

Military OneSource Podcast — Tax Tips From a MilTax Expert

Military Community Support Programs

Episode transcript

Intro voiceover

Welcome to the Military OneSource podcast. Military OneSource is an official program of the Defense Department, with tools, information, and resources to help families navigate all aspects of military life. For more information visit militaryonesource.mil.

Bruce Moody

I'm Bruce Moody, and in a previous episode on this podcast, I spoke with Kelly Smith, and she's the program manager for Military OneSource. And we talked about MilTax, which is a suite of resources through Military OneSource that includes free tax filing and free tax consultants. So we're going to talk about taxes again and this time with Susan Mitchell.

Susan Mitchell is the executive director of the Armed Forces Tax Counsel. She also serves as tax counsel for the Department of Defense. And so this time around we're going to talk about tax law, specifically the changes to tax law that affect military families and the taxes that they file. Yeah, we're going to get a little bit into the weeds, a little bit of detail.

Just so you know, what we're going to be doing is providing a transcript to this conversation that we're going to be having today so you can make a note of it when you go to the Military OneSource tax consultant to say, "Yeah, I want help here and here and here."

So let's just get started. Susan Mitchell, welcome.

Susan Mitchell

Well, thank you, Bruce. I'm happy to be here and happy to talk to you about one of my favorite topics, which is tax.

Bruce Moody

That's awesome. I'm pleased that it's one of your favorite topics. Full disclosure, not one of my favorite topics, but I think that what we'll try to do is we'll try to make it interesting. We'll try to make it relevant. We'll try to hit the high notes, and really just remind people that there are tax consultants available through Military OneSource,

available not just tax season, but all through the year. And so we'll put a link in the program notes, we'll put the phone number to Military OneSource in the program notes, and you can talk to a tax consultant anytime.

But, Susan, let's just begin by getting to know a little bit about you, because you were a judge advocate when you were in the Army and you've since retired. So what have you done since retiring in the Army?

Susan Mitchell

Sure. Yeah, that's right. When I retired from the Army, I went to work at the Taxpayer Advocate Service in the IRS. And that's an independent organization within the IRS that helps taxpayers who have problems that are causing financial difficulty, and they work to resolve taxpayer issues after the usual channels of dispute resolution have been exhausted. And so great organization, and I always like to talk about Taxpayer Advocate Service. Not only their services available to civilians, but they're available to service members and their families.

I now serve, as you mentioned, as the DOD Tax Counsel and the executive director of the Armed Forces Tax Counsel. In the military I served in the JAG Corps as a lawyer. Right before I retired I was the associate general counsel at the Defense Prisoner of War/Missing in Action Accounting Agency, so DPAA. Now, when I was in the position, the agency was called JPAC, which was the Joint POW/MIA Accounting Command. And in that job I advised commanders and teams who were operating in these missions worldwide to recover and identify service members who were missing in action from past wars that our country has been involved in and repatriate their remains to their families.

And I always mention that job. I'd say that these jobs were probably the most impactful on me, but I've always served in positions where I felt like I could just help others, serve others, even starting in my 20s when I served as a civilian police officer for several years before I started law school full time.

So anyway, that gives you an idea of what my background is. My focus is purely on tax law nowadays, which is great because I still feel like I can make an impact on these service members and DOD employees.

Bruce Moody

Well, we thank you for your service. Fascinating work with repatriation, but also fascinating also with tax law. And perhaps you can talk a little bit, you mentioned the impactful nature of helping people with their taxes because it gets into so many aspects of a person's life. Can you talk a little bit about the impact of helping somebody with their taxes?

Susan Mitchell

Yeah, that's what's so great about the tax consultants at Military OneSource. They're there to help and they're available 24/7, 365 days a year. Tax law can be intimidating, I

fully realize that. I haven't always done my own taxes, for instance. That's the good thing about being in this position is that I provide tax advice to DOD now, interpreting existing tax law, regulations, any rulings that are requested by various DOD offices and agencies. And then I coordinate the DOD position on how federal, state and local taxation affects military members. And then of course, I get to participate in media interviews in conjunction with the annual tax filing season, such as this podcast.

