



FTB Publication 1032

Tax Information for Military Personnel



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Contents

General Information	1
Filing Requirements	2
Are You a Resident?	3
Examples of Resident Status	3
Joint or Separate Returns	4
Income Subject to California Tax	4
Tax Computation for Part-Year Residents or Nonresidents.	5
Nonrefundable Renter's Credit	5
Child and Dependent Care Expenses Credit	5
Alternative Minimum Tax (AMT)	6
Extensions – Combat Zone or Military Overseas	6
Examples of Income Reporting Requirements	6
Military Spouses Residency Relief Act (MSRRA)	10
Examples of Income Reporting Requirements	11
Additional Information	13
What if I am involved in an audit or have received correspondence?	13
What if I owe back taxes?	13
How to Get California Tax Information	13

What's New

Military Spouses Residency Relief Act (MSRRA)

The MSRRA amended the federal Servicemembers Civil Relief Act. For taxable years beginning on or after January 1, 2009, a nonmilitary spouse of a military servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation by reason of being absent from or present in California to be with the servicemember serving in compliance with the servicemember's military orders if the servicemember and spouse have the same domicile.

Income of a military servicemember's nonmilitary spouse for services performed in California is not California source income subject to state tax if the spouse is in California to be with the servicemember serving in compliance with military orders, and the servicemember and spouse have the same domicile in a state other than California.

For more information regarding the servicemembers' spouses to whom the MSRRA applies, see page 10.

A General Information

Servicemembers domiciled outside of California, and their spouses, exclude the servicemember's military compensation from gross income when computing the tax rate on nonmilitary income.

Requirements for military servicemembers domiciled in California remain unchanged. Military servicemembers domiciled in California must include their military pay in total income. In addition, they must include their military pay in California source income when stationed in California. However, military pay is not California source income when a servicemember is permanently stationed outside of California.

If you mistakenly included military income on a previously filed California return, see the discussion of Amended Returns on page 2.

The federal Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 permits the rollover of a federal military death gratuity payment or Servicemembers' Group Life Insurance proceeds into a Roth IRA or Coverdell education savings account (ESA), without regard to otherwise

applicable contribution limits. California conforms to the extent of a rollover into a Roth IRA. However, although, for California purposes, a rollover into a Coverdell ESA would be treated as an "excess contribution," California law, unlike federal law, does not impose an excise tax on excess contributions. See federal Publication 3, Armed Forces' Tax Guide, for effective dates of the rollover provision.

California conforms to the HEART Act provision that differential wage payments made on or after January 1, 2009, to members of the uniformed services on active duty for more than 30 days will be treated as compensation for purposes of a retirement plan and IRA contributions. Differential wages are all or part of the wages paid by an employer as if the member were performing service for the employer rather than being on active duty.

Individual Retirement Plan Contributions

California conforms to the federal Heroes Earned Retirement Opportunities Act that allows members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income.

Registered Domestic Partners (RDP)

For purposes of California income tax, references to a spouse, husband, or wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP, they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

California conforms to the Military Family Tax Relief Act to allow the following:

- **Deduction for Overnight Travel Expenses of National Guard and Reserve Members** – Reservists who stay overnight more than 100 miles away from home while in service (e.g., for a drill or meeting) may deduct unreimbursed travel expenses (transportation, meals, and lodging).
- **Exclusion of Gain on Sale of a Principal Residence** – A taxpayer on qualified official extended duty in the U.S. Armed, Uniformed, or Foreign Services may suspend, for up to 10 years of such duty time, the running of the 5-year ownership-and-use period before the sale of a residence. This applies when the duty station is at least 50 miles from the residence - or while the person is residing under orders in government housing - for a period of more than 90 days or for an indefinite period.
- **Exclusion from Gross Income of Certain Federal Death Gratuity Payments** – The amount of certain death gratuity payments excludable from gross income is \$12,000.
- **Combat Zone Extensions Expanded to Contingency Operations** – The various extensions granted to combat zone participants to file returns or pay taxes apply to those serving in Contingency Operations, as designated by the Secretary of Defense.

Amended Returns – If you are domiciled outside of California and included your military pay in income from all sources on a previously filed California tax return, you may file an amended return to claim a refund for taxable years not closed by the general statute of limitations. In addition, servicemembers who are American Indian tribal members treated as living on an Indian reservation who, on a previously filed California tax return,

(continued on page 3)

B Filing Requirements

Residents - File a California tax return if either your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) or your adjusted gross income (AGI) (which consists of your federal AGI from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below.

Nonresidents and Part-Year Residents - File a California tax return if you have any income from California sources and your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) from all sources or your AGI (which consists of your federal AGI from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below.

Exception: Married taxpayers who choose the married filing separately filing status may have a tax liability in some cases even where combined income is under these amounts.



Even if you are not required to file a tax return, you must file a return in order to get a refund if California income tax was withheld from your pay or if you made estimated tax payments.

