

(Oct. 17, 1940, ch. 888, title V, §510, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2858.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 570 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 510 of act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1189; Pub. L. 102-12, §9(23), Mar. 18, 1991, 105 Stat. 41, related to leave of absence for homestead entrymen to perform farm labor, prior to the general amendment of this Act by Pub. L. 108-189.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 4001. Residence for tax purposes

(a) Residence or domicile

(1) In general

A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(2) Spouses

(A) In general

A spouse of a servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders if the residence or domicile, as the case may be, is the same for the servicemember and the spouse.

(B) Election

For any taxable year of the marriage, the spouse of a servicemember may elect to use the same residence for purposes of taxation as the servicemember regardless of the date on which the marriage of the spouse and the servicemember occurred.

(b) Military service compensation

Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) Income of a military spouse

Income for services performed by the spouse of a servicemember shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the spouse is not a resident or domiciliary of the

jurisdiction in which the income is earned because the spouse is in the jurisdiction solely to be with the servicemember serving in compliance with military orders.

(d) Personal property

(1) Relief from personal property taxes

The personal property of a servicemember or the spouse of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) Exception for property within member's domicile or residence

This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's or the spouse's domicile or residence.

(3) Exception for property used in trade or business

This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) Relationship to law of State of domicile

Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(e) Increase of tax liability

A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(f) Federal Indian reservations

An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(g) Definitions

For purposes of this section:

(1) Personal property

The term "personal property" means intangible and tangible property (including motor vehicles).

(2) Taxation

The term "taxation" includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) Tax jurisdiction

The term "tax jurisdiction" means a State or a political subdivision of a State.

(Oct. 17, 1940, ch. 888, title V, §511, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2858; amended Pub. L. 111-97, §3(a), Nov. 11, 2009, 123 Stat. 3008; Pub. L. 115-407, title III, §302(a), Dec. 31, 2018, 132 Stat. 5373.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 571 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 511 of act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1189, related to land rights of persons under 21. See section 3998 of this title.

Prior sections 512 to 514 of act Oct. 17, 1940, ch. 888, were omitted in the general amendment of this Act by Pub. L. 108-189.

Section 512, act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1190; Oct. 6, 1942, ch. 581, §16, 56 Stat. 776, related to extension of benefits to persons serving with war allies of the United States. See section 3914 of this title.

Section 513, act Oct. 17, 1940, ch. 888, art. V, 54 Stat. 1190, related to deferral of income tax collection and the statute of limitations. See section 4000 of this title.

Section 514, act Oct. 17, 1940, ch. 888, art. V, as added Oct. 6, 1942, ch. 581, §17, 56 Stat. 777; amended July 3, 1944, ch. 397, §1, 58 Stat. 722; Pub. L. 87-771, Oct. 9, 1962, 76 Stat. 768; Pub. L. 102-12, §9(24), Mar. 18, 1991, 105 Stat. 41, related to residence for tax purposes. See section 4001 of this title.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115-407 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

2009—Subsec. (a). Pub. L. 111-97, §3(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c). Pub. L. 111-97, §3(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 111-97, §3(a)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 111-97, §3(a)(4)(A), inserted “or the spouse of a servicemember” after “The personal property of a servicemember”.

Subsec. (d)(2). Pub. L. 111-97, §3(a)(4)(B), inserted “or the spouse’s” after “servicemember’s”.

Subsecs. (e) to (g). Pub. L. 111-97, §3(a)(2), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-407, title III, §302(b), Dec. 31, 2018, 132 Stat. 5373, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act [Dec. 31, 2018].”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-97, §3(b), Nov. 11, 2009, 123 Stat. 3008, provided that: “Subsections (a)(2) and (c) of section 511 of such Act [Servicemembers Civil Relief Act] (50 U.S.C. App. 571) [now 50 U.S.C. 4001], as added by subsection (a) of this section, and the amendments made to such section 511 by subsection (a)(4) of this section [amending this section], shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act [Nov. 11, 2009].”

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

SUBCHAPTER VI—ADMINISTRATIVE REMEDIES**§ 4011. Inappropriate use of chapter**

If a court determines, in any proceeding to enforce a civil right, that any interest, property,

or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this chapter, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(Oct. 17, 1940, ch. 888, title VI, §601, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2859.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 581 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 601 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Jan. 20, 1942, ch. 10, §§1, 2, 56 Stat. 10; Pub. L. 102-12, §9(26), Mar. 18, 1991, 105 Stat. 41, related to certificates of service and persons reported missing, prior to the general amendment of this Act by Pub. L. 108-189. See section 4012 of this title.

Provisions similar to this section were contained in section 600 of act Oct. 17, 1940, ch. 888, art. VI, 54 Stat. 1190; Pub. L. 102-12, §9(25), Mar. 18, 1991, 105 Stat. 41, prior to the general amendment of this Act by Pub. L. 108-189.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 4012. Certificates of service; persons reported missing**(a) Prima facie evidence**

In any proceeding under this chapter, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

- (1) That a person named is, is not, has been, or has not been in military service.
- (2) The time and the place the person entered military service.
- (3) The person’s residence at the time the person entered military service.
- (4) The rank, branch, and unit of military service of the person upon entry.
- (5) The inclusive dates of the person’s military service.
- (6) The monthly pay received by the person at the date of the certificate’s issuance.
- (7) The time and place of the person’s termination of or release from military service, or the person’s death during military service.

(b) Certificates

The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer’s authority to issue it.

(c) Treatment of servicemembers in missing status

A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this chapter