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National Veterans Legal Services Program

HOW TO CLAIM A TAX REFUND RELATED TO SEVERANCE PAY WITHHELD BY MILITARY

In July 2018, the Department of Defense (DOD) mailed letters to 133,000 veterans discharged from military service due to medical disability after January 17, 1991. DOD sent these letters as a result of legislation requiring it to identify the veterans who were unfairly denied the full amount of their Disability Severance Pay. As a result of this legislation, you may be eligible for a tax refund. Here is our advice.

When you received Disability Severance Pay, a portion of the amount was withheld and paid to the IRS (similar to the withholding of taxes from your paycheck). Because the severance pay for certain veterans is not taxable income, if you qualify, you can receive a tax refund. If you receive a letter (Letter 6060-A or 6060-D) from the Defense Finance and Accounting Service (DFAS) in the Department of Defense or the Internal Revenue Service (IRS), then you are eligible for the refund.

Generally, **you must request the refund within 1 year from the date of the letter**. This date is on the upper right corner of the letter. Because of the limited time window, we urge that you file for a refund quickly.

You can submit a refund request based on either (1) the actual amount owed to you or (2) the standard refund amount. In many cases you may receive a greater amount of refund by requesting the actual amount. The actual amount will vary depending on your individual circumstances including your tax rate in the year you received the severance payment and whether you already received a refund of a portion or all of the amount withheld when you filed your tax return for that prior year. Thus, to claim the specific amount you are owed you need your tax return information for the year you received the severance pay. If you cannot obtain the tax return information or if the actual amount is lower than the standard amount, you can still file for the standard amount.

Requesting a Refund of the Actual Amount

To request a refund of the actual amount you are entitled to receive, you need to file an amended tax return by completing IRS Form 1040-X. Amending your return requires that you have your tax return from the year you received the severance pay to calculate the actual amount of refund due. If you or your tax preparer (including your online tax return preparing platform) has the record of your tax return, you can use it to fill out Form 1040-X.

Also, you may be able to request your tax return from the IRS by submitting IRS Form 4506 and making a payment of \$50. The IRS generally keeps a copy of a tax return for 7 years. So depending on when you filed your tax return for the year you received the payment, the IRS may be able to provide it to you. Because the IRS may take up to 75 days to process this request, you should request it soon. (Alternatively, if you filed your tax return for the relevant year in the past three years, you may be able to obtain a transcript of the tax return by filing IRS Form 4506-T at no cost.)

You can obtain Form 1040-X or Form 4506 by calling 1-800-829-3676 or at:

- <https://www.irs.gov/form1040x>
- <https://www.irs.gov/form4506>

When completing the Form 1040-X you should write "Veteran Disability Severance" or "St. Clair Claim" at the top of the first page of Form 1040-X and complete the necessary information. You must send the completed Form 1040-

X, along with the letter you received (Letter 6060-A or 6060-D) and any other required documents to the following address:

Internal Revenue Service
333 W. Pershing Street, Stop 6503, P5
Kansas City, MO 64108

Requesting a Refund of the Standard Amount

Requesting the standard amount is simpler because you do not need your tax return information. On Form 1040-X, you can skip the lines that require certain information from your return (that is, lines 1-14, 16-21, and 23-30). Instead, you can simply write "Disability Severance Pay" on line 15, and enter the standard refund amount on line 15, column B, and on line 22. The standard amount is as follows:

- \$1,750 for tax years 1991-2005
- \$2,400 for tax years 2006-2010
- \$3,200 for tax years 2011-2016

You should write "Veteran Disability Severance" or "St. Clair Claim" at the top of the first page and complete the first section that asks for personal information.

Filing First for the Standard Amount and then for the Actual Amount

You are permitted to first request the standard amount and then, if you determine later that the actual amount would be higher (because you subsequently obtain your tax return for the relevant year, for example), then you can request the actual amount (reduced by the standard amount already claimed). In this situation, you must report the standard refund amount on line 15, column B, as a negative amount when completing Form 1040-X. The ability to file a second request to claim any additional amount actually due may be helpful if you are unsure whether you will be able to obtain the previous tax return by the deadline.

Interest

The amount of refund you will receive may be higher than the amount you request because the U.S. government may pay interest on that amount.

No Letter from IRS/DoD

Even if you did not get a letter from the DoD or the IRS, you may be eligible for a refund if you received a disability severance payment after January 17, 1991 and you paid tax on that amount. Along with your previous tax return information, you need to obtain the following documentation, which should be available from the DFAS, National Archives, National Personnel Records Center, or the Department of Veterans Affairs (VA):

- A copy of documentation showing the exact amount of and reason for your disability severance payment, such as a letter from the DFAS explaining the severance payment or a DD Form 214; and
- A copy of either the VA determination letter confirming your disability and the amount of severance payment recouped by the VA or a determination letter from a military Physical Evaluation Board or retirement Orders that establish your injury or sickness was either incurred as a direct result of armed conflict, while in extra-hazardous service, in simulated war exercises, was caused by an instrumentality of war, or was considered combat-related under 26 U.S.C. § 104.

Need Assistance?

You may contact the National Veterans Legal Services Program, or you may call the IRS at (833) 558-5245 ext. 378 or visit the IRS website for more information.



www.nvlsp.org/what-we-do/Lawyers-serving-warriors/

202.265.8305 ext. 152 info@nvlsp.org