On 12/31/09, my filing status was:	and on 12/31/09, my age was: (If your 65th birthday is on January 1, 2010, you are considered to be age 65 on December 31, 2009)	California Gross Income			California Adjusted Gross Income		
		Dependents			Dependents		
		0	1	2 or more	0	1	2 or more
Single or Head of household (Get FTB Pub. 1540, California Head of Household Filing Status Information)	Under 65	14,622	17,889	20,339	11,698	14,965	17,415
	65 or older	19,522	21,972	23,932	16,598	19,048	21,008
Married filing jointly Married filing separately (The income of both spouses must be combined; each spouse may be required to file a tax return even if only one spouse had income over the amounts listed.)	Under 65 (both spouses)	29,245	32,512	34,962	23,396	26,663	29,113
	65 or older (one spouse)	34,145	36,595	38,555	28,296	30,746	32,706
	65 or older (both spouses)	39,045	41,495	43,455	33,196	35,646	37,606
Qualifying widow(er)	Under 65		17,889	20,339		14,965	17,415
	65 or older		21,972	23,932		19,048	21,008
Dependent of another person Any filing status	Any age	More than your standard deduction (Use the California Standard Deduction Worksheet for Dependents on in the instructions for your tax return to figure your standard deduction.)					

(continued from page 2)

included military pay in income from all sources, can amend previously filed returns to claim a refund for taxable years not closed by the statute of limitations.

Generally, the statute of limitations is the later of:

- Four years from the original due date of the return.
- Four years from the date a timely return is filed.
- One year from the date of overpayment.

However, the general statute of limitations may be extended by service in a combat zone, a disaster loss, or assignment outside the United States.

If you file an amended return:

- ▶ Use Form 540X, Amended Individual Income Tax Return.
- ▶ Write "Military – HR 100" in **red** at the top of side one of the Form 540X, and include a daytime phone number in the space provided on side 2 of the form.
- ▶ Attach a revised Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, Schedule CA (540NR), California Adjustments – Nonresidents and Part-Year Residents, and any other affected forms or schedules to Form 540X.
- ▶ Attach a copy of the military W-2 to the amended return.

If you are filing an amended return for a taxable year in which the general statute of limitations has closed, attach a statement explaining how you determined the extended statute of limitations. If the statute is extended because of military service in a combat zone or outside of the United States, attach copies of any documents that show when you served in a combat zone or overseas.

C Are You a Resident?

Active Duty Military – Generally, for tax purposes, you are considered a resident of the state from which you entered the military. The federal Servicemembers Civil Relief Act (SCRA) provides that:

- A person shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent in compliance with military orders.
- A person shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there in compliance with military orders.
- Compensation for military service is not considered to be from sources within the state where a member is stationed if that state is not the member's domicile.

Domicile is defined as the one place:

- Where you maintain a true, fixed and permanent home.
- To which you intend to return whenever you are absent.

For tax purposes, a military servicemember is not considered a resident of California unless he or she is domiciled in California.

An individual domiciled in California when entering the military is considered to be a:

- Resident while stationed in California.
- Resident while stationed in California on permanent change of station (PCS) orders and temporary duty (TDY) assignments outside California, regardless of the duration.
- Nonresident while stationed outside California on PCS orders.

Military servicemembers domiciled outside of California are considered nonresidents for tax purposes when stationed in California on PCS orders.

Spouses Not Covered Under the MSRRA and Retired Military – For purposes of determining residency, civilian spouses of military servicemembers not meeting the MSRRA requirements and retired military servicemembers are not covered by the federal SCRA, as amended by the MSRRA. For tax purposes, their residency is determined under state laws. R&TC Section 17014 defines a resident as:

1. Every individual who is in this state for other than a temporary or transitory purpose.
2. Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

For more information, get FTB Pub. 1031, Guidelines for Determining Resident Status.

D Examples of Resident Status

Military Personnel With a California Domicile

- **Stationed in California** – Military servicemembers whose domicile is California are residents of California and are subject to tax on all income, regardless of source, while stationed in California on permanent military orders.
- **Stationed Outside California** – California military servicemembers who leave California under PCS orders become nonresidents of California for income tax purposes. 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.
- California military servicemembers who leave California under a TDY assignment continue to be California residents even though absent from the state.
- California military servicemembers on a ship whose home port is in California remain California residents while on sea duty, regardless of the ship's location.

Nonmilitary Spouse – If the spouse of the military servicemember remains in California, the nonmilitary spouse is considered a California resident. As a California resident, the spouse is subject to tax on all of his or her separate income, regardless of where it is earned. If the military servicemember retains a California domicile, the spouse is also subject to tax on his or her one-half community property share of all income, including the military servicemember's military pay.

The nonmilitary spouse of a military servicemember who is domiciled in California, but leaves the state with the military spouse on PCS orders outside California, becomes a nonresident upon leaving California. The MSRRA does not alter this result. All income received or earned while a California resident is subject to tax. While a nonresident, only income from California sources is subject to tax.

Military Personnel Domiciled Outside of California – Military servicemembers who are domiciled outside California remain nonresidents, even though stationed in California, unless they establish a California domicile.

Military Couples – Each servicemember follows the above rules applicable to each of them as an individual military servicemember.

E Joint or Separate Returns

Active duty military servicemembers and their spouses who file joint federal returns may file joint or separate returns for California.

When filing separate returns, a full-year resident spouse must file Form 540 or Form 540A. A nonresident or part-year resident spouse must file a Long Form 540NR. When filing a joint return and one spouse is a nonresident or part-year resident, you must file a Long or Short Form 540NR. You should figure your tax both jointly and separately to determine which filing status will result in the lower amount of tax.

