

## **Income tax for active duty military members**

### **Idaho residents stationed in Idaho**

The military income earned by an Idaho resident stationed in Idaho is subject to Idaho income tax.

### **Idaho residents stationed outside of Idaho**

Active duty military income earned outside of Idaho by an Idaho resident is not subject to Idaho income tax. The full-time duty must be continuous and uninterrupted for 120 consecutive days or more.

### **Nonresidents stationed in Idaho**

If your military home of record is a state other than Idaho, but you are stationed in Idaho, you are considered a "military nonresident." Your active duty military income is not subject to Idaho income tax. However, all other types of Idaho source income (for example, a part-time job) are subject to Idaho income tax. Idaho nonresidents are required to file an Idaho income tax return if gross income from Idaho sources is more than \$2,500. More examples of Idaho sources of income include:

- Idaho nonmilitary salaries, wages, and commissions of the servicemember
- Income from unincorporated business activity conducted in Idaho by either spouse, unless the business is a personal service business of the spouse
- Distributive share of income or loss from a partnership or S corporation transacting business in Idaho
- Rents and royalties from real and tangible personal property located in Idaho by either spouse
- Sale or exchange of Idaho real property
- Winnings from lottery tickets purchased in Idaho

### **Military nonresidents' civilian spouses or children earning income**

When a civilian spouse or children of a military member move to Idaho, they become Idaho residents or part-year residents if they reside in Idaho for less than the entire year. Income from all sources that your civilian spouse or children earn while residents of Idaho is subject to Idaho income tax, **unless the exemption below applies.**

### **Servicemember's Spouse Income Tax Exemption**

As a servicemember's spouse, you may qualify for the federal Military Spouses Residency Relief Act (SR 475, HR 1182), which was passed in November 2009. The Act exempts you from paying income tax if:

- You're married to a servicemember who's serving in Idaho and has registered in the military with another state as a home of record; and
- You've moved to Idaho with the servicemember and you have the same domicile (permanent residence) as the servicemember's home of record.

**To claim the tax exemption and get a refund of Idaho income taxes withheld in 2009, 2010, or 2011, complete the following steps:**

1. On Idaho Form 43, select "Military Nonresident" for the servicemember's status.
  - Select "Nonresident" for the servicemember's spouse.
  - For the current state of residence, list the servicemember's home of record and the spouse's state of domicile (permanent residence).
  - The residence of the servicemember and spouse must be the same, and can't be in Idaho.
2. Report the income of the servicemember's spouse as Idaho income on a Form 43, and include it in the Total Income line on page 1.
3. Subtract the exempt income for services performed in Idaho as Other Subtractions on Form 39NR.
  - The explanation should state "income for services performed in Idaho by the nonresident spouse of a nonresident servicemember."
  - Carry total subtractions from Form 39NR to the Subtractions from Form 39NR on page 2 of Form 43.
4. Report any Idaho tax withheld on page 2 of Form 43.

**How to claim the tax exemption from Idaho income tax in the future**

- If you qualify for the servicemember's spouse income tax exemption, you can claim an exemption on your wages from Idaho withholding by filling out Form ID-MS1, Employee's Idaho Military Spouse Withholding Exemption Certificate, and giving it to your employer.
- Your employer will keep a copy and send a copy to the Tax Commission.
- You'll need to complete a new form each year you qualify.

**Extensions to file taxes when on active duty in a combat zone**

Idaho follows the Servicemembers Civil Relief Act and Internal Revenue Code section 7508 for Idaho individual income taxes. Below are some of the ways the federal and state laws affect you if you're an Idaho military member called to active duty in a combat zone.

**Extended due date:**

- All tax filing deadlines are extended for at least 180 days after your last day in a combat zone. If you choose to file while you're in a combat zone, see below for signature information.
- If you pay your income tax in full by the end of the deferral period, you won't pay interest or penalty for that period.

- If you're an enlisted member or warrant officer, you don't owe tax on military pay received for any month in which you served in a combat zone. If you're a commissioned officer, the monthly exclusion is capped at the highest enlisted pay, plus any hostile fire or imminent danger pay received. The excluded pay shouldn't be included in the wages reported on your Form W-2.
- Federal law doesn't cover business tax returns, employment taxes, or sales/use tax obligations.
- You must write "COMBAT ZONE" and the date of deployment in red on top of the Idaho tax return you're filing.

**Filing while serving in a combat zone:**

- If you're serving in a combat zone and can't sign your joint income tax return, your spouse can sign the return for you without a power of attorney. Your spouse should attach a signed statement to your return that explains you're serving in a combat zone. If you're filing an electronic return, keep a copy of the statement with your federal Form 8453.