



# Air Force All States Income Tax Guide

JANUARY 1994

Covering Tax Year 1993

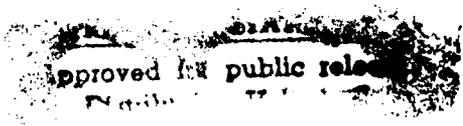


DTIC  
ELECTE  
FEB 08 1994

SECRET

4/20

94-04104



Distributed by Legal Assistance Branch  
The Judge Advocate General's School  
United States Army  
Charlottesville, Virginia

94 2 04 102

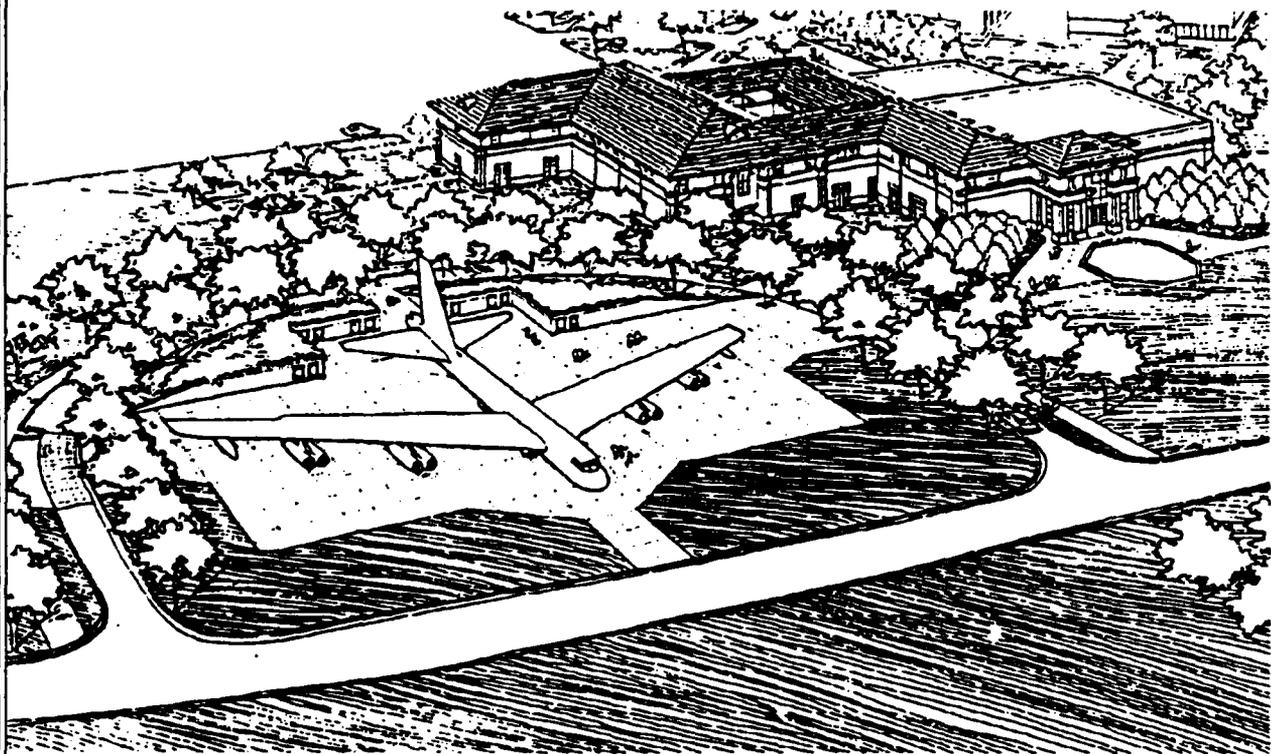
# REPORT DOCUMENTATION PAGE

Form Approved  
OMB No. 0704-0188

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188), Washington, DC 20503.

<b>1. AGENCY USE ONLY (Leave blank)</b>	<b>2. REPORT DATE</b> January 1994	<b>3. REPORT TYPE AND DATES COVERED</b> Final	
<b>4. TITLE AND SUBTITLE</b>  Air Force All States Income Tax Guide--Jan 94		<b>5. FUNDING NUMBERS</b>  N/A	
<b>6. AUTHOR(S)</b>  Administrative and Civil Law Division, TJAGSA			
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b>  The Judge Advocate General's School, Army Charlottesville, VA 22903-1781		<b>8. PERFORMING ORGANIZATION REPORT NUMBER</b>  None	
<b>9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b>  Same as 7.		<b>10. SPONSORING/MONITORING AGENCY REPORT NUMBER</b>  Same as 8.	
<b>11. SUPPLEMENTARY NOTES</b>  New text			
<b>12a. DISTRIBUTION / AVAILABILITY STATEMENT</b>  A		<b>12b. DISTRIBUTION CODE</b>	
<b>13. ABSTRACT (Maximum 200 words)</b>  This publication contains state tax information for use in legal assistance offices.			
<b>14. SUBJECT TERMS</b> State Income Tax, Operation Desert Storm, Provide Comfort, Domicile, Spouse, Armed Forces Tax Council		<b>15. NUMBER OF PAGES</b> 242	
		<b>16. PRICE CODE</b> N/A	
<b>17. SECURITY CLASSIFICATION OF REPORT</b> UNCLASSIFIED	<b>18. SECURITY CLASSIFICATION OF THIS PAGE</b> UNCLASSIFIED	<b>19. SECURITY CLASSIFICATION OF ABSTRACT</b> UNCLASSIFIED	<b>20. LIMITATION OF ABSTRACT</b>

**UNITED STATES AIR FORCE  
ALL STATES INCOME TAX GUIDE  
1993 EDITION**



Air Force Judge Advocate General School  
CPD/JA  
525 Chennault Circle  
Maxwell Air Force Base, Alabama  
36112-6429

# 1993 ALL STATES TAX GUIDE

## TABLE OF CONTENTS

LISTING OF STATES .....	i
SPECIAL NOTES .....	ii
INTRODUCTION ..	iii
DESERT STORM INFORMATION .....	vii
PUERTO RICO TAX INFORMATION .....	x

### STATE LISTINGS:

ALABAMA	1	NEW JERSEY	130
ALASKA	5	NEW MEXICO	135
ARIZONA ..	6	NEW YORK	140
ARKANSAS	9	NORTH CAROLINA	146
CALIFORNIA	14	NORTH DAKOTA	154
COLORADO	21	OHIO	158
CONNECTICUT	24	OKLAHOMA	169
DELAWARE	37	OREGON	171
D.C.	40	PENNSYLVANIA	176
FLORIDA	43	RHODE ISLAND	184
GEORGIA	46	SOUTH CAROLINA	189
HAWAII	51	SOUTH DAKOTA	205
IDAHO	56	TENNESSEE	206
ILLINOIS	59	TEXAS	209
INDIANA	62	UTAH	210
IOWA	66	VERMONT	212
KANSAS	70	VIRGINIA	214
KENTUCKY	74	WASHINGTON	218
LOUISIANA	78	WEST VIRGINIA	219
MAINE	82	WISCONSIN	222
MARYLAND	86	WYOMING	227
MASSACHUSETTS	92		
MICHIGAN	102		
MINNESOTA	106		
MISSISSIPPI	110		
MISSOURI	113		
MONTANA	119		
NEBRASKA	123		
NEVADA	128		
NEW HAMPSHIRE	129		

Accession For	
NTIS	<input checked="" type="checkbox"/> CRA&I
DTIC	<input type="checkbox"/> TAB
Unannounced <input type="checkbox"/>	
Justification .....	
By .....	
Distribution/ .....	
Availability Codes	
Dist	Avail and/or Special
A-1	

## **SPECIAL NOTES**

Air Force legal assistance officers should file this publication in the Category 1 Guides Binder of the Preventive Law Uniform Notebook System. We strongly suggest that other offices keep this publication in a three-ring binder and do not throw it away after the tax season.

All Air Force legal assistance officers should have the three volume reference series published by Commerce Clearinghouse (CCH) entitled "State Personal Income Tax Forms." That reference contains not only forms but also instructions and information letters directed by State tax authorities to taxpayers. The reference series is an additional source of information for tax questions not addressed by this publication.

When this publication went to print, changes in the tax law had not been received from the following state:

**Pennsylvania**

As soon as information is received, we will send out an update for this section of the All States Tax Guide.

A special thanks to Captain Bruce Ambrose, and A1C Laura A Wiggins, without whose help this publication would not have been completed. Also I want to acknowledge each of the over 50 state tax representatives who submitted corrections for this printing. This publication can be reproduced freely in order to help the men and women of the Armed Services address their individual tax concerns. Finally, I acknowledge Lt Col George Hancock and the U.S. Army Judge Advocate General School for their assistance in supplying the Desert Storm and Puerto Rico tax information.

**DANIEL E. ROGERS, Major, USAF**  
Air Force Judge Advocate General School

## **Introduction to the 1993 Edition**

The purpose of this pamphlet is to furnish information to personnel in the Armed Services regarding their possible liability for income tax to the several states of the United States.

### **OPERATION DESERT STORM AND PROVIDE COMFORT**

The Executive Order designating the Persian Gulf area as a combat zone is still operative. Any Desert Storm taxpayer should write the words "Desert Storm" across their federal and state tax returns for special processing. Federal tax questions arising from Desert Storm service may be found in IRS Publication 945, specially issued for combat zone tax issues.

### **General Responsibility to Pay State Income Taxes**

Paragraph 1, Air Force Regulation 30-30, provides in part: "Air Force personnel must pay their just financial obligations in a proper and timely manner, especially those imposed by law, such as Federal, State or local taxes." The Army and Navy have similar regulatory provisions.

The Federal Government imposes a tax on the income of all United States citizens wherever they live, and on the income of all other persons residing in the United States. This is the Federal income tax. In addition, most states (and some cities and counties), and the District of Columbia, impose a tax on the income of persons subject to their jurisdiction. Members of the Armed Forces of the United States are not excused or exempt from such state or local income taxes except to the extent that either the Soldier's and Sailor's Civil Relief Act (SSCRA - See Below) or the law of the particular state or locality so provides.

As a general rule, the states that impose income taxes do so on two classes of persons: (a) Those "resident" or "domiciled" in the state at relevant times during the tax year, regardless of the sources of income; and (b) Those not resident in the state but deriving income from sources within the state.

If that general rule were literally applied, a person in the Armed Forces could be liable for income tax to more than one state, i.e., first, to the state where he/she is "domiciled", and second, to the state in which he/she is stationed and thus "deriving" income. Many civilians who maintain a residence in one state but work in another are subject to this double taxation. However, the SSCRA provides service members with relief from this double taxation. The Act provides that a member of the Armed Forces who is a legal resident of one state but who is living in another solely by reason of military orders, is not liable to the second state for income taxes on his/her service pay.

NOTE, however, the SSCRA does not exempt military retired pay, separate income of a spouse or other members of the service member's family, nor the income of service personnel derived from off-duty employment, investments, business, rents, bank

deposits, and other sources.

### Examples of 3 Common State Tax Situations for Service Members

a. Domicile in one state, stationed in another, no outside income. Airman Jim Jones is a legal resident (domiciled) in Virginia but he is assigned at a base in New York. He has no income other than his active duty service pay. As a domiciliary of Virginia, he is required to pay income tax to the State of Virginia. He is not liable for New York state income tax because of the Soldier's and Sailor's Civil Relief Act.

b. Domicile in one state, stationed in another, with outside income. Another member, Sergeant Jane Doe, is domiciled in Virginia, and stationed in California. She is required to pay income tax on all her income to the state of Virginia. While stationed in California she took a part-time job during her off-duty hours. Her compensation from this part-time employment is not covered by the SSCRA. Sgt Doe must report that California income on a California state income tax return, and also report that income on her Virginia income tax return. Although this income is reported to two states, it probably would be taxed only once since the off-duty income will be taxed at the source by California, and that tax credited against Virginia's tax assessment on the off-duty income.

c. Domicile in one state, stationed in another, with outside income in yet another state. Sergeant John Smith is domiciled in Virginia and is stationed in Ohio. He buys a house there, not to change his legal domicile, but merely as a place to live with his family while stationed in Ohio. He intends to maintain his domicile in Virginia, and to return there after his release from active duty. He must continue filing his state return to Virginia, and under the SSCRA, Ohio will not be permitted to impose an income tax on his service pay, even though he owns real property in that state. If, however, he is transferred from Ohio to New Mexico and rents out the Ohio house he may have to file an Ohio return to report the rental income. In addition, he has a liability for filing a Virginia return on his service pay as well as his rental income.

### Tax Treatment of Spouses

An increasing number of military spouses obtain employment on or near bases where the member is stationed. It is important to note that these spouses often become taxpayers of the state in which they temporarily reside, although their servicemember spouse is protected by the SSCRA. Some states take the position that working civilian spouses become "residents" for tax purposes if they have been within the state for a prescribed number of days or months, usually stated as 180 days or 6 months. The military member is protected from such treatment by the SSCRA. The non-military spouse is not. Other states hold that civilian spouses are taxable as "nonresidents deriving income from within the state." In either case, the civilian spouse generally cannot file a joint state return with the military member. Thus, if a serviceman and his wife are residents of New York but living at Dover AFB, Delaware, while he is stationed at the base, if he has no income other

than his service pay, he is exempt from Delaware tax. If his wife works at the BX, however, she is considered a resident of Delaware and should file an individual Delaware tax return. She may also be required to file a New York return (as would her husband on his income), but can credit the tax paid to Delaware against her New York income tax.

### **States are Increasingly Active in Collecting Taxes Owed**

As the states are more pressed for revenue they also are more aggressive in collecting income taxes. This can take the form of the state's regulations broadening their interpretation of "residency" or "domicile" for tax purposes, or it may take the form of more aggressive enforcement of current taxes. Military personnel should be cautioned against relying either on widespread exemptions from state liability permitted during wartime, or on a state's apparent history of collecting taxes due. In short, military personnel are expected to comply with the law. Personnel of the Armed Forces should be aware that a statement of a member's earnings is sent each year to the state indicated by the member as his/her state of domicile (legal residence). The Tax Reform Act of 1976 amended 5 U.S.C. 5516 and 5517 to permit the withholding of state and District of Columbia income taxes from military pay under certain circumstances.

As a number of states have adopted the Federal income tax law as the basis upon which state income taxes are collected, so have they relied on the greater scrutiny given Federal tax returns by the Internal Revenue Service. Many states require taxpayers to file with the state a report of changes in their Federal returns. Such changes usually occur after an audit by the Internal Revenue Service and may include such things as disallowance of claimed deductions or exemptions, or a correction of errors in arithmetic. After such changes in the Federal returns become final, taxpayers are usually given 30 to 90 days to report them to their state. In a move toward efficient tax collection, a number of states have entered into agreements with Internal Revenue Service for the exchange of tax data.

A number of states require taxpayers to file a Declaration of Estimated Tax. People who reside in states having a withholding system similar to that of the Federal Government, but whose income is not subject to withholding at the source, must usually file such declarations. Of course, withholding of state taxes under an agreement with the Secretary of the Treasury would normally render filing a declaration of estimated tax unnecessary. If in doubt about whether you need to file estimated returns, consult your legal assistance officer, unit tax advisor or taxing authority.

Some states exempt part or all of a member's military income from state income tax. It is important to remember that this is an exemption from paying income tax and not necessarily an exemption from filing a return. An income tax return may be required, even though no tax is due. For a variety of reasons military members may wish to file such returns. Filing a return strengthens their position as a state resident and may help defeat claims by other states for payment of taxes.

## **Armed Forces Tax Council**

The Armed Forces Tax Council was created in 1988 by DoD Directive 5124.3. Within the Council's responsibility to oversee all tax matters affecting the military is the charge to coordinate the following:

1. Legislative proposals that affect the federal and state tax obligations of members.
2. Requests for interpretations of tax laws, regulations, and rulings requested by DoD offices and Agencies.
3. Liaison with Federal, State and local tax authorities by DoD representatives.

Please contact AFLSA/JACA for coordination of any of these matters with the Armed Forces Tax Council.

## **SUMMARY**

An individual's obligation to pay state income taxes is just as real and valid as any other legal obligation. The benefits derived from timely compliance with applicable state tax laws can be substantial. For example, service members should find it easier to qualify their children for in-state tuition rates in the state where they regularly paid income taxes. In like manner, state services provided to disabled or incompetent persons, or those with extraordinary medical needs, is generally predicated on domiciliary status. Paying state income taxes is very strong evidence of domicile in that state.

Since many cities and counties are imposing their own income taxes, military personnel should learn if the city or county where they physically reside imposes such a tax. Off-duty earned income, or a spouse's income, may be liable for such local income taxes.

Many states have some provisions for either total exemption, partial exemption, or exclusions of military pay from taxation. Therefore, each individual should consult the "MILITARY PROVISIONS" of his particular state for specific exclusions, if any.

Any state income tax questions not answered by our legal assistance officer or this publication should be referred directly to the "TAX AUTHORITY" we show for that state. The address is listed at the end of each state section.

Questions or comments concerning this publication should be sent to:

Editor,  
1993 All States Income Tax Guide  
Air Force Judge Advocate General School  
Maxwell Air Force Base, AL 36112-5712

## DESERT STORM TAX INFORMATION

**EXTENSION OF DEADLINE.** Armed Forces members who served in a combat zone are allowed additional time to take care of tax matters (called a "deadline extension," in this handout). The deadline for taking actions with the IRS is extended for at least 180 days after the later of:

1. The last day the taxpayer is in a combat zone (or the last day the area qualifies as a combat zone), or
2. The last day of any continuous qualified hospitalization for injury from service in the combat zone. (Qualified hospitalization is that hospitalization that resulted from an injury received while serving in the combat zone. In the case of a Persian Gulf area injury, the injury must have occurred between 2 August 1990 and the date the President, by Executive Order, terminates the combat zone.)

Beyond the 180 days, the deadline is also extended by the number of days that were left for the member to take action with the IRS when (s)he entered the combat zone. If the member entered the combat zone before the time to take the action began, the deadline is extended by the entire time (s)he has to take the action.

**ACTIONS EXTENDED.** The deadline extension provision applies to these actions:

1. Filing any return of income, estate, or gift tax (except employment and withholding taxes).
2. Paying any income, estate, or gift tax (except employment and withholding taxes).
3. Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a Tax Court decision.
4. Filing a claim for credit or refund of any tax.
5. Bringing a suit for any claim for credit or refund.
6. Purchasing a replacement residence to postpone paying tax on the gain on the sale of the old residence.
7. Making a qualified IRA contribution.
8. Allowing a credit or refund of any tax by IRS.
9. Assessment of any tax by the IRS.
10. Giving or making any notice or demand by the IRS for the payment of any tax, or for any liability for any tax.
11. Collection by the IRS of any tax due.
12. Bringing suit by the United States for any tax due.

Note: If the IRS takes any actions listed above or sends a notice of examination before learning that the taxpayer qualifies for a deadline extension, the taxpayer should return the notice with "DESERT STORM" written across the top. No penalties or interest will be imposed for failure to file a return or pay taxes during the extension period. The IRS, however, will pay interest on a 1991 refund from 15 April 1992, and on a 1992 refund from 15 April 1993, if the returns are timely filed after applying the deadline extension.

SPOUSES. Spouses of individuals who served in a combat zone are entitled to the same deadline extension with two exceptions:

1. The extension does not apply to a spouse for any tax year beginning more than two years after the date that combat activities end.
2. The extension does not apply to a spouse for any period the qualifying individual is hospitalized in the United States for injuries incurred in a combat zone.

COMBAT ZONE EXCLUSION. Armed Forces members who serve in a combat zone may exclude certain pay from their income. They do not have to receive the pay while in a combat zone, but it must be paid for service there, or for a period during which they were hospitalized as a result of their service there. The following military pay can be excluded from income:

1. Active duty pay earned in any month they served in a combat zone. Military members (enlisted or commissioned warrant officers) who serve in a combat zone during any part of a month, can exclude all of their basic pay for that month from income. Commissioned officers may exclude \$500 of their pay each month during any part of which they served in a combat zone.
2. A dislocation allowance if the move begins or ends in a month they served in a combat zone.
3. A reenlistment bonus if the voluntary extension or reenlistment occurs in a month they served in a combat zone.
4. Pay for accrued leave earned in any month they served in a combat zone.
5. Pay received for duties as a member of the Armed Forces in clubs, messes, post and station theaters, and other nonappropriated fund activities. The pay must be earned in a month the member served in a combat zone.
6. Awards for suggestions, inventions, or scientific achievements members are entitled to because of a submission they made in a month they served in a combat zone.

**COMBAT ZONE.** The President, by Executive Order 12744, designated the following locations (including airspace) as a combat zone beginning 17 January 1991:

- \* The Persian Gulf,
- \* The Red Sea,
- \* The Gulf of Oman,
- \* The part of the Arabian Sea that is north of 10 degrees north latitude and west of 68 degrees east longitude.
- \* The Gulf of Aden, and
- \* The total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

**Service in a combat zone.** Service is performed in the Persian Gulf combat zone only if it is performed on or after 17 January 1991.

**Qualifying service outside combat zone.** Military service outside of a combat zone is considered performed in a combat zone if:

1. The service is in direct support of military operations in the combat zone, and
2. The service qualifies the member for special military pay for duty subject to hostile fire or imminent danger.

Military pay for this service will qualify for the combat zone exclusion if the other requirements are met.

**Nonqualifying service in a combat zone.** The following military service does not qualify as service in a combat zone:

1. Presence in a combat zone while on leave from a duty station located outside the combat zone.
2. Passage over or through a combat zone during a trip between two points that are outside of a combat zone.
3. Presence in a combat zone solely for a member's personal convenience.

Consult IRS Publication 945, Tax Information for those Affected by Operation Desert Storm, for more information.