A married couple who file a joint return may amend that return, within the general statute of limitations, after the original due date to change their filing status from married filing jointly to married filing separately if either spouse was:

- An active servicemember of the armed forces or any auxiliary branch, or
- A nonresident for the entire taxable year who had no income from a California source.

F Income Subject to California Tax

In general, California taxes all of the income you receive while you are a resident of California and all of the income you receive from California sources while you are a nonresident.

Under the federal SCRA, military servicemembers who are not domiciled in California are not taxed by California on pay received for military services performed in California, even though they were stationed in California for the entire year. However, all other income of nonresident military servicemembers from California sources is subject to California tax.

California Source Income – California source income includes income from all of the following:

- Nonmilitary services performed in California such as salaries or wages from a second job held by a nonresident military member.
- A trade or business located in California.
- Real or tangible personal property located in California.

Intangible Income – Income from intangible property (such as dividends from stocks or interest from bonds or bank accounts), regardless of the location of the payor, is sourced in the state of residence of the recipient. Therefore, intangible income is not taxable by California if received by a nonresident.

Military pay – Military pay is not included in California source income unless the military servicemember is domiciled in California and stationed in California. However, American Indian tribal servicemembers treated as living on an Indian reservation are not taxed on their military pay. For information on how American Indians treat other types of income, get FTB Pub. 674, Frequently Asked Questions About the Income Taxation of Native Americans.

Military Retirement Pay – Military retirement pay is taxable by California if it is received by a California resident. This

applies to all military pension income received while the retiree is a California resident regardless of where the retiree was stationed or domiciled while on active duty.

Example: John Douglas was a nonresident of California stationed outside California all of his active duty military career. He retires and moves to California. His military pension income received after he moves to California is taxable by California.

Nonresidents of California are not taxed on military retirement pay or other qualified retirement income. For more information, get FTB Pub. 1005, Pension and Annuity Guidelines.

Division of Income, When Separate Returns Are Filed – For tax purposes, income is allocated between spouses based upon whether the person receiving the income is domiciled in a community property or separate property state.

Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

Puerto Rico, Guam, and Northern Mariana Islands are community property territories. All other states and U.S. territories are separate property states or territories.

The domicile of the spouse earning the income determines the division of income between the spouses when separate returns are filed. (See Section C, Are You a Resident?, for the definition of domicile.) Each spouse must follow the laws of his or her state of domicile to determine if the income is separate or community property. If the state of domicile is a community property state, when filing separate returns, each spouse must report half of the community property plus each spouse's separate income on each return. Get FTB Pub. 1051A, Guidelines for Married/RDP Filing Separate Returns, for more information regarding the division of income.

Income from joint accounts is assumed to belong equally to each party. Therefore, if you and your spouse file separate returns, each must report one-half of any taxable income from a joint account.

Example: Lt. Tucker is domiciled in New York, a separate property state, and Mrs. Tucker is domiciled in California, a community property state. Wages earned by Lt. Tucker are his separate income for tax purposes. Wages earned by Mrs. Tucker are community property for tax purposes and each spouse must report his or her community half if they are filing separate returns.

Nonresident Military Personnel with California

Domicile – When you compute your total AGI from all sources under California law on Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents, column A should include **all** income you reported on your federal return. **Do not enter your military income or non-California source income in column B.** Use column B and column C to make **only** the adjustments described in the instructions for Schedule CA (540NR). Be sure to read the instructions for Schedule CA (540NR), line 7.

To compute your part-year or nonresident California AGI, **do not** enter your military income or other non-California source income in Schedule CA (540NR), column E.

Short Form 540NR filers: Include all the income you reported on your federal return on Short Form 540NR,

line 13. Enter on Short Form 540NR, line 14 any unemployment compensation or Paid Family Leave benefits you received. To figure your part-year or nonresident California AGI, **do not** include your military income or non-California source interest on Short Form 540NR, line 32.

Resident Nonmilitary Spouse – Resident nonmilitary spouses are taxed on their entire share of taxable income. If a military servicemember is domiciled in California, the resident nonmilitary spouse’s community half of military pay is included in total California AGI regardless of the military servicemember’s residency status.

Military Pay Adjustment (MPA) – Military pay of a servicemember domiciled outside of California cannot be used to determine the amount of California tax you (or your spouse) must pay. Since the California return starts with federal AGI, which includes your military pay, you must make an adjustment on your California return. This is called the “military pay adjustment” or “MPA”.

If you file:

Long Form 540NR, enter your military pay on Schedule CA (540NR), Part II, line 7, column B. Write “**MPA**” to the left of column A or include it according to your software’s instructions. **Do not** include your military pay in column E.

Short Form 540NR, enter your military pay on Short Form 540NR, line 14. Write “**MPA**” on the dotted line to the left of line 14 or include it according to your software’s instructions. **Do not** include your military pay on line 32.

Example: Lt. Pope is a nonresident domiciled outside of California. Mrs. Pope is a resident of California. They should enter Lt. Pope’s military pay on Schedule CA (540NR), line 7, column B. See the examples on page 7 and page 8 for the division of pay between spouses.