But even though I'm in the position of tax law, I don't get to help one-on-one with taxes as much anymore. But some things do trickle up to me and I'm able to get involved, but certainly advocate on behalf of service members and their families in my interpretation of existing tax law and proposing tax legislation that will be helpful. That gives you an idea of what my position is and why I think that I'm still serving in a position that can be impactful.

Bruce Moody

Well, let's talk a little bit about tax law. And specifically what we're going to do is we're going to cover two areas. So we're going to kind of do a quick drive-by on a couple of tax laws that recently changed, and then we're going to take a little bit of time and we're going to talk about moving. Because specifically within moving, there are so many aspects of a military move that translate into filing your taxes over here and over here and over here, and there's just a lot to it.

I think what we want to achieve here is to give people an idea of what to look out for when putting together their tax filings, and just as a reminder to let people know that help is available through them through Military OneSource. Let's just get into some of the things that happened last year. We had a pandemic, we had the continuation of a pandemic, and so that resulted in stimulus payments. And can you talk about those, please?

Susan Mitchell

Yes, absolutely. You mentioned the continuation of the pandemic. Really, it's the third tax season that is impacted by COVID, even though we've really only been dealing with the pandemic for two years now. But it's the third tax season that's impacted by some of these unique rules and challenges due to the pandemic.

But there are a few changes that impact a large number of people, to include service members and their families and DOD employees. And of course every year we see the customary increases to tax brackets and the standard deduction, as well as other extensions to a few tax provisions brought on by either COVID or even before then the Tax Cuts and Jobs Act.

But as you mentioned, one of those COVID-related changes dealt with the Economic Impact Payments. So if you recall, the American Rescue Plan Act, which was enacted in March of 2021, authorized a third round of stimulus checks, which was actually an advanced payment of a credit called the Recovery Rebate Credit. So these checks were for \$1,400, plus every dependent in your family also qualified for an additional \$1,400.

Not everyone received that amount or they didn't receive anything because the payments were phased out, depending on how much you earned.

But for people who were eligible for a check and did not receive a payment or got less than what they should have received, they can receive a tax credit on this year's return. So when they file their 2021 tax return, these taxpayers just have to reconcile that third stimulus check that they received, if any, with the Recovery Rebate Credit that they're entitled to claim.

Bruce Moody

Interesting. Alright, let's change directions. This time, let's talk about the charitable cash donation deduction.

Susan Mitchell

Yes, there were changes. If you recall, on last year's return, there was a temporary provision in the CARES Act that allowed for up to \$300 deduction per tax return if you donated cash to a charitable organization. And that was even if you didn't itemize your taxes, even if you only took the standard deduction.

For this year's tax return, that benefit has expanded to up to \$300 per person. And so what that means is that if you're married and filing jointly, you could be eligible for up to a \$600 deduction for charitable cash donations. And again, the great thing about this particular deduction is that it's available even to those taxpayers who are taking that standard deduction.

Bruce Moody

All righty. And let's move on to the next item on our list, it's the Earned Income Tax Credit.

Susan Mitchell

Yes, that is another change that is a good one to mention. The American Rescue Plan, again, that was enacted last year, expanded and increased that credit for this year. And the largest changes to the Earned Income Tax Credit applied to taxpayers who don't have any qualifying children. I mean, those with children can still claim the Earned Income Tax Credit, which is super beneficial to many, many people that are in the military.

But this year it lowers that minimum age from 25 down to 19 years old, which would certainly impact a lot of our junior service members. On the other end of the spectrum, it also eliminates that maximum age limit of 65, so older people without qualifying children can claim the 2021 credit too. And then one other thing that might be worth mentioning is that taxpayers can use either their 2019 earned income or their 2021 income, depending on which one would boost that credit amount. So they can try it both ways and see which one is more beneficial.

Bruce Moody

All right. Let's move on to the Child Tax Credit.

