WEST VIRGINIA CODE: §11-21-62

§11-21-62. Income taxes of members of Armed Forces on death.

(a) General rule. -- In the case of any individual who dies while in active service as a member of the Armed Forces of the United States, if such death occurred while serving in a combat zone (as determined under Section 112 of the Internal Revenue Code of 1986) or as a result of wounds, disease or injury incurred while so serving:

(1) Any tax imposed by this article shall not apply with respect to the taxable year in which falls the date of his or her death, or with respect to any prior taxable year ending on or after the first day he or she served in a combat zone after August 1, 1990; and

(2) Any tax under this article for taxable years preceding those specified in paragraph (1) which is unpaid at the date of his or her death (including interest, additions to tax and additional amounts) shall not be assessed and if assessed the assessment shall be abated and if the assessment has been collected, the amount collected shall be credited or refunded as an overpayment.

(b) Individuals in missing status. -- For purposes of this section, in the case of an individual who was in a missing status within the meaning of Section 6013(f)(3)(A) of the Internal Revenue Code of 1986, the date of such individual's death shall be treated as being not earlier than the date on which a determination of such individual's death is made under section 556, Title 37 of the United States Code. Subsection (a)(1) shall not apply for any taxable year beginning more than two years after the date designated under Section 112 of the Internal Revenue code as the date of termination of combatant activities in a combat zone.

(c) Certain military or civilian employees of the United States dying as a result of injuries sustained overseas.

(1) In general. -- In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury which were incurred while the individual was a military or civilian employee of the United States and which were incurred outside the United States in a terroristic or military action, any tax imposed by this article shall not apply:

(A) With respect to the taxable year in which falls the date of such individual's death; and

(B) With respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

(2) Terroristic or military action. -- For purposes of paragraph (1), the term "terroristic or military action" means any action which is terroristic or military action for purposes of

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Section 692 of the Internal Revenue Code of 1986.

(d) Effective date. -- The provisions of this section shall apply to taxable years beginning after December 31, 1990.

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