

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE



OTR Notice 2009-13

Taxation of Compensation of Military Members and Spouses

Revised - January 8, 2010

On November 11 2009, President Obama signed the “Military Spouses Residency Relief Act” to prevent multiple state taxation on the income and property of military personnel serving within various tax jurisdictions by reason of military service. The act amends sections of the Soldiers’ and Sailors’ Civil Relief Act of 1940 to provide the spouse of the servicemember with some relief related to residency and taxation issues that often arise as a result of frequent duty station transfers for military families.

Effective for tax year 2009, the act provides that a state or local tax jurisdiction cannot include the military compensation earned by nonresident servicemembers to compute the income tax liability imposed on the non-military income earned by the servicemember. Any compensation earned by the spouse of the servicemember, while accompanying the servicemember to a duty station, outside of their legal residence for taxes, pursuant to the servicemember’s military orders, would not be subject to income tax in the jurisdiction outside of their legal residence for tax purposes.

If the servicemember or spouse have withholding to be refunded or otherwise are required to file a District of Columbia D-40 individual income tax return, the following may be used to reflect the proper tax due:

(1) If a servicemember’s legal residence for taxes is not in DC but the servicemember and spouse reside in DC due to military orders, the military compensation and the non military spouse’s compensation should be deducted on Schedule I, line 15 of D-40. If this applies, a copy of the Department of Defense form providing the servicemember’s legal residence for taxes should be kept with your tax records.

(2) If a servicemember’s legal residence for taxes is not in DC but the servicemember resides in DC due to military orders and subsequently marries a DC resident, the servicemember’s military compensation should be deducted on Schedule I, line 15 of D-40. The non-military spouse’s income is not exempt in this case since the non-military spouse is a DC resident and has not moved to DC to be with a transferred servicemember. If this applies to you, a copy of the Department of Defense form providing the servicemember’s legal residence for taxes should be kept with your tax records.

(3) If a servicemember’s legal residence for taxes is in DC and the servicemember and spouse reside in DC in compliance with servicemember’s military orders, they must file form D-40 and will report all their income in DC, as either married filing jointly or married filing separately.

A spouse of a servicemember whose wages are exempt from District of Columbia income tax under the new law may file a D-4 with their employer to claim exemption from withholding.

Please direct all questions to OTR’s Customer Service Center at (202) 727-4TAX (4829).