

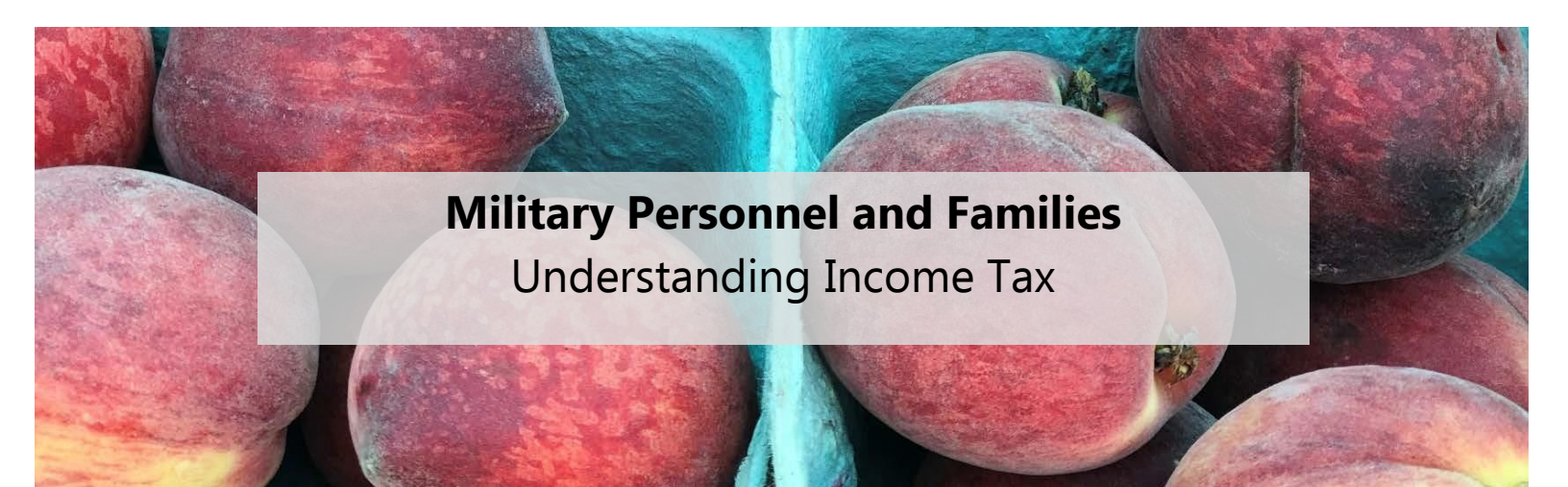
Military Personnel and Families

Understanding Income Tax



New Jersey is known for peaches, seen here from a farmer's market in Mercer County.

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Military Personnel and Families Understanding Income Tax

This bulletin provides New Jersey Income Tax information for individual New Jersey resident and nonresident military service members of the United States Armed Forces and their families. All references to “Income Tax” refer to the New Jersey Gross Income Tax Act. ([N.J.S.A. 54A:1-1](#))

