The Federal Servicemembers Civil Relief Act (SCRA) states that compensation received by a service member from uniformed service can be taxed only by the state that is the service member’s Home of Record. The place of residence at the time of entry into the service is presumed to be the Home of Record and remains so until it is established in another state. If the spouse is a resident of the same state as the service member’s Home of Record, the income earned by the spouse while accompanying and supporting the service member in the other state is only taxable in the state of the spouse’s legal residence.

For service members, the primary issue is whether they are domiciled in the state of WV, meaning present for more than 30 days. A “Domicile” is the place an individual intends to have as his or her true, fixed and permanent home. For service members, their domicile is their Home of Record under the SCRA, most often the place the service member lived immediately prior to joining the military. If a service member’s Home of Record is WV, but they did not spend more than 30 days in WV, then the service member is not seen as a resident and therefore is not subject to WV income tax on any military income.

If the service member’s spouse is present with the service member in WV, and that spouse is not considered domiciled in this state, the spouse’s income earned while supporting the service member is not subject to WV income tax. In such instances, no return needs to be filed. If an employer withheld WV income tax from spouse wages, a nonresident special return should be filed with a copy of DD Form 2058 showing the Home of Record. If a service member or spouse has WV-sourced income other than military income (such as rents, royalties, etc.), they may be subject to WV tax on that income and required to file a return.

Active Duty Military Pay—Certain Types of Duty
- There is a decreasing modification for income related to the period of active duty for a resident service member. This is for members of the military called to active duty by the President of the United States when their active duty status is for the purpose of domestic security duty or Operation Enduring Freedom.
- This modification is available only when called to active duty by an Executive Order of the President of the United States. If you are in the National Guard, this modification is available only when called to duty under Title 10 of the US Code (“Title 10 orders”).
- This modification is available only for military income that was included in federal adjusted gross income. Since combat pay is normally excluded from federal adjusted gross income, combat income is generally not available for the modification.

Active Duty Military Separation
- A resident service member on active duty for thirty days or more in the armed forces, National Guard, or armed forces reserve can take a decreasing modification for the taxable year that the individual permanently separated from the service. This modification is only available to members that have actually received a DD Form 214, Certificate of Release or Discharge from Active Duty. A copy of this certificate must be included in the income tax filing for the taxable year.
- This modification is not available to military members who were placed on active duty for a limited period during the taxable year and returned to reserve status without a DD Form 214, Certificate of Release or Discharge from Active Duty.

Military Retirement
- For tax years beginning on and after January 1, 2019, all military retirement income from the regular Armed Forces, Reserves, National Guard and uniformed services that are not part of the Armed Forces is exempt from WV income tax. This is a decreasing modification to federal adjusted gross income.
- Retirement income from the United States Public Health Service Commissioned Corps and the National Oceanic and Atmospheric Administration Commissioned Officer Corps can also be taken as a decreasing modification and is no longer taxable.

All persons claiming a modification using military orders must resubmit their orders every year to qualify.