**FORM W-2.** The wages shown in box 10 of the 1993 Form W-2 should not include military pay excluded from an individual's income under the combat zone exclusion provisions. Contact your local finance office if you have questions about the exclusion.

**TAXPAYERS WHO SERVE IN A COMBAT ZONE SHOULD WRITE "COMBAT ZONE--DESERT STORM" ON THEIR TAX RETURN.**

# **PUERTO RICO TAX INFORMATION**

This flyer outlines the requirements for filing income tax returns for legal residents of Puerto Rico (legal residence as determined by evidence of domicile, e.g., the last state in which one voted, place of entry on active duty [home of record], state expressed as one's domicile in a will) or for those who recently changed their legal residence from Puerto Rico to one of the states of the United States for the tax year.

## **Whether or not you are required to file a Puerto Rico return in addition to a federal return is based on:**

\* Whether you were a legal resident of Puerto Rico on 31 December **OR**

\* Whether you changed your legal residence from Puerto Rico to one of the states of the United States during the tax year (before 31 December)

Individuals who claim Puerto Rico as their legal residence may take a credit on the

Puerto Rico or Federal Income Tax return for the taxes paid to the United States or to Puerto Rico. The procedure for taking the credit may change based on where you are stationed.

**If you are a legal resident of Puerto Rico as of 31 December and you live or are stationed in Puerto Rico, then follow this procedure to take the credit:**

1. Complete the Puerto Rico return (Form 482PR).
2. Complete the Federal return (Form 1040).
3. Complete Form 1116 (US) to take the

credit.

4. Mail the Puerto Rico return to the Department of the Treasury in Puerto Rico.
5. Mail the Federal return (Form 1040) and Form 1116 to the servicing IRS office.

**If you are a legal resident of Puerto Rico as of 31 December and you live or are stationed outside the states of the United States, then follow this procedure to take the credit:**

1. Complete the Puerto Rico return (Form 482PR).
2. Complete the Federal return (Form 1040).

3. Complete Form 1116 (US) to take the credit.
4. Mail the Puerto Rico return to the Department of the Treasury in Puerto Rico.
5. Mail the Federal return (Form 1040) and Form 1116 to the servicing IRS office.

**If you are a legal resident of Puerto Rico as of 31 December and you live or are stationed in a state of the United States, then follow this procedure to take the credit:**

1. Complete the Federal return (Form 1040).
2. Complete the Puerto Rico return (Form 482PR) and the Puerto Rico credit worksheet to take the credit of Form 482PR).
3. Mail the Puerto Rico return AND the Puerto Rico credit worksheet to the Department of the Treasury in Puerto Rico.
4. Mail the Federal return (Form 1040) to the servicing IRS office.

**If you were a legal resident of Puerto Rico during part of**

**the year (i.e., you changed your legal residence from Puerto Rico to one of the states of the United States during 1993) and you were a legal resident of that state as of 31 December, then follow this procedure to claim the credit:**

1. Complete the Puerto Rico return (Form 482PR) for the period you were a legal resident of Puerto Rico (e.g., from 1 January 1993 until the date you changed your legal residence).
2. If you were living or stationed in a state of the United States during the period of legal residency for Puerto Rico, complete the Puerto Rico worksheet to take the credit on Form 482PR. If you were living or stationed in Puerto Rico or outside the states of the United States, complete Form 1116 (US) to take the credit on your Federal return.
3. Complete the Federal return (Form 1040).
4. Complete the state

return.

5. Mail the Puerto Rico return, a copy of DD Form 2058 (Change of Residence Form), and a certified copy of your Federal return in order to prove the change of legal residence to the Department of the Treasury in Puerto Rico.
6. Mail the Federal return (Form 1040) to the servicing IRS office.

**Part-year residents and nonresidents of Puerto Rico may be entitled to a refund for taxes paid to Puerto Rico.**

Puerto Rico requires proof that you have actually changed your residence to a state of the United States. In addition to submitting a copy of DD Form 2058 (Change of Residence Form), you should submit a copy of your Federal income tax return. When applicable, you should submit a copy of your first leave and earnings statement (LES) for the tax year showing Puerto Rico as the place of legal residence and a copy of the first LES showing a state of the United States as the

place of legal residence.

**If Puerto Rico was not your legal residence during any part of the year, but for some reason income tax was withheld for Puerto Rico, follow this procedure to claim a refund of the withheld taxes:**

- a. Complete Form SC 2698 (Claim for Refund of Income Tax Erroneously or Illegally Collected).
- b. Mail the Form SC 2698 together with a copy of the DD Form 2058 to the Department of the Treasury in Puerto Rico. The DD Form 2058 should demonstrate that your residence is a state of the United States. In addition, you must submit a statement from the servicing finance office explaining the reason for the withholding.

**Keep these important factors in mind when preparing a Puerto Rico return:**

- A. Puerto Rico income includes all income including passive income.
- B. Puerto Rico does not tax unemployment compensation or social

security benefits.

C. The following items are included as income for Puerto Rico: Cost of Living Allowance (COLA), Variable Housing Allowance (VHA), and interest. Note that the Defense Finance and Accounting Service (DFAS) does not withhold taxes from COLA or VHA.

D. Puerto Rico does not tax the first \$2,000 of interest earned on an account located in Puerto Rico. All interest earned in an account in a financial institution located in a state of the United States is taxed in Puerto Rico (and on the Federal income tax return). This interest must be included on the Schedule F filed with the Form 482PR.

E. If you have a car loan (in Puerto Rico or the United States) then you may deduct the interest paid on that loan for 1993 up to \$1,200 on your Puerto Rico return only. Puerto Rico allows interest on one vehicle only. You must include the name of the financial institution, loan account number, and amount of interest paid.

F. If you and your spouse both work (in Puerto Rico or the United States) then you are entitled to an

additional \$200 deduction provided you both include your taxable income on the Puerto Rico return.

G. You must provide the following information to Puerto Rico: Date of birth (for husband and wife); social security number for husband and wife and all dependents age five or older; the wife's maiden name if she is from Puerto Rico; and each parent's last name.

**Filing deadline.** If you cannot file your Puerto Rico return by the 15 April 1994 deadline, you must file Form 2644 (automatic 30-day extension) and include one-half of any tax liability due. Near the end of the extension you may file Form 2644.1 to obtain an additional extension.

**Puerto Rico points of contact:** Mrs. Sandra Torres, Documents Processing Division (Office 204), Bureau of Income Tax, Box 2501, San Juan, Puerto Rico 00902. Telephone: 809/723-1933. Margarita Crespo Morales, Consulting and Legislation Office (Office 601), Bureau of Income Tax, Box 2501, San Juan, Puerto Rico 00902. Telephone: 809/723-7085. Fax: 809/721-3491.

## ALABAMA 1993

**STATE LAW:** Code of Alabama 1975, Section 40-18-1 et seq.

**TAXPAYERS:** Residents with a net income of \$1,500 or more if single, or with a net income of \$3,000 or more if married and filing jointly, and nonresidents receiving income from business conducted or property owned within the State which is more than their prorated Alabama personal exemption.

**FILING:** See "TAXPAYERS". If the requirements are met, an Alabama income tax return must be filed although tax may not be due. Resident taxpayers whose gross income is not more than \$20,000 if single or \$40,000 if married and filing a joint return and who do not have income other than salaries and wages in excess of \$1,500 and do not desire to itemize their deductions should file on Form 40A. All other resident taxpayers should file on Form 40. Nonresident Taxpayers having income from Alabama should file on Form 40NR. Under Alabama Income Tax Law, unless proved otherwise, a wife is presumed to have the same residence as her husband. Thus, wives of military personnel who are residents of Alabama are also residents of Alabama for income tax purposes unless they have never left the state of which they were residents before their marriage. Wives who are also military personnel may retain their residence in the state from which they entered military service.

**MILITARY PAY:** Military pay received by service members is taxable, except that which is received for active duty in a Presidentially designated combat zone (see below for details).

**DESERT STORM PROVISIONS:** For tax year 1991 and beyond, all military-source income received by active duty personnel, reserve or National Guard personnel while serving in the combat zone designated by Executive Order #12744 is exempt from Alabama income tax beginning January 17, 1991. This applies equally to all ranks. Personnel serving in the "Persian Gulf area" as part of a unit in the Desert Shield or Desert Storm operation were granted a 180-day income tax filing extension following the termination of their service in the area. The period of service is further extended for those injured as the result of Desert Shield/Storm services for the period of any continuous hospitalization, provided the hospitalization does not exceed five (5) years. The extensions also apply to the member's spouse.

**RESIDENTS:** Residents include all persons domiciled in the State and every other person maintaining an abode in the State or spending in the aggregate more than seven months of the tax year in the State. The burden of proof as to a change in domicile/residence is on the taxpayer. Report of Attorney General, April-June 1940, p. 150, State v. Woodruff, 253 Ala. 620, 46 So.2d 553.

**INCOME EXCLUSIONS:** (a) Life, accident, health, war, unemployment insurance; (b) Veteran's benefits; (c) Public assistance to the blind and dependent children; (d) Interest on

## ALABAMA 1993

obligations of the United States, Alabama, or its political subdivisions; (e) Gain from involuntary conversion due to requisition or condemnation by a government authority is now treated the same for Alabama as the current Federal Income Tax law. Gain on sale of personal residence may be deferred in the same manner as allowed by Federal Income Tax Law in effect May 1985, except that the term "new residence" means and includes only property located within the State of Alabama. Alabama will allow military personnel a suspension of the replacement period for up to 4 years of the time they are overseas. The tax rates (which are built into the tax tables for a single person, a person qualifying as "Head of Family", or a married person filing a separate Alabama return are as follows:

If the amount taxable is:	Your tax is:
Not over \$500 .....	2% of taxable income.
Over \$500 but not over \$3,000 .....	\$ 10.00 plus 4% of taxable income over \$500.
Over \$3,000 .....	\$110.00 plus 5% of taxable income over \$3,000.

The tax rates (which are built into the tax tables) for a married couple fill-in a joint Alabama return are as follows:

If the amount taxable is:	Your tax is:
Not over \$1,000 .....	2% of taxable income.
Over \$1,000 but not over \$6,000 ...	\$ 20.00 plus 4% of taxable income over \$1,000.
Over \$6,000 .....	\$220.00 plus 5% of taxable income over \$6,000.

Taxpayers who qualify for the short form (Form 40A) will use the standard tax tables.

**DEDUCTIONS:** (a) Expenses related to transactions entered into with the expectation of a profit, such as stock, bond, and investment property transactions; (b) Medical expenses are treated and computed on the same basis as the Federal law in effect January 1, 1982; (c) Contributions are allowed as provided in Federal law in effect January 1, 1982, except that no deduction is allowed taxpayers who do not itemize their deductions; (d) Federal income taxes, Federal Insurance Contribution Act taxes, State, local, and foreign occupational license taxes, contributions to State Unemployment funds, and all taxes allowed as an itemized deduction under Federal law except State Income Tax; (e) Interest: Alabama is tied to the Internal Revenue Code 163 regarding allowable interest expense deductions. This has the effect of the phase-out of consumer personal interest expense. Schedule A, itemized deductions, has been revised for this computation. This change is effective for tax years beginning 12/31/87; (f) Dues to unions/professional societies; (g) Small tools and supplies; (h) Professional periodicals; and (i) Casualty losses in excess of \$100 per casualty.

## ALABAMA 1993

Standard Optional Deduction for a single taxpayer, head of family, or a married person filing a separate return is 20% of adjusted gross income or \$2,000, whichever is less. For a married couple filing a joint return, the Standard Optional Deduction is 20% of adjusted gross income or \$4,000, whichever is less. In addition to the Standard Optional Deduction, a deduction for Federal income tax paid is allowed. If one spouse itemizes deductions when filing a separate return, the other spouse may not elect to claim the standard optional deduction.

Alabama law is also tied to Internal Revenue Code Section 274 regarding the deduction of expenses for travel, entertainment and meals. This has the effect of reducing the meals and entertainment expenses by 20% like the federal law. Alabama law also requires that the excess expense be claimed as an itemized deduction subject to the 2% limit which the federal has on miscellaneous deductions. This change is effective for tax years or periods beginning after 12/31/89.

The Alabama Law has been changed to remove the irrevocable provisions of electing the optional standard deduction after the due date of the return. The effect of this law is to provide that, if a taxpayer finds it necessary to amend a previously filed return to claim an itemized deduction after originally claiming the optional standard deduction, he may do so for years beginning after December 31, 1984.

### EXEMPTIONS:

Single person or married person filing separate return*	\$1,500
Married couple filing joint return or head of family**	3,000
Dependents (each)	300

\* Married persons filing separate returns must each claim their own personal exemption of \$1,500.

\*\* Not Federal test for "Head of Household" - To qualify as Head of family, taxpayer must (1) be unmarried; (2) furnish more than half of support of dependent claimed; (3) maintain home for self and dependent; (4) exercise family control; (5) actual relationship to dependent by blood, marriage, or adoption, supported by legal or moral obligation, (6) actual dependence of person claimed as dependent, not mere economic convenience.

Nonresident individuals are allowed itemized deductions, federal income tax, and personal exemptions and credit for dependents prorated by the ratio of the adjusted gross income from sources within Alabama and without Alabama. As an exception, however, casualty losses occurring to property within the State are not subject to proration.

**CAPITAL GAINS AND LOSSES:** Gains are taxed as ordinary income. Losses are not deductible unless incurred in trade or business transactions entered into for profit. Sale of personal residence by resident taxpayers will be treated similar to Federal law for like sales, the

## ALABAMA 1993

only exception being the new residence must be located within the State of Alabama. Taxpayers over 55 may exclude gain of up to \$125,000, one time in the life of the taxpayer or spouse, on the sale of a personal residence. Capital gains distributions of mutual funds are treated as ordinary income.

**PAYMENTS:** Returns and tax in full due 15 April. Alabama utilizes both resident and nonresident income tax returns. Estimated tax is due from persons with net income exceeding \$1,500 (or married couple with net income exceeding \$3,000) not subject to withholding. It is payable in four equal installments -- 15 April, June, September and January. Taxpayers may apply for an extension of time for filing returns. The extension, except in cases of taxpayers outside the Continental United States, shall not exceed six months. Interest is charged on delinquent and underpaid taxes. Penalties may also apply.

**TAX AUTHORITY:** State of Alabama, Department of Revenue, Income Tax Division, Montgomery, Alabama 36130. (205) 242-1000.

**NOTE:** The following cities impose municipal occupational fees on all income earned within the city. These fees can be deducted as city occupational tax on Schedule A.

Atlanta Auburn Birmingham Gadsden Guin Hamilton Mountain Brook  
Opelika

**RETIREMENT INCOME:** The Alabama Supreme Court ruled in 1990 that all government (federal, state and military) retirement pay is exempt from any income tax. Refunds have been awarded back to 12 April 1986, to include returns filed for tax years 1985-88. The state tax department conducted a computer search to identify people who qualified for refunds. These people did not need to file for the refund or file a corrected return. They should have received their refund payment, with interest. The Alabama legislature codified this law after their court handed down its ruling.

## ALASKA 1993

Alaska currently has no state individual income tax.

## ARIZONA 1993

**STATE LAW:** Revised Statutes, 1978, Sec. 43-101 et seq.

**TAXPAYERS:** Residents and those persons deriving income from Arizona sources, who if single or married filing separately, have an Arizona adjusted gross income of \$5,500 or over or who, if married filing jointly have an Arizona adjusted gross income of \$11,000 or over. This is a community property state.

**FILING:** See "TAXPAYERS". If the requirements are met, an Arizona income tax return must be filed although tax may not be due.

**MILITARY PAY:** (a) Military pay is taxable (but see below for DESERT STORM provisions). (b) If, by reason of being outside the United States, it is impossible or impractical to timely file a return or pay the tax (as determined by the Department) a taxpayer may be relieved from penalty and interest. As soon as possible upon returning to the United States the taxpayer should request in writing, to the Income Audit Section, that the delay be disregarded citing the circumstances. If approved, penalty and interest may be waived.

**DESERT STORM PROVISIONS:** To the extent that military pay earned while serving in a designated combat zone is exempt from taxation under federal law, it also is exempt under Arizona law. In addition, Arizona law provides that all of an officer's pay earned in a designated combat zone is exempt from state taxation. Military members are not required to file Arizona tax returns until at least 180 days after they leave the combat zone. Applicable penalties and interest shall run from the 181st day until the tax due is paid. This extension also applies to military members' spouses, providing a joint Arizona income tax return is filed. Married members who file separately are considered to file singly for purposes of this extension, so that the spouse not on active duty in the combat zone would not qualify for the extension. To exercise the extension, the taxpayer or their representative should attach Arizona Form "Operation Desert Shield Income Tax Extension Request" to the front of the Arizona income tax return. Some members were serving outside the United States as a result of Operation Desert Shield/ Storm, but they were not inside the combat zone. These taxpayers are required to file Arizona tax returns within 30 days after their return to the U.S., or by the date of their federal extension, whichever is later. Applicable penalties and interest shall run from the later of those dates until the tax due is paid.

**RESIDENTS:** (a) Every individual in Arizona for other than temporary or transitory purposes, and (b) Every individual domiciled in Arizona who is outside the State for temporary or transitory purposes. Residents, including military members, who leave Arizona for a temporary or transitory stay are considered to be residents during their absence and are subject to Arizona income tax regardless where stationed or the period of absence from the State pursuant to military orders unless a permanent residence is established elsewhere.

## ARIZONA 1993

**INCOME EXCLUSIONS:** See instructions for Form 140.

**DEDUCTIONS:** An individual may itemize deductions for Arizona purposes while not itemizing deductions for federal purposes. The itemized deductions allowed for Arizona are those itemized deductions allowable under the Internal revenue Code. In addition, the amount of medical expenses that exceed four percent of the taxpayer's federal adjusted gross income will be allowed for taxyear 1993. An Arizona nonresident must prorate these deductions by the percentage of which the individual's Arizona gross income is to his or her federal adjusted gross income.

**RATES: SINGLE TAXPAYERS AND MARRIED TAXPAYERS**

### FILING SEPARATE RETURNS

<u>If taxable income is:</u>	<u>The tax is:</u>
\$ 0 - 10,000	3.8 % of taxable income
\$ 10,001 - 25,000	\$380.00, plus 4.4% of the excess over \$ 10,000
\$ 25,001 - 50,000	\$1,040.00, plus 5.25% of the excess over \$ 25,000
\$ 50,001 - 150,000	\$2,352.50, plus 6.50% of the excess over \$ 50,000
\$150,001 and over	\$8,852.50, plus 7.00% of the excess over \$150,000

### MARRIED TAXPAYERS FILING JOINT RETURN AND UNMARRIED

#### HEADS OF HOUSEHOLD

<u>If taxable income is:</u>	<u>The tax is:</u>
\$ 0 - \$ 20,000	3.8% of taxable income
\$ 20,001 - \$ 50,000	\$760.00, plus 4.4% of excess over \$ 20,000
\$ 50,001 - \$100,000	\$2,080.00, plus 5.25% of excess over \$ 50,000
\$100,001 - \$300,000	\$4,705.00, plus 6.50% of excess over \$100,000
\$300,001 - and over	\$17,705.00, plus 7.00% of excess over \$300,000

#### STANDARD DEDUCTION:

Single	\$ 3,500
Married, filing separately	\$ 3,500
Married, filing jointly	\$7,000
Unmarried head of household	\$7,000

## ARIZONA 1993

### EXEMPTIONS:

Single person .....	\$ 2,100
Couple or Head-of-Household .....	4,200
Blind - (additional) .....	1,500
Dependents (each) .....	2,300
Taxpayer over 65 years .....	2,100
Taxpayer's spouse over 65 years ...	2,100

**CREDITS:** Tax credit for net income taxes paid to another state is allowable provided the other state does not allow a tax credit for income taxes paid to Arizona. Others: see instructions.

**MILITARY INCOME:** Former A.R.S. Section 43-1022.8 which allowed up to \$ 1,000.00 of active duty military pay to be subtracted from Arizona gross income was repealed. Arizona no longer excludes the first \$1000.00 of active duty military pay from Arizona taxation.

**ESTIMATED RETURNS:** An individual who reasonably expects his/her Arizona gross income for the taxable year to exceed \$75,000 or whose income in the preceding taxable year was greater than \$75,000, is required to make Arizona estimated income tax payments.

**NOTE:** Military members who are delinquent in filing Arizona income tax returns will be required to file returns for all years which are delinquent. For Arizona purposes, if no return is filed, an action to collect any delinquent taxes can generally be brought at any time. The question of any abatement of penalties is referred to the Arizona Department of Revenue, Attention: Penalty Review Unit, 1600 West Monroe, Phoenix, Arizona 85007.

**RETIREMENT INCOME:** A \$2,500 subtraction from Arizona gross income for federal, Arizona state and local pension income is allowed.

**TAX AUTHORITY:** Arizona Department of Revenue, 1600 West Monroe, Phoenix, Arizona 85007.

**TAXPAYER INFORMATION:** (602) 255-3381 (Toll free within Arizona: 1-800-352-4090)

**TO ORDER TAX FORMS:** Arizona Department of Revenue  
Attention: Forms  
1600 West Monroe  
Phoenix, Arizona 85007 (602) 542-4260

## ARKANSAS 1993

**STATE LAWS:** Arkansas ACA Sec 26-1209, 84-2001 et seq.

**TAXPAYERS:** All residents must file who, if single, have gross income in excess of \$5,500, or married filing jointly, with no dependent children, whose gross income exceeds \$10,000. All nonresidents who derive income from Arkansas sources must file an Arkansas non-resident income tax return (Form AR1000NR). If a non-resident military taxpayer, or spouse, earns income within the State of Arkansas (other than military income) an Arkansas Non-Resident tax return must be filed reporting the Arkansas income, regardless of the income level.