Determining Residency

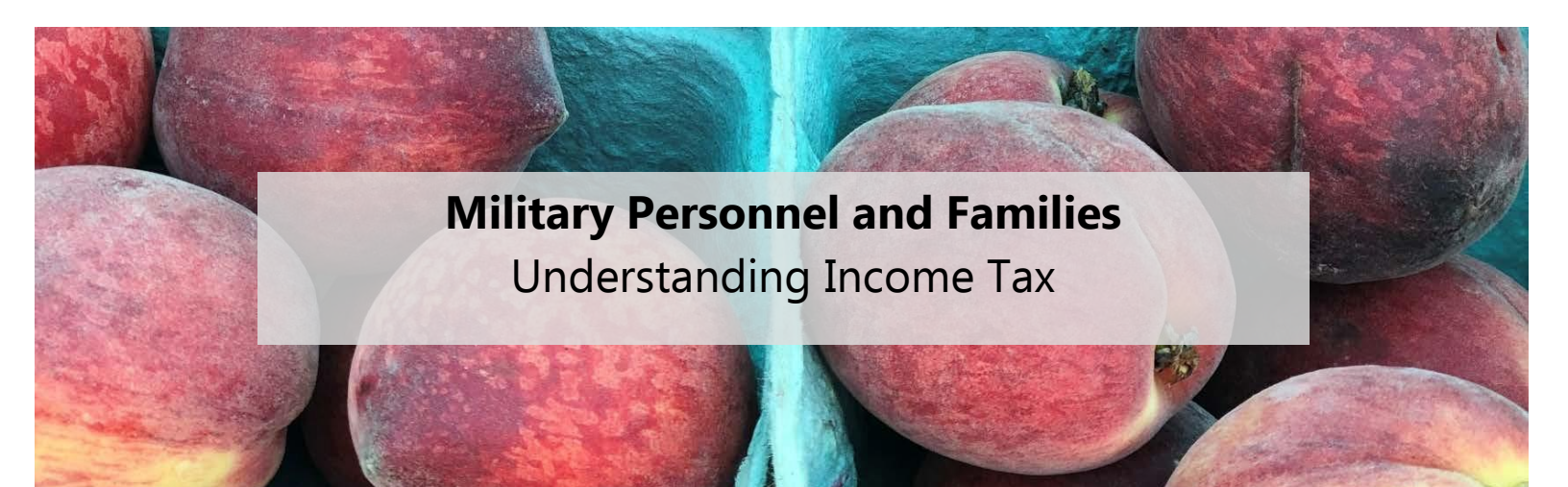
For Gross Income Tax residency determination issues regarding a military service member and their spouse, New Jersey follows the federal Servicemembers Civil Relief Act, 50 U.S.C. § 3901, et seq, which includes the Military Spouses Residency Relief Act and Veterans Auto and Education Improvement Act of 2022. A service member who was a resident of a particular state when entering the service is considered to remain a resident of that state, regardless of where the individual is stationed (50 U.S.C. § 4001). That means an individual remains a resident of New Jersey unless a change of domicile in another state is established. Therefore, when the military posts a service member for duty, the location of the military post does not automatically change their residency for tax purposes.

New Jersey allows a military service member to change residency. In order to change residency and be considered a nonresident for Income Tax purposes, the taxpayer must meet all three of the following conditions for the entire year: the taxpayer did not maintain a permanent home in New Jersey; the taxpayer maintains a permanent home outside of New Jersey; and the taxpayer did not spend more than 30 days in New Jersey during the taxable year.

Service members can change residency to a state outside of New Jersey at any time if they meet the statutory requirements. However, it is important to understand that New Jersey considers objective factors evidencing a definite intent to establish a new residency on a case-by-case basis. New Jersey’s explanation of domicile and the determining factors for residency are listed on page 2 of [Part-Year Residents and Nonresidents](#).

Definitions

Domicile means the place and state you consider your permanent home; the place you will return to after you have been away on military assignment, been discharged, and/or when you retire from the military. You have only one domicile, although you may have more than one place to live. Your domicile does not change until you move to a new location with the intent to establish a new permanent home there and to abandon your old domicile.



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Permanent Home means a residence (house, building, or structure where a person can live) that you maintain permanently as your principal residence, whether you own it or not;

Your home is not considered permanent if you maintain it only during a temporary period of time to accomplish a specific purpose (e.g., temporary military assignment or temporary job assignment).

Residents. If New Jersey was your domicile when you entered the service, you remain a resident for Income Tax purposes until you establish a permanent home in another state.

You are not considered to be maintaining a *permanent home* outside New Jersey if you are temporarily living on base, in a barracks, aboard a ship, off base, or in government quarters outside New Jersey, and have no permanent home in that state.

However, if you maintain an apartment or a home (either owned or rented) in another state with the intention of remaining outside New Jersey, that residence is considered a *permanent home*. In this case, you are considered a New Jersey nonresident for tax purposes. You should be able to provide proof of your intent to make a permanent home in that state. New Jersey will consider various objective factors, such as those listed on page 2 of [Part-Year Residents and Nonresidents](#), on a case-by-case basis to determine whether the residence is intended to be permanent. Permanent change of station (PCS) orders, while not a sole determinative factor, will be considered an objective factor in a Division review of residency status.

Nonresidents. If New Jersey was not your domicile when you entered the service, you do not become a resident of this state when assigned to a duty station here. You are a nonresident for Income Tax purposes if you temporarily work in this state with no intention of making it your permanent home. You will be considered a New Jersey resident only if you establish a permanent home here. The Income Tax Filing Requirements below will tell you when you are required to file a New Jersey Income Tax return.