Susan Mitchell

Absolutely. One of the biggest changes in regard to the Child Tax Credit is to the amount. For 2021, this year's tax return, it jumps from \$2,000 to \$3,000 for most children, and even up to \$3,600 for children who are 5 years old and younger. Another important change to that credit is that it's fully refundable. And what that means is that the IRS, they can issue you a refund check for the refundable amount if the credit is actually worth more than your income tax liability.

So huge benefit there. This is a credit that we've heard a lot about in the media for this year as being one of the big changes. And I think that's probably because half of the 2021 credit amount was paid in advance through monthly payments that started in July of last year and ended in December. So then taxpayers claimed the other half of the credit on their 2021 tax return and then reconciled the payments that they've already received.

Bruce Moody

So interesting. All right. And then next up is the Child and Dependent Care Credit. Susan, what is there to know about this?

Susan Mitchell

Yes. The Child and Dependent Care Credit, yes, those changes are temporary, but more people will qualify and the credit is worth more than ever before, which is a huge benefit for service members as well. Depending on their income, taxpayers can get a credit worth 50% of their qualifying child care expenses. And like I said, that can be a huge benefit. Even if they have multiple children, it can be as much as \$16,000 credit.

Another thing that is a change to this is that the full amount, the full Child and Dependent Care Credit will be allowed for families who make less than \$125,000 a year. And then after that, the credit starts to phase out, actually all the way up until a family earns \$438,000. So a big change to that credit, and it will impact most people who have children.

Bruce Moody

It is impactful. And this is by far the longest conversation I've had about taxes in a very, very long time, so I thank you for being here to help me through it.

Susan Mitchell

Absolutely.

Bruce Moody

Let's turn the corner just a little bit and just dig into one particular topic that's somewhat unique to the military, and that's moving all the time. There's just expenses all around, there's just things to consider. So wherever you want to start with that, that would be great.

Susan Mitchell

Yeah. Well, as you know, one of the things that makes working in the military unique is just the sheer number of moves that you undergo during a career. Everyone is in the same boat as far as moving to their next duty station. And I always think that it's important to mention that service members are permitted to deduct the reasonable, unreimbursed expenses of relocating without having to meet distance and time tests.

So I don't even know if it's worth talking about the distance test and the time test, but this deduction for moving expenses was temporarily repealed for tax years 2018 through 2025 under the Tax Cuts and Jobs Act for most taxpayers, civilian taxpayers. Service members get to continue to deduct those moving expenses and exclude those qualified moving expense reimbursements during those years, as long as the move is part of an authorized PCS.

And I just want to emphasize that part because if they're voluntarily moving, which has happened even in my career, move from one rental home to another rental home, didn't necessarily need to, but even those service members, unfortunately, they no longer get to deduct those moving expenses from their taxes. It's only if it's part of an authorized permanent change of station.

Bruce Moody

But what about taxpayers who are interested in putting their home up in the market, because it is a hot market. What are the rules that apply in this case?

Susan Mitchell

Yeah, absolutely. I can't really advise on whether this is a good time to sell, but gosh, you're right. It's definitely a hot housing market. It's important to talk about capital gains taxes. All taxpayers, whether they're civilian or military, can generally avoid paying capital gains taxes when they sell their home if they owned and used it as their qualifying principal residence for two out of the five years preceding the sale. And again, that rule can be used by both civilians and military service members to exclude up to \$250,000 in gains for individuals. And then if they're married, for married couples, they can exclude up to \$500,000 in capital gains.

The great thing for service members though is that they can suspend or ignore that five-year test period for up to 10 years when they're assigned to a duty station that's at least 50 miles from the house for a period of 90 days or more. And that period of suspension,

it can't last longer than 10 years and it can only be used for one property at a time, but it's still really beneficial to folks who are moving often and can't ... It's a particular year where it's not a good year to put the house up for sale.

So for these folks, if you ignore those five years, a service member has up to 15 years total that he or she can count when they sell a home that may have appreciated over those 15 years. And again, it's not that they have to sell at the end of those 15 years, but anytime after that's going to be prorated in terms of gain.

