

# IRS News Release

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## **Active-Duty Reservists Get Relief on Retirement Plan Payments: Refunds of 10-Percent Tax Available Back to 2001, New Law Says**

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WASHINGTON — Military reservists called to active duty can receive payments from their individual retirement accounts, 401(k) plans and 403(b) tax-sheltered annuities, without having to pay the early-distribution tax, according to the Internal Revenue Service.

The newly-enacted Pension Protection Act of 2006 eliminates the 10-percent early-distribution tax that normally applies to most retirement distributions received before age 59½. The new law provides this relief to reservists called to active duty for at least 180 days or for an indefinite period.

Eligible reservists activated after Sept. 11, 2001, and before Dec. 31, 2007, qualify for relief from this tax. This tax is often referred to as the 10-percent early-withdrawal penalty. Regular income taxes continue to apply to these payments in most cases.

Early distributions from both Roth and traditional IRAs received by a reservist while on active duty qualify for this relief. Likewise, a reservist's elective contributions and earnings distributed to him or her by employer sponsored 401(k) plans and 403(b) tax-sheltered annuities also qualify for this relief.

Because this relief is retroactive, eligible reservists who already paid the 10-percent tax can claim a refund by using Form 1040X to amend their return for the year in which the retirement distribution was received. Eligible reservists should write the words, "active duty reservist," at the top of the form. In Part II Explanation of Changes, the reservist should write the date he or she was called to active duty, the amount of the retirement distribution and the amount of early-distribution tax paid.

Reservists can choose to re-contribute part or all of these distributions to an IRA. Ordinarily, these special contributions must be made within two years after the reservist's active-duty period ends. However, if the reservist's active duty ended before Aug. 17, 2006 (the date the new law was enacted), he or she will have until Aug. 17, 2008, to make these special contributions. No deduction is available for these contributions.