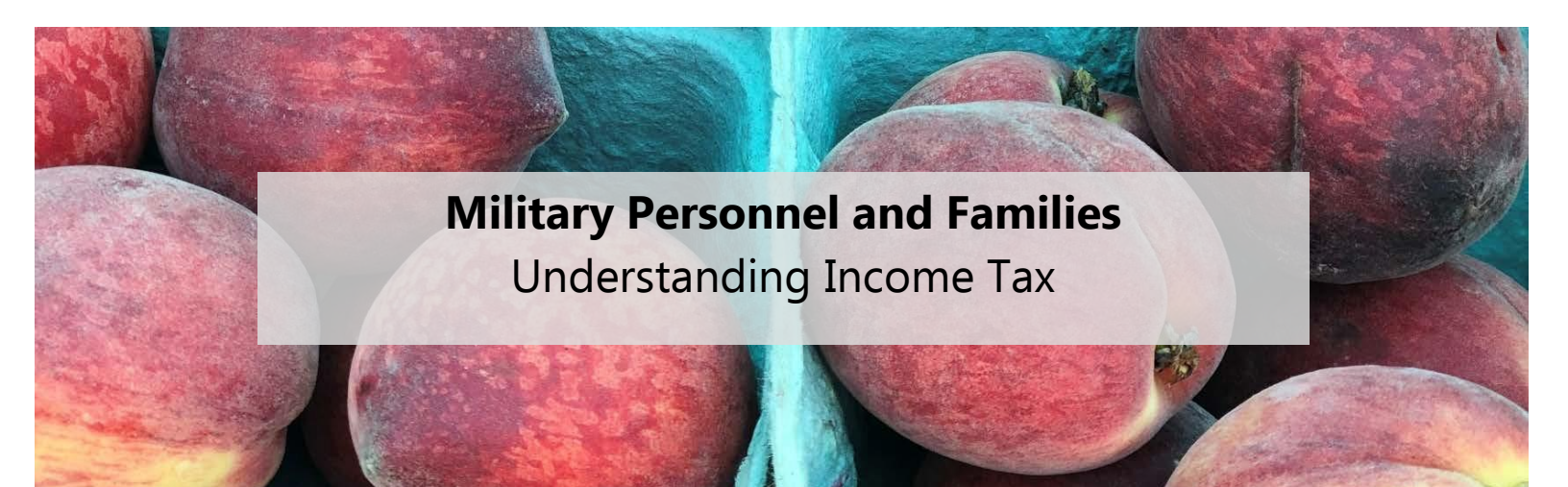
Income Tax Filing Requirements

Your New Jersey filing status must match your federal filing status unless you meet an exception or have a special circumstance.

(See [Filing Status](#) for information on the exceptions and special circumstances.)

Using the Correct Form

New Jersey has two personal Income Tax returns for individuals: [Form NJ-1040](#) for residents and [Form NJ-1040NR](#) for nonresidents. New Jersey does not have a part-year return.



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You may need to file either Form NJ-1040, Form NJ-1040NR, or both, depending on your residency status and your sources of income. See the Income Tax return instructions and [Part-Year Residents and Nonresidents](#) for information on how to complete a part-year return.

New Jersey Residents

New Jersey residents **must pay tax on all their income, regardless of where it is earned**, unless it is specifically *not taxable* under New Jersey law.

Military pay is **taxable** for New Jersey residents, including combat zone pay received in 2020 and in prior years.

For Tax Year 2021 and after, combat pay is *not taxable* in New Jersey (P.L. 2020, c. 93). Do not include amounts received as combat zone compensation when reporting your gross income on a New Jersey Income Tax return (Form NJ-1040). You can exclude from New Jersey Gross Income Tax the same pay that is excluded for federal income tax purposes using the federal definitions of combat zone pay. This law is not retroactive. For Tax Year 2020 and prior, combat pay is still **taxable** income.

Mustering-out payments, subsistence and housing allowances, and U.S. military pension and survivor's benefit payments are *not taxable*.

