax

**Individual Income Tax Refunds Related to the
Federal Combat-Injured Veterans Tax Fairness Act of 2016**

The purpose of this bulletin is to provide guidance regarding individual income tax refunds related to the federal Combat-Injured Veterans Tax Fairness Act of 2016.

Background

On December 16, 2016, the Combat-Injured Veterans Tax Fairness Act of 2016 was enacted as Public Law 114-292. This federal law provides an extension of the federal statute of limitations for refunds of income tax erroneously paid on lump-sum disability severance payments made by the U.S. Department of Defense. For tax years 1991 through 2016, the Department of Defense erroneously withheld income tax from lump-sum disability severance payments that are exempt from income tax pursuant to Section 104(a)(4) of the Internal Revenue Code.

Louisiana adjusted gross income mirrors adjusted gross income that is reportable on the federal income tax return.¹ Lump-sum disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code are likewise exempt from Louisiana income tax. Because Louisiana conforms to federal adjusted gross income, exempt lump-sum disability severance payments that were erroneously included in a taxpayer's federal adjusted gross income were by default also included in Louisiana adjusted gross income. However, state legislation was necessary to extend the prescriptive period similar to Public Law 114-292.

Act 367 of the 2019 Regular Session

As enacted by Act 367, LA R.S. 47:1623(G) provides for an extension of the prescriptive period applicable to certain individual income tax refunds. Taxpayers who received a federal income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 are entitled to an extension of prescription on the corresponding Louisiana individual income tax refund. The extension of prescription only applies to refunds allowed pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016.

Extension to Claim Refund

The prescriptive period expires two years from the date of the taxpayer's receipt of the U.S. Department of Defense notice issued pursuant to the Combat-Injured Veterans Tax Fairness Act

¹ See LA R.S. 47:293(1)

of 2016. The U.S. Department of Defense notice is deemed to be received on the last day of the month which is printed on the notice.

For example, if the date of the U.S. Department of Defense notice is July 20, 2018, then the taxpayer has until July 31, 2020 to request an individual income tax refund from the Louisiana Department of Revenue. If a taxpayer did not receive a U.S. Department of Defense notice but did receive a federal refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016, the taxpayer has until July 31, 2020 to request an individual income tax refund from the Louisiana Department of Revenue.

Refund Options

Eligible taxpayers have two alternative options to claim the refund:

Option 1: File an amended Form IT-540, *Louisiana Resident Income Tax Return* for the tax period in which the lump-sum disability severance payments were received to deduct the exempt income from adjusted gross income.

To file an amended return, taxpayers must complete a Form IT-540 for the applicable tax year. File the amended return as if the original return was not filed. Do not make any adjustments for refunds previously received or for payments previously made. Taxpayers may request a copy of their tax return by submitting Form R-7004, *Tax Information Disclosure Authorization*.

Option 2: Claim a standard refund amount by submitting a completed Form R-6185, *Individual Income Tax Refund Claim Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016*. Taxpayers must make the same election that was made for federal purposes. For example, if a taxpayer elected to claim the standard refund amount for federal purposes, the taxpayer is required to claim the standard refund amount for Louisiana purposes.

The Louisiana standard refund amounts² are as follows:

Tax Years	Standard Refund Amount
1991 – 2002	\$326
2003 – 2008	\$592
2009 – 2010	\$543
2011 – 2016	\$637

Documentation

Taxpayers must attach a copy of the Form 1040X, *Amended U.S. Individual Income Tax Return* and a copy of the Department of Defense notice (Letters 6060-A and 6060-D) or other documentation required by the IRS for taxpayers that did not receive a Department of Defense notice.

² See also LAC 61:I.4914 for standard refund amounts as adopted pursuant to the Louisiana Administrative Code.

Survivors of Deceased Veterans

Survivors of veterans who received notice from the Department of Defense that their relative qualified for a tax refund due to the Combat-Injured Veterans Tax Fairness Act of 2016 may submit a claim for refund. Survivors may choose Option 1 or 2 (see *Refund Options* above). Survivors must also file Form R-6642, *Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer* unless the person filing the claim is the surviving spouse of the veteran and filed a joint tax return with the veteran for the year the veteran received the lump-sum disability severance payments.

Questions concerning this bulletin should be directed by e-mail to Policy.Publications@La.gov.

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