**FILING:** See "TAXPAYERS". If requirements are met, a return must be filed although no tax is due. Due date is 15 May.

**EXTENSIONS:** Extension of Time to File: Act 403 of 1981 allows a taxpayer to use a Federal Extension on the Arkansas return. If a Federal automatic extension of time has been granted, that extension (Federal Form 4868) may apply for the same period of time (April 16 to August 15) to the filing of an Arkansas return. To qualify, an executed copy of Federal Form 4868 must be attached to the Arkansas return. If an additional extension of time has been granted for filing a Federal return on Federal Form 2688, this too will be honored on the Arkansas return for the same period of time granted by the Internal Revenue Service. An executed copy of this Form 2688 must also be attached to the face of the Arkansas return.

If a Federal extension has not been obtained, a request must be made on an Arkansas Form AR1055. This request must be mailed before the filing date and approved by the Manager, Income Tax Section, P.O. Box 3628, Little Rock, Arkansas 72203-3628 and attached to the return when mailed. The date of the postmark as stamped by the United States Postal Service shall be deemed to be the date of delivery.

**WITHHOLDING:** Act 917 of 1981 provides for the withholding of State Income Tax on all military personnel whose home of record is the State of Arkansas. All Arkansas residents in the Armed Forces should make provisions to have proper withholding taxes deducted on their military pay. The first \$6,000 of military pay is not subject to Arkansas taxation although a return is required to be filed.

**FORMS:** A tax booklet with forms is mailed to each taxpayer who filed an Arkansas return the previous year. They are mailed to the address on the previous year's return. Forms mailed to an Arkansas address are sent via bulk mail and are not forwarded automatically by the Postal Service. Taxpayers filing with an address outside Arkansas will receive their forms by first class mail. Anyone who has not received a booklet by mid-February should write or contact Income Tax Forms, P.O. Box 3628, Little Rock, Arkansas 72203-3628.

**MILITARY PAY:** (a) Arkansas imposes an income tax on members of the Armed Forces who are residents of Arkansas but maintain an abode elsewhere. The first \$6,000 of service pay or

## ARKANSAS 1993

allowances of members of the Armed Forces, and the first \$6,000 of retirement pay received by retired members of the Armed Forces or their surviving spouses are exempt from Arkansas taxation. This does not exempt members from filing Arkansas income tax returns; (b) Disability benefits received by disabled veterans are exempt from taxation; (c) Benefits derived under the G.I. Bill resulting from active service in the Armed Forces are excluded; (d) Overseas assignments do not exempt an individual from filing an Arkansas return.

**DESERT STORM PROVISIONS:** Arkansas adopted Sec. Code 112 and 692 of the Internal Revenue Code (Act 386 of 1991) which exempts total pay for enlisted members and \$500.00 a month for officers while serving in a combat zone. Tax forgiveness is given for MIAs and POWs. Taxes are also forgiven for all military personnel killed or injured overseas.

**RESIDENTS:** Arkansas Code 26-51-102(9) defines a resident as any person domiciled in Arkansas and any other person who maintains a permanent place of abode within Arkansas and spends more than six months of the tax year within Arkansas. Arkansas Code 26-51-102(10) defines a nonresident as any person domiciled outside Arkansas, or who maintains a permanent place of abode outside Arkansas and spends more than six months of the tax year outside Arkansas. However, a person does not lose his/her residence in Arkansas because of military service. Unless specifically designated otherwise, wives of servicemen are generally assumed to have the same residence as their husbands.

**NONRESIDENT AND PART-YEAR RESIDENT:** A nonresident and a part-year resident must complete an AR1000NR form. The tax must be computed on total income then prorated on the basis of Arkansas income to total income.

**INCOME EXCLUSIONS:** (a) Life insurance proceeds; (b) return of premiums on life insurance; (c) Gifts and devises, except income from such property; (d) Interest upon obligations of the United States, its possessions, the District of Columbia, or the State of Arkansas or any political subdivision thereof; (e) Proceeds from accident and health insurance; (f) Workman's compensation and damages; (g) Profit sharing and Annuity benefits until contributions are exceeded; (h) Child support payments; (i) The first \$6,000 of employer sponsored retirement benefits is exempt from state taxation. This includes the gross amount of military survivor benefits. The \$6,000 exclusion is per taxpayer and not pension plan. Both the husband and wife can qualify for their own exclusion. A retiree receiving benefits from both a military and an employer sponsored retirement plan can receive a \$6,000 exemption. A married couple cannot receive more than two exemptions.

**FILING STATUS:** Arkansas has filing statuses similar to the Federal statutes, i.e., (1) Single, (2) Married filing jointly, (3) Head of household, (4) Married filing separately on the same return (See Tax Booklet for more details), (5) Married filing separately on different returns, and (6) Qualifying widow(er).

## ARKANSAS 1993

**INCOME:** W-2, Farm and Business Income may not be split on the Arkansas return, however, Joint Interest and Dividends may be split according to ownership.

**TAX TABLES:** There are three tax tables used for computing Arkansas Income Tax and a capital gains tax rate, as follows: (1) a low income (2) standard deduction table with the standard deduction built into the table. (3) an itemized deduction table. (4) a maximum capital gains tax rate of 6% Taxpayers taking the \$6,000 exclusion may not use the low income table. Arkansas itemized deductions are similar to the Federal itemized deductions except for not allowing a state income tax deduction and using the Arkansas adjusted gross income. Vehicle mileage is 27.5 cents a mile.

### TAX RATES:

First \$ 3,000.....	1.0%
Second 3,000.....	2.5%
Third 3,000.....	3.5%
Next 6,000.....	4.5%
Next 10,000.....	6.0%
Over 25,000.....	7.0%

### PERSONAL TAX CREDITS:

All personal credit such as:

65 or over, 65 Special, Blind, and Deaf.....	\$20.00
Individuals.....	\$20.00
Married Couple, Head of Household, or Qualifying Widow(er).....	\$40.00
Dependents.....	\$20.00
Retarded child.....	\$500.00

**CREDITS:** Credit is given residents for income tax paid to other states, not to exceed what the tax would be on out-of-state income if added to Arkansas income and calculated at Arkansas Income Tax rates.

**CAPITAL GAINS AND LOSSES:** Beginning on or after January 1, 1991, the maximum capital gain tax rate is 6% (Act 882 of 1991). If the ordinary income of the taxpayer plus the capital gain would result in a tax bracket of less than 6%, then the capital gain will be taxed as ordinary income. A worksheet is available for computation. Gain from the sale of personal residence is handled the same as on federal return except the reinvestment of gain on the sale of an Arkansas residence must be in another Arkansas residence (Act 914, Section 3 of 1981). Capital loss carryforward is effective beginning in tax year 1991.

## ARKANSAS 1993

**PAYMENTS:** Tax return and payment due 15 May. Any service member who expects his tax liability at the time of filing a return to exceed \$250.00 is required to file a Declaration of Estimated Tax (AR1000ES) and make quarterly payments toward expected tax liability. There is no statutory authority to waive or excuse tax. Only penalties may be reduced or waived. Arkansas revenue authorities have been lenient in assessing penalties on service members who voluntarily file their delinquent income tax returns. Service members are only liable for taxes beginning with the year 1972. Prior to that time active duty pay and retirement pay were not taxable. The failure to file penalty has been changed beginning in 1991, to 1% per month not to exceed 35%; the failure to pay is 5% per month. The law allows the failure to file and the failure to pay penalties to run consecutively (6% per month) for individual income tax. The aggregate of the two penalties shall not exceed 35%. Interest is due on a delinquent return, or on returns extended by an extension of time to file, at the rate of 10% per annum.

**NOTE: SPECIAL EXEMPTION:** Under the provisions of Acts 48 and 177 of 1977, effective 1 January 1978, the residents of Texarkana, Arkansas do not have to pay income tax on income received while residents of Texarkana. Military members whose home of record is Texarkana, Arkansas are considered residents for this purpose. A post office box does not constitute a residence. Residence must be within the city limits of Texarkana, Arkansas. **A TAX RETURN MUST BE FILED TO GET THE EXEMPTION.**

**ADDITIONAL NOTE:** For tax year beginning 1987 separate maintenance as well as alimony can be taken as an income adjustment. Also for tax years 1987 and after, separate maintenance as well as alimony must be reported as income. Arkansas has adopted the Federal Internal Revenue Code on Individual Retirement Accounts and on Deferred Payment Plans. See tax return booklet for further details concerning these exclusions. In 1989 Arkansas adopted a Bill of Rights for Taxpayers. Under the Arkansas Bill of Rights, the Revenue Division will advise the taxpayer of their rights in any tax audit and collection process. Under certain conditions, the taxpayer may be able to set up an installment plan for the payment of taxes under agreement by the Commissioner. An automatic expiration date of ten (10) years is also provided for liens filed by the Commissioner.

## ARKANSAS 1993

### MAILING ADDRESSES TO USE:

#### TAX DUE RETURN

State Income Tax

P.O. Box 2144

Little Rock, AR 72203-2144

#### SUB S ELECTION

Individual Income Tax

P.O. Box 3628

Little Rock, AR 72203

#### REFUND OR TAX NOT DUE RETURN

State Income Tax

P.O. Box 1000

Little Rock, AR 72203-1000

#### FORMS AND CORRESPONDENCE

State Income Tax

P.O. Box 3628

Little Rock, AR 72203-3628

**TAX AUTHORITY:** Department of Finance and Administration, Income Tax Section, P.O. Box 3628, Little Rock, Arkansas 72203 (501) 682-7250.

## CALIFORNIA 1993

**STATE LAW:** California Revenue and Taxation Code, Sec. 17001 et seq.

**RESIDENTS:** Every individual in California for other than a temporary or transitory purpose, and every individual domiciled in California who is outside the State for a temporary or transitory purpose, is a resident of California. Residence continues despite temporary absences. Every individual (except members of the armed forces) present in California for more than nine (9) months during a taxable year is presumed to be a resident. The presumption is rebuttable. A resident is taxable on all income regardless of source. Special rules apply to the military (see **MILITARY PROVISIONS** below).

**NONRESIDENTS:** Every individual who is not a resident is a nonresident. A nonresident is taxable only on income from California sources. Nonresidents are not taxed on income from intangibles, such as dividends, interest, and gains from the sale of stock. The tax imposed on a nonresident is equal to the tax computed as if the nonresident were a resident (and taxable on all income regardless of source) multiplied by the ratio of California-source adjusted gross income to total adjusted gross income from all sources.

**FILING:** Residents file on Form 540 (California Long Form) or Form 540A (California Short Form). Nonresidents and part-year residents must file on Form 540NR (Nonresident and Part-Year Resident Return).

A joint return must be filed by a husband and wife if a joint federal return was filed unless either spouse was: a) an active member of the armed forces, or b) a nonresident for the entire taxable year who had no income from a California source. See **MILITARY PROVISIONS** below.

**FILING REQUIREMENTS:** Residents are required to file California income tax returns where income is equal to or greater than:

	Gross	Adjusted or Gross
Single Person	\$8,000	\$6,000
Married Person	16,000	12,000

If married taxpayers file separately, California requires them to file when the total amounts exceeded the amounts shown.

Nonresidents must file if the above requirements are met, or if any tax is due irrespective of the amount of income to be reported.

## CALIFORNIA 1993

A return must be filed to recover taxes paid (either by withholding or by estimated tax payments) in excess of the tax liability.

**MILITARY PROVISIONS:** Members of the armed forces who are domiciled and stationed in California are residents and taxable on their income from all sources, including compensation for military service while stationed in California. Members of the armed forces who are domiciled in California but leave California under permanent change of station (PCS) orders generally are considered nonresidents as of the time of departure. All income received or accrued to the date of departure is taxable by California. If, pursuant to a PCS, a California domiciling becomes a nonresident, but his or her resident spouse remains in California, the spouse is taxable on one-half of all community income, including taxable military compensation.

Members of the armed forces who are stationed in California but domiciled in a state other than California are nonresidents and taxable on income from California sources. A nonresident member of the armed forces does not become a resident of California unless California domicile is established. Compensation of a nonresident member of the armed forces for military service in California is not from California sources.

If a member of the armed forces and his or her spouse file a federal joint return, the member and his or her spouse may file separate California returns.

The spouse of a nonresident member of the armed forces domiciled in a community property state (other than California) is not taxed on the spouse's community property interest in the member's compensation for military or naval service.

**INCOME AND EXCLUSIONS:** In general, California follows federal tax law regarding gross income, adjusted gross income, and deductions. The following are significant differences:

- a. State income tax refunds are not included in income.
- b. Unemployment compensation is not taxable.
- c. Social security benefits are not taxable.
- d. Interest income from United States savings bonds, Treasury bills, or other obligations of the United States, or U.S. territories is not taxable. (Interest earned from Federal National Mortgage Association (Fannie Mae) Bonds, Government National Mortgage Association (Ginnie Mae) Bonds, and Federal Home Loan Mortgage Corporation [FHLMC] securities is taxable.)

## CALIFORNIA 1993

- e. Railroad retirement benefits and sick pay are not taxable.
- f. California lottery winnings are not taxed by California.
- g. Part of the amount of distribution from an individual retirement plan (IRA) may not be taxable.
- h. California net operating loss deduction is different than federal.
- i. California depreciation and amortization rules differ from federal rules.
- j. Capital gains and losses may have to be adjusted for California purposes.

**DEDUCTIONS:** If deductions are not itemized, the following standard deductions are allowed:

Single or Married filing separate returns .....\$ 2,402  
Married filing a joint return,  
Head of Household, or  
Qualifying widow(er) .....\$ 4,804

Itemized deductions are similar to those allowed for federal purposes.

California itemized deductions of higher income taxpayers are limited to the lesser of:

- (a) 6% of the excess of the federal Adjusted Gross Income (AGI) over the threshold amount, or
- (b) 80% of the amount of itemized deductions otherwise allowed for the tax year.

The indexed threshold amounts for tax year 1993 are as follows:

Single, Married filing separate returns	\$106,190
Head of Household	\$159,285
Joint, surviving spouse	\$212,380

## CALIFORNIA 1993

### CALIFORNIA TAX RATES FOR TAXABLE YEAR 1993 TAX SCHEDULES

SCHEDULE 1. (A) SINGLE TAXPAYERS  
(B) MARRIED FILING SEPARATE RETURNS  
(C) FIDUCIARY TAX RETURNS

IF THE TAXABLE  
INCOME IS . . .

OVER	BUT NOT OVER	THE TAX IS	OF AMOUNT OVER . . .
\$ 0	\$ 4,666	\$0.00 PLUS 1.0%	\$0
\$ 4,666	\$ 11,059	\$46.66 PLUS 2.0%	\$4,666
\$ 11,059	\$ 17,453	\$174.52 PLUS 4.0%	\$11,059
\$ 17,453	\$ 24,228	\$430.28 PLUS 6.0%	\$17,453
\$ 24,228	\$ 30,620	\$836.78 PLUS 8.0%	\$24,228
\$ 30,620	\$106,190	\$1,348.14 PLUS 9.0%	\$30,620
\$106,190	\$212,380	\$8,376.15 PLUS 10.0%	\$106,190
\$212,380	AND OVER	\$18,995.15 PLUS 11.0%	\$212,380

SCHEDULE 2. (A) JOINT TAXPAYERS AND  
(B) SURVIVING SPOUSES WITH DEPENDENTS

IF THE TAXABLE  
INCOME IS . . .

OVER	BUT NOT OVER	THE TAX IS	OF AMOUNT OVER . . .
\$ 0	\$ 9,332 . . .	\$ 0.00 PLUS	1.0% \$ 0
\$ 9,332	\$ 22,118 . . .	\$ 93.32 PLUS	2.0% \$ 9,332
\$ 22,118	\$ 34,906 . . .	\$ 349.04 PLUS	4.0% \$ 22,118
\$ 34,906	\$ 48,456 . . .	\$ 860.56 PLUS	6.0% \$ 34,906
\$ 48,456	\$ 61,240 . . .	\$ 1,673.56 PLUS	8.0% \$ 48,456
\$ 61,240	\$212,380 . . .	\$ 2,696.28 PLUS	9.3% \$ 61,240
\$212,380	\$424,760 . . .	\$16,752.30 PLUS	10.0% \$212,380
\$424,760	AND OVER . . .	\$37,990.30 PLUS	11.0% \$424,760

## CALIFORNIA 1993

### SCHEDULE 3. (A) UNMARRIED HEAD OF HOUSEHOLD

IF THE TAXABLE  
INCOME IS . . .

OVER	BUT NOT OVER	THE TAX IS	OF AMOUNT OVER . . .
\$ 0	\$ 9,332 . . .	\$ 0.00 PLUS	1.0% \$ 0
\$ 9,333	\$ 22,118 . . .	\$ 93.32 PLUS	2.0% \$ 9,333
\$ 22,118	\$ 28,510 . . .	\$ 349.03 PLUS	4.0% \$ 22,118
\$ 28,510	\$ 35,286 . . .	\$ 604.71 PLUS	6.0% \$ 28,510
\$ 35,286	\$ 41,679 . . .	\$ 1,011.27 PLUS	8.0% \$ 35,286
\$ 41,679	\$ 144,540 . . .	\$ 1,522.71 PLUS	9.3% \$ 41,679
\$ 144,540	\$ 289,081 . . .	\$ 11,088.78 PLUS	10.0% \$ 144,540
\$ 289,081	AND OVER . . .	\$ 25,542.88 PLUS	11.0% \$ 289,081

#### CREDITS:

##### Personal Exemption Credit:

Joint	\$ 128
Single, Separate or Unmarried Head of Household	\$ 64
Dependent	\$ 64
Blind	\$ 64
Elderly Age 65 and over	\$ 64

California personal exemption credits are reduced for higher income taxpayers. The reduction is related to federal Adjusted Gross Income (AGI). For each \$2,500 (\$1,250 for married, filing separate) of AGI or fraction thereof, which exceeds the indexed threshold value, the personal

exemption amount is reduced by \$6 (\$12 for married filing jointly). The threshold values for 1993 are as follows:

Single, married filing separately	\$106,190
Head of Household	\$159,285
Joint, Surviving spouse	\$212,380

**JOINT CUSTODY HEAD OF HOUSEHOLD/DEPENDENT PARENT CREDIT:** Lesser of \$256 or 30% of net tax.

## CALIFORNIA 1993

**QUALIFIED SENIOR HEAD OF HOUSEHOLD CREDIT:** Credit is equal to 2% of taxable income; not to exceed \$750, indexed for inflation. For 1993, the maximum credit is \$830. The new maximum AGI ceiling amount for this credit is \$41,534.

**QUALIFIED PARENT OF YOUNG INFANT CREDIT:** This is nonrefundable credit of \$1,000 (which may be carried over to subsequent years) for the qualified parent of a young infant. Qualified parent must: a) qualify as head of household, b) qualify as surviving spouse, or c) be considered married and file a joint return; and maintain a household which includes at least one child member who has not reached the age of 13 months. The credit is reduced by \$200 for each \$1,000 or fraction thereof, by which the qualified parent's AGI exceeds \$42,476 (married, filing joint return, or surviving spouse) or \$30,264 (head of household).

Nonresident filers receive a prorated amount based on percent of total adjusted gross income which is attributable to California sources.

**NOTE:** A military income credit expired and became obsolete on January 1, 1992. A renter's credit was repealed and is not available for 1993.

### RETIEMENT:

The case of Davis v. Michigan Department of Revenue, concerning the taxation of federal retirement benefits, has no direct impact on the application of California tax law. California does not treat the retirement income of state retirees in a more favorable manner than the retirement income of retired federal employees.

Under California law, deferred compensation received for services performed in California is from California sources. This general rule does not apply to compensation (including military retired pay) for service as a member of the armed forces stationed in California but domiciled elsewhere. However, the military retired pay of a retired member of the armed forces who was domiciled and stationed in California on active duty is considered to be from California sources, and, as a result, subject to California tax, regardless of where the retired member may currently reside. This concept has been referred to by the public and media as "source tax."

**TAX AUTHORITY:** State of California, Franchis Tax Board, P.O. Box 942840, Sacramento, CA 94240-0040

## CALIFORNIA 1993

### HELPFUL PUBLICATIONS:

1. Guidebook to California Taxes, by Russell S. Bock, Published by Commerce Clearing House.
2. California Tax Handbook, by Robert A. Petersen, Published by Research Institute of America.

The following are the Franchise Tax Board numbers which may be called for tax assistance:  
(916) 369-0500

From within the United States, 1-800-852-5711

From outside the United States, 1-916-854-6500.

## **COLORADO - 1993**

**STATE LAW:** 39-21-101 through 39-21-119, 39-22-101 through 39-22- 803 CRS, 1973, as amended.

**TAXPAYERS:** Colorado income tax return is required if Federal is required.

**Part-year residents:** If Federal return is required.

**Nonresidents:** With Colorado source income. If Federal return is required.

**FILING:** See "TAXPAYERS". Military members meeting these requirements generally, must file a Colorado income tax return although tax may not be due.

**MILITARY PROVISIONS:** (a) Service members who are domiciliaries (legal residents) of Colorado and maintain an abode outside Colorado are taxed as residents. Colorado uses the military "home of record" to determine the residency unless sufficient evidence is submitted to prove otherwise; (b) Tax liability of service members who are POW/MIA (and spouses) is postponed until 180 days after such members are recovered; (c) Contributions to the Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivors' Benefit Plan (SBP), and sick pay exclusion on early retirement, are treated the same as under the Internal Revenue Code; (d) Disability retirement income is not taxable. The military retirement exclusion of \$2,000 has been repealed for tax years beginning on or after January 1, 1989. For years beginning on or after January 1, 1989, the \$20,000 pension exclusion may only be claimed by retired persons who are at least 55 years of age by the last day of their tax year, or by secondary beneficiaries who are receiving the pension because of death of the person who earned it. Any income excluded for Federal income tax purposes will be exempt for Colorado purposes. Returns are due at the same time as Federal. Colorado law no longer permits deferred filing of income tax returns by military personnel.

