
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 MSRRR Requirements**

M = Military servicemember, S = Spouse

MARRIED TAXPAYERS

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| 1. M – Domiciled in a community property state (other than 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 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. |
| S – Domiciled in the same community property state as M.
Resided in California all year | 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. |
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| 2. M – Domiciled in a separate property state.
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 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. |
| S – Domiciled in the same separate property state as M.
Resided in California all year. | 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. |
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