



PERSONAL INCOME TAX BULLETIN 2010-01

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Servicemembers Civil Relief Act Domicile/Residency and Compensation Rules for Pennsylvania Personal Income Tax Purposes

The Servicemembers Civil Relief Act (SCRA)¹ is a federal law enacted in 2003 to restate, clarify, and revise the Soliders' and Sailors' Civil Relief Act of 1940.

Section 511 of the SCRA (50 U.S.C.S § 4001), as amended,² provides overriding federal rules related to the domicile/residency and compensation of servicemembers and their spouses for state and local income tax purposes. This bulletin explains the application of SCRA Section 511 for Pennsylvania Personal Income Tax purposes.

Domicile/Residency

The SCRA provides that a servicemember does not lose his domicile/residency or acquire a new domicile/residency for income tax purposes by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

Example #1. A servicemember with a domicile outside of Pennsylvania will not lose his out of state domicile if he is in Pennsylvania on military orders. Further, a Pennsylvania domiciliary will not lose his Pennsylvania domicile while on military orders outside of Pennsylvania.

The SCRA domicile/residency rule was extended to cover the servicemember's spouses for tax years beginning on or after January 1, 2009,³ if:

- (1) the spouse is traveling/accompanying the servicemember while on orders, and
- (2) the servicemember and spouse have the same domicile/residence.

Spouse Election: For tax years beginning on or after January 1, 2018, a servicemember's spouse may elect to use the same residence as the servicemember for purposes of taxation regardless of the date on which their marriage occurred.⁴

Compensation

The SCRA also provides for income sourcing rules for the compensation of a servicemember for military service while on military orders. The compensation of a servicemember for duties performed in a state cannot be sourced to that state unless the servicemember is a domiciliary/resident of the state. This effectively prevents any state from taxing the compensation of a servicemember except for the servicemember's state of domicile/residency.

Example #2. In Example #1 above, the compensation earned by a servicemember with a non-PA domicile while on military orders in Pennsylvania cannot be considered PA source compensation. Because the servicemember is not a PA domiciliary/resident and the income cannot be considered PA source income, Pennsylvania cannot tax the income.

Example #3. In Example #1 above, the compensation of a PA domiciliary servicemember performing services while on military orders in another state cannot be considered compensation sourced to the other state. So, the other state should not impose income tax on the compensation. Only Pennsylvania, the state of domicile/residency, can tax the compensation.⁵

The compensation rule was extended to cover servicemember spouses for tax years beginning on or after January 1, 2009,⁶ if the spouse is traveling/accompanying the servicemember while on orders. Unlike the domicile/residency rule, the servicemember and spouse are not required to share the same domicile/residence for the compensation rule to apply.

Pennsylvania Withholding

A servicemember or spouse whose compensation is exempt from Pennsylvania personal income tax under the SCRA, as amended, should file a Pennsylvania Form REV-419, Employee's Nonwithholding Application Certificate, with their Pennsylvania employer to claim exemption from Pennsylvania personal income tax withholding.

¹ Servicemembers Civil Relief Act, 108 P.L. 189, 117 Stat. 2835 (Enacted, 12/19/2003).

² Section 511 was amended by Section 3(a) of the Military Spouse Residency Relief Act (MSRRA), 111 P.L. 97, 123 Stat. 3007 (Enacted 11/11/2009), and by Title III, Section 302(a) of the Veterans Benefits and Transition Act of 2018 (VBTA), 115 P.L. 407, 132 Stat. 5368 (Enacted 12/31/2018).

³ The MSRRA extended the domicile/residency rules to servicemember spouses.

⁴ The VBTA added the election to the domicile/residency rules for servicemember spouses.

⁵ **Note:** The example is for illustrative purposes only. Pennsylvania has an exemption for compensation

derived from the United States Government for active duty outside the Commonwealth of Pennsylvania as a member of its armed forces. See 72 P.S. § 7303(a)(1)(i). So, Pennsylvania would not tax such income if the servicemember compensation qualifies for this exemption.

⁶ The MSRRA extended the compensation rule to servicemember spouses.