Modified Federal Adjusted Gross Income – Some deductions and credits are limited by federal AGI. Military pay of a servicemember domiciled outside of California cannot be used to reduce the amount of these deductions and credits. You must modify your federal AGI used to compute these limitations by subtracting your military pay from federal AGI. The deductions and credits subject to a federal AGI limitation are:

- Exemption Credit – if using modified federal AGI to compute the exemption credit phase out, write “**MPA**” to the left of the exemption credit amount on Long Form 540NR, line 39 (for taxable years 2001 and prior, line 23) or for the resident spouse filing a separate return, Form 540, line 32 or include it according to your software’s instructions.
- Medical and Dental Expenses – limited to amounts in excess of 7.5% of federal AGI on federal Schedule A.
- Gifts to Charity – subject to a 20%, 30%, and 50% federal AGI limitation.
- Casualty and Theft Losses – total amount of all losses limited to amounts in excess of 10% of federal AGI on federal Schedule A.
- Job Expenses and Most Other Miscellaneous Expenses – limited to amounts in excess of 2% of federal AGI.
- Investment expenses included as a Miscellaneous Itemized Deduction on federal Schedule A, subject to the 2% of federal AGI limitation and reported on form FTB 3526, Investment Interest Expense Deduction.
- Passive Activity Losses – modified federal AGI limitation.
- Student Loan Interest Deduction – figured on the Student Loan Interest Deduction Worksheet.

- Child and Dependent Care Expenses Credit – See Section I.
- Alternative Minimum Tax (AMT).
- Underpayment of Estimated Tax.

G Tax Computation for Part-Year Residents or Nonresidents

The California tax on part-year residents or nonresidents is the **California taxable income** multiplied by a **California tax rate**. Nonresidents use either: (1) the **Short Form 540NR**; or (2) the **Long Form 540NR** and **Schedule CA (540NR)** to compute their tax.

California taxable income is the income subject to California tax as explained in Section F of this publication less certain deductions, such as a prorated portion of the standard deduction or itemized deductions.

The **California tax rate** is figured as follows:

Step 1: Generally nonresidents or part-year residents determine their total taxable income as if they were California residents for the entire year and taxable on all their income. However, military servicemembers domiciled outside of California, whether residing inside or outside of California, exclude their military compensation from this total taxable income amount. See Section F, Income Subject to California Tax. Nonresident servicemembers must refigure any federal AGI limitations by first subtracting military compensation from federal AGI. See Section F.

Step 2: Compute the tax on the total taxable income from Step 1.

Step 3: Divide the tax from Step 2 by the total taxable income from Step 1. This is the California tax rate. Multiply California taxable income by the California tax rate to determine your part-year or nonresident California tax.

$$\begin{array}{rclcl} \text{California} & & \text{Tax on total taxable income} & & \text{Prorated} \\ \text{taxable} & \times & \text{Total taxable income} & = & \text{tax} \\ \text{income} & & & & \end{array}$$

H Nonrefundable Renter’s Credit

California residents or part-year residents who paid rent for at least six months on their principal residence located in California and meet certain income requirements may claim a **nonrefundable** renter’s credit against tax. Taxpayers who do not owe tax may not claim the credit.

I Child and Dependent Care Expenses Credit

California allows a refundable credit for child and dependent care expenses. You may be eligible to claim this credit if you paid someone to care for your child or other qualifying person so you (and your spouse, if married) could work or look for work. If you are a nonresident of California, your earned income must be from California sources. For purposes of this credit, income for services performed in California by a

servicemember's spouse that is not subject to state tax under the MSRRA is not considered earned income from California sources. Active duty pay is considered earned income from California sources, regardless of whether the servicemember is domiciled in California. Generally, if you are married, you must file a joint return. To qualify for the credit, both spouses must have California earned income. A full-time student or disabled person is deemed to have earned income. Your federal AGI must be \$100,000 or less. For more information, get form FTB 3506, Child and Dependent Care Expenses Credit.

Example: Sgt. Miller is domiciled in California, but stationed all year in Virginia. Sgt. Miller's only source of earned income is his military pay. His wife, Ann, and their child remained in California. Ann worked in California and they incurred childcare expenses for care provided in California. Because Sgt. Miller's military pay while serving in Virginia is **considered** California earned income for purposes of computing the credit, they qualify for the credit, if they meet all other qualifications.

Military Personnel Domiciled Outside of California.

This is additional information you need to complete form FTB 3506.

- **Military pay is considered California earned income for purposes of computing the credit** – Under California law, your military pay for service in California is considered California earned income for purposes of computing the credit.
- Income for services performed in California by a servicemember's spouse that is not subject to state tax under the MSRRA is not considered California earned income for purposes of computing the credit.
- **Modified federal adjusted gross income** – Use the federal AGI less your military pay to determine:
 - If your federal AGI is \$100,000 or less.
 - The decimal amount to use on form FTB 3506, line 7 and line 9.

If using modified federal AGI to compute the Child and Dependent Care Expenses Credit, write "MPA" to the left of the credit amount on form FTB 3506, line 12 or include it according to your software's instructions.

J Alternative Minimum Tax (AMT)

If you claim certain types of deductions and income exclusions, you may be subject to California's AMT. Generally, if you filed federal Form 6251, Alternative Minimum Tax – Individuals, you must also file California's Schedule P (540), Alternative Minimum Tax and Credit Limitations — Residents, with Form 540; or Schedule P (540NR), Alternative Minimum Tax and Credit Limitations — Nonresidents or Part-Year Residents, with Long Form 540NR.

