



Georgia Department of Revenue
Policy Statement IT-2010-1-5
Withholding and Taxation of Certain Nonresident Military
Spouses

- 1) **Purpose/Subject:** This policy statement provides the requirements and procedures regarding the withholding of state income taxes on wages of certain nonresident military spouses and the taxation of such wages.
- 2) **Effective Date:** Taxable Year 2009 and thereafter
- 3) **Supersedes:** All previous documents and any oral directives in conflict herewith.
- 4) **Authority:**
 - a) Federal Law
Military Spouses Residency Relief Act P.L. 111-97
- 5) **Scope:** A policy statement is intended to provide procedural guidance to the general public and Department personnel. It is a written statement issued to assist in the administration of laws and regulations by providing procedural guidance that may be followed in order to comply with the law. A policy statement does not have the force or effect of law, and is not binding on the public. It is, however, binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.
- 6) **Requirements:**

The purpose of this policy statement is to explain how the Georgia Department of Revenue will comply with and administer certain provisions of the Military Spouses Residency Relief Act.

Under the Act, a spouse of a servicemember may be exempt from Georgia income tax on income from services performed in Georgia if:

1. The servicemember is present in Georgia in compliance with military orders;
2. The spouse is in Georgia solely to be with the servicemember;
3. The spouse maintains domicile in another state; and
4. The domicile of the spouse is the same as the domicile of the servicemember.

As the Military Spouses Residency Relief Act is effective for the 2009 and succeeding tax years, affected spouses should adhere to the procedures in section 7 of this policy statement.

Effectively, Georgia will not require withholding nor will Georgia tax the applicable income of spouses of military servicemembers so affected by the *Military Spouses Residency Relief Act*.

7) Procedures:

- a) Affected spouses may immediately suspend withholding on their wages by amending Georgia Form G-4 with their employer(s). The applicable box with Section 8 of Form G-4 should be checked and returned to the employer(s). The employer must submit the Form G-4 to the Georgia Department of Revenue as provided on the Form G-4. On the W-2 for 2009, the employer should report all wages earned during the year as Georgia wages. On the W-2 for 2010 and any year thereafter, the employer should not report any of the wages as Georgia wages on the W-2.
- b) If the spouse of a service member is entitled to the protection of the Military Spouses Residency Relief Act in another state and files a withholding exemption form in such other state, the spouse is required to submit a Georgia Form G-4 so that withholding will occur as is required by Georgia Law when a Georgia domiciliary works in another state and withholding is not required by such other state. If the spouse does not fill out the form, the employer shall withhold Georgia income tax as if the spouse is single with zero allowances.
- c) Military spouses should be prepared to support their “exempt” withholding status to the Georgia Department of Revenue by providing the following documentation when requested:
 - A. A copy of the servicemember’s current military orders assigning such servicemember to a post of duty in Georgia; and
 - B. DD 2058 declaration of servicemember’s “permanent state of residency”.
- d) For all withholding made during 2009 by an employer against an affected spouse, such spouse **must** file the 2009 Georgia Form 500, making a subtraction from income on Schedule 3, Column C, Line 7. No amounts should be entered on Schedule 3, Column A, Line 7 of Georgia Form 500. Affected spouses may not file Georgia Form 500-EZ. For tax years 2010 and thereafter, a Georgia Form 500 is only required if the spouse has other income that is not exempt.

FOR MORE INFORMATION

For more information on this subject, contact the Taxpayer Services Division at 404-417-2311, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays. Persons with hearing or speech impairments may call our TDD number at 404-417-4302. For forms and other information, visit our website (www.dor.ga.gov).