

## Income Tax Fact Sheet 5, Military Personnel — Residency

This fact sheet contains information for military personnel who have questions about residency, filing requirements, and the Military Spouses Residency Relief Act.

For information on subtractions from income, credits, and extensions applying to military personnel, see Income Tax Fact Sheet 5a, *Military Personnel - Subtractions, Credits, and Extensions*.

### Determining Residency

Members of the military and their spouses remain domiciled in the state they have established permanent residency until they take the needed steps to change their residency. This is true regardless of where they are stationed during the year.

Members of the military who live with their spouse usually have the same state of residence for tax purposes (see *Military Spouses Residency Relief Act*).

**Exception:** Spouses who had different states of residence at the time of their marriage may maintain separate states of residence until they take steps to change their residency.

### Minnesota Residents

If you're a Minnesota resident when you join the military, you remain a Minnesota resident for tax purposes. This is true no matter where you're stationed, unless you take steps to establish a new permanent residence.

### Residents of Another State

If you were a resident of another state when you joined the military, you remain a resident of that state, even if you're stationed indefinitely in Minnesota. This may change if you take steps to establish a new permanent state of residence.

For more information, see Fact Sheet 1, *Residency*.

**Note:** If you have changed your residence, update your state of residence with your paymaster using Military Form DD2058. Changing your state of residence with your paymaster or moving from one duty station to another is not considered a change of residence in itself.

### The Military Spouses Residency Relief Act

The Military Spouses Residency Relief Act allows spouses of active duty members of the military to keep their state of residence when moving with their military spouse. States cannot tax personal service income of nonresident, nonmilitary spouses who are present in the state only to be with their military spouse.

Personal service income includes:

- Wages
- Salaries
- Tips
- Commissions
- Fees
- Bonuses

**Note:** Only compensation for professional services personally provided by the nonmilitary spouse qualifies.

### Resident Spouse of a Military Member Stationed Outside of Minnesota

Spouses of active duty military members may keep their state of residence when moving to be with their military spouse.

If the nonmilitary spouse is a Minnesota resident and they are	Then
Required to file federally	<ul style="list-style-type: none"> <li>• Their income is assignable to Minnesota, and they must file a Minnesota income tax return.</li> <li>• They may want to file exempt with their employer so no withholding is taken out of their pay for the state they are currently living in.</li> <li>• They may need to make estimated tax payments, if appropriate.</li> </ul>
Not required to file federally	They may want to file a Minnesota income tax return to claim any refundable credits for which they may be eligible.

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## Nonresident Spouse of a Military Member Stationed in Minnesota

Spouses of active duty military members may be exempt from Minnesota tax on personal service income performed in Minnesota if all of these apply:

- The service member is present in Minnesota in compliance with military orders
- The service member is a resident or domiciled in a state other than Minnesota
- The nonmilitary spouse is in Minnesota solely to be with the military member
- **For tax years 2009-2017 only:** The nonmilitary spouse has the same state of residence or domicile as the servicemember\*

\*Beginning in tax year 2018, nonmilitary spouses may elect to use the same residence as the servicemember for tax purposes under the Veterans Benefits and Transition Act of 2018.

Nonresident spouses who meet these requirements should apply for exempt status with their Minnesota employer so Minnesota withholding is not taken out of their pay. If withholding was taken out of their wages, the nonresident spouse must file a Minnesota income tax return to get the money refunded. Since most Minnesota credits are based on the percentage of income taxable to Minnesota, they may not qualify for credits.

## Income and Filing Requirements

Once you've determined your appropriate residency, you can determine what Minnesota forms you need to file, what income is taxable, and any credits you may be eligible to claim.

You are not required to file a Minnesota return if your gross income included on your federal return, minus any compensation received for federal active service, is less than the minimum filing requirement (\$12,400 for 2020). You may want to file to claim any refundable credits for which you may be eligible.

### Minnesota Residents

If you are a resident of Minnesota for the entire year and are required to file a federal income tax return, you must also file Form M1, *Individual Income Tax*. Do not file Schedule M1NR, *Nonresidents/Part-year Residents*.

**Example:** Wyatt is a Minnesota resident who enlisted during the tax year. He is stationed in another state. Unless Wyatt takes the needed steps to change his state of residence, he remains a Minnesota resident. He must file Form M1 and should not file Schedule M1NR. He should contact the other state's revenue department for more information.

### Part-Year Residents and Nonresidents of Minnesota

If you are a part-year resident or nonresident of Minnesota and	and	then
You are required to file federally	Your Minnesota gross income meets the minimum filing requirement (\$12,400 for 2020).	You must file Form M1. Complete Schedule M1M, <i>Income Additions and Subtractions</i> , to subtract your active-duty military pay and Schedule M1NR to determine the income taxable to Minnesota.
You are not required to file federally	Minnesota taxes were withheld from your income or you paid estimated tax.	You may file Form M1 and Schedule M1NR to receive a refund.

You may be required to pay Minnesota tax on other types of income you received or earned in Minnesota, even though your military pay is not taxed.

Minnesota gross income includes income you received from all sources (including sources not in Minnesota) while you were a Minnesota resident and any income you earned in Minnesota or from sources in Minnesota while you were a nonresident.

Minnesota gross income includes:

- Wages (not including nonresident military pay), salaries, fees, commissions, tips, or bonuses for work performed in Minnesota
- Deferred income wages earned in Minnesota, such as severance pay, equity based pay, and other non-statutory deferred compensation
- Gross winnings from gambling in Minnesota
- Gross rents and royalties from Minnesota property
- Gains from the sale of land or other tangible property in Minnesota
- Gains from the sale of a partnership interest that had property or sales in Minnesota
- Gains on the sale of goodwill or income paid as a condition of a "non-compete" agreement connected with a business operating in Minnesota
- Minnesota gross income from a business or profession conducted partly or entirely in Minnesota

For more information, see Income Tax Fact Sheet 2, *Part-Year Residents*, or Income Tax Fact Sheet 3, *Nonresidents*.

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## Filing a Return

There are several subtractions to income, credits, and extensions applying to military personnel. For more information, see Fact Sheet 5a, *Military Personnel – Subtractions, Credits, and Extensions*.

### Subtractions

As a Minnesota resident, you must pay Minnesota tax on taxable income you received from all sources. You are allowed a subtraction for military compensation under U.S. Code, titles 10 and 32, if included in federal taxable income. Use Schedule M1M, *Income Additions and Subtractions*, to claim these subtractions.

If you're a resident of another state required to file a Minnesota return, you are allowed a subtraction for your active duty military pay on Schedule M1M. When calculating Minnesota tax, your military pay is removed on Schedule M1NR.

**Note:** If you are a Minnesota resident with a nonresident or part-year resident spouse, and military pay was subtracted on Schedule M1M, do not include the pay in column B of Schedule M1NR.

### Credits

If you were a Minnesota resident and another state taxed your nonmilitary income, you may qualify for a credit on taxes paid to another state. Use Schedule M1CR, *Credit for Income Tax Paid to Another State*, to claim this credit.

**Note:** Do not use Schedule M1CR if you are a Minnesota resident who paid income tax to Wisconsin on the same income. Instead, use Schedule M1RCR, *Credit for Tax Paid to Wisconsin*.

## Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us)

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