



# TAX FACTS 97-2

## Income Tax Information for Nonresident Military Servicemembers

References to “spouse” also means “civil union partner.” This Tax Facts provides Hawaii income tax information for nonresident military servicemembers.

### 1 If I am stationed in Hawaii, am I a Hawaii resident for tax purposes?

You are a resident of the state shown on your Leave and Earnings Statement and on your Form W-2.

### 2 Is my civilian spouse a Hawaii resident for tax purposes?

If your spouse came to Hawaii because you are stationed here, and intends to leave when you are reassigned, then your spouse is a nonresident of Hawaii. Your spouse will be a Hawaii resident if they are domiciled in Hawaii. To be domiciled in Hawaii, a person’s true, fixed, permanent home and place to which the person intends to return must be Hawaii. However, see question 3.

### 3 Is my U.S. alien spouse who receives a “green card” while in Hawaii, a resident of Hawaii?

Yes. If your spouse receives a green card (i.e., permanent resident alien status) while in Hawaii, then your spouse is a Hawaii resident for tax purposes.

### 4 How do I change my domicile?

To change your domicile, three conditions must be met. First, you must show an intent to abandon your old domicile. Second, you must show an intent to acquire a new domicile. Third, you must have an actual physical presence in the new domicile.

All facts and circumstances are taken into consideration when determining if the conditions have all been met. A single act, such as getting an in-state driver’s license, is insufficient. For more information, see Tax Information Release (TIR) No. 90-3, TIR No. 90-10, and TIR No. 97-1.

### 5 Are my children Hawaii residents if they are born here?

A child’s residency status depends on the residency status of the parent or the person who can claim that child as a dependent.

### 6 Is all of my income exempt from Hawaii income taxes?

As a Hawaii nonresident, your active duty pay is exempt from Hawaii income tax under the federal Servicemembers Civil Relief Act. However, all other income you earn in Hawaii, such as wages from a part-time job, is subject to Hawaii income tax.

### 7 Is my nonresident civilian spouse’s income subject to Hawaii income tax?

Yes. However, if your spouse meets the conditions of the Military Spouses Residency Relief Act (MSRRA), certain types of income are exempt. MSRRA states that the income received by a servicemember’s civilian spouse is not subject to Hawaii income tax if all of the following conditions are met:

- (1) The servicemember is present in Hawaii based on military or naval orders;
- (2) The spouse is in Hawaii to be with the servicemember; and
- (3) The spouse and the servicemember are domiciled in the same state and that state is not Hawaii.

For more information, see TIR No. 2010-01.

### 8 If I have income other than my military pay, what tax form should I file?

As a Hawaii nonresident, you must file Form N-15, Hawaii nonresident and part-year resident individual income tax return.

Note: If you are married to a Hawaii resident and elect to file a joint Hawaii income tax return with your resident spouse, you must file a Hawaii resident return, Form N-11, and report and pay tax on all your income including your military pay.

### 9 How can I get Form N-15?

Tax forms and instructions are available at any district tax office or by calling a customer service representative. Forms can be downloaded from the Department of Taxation’s website (see page 2 for contact information).

## 10 When is the Form N-15 due?

Form N-15 is due on April 20. If April 20 falls on a weekend or legal holiday, then it must be filed by the first work day after that weekend or holiday.

The date filed is the date your tax return is received by the Department of Taxation or the date your return is postmarked.

## 11 What happens if I file my income tax return late or do not pay my taxes?

If you don't file or pay your taxes on time, you will be assessed penalties and interest. The penalty for filing late is 5% of the tax due for every month or part of a month that you are late up to a maximum of 25%.

If you file on time, but you don't pay your taxes within 60 days from the due date, the penalty is 20% of the unpaid balance.

Interest is assessed at the rate of 2/3 of 1% per month on the unpaid tax and penalty.

If your ability to pay your tax is materially impaired because of your military service, you may request a waiver of the penalty and interest. If granted, the waiver will extend for a period of not more than 6 months after you leave the service.

## 12 If I file a joint federal income tax return, do I have to file a joint Hawaii income tax return too?

No. Hawaii does not require you to use the same filing status you use on your federal return.

## 13 If my civilian spouse has Hawaii taxable income, can we file a Hawaii joint income tax return?

Yes. If you and your spouse are nonresidents, a joint Form N-15 must be filed. You and your spouse may pay less tax if filing a joint return. If your civilian spouse is a resident of Hawaii, you would file Form N-11. See question 8.

## 14 What is the difference between filing as a Hawaii resident and as a nonresident?

The main difference is that Hawaii residents are taxed on their income from worldwide sources, and nonresidents are taxed on their income from Hawaii sources only.

## 15 Are there any limitations to what a nonresident can deduct on the Form N-15?

Yes. Nonresidents are limited to a prorated standard deduction and personal exemption amount. Adjustments to income and itemized deductions may be limited to the extent that they are unrelated to income taxed by Hawaii.

## 16 Why do I need to complete Column A on the Form N-15?

Column A is needed to compute the ratio by which the standard deduction, personal exemptions, and certain itemized deductions are limited.

## 17 Are tax rates the same for Hawaii residents and nonresidents?

Yes.

## 18 Can nonresidents claim any tax credits?

Yes. Please see the Form N-15 instructions for information on credits available to nonresidents.

## 19 I am deployed outside of Hawaii, can my spouse sign my Hawaii income tax return for me?

Your spouse can sign your tax return if they have a power of attorney that includes the authority to sign tax returns. You may also use Form N-848, Power of Attorney, for this purpose.

## 20 Where can I get help preparing my Form N-15?

Contact your base legal office for information or contact any district tax office with your questions.

### Where to Get Forms and Information

Website: [tax.hawaii.gov](http://tax.hawaii.gov)

Telephone: 808-587-4242

Toll-Free: 1-800-222-3229

Telephone for the hearing impaired: 808-587-1418

Toll-Free for the hearing impaired: 1-800-887-8974