



This publication provides general information and is not meant to be a substitute for tax laws or regulations.

This document has been updated to comply with recent federal updates to the Federal Servicemembers Civil Relief Act (SCRA) following the passage of H.R. 7939 in early 2023.

The Federal Servicemembers Civil Relief Act (SCRA) states that compensation received by a servicemember and service member's spouse from uniformed service can be taxed only by the state the servicemember or their spouse elects as their state residency for tax purposes.

For service members and their spouses under SCRA, their residence or domicile for the purposes of taxation can be any of the following:

- The residence or domicile of the servicemember,
- The residence or domicile of the spouse, or
- The permanent duty station of the servicemember.

Service members or spouses filing as nonresidents, regardless of their actual state of residence, should check the box next to "Active Military" and include the DD Form 2058 listed in Schedule A, Part II.

For the purposes of taxation, a residence or domicile is the place an individual intends to have as his or her true, fixed and permanent home.

If the service member's spouse is present with the service member in their elected state of residence of 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 return should be filed as a nonresident with a copy of DD Form 2058, to show the spouse's elected state of residence. If a service member or spouse has WV-sourced income other than military income or wages (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

For more information, you can:

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email taxhelp@wv.gov
- Go Online to tax.wv.gov