Georgia Department of Revenue

Policy Bulletin IT 2019-01

Withholding and Taxation of Certain Nonresident Military Spouses

February 13, 2019

(Supersedes Policy Statement IT-2010-1-5)

1) **Purpose:** This policy bulletin 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:** Years for which the Military Spouses Residency Relief Act P.L. 111-97 is effective.

3) **Authority:**
   a) Federal Law
      Military Spouses Residency Relief Act P.L. 111-97

4) **Scope: A Policy Bulletin is intended to provide guidance to the public and to Department personnel.** It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers, superseding all conflicting documents and oral directives previously issued by the Department. A Policy Bulletin does not have the force or effect of law and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or subsequent Policy Bulletin.

5) **Issue:**
   The purpose of this policy bulletin 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 service member maintains domicile in another state; and
   4. The domicile of the spouse is the same as the domicile of the servicemember or for 2018 and later taxable years, the spouse of the servicemember has elected to use the same residence for purposes of taxation as the servicemember.

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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*.

6) Discussion of Issue:

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 any year the income is exempt, the employer should not report any of the wages as Georgia wages on the W-2.

b) If a spouse of a service member is entitled to the protection of the Military Spouses Residency Relief Act in another state (and they are a tax resident of Georgia) 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 for any year the income is exempt, such spouse **must** file the 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 where there was no withholding, 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 Taxpayer Services at 1-877-423-6711 from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, excluding holidays.
Deaf and hard of hearing taxpayers who have access to TDD equipment can use the Georgia Relay program. For more information visit http://georgiarelay.org.
For forms and other information, visit our website http://dor.georgia.gov.