



PERSONAL INCOME TAX OF MILITARY SERVICEMEMBERS

This publication provides general information regarding the taxability of income derived from military service. It is not a substitute for tax laws or regulations.

GENERAL INFORMATION

- The taxability of the income of a military servicemember in West Virginia is dependent upon a number of factors, including domicile, residency, duty status and separation. This publication attempts to cover the most common issues associated with military servicemembers.

FEDERAL SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

- The Federal Servicemembers Civil Relief Act (SCRA) provides that compensation received by a servicemember from his or her uniformed service can be taxed only by the state in which the servicemember has his or her legal residence. The place of residence at the time of entry into the service is presumed to be the state of legal residence or domicile and remains so until legal residence in another state is established. The SCRA provides that if the spouse is a resident of the same state as the servicemember, the income earned by the spouse while accompanying and supporting the servicemember in another state is only taxable in the state of legal residence.
- For servicemembers, the primary issue is whether you are both domiciled in the state of WV and present for more than 30 days. The Home of Record is the state in which an individual lived when he or she joined the military. Domicile is the place an individual intends to have as his or her true, fixed and permanent home. For servicemembers, domicile is generally the place the servicemember lived immediately prior to joining the military. If a servicemember is domiciled in WV but did not spend more than 30 days in WV, then the servicemember is not a resident and not subject to WV income tax on any military income.
- If a servicemember is not domiciled in this state, then the military income they receive while stationed in this state is not subject to WV income tax. If the servicemembers spouse is present with the servicemember in this state and that spouse is not domiciled in this state, their income earned while supporting the servicemember is not subject to WV income tax. In such instances, no return needs to be filed. If your employer withheld WV income tax from your spouse's wages, file a return as if you are a nonresident indicating no WV income on Schedule A and include a copy of DD Form 2058 showing your State of Legal Residence.
- If you have source income from WV other than your military income (such as rents, royalties, etc.), you may be subject to WV tax on that income.

ACTIVE DUTY MILITARY PAY – CERTAIN TYPES OF DUTY

- There is a modification decreasing income subject to WV tax for income related to the period of active duty 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
 - Operation Enduring Freedom
- It should be noted that 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

- There is likewise available a modification decreasing income subject to WV tax for income related to the period of active duty for members of the military that have separated from active duty in the taxable year. 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 your income tax filing for the taxable year.
- This modification is not available to military members who were placed on active duty for a limited time 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, 2018, all military retirement income from the regular Armed Forces, Reserves and National Guard is exempt from WV income tax. This is a decreasing modification to federal adjusted gross income. W. Va. Code § 11-21-12(c)(7)(c). Prior to the 2018 tax year, this modification was limited to \$20,000.
- For tax years beginning on and after January 1, 2019, this modification became available to the uniformed services that are not also part of the Armed Forces. This means that retirement income from the United States Public Health Service Commissioned Corps and the National Oceanic and Atmospheric Administration Commissioned Officer Corps can now be taken as a decreasing modification and are no longer taxable.

**ASSISTANCE AND
ADDITIONAL
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

Email questions to:

taxhelp@wv.gov