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# MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge Advocate  
Headquarters, Fort Carson

*Keeping You Informed On Personal Legal Affairs*

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## INCOME TAX MATTERS



**Consider these questions and answers to determine certain tax options and benefits.**

### **Q: WHAT ARE MY OPTIONS CONCERNING FILING TAXES WHILE I AM DEPLOYED?**

A: There are three options for filing taxes if a soldier is deployed during the regular tax season (Jan. 1 through April 15):

A Soldier may file taxes normally before he or she deploys if he or she deploys sometime during the regular tax season.

1. A Soldier may have their spouse or another individual prepare taxes for them while they are deployed if they provide that individual a **special power-of-attorney** specifically for taxes.
2. When a soldier is deployed the IRS suspends any action in regard to their taxes, so a deployed Soldier may simply wait to file their taxes until they return home.
3. When a Soldier leaves a qualified combat zone, he or she receives an automatic 180 day extension to file their taxes, plus whatever time was left in the regular tax season when the Soldier first deployed. Ex. If a Soldier deployed on 1 Dec, he would have 285 days to file his taxes from the time that he leaves a qualified combat zone. He would automatically receive a 180 day extension plus the number of days left in the tax season when he deployed. There were 105 days left in the regular tax season when he deployed (Jan. 1 through Feb. 15), therefore  $180 \text{ days} + 105 \text{ days} = 285 \text{ days}$  to file.

### **Q: DO I QUALIFY FOR THE FIRST TIME HOMEBUYER'S CREDIT?**

A: If you buy a home to be used as your primary residence by 30 April 2010 you may qualify for a tax credit worth up to \$8000. For Soldiers who are deployed for at least 90 days beginning after 31 December 2008 and ending before 1 May 2010, the deadline to buy a house and qualify for the credit is extended to 30 April 2011. A "First Time Homebuyer" includes those who have not owned a primary residence in the United States for 3 years prior to buying this residence. Those who have maintained the same primary residence for 5 out of the last 8 years ending on the date a new primary residence was purchased may qualify for a tax credit worth up to \$6500.

### **Q: CAN MY NON-MILITARY SPOUSES INCOME BE TAXED BY COLORADO?**

A: If a Soldier and a spouse share the same domicile (state of legal residence), that spouse is exempt from taxation in a state that he or she has moved to merely as a result of their spouse's military orders. The spouse (and the Soldier) will still be taxed by the states in which they are domiciled. Sometimes this is a significant tax benefit because not all states tax income (for example Texas, Tennessee and Washington).

### **Q: HOW CAN MY NON-MILITARY SPOUSE AVOID PAYING INCOME TAXES TO COLORADO?**

A: If your spouse meets the requirements to be considered a non-resident of Colorado, they may apply for an exemption from wage withholding by filling out a DR 1059 at the beginning of the year and providing it to his or her employer.

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**Q: HOW CAN MY NON-MILITARY SPOUSE GET AN INCOME TAX REFUND FOR TAXES PAID TO COLORADO?**

A: If your spouse meets the requirement to be considered a non-resident of Colorado and worked and paid taxes in Colorado, your spouse may be entitled to a refund. Your spouse will have to file a non-resident paper return and mail it to the Colorado Department of Revenue with the following documentation: DR1059, all W2s, Orders to Colorado and copy of spouse's military ID. During tax season, the Fort Carson Tax Center can assist you with completing your non-resident Colorado state return.

***MOUNTAIN POST LEGAL BRIEF is one of a series of informative handouts from the Fort Carson Legal Assistance Division containing general information on topics that legal assistance attorneys frequently advise on. Information provided is general in nature and does not constitute legal advice. Consult an attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Legal Assistance Division at 719-526-5572.***