STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
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CORY FONG
COMMISSIONER

June 1, 2005

Notice to nonresident U.S. armed forces members: Servicemembers Civil Relief Act recognized for 2001 and 2002

The 2005 North Dakota Legislature passed legislation to recognize the provisions of the Servicemembers Civil Relief Act for the 2001 and 2002 tax years. The Servicemembers Civil Relief Act, which was passed in 2003, contains a provision that prohibits a state from using the active duty military compensation of a nonresident servicemember to calculate the tax on other income sourced in the state if it causes an increase in the tax. In North Dakota, this provision in the Act affects the calculation of the tax on North Dakota Form ND-1 (Main Method). (*Note: The Act does not affect the calculation of the tax on Form ND-2, the Optional Method.*)

If you are a nonresident serving in the U.S. armed forces and you filed a North Dakota income tax return using Form ND-1 for 2001 or 2002, you may file a claim for refund of the tax attributable to the amount of your active duty military compensation included in North Dakota taxable income.

Your claim for refund must be filed within three years after the due date of the return (without extension) or within three years after the return was filed, whichever period expires last. If the three-year time period for filing a claim for refund for the 2001 tax year expires before August 1, 2005, a claim for refund based on the Servicemembers Civil Relief Act may be filed on or before April 16, 2006.

Filing a claim for refund based on the Servicemembers Civil Relief Act

To file a claim for refund, you must complete and file an amended return for the applicable year. The following special instructions apply when completing the amended return:

- Write “Servicemembers Civil Relief Act” at the top of the amended Form ND-1.
- Enter your active duty military compensation on line 6 of the amended Form ND-1. Write “Nonresident military pay” on the dashed line to the left of the amount.

  Note: *Line 6 of Form ND-1 is normally reserved for interest from U.S. obligations. If you also have interest from U.S. obligations, add the active duty military compensation to the interest from U.S. obligations and enter the total on line 6.*

  Note: *If you were required to complete Schedule SF (Schedule for joint filers with different states of residence), also enter the active duty military compensation on Schedule SF, Part 2, line 6, Column C.*

Need forms or assistance?

To obtain blank forms for filing an amended return for 2001 or 2002, go to our Web site at http://www.ndtaxdepartment.gov and click on **Individual Income** > **Forms** > **Individual Income Tax Forms and Instructions** on the left side of the page.

If you have any questions or need assistance with preparing an amended return, contact the Individual Income Tax Section, North Dakota Office of State Tax Commissioner, by calling (701) 328-1032. If you are speech or hearing impaired, call 1-800-366-6888 (Relay ND) and ask for (701) 328-1032. You may also e-mail us at individualtax@state.nd.us.