New Jersey Nonresidents

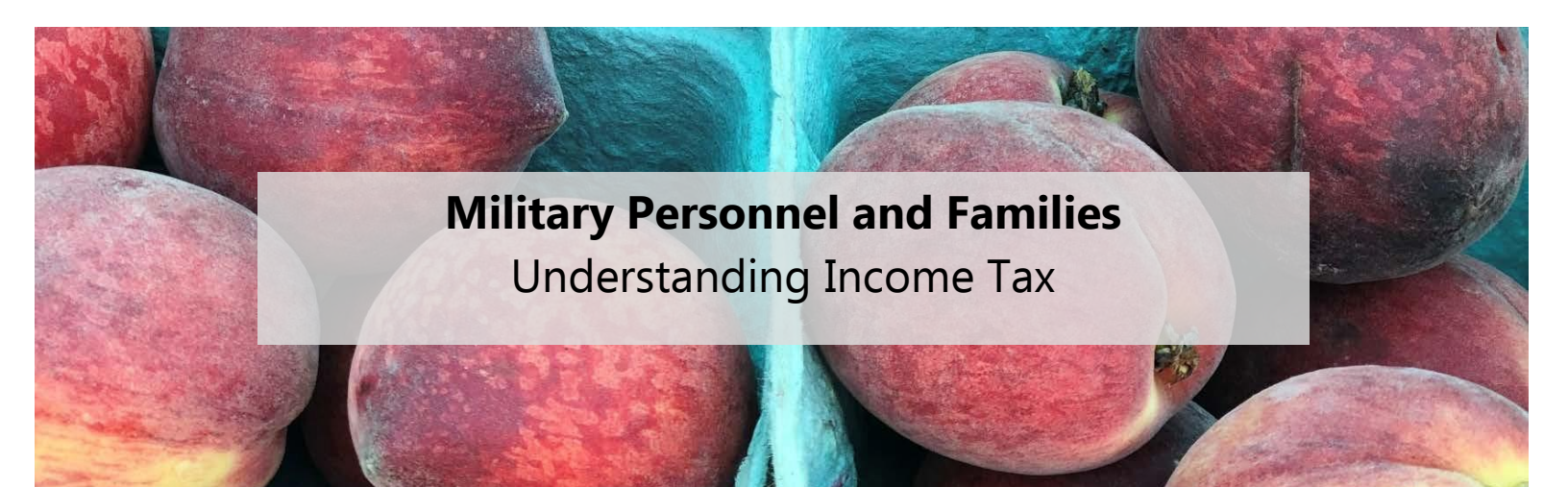
Nonresidents are taxed only on income they receive from New Jersey sources. The military compensation you receive while stationed here – including mustering-out payments, subsistence housing allowances, and U.S. military pension and survivor's benefit payments – is *not taxable*.

If you received non-military income from New Jersey sources, you must file [Form NJ-1040NR](#). Your tax is calculated on income from all sources (as if you were a New Jersey resident) and then prorated based on the amount of that income that comes from New Jersey sources.

When completing Form NJ-1040NR, do not include your military pay on the wages line in either Column A (amount of gross income everywhere) or Column B (amount from New Jersey sources). File Form NJ-1040NR if you or your spouse have income from New Jersey sources* *other than your military pay* and your income from all sources on Line 29 is more than \$20,000 (or \$10,000 if your filing status is single or married/CU partner, filing separate return).

Examples of New Jersey source income include:

- Civilian income you earn from a job while off duty in New Jersey;



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- Income or a gain from property located in New Jersey, whether owned by you or your civilian spouse; or
- Income from a business, trade, or profession carried on in this state, whether earned by you or your civilian spouse.

***New Jersey source income does not include** a civilian spouse's wages earned in New Jersey if they qualify as a nonresident under the federal Military Spouses Residency Relief Act. When filing Form NJ-1040NR, the civilian spouse reports New Jersey wage income in Column A (amount of gross income everywhere) but not in Column B (amount from New Jersey sources).

Veteran Exemptions

You can claim a \$6,000 exemption on Line 9 of the return if you are a military veteran who was honorably discharged or released under honorable circumstances from active duty any time before the last day of the tax year. To prove that you are qualified to receive the exemption, you must send us [acceptable documentation](#) showing that you were released under honorable circumstances.