**DESERT STORM PROVISIONS:** Since income excluded for Federal income tax purposes is excluded for Colorado purposes, military pay received while serving in a combat zone is also excluded from income in Colorado. Military members may defer filing returns and paying any tax due if they served in a designated combat zone. There is no exemption for the income of a military member's spouse if the member is a Colorado resident, or if the income is earned in Colorado.

**RESIDENTS:** The term "resident" means: (a) Every individual who is in Colorado for other than temporary or transitory purposes; (b) Every individual who is domiciled in Colorado; (c) Every individual domiciled within Colorado but who is outside the State for a temporary or transitory purpose. A person who is a resident of Colorado does not terminate the residency upon entering the United States Armed Forces. A person transferred into Colorado under military orders is not deemed to be a resident solely because of such transfer. It is now a requirement that a husband and wife who file a joint federal return must file a joint Colorado

## COLORADO - 1993

return. If one spouse is a resident and the other is not, they will compute their joint Colorado tax under the nonresident apportionment rules.

**PART-YEAR RESIDENTS:** Part-year residents are required to file a Colorado return if they are required to file a federal return for income tax purposes and if they have taxable income during that portion of the year they were a Colorado resident. Part-year residents compute a tentative tax as though they were full year residents and prorate the tax in the ratio of modified federal taxable income earned during that part of the year they were a Colorado resident to the total modified federal adjusted gross income.

**NONRESIDENTS:** Nonresidents are required to file a Colorado return if they are required to file a federal return and if they have Colorado-source taxable income. Nonresidents compute a tentative tax as though they were full year residents and prorate the tax in the ratio of Colorado-source modified federal adjusted gross income over the total modified federal adjusted gross income.

**RATES:** Colorado tax is now 5% of modified federal taxable income.

**NOTE:** The tax table is for taxable incomes up to \$50,000

**INCOME:** Income reported on the Federal tax return must be reported to Colorado, with the following modifications:

Subtract -- (a) Federal bond interest; (b) All pension and annuity income up to \$20,000 per taxpayer, if 55 years of age or older.

Beginning in 1992, state tax deducted must be added back.

Beginning in 1993, state tax refunds may be deducted.

Add -- Non-Colorado municipal bond interest.

**NOTE:** There is now an alternative minimum tax.

**DEDUCTIONS AND EXEMPTIONS:** As the Colorado tax is imposed on modified federal taxable income, the federal deductions and exemptions are allowed for Colorado purposes. In the case of part-year residents or nonresidents, the prorating of the tentative tax allows a deduction for the same percentage of federal deductions and exemptions. For example, if your federal taxable income is 20% taxable by Colorado, you will get the benefit of 20% of your federal deductions and exemptions.

**CREDITS:** Residents receive credit for income taxes paid to other states, subject to certain limitations.

**PAYMENTS:** Return and tax due 15 April. Colorado Form 104PN is for use by both part-year residents and nonresidents. Estimated tax returns are required if future tax not

## COLORADO - 1993

withheld is expected to exceed \$1,000. Estimated tax payments are due in four equal installments on 15 April, June, September, and January. Delinquent payment penalty is 5% of the balance of tax due for the first month plus 1/2% for each additional month, not exceeding 12%, in the aggregate. If both penalties apply, then only the larger will be asserted. Minimum penalty is \$5. As of January 1, 1994, interest charged on delinquent will be 6% per annum. Colorado has no provision for forgiveness of past unpaid taxes upon voluntary filing of a current return by military members. However, the Department of Revenue does have the authority to compromise the total amount of tax, penalty, and interest due. Once all delinquent returns are filed and the total amount due is determined, any reasonable offer of a compromise settlement will be considered.

**SPECIAL PROVISIONS:** For the 1992 tax year, each taxpayer's form contains designations for contributions to the Colorado Nongame Wildlife Program, the Colorado Domestic Abuse Program, the Homeless Prevention Activities Fund, Action Older American Volunteer Program, through a decrease in refund or increase in payment due.

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, 489 U.S. 803, 103 L.Ed.2d 891 (1989), concerning the taxation of federal retirements, affected the application of Colorado law. Regarding the military retirement exclusion, District Courts in both Denver and Colorado Springs, and the Colorado Supreme Court have found against the state. The Colorado courts held that military retirement is a pension, and subject to equal treatment with state pensions. Furthermore, the Colorado courts ruled the state must pay refunds to eligible military retirees. Such retirees should contact the state Department of Revenue for information on obtaining a refund.

**NOTES:** Colorado has gone to a 6 month automatic paperless extension as long as 90% of the tax is paid by April 15th.

**TAX AUTHORITY:** State of Colorado, Department of Revenue, 1375 Sherman Street, Denver, Colorado 80261. Area Code (303) 534-1209 or toll free in Colorado, 1-800-332-2087.

**TO ORDER FORMS:** Send a written request to the above address, with "Forms Request" written on the envelope. To order by phone, call (303) 534-1408, or in-state 800-332-2086.

## CONNECTICUT - 1993

**STATE LAW:** General Statutes of Connecticut, Title 12, Chapter 224, as amended.

**TAXPAYERS:** Taxpayer is defined as husband and wife both of whom are residents of Connecticut and who file for the tax year a single Federal income tax return jointly; and each and every other individual resident who has earnings subject to tax. Fiduciaries are liable for the filing of the decedents tax return. Nonresidents with Connecticut source income and part-year residents with Connecticut source income must include income from business, trade, occupation etc.

**FILING:** Returns and payment of any tax owed due by April 15. Married residents will be required to file a joint return, if they filed a joint Federal Income Tax return. If separate returns are filed for Federal Income Tax purposes, they must also be filed for state taxes.

**INCOME:** Connecticut adjusted gross income is defined as federal adjusted gross income with Connecticut modifications.

**Additions:** Additions to federal adjusted gross income include: (1) interest from obligations issued by or on behalf of any other state or political subdivision thereof; (2) any exempt-interest dividends derived from obligations issued by or on behalf of any other state or political subdivision; (3) any interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States that federal law exempts from federal income tax but does not exempt from State income tax; and (4) an amount equal to the ordinary income portion of a lump sum distribution that was excluded from federal adjusted gross income.

**Subtractions:** Subtractions from federal adjusted gross income include: (1) income with respect to which taxation by any state is prohibited by federal law; (2) exempt dividends paid by a regulated investment company; (3) any amount received or accrued under Sec. 82 of the Internal Revenue Code (reimbursement for moving expenses); (4) the amount of any refund or credit for overpayment of income taxes imposed by any state or political subdivision or the District of Columbia or any province of Canada; (5) any tier 1 railroad retirement benefits; and (6) with respect to any natural person who is a shareholder of an S-corporation that is carrying on business in Connecticut, the amount of such shareholder's pro rata share of such corporation's non-separately computed items multiplied by such corporation's apportionment fraction.

**WITHHOLDING:** The State of Connecticut requested the military finance centers to begin withholding of income from Connecticut residents, effective 1 October 1991. However, without an agreement between the Secretary of the U.S. Treasury and the State of Connecticut, the finance centers could not start withholding. Withholding for Connecticut residents in the Air Force will begin in January 1992. Military members who are Connecticut residents are still liable for the income tax, even though there was no withholding during 1991, depending on the length of time they lived in Connecticut during 1991 and whether they maintained a residence

## CONNECTICUT - 1993

within the state during 1991. Members with a Connecticut home of record may exempt themselves from state income tax withholding by filing a Connecticut exemption form (CT-W4) or a DD Form 2058-1 with their base finance office. Connecticut will still expect all members with a legal residence in Connecticut to file a state tax return, even if they have declared themselves exempt from withholding.

**DEDUCTIONS:** None permitted, but see **EXEMPTIONS** and **CREDITS** below.

**EXEMPTIONS AND CREDITS:** See attached table for 1992.

**DELINQUENT FILING:** There is no statutory authority for waiving the requirement for filing delinquent returns. The waiver of any penalties is decided on an individual basis. If the circumstances justify, a time payment plan may be arranged.

Ordinary gains reported on Federal Form 4797 are taxable if they are in excess of the statutory exemption.

**MILITARY PROVISIONS:** See IP 92(2) - .

### DEPARTMENT OF REVENUE SERVICES - INCOME TAX INFORMATION FOR MILITARY PERSONNEL AND VETERANS

**Introduction:** In February 1992, the Department issued Informational Publication: IP 92 (2) to explain the application of Connecticut income tax to military personnel. IP 92 (2.1) has been revised for taxable years beginning on or after January 1, 1992.

**Purpose:** If you are a member of the armed forces in active service, you may have some questions about filing a Connecticut income tax return.

This publication explains who is a Connecticut resident and who is a Connecticut nonresident. It also explains how to file a Connecticut income tax return.

In general, a **resident** is anyone who is domiciled in Connecticut. However, a person domiciled in Connecticut who meets certain conditions may be a **nonresident** for Connecticut income tax purposes.

#### **Domicile and Permanent Place of Abode:**

To determine your resident status for state income tax purposes, you have to consider where your domicile was and where you maintained a permanent place of abode during the taxable year.

Your **domicile** is the place that you intend to have as your permanent home. It is the place you intend to return to whenever you may be away. For income tax purposes, your domicile is the state where your permanent home is located.

## CONNECTICUT - 1993

**You can have only one domicile.** Your domicile does not change until you move to a new location and definitely intend to make your permanent home there. If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change. Military assignments do not generally affect your domicile.

A **permanent place of abode** is a residence (a building or structure where a person can live) that you permanently maintain, whether or not you own it, and usually includes a residence your husband or wife owns or leases. A place of abode is not permanent if you maintain it only during a temporary or limited period of time for a particular purpose (e.g. a temporary duty assignment).

Barracks, quarters on a ship or any structure that contains only bachelor-type quarters and not facilities ordinarily found in a dwelling, such as facilities for cooking and bathing, will generally not qualify as a permanent place of abode.

### **Resident and Nonresident Defined:**

A **resident** is anyone who is domiciled in Connecticut or who is domiciled elsewhere but maintained a permanent place of abode in Connecticut and spent more than 183 days in Connecticut in the taxable year.

If your domicile was Connecticut when you entered the military, your domicile does not change unless you have voluntarily abandoned your Connecticut domicile, established a new domicile in another state, and taken necessary actions to change your legal home of record with the armed forces. You are a **resident** and must file a resident return and pay any tax due unless you meet all three of the following conditions for the entire taxable year:

1. You did not maintain any permanent place of abode in Connecticut;  
and
2. You maintained a permanent place of abode outside Connecticut;  
and
3. You spent 30 days or less in Connecticut.

### **Example 1:**

Steve was a resident of Connecticut when he joined the Army and has not established a new domicile. He does not maintain a permanent place of abode in Connecticut. He visited his parent's home in Connecticut for only two weeks in the taxable year. He lives in bachelor-type housing at his permanent duty assignment in Texas.

Steve is a resident for Connecticut income tax purpose because bachelor-type housing does not qualify as a permanent place of abode.

## CONNECTICUT - 1993

### **Example 2:**

Moira was a Connecticut resident when she entered the Navy and has not changed her resident status with the military. Her permanent duty assignment is San Diego, California. For all of the taxable year she rented an apartment. She did not visit Connecticut in the taxable year and she does not have a permanent place of abode in Connecticut.

Moira was a nonresident for the taxable year. An apartment or house rented owned for the entire taxable year at a permanent duty assignment qualifies as permanent place of abode outside the state.

### **Example 3:**

Same facts as in Example 2 but in the next year, Moira is temporarily assigned to a naval base in Florida for advanced training. She gives up her apartment in San Diego and rents a house near the base in Florida.

Moira is a Connecticut resident in that taxable year. A place of abode is not permanent if it is maintained only during a limited or temporary period or for a particular purpose.

If you meet **all three conditions**, you are a **nonresident** of Connecticut for the taxable year and do not have to file a resident income tax and may have to file a nonresident income tax return. Read the next section for further information on the nonresident tax.

### **Nonresident Members of the Armed Forces:**

If your domicile was not Connecticut when you entered the military and you were later assigned to active duty in Connecticut, you do not become a Connecticut resident even if you maintain a permanent place of abode here. You are a nonresident and your military compensation is not subject to Connecticut income tax.

However, other income that you receive from Connecticut sources while you are a nonresident may be subject to tax. If you have a civilian job in Connecticut during your off-duty hours, the income you receive is subject to state income tax. Income or gain received by a nonresident from property located in Connecticut or from a business, trade or profession carried on in this state is also subject to tax.

The **spouse** of someone in the military may be considered a resident of Connecticut even if he or she is domiciled in another state. If the spouse has a permanent place of abode in Connecticut **and** spends more than 183 days in the state in the taxable year, he or she is a resident for Connecticut income tax purposes.

## CONNECTICUT - 1993

### Example 4:

Bob and sue are domiciled in Florida. Bob enlisted in the Navy in Florida, was stationed in Groton, Connecticut and moved here with Sue, his wife. They lived here for 8 months in the taxable year. He earned \$38,000 in military pay.

**A. They had no other income.** Military personnel are residents of the state in which they resided when they enlisted. Since Bob resided and enlisted in Florida, he is not considered a resident of Connecticut and does not have to file a Connecticut return.

**B. Bob had a part-time civilian job in Connecticut from which he earned \$10,000.** His civilian income is Connecticut source income and is subject to Connecticut income tax. He must file Form CT-1040NR/PY, Connecticut Nonresident/Part-Year Resident Return.

**C. Sue had \$29,000 in wage income and \$1,000 in interest income for the taxable year.** Because she has lived in Connecticut for more than 183 days in the taxable year, she is a resident and must file Form CT-1040, Connecticut Resident Income Tax Return, and report all her income whether or not it is from a Connecticut source.

### Example 5:

John is domiciled in Connecticut but he is stationed in Texas and meets all three conditions of Connecticut nonresidency. He sold property in Connecticut during the taxable year on which he recognized a capital gain. He must file a nonresident return, Form CT-1040NR/PY, because income from the sale of property in the state is Connecticut source income.

### Part-Year Residents:

If you change your domicile from Connecticut or to Connecticut during the taxable year, you are a part-year resident for the taxable year. A part-year resident is subject to tax on all income earned during the resident portion of the year and on income from Connecticut sources during the remainder of the year.

For more information about Connecticut nonresident and part-year resident income tax, order Form CT-1040NR/PY, Connecticut Nonresident/Part-Year Resident Income Tax Return, by calling the number for forms listed on the last page of this publication. State tax forms are also available in town libraries, many banks and post offices in Connecticut.

## CONNECTICUT - 1993

### **Resident Members of the Armed Forces:**

If you are a Connecticut resident in the military and you meet either of the following conditions for a taxable year beginning on or after January 1, 1992, you must file a resident return using Form CT-1040 or Form CT-1040EZ:

- o You had Connecticut income tax withheld or made estimated state income tax payments;
- or
- o Your federal gross income (plus any income that is federally exempt, but subject to Connecticut income tax) exceeds:

**\$12,000** for a Single person or a Married person filing separately

**\$19,000** for a Head of Household    **\$24,000** for Married persons filing jointly.

### **Taxability of Military Pay for Residents:**

If you are a Connecticut resident, your military pay or your military pension is subject to Connecticut income tax to the same extent that it is taxable for federal income tax purposes.

Disability pensions and any other benefits granted for the relief of injuries or disabled veterans, as well as tuition payments, subsistence allowances and any other benefits paid to, or on account of, a veteran or beneficiary under the laws relating to veterans, are treated the same for Connecticut income tax purposes as for federal income tax purposes. If these amounts are excludable from gross income for federal income tax purposes, they are not subject to Connecticut income tax.

### **Withholding and Payment of Estimated Income Tax:**

If you are a Connecticut resident, your military pay is subject to withholding of Connecticut income tax. You should complete Form CT-W4 and provide it to your military finance officer. However, if you will meet the conditions for nonresident status in the taxable year, you can request that no Connecticut income tax be withheld from your pay by checking the exemption box on Form CT-W4 and filing it with your military finance officer. Do not send Form CT-W4 to the Department of Revenue Services. Form CT-W4 is available from your military finance officer.

If you expect to owe more than \$200 in Connecticut income tax after subtracting Connecticut income tax after subtracting Connecticut income tax withheld during the taxable year, you should make estimated income tax payments or increase your Connecticut income tax withholding. Request Information Publication: IP 92 (9), Is My Connecticut Withholding Correct?, or IP 92 (5.2), Estimated Income Taxes for 1993. Estimated income tax payments are made using Form CT-1040ES, 1993 Individual Estimated Income Tax Coupon.

## CONNECTICUT - 1993

### **Requesting a Refund:**

If you are domiciled in Connecticut but meet all three conditions for **nonresidency**, you must file Form CT-1040NR/PY to claim a refund of Connecticut income tax withheld in error. You must attach an explanation that contains the following:

1. A statement that you did not have a permanent place of abode in Connecticut during the taxable year;  
**and**
2. The location and a brief description of the permanent place of abode you maintained outside Connecticut and the beginning and ending dates of your stay there;  
**and**
3. The exact number of days you were in Connecticut during the taxable year.

If you are a **resident** you must file Form CT-1040 or Form CT-1040EZ if the amount withheld from your pay or the amount paid in estimated tax is more than the Connecticut income tax you owe. (Nonresidents file Form CT-1040NR/PY to claim a refund under these circumstances.)

### **When to File Your Return:**

As a member of the armed force you must file your Connecticut return at the same time and in the same manner as any other taxpayer. File your return as soon as you can after the end of the taxable year, but no later than April 15, of the following year. (If you file for a fiscal year, your return is due by the 15th day of the fourth month following the end of your fiscal year.)

### **Extension of Time to File Returns:**

If you cannot meet the April 15 deadline and need to extend the time for filing your return, you must use Form CT-1040EXT, Application for Extension of Time to File Connecticut Income Tax. The time to file your return will be extended six months. File Form CT1040EXT on or before the due date for filing your return to get an extension of time to file. Your Form CT-1040EXT must be accompanied by a full payment of tax due. Penalty of 10% of the underpayment and 1-1/4% per month (or fraction thereof) will apply to underpayment of tax.

If you are stationed in a foreign country when your return is due, even though you have an automatic extension for federal income tax purpose, you must file Form CT-1040EXT.

If you are serving in a combat zone when your return is due or you are hospitalized as a result of your military service in the combat zone, you are allowed six months from the date you leave the combat zone or are released from hospitalization to file your Connecticut income tax return without interest or penalty. You do not have to request an extension of time

## CONNECTICUT - 1993

to file your return. Just attach to your return a statement showing your dates of combat service or hospitalization.

### **Death of Military Personnel:**

When a member of the military dies while on active duty in a combat zone or as a result of injuries received while serving in a combat zone, all income taxes are waived for the taxable year of the death and for any prior taxable year ending on or after the first day the deceased served in that combat zone. No income tax returns have to be filed for the deceased or the estate for these years.

If the deceased paid any tax while in the combat zone, the full amount of the tax paid will be refunded to the estate or serving spouse provided a return is filed to claim the refund. If any tax was assessed but not paid, the assessments will be canceled.

FOR INFORMATION: Call 1-800-382-9463 (IN-STATE) 203-297-4911

**TAX AUTHORITY:** State of Connecticut, Commissioner of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06105. (203) 297-5650.

**ADDRESS FOR TAX FORMS:** Connecticut Department of Revenue Service, 92 Farmington Avenue, Hartford, CT. 06105 203-297-4753

## TAX CALCULATION SCHEDULE

1. Enter CONNECTICUT AGI (From CT-1040, Line 5; CT-1040EZ, Line 3 or CT-1040NR/PY, Line 7)	1	
2. Personal Exemption (From Table A - Exemptions)	2	
3. Connecticut Taxable Income (Subtract Line 2 from Line 1 - If less than 0, enter 0)	3	
4. Connecticut Income Tax - (Line 3 x .045)	4	
5. Enter Credit % from Table B - Personal Tax Credits (0.75, 0.35, 0.15, 0.10)	5	.
6. Multiply the amount on Line 4 by the percentage on Line 5	6	
7. <b>INCOME TAX</b> (Subtract Line 6 from Line 4)	7	

*Enter this amount on CT-1040, Line 6; CT-1040EZ, Line 4 or CT-1040NR/PY, Line 8*

**TABLE A - EXEMPTIONS**

Use your filing status shown on the front of your tax return and your CONNECTICUT AGI (From Line 1 above) to determine your exemption.

