

ENROLLED SENATE
BILL NO. 721

By: Barrington, Garrison, Bass
and Russell of the Senate

and

Banz, Sherrer, Reynolds,
Proctor, Tibbs and Faught
of the House

An Act relating to revenue and taxation; providing income tax exemption for payments resulting from death of certain persons killed in military action; providing income tax exemption for spouses of members of the Armed Forces killed in action; prescribing procedures; creating opportunity for donation of income tax refund to Folds of Honor Scholarship Program; specifying language; providing for distribution of funds; creating revolving fund and providing for expenditures from fund; providing procedures for refund under specified circumstances; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.1A of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from

Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces. Any income earned by the spouse of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

B. In any case where income tax has been paid upon any income exempt pursuant to subsection A of this section, the tax monies shall be refunded to the person or personal representative of the person. The refund shall be made by the Oklahoma Tax Commission out of the Oklahoma Income Tax Adjustment Fund, and so much of such fund as is necessary for such purpose is hereby appropriated. The provisions of this section shall be liberally construed to accomplish its purpose and the statute of limitations with respect to refunds of income taxes shall not apply to taxpayers covered by this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2368.17 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each state individual income tax return form for tax years which begin after December 31, 2009, and each state corporate tax return form for tax years beginning after December 31, 2009, shall contain a provision to allow a donation from a tax refund for the purpose of providing academic and vocational training scholarships administered through the Folds of Honor Scholarship Program to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service in the war in Iraq or Afghanistan where such program is administered through Folds of Honor Incorporated, a nonprofit charitable organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). The provision to allow donation shall read as follows:

Support of Folds of Honor Scholarship Program, a nonprofit charitable organization providing academic and vocational training scholarships to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service

in the war in Iraq or Afghanistan. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of the Folds of Honor Scholarship Program created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Military Department of the State of Oklahoma to be designated the "Income Tax Checkoff Revolving Fund for the Support of the Folds of Honor Scholarship Program". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Military Department for the purpose of providing grants for academic and vocational training scholarships administered through the Folds of Honor Scholarship Program. Such monies shall be apportioned as and in a manner specified by the Military Department. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

SECTION 3. This act shall become effective January 1, 2010.

Passed the Senate the 13th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2009.

Presiding Officer of the House
of Representatives