Wounded Warrior Caregivers Credit

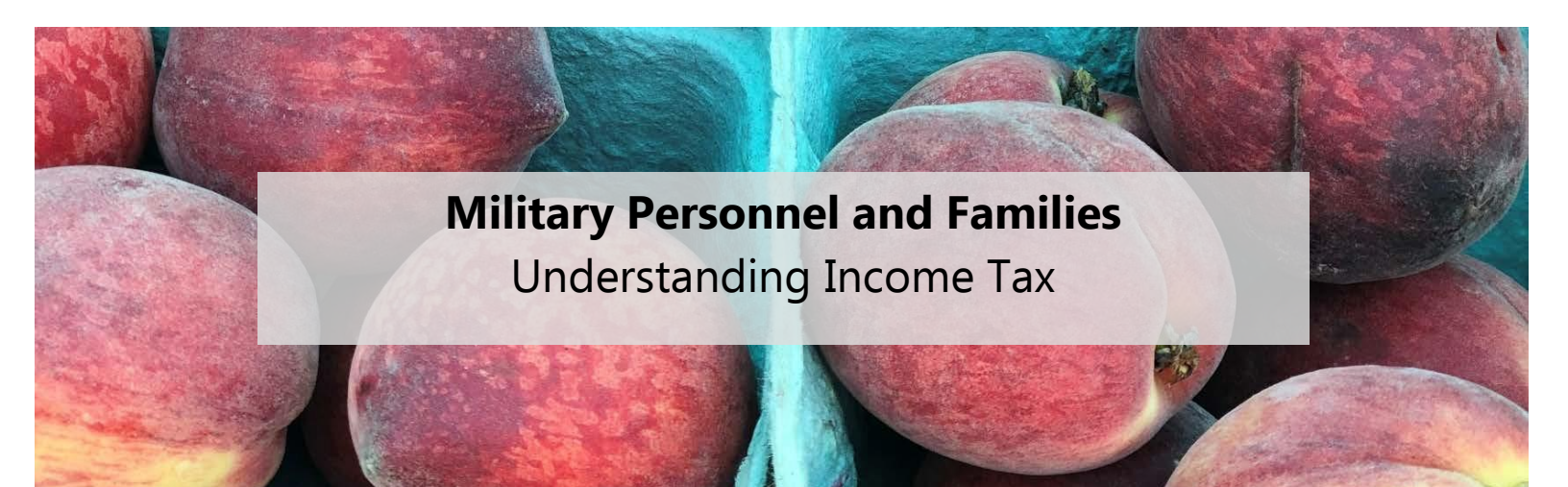
The Wounded Warrior Caregivers Relief Act provides a tax credit to qualified family caregivers who take care of a military service member who has a disability sustained in any war or conflict on or after September 11, 2001.

You are eligible for this credit on line 62 of the return if you are a resident of New Jersey who provided care for a relative who is a qualifying armed services member. Your gross income must be \$100,000 or less (married, filing jointly; head of household; qualifying widow(er)) or \$50,000 or less (single or married, filing separately). Complete [Schedule NJ-WWC to calculate the credit](#). If two or more people care for the same person, their credit is based on their share of total care expenses for the year. If you claim the credit, you will be asked to provide *copies* of the following:

- Your Schedule NJ-WWC;
- The letter from the Department of Veterans Affairs (VA) stating that the qualified armed service member has Individual Unemployability status; and
- Your most recent VA benefit letter.

Part-year residents must use their income for **the entire year** when determining eligibility.

(For information regarding a qualifying relative or a qualifying armed services member, see the [Form NJ-1040 instructions](#).)



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Income Tax Withheld From Military Pay

Your military pay is *not taxable* if your domicile was New Jersey when you entered the military, but you changed your state of domicile from New Jersey to some other place, or you satisfied the conditions for [nonresident status](#).

If you meet the conditions for nonresident status, file federal Form DD-2058-1, State Income Tax Exemption Test Certificate, with *your payroll or finance officer* to stop New Jersey Income Tax from being withheld from your military pay. **Do not file** this certificate with the New Jersey Division of Taxation.

Native American service members must file federal Form DD-2058-2 with the payroll or finance officer to claim exemption from State Income Tax withholding on your service pay. This form requires you to provide the name of the tribe to which you belong and the name of the reservation or location in Indian Country claimed as your primary residence.