Single/Married Filing Separately			Head of Household			Married Filing Jointly/Qualifying Widow(er)		
CONNECTICUT AGI		EXEMPTION	CONNECTICUT AGI		EXEMPTION	CONNECTICUT AGI		EXEMPTION
MORE THAN	LESS THAN OR EQUAL TO		MORE THAN	LESS THAN OR EQUAL TO		MORE THAN	LESS THAN OR EQUAL TO	
\$ 0	\$24,000	\$12,000	\$ 0	\$38,000	\$19,000	\$ 0	\$48,000	\$24,000
\$24,000	\$25,000	\$11,000	\$38,000	\$39,000	\$18,000	\$48,000	\$49,000	\$23,000
\$25,000	\$26,000	\$10,000	\$39,000	\$40,000	\$17,000	\$49,000	\$50,000	\$22,000
\$26,000	\$27,000	\$ 9,000	\$40,000	\$41,000	\$16,000	\$50,000	\$51,000	\$21,000
\$27,000	\$28,000	\$ 8,000	\$41,000	\$42,000	\$15,000	\$51,000	\$52,000	\$20,000
\$28,000	\$29,000	\$ 7,000	\$42,000	\$43,000	\$14,000	\$52,000	\$53,000	\$19,000
\$29,000	\$30,000	\$ 6,000	\$43,000	\$44,000	\$13,000	\$53,000	\$54,000	\$18,000
\$30,000	\$31,000	\$ 5,000	\$44,000	\$45,000	\$12,000	\$54,000	\$55,000	\$17,000
\$31,000	\$32,000	\$ 4,000	\$45,000	\$46,000	\$11,000	\$55,000	\$56,000	\$16,000
\$32,000	\$33,000	\$ 3,000	\$46,000	\$47,000	\$10,000	\$56,000	\$57,000	\$15,000
\$33,000	\$34,000	\$ 2,000	\$47,000	\$48,000	\$ 9,000	\$57,000	\$58,000	\$14,000
\$34,000	\$35,000	\$ 1,000	\$48,000	\$49,000	\$ 8,000	\$58,000	\$59,000	\$13,000
\$35,000	and up	\$ 0	\$49,000	\$50,000	\$ 7,000	\$59,000	\$60,000	\$12,000
			\$50,000	\$51,000	\$ 6,000	\$60,000	\$61,000	\$11,000
			\$51,000	\$52,000	\$ 5,000	\$61,000	\$62,000	\$10,000
			\$52,000	\$53,000	\$ 4,000	\$62,000	\$63,000	\$ 9,000
			\$53,000	\$54,000	\$ 3,000	\$63,000	\$64,000	\$ 8,000
			\$54,000	\$55,000	\$ 2,000	\$64,000	\$65,000	\$ 7,000
			\$55,000	\$56,000	\$ 1,000	\$65,000	\$66,000	\$ 6,000
			\$56,000	and up	\$ 0	\$66,000	\$67,000	\$ 5,000
						\$67,000	\$68,000	\$ 4,000
						\$68,000	\$69,000	\$ 3,000
						\$69,000	\$70,000	\$ 2,000
						\$70,000	\$71,000	\$ 1,000
						\$71,000	and up	\$ 0

**TABLE B - PERSONAL TAX CREDITS**

Use your filing status shown on the front of this return and your CONNECTICUT AGI (From Line 1 above) to determine your credit %. Enter this percentage on Line 5.

Single/Married Filing Separately			Head of Household			Married Filing Jointly/Qualifying Widow(er)		
CONNECTICUT AGI		CREDIT %	CONNECTICUT AGI		CREDIT %	CONNECTICUT AGI		CREDIT %
MORE THAN	LESS THAN OR EQUAL TO		MORE THAN	LESS THAN OR EQUAL TO		MORE THAN	LESS THAN OR EQUAL TO	
\$12,000	\$15,000	75%	\$19,000	\$24,000	75%	\$24,000	\$30,000	75%
\$15,000	\$20,000	35%	\$24,000	\$34,000	35%	\$30,000	\$40,000	35%
\$20,000	\$25,000	15%	\$34,000	\$44,000	15%	\$40,000	\$50,000	15%
\$25,000	\$48,000	10%	\$44,000	\$74,000	10%	\$50,000	\$96,000	10%
\$48,000	and up	0%	\$74,000	and up	0	\$96,000	and up	0

**KEEP THIS WORKSHEET FOR YOUR RECORDS**

**DO NOT ATTACH TO YOUR TAX RETURN**

intangible property and of real property and tangible personal property situated in Connecticut. Nonresidents are taxed on gifts of real and tangible personal property situated in Connecticut. In general, gifts made to any particular donee are not subject to the Connecticut gift tax unless the value of all gifts to such donee during the calendar year exceeds \$10,000. The tax is computed on the fair market value of the property that was given. The donor is liable for the tax, but if the donor does not pay the tax, it may be collected from the donee. The tax is reported on, and paid upon the filing of Form CT-709, Connecticut Gift Tax Return. The return must be filed by April 15, 1994 for all gifts made during 1993.

#### WHERE TO GET HELP AND ADDITIONAL FORMS

The Department of Revenue Services Taxpayer Services Division can help answer questions you may have on how to complete your Connecticut tax return. Taxpayer Services may be reached from 8:30 a.m. - 4:30 p.m., Monday through Friday, by calling 203-566-7033 or 1-800-382-9463 (in-state). TDD/TT users can call 203-297-4911.

You may also call CONN-TAX at 203-566-7033 or 1-800-382-9463 (in-state) 24 hours a day to listen to prerecorded income tax information if you have a touch-tone telephone.

Assistance is available between 8:30 a.m. - 4:30 p.m. by calling or visiting any of the Department's offices listed below:

Hartford - 92 Farmington Ave., 566-7033  
Bridgeport - 1470 Barnum Ave., 579-6251  
Hamden - 2105 State St., 789-7516  
Norwich - 2 Cliff St., 889-2669  
Waterbury - 24 Wooster Ave., 596-4310

If you visit, be sure to bring along:

- 1) Your state copy of your federal Form W-2 and
- 2) Your completed federal income tax return

#### Forms and Publications

State income tax forms may be obtained at the following locations in addition to those listed above: most banks, public libraries, and town halls.

If you have a fax machine, state tax forms may be obtained by calling Tax-Fax, 203-297-5698, 24 hours a day.

State tax forms may also be obtained by writing to: DRS, Forms Unit, 92 Farmington Avenue, Hartford, Connecticut 06105, or by calling 203-566-7033 or 1-800-382-9463 (in-state) 24 hours a day.

## GENERAL INFORMATION

### FILING TIPS TO SPEED YOUR REFUND

The Department of Revenue Services will issue refund checks as quickly as possible for error free returns. An incomplete or incorrectly prepared return can delay or reduce your income tax refund. The following tips will help us to get your refund to you as quickly as possible.

1. File the appropriate form for your tax situation. Use Form CT-1040NR/PY if you were a nonresident of Connecticut and received Connecticut-source income in 1993 or if you moved into or out of Connecticut in 1993. (See "Am I A Resident, Part-Year Resident or Nonresident?" on page 4 of this booklet.)
2. Be sure to check the correct filing status.
3. Make sure a legible state copy of all federal Forms W-2 (Wages) and any W-2G (Winnings), 1099-R (Pensions) or other forms showing Connecticut income tax withheld is attached to your Connecticut return.
4. Be sure to sign your return upon completion. If you and your spouse are filing jointly, both of you must sign.
5. Be sure your paid preparer signs the return.
6. Be sure to use the preprinted label if one is included with this booklet. The information on this label will help us process your return and refund more quickly.

If you are not using a preprinted label, be sure to include your name(s), mailing address and social security number(s) in the name and address section of your return.

7. Be sure to use the correct mailing envelope when filing your return. One envelope is for refund requests. The other is for payments or returns with no additional tax due.
8. Be sure that both you and your spouse file your income tax returns at the same time if you filed joint estimated tax payments but elected to file separate income tax returns. No refund will be processed until both Connecticut returns are received.

### WHO MUST FILE FORM CT-1040NR/PY?

You are required to file a Connecticut income tax return if you were a nonresident or part-year resident in 1993 and any of the following is true for the 1993 taxable year:

1. You had Connecticut income taxes withheld;  
or
2. You made estimated tax payments to Connecticut;  
or
3. You were a part-year resident who meets the Gross Income Test or who had a Federal Alternative Minimum Tax liability;  
or
4. You were a nonresident with Connecticut-source income who meets the Gross Income Test or who had a Federal Alternative Minimum Tax Liability. (See "Connecticut-Source Income of a Nonresident" on page 5 of this booklet.)

## The Gross Income Test

You meet the gross income test if your gross income for 1993 exceeds:

- \$12,000 for a Single or Married person filing separately
- \$19,000 for Head of Household
- \$24,000 for Married persons filing jointly

Gross income means all income you received from sources in and outside of Connecticut in the form of money, goods, property and services that is not exempt from federal tax and any additions to income from Schedule 1, Forms CT-1040 or CT-1040NR/PY.

Gross income includes, but is not limited to, the following items:

1. Compensation for services, including wages, fees, commissions, taxable fringe benefits, and similar items;
2. Gross income from a business;
3. Capital gains;
4. Interest and dividends;
5. Gross rental income;
6. Gambling winnings;
7. Alimony;
8. Taxable pensions and annuities;
9. Prizes and awards;
10. Your share of income from partnerships, S corporations, estates and trusts;
11. IRA distributions;
12. Unemployment compensation;
13. Taxable social security.

The following examples explain the gross income test:

### Example 1:

A nonresident's only income is from a sole proprietorship located in Connecticut with the following:

Schedule C -	Gross Receipts	\$100,000
	Expenses	<u>(92,000)</u>
	Net Income	<u>8,000</u>

Since the gross income of \$100,000 exceeds the minimum requirements and the income is from a Connecticut source, this nonresident is required to file a Connecticut tax return.

### Example 2:

A Connecticut part-year resident receives \$8,000 in non-taxable social security benefits and \$11,000 in interest income. Since non-taxable social security is not part of gross income, no Connecticut return must be filed provided no Connecticut tax was withheld and no estimated payments were made.

### Example 3:

A nonresident receives \$11,500 in wage income from Connecticut employment and \$1,000 in federally-exempt interest from California state bonds. The taxpayer's federal gross income with additions from Schedule 1, Form CT-1040NR/PY (Interest From State or Local Government Obligations Other Than Connecticut) is \$12,500. Therefore, a Connecticut return must be filed.

## Title XIX Recipients

If you are a Title XIX recipient, you are required to file a return if you meet the conditions for filing a Connecticut return listed on page 3 of this booklet. Attach to the front of your return a letter explaining your status as a Title XIX recipient and a signed statement authorizing the Department of Revenue Services to verify your Title XIX status for 1993 with the Department of Social Services.

## What Is Connecticut Adjusted Gross Income?

For the purpose of completing Form CT-1040NR/PY, Connecticut adjusted gross income is your federal adjusted gross income as taken from line 31 of your federal Form 1040, line 16 of your federal Form 1040A or line 4 of your federal Form 1040EZ with Connecticut modifications listed in Schedule 1 of Form CT-1040NR/PY.

## How Do I File A Decedent's Return?

A Connecticut income tax return must be filed for a nonresident or part-year resident who died during the taxable year. It must be signed and filed by his/her executor, administrator or surviving spouse for the portion of the year before the taxpayer's death. The date of the taxpayer's death must be clearly stated at the top of the return in the area designated as "other taxable year ending \_\_\_\_ 19 \_\_." As for federal purposes, a joint return may be filed by a surviving spouse. (Indicate who is deceased and date of death.) Write "Filing as surviving spouse" in the deceased spouse's signature block of the return. In the case of the death of both spouses, a final return must be filed by their legal representatives. The Connecticut filing status must be consistent with the federal filing status.

If you are a surviving spouse filing a joint return with a deceased, file only the tax return to claim a refund. If you are a court-appointed representative, file the return and attach a copy of the certificate that shows your appointment. All other filers requesting a deceased taxpayer's refund must file the return and attach federal Form 1310.

Any Connecticut-source income received by the estate of the decedent for the portion of the taxable year after the decedent's death, and for succeeding taxable years until the estate is closed, must be reported each year on Form CT-1041, Connecticut Fiduciary Income Tax Return.

## AM I A RESIDENT, PART-YEAR RESIDENT, OR NONRESIDENT?

To determine your residency status and the return you must file for 1993, read the following:

( ) Resident: (Complete Form CT-1040EZ or CT-1040)

1. Connecticut was my domicile (permanent legal residence) for the entire year of 1993.
- or
2. I maintained a permanent place of abode in Connecticut and spent a total of more than 183 days in Connecticut.

( ) **Part-Year Resident:** (Complete Form CT-1040NR/PY)

I moved into or out of Connecticut during the taxable year.

( ) **Nonresident:** (Complete Form CT-1040NR/PY)

1. I was not a Resident or Part-Year Resident for 1993.

and

2. I had income from Connecticut sources in 1993.

**NOTE:** You may be treated as a nonresident for 1993 even though your domicile was Connecticut if all of the following conditions are met:

1. You maintained no permanent place of abode in Connecticut for the entire taxable year of 1993.

and

2. You maintained a permanent place of abode outside of Connecticut for the entire taxable year of 1993.

and

3. You spent not more than thirty days in the aggregate in Connecticut during the 1993 taxable year.

Military personnel that are stationed in Connecticut, but are domiciled in another state are considered nonresidents.

**DEFINITION:** Domicile (permanent legal residence) is the place you intend to have as your permanent home. It is the place you intend to return to whenever you are away. You can 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 and definitely intend to make your permanent home there. If you move to a new location but intend to stay there only for a limited time (no matter how long), your domicile does not change. This also applies if you are working in a foreign country.

#### **Are Military Personnel Required To File?**

Military personnel who claim Connecticut as a residence but are stationed elsewhere will be subject to Connecticut income tax. If you enlisted in the service as a Connecticut resident and have not established a new domicile (legal residence) elsewhere, you are required to file a resident income tax return unless you meet all three conditions for being treated as a nonresident. (See previous NOTE.)

If your permanent home (domicile) was outside Connecticut when you entered the military, you do not become a Connecticut resident because you are stationed and live in Connecticut. As a nonresident, your military pay is not subject to Connecticut income tax. However, income that you receive from Connecticut sources while you are a nonresident (including your spouse's non-military income) may be subject to Connecticut income tax.

#### **Example:**

Bob is a resident of Florida. He enlisted in the Navy in Florida, and was stationed in Groton, Connecticut. He earned \$38,000 in military pay.

A) **He had no other income.**

Military personnel are residents of the state in which they resided when they enlisted. Since Bob resided and enlisted in Florida, he is considered a resident of Florida and does not have to file a Connecticut return.

B) **Bob has a part-time job in Connecticut.**

His Connecticut-source income from non-military employment is taxable and should be reported on Form CT-1040NR/PY.

**NOTE:** Spouses of military personnel who are stationed in Connecticut may be considered residents of this state even if their domicile is elsewhere. See definition of resident on page 4.

For further information, contact the Department and request a copy of Informational Publication: IP 92 (2.1) Connecticut State Income Tax Information for Military Personnel and Veterans.

The income tax return of any individual in the U.S. armed forces serving in a "combat zone" or injured and hospitalized while serving in a "combat zone" shall be due 180 days after returning. There will be no penalty or interest charged. For any individual who dies while on active duty in a "combat zone" or as a result of injuries received in a "combat zone" no income tax or return is due for the year of death. A refund of tax paid will be provided to the legal representative of the estate or to the surviving spouse.

**DEFINITION:** Combat zone is an area designated by the President of the United States by executive order as a combat zone.

## **HOW NONRESIDENTS AND PART-YEAR RESIDENTS ARE TAXED**

If you are a nonresident or a part-year resident, your tax liability is computed based upon the greater of your Connecticut adjusted gross income or your total income from Connecticut sources.

#### **Connecticut-Source Income Of A Nonresident**

Connecticut-source income of a nonresident is income derived from or connected with sources within Connecticut when:

- (a) The income is attributable to ownership or disposition of real or tangible personal property within Connecticut; including, but not limited to, the income from the rental or sale of such property;
- (b) The income is attributable to compensation for services performed in Connecticut or income from a business, trade, profession or occupation carried on in Connecticut;
- (c) The nonresident individual is a partner in a partnership doing business in Connecticut;
- (d) The nonresident individual is a shareholder of an S corporation doing business in Connecticut;

- (e) The nonresident individual is a beneficiary of a trust or estate with income derived from or connected with sources within Connecticut; or
- (f) The nonresident individual receives income from a pension or other retirement benefit that is not derived from a qualified plan and is attributable to services performed partly or wholly within Connecticut.

In general, Connecticut-source income of a nonresident does not include the following income even if it was included in your federal adjusted gross income:

- (a) Distributions from federally qualified pension plans;
- (b) Interest, dividends or gains from the sale or exchange of intangible personal property, unless that property is employed in a business, trade, profession or occupation carried on in Connecticut;
- (c) Compensation you received for active service in the United States military;
- (d) Dividends from a corporation (other than an S corporation) doing business in Connecticut;
- (e) Compensation you received from an interstate rail carrier, interstate motor carrier, or an interstate motor private carrier;
- (f) Gambling winnings;
- (g) Interest earned by an individual from a Connecticut bank (unless earned by a Connecticut business); or
- (h) Income from business or employment activities in Connecticut that are considered casual, isolated or inconsequential.

### Activities Considered To Be Casual, Isolated Or Inconsequential

In general, activities that meet one of the following tests are considered casual, isolated or inconsequential:

1. \$6,000 test - The gross income from the presence of a nonresident in Connecticut does not exceed \$6,000 in the taxable year;  
or
2. Ten day test - The nonresident's presence in Connecticut does not exceed ten days during the taxable year. However, if the nonresident earns more than \$6,000 from employment or business activities in Connecticut, regardless of the number of days in Connecticut, the activities are not casual, isolated or inconsequential;  
or
3. Ancillary Activity Test - The nonresident's presence in Connecticut is ancillary to his or her primary business or employment duties that are performed at a base of operations outside of Connecticut. Ancillary activities are those activities that are secondary to the individual's primary out-of-state

duties, and include such things as attendance in the state for planning, training, attendance at conferences or symposia, etc.

### Connecticut-Source Income Of A Part-Year Resident

Connecticut-source income of a part-year resident is the sum of:

1. Connecticut adjusted gross income for the part of the year you were a resident; and
2. Income derived from or connected with Connecticut sources for the part of the year you were a nonresident; and
3. Special Accruals

### What Items Are Subject To Special Accruals

A part-year resident must recognize and report items of income, gain, loss or deduction on the accrual basis, regardless of the method of accounting normally used by the taxpayer. In general an item of income is subject to special accrual if the right to receive it is fixed and the amount to be paid is determinable with reasonable accuracy at the time the taxpayer changes his/her residency status.

### Change From Resident To Nonresident

If you moved out of Connecticut during the taxable year, you must include, in calculating your Connecticut adjusted gross income for the period of your Connecticut residency, all items of income, gain, loss or deduction you would be required to include if you were filing a federal income tax return for the same period on the accrual basis, together with any other accruals that are not otherwise includible or deductible for federal or Connecticut income tax purposes (such as deferred gains or installment obligations). Include items of special accruals with other items of income, gain, loss and deduction reported for your residency period. (See instructions for Worksheet CT-1040AW on page 26 of this booklet.)

#### Example 1:

Mary, a part-year resident who moved out of Connecticut in June 1993, sold property on the installment basis in April 1993. She will receive annual installment payments for 5 years. She must accrue the entire gain on the sale of the property to the portion of 1993 when she was a resident of Connecticut because her right to receive the gain was fixed and determinable at the time she changed her residency.

#### Example 2:

John, a resident of Connecticut retired from his Connecticut employment on September 1, 1993 and moved to Florida. His employer notified him on August 15 that he would receive a \$1,000 bonus on September 15, 1993. On December 1, 1993 he also received a \$10,000 lump-sum distribution from a non-qualified plan maintained by his employer. He must accrue the \$1,000 bonus and \$10,000 lump-sum distribution to the portion of 1993 when he was a resident.

## DELAWARE - 1993

THERE WERE NO CHANGES TO THE DELAWARE TAX CODE FOR 1993

STATE LAW: Delaware Code, Title 30, Chapter 11 et seq.

TAXPAYERS: (a) Residents with a gross income of more than \$4,550 or a married couple with a combined income of more than \$6,100 increased by \$1,250 for each personal exemption in excess of one for the resident individual or his spouse; (b) Nonresidents who have income for sources within Delaware.

FILING: See "TAXPAYERS". Persons meeting this definition generally, must file a Delaware income tax return although tax may not be due.

MILITARY PROVISIONS (a) Service members who are legal residents of Delaware but maintain an abode outside the State are required to file Delaware income tax returns; (b) Delaware taxable income is based on Federal adjusted gross income; therefore, Federal provisions which exclude military pay apply for Delaware income tax purposes; (c) Disability, nondisability, and such sums forfeited to provide a survivor's annuity are treated the same as under the Internal Revenue Code.

DESERT STORM PROVISIONS: Since Delaware follows the Federal rules on income and extensions, military members who served in the combat zone may exclude the same amount of income and obtain the same extensions for Delaware purposes as under Federal law.

RESIDENT: A resident is defined as an individual (1) who is domiciled in Delaware to the extent of the period of such domicile, provided, however, an individual who (a) is present in a foreign country or countries for at least 495 full days in any consecutive 18 month period, and (b) during such period of 18 consecutive months is not present in Delaware for more than 45 days, and does not maintain a permanent place of abode in this State at which his/her spouse, children or parents are present for more than 45 days, and (c) is not an employee of the United States, its agencies or instrumentalities (including members of the Armed Forces) shall not be considered a resident of this State during such period; or (2) who maintains a place of abode in Delaware and spends in the aggregate more than 183 days of the tax year in Delaware.

NOTE: Income earned in Delaware by the spouse of a service member is taxable in full. The spouse is entitled to her/his own personal exemption and may not claim her/his spouse as an exemption or dependent. Other dependents may be claimed by the spouse providing over 50% of their support.

## DELAWARE - 1993

**INCOME EXCLUSIONS:** Same as Federal, which includes (a) Life insurance proceeds; (b) Inheritances and gifts; (c) Interest on obligations of the United States and Delaware but not other states or the District of Columbia, (d) Compensation for injuries sustained while on active duty in the Armed Forces; (e) G.I. Bill Benefits; (f) Social Security Act payments regardless of the taxability of such benefits at the federal level.

### RATES:

#### 1993 Taxable Income

\$0 - 2,000	0.0
\$2,000 - 5,000	3.2% on excess over 2,000
\$5,000 - 10,000	96 + 5.0% on excess over 5,000
\$10,000 - 20,000	346 + 6.0% on excess over 10,000
\$20,000 - 25,000	946 + 6.6% on excess over 20,000
\$25,000 - 30,000	1276 + 7.0% on excess over 25,000
\$30,000 - 40,000	1626 + 7.6% on excess over 30,000
\$40,000 +	2386 + 7.7% on excess over 40,000

\* Percentage rate is applied to the amount in excess of base bracket amount.

