

## DEPARTMENT OF STATE REVENUE

**Information Bulletin #27**  
**Income Tax**  
**December 2023**  
**Effective Date: Upon Publication**  
**(Replaces Bulletin #27, dated March 2023)**

**SUBJECT:** Indiana Adjusted Gross Income Tax Applicable to Military Personnel and Spouses

**REFERENCES:** [IC 6-3-1-2.5](#); [IC 6-3-1-2.7](#); [IC 6-3-1-3.5](#); [IC 6-3-1-34](#); [IC 6-3-2-4](#); [IC 6-8.1-9-1](#); 50 U.S.C. § 4001; Army Regulation 525-93 (Dec. 20, 2012); Joint Publication 4-05 (Oct. 23, 2018).

**DISCLAIMER:** Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

### SUMMARY OF CHANGES

Apart from technical, nonsubstantive changes, this bulletin has been revised to include information related to 2023 legislation that exempted National Guard and reserve component members' wages from Indiana income tax starting in 2023 and active duty armed forces members starting in 2024. In addition, this bulletin provides guidance on National Guard members' qualification for tax exemption on wages. Also, this bulletin removes language related to the phase-in of the deduction for military retirement pay and clarifies that retirement pay received by a divorced spouse is not exempt. Finally, this bulletin removes language relating to a 2020 allowance for refunds related to certain military disability pay.

### INTRODUCTION

The purpose of this bulletin is to provide guidance concerning the application of Indiana individual income tax to personnel of the U.S. military, including filing requirements, estimating tax, and any applicable deductions and credits.

Throughout this document, military salary will be referred to as "wages". In this context, "wages" includes any form of compensation for military service. The term does not include retirement or disability income from military service.

### TAX TREATMENT OF MILITARY PERSONNEL INCOME

#### Regular Members of the Armed Forces

For 2023 and earlier, Indiana adjusted gross income tax applies to members of the active component of the armed forces of the U.S. Indiana resident regular members of the armed forces are subject to tax on all income, regardless of source.

For 2024 and later, Indiana resident regular members of an active component of the armed forces are exempt from income tax on their wages derived from their service in the armed forces. However, Indiana resident regular members of an active component of the armed forces are subject to tax on all other income, regardless of the source.

Nonresident regular members of the armed forces are subject to tax on all non-military income received from Indiana sources.

#### Reserve Components and National Guard

For 2022 and earlier, a member of a reserve component of the armed forces or a member of the National Guard is allowed a deduction from adjusted gross income for wages earned as a result of service on involuntary orders or when the person is mobilized and deployed for full-time service, or during the period for which the member's National Guard unit is federalized.

For 2023 and later, a member of a reserve component of the armed forces or a member of the National Guard is allowed a deduction from adjusted gross income for wages earned as a result of the member's military service, including National Guard state active duty, regardless of mobilization, deployment, or federalization of the

member's National Guard unit. This includes wages earned as a military technician (dual status). Some examples of income not exempt from taxation include:

- Wages earned as a federal civilian employee that are not earned as a military technician (dual status).
- Income received as an independent contractor.
- Wages earned from employment that are not paid to the member for service in the reserve component or the National Guard.

### **Spouses of Military Personnel**

Indiana adjusted gross income tax applies to all income of a domiciled spouse of an armed forces member, regardless of source. However, pursuant to 50 U.S.C. § 4001(c), Indiana adjusted gross income tax does not apply to the earned income of a non-domiciled spouse of an armed forces member. Nevertheless, if the spouse elects to be treated as an Indiana resident under 50 U.S.C. § 4001(a)(2)(B), the spouse will be subject to Indiana income tax on the spouse's income.

### **RESIDENCY**

Military personnel who enter the armed forces as Indiana residents remain legal residents of Indiana regardless of duty station until official action is taken to change their legal residence. This can be accomplished by filing a State of Legal Residence Certificate, Form DD 2058, with the military personnel office.

The spouse of an armed forces member who moves to Indiana, establishes a new residence, and lives here typically becomes a resident or domiciliary of Indiana. However, pursuant to the Military Spouse Residency Relief Act, the spouse of an armed forces member may choose to keep a previous domicile if the service member and spouse had the same domicile or residence prior to moving to Indiana under 50 U.S.C. § 4001(a)(2)(A). Further, for 2018 and later, a spouse of a service member may elect to use the same residence as the service member for tax purposes pursuant to 50 U.S.C. § 4001(a)(2)(B).