The MPA as described in Section F, if applicable, is used to reduce the federal AGI when computing several lines of Schedule P and when determining other limitations.

K Extensions – Combat Zone, Military Overseas, or Contingency Operations

Military servicemembers are allowed a filing extension of up to 180 days to file their California income tax returns and pay their tax, without interest or penalties, under the following conditions:

- If you were in a designated **combat zone, contingency operation** or in a **qualified hazardous duty area (QHDA)** anytime during the taxable year or filing period (January 1 to April 15), you are entitled to an extension to file and pay, without interest and penalties, of up to 180 days after leaving the combat zone or QHDA. In addition to the 180 day extension, you are entitled to an extension for the number of days you were in a combat zone or QHDA during the filing period, up to 106 days.
- If you served outside the United States, but not in a designated **combat zone, contingency operation** or **QHDA**, you are entitled to an extension of time to file and pay without interest and penalties, of up to 180 days after returning from overseas.

IMPORTANT:

How do I indicate that I qualify for the extension to file and pay?

- If you were serving in the military overseas, write "**MILITARY OVERSEAS**" at the top of your tax return in **RED INK**.
- If you served in a designated combat zone or QHDA write "**COMBAT ZONE**" and the **area you served** in at the top of your tax return in **RED INK**.
- You must also write the **date you were deployed** overseas or **entered** a designated **combat zone** or **QHDA** and the date you returned from overseas or from a designated **combat zone** or **QHDA**.
- If both you and your spouse were in the military, write the information for both of you and indicate which is your information and which is your spouse's information.

The extensions apply to the servicemember and spouse regardless of whether a joint return or separate returns are filed.

L Examples of Income Reporting Requirements

The following chart includes examples that illustrate California's income reporting requirements. To use the chart, read down the first column to find your status: Military servicemember (M) or Spouse (S), then read across to find the type of return to file and the type of income to report. Servicemembers domiciled outside of California should exclude their military compensation by claiming the MPA on Schedule CA (540NR), Part II, line 7, column B, and write "MPA" to the left of line 7, or include it according to your software's instructions. If you file Short Form 540NR, you should enter your military compensation on line 14, and write "MPA" on the dotted line to the left of line 14 or include it according to your software's instructions. These examples assume you were either a nonresident for the entire year or a resident for the entire year. Part-year residents should get FTB Pub. 1031 for more information.

Status **Examples of Income Reporting Requirements**

M = Military servicemember, S = Spouse

California Domiciled Military

SINGLE TAXPAYERS

- 1.** M – Domiciled in California. Stationed in California all year. File Form 540A or Form 540 2EZ and report all income, including military income; or file Form 540 and report all income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C.
- 2.** M – Domiciled in California. Stationed outside California all year. If you have California source income, file long or short Form 540NR and report all income, including military income, on Schedule CA (540NR), column A or Short Form 540NR, line 13. Do not enter military income on Schedule CA (540NR), column B or column C or on Short Form 540NR, line 14. Exclude your military compensation and other non-California source income from Schedule CA (540NR), column E or Short Form 540NR, line 32. If you have no California source income, you are not required to file a California return.
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MARRIED TAXPAYERS

- 3.** M – Domiciled in California. Stationed in California all year. If filing a joint return, file Form 540A or Form 540 2EZ and report all income, including military income, or file Form 540 and report all income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C.
S – Domiciled in California. Resided in California all year. If filing separate returns, each spouse must file Form 540 and report his or her one-half share of all community income, including military income, and his or her separate income, if any, on Schedule CA (540), column A. Do not enter military income in column B or column C.
- 4.** M – Domiciled in California. Stationed outside California all year. If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or Short Form 540NR, line 13. Do not enter military income on Schedule CA (540NR), column B or column C or on Short Form 540NR, line 14. Report all California source income, all S's separate income, and S's community one-half share of all non-California source income on Schedule CA (540NR), column E or Short Form 540NR, line 32. This includes S's community one-half share of military pay and intangible income.
S – Domiciled in California. Resided in California all year. If filing separate returns, M must file Long Form 540NR. Report all separate income and one-half share of all community income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Report all separate California source income and one-half share of community California source income on Schedule CA (540NR), column E. Do not enter military income, intangible income, or other non-California source income on Schedule CA (540NR), column E.
If filing separate returns, S must file Form 540 and report all separate income and his or her one-half share of all community income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C.
- 5.** M – Domiciled in California. Stationed in California all year. If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or Short Form 540NR, line 13. Do not enter military income on Schedule CA (540NR), column B or column C or on Short Form 540NR, line 14. Report on Schedule CA (540NR), column E or Short Form 540NR, line 32, all California source income, including all military income, and M's community one-half share of S's non-California source income, and M's one-half share of intangible income.
S – Domiciled in California. Resided outside California all year. If filing separate returns, M must file Form 540 or 540A, and report his or her one-half share of all community income, including military pay, and his or her separate income, if any, on Schedule CA (540), column A. Do not enter military income in column B or column C.
If filing separate returns, S must file Long Form 540NR. Report on Schedule CA (540NR), column A, one-half of all community income, including military income, and his or her separate income, if any. Do not enter military income in column B or column C. Report your one-half share of California source community income, including military income, and any separate California source income in column E.
- 6.** M – Domiciled in California. Stationed outside California all year. If filing a joint return, file Long or Short Form 540NR. If filing separate returns, file Long Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or Short Form 540NR, line 13. Do not enter military income on Schedule CA (540NR), column B or column C or on Short Form 540NR, line 14. Report on Schedule CA (540NR), column E, all California source income. Do not include in column E, military, intangible, or other non-California source income (including the spouse's income for services performed outside of California). If there is no California source income, M and S do not have to file a California return.
S – Domiciled in California. Resided outside California all year.
-