**INCOME:** The taxable income of a Delaware resident is his/her Federal adjusted gross income (as defined in the Internal Revenue Code) with the following modifications:

Subtract - (a) Interest or dividends on obligations of the United States, its territories and possessions, or any authority, includable in gross income for Federal income tax purposes, but exempt from state income tax under the laws of the United States; (b) Exclusions of \$2,000 (\$4,000 if joint return) if individual is totally and permanently disabled, or over 60 years of age, and does not have more than \$2,500 earned income (\$5,000 if joint return), or more than \$10,000 adjusted gross income (\$20,000 if joint return), for the tax year; (c) Pension income (not to exceed \$2,000 or \$3,000 for persons age 60 or older) received from employers, United States, or Delaware or any subdivision thereof; (d) Social Security benefits included in federal adjusted gross income. (Senate Bill 278, approved January 26, 1984); (e) Delaware state tax refund, fiduciary adjustment, job credit, Delaware lottery winnings.

Add - Interest or dividends on obligations or securities of any state, political subdivision or authority thereof (other than the State of Delaware, its political subdivisions and authorities).

**DEDUCTIONS:** If a resident itemizes deductions for Federal income tax purposes, in lieu of the standard deduction, he/she may itemize deductions for Delaware income tax purposes, reduced by: (1) income taxes paid to Delaware; (2) any income tax imposed for the tax year by another state of the United States, a political subdivision thereof, or the District of Columbia,

## DELAWARE - 1993

on income derived from sources therein if he/she elects to take such amount as a credit. The standard deduction is \$1,300 for an individual and \$1,600 for a husband and wife filing jointly or \$800 each if they file separate returns. The sum of \$1,000 is added to the standard deduction in each of the following circumstances:

- (1) Taxpayer attains age 65 before the close of the taxable year;
- (2) Taxpayer's spouse attains age 65 before the close of the taxable year if no joint return is filed and the spouse has no taxable gross income and is not the dependent of another taxpayer;
- (3) Taxpayer is blind at the close of the taxable year;
- (4) Taxpayer's spouse is blind at the close of the taxable year, if no joint return is filed, and the spouse has no taxable gross income and is not the dependent of another taxpayer.

EXEMPTIONS:	Individual .....	\$1250
	Spouse .....	1250
	Dependents (each).....	1250

**CAPITAL GAINS AND LOSSES:** Capital gains are taxable in the same manner as under the Internal Revenue Code (no adjustment required on the Delaware income tax return).

**CREDITS:** Examples of the Credits include: A Delaware resident is allowed a proportional credit against his/her Delaware taxes for the amount of any income tax imposed on him/her and paid to another state on income derived from the other state during the tax year and included in his/her Delaware income tax return. A Child Care Credit was introduced in 1988. The credit equals 50% of Federal Child Care Credit.

**PAYMENTS:** Return and payment in full due 30 April. Declaration and payment of estimated tax is required if estimated tax can reasonably be expected to exceed \$100.

**TAX AUTHORITY:** Division of Revenue, 820 French Street, Wilmington, Delaware 19899.  
Taxpayer information: (302) 571-3300.

## District of Columbia - 1993

**STATE LAW:** D.C. Code Sec. 47-1801 et seq.

**FILING:** Returns are now required when gross income equals or exceeds the sum of allowance for personal exemptions plus applicable standard deductions. Returns of married persons, filing separately, are required when gross income equals or exceeds personal exemptions. The returns are required even if no tax is due because of deductions and credits.

If these requirements are met, a District of Columbia income tax return must be filed although tax may not be due.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of the District of Columbia but maintain an abode in another jurisdiction are subject to taxation; (b) There are no specific exemptions relating to military pay or to tax liability of military members who are POW/MIA (and their spouses). However, persons outside the United States subject to taxation may, upon written application and good cause shown, receive a twelve-month delay from due date for filing and payment of tax. Persons within the United States may similarly obtain up to a six-month delay. Interest at 1 1/2% per month on unpaid tax is collected. The department of finance and revenue will consider the waiver of penalty in the case of volunteers who come forth to report taxable income for prior years. Generally, less favorable waiver consideration is given when taxpayers or their representatives have not voluntarily disclosed such tax delinquencies. Prior years' tax forms may be obtained by calling the D. C. Forms Unit at (202) 727-6016. Written requests for waiver of penalties should include an explanation for filing the returns late. Such requests should be attached to the returns when filing with the Department. Any questions concerning the filing of prior year returns may be directed to the Audit Division manager by calling (202) 727-6070, or by writing to the Department of Finance and Revenue, Audit Division, Room 570, P.O. Box 556, Washington, D.C. 20044, (c) Disability pay is not taxable; (d) Survivor's annuity is taxable to the survivor; (e) Filing requirements for military members are the same as for other taxpayers.

**RESIDENTS:** Resident is defined as every person domiciled in the District of Columbia at any time during the calendar year and every individual who maintains an abode in the District of Columbia for more than 183 days, whether or not domiciled in the District. Persons residing in the District claiming status of "nonresident", or nonresidents seeking a refund of District taxes withheld, must file Form D-40B, D.C., Nonresident Request for Refund and Ruling. Persons who file part-year returns must prorate exemptions and the standard deduction. A District resident, who, on or before 31 December, changes his/her domicile to another jurisdiction is taxable for that part of the calendar year during which he/she was a bona fide domiciliary of the District. An individual who, during the calendar year, acquires a domicile in the District is taxed on the amount of gross income received after the date he/she became a bona fide District domiciliary. Taxpayers who itemize their deductions on the Federal return must also itemize their deductions on the District return.

## District of Columbia - 1993

Likewise, taxpayers who claim the standard deduction on their Federal return must take the standard deduction on the District return.

**GROSS INCOME AND ADJUSTED GROSS INCOME:** Conforms with Internal Revenue Code Sections 61 and 62 with modifications to exclude interest on federal and municipal obligations, income tax refunds, and income reported on other D.C. returns. Keough and IRA contributions are now allowable as adjustments to gross income, and the 3% rule for reporting pensions and annuities no longer exists. The Disability Income Exclusion repealed by the Internal Revenue Service is still allowable for District purposes. Further, no portion of social security benefits is subject to taxation.

RATES:		TAXABLE INCOME
Over	Not Over	Rates
-0-	\$ 10,000	6%
10,000	20,000	600 + 8% of excess over 10,000
Over	20,000	1,400 + 9.5% of excess over 20,000

**DEDUCTIONS:** Individuals, estates, and trusts are now allowed the same deductions permitted by the Internal Revenue Code (as of 8-13-81) except for deductions of income taxes, D.C. franchise tax and carryovers of contributions made prior to January 1, 1982.

**STANDARD DEDUCTION.** (Replaces previous zero bracket amount).

\$2,000 - Single individual, head of household, joint returns of husband and wife.

\$1,000 - Married, filing separately.

### EXEMPTIONS:

Individual .....	\$1,370
Married couple filing jointly ..	2,740
Head of Household.....	2,740
Blind or over 65 (taxpayer or spouse) (additional).....	1,370
Each dependent .....	1,370

If the spouse of a military member is a resident of the District of Columbia and the military member is not, a personal exemption of \$1,370 is allowable to a married person filing separately.

**CAPITAL GAINS AND LOSSES:** Same general treatment as under the Internal Revenue Code, including cost basis, amount realized, and amount recognized.

## District of Columbia - 1993

**TAX CREDIT:** Residents are allowed a credit for income taxes required to be paid and in fact paid to any state, territory or possession of the United States, or political subdivision thereof upon income attributable to such jurisdiction which is also subject to tax in the District. The credit shall not exceed the proportion of the tax due the District that the individual's gross income received by him/her subject to tax in the other jurisdiction bears to his/her adjusted gross income subject to taxation in the District. The formula for computing the out-of-state tax credit may be found in the Line 12 instructions on page 5 of the D.C. Individual Income Tax Booklet. The state tax credit may never exceed the least of the maximum credit computed according to the formula, the D.C. tax liability, or the amount of tax paid to any other jurisdiction.

A credit equal to 50% of campaign contributions for the District of Columbia or national office is allowed up to a maximum of \$100 on a joint return and \$50 on all others.

**CHILD-CARE CREDIT.** Credit allowable on full year returns is 32% of federal credit. Part-year taxpayers must complete and attach Form D-2441 to their D.C. return.

**NOTE:** With respect to delinquent returns, it is Department of Finance and Revenue policy to review on an individual basis requests for installment payment schedule, waiver or penalty, and abatement of prior years taxes. Generally, voluntary disclosures by taxpayers result in more favorable consideration than delinquencies disclosed by other sources. Criminal prosecution is pursued for long-term tax delinquents who are identified by compliance programs of the Department.

**LOW INCOME CREDIT:** The credit represents the difference between the sum of the Federal and District personal exemptions and standard deduction. This credit will reduce your D. C. tax liability but cannot be a refund. If your Federal taxable income (Form 1040EZ/A or Form 1040) is "0", you may be entitled to a low income credit. There is a special computation of the low income credit for dependent taxpayers claiming filing status F.

**DECLARATION OF ESTIMATED TAX:** Estimated tax payments for taxable income of \$1,053 (at the maximum rate of 9.5%) or more not subject to D.C. withholding tax may be made by filing Declaration of Estimated Tax vouchers on a quarterly basis. Individuals who anticipate that a tax liability of more than \$100 will accrue, must file a declaration. The coupon booklet may be obtained by calling the Tax Forms Unit at (202) 727-6016

**TAX AUTHORITY:** Government of the District of Columbia, Department of Finance and Revenue, 441 Fourth Street, N.W., Washington, D.C. 20001.

**TAXPAYER INFORMATION:** Call (202) 727-6104

**TAX FORMS:** Call (202) 727-6170/6016

**TECHNICAL TAX ISSUES:** Call (202) 727-6070

## FLORIDA - 1993

### STATE INCOME TAX:

Florida income tax is limited in its application to corporations and other artificial entities. The tax does not extend to "natural persons". There is, therefore, no income tax consequence to an individual resident of Florida and no required withholding for state income tax purposes.

### STATE INTANGIBLE PERSONAL PROPERTY TAX:

In Florida, intangible personal property including, but not limited to, stocks, bonds, beneficial interest in trust, loans notes and accounts receivable are subject to an annual tax of 2 mills (\$ 2.00 dollar per thousand dollars of property value) as of January 1 of the tax year. The tax must be paid by June 30; and becomes delinquent on or after July 1. Discounts for early payment are January 1 through February, 4%; March 1-31, 3%; April 1-30, 2%; May 1-31, 1%; no discount is allowed for payments made in June. If an individual is a legal resident of Florida on 1 January and their amount of taxable intangibles exceeds the exemption a return must be filed regardless of where they may be stationed on 1 January. Individual and joint filers use Florida Form DR-601I which may be attained by writing to the Florida Department of Revenue, Bureau of Tax Information and Media Services, 5050 W. Tennessee Street, Building I, Tallahassee, FL 32399-0100 or by calling 1-800-FLA-DOR1 (1-800-352-3671). Significant penalties, and interest, are charged for failure to properly file and pay the tax.

Cash, individual retirement accounts, certificates of deposit, annuities and the cash surrender value of life insurance which were previously taxable are exempt from the intangible tax.

There are exemptions that reduce the total tax due. An individual pays no tax on the first \$20,000 of asset value, 1 mill on value between \$20,000 and \$100,000 and 2 mills on the value of assets over \$100,000. Couples filing jointly pay nothing on the first \$40,000 of value, 1 mill on assets between \$40,000 and \$200,000 and 2 mills on the value of assets over \$200,000. For example, an individual who owns \$100,000 in stocks must pay \$80. A couple which owns \$250,000 in stocks must pay \$250.

A husband and wife may claim these exemptions even though the property is not jointly owned. This exemption does not apply to the value of a lessee's leasehold estate in governmental property.

Custodians of minors and incompetents may file a return and claim the exemption on behalf of the minor or incompetent using the minor's or incompetent's social security number.

## FLORIDA - 1993

Agents and fiduciaries may not claim the exemption in their own right or on behalf of their principals or beneficiaries.

In addition to the above, there is a nonrecurring tax of two mills (two dollars per thousand dollars of value) on notes, bonds and other obligations for payment of money which are secured by mortgage, deed of trust, or other lien upon real property situated in the State which is due and payable at the time of recording.

Interested personnel should direct their inquiries to the Florida Department of Revenue, Taxpayer Assistance Section, P. O. Box 7443, Tallahassee, Florida 32314-7443. Technical staff is available at telephone 1-800-352-3637 or (904) 488-6800.

# PRACTICE WORKSHEET

(COMPLETE ONLY ONE (1) COLUMN BELOW)

FILING STATUS (Step 1)	INDIVIDUAL		JOINT	
	BOX A	BOX B	BOX C	BOX D
YOUR TAXABLE ASSETS ARE:	\$100,000 or LESS	GREATER than \$100,000	\$200,000 or LESS	GREATER than \$200,000
6A. TAXABLE ASSETS (Step 2) (SCHEDULE A, Line 5)	\$ _____	\$ _____	\$ _____	\$ _____
6B. TIMES TAX RATE	X .001	X .002	X .001	X .002
6C. GROSS TAX (Step 3) (MULTIPLY Line 6A x Line 6B)	\$ _____	\$ _____	\$ _____	\$ _____
6D. LESS EXEMPTION	- \$20.00	- \$120.00	- \$40.00	- \$240.00
6E. TOTAL TAX DUE (Step 4) (SUBTRACT Line 6D from Line 6C)	\$ _____	\$ _____	\$ _____	\$ _____

**CARRY TOTAL TAX DUE AMOUNT TO SCHEDULE A, LINE 6**

### INSTRUCTIONS

- STEP 1** DETERMINE your Filing Status (Individual or Joint).
- STEP 2** ENTER Total Taxable Assets  
**BOX A** Individual filer with \$100,000 or less in Total Taxable Assets.  
**BOX B** Individual filer with more than \$100,000 in Total Taxable Assets.  
**BOX C** Joint filers with \$200,000 or less in Total Taxable Assets.  
**BOX D** Joint filers with more than \$200,000 in Total Taxable Assets.
- STEP 3** MULTIPLY Taxable Assets (Line 6A) by Tax Rate (Line 6B), ENTER result, Gross Tax, on Line 6C.
- STEP 4** SUBTRACT the Exemption (Line 6D) from the Gross Tax (Line 6C) and ENTER result, Total Tax Due, on Line 6E.

### EXAMPLES

- EXAMPLE 1** INDIVIDUAL having total taxable assets valued at \$75,000.  
**EXAMPLE 2** INDIVIDUAL having total taxable assets valued at \$175,000.  
**EXAMPLE 3** MARRIED COUPLE filing jointly having total taxable assets valued at \$175,000.  
**EXAMPLE 4** MARRIED COUPLE filing jointly having total taxable assets valued at \$275,000.

FILING STATUS (Step 1)	INDIVIDUAL		JOINT	
	BOX A	BOX B	BOX C	BOX D
YOUR TAXABLE ASSETS ARE:	\$100,000 or LESS	GREATER than \$100,000	\$200,000 or LESS	GREATER than \$200,000
6A. TAXABLE ASSETS (Step 2) (SCHEDULE A, Line 5)	\$ 75,000	\$ 175,000	\$ 175,000	\$ 275,000
6B. TIMES TAX RATE	X .001	X .002	X .001	X .002
6C. GROSS TAX (Step 3) (MULTIPLY Line 6A x Line 6B)	\$ 75.00	\$ 350.00	\$ 175.00	\$ 550.00
6D. LESS EXEMPTION	- \$20.00	- \$120.00	- \$40.00	- \$240.00
6E. TOTAL TAX DUE (Step 4) (SUBTRACT Line 6D from Line 6C)	\$ 55.00	\$ 230.00	\$ 135.00	\$ 310.00

## GEORGIA - 1993

**STATE LAW:** Title 48 - Official Code of Georgia Annotated

**TAXPAYERS:** All residents and nonresidents deriving income within the State, who, if single, had a Federal adjusted gross income, less certain additions and deductions, of more than \$1,500, or who, if married and filing jointly, had a gross income of more than \$3,000.

**FILING:** See "TAXPAYERS". If a Federal income tax return is filed, a Georgia income tax return must be filed although there may be no tax liability. When husband and wife file a Federal joint income tax return, a Georgia joint income tax return is required. See **MILITARY PROVISIONS** for military couple exception.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Georgia and maintain a place of abode in another jurisdiction are subject to taxation and must report their entire income, regardless where earned, unless specifically exempt under Georgia law; (b) Tax liability of service members (and their spouses) who are POW/MIA are treated the same as under the Internal Revenue Code; (c) Disability retirement pay is treated the same as under the Internal Revenue Code. Nondisability retirement pay is taxable to the resident taxpayer when received, regardless where earned; (d) Pay of retired service members who have elected to forfeit a portion of their retirement pay to provide an annuity for their survivors, and the survivor's annuity, are treated the same as under the Internal Revenue Code; (e) Nonresident service members are not required to file a Georgia income tax return unless they have earned income from sources other than military pay. Under such circumstances, Georgia Form 500 is required to be filed with page 2, Schedule 3, completed. A married nonresident with income earned in Georgia may file either a separate return claiming himself/herself only, or a joint return claiming total personal exemption and credit for dependents. An extension of time for filing a Georgia income tax return may be granted up to six months to military members returning from service outside the Continental United States; (f) If one member of a military couple (i.e. husband and wife both on active duty) is a Georgia resident and the other spouse is a resident of a different state, they may file a joint return, and pro rate using Schedule J, or the Georgia resident may file as "Married Filing Separately". Include a statement with the return explaining that the nonresident spouse's income is not subject to Georgia taxation because of the Soldiers' and Sailors' Civil Relief Act.

**RESIDENTS:** Under the Georgia Income Tax Act, a person who is or has become a resident of Georgia continues to be a resident for income tax purposes, though temporarily absent from the State, until he becomes a permanent resident of another jurisdiction. The term "resident" includes every legal resident as now defined by general law; every person domiciled in the State on the last day of the tax year, and every other person who maintains a place of abode within the State and spends more than six months within the State. Any person who, on or before the last day of the tax year, changes his/her place of abode to without the State with a

## GEORGIA - 1993

bona fide intention of continuing actually to abide permanently without the State shall be taxed as a nonresident. Any person returning within six months of removing will be deemed prima facie not to have intended to change his/her place of abode. A person is a resident within the State on the 31st of December of any year on a more or less regular or permanent basis and not on the temporary basis of a visitor. Every person who had become a resident shall be deemed to continue as such until he/she can show he/she has become a legal resident or a domiciliary of another state and has spent not more than 183 days of the tax year within Georgia. When a person removes from the State, he/she shall pay tax for that portion of the year in which he/she was a resident.

**INCOME EXCLUSIONS:** Same as under Internal Revenue Code with the following adjustments to the taxpayer's Federal adjusted gross income:

Subtract -- (a) Interest or dividends on United States Government obligations/bonds to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under federal law; (b) Other state's income tax refund reported as income for Federal purposes; (c) For years beginning on or after 1 January 1989, Georgia has enacted new rules for the retirement income exclusions.

Add -- (a) Interest or dividends on municipal bonds or other obligations from states other than Georgia and its political subdivisions; (b) For 1992 if a residence can be deferred if replaced anywhere in the US, any unrecognizable gain on a nontaxable exchange or conversion of property where unreplaced property is not located in Georgia; (c) Carryover of deductions from losses incurred prior to becoming a resident of Georgia; (d) Expenses connected with earning tax-exempt income. Interest or dividends on all other obligations of the United States, which are not specifically excluded from state taxation. All income taxes imposed by other states but deducted when determining federal taxable income are included in Georgia taxable income. "Eligible taxpayers" may also exclude, within certain limits, "retirement income" from their Georgia net taxable income. Specifically, taxpayers may exclude income from public pension or retirement funds to the extent the income from such funds is otherwise exempt from Federal income tax. In addition, for taxable years beginning on and after 1 January 1989 and before 1 January 1990, up to \$8,000 of "retirement income" from any source may be excluded by "eligible taxpayers". For taxable years beginning on and after 1 January 1990, the exclusion will be increased to \$10,000 per year. For married couples who file joint returns, each taxpayer may qualify for the exclusion. Thus, so long as each spouse independently qualifies, up to \$16,000 (\$20,000 in 1990 and later years) of "retirement income" may be excluded from Georgia net taxable income.

For purposes of the exclusion, "retirement income" includes, without limitation: interest, dividends, net income from rental property, capital gains, royalties, pensions and annuities, and up to \$4,000 of earned income (i.e., wages, salaries, tips, etc.) received by an "eligible taxpayer" during the taxable year. Also, for purposes of the exclusion, an "eligible

## GEORGIA - 1993

taxpayer" is an individual who (1) at anytime during the taxable year, is age 62 or more, or (2) is permanently and totally disabled.

A tax table is available which can be used by all resident, nonresident and part year residents. This will eliminate the use of various rates.

