

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
FS1118	Income Tax Information for Military Personnel - Fact Sheet



Income Tax Information For Active Military Personnel Fact Sheet 1118

revenue.wi.gov

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by [sec. 227.112\(1\)](#), Wis. Stats.

Filing Requirements

If you are a full-year legal resident of Wisconsin and **under age 65**, you must file a 2019 Wisconsin income tax return if your filing status is:

- Single and your gross income is \$11,560 or more
- Married filing jointly and your gross income was \$21,510 or more
- Married filing separately and your gross income was \$10,250 or more
- Head of household and your gross income was \$14,730 or more

If you are a full-year legal resident of Wisconsin and **65 or older**, you must file a 2019 Wisconsin income tax return if your filing status is

- Single and your gross income is \$11,810 or more
- Married filing jointly and your gross income was \$21,760 or more (one spouse 65 or older) or \$22,010 or more (both spouses 65 or older)
- Married filing separately and your gross income was \$10,500 or more
- Head of household and your gross income was \$14,980 or more

If you are a part-year resident of Wisconsin or a legal resident of another state, you must file a Wisconsin income tax return if your gross income subject to Wisconsin tax was \$2,000 or more.

Who is a Wisconsin Legal Resident?

If you maintain your domicile in Wisconsin, whether physically present in Wisconsin or residing outside the state, you are a legal resident of Wisconsin.

Your domicile is the permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. It is not always where you presently live.

If you are a legal resident of Wisconsin who enters the Armed Forces, you remain a legal resident of Wisconsin unless you take positive action to abandon your Wisconsin residency and establish legal residence in another state.

Note: For taxable years beginning in 2018, a service member's spouse may elect to use the same residence as the service member for purposes of taxation, regardless of the date on which the marriage of the spouse and the service member occurred.

Changing Legal Residence

To change legal residence, you must:

- Be physically present in the new locality,
- Intend to remain there permanently or indefinitely and take actions that show that intent, and
- Intend to abandon the old legal residence and take actions that show that intent.

Actions that show intent may include, but are not limited to:

- Changing legal documents, such as a will or insurance policies, to reflect the new legal residence
- Changing home of record upon reenlistment
- Registering to vote in the new locality
- Paying state taxes in the new locality
- Applying for a driver's license in the new state and relinquishing the Wisconsin driver's license
- Registering a car in the new state and relinquishing Wisconsin car registration
- Purchasing a home in the new state and selling a Wisconsin home
- Consistently using the new permanent address on records and correspondence

Just moving from one duty station to another does not constitute a change of legal residence.

If you changed your legal residence from Wisconsin, you should file a "Legal Residence (Domicile) Questionnaire" with the department. The questionnaire is on the last page of the [Form 1NPR instructions](#).

Taxation of Wisconsin Residents

If you are a Wisconsin resident serving in the Armed Forces, you are subject to Wisconsin income tax on your entire net taxable income for the year, even if you earn your income outside Wisconsin or overseas.

As a Wisconsin legal resident, you cannot be taxed on your military pay by any other state. However, you can be taxed by another state on income, other than military pay, earned from employment or property in that state. You generally are allowed a credit on your Wisconsin return for tax paid to the other state.

If you are married and your spouse is a legal resident of Wisconsin, your spouse is subject to Wisconsin income tax the same as any other resident, regardless of where your spouse resides.

Note: If you are on active duty and received military pay from the federal government for services performed while stationed outside the United States, you may be eligible for a credit of up to \$300. See the Wisconsin [Form 1 instructions](#) for more information on the Armed Forces Member credit.

Taxation of Nonresidents

If you are a legal resident of another state and are stationed in Wisconsin on military orders, you are not subject to Wisconsin income tax on your military pay. You are subject to Wisconsin income tax on:

- Income, other than military pay, from employment in Wisconsin
- Income or loss from engaging in business in Wisconsin
- Income from real or tangible property located in Wisconsin

- Lottery winnings from the Wisconsin state lottery or a multijurisdictional lottery ticket purchased in Wisconsin
- Wisconsin pari-mutuel wager winnings and purses
- Winnings from a Native American casino or bingo hall located in Wisconsin

If you are married and your civilian spouse is a legal resident of another state, your spouse is *not* liable for Wisconsin income tax on income from services (for example, wages or self-employment). This applies only if your spouse is in Wisconsin solely to be with you while you are in Wisconsin under military orders. With the exception of income from services, your spouse is subject to Wisconsin income tax on the items listed above. Your spouse may also be subject to income tax in your spouse's state of legal residence. See [Form W-221](#), *Nonresident Military Spouse Withholding Exemption*.

Military Pay Excluded From Income

If your military pay is excluded from income for federal tax purposes, it is also excluded for Wisconsin. For example, combat pay that qualifies to be excluded from federal income also qualifies to be excluded from Wisconsin income. Federal [Publication 3](#), *Armed Forces' Tax Guide*, provides information on military pay that is included and excluded from income. This publication is available at irs.gov.

Wisconsin only exclusion: Your military pay may be excluded from income if:

- You were a member of the Reserves or National Guard, and
- Your military pay was received from the federal government after being called into active federal service under 10 USC 12302(a) or 10 USC 12304 or into special state service authorized by the Department of Defense under 32 USC 502(f).

The exclusion does not apply to military pay received during weekend and two-week annual training or for serving on active duty or full-time duty in the active guard reserve (AGR) program.

Note: Retirement payments from the U.S. military retirement system are exempt from Wisconsin income tax. These retirement benefits are paid from the Defense Finance and Accounting Service.

Combat Zone Related Deaths

A subtraction is available for income received by a member of the U.S. Armed Forces who dies in active service in a combat zone, or at any place from wounds, disease, or injury incurred while in a combat zone.

When to File

The regular due date for filing your income tax return is April 15 of the following year. If April 15 falls on a Saturday, Sunday, or legal holiday, the due date is the next business day that is not a Saturday, Sunday, or legal holiday. For 2019 tax returns, the due date is April 15, 2020.

Any extension of time allowed under federal law for filing your federal income tax return also applies for Wisconsin. For example, if you are on military duty outside the United States and Puerto Rico on April 15, you are allowed an automatic two-month extension and an additional four-month extension of time to file your federal return. Extensions relating to serving in a combat zone are also available. See Wisconsin [Publication 401](#), *Extensions of Time to File*, for additional information.

You will be charged interest on any amount not paid by the regular due date. However, you will not be charged interest during an extension period if any of the following apply:

- You served in support of Operation Freedom's Sentinel in the United States

- You qualify for a federal extension because of service in a combat zone
- You qualify for a federal extension due to a federally-declared disaster or terroristic or military action

If this exception applies, see the instructions for completing the Special Conditions box on your Wisconsin tax return.

Which Form to File

If you are a full-year Wisconsin resident, file Form 1. If you are a nonresident or part-year resident of Wisconsin, you must file Form 1NPR. If one spouse is a full-year resident and the other spouse is a nonresident or part-year resident, you must file on Form 1NPR if you want to file a joint return.

Additional Information or Comments

- Visit the department's [website](#) for electronic versions of all Wisconsin tax forms and publications
- Forms are also available at any Department of Revenue office and libraries or by calling (608) 266-1961
- For additional information, call our Customer Service Bureau at (608) 266-2486 or email your questions or comments to DORIncome@wisconsin.gov

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 31, 2020: Chapter 71, Wis. Stats., and 26 U.S.C. § 112

Laws enacted and in effect after January 31, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 31, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats.. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE



Peter Barca

Secretary of Revenue

Last updated January 31, 2020