ADMINISTRATIVE RULES OF MONTANA

42.15.1511 NONRESIDENT MILITARY SERVICEMEMBERS

(1) Nonresident members of the armed forces living in the state solely for compliance with military orders do not become residents and their military compensation is not Montana source income. Nonresident spouses who move to Montana solely to be with nonresident military servicemembers may retain their home residence and, subject to certain rules and limitations described in (6), their wage and other personal services income is not Montana source income.

(2) Nonresident military servicemembers and their spouses are, except as provided in (4), subject to Montana individual income tax in the same manner and to the same extent as any other nonresident with Montana source income.

(3) As provided in 1-1-215, MCA, if a person claims a residence within Montana for any purpose, such as obtaining a resident hunting or fishing license, Montana is their residence for all purposes, including Montana individual income tax, unless there is a specific statutory exception. Provided, however, 87-2-102, MCA, allows exceptions for certain nonresident military servicemembers and their dependents to obtain resident hunting, fishing, and trapping licenses without subjecting them to individual income tax liability as residents.

(4) While the Montana income tax liability of nonresidents is usually determined by calculating the tax as if they were residents, then multiplying that calculation by their ratio of Montana source income to total income, the Military Family Tax Relief Act of 2003 requires states to implement special rules for military servicemembers. If a nonresident military servicemember with Montana source income or their spouse is required to file a Montana individual income tax return, the exempt military income must be excluded from both the numerator and the denominator in determining the ratio of Montana source income to total income as provided in ARM 42.15.110.

(5) An example of how the tax liability would be calculated is:

(a) A nonresident military servicemember and their nonresident spouse who do not claim an exemption as described in (6)(b) are filing a joint return have the following income:

Military compensation	$40,000
Spouse's - Montana source income	$30,000
Interest income - Joint	$500
Dividend income - Joint	$1,000
Total Income	$71,500

(b) The exempt military compensation is a subtraction that reduces Montana taxable income:

Gross income	$71,500
Less exempt military compensation	($40,000)
Montana taxable income	$31,500

(c) The tax, determined on the taxable income, is multiplied by the ratio of Montana source income to total income from all sources except the exempt military compensation:

Montana source income	$ 30,000
Total income from all sources except military compensation ($30,000 + 500 + 1,000) =	$ 31,500
Ratio $30,000/$31,500 =	.9523

(d) If the tax determined on the taxable income were $1,000, the Montana tax liability would be $952, the Montana tax liability of $1,000 multiplied by .9523, the ratio of $30,000 to $31,500.

(6) The Military Spouses Residency Relief Act, Public Law No. 11197 (MSRRA), enacted special rules that affect how Montana and other states tax the wage and other personal service income earned by nonmilitary spouses (for simplicity, the term "wages" will be used to describe all personal services income).

(a) If a military servicemember and nonmilitary spouse are residents of the same state (the "home state") when the nonmilitary spouse moves to Montana to be with the military servicemember as described in (1), the MSRRA allows the nonmilitary spouse to remain a resident of the home state and only the home state may tax the nonmilitary spouse's wages. Wages earned in Montana that are sourced to the home state are not Montana source income.

(b) Qualified nonmilitary spouses must claim exemption from wage withholding annually by completing Form MW-4 – Employee's Withholding and Exemption Certificate which they submit each year to their employer by end of the first payroll period in January.

(c) If a nonmilitary spouse no longer meets the requirements of the MSRRA, their wages will be sourced to Montana, as provided in 15-30-2101, MCA. The following events disqualify the nonmilitary spouse's wages under the MSRRA:

(i) the military servicemember leaves the military;

(ii) the nonmilitary spouse becomes a resident of Montana;

(iii) the marriage to the military servicemember terminates; or

(iv) the military servicemember is reassigned out of Montana but the nonmilitary spouse remains in Montana.

Authorizing statute(s): 15-30-2620, MCA

Implementing statute(s): 15-30-2101, MCA

History: Eff. 12/31/72; AMD, 1992 MAR p. 2555, Eff. 11/26/92; AMD, 2004 MAR p. 3147, Eff. 12/17/04; AMD, 2010 MAR p. 1088, Eff. 4/30/10; TRANS and AMD, 2025 MAR, 42-1088, Eff. 1/25/25.