



Publication 102

April 2011

Illinois Filing Requirements for Military Personnel

The information in this publication is current as of the date of the publication. Please visit our website at tax.illinois.gov to verify you have the most current revision.

This publication is written in the plain English style so the tax information is easier to understand. As a result, we do not directly quote Illinois statutes and the Illinois Administrative Code. The contents of this publication are informational only and do not take the place of statutes, rules, and court decisions. For many topics, we have provided a reference to the applicable section or part of the Illinois Administrative Code for further clarification or more detail. All of the sections and parts referenced can be found in Title 86 of the Code.

About this publication

Publication 102, Illinois Filing Requirements for Military Personnel, provides detailed information about Illinois Individual Income Tax filing requirements for military personnel.

The objectives of Publication 102 are to

- explain if military personnel are Illinois residents, part-year residents, or nonresidents.
- explain the options for filing a joint Illinois return.
- clarify which military personnel are required to file an Illinois return.
- explain what military income is taxed in Illinois.
- explain which forms military personnel should use.
- explain how military spouses should report their civilian wages.

Taxpayer Bill of Rights

You have the right to call the Department of Revenue for help in resolving tax problems.

You have the right to privacy and confidentiality under most tax laws.

You have the right to respond, within specified time periods, to department notices by asking questions, paying the amount due, or providing proof to refute the department's findings.

You have the right to appeal department decisions, in many instances, within specified time periods, by asking for department review or by taking the issue to court.

If you have overpaid your taxes, you have the right, within specified time periods, to a credit (or, in some cases, a refund) of that overpayment.

For more information about these rights and other department procedures, you may write us at the following address:

Problems Resolution Office
Illinois Department of Revenue
PO Box 19014
Springfield, IL 62794-9014

Get forms and other information faster and easier at tax.illinois.gov

Am I an Illinois resident?

You are an Illinois resident if you reside in Illinois or have a legal domicile in Illinois but are absent for a temporary purpose during the tax year.

A domicile is the place where you reside and the place where you intend to return after temporary absences. Temporary absences include performing active duty in the armed forces while being stationed outside the state, even for considerable periods of time.

If you are a member of the armed forces, you are not a resident of Illinois if you are present in Illinois only because of your military assignment. If you are a spouse of a service member, you are not a resident of Illinois if you are a resident of the same state as your spouse and you are present in Illinois only to accompany your spouse on his or her military assignment. In either case, you have the option of remaining a nonresident of Illinois, regardless of how long you are present in the state, but you may choose to establish residency in Illinois.

Am I a part-year resident of Illinois?

If you are an Illinois resident for only part of the tax year, you will be considered a part-year resident. For example, if you changed your domicile to a location within Illinois during the tax year, you are a part-year resident of Illinois.

Am I a nonresident of Illinois?

If you are a resident of another state and come to Illinois only because of a military assignment, you will remain a nonresident of Illinois regardless of how long you are in Illinois unless you elect to become an Illinois resident.

If you were domiciled in Illinois at the time you joined the armed forces or elected to change your residence to Illinois after being stationed here, you will remain an Illinois resident as long as you remain in the armed forces, unless you elect to become a resident of another state where you are stationed.

What are my options for filing a joint return with my spouse?

For tax years 2009 and after, spouses who file a joint federal return may elect to file a joint Illinois return. If you file a joint Illinois return, and one spouse is an Illinois resident while the other is not, both spouses must be treated as Illinois residents (or as part-year residents for the same period).

For tax years 2008 and earlier, if you file a joint federal income tax return, you are required to file a joint Illinois income tax return if both you and your spouse are Illinois residents or nonresidents. If one of you is a resident and the other is not, you may elect to file separate Illinois returns or to file a joint return on which you are both treated as Illinois residents (or as part-year residents for the same period).

For all tax years, you must file separate Illinois returns if you filed separate federal returns.

Must I file an Illinois return?

If you are an Illinois resident or part-year resident, you are required to file an Illinois return if

- you are required to file a federal return, or
- your Illinois base income is greater than your Illinois exemption allowance.

If you are a nonresident, you must file an Illinois return if you have earned enough taxable income from Illinois sources to have a tax liability (*i.e.*, your Illinois base income from Schedule NR, Nonresident and Part-Year Resident Computation of Illinois Tax, is greater than your Illinois exemption allowance from Schedule NR).