### RATES: TAXABLE INCOME

#### SINGLE

Over	Not Over	Rate
.....	\$750 .....	1%
\$ 750	\$2,250 ...	\$ 7.50 plus 2% of excess over \$ 750
\$2,250	\$3,750 ...	\$ 37.50 plus 3% of excess over \$2,250
\$3,750	\$5,250 ...	\$ 82.50 plus 4% of excess over \$3,750
\$5,250	\$7,000 ...	\$142.50 plus 5% of excess over \$5,250
\$7,000	.....	\$230.00 plus 6% of excess over \$7,000

#### MARRIED FILING SEPARATELY

Over	Not Over	Rates
.....	\$500 ...	1%
\$500	\$1,500 ...	\$ 5.00 plus 2% on excess over \$ 500
\$1,500	\$2,500 ...	\$ 25.00 plus 3% on excess over \$1,500
\$2,500	\$3,500 ...	\$ 55.00 plus 4% on excess over \$2,500
\$3,500	\$5,000 ...	\$ 95.00 plus 5% on excess over \$3,500
\$5,000	.....	\$170.00 plus 6% on excess over \$5,000

### RATES: TAXABLE INCOME

#### HEAD OF HOUSEHOLD & MARRIED FILING JOINTLY

Over	Not Over	Rates
.....	\$ 1,000 ...	1%
\$ 1,000	\$ 3,000 ...	\$ 10.00 plus 2% on excess over \$ 1,000
\$ 3,000	\$ 5,000 ...	\$ 50.00 plus 3% on excess over \$ 3,000
\$ 5,000	\$ 7,000 ...	\$110.00 plus 4% on excess over \$ 5,000
\$ 7,000	\$10,000 ...	\$190.00 plus 5% on excess over \$ 7,000
\$10,000	.....	\$340.00 plus 6% on excess over \$10,000

## GEORGIA - 1993

**NOTE:** Georgia income tax is based on the income reported on Federal income tax Form 1040. There may be differences as described in the following paragraphs.

Filing status must be the same on the Georgia return as on the Federal return, except for nonresident military personnel (See "MILITARY PROVISIONS"). For example, if a joint Federal return was filed, a joint Georgia return must be filed. **EXCEPTION:** If one member of a military couple (i.e. husband and wife both on active duty) is a Georgia resident and the other is not, the couple may file a joint return and pro rate using Schedule J, or the Georgia resident spouse may file "Married Filing Separately". If you file a Federal 1040 pages one and two if income is \$40,000 or more.

**DEDUCTIONS:** Same as Federal, with the following adjustments to the taxpayer's Federal itemized deductions:

Subtract - (a) Income taxes other than Georgia claimed as a Federal itemized deduction; (b) Carry-over of deductions which the Federal and State treated differently prior to 1971.  
**Deductions -** If you do not itemize on your Federal return you must use standard deduction on your Georgia return. Effective for 1987 if you are single, or head of household, the standard deduction to be entered on Line 11A is \$2,300. If you are married filing separately, the standard deduction to be entered on Line 11 is \$1,500. If you are married filing a joint return the standard deduction to be entered on Line 11A is \$3,000. If you use Line 11A, please leave line 12 blank. The use of tax tables on your Federal return will not affect the computation of tax on your Georgia return. You must still reduce from Federal adjusted gross income the allowable Georgia standard deduction or allowable itemized deductions and your personal exemptions and credit for dependents as explained under lines 4, 5, 6 and 7 to arrive at Georgia taxable income.

### EXEMPTIONS:

Individual.....	\$1,500
Dependents (each).....	1,500

**CAPITAL GAINS AND LOSSES:** The replacement period is 24 months. Same as Federal on sale of residence (for 1992, can be replaced anywhere in the US for deferrment).

**CREDITS:** Residents receive credit for income taxes paid to other states to the extent like income would be taxable in Georgia.

**PAYMENTS:** Returns and payment in full due 15 April. Estimated Tax is required of every person receiving income not subject to withholding in excess of \$1,000 and whose gross income will exceed \$1,500, if single, or \$3,000, if married. Payments of estimated tax should be made on or before 15 April, June, September and January. A late filing penalty is assessed at 5% per month of the tax due with the return but not to exceed 25%. Penalties may be waived, but interest may not be waived. Returns for delinquent years are to be filed as

## GEORGIA - 1993

required by law. If return for the current year, plus returns for four prior years are paid with interest, any year prior to the fourth prior year may not be required. The returns for the five years received will be reviewed to determine, from a revenue standpoint, if it would be worthwhile to require additional years. There is no provision in the Georgia Code for part payment of taxes due. In summary, Georgia has adopted the Internal Revenue Code of 1986 as it existed on 1/1/93.

**RETIREMENT:** A special session of the Georgia General Assembly enacted laws changing the taxability of pensions. The law provides an exclusion of up to \$10,000 of retirement income for tax years beginning on or after January 1, 1990. Each taxpayer must be 62 years of age or older, or totally disabled, and must separately qualify. If property is jointly owned, income derived is allocated to each taxpayer at 50 percent. Of the \$10,000 maximum exclusion, up to \$4,000 may be earned income. Part-year or non-residents must prorate the exclusion. The exclusion will not be allowed unless the date of birth, or type and date of disability, is entered on Schedule 1.

**TAX AUTHORITY:** Department of Revenue, Income Tax Division, Trinity-Washington Building, Atlanta, Georgia 30334.

**TO ORDER TAX FORMS:** Please phone (404) 656-4293 or write:  
Georgia Department of Revenue Forms Room 124-G Trinity-Washington Building Atlanta,  
Georgia 30334

## HAWAII - 1993

**STATE LAW:** Hawaii Revised Statutes, Sec. 235-1 et seq.

**TAXPAYERS:** Residents and nonresidents with gross income equal or greater than the sum of their personal exemption amount plus their applicable standard deduction amount, derived from wages earned as an employee or by "doing business" in Hawaii. "Doing business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, except personal services performed as an employee under the direction and control of an employer.

**FILING:** See "TAXPAYERS". Every individual, including resident and non-resident service members, having gross income which is subject to taxation is required to file a Hawaii income tax return.

**MILITARY PROVISIONS:** (a) Tax liability of service members (and their spouses) who served in a combat zone or who are POW/MIA is treated the same as under the Internal Revenue Code; (b) Disability and nondisability retirement pay is excluded from gross income; (c) Deferral of payment of tax until six months after termination of military service of persons on active duty whose ability to pay tax is materially impaired by reason of military service. No deferral is granted for filing a return; (d) Cost of Living Allowance (COLA) are taxable to those subject to Hawaii State Income Tax.

**DESERT STORM PROVISIONS:** Hawaii follows the Internal Revenue Code in excluding from gross income the military pay earned while serving in a combat zone; also, the same period of extension is allowed as under the federal law.

**RESIDENTS:** (a) Every individual who is domiciled in Hawaii; and (b) Every other individual residing in Hawaii for other than a transitory purpose; (c) Anyone in Hawaii for over 200 days in a single year is presumed to be a resident, except that no person shall be deemed to have gained or lost a residence because of presence or absence in compliance with military or naval orders, engaged in aviation or navigation, or while a student at any institution of learning; (d) Every individual other than a resident is a non-resident. For example, a member of the Armed Services whose home of record (domicile) is California but is stationed in Hawaii in compliance with military orders, is considered to be a non-resident. The term "domicile" means the place where an individual has a true, fixed permanent home and principal establishment, and to which place the individual has, whenever absent, the intention of returning.

**INCOME EXCLUSIONS:** (a) Any compensation received in the form of a pension for past services; (b) Government payments and benefits to veterans and their families; (c) Dividends on veteran's government insurance; (d) Benefits paid by Hawaiian or other government

## HAWAII - 1993

retirement systems; (e) Interest on Federal and State of Hawaii municipal bonds; (f) Gifts, inheritances and (including U.S. savings bonds) bequests; (g) Life insurance proceeds upon death; (h) Workman's compensation and insurance, and damages for bodily injury or sickness; (i) The first \$1,750 received as compensation for duty by members of the Reserve components of the Armed Forces of the United States or the Hawaii National Guard.

**RATES:** Hawaii has adopted tax tables with 8 brackets. Consult State's instruction booklet for the specific amount of tax. For taxable years beginning after December 31, 1988, the lowest rate is 2 percent, while the maximum tax rate is 10% of taxable income.

**STANDARD DEDUCTION:** Hawaii adopts the concept of the standard deduction but provides amounts different from the federal amounts for Hawaii tax computation. Standard deduction amounts have been increased for all filers. Standard deductions for taxable years beginning after December 31, 1988:

Single .....	\$1,500
Married filing joint or surviving spouse ..	\$1,900
Married filing separate .....	\$ 950
Head of Household .....	\$1,650

**ITEMIZED DEDUCTIONS:** (a) Charitable contributions are deductible only as an itemized deduction; (b) Moving expenses are deductible only as itemized deduction (c) Medical expenses applicable under the Internal Revenue Code but only to the extent they are more than 7.5% of adjusted gross income. (d) Unreimbursed casualty losses on nonbusiness property located in Hawaii in excess of \$100 and 10% of Hawaii adjusted gross income if filed timely; (e) Dues to professional societies or unions; (f) Ordinary business expenses; (g) The total of certain miscellaneous itemized deductions is deductible only to the extent that the total is more than 2% of adjusted gross income.

### EXEMPTIONS:

Individual .....	\$1,040
Spouse .....	1,040
Dependents (each).....	1,040
Blind/deaf/disabled persons .....	7,000

A person who is eligible to be claimed as a dependent by another taxpayer may claim no amount as a personal exemption. Social Security number is required for dependents who are 1 year old or older as of December 31, 1992.

**CAPITAL GAINS OR LOSSES:** Same as under the Internal Revenue Code. Except capital gains are taxed at a top rate of 7.25 percent for individuals.

## HAWAII - 1993

**CREDITS:** (a) Hawaii residents are allowed credit for taxes paid to another jurisdiction on income attributable to sources outside Hawaii, provided the other jurisdiction does not allow a credit against its tax imposed by Hawaii on such income; (b) Non-residents who sell Hawaii real property are subject to tax withholding of 5% of the amount realized on the sale, but can claim that amount as a credit on their non-resident return; (c) For solar energy systems that are installed and placed in service in Hawaii after 31 December 1989, but before 1 January 1999, the following tax credits may be claimed:

### SOLAR ENERGY SYSTEMS

For the period January 1, 1990 through December 31 1998

TYPE	TAX CREDIT RATE
New and existing single family residential buildings	The lesser of 35% or \$1,750
New and existing multi-unit buildings used primarily for residential purposes building unit	The lesser of 35% or \$350 per building unit
New and existing hotel, commercial, and industrial facilities	35%

### WIND ENERGY SYSTEMS 20%

Extended from January 1 1990 through December 31 1998

### HEAT PUMPS

For the period January 1 1990 through December 31 1998

TYPE	TAX CREDIT RATE
New and existing single family residential buildings	The lesser of 20% or \$400
New and existing multi-unit buildings used primarily for residential purposes	The lesser of 20% or \$200 per building unit
New and existing hotel, commercial, and industrial facilities	20%

### ICE STORAGE SYSTEMS

Installed and placed in service after 31 December 1990 but before 1 January 1999, the credit is 50%.

(d) A resident taxpayer is allowed a tax credit for child and dependent care provided he/she files a Hawaii individual income tax return for a tax year which he/she is not claimed as a dependent by another taxpayer for Federal or Hawaii tax purposes, and he/she maintains a household that includes as a member one or more qualifying members (dependent under age

## HAWAII - 1993

13, or spouse, or dependent who is physically or mentally incapable of caring for himself/herself). For taxable years beginning after December 31, 1989, the dependent child care income tax credit ranges from 15 percent to 25 percent of the employment related expenses. The excess of the credit over payments due shall be refunded to the resident taxpayer, including resident individuals who have no income tax liability. (e) Qualifying resident taxpayers may claim the food tax credit. The amount of the credit ranges from \$110 per qualified exemption for taxpayers with AGI under \$6,000 to \$55 per qualified exemption for taxpayers with AGI over \$30,000. Consult State Instruction Booklet for proper computation.

For 1993 tax year, Hawaii authorized a general income tax credit of \$1.00 to be applied against taxpayer's income tax liability which can be multiplied by the number of qualified exemptions except those for age or disability. For taxable years beginning after December 31, 1988, and ending before January 1, 1997, each qualified resident of Hawaii may claim a refundable medical service excise tax credit against his or her income tax liability. The amount of the credit shall be 4 percent of the amount paid by a resident for qualified medical expenses during the taxable year not to exceed the following amounts: \$200 for each tax return; \$400 for a resident individual 65 years of age or older; or \$600 for a resident individual and spouse both 65 years of age or over. "Qualified medical expenses" is defined as the amount of medical expenses paid during the taxable year not be reduced by an insurance reimbursement which are subject to the general excise tax. Any claim, including amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Form N-858 must be completed and attached to the individual's state tax return to claim this tax credit.

**1994 TAX YEAR PAYMENTS:** Generally, return and payment due in full 20 April. However, if any date shown falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday. Declaration of Estimated Tax is due on 20 April from all persons with estimated tax liability is less than \$500. Estimated tax due in four equal installments on 20 April, 20 June, 20 September and 20 January.

**Tax Law Changes Effective for 1994-** Act 73 Session Laws of Hawaii 1993, adopted certain provisions of the federal Internal Revenue Code (except the due dates) with respect to individual estimated income taxes. They include:

- \* Establishing the amount of required annual installments to include the lesser of (1) 100% of the last year's tax, or (2) 90% of the current year's tax.

- \* Foregoing the estimated tax penalty where there was no tax liability from the prior year.

- \* Waiving the penalty for underpayment of estimated tax due to casualty, disaster or other unusual circumstance. Also, waiver may apply by showing reasonable cause (and not willful neglect) during the tax year a payment was due or during a preceding tax year after a taxpayer becomes disabled or retires after reaching age 62.

## HAWAII - 1993

\* Allowing farmers and fishermen to make one installment payment by the 20th day of the month following the end of their taxable year. At that time, the full amount of any estimated tax i.e., two-thirds of the eventual tax shown on the farmer's or fisherman's income tax return for the year of the estimate must be paid. As a result, calendar-year farmers and fishermen are not required to pay any estimated tax for 1994 until January 20, 1995.

\* Allowing nonresident aliens to pay three (not four) installments due June 20, September 20, and January 20 (of the following taxable year). Also, 50% of the first required installment shall be due on the first installment payment.

\* Applying the estimated requirements equally to fiscal and short tax year taxpayers.

\* In addition, the Act updates the requirement to file and pay estimated taxes. If the tax liability is under \$500 (formerly \$100), no estimated tax declaration and payment are required.

The Director of Taxation has the authority, except in cases of fraud or willful violation of the law or willful refusal to make a return setting forth the information required by law, to remit penalties for any tax that is delinquent for not more than 90 days. Where penalties are delinquent for periods over 90 days they may be remitted through the compromise procedure which requires the approval of the Governor.

**TAX AUTHORITY:** State of Hawaii, Department of Taxation, P.O. Box 259, Honolulu, Hawaii 96809. Request for forms: State of Hawaii, Department of Taxation, Taxpayer Services Branch, P.O. Box 1425, Honolulu, Hawaii 96806-1425. Phone: 1-800-222-7572 or 808-587-7572.

## IDAHO - 1993

THERE WERE NO CHANGES IN THE IDAHO TAX CODE FOR 1993

**STATE LAW:** Idaho Code Sec. 63-3001 et seq.

**TAXPAYERS:** Residents and nonresidents having a gross income of \$3,300 if single; \$5,400 if married; and surviving spouse \$4,400. Idaho is a community property state.

**FILING:** See "TAXPAYERS". Service members who meet these requirements generally, must file an Idaho income tax return although tax may not be due. The Idaho filing requirement for nonresidents is the same as for residents. The income amounts are, however, Idaho source and not income from all sources.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Idaho and maintain an abode elsewhere are taxed on all income regardless of source. However, an individual on active duty with the Armed Forces of the United States, which duty is continuous and uninterrupted for 120 consecutive days or more, may deduct compensation for service performed outside Idaho provided appropriate adjustments are made in his/her standard deduction amount and exemptions as described in Sec. 63-3022, Idaho Code. A nonresident return must be used when an individual has received active duty wages; (b) Service members who are in a POW/MIA status are considered to be stationed outside Idaho and their military pay is exempt from taxation. Service members outside the Continental United States may defer filing returns or paying taxes until six months after the close of their tax year or such further extension as authorized by Sec. 7508, Internal Revenue Code; (c) Income from a nonmilitary job held by a service member (and/or spouse), and from interest, dividends, capital gains, rent, etc. is subject to taxation; (d) Disability retirement pay and sums forfeited to provide for a survivor's annuity are treated the same as under the Internal Revenue Code; (e) Nondisability military retirement pay is fully includable in income. To qualify for a deduction on the Idaho income tax return for military retirement, an Idaho resident must be 65 years of age or older or at least 62 and disabled.

**DESERT STORM PROVISIONS:** By legislation enacted early in 1991, made retroactive to August 2, 1990, Idaho follows the Internal Revenue Code provisions with respect to pay earned while in a combat zone and extensions of time to file returns.

**RESIDENTS:** Resident is defined as any individual who during the tax year has been domiciled in Idaho or has resided in the State for the entire year. Domicile is the place where an individual has his/her true, fixed, permanent home and to which he/she intends to return whenever absent. "Part-year resident" is an individual who enters or leaves Idaho during the tax year and has resided, or was domiciled, in the State for a period of less than 12 months during the tax year. The tax of such taxpayer shall be determined in the manner provided for nonresidents, as set forth in Sec. 63-3027A, Idaho Code.

## IDAHO - 1993

When computing taxable income of a part-year or nonresident individual, deductions and exemptions are prorated in accordance with section 63-3027A, Idaho Code. Exemptions and deductions are reduced to the proportion that the adjusted gross income of the taxpayer from Idaho sources bears to the total adjusted gross income from all sources.

**INCOME EXCLUSIONS:** Same treatment as under the Internal Revenue Code, including the Retired Serviceman's Family Protection Plan (RSFPP) exclusion, disability and nondisability retirement pay of Armed Forces personnel.

RATES:		TAXABLE INCOME	
Married Filing Jointly, Head of Household or Surviving Spouse		Single or Married Filing Separately	
Up to \$ 2,000 .....	2.0%	Up to \$ 1,000 .....	2.0%
\$ 2,000 - \$ 4,000...	4.0%	\$ 1,000 - \$ 2,000...	4.0%
\$ 4,000 - \$ 6,000...	4.5%	\$ 2,000 - \$ 3,000...	4.5%
\$ 6,000 - \$ 8,000...	5.5%	\$ 3,000 - \$ 4,000...	5.5%
\$ 8,000 - \$10,000...	6.5%	\$ 4,000 - \$ 5,000...	6.5%
\$10,000 - \$15,000...	7.5%	\$ 5,000 - \$ 7,500...	7.5%
\$15,000 - \$40,000...	7.8%	\$ 7,500 - \$20,000...	7.8%
over \$40,000...	8.2%	over \$20,000...	8.2%

**NOTE:** Federal rules as they pertain to filing joint returns, head of household returns, and surviving spouse returns, including splitting income, are applicable to Idaho returns.

**DEDUCTIONS:** Itemized deductions are the same as under the Internal Revenue Code, except: (a) State income taxes are not deductible; (b) Federal income taxes are not deductible.

If you do not itemize your deductions on Federal Schedule A, your standard deduction is the amount permitted by Internal Revenue Code.

**CAPITAL GAINS AND LOSSES:** Same treatment as under the Internal Revenue Code. Under 1986 reform act - repealed IRS. Idaho has a limited capital gain exclusion for certain types of property. The holding periods and the types of property which qualify for capital gains deductions are explained on Idaho Form CG.

**CREDITS:** Residents are allowed credit for taxes paid to other states on income from sources within those states. Credit cannot exceed the smaller of that portion of Idaho tax before credit equal to the fraction of Idaho income subject to tax in another state; or the amount of tax actually paid the other state.

## IDAHO - 1993

A grocery credit of \$15 per person is allowed against income tax due to compensate for sales tax paid on purchased food items. This credit is available only to resident individuals of Idaho. The \$10 Permanent Building Fund Tax is in effect this year.

**PAYMENTS:** Returns and tax in full due the fifteenth day of the fourth month following the end of the tax year. Penalty for failure to file a return is 5% per month of the unpaid tax to a maximum of 25%, plus interest at 12% per annum. There is a 50% penalty for fraud. Statute of limitations does not apply until a return is filed. Therefore, returns may be required as far back as there was a requirement to file.

**RETIREMENT PAY:** Idaho is not effected by the case of *Davis v. Michigan Department of Revenue*, (1989) 103 L.Ed.2d 891, concerning the taxation of federal retirements. Idaho does not discriminate against military retirements. Idaho has allowed and continues to allow a partial exclusion of military retirement benefits when certain age and other limitations are met. The exclusions are explained in the taxpayer's instruction booklet.

**TAX AUTHORITY:** State of Idaho, Department of Revenue and Taxation, State Tax Commission, Income Tax Division, P.O. Box 36, Boise, Idaho 83722. (208) 334-7530.

## ILLINOIS - 1993

**STATE LAW:** Illinois Compiled Statutes, 35 ILCS 5/101 - 5/1701

Please note further that the statute books are published bi-yearly. Therefore you should consult its supplement for subsequent changes.

**TAXPAYERS:** Every individual earning or receiving income in or as a resident of this state, Ill. Com. Stat. 35 ILCS 5/502(a).

**FILING:** Persons liable for Illinois income tax, and residents required to file a federal income tax return regardless of liability for Illinois income tax. Ill. Com. 35 ILCS 5/502 (a)(1)(2).

### MILITARY PROVISIONS:

a. Ill. Com. Stat. 35 ILCS 5/203(a)(2)(E) provides for a subtraction modification (i.e., a deduction) in the computation of Illinois base income for "any compensation (including but not limited to any compensation paid or accrued to a serviceman while a POW or MIA) paid to a resident by reason of being on active duty in the Armed Forces of the (U.S.)... "

If military compensation qualifying for the Ill. Com. Stat. 35 ILCS 5/2-203(a)(2)(E) subtraction modification is the only source of income, the resident individual service member will not have to pay Illinois income tax. However, he/she will be required to file an Illinois income tax return.

b. Section 112(d) Internal Revenue Code specifically excludes from gross income compensation received for active service as a member of the U.S. Armed Force for any month during any part of which such member is a (POW/MIA) during the Vietnam conflict as a result of that conflict. Since this income is excluded from gross income it will not enter into the computation of adjusted gross income. As this is the starting point for Illinois taxation and as Illinois has no add back for this income, it will not enter into the calculation of Illinois base income. Therefore, the net effect is the same, the income is not subject to tax. Since it is the compensation that is excluded (under Section 112(d) IRC), any recipient of it (including the spouse) is entitled to the exclusion. In this way Section 112(d) IRC applies to spouses.

c. Disability income from military sources is excludable.

d. Military retirement pay is included in federal gross income. Military retirement pay is excluded from Illinois base income because it is a distribution from a retirement plan for employees of a governmental unit. Ill. Com. Stat. 35 ILCS 5/203(a)(2)(F).