Status**Examples of Income Reporting Requirements (continued)**

M = Military servicemember, S = Spouse MPA = Military pay adjustment

Non-California Domiciled Military**SINGLE TAXPAYERS**

- 7.** M – Domiciled outside California. Stationed in or out of California all year.
- If you have California source income, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Enter all military income on Schedule CA (540NR), column B or on Short Form 540NR, line 14. Report on Schedule CA (540NR), column E or Short Form 540NR, line 32 California source income. Do not enter military income on Schedule CA (540NR), column E or Short Form 540NR, line 32. If M has no California source income, M is not required to file a California return.

MARRIED TAXPAYERS

- 8.** M – Domiciled in a community property state (other than California). Stationed in or out of California all year.
S – Domiciled in a community property state. Resided in California all year.
- If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Report all military income in column B or on Short Form 540NR, line 14. Report all California source income, plus S's share of intangible income, and S's other non-California source income in column E or on Short Form 540NR, line 32. Do not include M's military income, M's share of intangible income, or M's other non-California source income in column E or on Short Form 540NR, line 32.
- If filing separate returns, M must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income and your one-half share of all community income, including M's one-half share of military income. Enter your one-half share of military income on Schedule CA (540NR), column B. Report all separate California source income and one-half of California source community income in column E. Do not enter military or intangible income in column E.
- If filing separate returns, S must file Form 540. Report all separate income and your one-half share of all community income, including S's community one-half share of military income on Schedule CA (540), column A. Enter S's community one-half share of military income on Schedule CA (540), column B.
- See page 9 for an illustration of how to complete Schedule CA when filing jointly or filing separately.
- 9.** M – Domiciled in a separate property state. Stationed in or out of California all year.
S – Domiciled in a separate property state. Resided in California all year.
- If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Enter all military income in column B or on Short Form 540NR, line 14. Report all California source income, plus S's intangible income, and S's other non-California source income in column E or on Short Form 540NR, line 32. Do not enter military income in column E or on Short Form 540NR, line 32.
- If filing separate returns, M must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including all military income, M's intangible income, California source income and non-California source income. Enter in column B all M's military pay. Report in column E all M's California source income. Do not report military or intangible income in column E. If M has no California source income, M does not have to file a California return.
- If filing separate returns, S must file Form 540 or Form 540A and report all separate income of S from all sources.
- 10.** M – Domiciled in a separate property state. Stationed in or out of California all year.
S – Domiciled in a community property state. Resided in California all year.
- If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Enter all military income in column B or on Short Form 540NR, line 14. Report on Schedule CA (540NR), column E or on Short Form 540NR, line 32, all California source income plus S's intangible income, and S's other non-California source income. Do not include military income.
- If filing separate returns, M must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income including military income and one-half of S's community income. Enter in column B all M's military income. Report on Schedule CA (540NR), column E, all separate California source income and your one-half share of California source community income. Do not include M's military or intangible income.
- If filing separate returns, S must file Form 540. Report all separate income and your one-half share of all community income on Schedule CA (540), column A.
- 11.** M – Domiciled in a community property state (other than California). Stationed in or out of California all year.
S – Domiciled in a separate property state. Resided in California all year.
- If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Enter all military income in column B or on Short Form 540NR, line 14. Report all California source income, plus S's share of intangible income, and S's other non-California source income in column E or on Short Form 540NR, line 32. Do not include M's military income, M's share of intangible income, or M's other non-California source income in column E or on Short Form 540NR, line 32.
- If filing separate returns, M must file Long Form 540NR. Report on Schedule CA (540NR), column A all separate income and M's one-half share of all community income, including military income. Enter in column B one-half of M's military income. Report all separate California source income and M's one-half share of California source community income in column E. Do not include military or intangible income in column E.
- If filing separate returns, S must file Form 540. Report all separate income and your one-half share of all community income, including S's community one-half of military income on Schedule CA (540), column A. Enter S's community one-half of military income on Schedule CA (540), column B.

Illustration for example 8:

The following provides partial views of Schedule CA (540) and Schedule CA (540NR).

