Navigating Residency: A Tax Guide for Military Spouses in Maryland

For military families, a Permanent Change of Station (PCS) is a fact of life. While these moves are central to military careers, they can create significant confusion when it comes to state income taxes for military spouses. If you are a military spouse who has relocated to Maryland due to your servicemember's orders, you may not have to pay Maryland state income tax on your wages.

Thanks to federal laws like the Military Spouses Residency Relief Act (MSRRA) and subsequent amendments, you have options for choosing your state of legal residence that can provide substantial tax benefits. This guide outlines the protections available to you and the crucial steps you must take to ensure compliance.

Understanding Domicile: Your Residency Choices

The key to understanding your tax obligations lies in the concept of "domicile" or "state of legal residence." This is the state you consider your permanent home, the place where you intend to return after any temporary absence. It differs from your current physical "residence."

Historically, the MSRRA allowed a military spouse to retain the same domicile as their servicemember. However, the Veterans Auto and Education Improvement Act of 2022 significantly expanded these protections. For any tax year, a military couple can now elect to use one of the following for tax purposes:

· The servicemember's residence or domicile

· The spouse's residence or domicile

· The servicemember's permanent duty station

This flexibility means that if you are in Maryland solely to be with your active-duty spouse, you can legally maintain your domicile in another state (such as a state with no income tax) and avoid paying Maryland income tax on your wages.

Key Steps for Protection in Maryland

To legally claim an exemption from Maryland income tax as a military spouse, you must take proactive steps. Simply living in the state on military orders is not sufficient.

1. Establish and Maintain Your Domicile

You must have a clear domicile in a state other than Maryland. A domicile is more than just a previous address; it's established by actions that demonstrate your intent to make that state your permanent home. To protect your status, you should take the following actions in your chosen state of domicile:

· Register to vote

· Hold a driver's license and register your vehicles

· Own property

· File state income taxes (if applicable)

· Maintain bank accounts

· Declare your domicile in estate planning documents such as your will

You will need to provide proof of your domicile. Important documents include your military spouse ID card, your servicemember's Leave and Earnings Statement (LES) showing their state of legal residence, and a copy of your marriage license.

2. Notify Your Employer

You **must** formally declare your exemption from Maryland tax withholding. This is not automatic. You need to complete and provide two forms to your Maryland employer each year:

· **Form MW507**, Exemption from Withholding Tax

· **Form MW507M**, Exemption Form for Qualified Civilian Spouse of a U.S. Armed Forces Servicemember

Failure to submit these forms annually can result in your employer withholding Maryland taxes, which you would then have to reclaim by filing a tax return.

3. Filing Your Tax Returns

If Maryland income tax was withheld in error, you must file a nonresident Maryland tax return (Form 505) to claim a full refund. When filing, you will need to subtract your wages as a military spouse from your Maryland income.

Remember: your income is still likely taxable in your state of domicile. You must comply with the tax laws of the state you claim as your legal residence.

Potential Pitfalls and Important Considerations

"Solely to Be With" Requirement: The tax exemption applies only if you are in Maryland solely to be with your servicemember spouse who is there on military orders. If you remain in Maryland after your spouse has been reassigned elsewhere, you may become subject to Maryland income tax.

Changing Domicile: Actions such as buying a home in Maryland with intent to remain permanently, registering to vote in Maryland, or obtaining a Maryland driver's license

can be interpreted as abandoning your old domicile and establishing a new one in Maryland, which would make you subject to its tax laws.

Disclaimer: This article is intended for informational purposes only and does not constitute legal or tax advice. Given the complexities of state tax law and individual circumstances, we strongly recommend consulting with a legal assistance office or a qualified tax professional to ensure you meet all requirements for both Maryland and your state of domicile.

Additional Information or Questions: If you need additional information or have questions, please contact the Aberdeen Proving Ground Client Services Division at 410-278-1583 to schedule an appointment. If you are not located at or near Aberdeen Proving Ground, your local Legal Assistance Office can assist you with any questions related to domicile and taxes.