



## **PERSONAL INCOME TAX BULLETIN 2024-02**

**Issued: March 22, 2024**

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

The Servicemembers Civil Relief Act (SCRA)<sup>1</sup> 50 U.S.C.S §§ 3901, et seq., 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,<sup>2</sup> 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/residency outside of Pennsylvania will not lose his out of state domicile/residency or gain a Pennsylvania domicile/residency if he is in Pennsylvania on military orders. Further, a Pennsylvania domiciliary/resident will not lose his Pennsylvania domicile/residency and gain a domicile/residency in another state while on military orders outside of Pennsylvania.

The SCRA domicile/residency rule applicable to a servicemember is also applicable to the servicemembers spouse if the spouse is accompanying the servicemember in compliance with the servicemember's military orders.

The SCRA also provides the servicemember and spouse a domicile/residency option for any taxable year of the servicemember and spouses marriage.<sup>3</sup> The servicemember and spouse can elect one of the following as their domicile/residency for taxation purposes:

1. The domicile/residence of the servicemember.
2. The domicile/residence of the spouse.<sup>4</sup>
3. The permanent duty station of the servicemember.

#### **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.<sup>5</sup>

The compensation rule is also applicable to a servicemember's spouse if the spouse is accompanying the servicemember while on orders.

### **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.

### **Effective Date**

This Bulletin applies to tax years beginning on or after January 1, 2023. It replaces and supersedes Personal Income Tax Bulletin 2010-01 for the applicable tax years.

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

<sup>2</sup> 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), 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), and by Section 18 of the Veterans Auto and Education Improvement Act of 2022 (VAEI), 117 P.L. 333, 136 Stat. 6121 (Enacted 01/05/2023).

<sup>3</sup> The election is available to the servicemember and spouse regardless of when the marriage occurred, 50 U.S.C.S. § 4001(a)(3), but the domicile/residency election options are only available for tax years during the marriage.

<sup>4</sup> The Department interprets the statutory language of election options #1 and 2 to mean that the servicemember and spouse can elect to use the domicile/residency that either spouse maintained before traveling on military orders.

<sup>5</sup> **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.