Bruce Moody

So important. There's another item that I wanted to talk about, and that is called the Military Spouse Residency Relief Act.

Susan Mitchell

I will start off with giving you a couple of acronyms and what they stand for because as we all know, the military really likes all of their acronyms. The Servicemembers' Civil Relief Act is the SCRA and the Military Spouses Residency Relief Act is the MSRRA. And it might be helpful to talk first about the Servicemembers' Civil Relief Act, which was amended, that was the law that was amended by the Military Spouses Residency Relief Act.

So under the SCRA, if you're in the military, your resident state is your state of legal residency. And your state of legal residency is usually your home of record, the state recorded by the military as your home when you join the military, that's normally what it is for most folks. And that state is considered your resident state for as long as you're on active duty. And even if you're stationed in another state, you're still considered a resident of your state of legal residency.

To change your state of legal residency, you can't just change your paycheck records, you have to submit a DD Form 2058 to the local finance office, and each state decides on whether a service member has to file a return when they're stationed outside of their resident state. So it's all depending on that state law. I always encourage everyone to check your individual state website for more information when you arrive in a new state, because like I said, every state differs. But the Military Spouses Residency Relief Act, like I said, amended the SCRA and applies to spouses.

Just to give you a little background, before 2009, military spouses generally had to pay income taxes to the state where their spouses were stationed. But under the MSRRA, the military spouses can choose to be treated as if they still lived in their previous state of residence. So now up until 2018, it was also required that that residence had been established with their military spouse at the time that they both lived there simultaneously. That's no longer the case. It was the Veterans Benefits and Transition Act of 2018 that allows spouses to make that choice regardless of when they were married.

So to qualify under the MSRRA, as long as a service member is stationed ... There's a few requirements. As long as they're stationed in compliance with military orders and

they're in a state that's not his or her resident state, and the non-military spouse is in that state solely to live with the service member, and both that service member and spouse have the same resident state, then if a spouse earns wages in that new state, then she or he will only be taxed in their resident state, not by the state that they're currently living in.

And when all of those conditions are met, which is normally the case for these spouses that move with their military service members, the spouse's income will only be taxed in the state of legal residency. Usually you find that a lot of times that state of legal residency is Florida or Texas or one of the states that don't have a state income tax. But anyway, these rural changes certainly make it easier to file taxes because these spouses are not going to have to file in different states, et cetera. So little by little we're making it easier for these service members and spouses and families that have to move so often.

Bruce Moody

Well, thank you so much for getting into this with us. Is there anything else that you'd like to add before we wrap up?

Susan Mitchell

No, I think that covers it. Certainly there are tax changes this year that we didn't touch on. I tried to just kind of hit some of the more significant ones, but I'm hoping that we don't have another tax season that is greatly impacted by COVID. I'm hopeful that we're towards the end of that, but certainly I'm appreciative of what the IRS and Congress has done to make things a little bit easier for all of us who've dealt with this pandemic over the last couple of years.

Bruce Moody

Well, we appreciate you being here and helping us through all of this today. Just as a reminder, we touched on a lot of topics today, and through Military OneSource we've got our tax consultants available around the clock, 365. Check the link and the number in the program notes to get in touch with the tax consultants for you. Susan Mitchell, thank you so much for being with us today.

Susan Mitchell

Absolutely. I'm happy to join you anytime, and best of luck to everybody who still needs to file their tax return. You've got a few more days, but if you're anything like me, I still have not filed my own tax return this year, so best of luck to everybody.

Bruce Moody

Oh, well, then we're in excellent company. Thank you. Susan Mitchell is the executive director of the Armed Forces Tax Council. She also serves as tax counsel for the Department of Defense.

Military OneSource is an official resource of the Department of Defense, with tools and articles to help military families navigate military life, including taxes and a bunch of other topics. Be sure to subscribe to this podcast because we are going to be touching on all kinds of topics in the coming episodes to make military life the best that it can be for you. So thank you very much. I'm Bruce Moody, appreciate you being with us today. Bye-bye.