The spouse of an armed forces member is exempt from Indiana income taxation on Indiana-source earned income when:

- The spouse currently is domiciled in a state other than Indiana;
- The spouse resides in Indiana solely in order to live with the armed forces member;
- The armed forces member is present in Indiana in compliance with military orders; and
- The spouse and the armed forces member both are able to claim the same domicile or the spouse makes an election under 50 U.S.C. § 4001(a)(2)(B) to claim the same residence outside Indiana as the armed forces member.

### **FILING REQUIREMENTS**

Resident military personnel are required to file an Indiana income tax return if their gross income exceeds their exemptions. Income from all sources, both military and non-military (excluding military combat zone compensation), should be reported on the Indiana resident return, Form IT-40, even if the income is deducted in full for Indiana tax purposes.

Nonresident military personnel are required to file an Indiana income tax return if they receive any income from an Indiana source. Military earnings for active duty are not considered to be from an Indiana source; however, compensation for other employment would be attributable to Indiana. Nonresident service members should file an Indiana part-year or nonresident return, Form IT-40PNR, to report their other compensation.

Military personnel may be subject to tax by both their state of legal residence and the state in which they are stationed if they have non-military earnings. Persons with income subject to tax by two states are allowed a credit in one state for tax paid to the other state. Income Tax Information Bulletin #28 provides additional information for taxpayers with income subject to tax by two states, which is available at [in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/](http://in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/).

An eligible spouse of a non-Indiana-domiciled armed forces member should file an Indiana part-year or nonresident return, Form IT-40PNR, to claim a deduction of all Indiana-source earned income. Schedule IN-2058SP and the armed forces member's W-2 must be enclosed with the filing.

### **DEDUCTIONS AVAILABLE TO INDIANA RESIDENTS FOR MILITARY SERVICE**

#### **Military Service Deduction**

For years before 2022, military personnel on active duty or in the active reserves may deduct up to \$5,000 of their military pay if it was not already excluded or deducted from their adjusted gross income. If the service member

earned less than \$5,000 military pay, he or she may deduct only the amount of military pay earned under this deduction. If the taxpayer and spouse are both in the military, they each may claim the deduction.

For 2023, this deduction is available only for members of the active components of the armed forces. Members of the reserve components and National Guard will claim a full deduction; see the "National Guard and Reserve Components Members Deduction" below.

The service member claims the deduction on IT-40 Schedule 2, line 7 (or Form IT-40PNR Schedule C, line 7).

*Example #1:* Jim received \$3,000 active duty pay and \$10,000 combat zone pay during the year. He is eligible to claim a \$3,000 Military Service Deduction based on his active duty pay. He may claim the deduction on Form IT-40 or IT-40PNR. Jim will not deduct any of his combat zone pay because it is not reported as taxable income on either his federal or state income tax returns--it is already exempt from tax.

*Example #2:* In 2022, Mary earned \$6,000 from the National Guard during the year *before* her unit was federalized. She may claim a \$5,000 regular Military Service Deduction based on the income earned before her unit was federalized. She may claim the deduction on Form IT-40 or IT-40PNR.

Military retirement pay received by an Indiana resident is deductible in full for Indiana tax purposes. This deduction is available for the military member and the military member's surviving spouse. However, if a divorced spouse receives a portion of a service member's military retirement pay as a result of a divorce decree or similar agreement, that portion of the pay is not deductible for the spouse. The individual need not have been an Indiana resident during active military service to qualify for this adjustment.

Military withholding statements or retirement survivor's benefits statements must be enclosed with the tax return when these deductions are claimed.

**NOTE:** If you received a combination of military pay, retirement pay, and/or military survivor's benefits during the tax year, you can qualify for a separate deduction for all categories. However, you must report military pay separate from retirement pay and survivor's benefits.

### **National Guard and Reserve Component Members Deduction**

Service members eligible to claim the National Guard and Reserve Component deduction include members of the Indiana Army National Guard; Indiana Air National Guard; and members of the reserve components of the Air Force, Army, Coast Guard, Marine Corps, Merchant Marine, and Navy.

