

## Q: CAN I CLAIM A TAX BREAK FOR PAST YEARS?

### SALE OF PRINCIPAL RESIDENCE

If you already paid tax on gain from the sale of your home after May 6, 1997 because you were on extended duty and did not live in the home for two out of the five years immediately before the sale, you may be eligible for a refund under the new ten-year test, which applies retroactively.

- You may take advantage of this new law even if you have been discharged from the military
- Although taxpayers normally have only three years to file an amended return, if you sold your home before 2001, you have until November 10, 2004, to amend your return.

### MILITARY DEATH GRATUITY PAYMENTS

If you paid tax on that part of a gratuity payment for a death that occurred on or after September 11, 2001, you may amend your return to exclude the \$3,000 from income and re-calculate the tax due. The new calculation may result in a refund for that year.



## HELPFUL INTERNET SITES

### **ABA Section of Taxation**

<http://www.taxtips4u.org>

### **ABA Standing Committee on Legal Assistance for Military Personnel**

<http://www.abalegalservices.org/lamp>

### **Joint Services Legal Assistance Office**

<http://www.jagcnet.army.mil>

### **Internal Revenue Service**

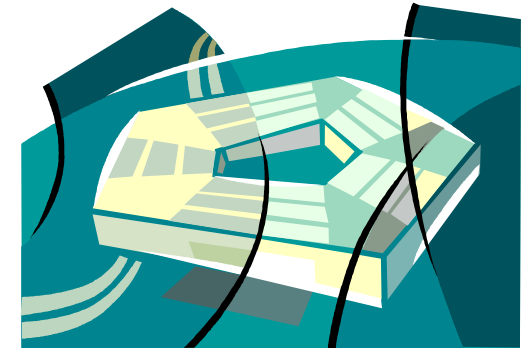
<http://www.irs.gov>



*For questions concerning your taxes and other legal benefits, contact the military legal assistance office near you.*

## THE MILITARY FAMILY TAX RELIEF ACT OF 2003

*Information You Should Know  
About Your Federal Income Taxes*



A Joint Public Service Project of the American Bar Association Section of Taxation and the ABA Standing Committee on Legal Assistance for Military Personnel



[www.taxtips4u.org](http://www.taxtips4u.org)

*The Military Family Tax Relief Act of 2003 grants special tax relief to military personnel and their families. The changes to the tax law could lower the amount of tax that you have to pay in 2003, and may lower the amount of tax you had to pay in prior years, resulting in a refund to you for those years.*

## Q: WHAT SPECIAL TAX BREAKS MIGHT I BE ENTITLED TO?

### **GREATER FLEXIBILITY ON SALE OF PRINCIPAL RESIDENCE**

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If you are a homeowner who spends extended periods of time away from home on active duty, it may now be easier for you to exclude any gain you have on the sale of your home.

The general test is that you have to own and live in your home for two out of the five years ending with the date of sale to be eligible to exclude up to \$250,000 of gain (\$500,000 if married filing jointly).

A special new test allows you to disregard up to ten years of extended duty absence from the home to find the required two years of residence.

### **Are there other requirements I must meet?**

- There are rules defining extended duty and away from home, and limits on how often you can use the special new test.
- Many taxpayers will be able to exclude some or all of their gain under the general test that is still in effect.

### **TAX EXCLUSION FOR ALL MILITARY DEATH GRATUITY PAYMENTS**

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Under the new law, death gratuity benefits paid to survivors are doubled, from \$6,000 to \$12,000 and they are no longer considered survivor income. Therefore, they are no longer taxable.

- Because the gratuity was increased, additions to gratuities that had already been paid will not need to be included in income.
- This provision is retroactive to September 11, 2001 and survivors may claim a refund for tax paid in prior years.

### **DEPENDENT DAY CARE ASSISTANCE**

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If your child is enrolled in an armed forces childcare program, the new law clarifies that the value of the benefits you receive under a Dependent Care Assistance program should not be included in your income.

### **DEDUCTIONS FOR OVERNIGHT TRAVEL FOR NATIONAL GUARD AND RESERVE**

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If you are a member of the National Guard or Reserves who must travel more than 100 miles from your home for any service or training activity and you stay overnight, you may be able to deduct some of the expenses you incur on these trips as an above-the-line adjustment to income rather than as a miscellaneous itemized adjustment.

#### **What else should I know?**

- If you receive reimbursement or per diem for your expenses, you may not take a deduction.
- The amount of the above-the-line adjustment for these expenses is capped by the federal government per diem rate.
- The new rule applies beginning January 1, 2003, so you may claim an above-the-line adjustment on your 2003 taxes as long as you kept a record of your expenses.

### **DEPARTMENT OF DEFENSE HOMEOWNER'S ASSISTANCE PROGRAM**

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If you are a homeowner who is eligible for military base realignment or closure related payments, due to a reduced value on your home, these payments should not be included in income.