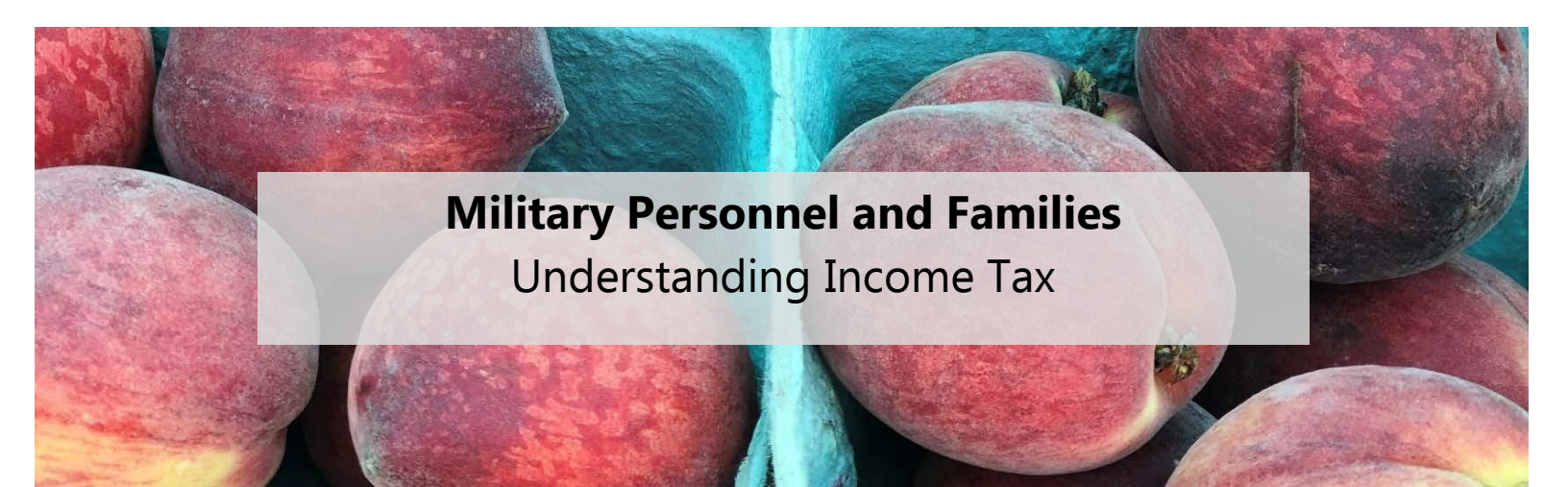
If New Jersey Income Tax was withheld from your military pay in error, you must file a nonresident return ([Form NJ-1040NR](#)) to obtain a refund of the tax withheld. The income section of the New Jersey nonresident return has two columns: Column A, income from everywhere, and Column B, income from New Jersey sources.

If your only source of New Jersey income is your military pay, complete your nonresident return as follows:

- Enter in Column A the amount of your income from everywhere (excluding your military pay);
- Enter zero on the wages line and zero on the gross income line in Column B for the amount of income from New Jersey sources;
- Enter the amount of New Jersey Income Tax withheld on the appropriate line and complete the “overpayment” and “refund” lines;
- Enclose a statement explaining how you satisfied the conditions for nonresident status.

Combat Pay

For Tax Year 2021 and after, *combat pay is not taxable* in New Jersey (P.L. 2020, c. 93). Do not include amounts received as combat zone compensation in your gross income reported on your New Jersey Income Tax return. You can exclude from New Jersey Gross Income Tax the same pay that is excluded for federal income tax purposes using the federal definitions of combat zone pay. This law is not retroactive; for Tax Year 2020 and prior, combat pay is still **taxable** income.



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Spouses of Military Personnel

Spouses of military personnel can choose one of three locations as their legal residence: their home state, their military spouse's home state, or the state where that spouse is stationed for military reasons. Federal law allows spouses of military personnel to choose the same legal residence as the service member for state and local tax purposes. Spouses can make this choice even if they:

- Never lived in that state; or
- Did not live with the service member spouse during the year.

When a spouse who chooses to be treated as a New Jersey resident had income during the year, they must file a resident return ([Form NJ-1040](#)) and report **income from all sources** (both inside and outside New Jersey), including wages.

A spouse who lives in New Jersey but chooses to be a nonresident of New Jersey does not have to pay Income Tax on wages earned in New Jersey. They must file [Form NJ-165](#), Employee's Certificate of Nonresidence in New Jersey, with their employer to claim an exemption from New Jersey Income Tax.