For 2022 and earlier, in calculating Indiana adjusted gross income, these service members may claim the deduction for any combination of periods when they were:

1. On full-time involuntary orders;
2. Mobilized and deployed, either voluntarily or involuntarily, for full-time service; or
3. A member of a unit that was federalized (in the case of a National Guard member).

These service members are entitled to deduct the amount of their qualified military income that was not excluded from their gross income for federal income tax purposes under Section 112 of the Internal Revenue Code. Military withholding statements must be enclosed with the tax return when claiming this deduction.

For 2023 and later, this deduction is extended to all wages received for service as a member of the reserve component or National Guard. However, the wages must be from service in the reserve component or National Guard. Wages from other sources (e.g., a job with a private-sector employer) is not deductible.

For 2022 and earlier, "qualified military income" means wages that are paid to a member of the National Guard for any combination of periods when the member is on full-time involuntary orders; the member has been mobilized and deployed, either voluntarily or involuntarily, for full-time service; or the member's unit has been federalized.

For 2022 and earlier, "qualified military income" also means wages that are paid to members of a reserve component of the armed forces of the U. S. for any combination of periods when the member is on full-time involuntary orders or the member has been mobilized and deployed, either voluntarily or involuntarily, for full-time service.

"Deployment" is defined in Army Regulation 525-93 (Dec. 20, 2012) as "[t]he relocation of forces and [material] to desired operational areas. Deployment encompasses all activities from origin or home station through destination,

specifically including intra-continental U.S., inter-theater, and intra-theater movement legs, staging, and holding areas."

"Mobilization" is defined in Joint Publication 4-05 (Oct. 23, 2018), which provides in pertinent part:

Mobilization is the process of assembling and organizing national resources to support national objectives in time of war or other emergencies. Mobilization includes assembling and organizing personnel and material for active duty military forces, activating the Reserve Component (RC) (including federalizing the National Guard), extending terms of service, surging and mobilizing the industrial base and training bases, and bringing the Armed Forces of the U.S. to a state of readiness for war or other national emergency.

Service members serving on full-time orders in an Active Guard and Reserve Program (AGR) are not considered mobilized for purposes of claiming their income as "Qualified Military Income" under [IC 6-3-1-34](#).

### Limitations

For 2022 and earlier, an individual is not entitled to both a Military Service Deduction under [IC 6-3-2-4](#) and a deduction for members of the National Guard and reserve components of the armed forces of the U.S. for the same qualified military income. In short, one or the other, but not both of the deductions may be claimed for the same qualified military income in the same taxable year. For 2023 and later, National Guard and reserve component members may not claim the Military Service Deduction under [IC 6-3-2-4](#) on their wages received for service in the National Guard or reserve component.

Additionally, military income received due to service in a combat zone is not subject to tax on an individual's federal or state income tax return. Because this income is already excluded from Indiana income tax, it is not eligible for the deduction available to members of the National Guard and reserve components of the armed forces of the U.S.

### Nonresident Military Spouse Earned Income Deduction

The non-domiciliary spouse of an armed forces member may, under defined circumstances, claim the Indiana Nonresident Military Spouse Earned Income Deduction equal to the amount of his/her Indiana earned income. For purposes of the deduction, "earned income" is defined in uniformity with the IRC Section 62 definition of earned income, which includes "wages, salaries, tips, and other employee compensation, plus the amount of taxpayer's net earnings from self-employment income (federal Schedule C income)." The spouse claims the deduction on IT-40PNR, Schedule C, line 11. A copy of Schedule IN-2058SP must be included with the return as well.

*Example #3:* Jack is a domiciliary of Texas. During 2023, he moved to Indiana to be with his wife, Jill. Jill is stationed in Indiana in compliance with her military orders, but she, like Jack, remains a domiciliary of Texas. Jack owns his own business, which he operates in Indiana while he is residing here. Jack is entitled to claim a Nonresident Military Spouse Earned Income Deduction equal to the amount of his Indiana earned income. He may claim the deduction on Form IT-40PNR, Schedule C, line 11. A copy of Schedule IN-2058SP must be included with the return as well.

