



TAX FACTS 97-2

Income Tax Information for Nonresident Military Servicemembers

References to “spouse” are also references to “civil union partner” and member of a “same-sex married couple.” The following are some of the questions which are commonly asked by nonresident members of the U.S. armed services in Hawaii.

1 If my permanent duty station is Hawaii, am I considered a Hawaii resident?

No. You are a resident of the state shown on your Leave and Earnings Statement and on your Form W-2. Your presence in Hawaii solely to comply with military orders does not make you a resident of Hawaii.

2 Is my civilian spouse a resident of Hawaii when I am stationed in Hawaii?

It depends. 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 may 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. For more information, see Tax Information Release (TIR) No. 2010-01 and Tax Announcement (TA) No. 2019-01.

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

Yes. An alien who is granted permanent resident alien status while in Hawaii is considered to be domiciled in Hawaii. 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 TIR Nos. 90-3, 90-10 and 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 If I am not a Hawaii resident, what state can I file as a resident of for tax purposes?

It depends. If you are not married see question 1, you may not file as a Hawaii resident for tax purposes. If you are married, you and your spouse may elect to use for purposes of taxation, regardless of the date on which the marriage occurred between you and your spouse, one of the following:

- (1) The residence or domicile of the servicemember;
- (2) The residence or domicile of the spouse; or
- (3) The permanent duty station of the servicemember.

7 Can my civilian spouse file as a resident of Hawaii for tax purposes?

Yes. Your spouse may elect to file as a resident of Hawaii for tax purposes if Hawaii is your permanent duty station. See question 6.

8 Is all of my income exempt from Hawaii income taxes?

Not necessarily. If you are a nonresident of Hawaii, you do not have to pay Hawaii income tax on the wages you earn for serving on active duty. The wages earned for serving on active duty are taxable in the state where you are a resident. Any other income you earn in Hawaii, such as wages from a part-time job, is subject to Hawaii income tax.

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For more information, visit the Department of Taxation’s website at tax.hawaii.gov

9 Is my nonresident civilian spouse's income subject to Hawaii income tax?

If your spouse meets the conditions listed in Tax Announcement 2019-01, then income that your spouse receives for services performed in Hawaii, for example wages paid to your spouse for performing a job, are not subject to Hawaii income tax, although this income is subject to tax in the jurisdiction in which you and your spouse are considered residents for purposes of state and local taxation. However, other types of income received by your spouse may be subject to Hawaii income tax. See TIR No. 2010-01 for more information.

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

As a nonresident of Hawaii, you may file Form N-15, Hawaii nonresident and part year resident individual income tax return. However, if you are married to a Hawaii resident and elect to file a joint Hawaii income tax return with your resident spouse, you may file a Hawaii resident return, Form N-11, and report and pay tax on all your income including your military pay.

11 How can I get Form N-15?

Forms are available on the Department of Taxation's website at tax.hawaii.gov. Tax forms and instructions are available at any district tax office or by calling a customer service representative (see the bottom of page 3 for contact information).

12 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, the tax return is due on the first business day immediately following that weekend or holiday. The date filed is the date your tax return is received by the Department or if you mail your return, the date your return is postmarked.

13 Are there any penalties or interest if I file my income tax return late or do not pay my taxes?

If the income tax return is filed after the due date, a penalty is assessed at the rate of 5% per month or part of a month, up to a maximum of 25%. If you file your return on time but no payment or insufficient payment is received within 60 days of the due date of the tax return, a penalty of 20% of the unpaid balance will be assessed. Interest is assessed at the rate of 2/3 of 1% per month on the unpaid tax and penalty. However, a waiver of the penalty and interest may be granted if your ability to pay your tax is materially impaired because of your military service. The waiver, if granted, will extend for a period of not more than 6 months after you leave the service.

14 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.

15 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 may 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 10.

16 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.

17 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.

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

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

19 Are tax rates the same for Hawaii residents and nonresidents?

Yes.

20 Can nonresidents claim the same tax credits as Hawaii residents?

There are limitations to tax credits that are allowed to nonresidents. See instructions for Form N-15 for credits that can be claimed by nonresidents.

21 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 use Form N-848, Power of Attorney for this purpose.

22 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

Telephone: 808-587-4242

Toll-Free: 1-800-222-3229

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