

January 9, 2004

Individual Income Tax-Military Service Compensation Paid to Nonresidents of Nebraska.  
COMPENSATION PAID TO A NONRESIDENT SERVICEMEMBER OF THE UNIFORMED SERVICES FOR ACTIVE DUTY MILITARY SERVICE CAN BE DEDUCTED FROM FEDERAL ADJUSTED GROSS INCOME FOR TAX YEAR 2003 AND SUBSEQUENT YEARS.

Advice has been requested as to the effect of passage of H.R.100, the Servicemembers Civil Relief Act of 2003 (P.L.108-189) on the filing of Nebraska returns by nonresident military servicemembers.

Nonresident servicemembers filing to report income earned from a separate job in Nebraska or the income of a spouse living in Nebraska may subtract their military service active duty pay in determining the tax due to Nebraska. Residents of Nebraska serving in the military are not affected by H.R.100 with regard to the filing of their Nebraska tax returns.

Nebraska Statute Section 77-2732 provides an election for couples to file a married joint return as if both were residents. Nonresident military families who file married joint federal returns may elect to file a Nebraska married joint return and can deduct any nonresident military service compensation included in the servicemember's federal adjusted gross income on Nebraska Schedule I, Line 52. They should write on Line 52, "Nonresident military service compensation" together with the amount being deducted. In addition, the Form W-2 issued by the armed forces to the servicemember is to be attached to the tax year 2003 or subsequent years' Form 1040N to support the amount being deducted.

A nonresident single, head of household, or married filing separate servicemember filing to report outside income may deduct his or her nonresident military service compensation on the tax year 2003 and subsequent years' Form 1040N, Schedule I, and attach the appropriate Form W-2 as indicated above. The nonresident military service compensation excluded on Line 52 of Nebraska Schedule I is also excluded from any Nebraska Schedule III calculations, including the numerator and denominator calculations performed on Line 62 of Schedule III.

Military service active duty compensation does not include National Guard or Reserve pay unless the servicemember has been called to active duty.

APPROVED:



Mary Jane Egr  
State Tax Commissioner

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