

**701—39.11(422) Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action.** For tax years ending on or after August 2, 1990, an individual's Iowa income tax is forgiven if the person's federal income tax was forgiven because the individual was killed in a combat zone, the individual was missing in action and presumed dead, or the individual was killed outside the United States due to terrorist or military action while the person was a military or civilian employee of the United States. The Iowa income tax is forgiven on the return for the tax year in which the individual was killed or was missing and was presumed dead, and is forgiven on the return for the tax year prior to the year of death. In a situation where the person that was killed was married at the time of death, no tax will be due on the return filed for the year of death if a joint state return or a married filing separately on the combined state return is filed for that tax year. In the case of the return for the tax year prior to the year of death for the person killed in military or terrorist action, all the tax will be forgiven on the return if the person was married at the time of death and a joint state return or a married filing separate state return was filed for this prior year. However, if the person that was killed had filed a return using the married filing separately on the combined return form status, only the state income tax attributable to the person that was killed will be forgiven. The department will not honor an amended return for the prior year to change the filing status from separately on the combined return form to joint return so all the state income tax for both spouses will be forgiven.

When a state income tax return or claim for refund is filed for forgiveness of tax for an individual who was killed in military or terrorist action, a notation should be entered at the top of the return "Forgiveness of Tax—Killed in Military Action" or "Forgiveness of Tax—Killed in Terrorist Action" depending on how the individual was killed. In addition, a copy of the death certificate, or other evidence of the person's death or evidence establishing that the individual is missing in action and presumed dead, should be attached to the claim for refund or the tax return. A refund claim for forgiveness of tax will be honored only if the claim is made within the statute of limitations for refund provided in Iowa Code subsection 422.73(2).

This rule is intended to implement Iowa Code sections 422.5 and 422.73.