

## General Information

Active members of the U.S. Armed Forces, including those serving in combat zones, and their spouses receive special tax benefits. This publication explains those benefits as they apply to Utah income tax.

Residency issues addressed in this publication are effective for tax years beginning January ~~2018~~2023.

## Definitions

**Nonresident Service Member.** A service member whose state of legal residence is not Utah, even if stationed in Utah.

**Resident Service Member.** A service member whose state of legal residence is Utah, even if stationed outside of Utah.

**Active Duty Military Wages.** Active duty income received for military service. This type of income is taxable only in the state of legal residence.

**Service Member.** An active duty member of the U.S. Armed Forces, including those serving overseas or in a combat zone. This includes National Guard members who are called to active service by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days and supported by federal funds.

**Spouse of a Service Member.** The spouse of an active duty member of the U.S. Armed Forces. If the spouse is also a military service member, then the spouse is entitled to the tax benefits of a service member.

**State of Legal Residence.** The state of residence ~~the military has recorded as or domicile of~~ a service ~~member's tax home,~~ ~~regardless of where the service member is stationed or deployed or spouse under federal law.~~

**U.S. Armed Forces.** United States Army, Navy, Air Force, Marines, Space Force and Coast Guard. Does not include the U.S. Merchant Marines or the American Red Cross.

## Residency

Federal law defines the residency of service members and their spouses. See 50 U.S.C. 4001(a).

### Unmarried Service Member

For Utah income tax purposes, ~~an unmarried~~ service member's residency is their state of legal residence as recognized by the U.S. Department of Defense. Contact your financial officer with any questions.

### Married Service Member's Member and Spouse

For Utah income tax purposes, a married service ~~member's member and their~~ spouse may ~~choose to:~~

~~1. use their natural state of residency, or;~~

1. the residence or domicile of the service member.

2. use the service member's state residence or domicile of residence.

~~The spouse may choose the service member's state of residence even if the spouse does not live in that state, or~~

3. the permanent duty station of the service member.

## Utah-taxable Income

Utah treats military pay the same as the IRS. All income included in federal adjusted gross income is automatically included in Utah income. Income that is exempt from federal taxation is also exempt for Utah purposes.

### Utah Resident Service Members and Spouses

Utah residents must file a Utah income tax return if they are required to file a federal income tax return. All of a Utah resident's income is taxable in Utah. A Utah resident's active duty military pay is only taxable in Utah. A Utah resident with other sources of income taxed by another state may claim a credit for those taxes on their Utah return. See Utah form TC-40S.

### Nonresident Service Members

Nonresident service members do not pay Utah income tax on active duty military pay, even if earned while stationed in Utah.

Nonresidents must file a Utah income tax return only if they have Utah-taxable income. Examples include non-military wages earned in Utah, income from rentals or sales of property in Utah, and Utah investment income. See Utah Code §59-10-117.

To file a Utah individual income tax return as a nonresident service member:

1. Enter "N" on the "Full-year Resident?" line at the top of the Utah TC-40 return.

- On line 4, report your total federal adjusted gross income, including all military and nonmilitary income.
- Report your non-Utah active duty military wages on Utah form TC-40A, Part 2, **using subtraction code 82** (nonresident active duty military pay).
- Enter the total from TC-40A, Part 2 on line 8 of the TC-40 return.
- Follow the instructions to complete Utah form TC-40B and attach it to your return.

## Nonresident Spouses

~~All~~The income of a service member's ~~nonresident~~ spouse is exempt from Utah income tax ~~ONLY IF if~~ :

~~1. the spouse is:~~

~~1. and the not a resident of Utah.~~

~~2. not also a service member are residents of the same state outside Utah, and~~

~~2. the service member is in Utah under military orders, and~~

~~3. the spouse is~~ in Utah solely to be with the service member serving under military orders.

**NOTE:** A qualified nonresident spouse should file a federal W-4 form with their employer marked "Utah Only - Exempt military spouse" to end Utah withholding on their income.

When reporting a qualified nonresident spouse's income:

- Enter "N" on the "Full-year Resident?" line next to the spouse's name at the top of the Utah TC-40 return.
- On line 4, include your spouse's federal adjusted gross income, wherever it was earned.
- Include all your spouse's income on Utah form TC-40A, Part 2, **using subtraction code 88** (nonresident military spouse income).
- Include the total from TC-40A, Part 2 on line 8 of the TC-40 return.
- Follow the instructions to complete Utah form TC-40B and attach it to your return.

## One Spouse is a Utah Resident and the Other is a Nonresident

If one spouse is a full-year Utah resident and the other is a full-year nonresident, they may file separate Utah income tax returns even if they file a joint federal return. The nonresident spouse is not required to file a Utah return unless they have Utah income.

See Special Instructions in the TC-40 instructions.

**NOTE:** If either you or your spouse is a part-year resident, you may not use Special Instructions.

## Utah Combat-related Death Tax Credit

For tax years beginning on or after Jan. 1, 2010, a military service member who dies as a result of military service in a combat zone may claim a nonrefundable tax credit equal to their tax liability in the year of death.

See instructions and worksheet in the Individual Income Tax book.

## Native Americans

The active duty military wages of a Native American Utah resident are exempt from Utah tax if the service ~~member joined the military while living on their tribe's~~ member's legal residence is a federal Indian reservation.

Claim this income as a subtraction from income on TC-40, Schedule A, Part 2, using code 77. See instructions in the Individual Income Tax book.

## Service that Qualifies for a Filing Extension

Utah allows personnel serving in a combat zone or contingency operation the same filing extension allowed by the IRS. See IRS Publication 3, Armed Forces' Tax Guide ([irs.gov/publications/p3/index.html](https://irs.gov/publications/p3/index.html)).

If you qualify for combat zone relief, email your status to us at [combatzone@utah.gov](mailto:combatzone@utah.gov). Provide your name, stateside address, date of birth and date of deployment to the combat zone. You, your spouse or an authorized representative may make this notification.

The Tax Commission cannot provide tax account information by e-mail. Therefore, we will reply to any questions within two business days by regular mail to the address we have on record. We may provide general answers to questions regarding the status of individual combat zone updates via e-mail.

## Signing Returns

You (and your spouse, if filing a joint return) must sign the return. You may also authorize someone to sign for you by granting a power of attorney.

Rules about filing Utah returns follow federal rules for a military spouse who is serving overseas, in a combat zone or in a qualified hazardous duty area, or is in missing status or incapacitated, or who died during the year. See IRS Publication 3 for details.

## Where to Get Help

If you have other questions about Utah's treatment of military personnel, please contact:

Utah State Tax Commission

210 N 1950 W

Salt Lake City UT 84134

801-297-7705, phone

1-800-662-4335, ext. 7705 (outside the Salt Lake area)

801-297-6357, fax

**taxmaster@utah.gov**

See filing examples online at **[incometax.utah.gov](https://incometax.utah.gov)**.

Find federal tax information in:

- Soldiers' and Sailors' Civil Relief Act of 1940, United States Code, Title 50, Section 573.
- Utah Service Members' Civil Relief Act, Utah Code, Title 39, Chapter 7.