How do I report my military pay?

If you are

- **an Illinois resident**, you must file Form IL-1040, Individual Income Tax Return. Your military pay will generally be included in your federal adjusted gross income (AGI) on Form IL-1040, Line 1.
- **a part-year resident**, you must file Form IL-1040 and Schedule NR. Your military pay will generally be included in the Illinois portion of your AGI on Schedule NR. On Schedule NR, Step 3, Column B, you must include
 - all income earned while a resident regardless of whether such income is earned from Illinois sources, and
 - all income earned from Illinois sources while a nonresident.
- **a nonresident**, you are not required to report military pay to Illinois. See "Must I file an Illinois return?" for filing requirements.

Attach your military Form W-2 to your Form IL-1040.

What military pay may I subtract?

You may subtract tax-exempt military pay that is in your AGI, including

- pay for duty in the armed forces, including basic training,
- pay for duty as a cadet at the U.S. Military, Air Force, and Coast Guard academies, as a midshipman at the U.S. Naval Academy, or in ROTC, and
- pay for duty for serving in the U.S. Armed Forces Reserves or a National Guard unit, including a National Guard unit of another state.

Note For tax years ending prior to December 31, 2001, you may only subtract compensation paid for active duty.

Note For tax years ending prior to December 31, 2007, you may subtract National Guard pay only if you were in the Illinois National Guard.

You may also subtract all income of a person whose federal income tax on that income is forgiven because the person died in a combat zone or due to wounds, disease, or injury incurred in a combat zone.

Note Residents, part-year residents, and nonresidents, **do not** subtract military pay or other income that is not included in your AGI on Form IL-1040, Line 1.

What military pay may I not subtract?

You may **not** subtract

- military income (such as combat pay) that you excluded from your AGI on Form IL-1040, Line 1;
- pay you received under the Voluntary Separation Incentive;
- pay you received from the military as a civilian;
- payments you made under the Ready Reserve Mobilization Income Insurance Program; or
- pay for duty as an officer in the Public Health Service.

Which form should I use to subtract military pay?

For tax years

- 2008 and after, you may subtract military pay on Schedule M, Other Additions and Subtractions for Individuals.
- 2007 and earlier, you may subtract military pay on Form IL-1040.

Note If you are a part-year resident or nonresident, you may subtract tax-exempt military pay on Schedule NR, Step 4, Column B if it is included as income in Step 3, Column B.

How do military spouses report their civilian wages?

Under the Military Spouse Residency Relief Act, effective for tax years 2009 and after, if you are a nonresident spouse of a service member, you and your service member spouse have the same domicile, and you are in Illinois only to accompany your spouse on his or her military assignment, your employee wages earned in Illinois are not taxable by Illinois. If you had Illinois Income Tax withheld from your wages, you are entitled to a refund if your wages are exempt from Illinois tax under this law. To claim your refund

- for tax years 2010 and after, you must file Form IL-1040 and Schedule NR and mark the Military Spouse box on Schedule NR.
- for tax year 2009, you must file a 2009 Form IL-1040 and Schedule NR and attach Schedule MR, Military Spouse Relief. Please write "Military Spouse" in red ink on the top of the front page of your IL-1040.

To claim exemption from Illinois Income Tax withholding in the future, you must provide your employer with a completed Form IL-W-5-NR, Employee's Statement of Nonresidence in Illinois.

