



Illinois Department of Revenue

Informational Bulletin

Brian Hamer
Director of Revenue

For information . . .

Visit our web site —
tax.illinois.gov

Call us —
1 800 732-8866 or
217 782-3336
1 800 544-5304 (TDD only)

Write us —
Illinois Department of Revenue
P.O. Box 19044
Springfield, IL 62794-9044

For forms . . .

Visit our web site —
tax.illinois.gov

Call our Forms Order Line —
1 800 356-6302

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

New Military Spouse Illinois Income Tax Withholding Requirements for Employers

To: All Income Tax Preparers

This bulletin summarizes the impact to Illinois Income Tax withholding from the new federal Military Spouses Residency Relief Act. The act is effective beginning with the 2009 tax year.

Previously only the military service member did not have to change his or her state of residency while stationed in Illinois. The new law permits the spouse of a service member stationed in Illinois the option of retaining the same state of residency.

What are the requirements?

You are no longer required to withhold Illinois Income Tax from wages earned in Illinois by a nonresident spouse who

- is present in Illinois only to accompany the service member who is stationed in Illinois, and
- is a resident of the same state as the service member, other than Illinois, and
- completes Form IL-W-5-NR, Employee's Statement of Nonresidence in Illinois, and checks the box to indicate that he or she is exempt from Illinois Income Tax withholding.

Illinois Income Tax withholding is required for

- the spouse who earns wages in Illinois and lives in another state. For example, a spouse living in Indiana and working in Illinois is not exempt from withholding of Illinois Income Tax on wages from that job.
- an employee who is an Illinois resident working in another state and whose wages are exempt from tax and withholding in that other state under the new act, for employers conducting business in Illinois.
- a service member who takes a civilian job. For the service members, the Servicemembers Civil Relief Act only exempts military pay from tax by any state other than the state of residence.

If you are required to withhold or choose to voluntarily withhold Illinois Income Tax, your employee (the spouse of the service member) should complete Form IL-W-4, Employees' Illinois Withholding Allowance Certificate, so that you can properly determine the amount of withholding.

Where can my employee find more information?

Your employee may refer to Illinois Schedule MR, Military Spouse Relief for more information. In addition, your employee may also see FY 2010-11, What's New for Illinois Income Tax, and Publication 102, Illinois Filing Requirements for Military Personnel.

What changes the spouse's eligibility?

Examples that would cause the spouse to no longer be eligible include

- Service member leaves the service;
- Divorce;
- Physical separation due to duty changes — the service member's orders move him or her to a location outside the state where the spouse is allowed to join him or her but chooses not to; and
- The spouse performs some action that clearly establishes Illinois as his or her state of residence. This could include filing a court action, such as a claim for divorce, accepting in-state tuition, and applying for certain state benefits, such as a tax credit available only for residents.