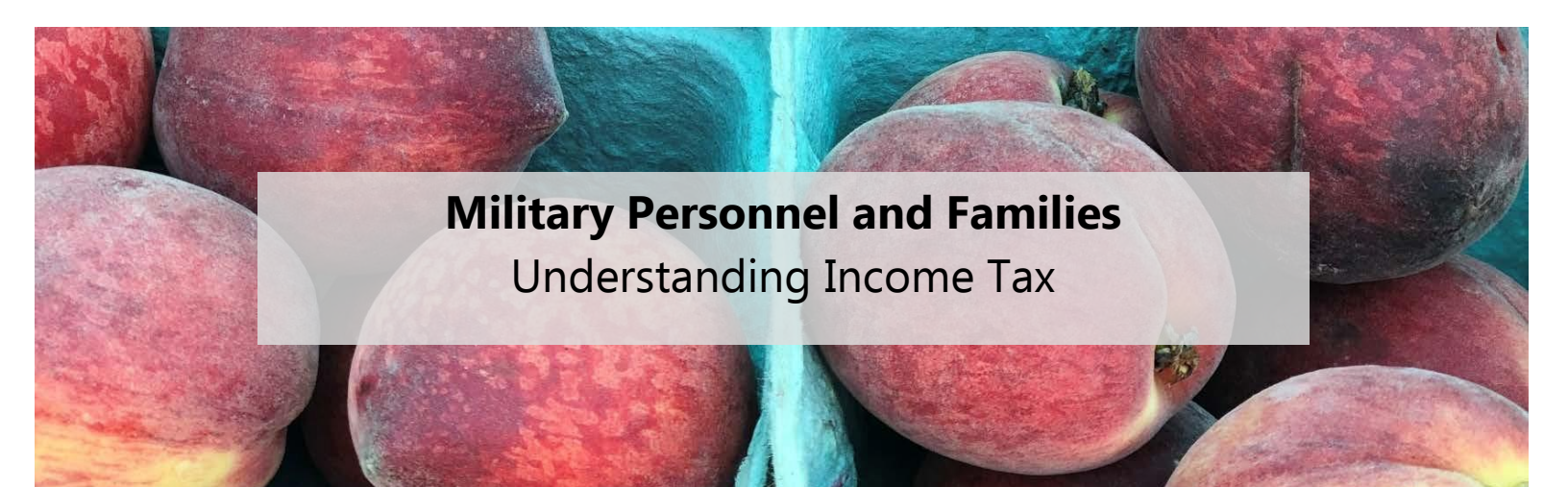
Nonresident civilian spouses must pay Income Tax on all other types of income from New Jersey sources, such as a gain from selling property in New Jersey. (See [New Jersey Nonresidents](#) for more information about Income Tax filing requirements.)

In addition, wages earned in New Jersey by a spouse who lives outside the state are **taxable**. Those wages must be reported as income from New Jersey sources in Column B of Form NJ-1040NR. A spouse who lives outside New Jersey *cannot use* Form NJ-165 to claim an exemption from New Jersey Income Tax.

If your wages are *not taxable* under the Military Spouses Residency Relief Act, and you had tax withheld or made estimated payments in error, you must file a nonresident return ([Form NJ-1040NR](#)) to get a refund.

The income section of the New Jersey nonresident return has two columns: Column A, income from everywhere, and Column B, income from New Jersey sources. If you and your military spouse file a joint return and had no income from New Jersey sources other than your own New Jersey wages, complete your nonresident return as follows:

- Enter in Column A the amount of your income from everywhere (if filing a joint return, do not include your spouse's military pay);
- Enter zero on the wages line and zero on the gross income line in Column B for the amount of income from New Jersey sources;



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- Enter the amount of New Jersey Income Tax withheld, or estimated payments made on the appropriate lines. Complete the “overpayment” and “refund” lines;
- If filing a paper return, enclose a *statement of explanation*, written by you, that references the Military Spouses Residency Relief Act along with a *copy* of your spousal military identification card. Write “Military Spouse” at the top of the return.

Extensions of Time to File

Special rules apply to members of the Armed Forces of the United States and civilians providing support.

We will retroactively grant a six-month extension if you are on active duty and cannot file on time because of distance, injury, or hospitalization as a result of your service. You must enclose an explanation when filing your return. Otherwise, [normal rules](#) apply.

Combat Zone Extension

New Jersey allows extensions of time to file Income Tax returns and pay any tax due for people serving in combat zones. You must be a member of the Armed Forces, or a civilian providing support to the Armed Forces serving in an area that has been declared a “combat zone” by executive order of the President of the United States or a “qualified hazardous duty area” by federal statute. Once you leave the combat zone, or qualified hazardous duty area, you have 180 days to file your New Jersey tax return and pay any tax due.