*Example #4:* Jenny is a domiciliary of Rhode Island. During 2023, she moved to Indiana to be with her husband, Paul. Paul is stationed in Indiana in compliance with his military orders, but before he enlisted he was, and remains, a domiciliary of Iowa. Jenny is not entitled to claim a Nonresident Military Spouse Earned Income Deduction because she and her spouse are not domiciliaries of the same state. Jenny's earned income in Indiana will be subject to Indiana adjusted gross income tax on Form IT-40PNR unless she makes an election to be treated as a resident of Iowa. If Jenny makes an election to be treated as an Iowa resident, her income will not be subject to Indiana income tax.

### LOCAL INCOME TAXES

All Indiana counties have adopted a local income tax. The tax is imposed on residents of adopting counties and out-of-state residents who have a principal place of business or employment in an adopting county. A list of the adopting counties and their rates is provided in the individual income tax booklets, IT-40 and IT-40PNR.

Resident military personnel are subject to a local income tax if they reside in Indiana as of Jan. 1 of the tax year. However, a resident military person who maintains a household outside the state of Indiana is not subject to a local income tax.

The income of a spouse of an armed forces member is not subject to local income tax, provided that the non-domiciled spouse qualifies for the Nonresident Military Spouse Earned Income Deduction. If the spouse does

not qualify for the deduction and resides in Indiana as of Jan. 1 of the tax year, his or her Indiana earned income is subject to local income tax.

### **ESTIMATED TAX**

A military person who expects to owe \$1,000 or more in state and/or county income tax may be required to make estimated installment payments. Generally, the military will withhold Indiana state income tax from military earnings of resident military personnel in an amount sufficient to avoid estimated tax payments on military earnings. However, local income tax is not withheld. Other types of income not subject to withholding of tax could result in an amount due of \$1,000 or more of state and/or local income tax due for the year. Taxpayers may be subject to a penalty for underpayment of estimated tax if they do not make the required estimated payments.

For further information concerning estimated tax, refer to Income Tax Information Bulletin #3, available at [in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/](http://in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/).

### **DUE DATES AND EXTENSION OF TIME FOR FILING**

Indiana individual income tax returns are due on or before April 15 of the year following the tax year. Military personnel on active duty outside of the U.S. and Puerto Rico will be allowed an automatic 60-day extension. A statement must be enclosed with the return verifying that the taxpayer was outside the U.S. or Puerto Rico on April 15.

Military personnel serving in a combat zone have an automatic extension of 180 days after they leave the combat zone. If they are hospitalized outside the U.S. as a result of such service, the 180-day extension period begins upon release from the hospital. The spouse of such a service member must use the same method of filing for both federal and Indiana income tax returns. If filing under this extension, write "Combat Zone" across the top of the form before submitting it to the Department for processing.

### **COLLECTION OF OUTSTANDING TAX DEBTS**

The federal Servicemembers Civil Relief Act (federal SCRA) and Indiana Servicemembers Civil Relief Act (Indiana SCRA) allow the Department to assist active duty military members with the penalty, interest and, if materially affected, the collection activity for outstanding tax debts. To qualify for this relief, the military member must be one of the following:

- An active duty, full-time, service member of the Army, Navy, Air Force, Marine Corps, or Coast Guard;
- Commissioned corps of the National Oceanic and Atmospheric Administration or the Public Health Service if in active duty service status;
- National Guard if called to active service for more than 30 consecutive days for purposes of responding to a national emergency and supported by federal funds; or
- Indiana only: National Guard members that are ordered to active duty.

The federal and Indiana SCRA provide different provisions to those service members that are materially affected and those that are not materially affected. The Department will consider all relevant facts and circumstances in determining whether a service member's ability to pay is materially or not materially affected by their active duty status.

More information is available at [in.gov/dor/individual-income-taxes/information-for-military-service-members/](http://in.gov/dor/individual-income-taxes/information-for-military-service-members/). You can also contact the Taxpayer Advocate Office at 317-232-4692 for more on the federal SCRA and Indiana SCRA.

If you have any other questions concerning this bulletin, contact the Tax Policy Division at [taxpolicy@dor.in.gov](mailto:taxpolicy@dor.in.gov).

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