



# Publication 102

## *Illinois Filing Requirements for Military Personnel*

### 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.

The information in this publication is current as of the date of the publication. Please visit our website at [tax.illinois.gov](http://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 covered in this publication, 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 Illinois Administrative Code.

### Taxpayer Bill of Rights

You have the right to call the Illinois Department of Revenue (IDOR) 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 IDOR notices by asking questions, paying the amount due, or providing proof to refute the IDOR's findings.

You have the right to appeal IDOR decisions, in many instances, within specified time periods, by asking for department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit 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 IDOR procedures, you may write us at the following address:

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

**Get forms and other information faster and easier at [tax.illinois.gov](http://tax.illinois.gov)**

## General Information

How do I determine my residency?.....	2
<i>Illinois resident</i> .....	2
<i>Part-year resident of Illinois</i> .....	2
<i>Nonresident of Illinois</i> .....	2
What are my options for filing a joint return with my spouse? .....	3
Must I file an Illinois return? .....	3
How do I report my military pay? .....	3
What military pay may I subtract? .....	3
What military pay may I not subtract? .....	4
Which form should I use to subtract military pay? .....	4
How do military spouses report their civilian wages? .....	4
What common mistakes should I avoid making? .....	4
Contact Information .....	4

## General Information

### How do I determine my residency?

Under the Federal Veterans Auto and Education Improvement Act of 2022 (Public Law 117-333), a servicemember and the servicemember's spouse may select between one of three residency possibilities for purposes of taxation: (1) the residence or domicile of the servicemember, (2) the residence or domicile of the servicemember's spouse, or (3) the permanent duty station of the servicemember.

#### **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. For tax years 2018 and after, the Veterans Benefits and Transition Act of 2018 allows a military spouse to elect to use the same residence for tax purposes as the service member even if the spouse is not present in the same state as the service member. If you are present in Illinois, but have elected to use your service member spouse's residence for tax purposes, you will not be considered an Illinois resident. In any 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.

#### **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.

For tax years 2018 and after, the Veterans Benefits and Transition Act of 2018 allows a military spouse to elect to use the same residence for tax purposes as the service member even if the spouse is not present in the same state as the service member. This election is effective for the entire taxable year regardless of the date on which the marriage of the spouse and the service member occurred. If you were an Illinois resident for only part of the year, married a service member and then elected to use the service member's residence for tax purposes during that year, then you are not a part-year resident of Illinois. You would be considered a resident of the service member's state of residency for the entire tax year in which the marriage occurred.

#### **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.

For tax years 2018 and after, the Veterans Benefits and Transition Act of 2018 allows a military spouse to elect to use the same residence for tax purposes as the service member even if the spouse is not present in the same state as the service member. If you are present in Illinois, but have elected to use your service member spouse's residence for tax purposes, you will not be considered an Illinois resident 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?**

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).

**Note:** 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?

You may subtract military pay on Schedule M, Other Additions and Subtractions for Individuals.

For more information, see the return instructions for the year you are filing.

**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.

**Note:** If you are an active member of the National Guard and qualify as a Dual Status Technician, attach a copy of your most recently issued Standard Form 50 (SF-50), Notification of Personnel Action, along with paper copies of all military W-2s that identify that income.

## How do military spouses report their civilian wages?

Under the Veterans Benefits and Transition Act of 2018, effective for tax years 2018 and after, if

- you are a nonresident spouse of a service member, and
- 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, or
- you elect to use the same domicile as your service member spouse for the purposes of taxation and you are in Illinois, even if your service member spouse is not located in Illinois,

then 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 you must file Form IL-1040 and Schedule NR and mark the Military Spouse box on Schedule NR.

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:** Under the Federal Veterans Auto and Education Improvement Act of 2022 (Public Law 117-333), a servicemember and the servicemember's spouse may select between one of three residency possibilities for purposes of taxation: (1) the residence or domicile of the servicemember, (2) the residence or domicile of the servicemember's spouse, or (3) the permanent duty station of the servicemember.

**Note:** The provisions in the Veterans Benefits and Transition Act of 2018 allow that for tax years 2018 and after, the spouse of a service member may elect to use the same domicile for purposes of taxation as the service member. This applies for any applicable year of the marriage, regardless of the date on which the marriage of the spouse and the service member occurred.

**Note:** The provisions in the Veterans Benefits and Transition Act of 2018 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?

Illinois does not tax military pay earned by service persons. When completing Schedule M, you may subtract tax-exempt military pay that is included as income on Form IL-1040 or Schedule NR.

## Contact Information



Visit our website at [tax.illinois.gov](http://tax.illinois.gov).

For specific phone number and email contacts see our [Contact Us](#) page.

Call us at **1 800 732-8866** or **217 782-3336**. (TTY **1 800 544-5304**)

Write us at Illinois Department of Revenue, PO Box 19001, Springfield, IL 62794-9001.

Call our 24-hour Forms Order Line at **1 800 356-6302**.