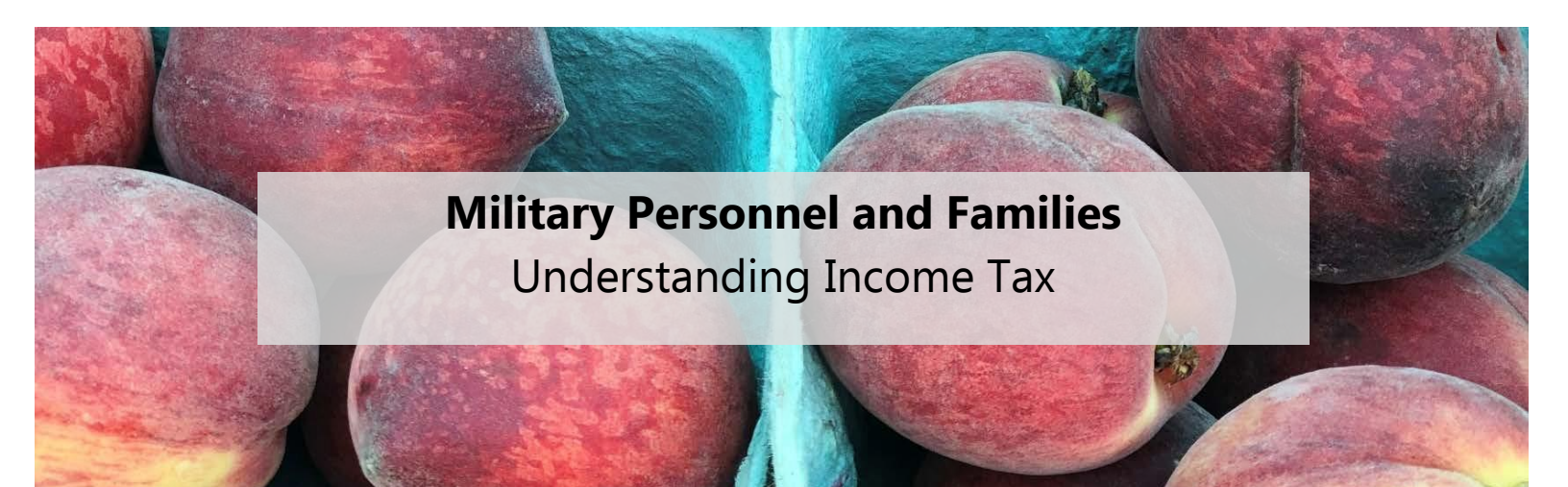
In addition, if you are hospitalized outside New Jersey as a result of injuries you received while serving in a combat zone, or qualified hazardous duty area, the deadline is extended for 180 days from the last day of continuous hospitalization outside New Jersey.

If, while serving in a combat zone or qualified hazardous duty area, you become a prisoner of war or are officially declared to be “missing in action,” you are considered to be serving in the combat zone or qualified hazardous duty area as long as you retain that status for military purposes.

Enclose a statement of explanation with your return when you file. We will not assess interest or penalties during a valid extension for service in a combat zone, or qualified hazardous duty area. This extension also applies to a taxpayer’s spouse who files a joint return.

Duty-Related Death

If a service member dies in a combat zone, or qualified hazardous duty area, as a result of wounds, disease, or injuries received there, we will not assess Income Tax for the tax year in which the death occurred. We also will not assess tax for previous years during which the member served in the combat zone or qualified hazardous



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duty area. The decedent's estate does not have to file Income Tax returns for those years.

The estate is entitled to a refund of any taxes the deceased paid (such as withholdings, estimated payments, or if they had a credit from a prior year) while serving in the combat zone, or qualified hazardous duty area. The estate can file a tax return for a refund of the full amount of the tax paid. We also will cancel any assessments of unpaid tax.

Pensions

New Jersey **does not tax** U.S. military pension and survivor's benefit payments, most of which are issued by the U.S. Defense Finance and Accounting Service. Military pensions are those resulting from service in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard. Do not report your military pension or survivor's benefit on your New Jersey Income Tax return.

New Jersey **does tax** federal civil service pensions or annuities issued by the U.S. Office of Personnel Management even if the pension or annuity is based on credit for military service. You must report your civil service pension or annuity on your New Jersey Income Tax return.

(See [Retirement Income](#) for information on how to report pension income – other than exempt military pension income – on your Income Tax return.)

Disability Payments

New Jersey does not tax total and permanent disability income if you are considered disabled under the federal Social Security Act. **Do not** report these payments on your New Jersey Income Tax return. To qualify, you must be receiving a U.S. military disability pension or survivor benefit payments, or U.S. Department of Veterans Affairs Disability Compensation.

Surviving Spouse Benefits

When military retirees accept a reduced U.S. military pension as a result of joining the Survivor Benefit Plan (SBP), the reduced pension amount they receive is *not taxable* for New Jersey Income Tax purposes regardless of the recipient's age or disability status. After the military retiree's death, the amount paid to the surviving beneficiary also is *not taxable* as pension income.

(See [Retirement Income](#) for information on the benefits New Jersey provides for those who are 62 or older or disabled, and who are receiving pension income.)



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Property Tax Relief and Benefits for Veterans

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The forms and amounts referred to in this Bulletin are those for Tax Year 2023. This document is designed to provide guidance to taxpayers and is accurate as of the date issued.

Any reference in this publication to a spouse also refers to a spouse who entered into a valid same-sex marriage in another state or foreign nation and a partner in a [civil union \(CU\)](#) recognized under New Jersey law.