

EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS
FOR INDIVIDUALS WHO ARE PART OF DESERT SHIELD
OPERATIONS

JANUARY 23 (legislative day, JANUARY 3), 1990.—Ordered to be printed

Mr. BENTSEN, from the Committee on Finance,
submitted the following

REPORT

[To accompany S. 251]

The Committee on Finance, having considered the bill to provide an extension of time for performing certain acts under the Internal Revenue Code for Operation Desert Shield personnel, reports favorably thereon and recommends that the bill as amended do pass.

A BILL To extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield operation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.

(a) **INDIVIDUALS PERFORMING DESERT SHIELD SERVICES.**—Section 7508 of the Internal Revenue Code of 1986 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended by adding at the end thereof the following new subsection:

“(f) **TREATMENT OF INDIVIDUALS PERFORMING DESERT SHIELD SERVICES.**—

“(1) **IN GENERAL.**—Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

“(2) **DESERT SHIELD SERVICES.**—For purposes of this subsection, the term ‘Desert Shield services’ means any services in the Armed Forces of the United States or in support of such Armed Forces if—

“(A) such services are performed in the area designated by the President pursuant to this subparagraph as the ‘Persian Gulf Desert Shield area’, and

“(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112.”

(b) INTEREST ALLOWED ON OVERPAYMENTS.—

(1) Section 7508 of such Code is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

“(b) **SPECIAL RULE FOR OVERPAYMENTS.**—

“(1) **IN GENERAL.**—Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

“(2) **SPECIAL RULES.**—If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section 6611 shall not apply.”

(2) Paragraph (2) of section 7508(a) of such Code is amended by striking “(including interest)”.

(c) EXTENSION AVAILABLE FOR HOSPITALIZATION IN THE UNITED STATES.—

(1) **IN GENERAL.**—Subsection (a) of section 7508 of such Code is amended—

(A) by striking “outside of the United States” the first place it appears, and

(B) by striking “the period of continuous hospitalization outside the United States” and inserting “the period of continuous qualified hospitalization”.

(2) **QUALIFIED HOSPITALIZATION.**—Section 7508 of such Code is amended by adding at the end thereof the following new subsection:

“(g) **QUALIFIED HOSPITALIZATION.**—For purposes of subsection (a), the term ‘qualified hospitalization’ means—

“(1) any hospitalization outside the United States, and

“(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 2, 1990.

I. EXPLANATION OF THE BILL

*Present Law**General time limits for filing tax returns*

Present law provides that individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year (sec. 6072). Present law also provides that the Secretary may grant reasonable extensions of time for filing such returns (sec. 6081). Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty outside the United States (Treas. Reg. sec. 1.6081-5(a)(6)). No action is necessary to apply for this extension. This extension applies to both filing returns and paying the tax due (interest, however, must be paid from April 15).

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual properly filing that form and paying the amount of tax estimated to be due (Treas. Reg. sec. 1.6081-4).

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, present law suspends the period of time for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities (sec. 7508). An individual who becomes a prisoner of war is considered to continue in active service, and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time in continuous hospitalization outside the United States resulting from injury received in the combat zone or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

- (1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);
- (2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection and the amount of any liability in respect of any tax; and

(10) Bringing suit by the United States in respect of any liability in respect of any tax.

Individuals may, if they choose, perform any of these acts during the period of suspension. The suspension period is also disregarded in calculating the amount of credit or refund (including interest). Thus, no interest is paid on refunds made pursuant to this provision, and no interest is charged to the taxpayer on underpayments. Special rules apply if the collection of tax is in jeopardy.

Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income. In addition, if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone, military pay for that month is also excluded from gross income; this exclusion is limited, however, to hospitalization during any part of any month beginning not more than two years after the end of combat in the zone. In the case of commissioned officers, these exclusions from income are limited to \$500 per month of military pay.

Executive Order Designating Persian Gulf Area as Combat Zone

On January 21, 1991, President Bush signed Executive Order 12744, designating the Persian Gulf Area as a combat zone. This designation is retroactive to January 17, 1991, the date combat commenced in that area, and continues in effect until terminated by another Executive Order. Thus, individuals serving in the Persian Gulf Area are eligible for the suspension of time provisions and military pay exclusions described above, beginning on January 17, 1991.