Lt. Pope is domiciled in Texas, a community property state, and Mrs. Pope is domiciled in California, a community property state. Lt. Pope was stationed in California for all of 2009 and received \$32,500 in military wages and Mrs. Pope, who also lived in California, received \$29,000 in wages. Lt. and Mrs. Pope also have a joint savings account from which they received \$200 in interest income. Following are illustrations of how their income would be reported on Schedule CA (540 or 540NR) of their California return(s) (refer to example 8 on page 8):

Filing a Joint Return (Long Form 540NR)

They would make the following entries on Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E	
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts	
Section A – Income							
7	Wages, salaries, tips, etc. See instructions before making an entry in column B or C	7	\$61,500	\$32,500****		\$29,000	\$29,000*
8	Taxable interest income	8	200			200	100

Filing Separate Returns

Lt. Pope would file Long Form 540NR and would make the following entries on Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E	
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts	
Section A – Income							
7	Wages, salaries, tips, etc. See instructions before making an entry in column B or C	7	\$30,750**	\$16,250****		\$14,500	\$14,500***
8	Taxable interest income	8	100			100	

Mrs. Pope would file Form 540 and would make the following entries on Schedule CA (540):

Part I	Income Adjustment Schedule	A	B	C
		Federal Amounts	Subtractions	Additions
Section A – Income				
7	Wages, salaries, tips, etc. See instructions before making an entry in column B or C	7	\$30,750**	\$16,250****
8	Taxable interest income	8	100	

Filing a Joint Return (Short Form 540NR)

13	Enter federal AGI from Form 1040, line 37; Form 1040A, line 21; Form 1040EZ, line 4; Form 1040NR, line 35; or Form 1040NR-EZ, line 10	13	\$61,700*****	
14	Unemployment compensation and military pay adjustment. See instructions	14	32,500	
17	AGI from all sources. Subtract line 14 from line 13	17	29,200	

* Mrs. Pope's \$29,000 in wages.
 ** One-half of Lt. Pope's military pay, \$16,250 plus one-half of Mrs. Pope's wages, \$14,500.
 *** One-half of Mrs. Pope's wages.
 **** R&TC Section 17140.5 military pay adjustment.
 ***** Includes \$200 taxable interest.

Military Spouses Residency Relief Act (MSRRA)

Are You a Resident?

Generally, for tax purposes you are considered to maintain your existing residence or domicile. If the military servicemember and nonmilitary spouse have the same state of domicile, the federal MSRRA provides:

- A spouse shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent to be with the servicemember serving in compliance with military orders.
- A spouse shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there to be with the servicemember serving in compliance with military orders.

Domicile is defined as the one place:

- Where you maintain a true, fixed and permanent home.
- To which you intend to return whenever you are absent.

A military servicemember's nonmilitary spouse is considered a nonresident for tax purposes if the servicemember and spouse have the same domicile outside of California and the spouse is in California solely to be with the servicemember who is serving in compliance with PCS orders. (Note: California may require nonmilitary spouses of military servicemembers to provide proof that they meet the criteria for California personal income tax exemption as set forth in the MSRRA.)

Income Subject to California Tax

In general, California taxes all of the income you receive while you are a resident of California and all of the income you receive from California sources while you are a nonresident.

Under the MSRRA, the income of a nonmilitary spouse of a military servicemember for services performed in California is not considered to be from sources within this state if the spouse is not a California resident because the spouse is in California solely to be with the servicemember serving in compliance with military orders and both have the same out-of-state domicile.

Thus a spouse is not taxed by California on income received from services performed in California if the spouse is not a California resident because the spouse meets the three MSRRA requirements above. However, all other income of nonresident spouses from California sources is subject to California tax.

California Source Income – For the Military Servicemember's Nonmilitary Spouse Who Meets the MSRRA Requirements.

California source income includes income from all of the following:

- Real or tangible personal property located in California.
- A trade or business located in California except to the extent it receives income for services performed by the MSRRA-qualifying servicemember's spouse.

Tax Computation for Part-Year Residents or Nonresidents

To determine the amounts of "California taxable income" and "total taxable income" described in Section G, Tax Computation for Part-Year Residents or Nonresidents, the income for services performed in California by a military servicemember's nonmilitary spouse meeting the MSRRA requirements is not included in California taxable income, Schedule CA (540NR), column E. However, this income is included in total taxable income, Schedule CA (540NR), column D, to arrive at the applicable California tax rate.

Status**Examples of Income Reporting Requirements for Military Servicemembers and Nonmilitary Spouses Who Meet the MSRRA Requirements**

M = Military servicemember, S = Spouse

MARRIED TAXPAYERS

- | | |
|--|---|
| 1. M – Domiciled in a community property state (other than California).
Stationed in California all year.
S – Domiciled in the same community property state as M.
Resided in California all year. | If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Report all military income in column B or on Short Form 540NR, line 14. Report all California source income, in column E or on Short Form 540NR, line 32. Do not include intangible or non-California source income in column E or on Short Form 540NR, line 32.
If filing separate returns, M and S must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income and your one-half share of all community income, including M's one-half share of military income. Enter your one-half share of military income on Schedule CA (540NR), column B. Report all separate California source income and one-half of California source community income in column E. Do not enter military or intangible income in column E.
See page 12 for an illustration of how to complete Schedule CA when filing jointly or separately. |
| 2. M – Domiciled in a separate property state.
Stationed in California all year.
S – Domiciled in the same separate property state as M.
Resided in California all year. | If filing a joint return, file Long or Short Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A or on Short Form 540NR, line 13. Enter all military income in column B or on Short Form 540NR, line 14. Report all California source income in column E or on Short Form 540NR, line 32. Do not enter military or intangible income in column E or on Short Form 540NR, line 32.
If filing separate returns, M must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including all military income, M's intangible income, California source income and non-California source income. Enter in column B all M's military pay. Report in column E all of M's California source income. Do not report military or intangible income in column E. If M has no California source income, M does not have to file a California return.
If filing separate returns, S must file Long Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including S's intangible income, California source income and non-California source income. Report in column E all of S's California source income. Do not report intangible income in column E. If S has no California source income, S does not have to file a California return. |
-

Illustration for example 1:

The following provides partial views of Schedule CA (540NR).

