

Military Taxpayers

~~~ The Sequel ~~~

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## Overview

- Active Duty vs Reserve Component
- Arizona Subtraction from Income
- Arizona Tax Return Filing Requirement
- Military Spouses Residency Relief Act
- Suspension of Penalty and Interest
- Military Family Relief Fund
- Other Military Issues
- Military Retiree Pay Subtraction from Income

- IRS Pub 3, Armed Forces' Tax Guide
- AZ Pub 704, Taxpayers in the Military

## Active Duty

- Tucson – Davis-Monthan AFB
- Phoenix – Luke AFB
- Sierra Vista – Fort Huachuca
- Yuma – Marine Corp Air Station
- Title 10 of the U.S. Code
- Federal missions
- Residents of states they enlist in (except...)
- Members directed to change stations (PCS)

## Reserve Component

- Air and Army National Guard
- Title 32 of the U.S. Code
- 162<sup>nd</sup> FW
- State and Federal missions
- Can be called up by Governor or President
- Generally a resident of state they serve
- Members choose to change assignments
- Part-time or Full-time (civil service or AGR)
  
- **Reserves** – Federal mission only

## Arizona Tax Treatment of Military Pay

### ~Subtraction from Income~

- 2005: Combat Zone Exclusion only
- 2006: Active Duty (Title 10) Exclusion
- 2007: All Military Duty, including National Guard and Reserves

## Changes to Form 140 and Problems

C27 Construction of an energy efficient residence. See instructions. Enter number: C27a [ ] then amount.  
C28 Compensation received for active service as a member of the reserves, national guard or the U.S. armed forces. [ ]  
C29 Other subtractions from income. See instructions and attach your own schedule . . . . .

- Civil Service Employees in National Guard
  - Excepted versus Competitive
  - Must be in the National Guard
  - Must wear the uniform
    - Civil Service pay **NOT** exempt from Arizona taxes
  - Must file Form 140 to take the subtraction

## AZ Tax Return Filing Requirement

- (S) Non-Resident no other income – No
  - (S) Non-Resident with part-time job – Yes
    - If income exceeds AZ AGI or to claim AZ refund
- November 11, 2009: MSRRA**
- (MFJ) Military Member's State of Residence?
  - (MFJ) Spouse's State of Residence?
  - (MFJ) AZ Resident Spouse no income – No
  - (MFJ) AZ Resident Spouse / w/income – Yes
  - (MFJ) Non-Resident Spouse w/AZ income – Not AZ

**MFS...even trickier – review AZ Pub 704.**

## Military Spouses Residency Relief Act

- Signed into law on November 11, 2009
- Retroactive to January 1, 2009
- "A spouse of a servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders if residence or domicile, as the case may be, is the same for the servicemember and the spouse."

## MSRRA (continued)

- "Income of a Military Spouse – Income for services performed by the spouse of a servicemember shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the spouse is not a resident or domiciliary of the jurisdiction in which the income is earned because the spouse is in the jurisdiction solely to be with the servicemember serving in compliance with military orders."

## State of Domicile vs State of Residence

- Active Duty Member's State of Residence
  - W-2 Box 15 (State)
- Go to that state's website
  - Search on 'military'

**Military Personnel With California Domicile Outside California** – California military members who leave California under PCS orders become nonresidents of California for income tax purposes when they leave California. All income received or earned prior to departure is subject to tax by California. After departure, only income from California sources is subject to tax by California. Nonresidents are generally not taxed by California on income from intangibles, such as dividends from stocks or interest from bonds or bank accounts.

## Community Property States

- AZ Individual Income Tax Ruling (ITR 97-3)

"**Ruling:** An Arizona resident married to a nonresident active duty military member who is a resident of a community property state is not subject to Arizona income tax on his or her community property interest in the military spouse's active duty military pay. However, the nonmilitary resident spouse is taxable on all separate income and one-half of community income from all other sources."

## Suspension of Penalty and Interest

- If you are identified as combat zone personnel, you will have penalties and interest suspended under IRC 7508
- By law, the IRS is restricted from assessing penalties and interest during the suspension period. The start of the suspension is the entry date into the combat zone and the end date is the exit date plus 180 days.
  - Who supplies the IRS with these dates?



## Arizona Military Family Relief Fund

- House Bill 2784 (passed in 2007)
- Administered by the Arizona Department of Veteran's Services
- \$1,000,000 cap
- \$200 for Single / \$400 Married Filing Joint
- No carry-forward feature
- Benefits Arizonans or deployed from Arizona
- Up to \$10,000 Benefit (Lifetime per applicant)
- Administrative Costs Top Out at 5%
- [www.azdvs.gov](http://www.azdvs.gov)

## Other Military Issues

- Deduction for Traveling 100 miles Reserve Duty (front page of 1040)
- Can use combat pay to calculate EITC
- 1<sup>st</sup> Time Homebuyers Credit Payback
- Moving Expenses – DITY moves can result in taxable income reported on a W-2
- Miscellaneous Itemized Deductions
  - Uniforms.... Probably not
  - Haircuts.... of course not!

## Retirement

- |                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                            |
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| <ul style="list-style-type: none"><li>■ <b>Active Duty</b><ul style="list-style-type: none"><li>□ Can retire after 20 years of military service</li><li>□ Will receive military retirement pay after retiring</li><li>□ Could be 37 if they enlisted at age 17</li></ul></li></ul> | <ul style="list-style-type: none"><li>■ <b>National Guard</b></li><li>■ <b>Reserves</b><ul style="list-style-type: none"><li>□ Can retire after 20 years of total military service</li><li>□ Must wait until age 60 to receive military retirement pay</li></ul></li></ul> |
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**Arizona Residents: Can exclude up to \$2,500 from taxable income on the Arizona return.**

# Questions?