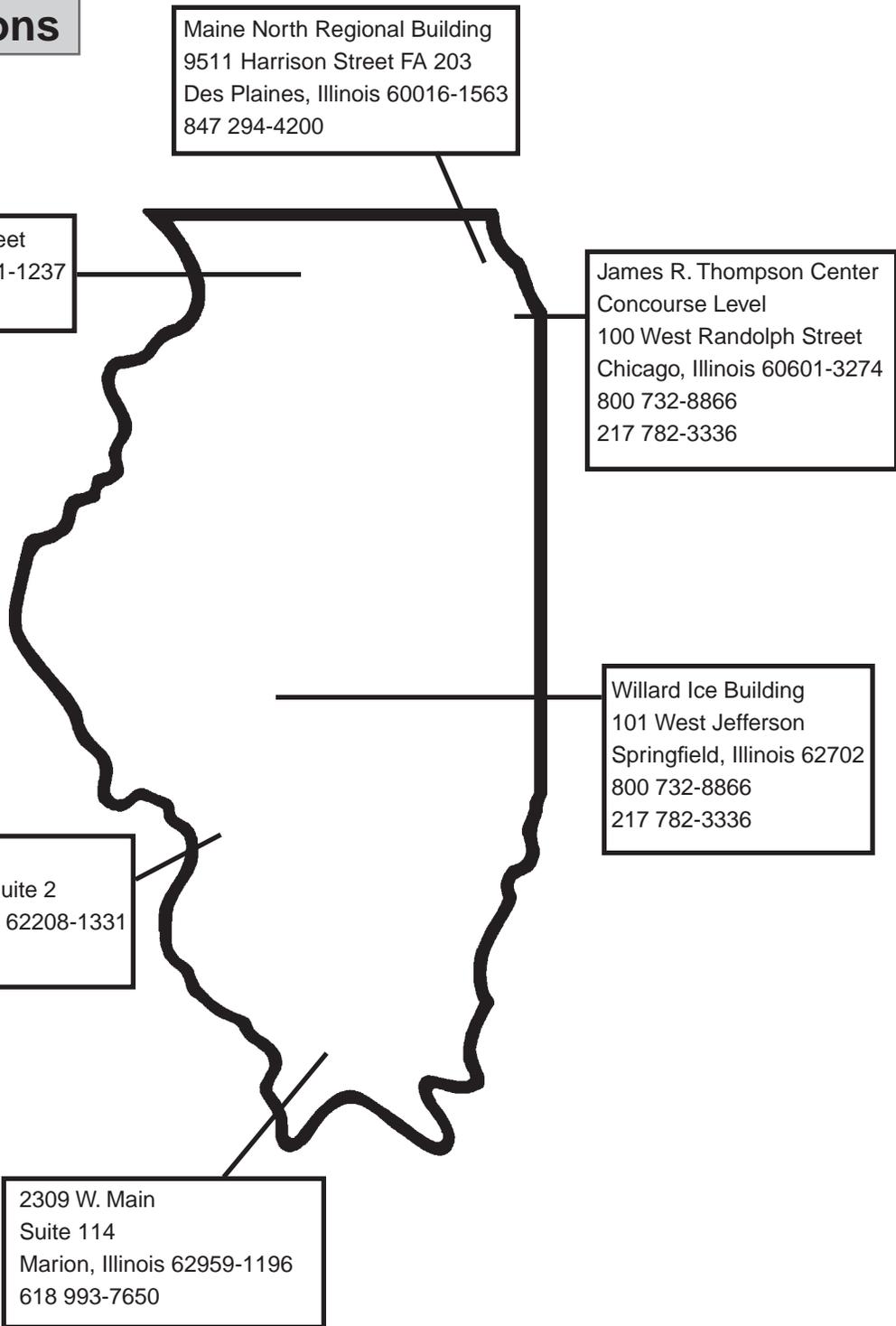
If you are an Illinois resident, your wages are taxable by Illinois regardless of where you work.

Note The provisions in the Military Spouse Residency Relief Act that exempt wages from tax apply only to spouses of service members, not to the service members themselves.

What common mistakes should I avoid making?

- You may not subtract out-of-state income on Form IL-1040 under "other subtractions."
If you file as a resident, all income earned from either Illinois or non-Illinois sources is taxed by Illinois unless it is specifically exempt.
If you pay tax to other states, you may be allowed a tax credit on Schedule CR. For more information, see Schedule CR.
- Illinois does not tax military pay earned by service persons. When completing Schedule M (for 2008 and after) or Schedule NR (for 2007 and earlier), you may subtract tax-exempt military pay that is included as income on Form IL-1040 or Schedule NR.

Office locations



**For information
or forms**

Visit our website at tax.illinois.gov.
Call us at **1 800 732-8866** or **217 782-3336**.
Call our TDD (telecommunications device for the deaf) at **1 800 544-5304**.
Write us at Illinois Department of Revenue, P.O. Box 19044, Springfield, IL 62794-9044.
Call our 24-hour Forms Order Line at **1 800 356-6302**.

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