Lt. and Mrs. Johnson are domiciled in Texas, a community property state. Lt. Johnson was stationed in California for all of 2009 and received \$32,500 in military wages and Mrs. Johnson, who also lived in California, received \$29,000 in wages. Lt. and Mrs. Johnson also have a joint savings account from which they received \$200 in interest income. They also sold California rental property for a net gain of \$50,000. Following are illustrations of how their income would be reported on Schedule CA (540NR) of their California return(s) (refer to example 1 on page 12):

Filing a Joint Return (Long Form 540NR)

They would make the following entries on Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income						
7	Wages, salaries, tips, etc. See instructions before making an entry in column B or C. 7	\$61,500	\$32,500 ¹		\$29,000 ²	
8	Taxable interest income 8	200			200	
13	Capital Gains or (loss). See instructions 13	50,000			50,000	50,000 ³

Filing Separate Returns (Long Form 540NR)

Lt. and Mrs. Johnson must each file Long Form 540NR and would make the following entries on their individual Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income						
7	Wages, salaries, tips, etc. See instructions before making an entry in column B or C. 7	\$30,750 ⁴	\$16,250		\$14,500 ⁵	
8	Taxable interest income 8	100			100	
13	Capital Gains or (loss). See instructions 13	25,000			25,000	25,000 ⁶

¹ R&TC Section 17140.5 military pay adjustment.

² Mrs. Johnson's \$29,000 in wages.

³ Income from sale of rental property.

⁴ One-half of Lt. Johnson's military pay, \$16,250 plus one-half of Mrs. Johnson's wages, \$14,500.

⁵ One-half of Mrs. Johnson's wages.

⁶ One-half of income from sale of rental property.

Additional Information

What if I am involved in an audit or have received correspondence from the Franchise Tax Board?

If you are a military servicemember stationed in the United States, follow the instructions in the correspondence you received. If you are stationed outside the United States, in most cases, we will defer any audit activity for up to 180 days following your return to the United States. Contact us or have your authorized representative contact us at the number shown on the correspondence we sent you, or see "General Phone Service" to get more information. You will be asked to provide all of the following information:

- Copy of correspondence from the Franchise Tax Board (FTB).
- Name and social security number.
- Branch of service.
- Unit name and number.
- Dates you entered and left the United States.
- Mailing and/or permanent address.

What if I owe back taxes?

In most cases you will be able to defer payment of back taxes, without interest or penalties, for up to 180 days following your return to the United States.

If you received a notice from the FTB, call the number shown on the notice, or have your authorized representative contact us. You will be asked to provide all of the following information:

- Name and social security number.
- Branch of service.
- Unit name and number.
- Dates you entered and left the United States.
- Mailing and/or permanent address.

If you were a servicemember of the National Guard or a reservist called to full-time active duty, you may be able to defer payment of back taxes, without interest and penalties, from the date you were called to full-time active duty service until 180 days following the date you left service, if your ability to pay the tax is materially impaired by reason of the service.

In order to qualify for a deferral of back taxes, you must provide the FTB a certificate signed by an appropriately authorized officer of the military with all of the following information:

- Name.
- Dates you entered and left full-time active duty.
- Place where the service occurred.
- Rank, branch, and unit.
- Monthly pay received at the date the certificate was issued.

How to Get California Tax Information

By Internet – You can download, view, and print California tax forms and publications at ftb.ca.gov.

By phone – Call our phone numbers listed under "General Phone Service" to get the California tax forms you need.

In person – Many libraries and post offices provide free California tax booklets during the filing season.

Employees at libraries and post offices cannot provide tax information or assistance.

By mail – We will send you two copies of each tax form and one copy of each set of instructions. Allow two weeks to receive your order. If you live outside California allow three weeks to receive your order. Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Letters

If you write to us, be sure your letter includes your social security number and your daytime and evening telephone numbers. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

We will respond to your letter within ten weeks. In some cases, we may need to call you for additional information.

Volunteer Income Tax Assistance

At more than 1,500 sites throughout California, trained volunteers provide free assistance to low-income, senior, disabled, and non-English speaking persons who need to file simple federal and state income tax returns. Many military bases also provide this service for servicemembers of the armed forces.

The volunteer income tax assistance locations will be listed at ftb.ca.gov from mid-January 2010, through April 15, 2010, or call the FTB at 800.852.5711 to find the volunteer assistance location nearest you.

General Phone Service

Telephone assistance is available year-round from 8 a.m. until 5 p.m. Monday through Friday, except holidays. Hours subject to change.

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States
TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

For federal tax questions, call the IRS at 800.829.1040

Asistencia bilingüe en español

Asistencia telefónica está disponible todo el año durante las 8 a.m. y las 5 p.m. lunes a viernes, excepto días festivos. Las horas están sujetas a cambios.

Telefono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos

TTY/TDD: 800.822.6268 personas con discapacidades auditivas y del habla