The Executive Order specifies that the Persian Gulf Area is the Persian Gulf, the Red Sea, the Gulf of Oman, part of the Arabian Sea, the Gulf of Aden, and the entire land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

Reasons for Change

The committee believes that it is appropriate to extend to those who participated in Operation Desert Shield, which began on August 2, 1990, the benefits of the extension of time provisions of section 7508, which are already available to those who are participating in Operation Desert Storm under the Executive Order issued pursuant to the Internal Revenue Code. In addition, the committee believes that it is appropriate to expand the rules relating to both interest on tax refunds and hospitalization for all participants in both operations (as well as those in combat zones in the future).

Explanation of Provision

The bill amends section 7508 by providing that any individual who performs Desert Shield services (and the spouse of such an individual) is entitled to the benefits of the suspension of time provisions of section 7508. Thus, personnel participating in Operation Desert Storm who are entitled to the benefits of these suspension of time provisions commencing January 17, 1991, pursuant to the Executive Order, are also entitled to the benefits of these suspension of time provisions for the period from the commencement of their participant in Operation Desert Shield (which could be as early as August 2, 1990) to the effective date of the Executive Order.

Desert Shield services are defined as services in the Armed Forces of the United States (or in support of those Armed Forces) if such services are performed in the area designated by the President as the "Persian Gulf Desert Shield area" and such services are performed during the period beginning August 2, 1990, and ending on the date on which any portion of the area is designated by the President as a combat zone pursuant to section 112 (which is January 17, 1991).

The committee understands that the Department of Defense plans to provide to the Internal Revenue Service, on a monthly basis, a computer tape of the military personnel whose service is in the combat zone designated by the Executive Order and who are therefore eligible for the extension of time provisions of section 7508 and the exclusion from income provisions of section 112 (among other provisions). The committee commends the Department of Defense for its cooperativeness in helping ensure that those properly entitled to these benefits receive them as easily as possible.

The bill also amends section 7508 by providing that the rules for determining the amount of interest on a tax refund generally applicable to other taxpayers also apply to those eligible for the benefits of these suspension of time provisions. (In general, these rules provide that the IRS is to pay interest on refunds issued more than 45 days after the return is filed.) In addition, a special rule applies in the case of returns claiming refunds filed during this suspension period. With respect to these qualifying returns, interest will be paid on tax refunds from April 15 (in the case of calendar-year individuals).

The bill also amends section 7508 by extending the suspension provisions that apply during the period of continuous hospitalization outside the United States to continuous hospitalization inside the United States, with two limitations. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event does this new provision extend beyond five years from the date the individual returns to the United States.

Effective Date

The bill is effective as of August 2, 1990.

II. BUDGET EFFECTS OF THE BILL

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the estimated budget effects of the bill as reported by the Committee on Finance.

The bill is estimated to reduce fiscal year budget receipts by less than \$10 million annually.

III. REGULATORY IMPACT AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the bill as reported by the Committee on Finance.

Impact on individuals and businesses, personal privacy, and paperwork

The purpose of the bill is to extend the benefits of Code section 7508 (relating to suspension of time periods for filing tax returns or claims for refund for military and support personnel in combat areas) to such individuals serving in "Operation Desert Shield" since August 2, 1990 (and spouses). Thus, the bill will allow such individuals additional time to file their 1990 tax returns without penalty or added interest.

B. Other Matters

Vote of the Committee

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the bill. The bill was ordered reported by voice vote.

Consultation with Congressional Budget Office

Budget estimate

In accordance with Section 403 of the Budget Act, the committee advises that the Congressional Budget Office agrees with the com-

mittee's budget estimate (as stated in Part II of this report). No statement was received from the Congressional Budget Office.

Budget authority

In compliance with Section 308(a)(1) of the Budget Act, the committee states that the bill as amended involves no new budget authority.

Tax expenditures

In compliance with Section 308(a)(2) of the Budget Act, the committee states that the bill as amended involves no new increased tax expenditures.

IV. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of the Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee on Finance).

