



Revenue Information Bulletin No. 10-005
January 8, 2010
Individual Income Tax

MILITARY SPOUSES RESIDENCY RELIEF ACT

The Military Spouses Residency Relief Act (the Act), which amends the Servicemembers Civil Relief Act, was signed into law as Public law No. 111-97 on November 11, 2009. The Act is effective for tax years beginning 2009 and is not retroactive.

Military Spouse

The Act, among other things, prohibits a servicemember's spouse from losing or acquiring a residence or domicile for purposes of income taxation because of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders. The Act applies to spouses of servicemembers serving in most branches of the military, including the Coast Guard. However, it does not apply to spouses of the National Guard because members of the National Guard live and serve in their state of domicile.

Military Spouse's Income

The secretary shall consider wages, interest, and dividends earned within Louisiana by the spouse of a servicemember exempt from Louisiana income tax if:

- (1) The servicemember is present in Louisiana in compliance with the servicemember's military orders;
- (2) The spouse is not a resident or domiciliary of Louisiana; and
- (3) The spouse is present in Louisiana solely to be with the servicemember.

A military spouse present in Louisiana in accordance with the above conditions and having income, other than wages, interest, or dividends, earned within or derived from sources in this state, such as income from rents, royalties, estates, trusts, or partnerships, shall be taxed upon their Louisiana income for that year as provided by the laws of this state.

Refund of Exempt Income Withheld; Proof Required

If the spouse of a servicemember meets the above requirements, the exemption for a military spouse's income shall apply. To request a refund of exempt 2009 Louisiana income tax paid, an eligible military spouse must file a "Louisiana Nonresident and Part-Year Resident Income Tax" return (Form IT-540B), using the same filing status as was filed on their federal return. The exempt income must be reported on Line 30 of the Nonresident and Part-Year Resident (NPR) Worksheet and identified as military spouse income. Form W-2 showing the amount of Louisiana income tax withheld must also be attached. Military spouses entitled to a refund of exempt income withheld should identify themselves by writing "MILITARY SPOUSE" in black ink at the top of their tax forms and any other documents filed with the Louisiana Department of Revenue. A copy of each of the following documents must accompany the return:

1. Copy of Military Spouse's ID Card;

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2. Servicemember's LES (Leave and Earnings Statement);
3. Form DD 2058 (Declaration of servicemember's "permanent state of residency"); and
4. Record of servicemember's station assignments.

Military Assignments and Spouse's Louisiana Income

If the spouse and servicemember are present in this state and the servicemember receives new military orders, the secretary will recognize the new assignment, and income earned by the spouse after the servicemember's reassignment will be subject to Louisiana income tax as follows:

Temporary Duty (TDY)

- If the spouse remains in Louisiana, the spouse's Louisiana wages, interest or dividends will not be subject to Louisiana income tax in accordance with the Act.

Permanent Change of Station (PCS)

- If the spouse is in this state for less than six months after the servicemember's PCS order, Louisiana wages, interest, or dividends earned by the spouse during that period of time will not be subject to Louisiana income tax.
- If the spouse remains in this state for more than six months, but less than one year, after the servicemember's PCS order, the spouse is considered to be a part-year resident for the period of time spent in Louisiana. All of the spouse's Louisiana sourced income received during that time will be subject to Louisiana income tax.
- If the spouse remains in this state for more than one year after the servicemember's PCS order, the spouse is considered to be a resident of Louisiana. All of the spouse's Louisiana sourced income received during that time will be subject to Louisiana income tax.
- If the servicemember's PCS order is for Louisiana, the exemption provided for the spouse's Louisiana wages, interest, or dividends will continue to apply, provided the servicemember has not changed their legal residency or domicile, or home of record, to this state.

Combat Zones (includes contingency operation or qualified hazardous duty area)

- If the spouse remains in this state after the servicemember's deployment to a combat zone, Louisiana wages, interest, or dividends earned by the spouse during the period of time in which the servicemember is serving in a combat zone will not be subject to Louisiana income tax.

If you have any questions, please contact the Customer Services Division at (225) 219-0102.

Cynthia Bridges
Secretary