

Maryland Income Tax
ADMINISTRATIVE RELEASE

Administrative Release No. 1

**Subject: Military Personnel and Civilian Spouses -
Both Residents and Nonresidents of Maryland.**

I. General

This release relates to the application of Maryland income tax law to members of the United States armed forces stationed at military establishments located both within and outside of Maryland. It provides some specific filing instructions for such individuals.

II. Law

A. Generally, the Maryland income tax law applies to both residents and nonresidents of the state.

B. Military personnel who are permanent residents of Maryland do not lose their domicile if duty or assignments require their physical presence outside this state during the taxable year. Such individuals have a continuing obligation to file Maryland income tax returns which include all income no matter where earned or from whatever source, including military pay.

C. In administering Maryland income tax law, the Revenue Administration Division gives effect to the Federal Soldiers' and Sailors' Civil Relief Act. Under this law, an individual who is domiciled in a state other than Maryland and who is transferred to Maryland for military duty is not subject to Maryland taxation on military pay. However, the law provides that the individual shall be taxed as a nonresident on that portion of federal adjusted gross income derived from tangible property, real or personal, permanently located in this state, income from business, trade, profession or occupation carried on in this state, and income from Maryland lottery prizes.

D. A civilian spouse of an armed forces member is subject to the law either as a resident or as a nonresident of the state with respect to income from salary, wages or compensation received for services performed in this state. The civilian spouse may not claim, under the Maryland law, the

benefits under the Soldiers' and Sailors' Civil Relief Act, but may be entitled to a credit on the home-state return for income subject to tax by both states. (See Maryland Form 502CR and instructions and Administrative Release No. 3). A civilian spouse who has resided within Maryland for less than 183 days of the taxable year is a nonresident of Maryland and is taxable on that portion of federal adjusted gross income derived from tangible property, real or personal, permanently located in this state, income from business, trade, profession or occupation carried on in this state and income from Maryland lottery prizes. A civilian spouse who has resided in this state for more than 183 days of the taxable year is taxable as a resident of Maryland on all income derived from sources both within and outside this state.

III. Some Specific Filing Instructions for Military Personnel and Their Spouses

A. Military personnel who are domiciled (legal residents) in Maryland.

Members of the military who are domiciled (legal residents) in the state of Maryland, regardless of where they are stationed, are required to file a resident tax return (Form 502) and report all taxable income received from whatever sources, including military pay.

B. Military personnel who are domiciled (legal residents) in a state other than Maryland.

Individuals who are members of the military stationed in Maryland but who are domiciled (legal residents) in another state should follow the guidelines below:

1. Single or Married and Spouse Has No Income.

a. If the individual's only income is derived from military pay, intangible personal property or income from sources outside Maryland, then no income tax return is required to be filed.

b. If the individual, in addition to military pay, has income derived from Maryland sources other than intangible personal property, a nonresident tax return (Form 505) must be filed. The individual must report total federal adjusted gross income, then subtract military pay, income from intangible personal property and other income derived from sources outside Maryland. The individual may claim all personal exemptions and may either itemize deductions to the extent they are properly allocable to income taxable to Maryland or use the standard deduction. Personal exemptions and the standard deductions must be prorated based upon the ratio of Maryland adjusted gross income to federal adjusted gross income.

2. Married Military Personnel Having Spouses with Income.

a. Military personnel with an employed civilian spouse who resided in Maryland less than 183 days of the taxable year must file a joint, nonresident return (Form 505), if a joint federal return was filed. Total federal adjusted gross income should be reported, subtracting military pay, income from intangible personal property, and other income from sources outside Maryland. Itemized deductions may be claimed to the extent they are properly allocable to income taxable by Maryland, or the standard deduction may be used. Personal exemptions and the standard deductions must be prorated.

b. If the employed civilian spouse resided in Maryland for more than 183 days of the taxable year and files a joint federal return, then:

(1) either a joint Maryland resident return, Form 502, may be filed; or

(2) separate returns may be filed.

If a joint return is filed, then the spouse must report total federal adjusted gross income and subtract the military pay, the military person's portion of income from intangible property, and other income from sources outside Maryland. Itemized deductions may be claimed to the extent that they were expended during the period of residence in Maryland and must be apportioned on the basis of the percentage of the civilian spouse's income to total income, or the standard deduction may be used.

If separate returns are filed, the military spouse must file a nonresident return (Form 505), using the married filing separate status. The resident spouse must file a resident return (Form 502), using the married filing separate status. Spouses must report their separate income, deductions and exemptions. Spouses may itemize only if they have itemized on the joint federal return.

Spouses filing separate federal returns must also file separate Maryland returns.

IV. Estimated Tax

Military personnel and civilian spouses must file estimated tax returns if their estimated Maryland taxable income, not subject to withholding, results in a tax liability exceeding \$500.

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