## ILLINOIS - 1993

**DESERT STORM PROVISIONS:** Ill Com. Stat. 35 ILCS 5/602(b), provides that if a taxpayer was a member of the United States Armed Forces serving in a combat zone and subject to a filing extension in accordance with Presidential proclamation pursuant to Section 7508 of the Internal Revenue Code, no interest or penalty shall be applicable for the taxable year ending on and after December 31, 1990.

Ill Com. Stat. 35 ILCS 5/203(a)(2)(R) permits a subtraction (deduction) from adjusted gross income, to the extent included therein, for an amount equal to the amount of any federal or state bonus paid to veterans of the Persian Gulf War.

**INCOME EXCLUSIONS:** See "Military Provisions". Income excluded from federal gross income will be excluded from the computation of Illinois base income unless there is a specific addition modification requiring that an item of income be added to federal adjusted gross income. Illinois does require federally excluded interest income to be added back for Illinois purposes in the computation of Illinois base income (Ill. Com. Stat. 35 ILCS 5/203(a)(2)(A-R) lists specific addition and subtraction modifications).

**RATES:** Public Act 88-89 made the temporary income tax surcharge permanent. As a result, the 3% individual income tax rate never did revert to lower rate. The references to subsections (4) (5) of section 201 of the Illinois Income Tax Act should be deleted as those subsections no longer exist.

**DEDUCTIONS:** Illinois has certain specific subtraction modifications which are in the nature of deductions. See Ill. Com. Stat. 35 ILCS 5/203(a)(2)(E-R).

**EXEMPTIONS:** Each resident taxpayer is allowed a basic standard exemption of \$1,000, plus an additional \$1,000 for each exemption in excess of one allowed under Section 151, Internal Revenue Code. For taxable years ending on or after January 1, 1990 an additional \$1,000 exemption is allowed both to taxpayer and spouse if both are 65 years of age or older. Also, for taxable years ending on or after January 1, 1990, an additional \$1,000 exemption is allowed to taxpayer and spouse who are blind. Nonresident and part-year resident taxpayers must prorate the exemption amount based on the ratio of "Illinois income" to total base income. Ill. Com. Stat. 35 ILCS 5/204. This provision was amended by P. A. 87-880 to provide that for taxable years ending on or after December 31, 1992, a taxpayer claimed as a dependent on another person's tax return under the IRC of 1986, shall not be allowed any basic amount under the subsection.

**PAYMENTS:** Due on or before the 15th day of the fourth month following the close of the taxable year Ill. Com. Stat. 35 ILCS /601(a)&(b) read in the light of Ill. Com. Stat. 35 ILCS 5/502(a)(2). Effective 1-1-94 a new Uniform Penalty and Interest Act (35 ILCS 735/3 et seq.) is incorporated into Section 1001 of the Illinois Income Tax Act and sets the penalty rate for failure to file returns. Effective January 1, 1994, the penalty for failure to file will be 5% of

## ILLINOIS - 1993

the amount of the tax required to be shown due on the return for the failure to file the tax return on or before the due date prescribed for filing, with regard for any extension of time for filing (Section 3-3(a) of the Uniform Penalty and Interest Act).

### **PENALTY FOR UNDERPAYMENT OF ILLINOIS INCOME TAXES (35 ILCS 5/1005)**

Effective January 1, 1994, the penalty for underpayment of income taxes is calculated at the rate set forth in Section 3-3(b) of the Uniform Penalty and Interest Act. Section 3-3(b) of the UPIA provides for a penalty of 15% of the tax shown due on the return or the tax required to be shown due on the return shall be imposed for failure to pay "the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506(requirement to file amended Illinois returns in response to federal changes) of the Illinois Income Tax Act..." Section 3-3(b) also provides for a penalty of 15% of the tax shown or required to be shown due for failure to pay "the full amount of any tax required to be shown due on a return and which is not shown... within 21 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department."

**TAX AUTHORITY:** State of Illinois, Department of Revenue, 101 W. Jefferson Street, Springfield, IL 62708, Phone (217) 785- 8203.

## INDIANA - 1993

**STATE LAW:** Indiana Adjusted Gross Income Tax Act of 1963, as amended.

**TAXPAYERS:** Every resident with a gross income in excess of his/her total Indiana exemptions; every nonresident with a gross income from an Indiana source.

**FILING:** Service members who are legal residents of Indiana are required to file Indiana income tax returns regardless of the period of absence from the State. Married persons may file joint or separate returns; however, the same method must be used for Indiana as for Federal.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Indiana and maintain a place of abode in another jurisdiction are subject to Indiana taxation. A deduction up to \$2,000 is allowed on military income; (b) A service member, or the surviving spouse (if he/she is 60 years old on the last day of the tax year) is entitled to a deduction for the first \$2,000 of military retirement or survivor's benefits, received during the tax year; (c) Reduction in taxable income under the Retired Serviceman's Family Protection Plan (RSFPP) and Survivors' Benefit Plan (SBP) is recognized for Indiana tax purposes; (d) Disability pay may be partially excludable; (e) Compensation received by active reserve members of the Armed Forces is subject to taxation in the same manner as active duty pay.

**DESERT STORM PROVISIONS:** Military pay earned while on active duty in a combat zone is excluded from income, to the same degree as under Federal law. In addition, the Governor of Indiana signed an Executive Order (#91-11, September 1991) which (1) waives penalties and interest incurred because of late filing of 1990 tax returns by Indiana residents who served in a combat zone; (2) establishes that returns will be timely if filed within 210 days of the date the member left the combat zone; (3) forgives any outstanding liability owed by Indiana residents killed in action during Operation Desert Storm; and (4) forgives interest and penalties that accrued on past liabilities owed by Indiana residents who served in Operation Desert Storm for the period of that service and for an additional 180 days.

**RESIDENTS:** Resident is defined as any individual domiciled (at any time) in the State during the tax year or any individual who maintains a permanent place of residence within the State. (Note: Military personnel are residents of Indiana if their home of record is Indiana.

**INCOME EXCLUSIONS:** Same as under the Internal Revenue Code.

**RATES:** Effective January 1, 1988, the tax rate is 3.4%, for 1987 the rate is 3.2% of Indiana Adjusted Gross Income less exemptions. For tax years 1980, 1981, 1982 and 1983, the tax rate was 1.9%. For tax years prior to 1978 the rate was 2%, 1979 tax rate 1.7%.

## INDIANA - 1993

**INCOME:** The Internal Revenue Code as amended and in effect on 1 January 1985 is recognized by Indiana as the basis for determining adjusted gross income with the following adjustments:

Subtract -- (a) Income exempt from state tax; (b) Amount for personal exemptions permitted from State law.

Add -- (a) An amount equal to any deduction taken from Federal gross income for state and local taxes paid; (b) An amount equal to any deduction taken for interest from an All-Saver's Certificate; (c) An amount equal to any deduction taken on the federal return for the "marriage penalty;" (d) An amount equal to the ordinary income portion of "lump sum" distributions.

**DEDUCTIONS:** Income subject to tax in a non-Indiana city, county or other such district qualifies for the Non-Indiana Locality Earnings Deduction. The allowable deduction is the actual amount of income received which is taxable to a non-Indiana political subdivision or \$2,000, whichever is less. To qualify you must be an Indiana resident. You may not claim income taxable to another state, only a locality within another state.

**EXEMPTIONS: Personal and Dependent:** A taxpayer is allowed a \$1,000.00 exemption for each exemption he/she is entitled to claim for Federal purposes. This includes extra exemptions claimed for age over 65 and/or blindness. Additional exemption for income has been repealed effective 1 January 1985. (Note: personal exemptions were increased to \$1,000.00 regardless of income).

Nonresident and part-year resident taxpayers, including military members and their families, must reduce their total amount of deductions for exemptions to an amount which bears the same ratio to the total exemptions as the taxpayer's income taxable in Indiana bears to his total income.

**CAPITAL GAINS AND LOSSES:** Same as under the Internal Revenue Code.

**CREDITS:** An Indiana resident who derives income from another state and pays tax to both Indiana and the other state, will be allowed a credit for the tax paid to the other state, unless the other state allows him/her a nonresident credit. Non residents who pay taxes to Indiana may take a credit for this tax in their domiciliary state if that state allows a similar credit to residents of Indiana.

**PAYMENTS:** Return and tax in full due 15 April. Residents are required to file Declaration of Estimated Tax Returns if their tax liability to the State is in excess of \$100 above with holding.

## INDIANA - 1993

**NOTE:** Resident service members who incur an annual State income tax liability of \$100 or greater are required to file a Declaration of Estimated Tax Return with Indiana and prepay their tax on a quarterly installment basis. As Indiana now requires the withholding of state income tax on resident service members an estimated tax is not required where the tax liability does not exceed the withholding by \$100 or more. The Department of Revenue has no authority to waive interest or to compromise the tax liability. In isolated cases the penalties may be waived.

**NOTE: (COUNTY ADJUSTED GROSS INCOME TAX (CAGIT)):** Since 1973 any service member who entered the Armed Forces as a resident of an Indiana county which adopted the

CAGIT is subject to said tax. All nonresident service members stationed in Indiana will not be subject to the CAGIT. However, the spouse's income is subject to the CAGIT if, as of 1 January, his/her principal place of business or employment was located in a county that has adopted the tax. Effective 1 January 1979, a service member, who as of 1 January, is maintaining his/her legal residence in an adopting county in Indiana but who is stationed in another county, state, or country is not liable for county taxes. (Service members stationed in another country or state on 1 January should be entitled to enter "OOS", (out-of-state), in the county of residence box on the tax return.

**COUNTY OPTION INCOME TAX (COIT):** The 1984 Indiana General Assembly enacted legislation which provides for the imposition of a County Option Income Tax (COIT). This county tax is separate from the County Adjusted Gross Income Tax (CAGIT) but follows the same guidelines with regard to determining who is subject to the tax based on county of residency and principal work activity on January 1 of the tax year. The major difference between the two county taxes (CAGIT and COIT) is the rate. The COIT rates initially imposed will increase yearly until the maximum rate specified in the law and adopted by the county is reached.

**COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT):** Thirty-five Indiana counties have adopted a County Economic Development Income Tax (CEDIT), Adams, Allen, Blackford, Carroll, Cass, Clinton, Crawford, Delaware, Dubois, Elkhart, Floyd, Franklin, Fulton, Hendricks, Jay, Miami, Martin, Morgan, Perry, Pike, Pulaski, Putnam, Randolph, Ripley, Shelby, Spencer, Starke, Tippecanoe, Tipton, Union, Warren, Warrick, Washington, Wayne, and White. This tax is separate from County Adjusted Gross Income Tax (CAGIT) and County Option Income Tax (COIT) but follows the same guidelines with regard to determining who is subject to the tax based on county of residency and principal work activity on January 1 of the tax year. The major difference between CEDIT and the other two county taxes (CAGIT and COIT) is the rates. CEDIT is a fixed rate determined by each individual county that adopts the tax.

## INDIANA - 1993

**RETIREMENT INCOME:** The case of *Davis v. Michigan Department of Revenue*, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning taxation of federal retirements, has no direct impact upon the application of Indiana law. **TAX AUTHORITY:** Indiana Department of State Revenue, Income Tax Division, 100 North Senate Avenue, Indianapolis, Indiana 46204. (317) 232-4578

**TO ORDER FORMS:** Send written requests to Indiana Department of Revenue, Returns Processing Center, 100 North Senate Avenue, Indianapolis, Indiana 46204. (317) 486-5103

## IOWA - 1993

**STATE LAW:** Iowa Code Sec. 422.1 et seq.

**TAXPAYERS:** Every resident, part-year resident, or nonresident of Iowa who has a net income of more than \$9,000 (single filing status) or 13,500 (all other filing status) is required to file an Iowa income tax return. Individuals who are claimed as dependents must file a return if their income is \$4,000 or more.

A nonresident of Iowa is not required to file if with Iowa source income is less than \$1,000, unless subject to Iowa lump-sum tax or Iowa's minimum tax.

The combined income of both husband and wife must be considered in meeting the above filing requirements.

A nonresident is to complete the Iowa return as if all incomes and deductions are attributable to Iowa. The resulting tax is then allocated to Iowa in the ratio of the individual's income from Iowa sources to the income from all sources.

**FILING:** See "TAXPAYERS" and "MILITARY PROVISIONS".

**MILITARY PROVISIONS.** (a) A resident of Iowa in the Armed Forces is subject to Iowa income tax on all income, including military pay, regardless where earned. (b) Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivors' Benefit Plan (SBP) exclusions are treated the same as under the Internal Revenue Code

**NOTE:** Active duty military pay was exempt from Iowa income tax from January 1, 1969 through December 31, 1976.

**DESERT STORM PROVISIONS** There is a total Iowa income tax exemption for active duty military pay of persons in the national guard and the armed forces military reserve for active duty military pay received on or after August 2, 1990, pursuant to military orders relating to Operation Desert Shield/Storm. This applies only to these two categories of personnel, it does not apply to regular military members. It is not necessary that members of the guard and reserve actually served in the Persian Gulf area, only that they were called to active duty due to Desert Shield/Storm.

## IOWA - 1993

If the 1990 Iowa income tax return has already been filed, an amended 1990 return may be filed to exclude the exempt military pay which will result in a refund. The amended return should be filed on a 1990IA1040 or IA1040A with "AMENDED/DESERT STORM" marked across the top of the return. Attach a copy of the unit orders that called the member to active duty to the amended return. All amended returns should be mailed to the following address:

ATT: AMENDED/DESERT STORM  
Edit & Correspondence Unit  
Return Resolution Section  
Financial Management Division  
Hoover State Office Building  
Des Moines, IA 50319

If an individual is killed outside the United States in military action or due to terrorist action, the individual's Iowa income tax is forgiven for the year in which the death occurred, and also the preceding year. If the individual was single, or married filing a joint return, the entire tax liability will be forgiven. If the taxpayer was married and filed separately on a combined return, only the portion of the tax pertaining to the spouse who was killed will be forgiven.

**RESIDENTS:** Resident is defined as an individual domiciled in Iowa, any military personnel whose home of record is Iowa, or any other individual who maintains a permanent place of abode within Iowa.

**INCOME EXCLUSIONS:** Net income is generally the same as the Federal adjusted gross income. However, interest and dividends from Federal securities are not to be included in Iowa net income. Interest and dividends from state and municipal securities, other than Iowa Board of Regents bonds and certain Iowa Urban Renewal bonds, and interest and dividends from mutual funds that are tax exempt on the Federal level are to be included in Iowa net income. There is a disability income exclusion which is calculated on form IA 2440.

### TAX RATES SCHEDULE

#### TAXABLE INCOME IS:

<u>Over</u>	<u>Not Over</u>	<u>Tax Rate</u>	<u>Of Excess Over</u>
\$ 0	1,060	0.00 plus	.40% \$ 0
1,060	2,120	4.24 plus	.80% 1,060
2,120	4,240	12.72 plus	2.70% 2,120
4,240	9,540	69.96 plus	5.00% 4,240

## IOWA - 1993

<u>Over</u>	<u>Not Over</u>	<u>Tax Rate</u>	<u>Of Excess Over</u>
9,540	15,900	334.96 plus 6.80%	9,540
15,900	21,200	767.44 plus 7.20%	15,900
21,200	31,800	1,149.04 plus 7.55%	21,200
31,800	47,700	1,949.34 plus 8.80%	31,800
47,700	and over	3,348.54 plus 9.98%	47,700

### DEDUCTIONS:

(a) Standard deduction is a flat \$3,270 for the following filing status:

- (1) married filing joint returns;
- (2) unmarried Head of household; and
- (3) surviving Spouse.

Standard deduction is a flat \$1,330 for the following filing statuses:

- (1) single;
- (2) married filing separately on combined returns; and
- (3) married filing separate returns.

(b) If you itemize deductions, Iowa income tax is not a deduction. Adoption costs are an allowable deduction to the extent the expenses exceed 3% of the Iowa net income. Individuals may itemize deductions for Iowa income tax purposes even though the standard deduction is used on the Federal income tax return. A deduction for expenses incurred for care of a disabled relative not to exceed \$5,000 in the taxpayer's residence is available.

EXEMPTIONS: See "CREDITS".

CAPITAL GAINS AND LOSSES: Same treatment as under the Internal Revenue Code.

CREDITS: Individual ..... \$20  
 Married Couple or head  
     of Household ..... 40  
 Dependents (each)..... 15  
 blind or over 65 (additional)..... 20

## IOWA - 1993

An additional tax credit is allowed for income taxes paid by Iowa residents to other states in which such income was earned equal to that state's tax on that income but not greater than the Iowa tax on same income, except for Illinois. Iowa has a reciprocal agreement with Illinois.

**PAYMENTS:** Returns for the past year showing tax due are normally due on 30 April. Estimated Tax for the current year is required only if it can reasonably be expected that a person's income not subject to withholding will result in an Iowa tax liability of \$200 or more. The estimated tax is to be paid quarterly. Installments are due on April 30, June 30, September 30, and January 31. Military pay of an Iowa resident is subject to withholding.

**NOTE:** There is no statute of limitations for the failure to file an Iowa income tax return. For additional information or for forms contact: Taxpayers Service Section, Iowa Department of Revenue and Finance, P.O. Box 10457, Des Moines, Iowa 50306.

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Iowa law. Beginning in 1989, retirement benefits received by federal retirees are treated the same as retirement benefits received by retirees of State or local subdivisions of the State.

**TAX AUTHORITY AND FORMS:** State of Iowa, Department of Revenue and Finance, Hoover State Office building, Des Moines, Iowa 50319.

**FOR INFORMATION:** Call Taxpayer Services at (515) 281-3114.

## KANSAS - 1993

**STATE LAW:** Kansas Statutes Annotated, Sec. 79-3201 et seq.

**TAXPAYERS:** Residents and nonresidents receiving income within the State, who, if single had a gross income in excess of \$5,000; or if married and not living with spouse, has gross income in excess of \$4,500; or, who, if married and living with spouse, has a gross income in excess of \$9,000.

**FILING:** See "TAXPAYERS". If these requirements are met, a Kansas income tax return must be filed regardless of tax liability or present duty station.

**MILITARY PROVISIONS:** (a) Residents serving in the Armed Forces are subject to Kansas taxation on their service pay regardless where stationed, unless in a combat zone (See below); (b) Compensation received as a POW/MIA is not taxed; (c) Disability retirement pay treatment is the same as under the Internal Revenue Code; (d) Survivor Benefit Plan: Funds received by survivors of deceased armed forces members shall be treated as ordinary military retirement benefits for Kansas income tax purpose. Thus, said benefits shall be exempt from Kansas income tax for all taxable years commencing after December 31, 1991 (e) military retirement pay shall be exempt from Kansas state taxation for all taxable years commencing after 31 December 1991.

**DESERT STORM PROVISIONS:** Kansas follows the federal laws regarding active duty pay earned while in a combat zone, so that pay excluded from income for federal purposes is also excluded for Kansas purposes. Kansas also allows for an extension in filing returns, and does not assess penalties or interest during the period of extension. **RESIDENTS:** Any individual who is domiciled in Kansas or spends in the aggregate more than six months of the tax year in the State. "Residents" included any individual whose last permanent household was in Kansas and who has not established another permanent household in some other state.

**INCOME EXCLUSIONS:** The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year with the modifications specified below:

There shall be added to federal adjusted gross income:

Interest income less any related expenses directly incurred in the purchase of state or local obligations, to the extent not included in federal adjusted gross income, on obligations of any state or political subdivision, issued prior to January 1, 1988.

There shall be subtracted from federal adjusted gross income:

(a) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

## KANSAS - 1993

(b) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(c) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States. For a comprehensive listing of modifications, consult K.S.A. 79-32,117.

**RATES:** A tax will be imposed upon the Kansas taxable income in accordance with the following tax schedules.

### SCHEDULE I MARRIED FILING JOINT

If Kansas taxable income is:

Over	But not Over	Rates
\$ 0	\$30,000	3.50% of Kansas taxable income
\$30,000	\$60,000	\$1050 plus 6.25% of excess over \$30,000
\$60,000		\$2925 plus 6.45% of excess over \$60,000

### SCHEDULE II SINGLE, HEAD OF HOUSEHOLD OR MARRIED FILING SEPARATE

If Kansas taxable income is:

Over	But Not Over	Rates
\$ 0	20,000	4.40% of Kansas taxable income
\$20,000	30,000	\$880 plus 7.50% of excess over \$20,000
\$30,000		\$1,630 plus 7.75% of excess over \$30,000

### DEDUCTIONS:

(A) Standard Deduction: The Kansas standard deduction will be the sum of the standard deduction and the additional standard deduction allowable under the Federal Internal Revenue Code as in effect for tax year 1988. They are as follows:

	Basic	Additional
Married Filing Joint	\$5,000	\$600
Single	\$3,000	\$750
Head of Household	\$4,400	\$750
Married Filing Separate	\$2,500	\$600

Kansas will allow an additional standard deduction for elderly (age 65 or over) and blind taxpayers. If a taxpayer's filing status is single or head of household, the additional standard

## KANSAS - 1993

deduction will be \$750 per qualifying characteristic (age 65 or over, or blind). If a taxpayer's filing status is married filing joint or separate, the additional standard deduction will be \$600 per qualifying characteristic.

(B) Itemized Deduction - The Kansas itemized deductions will conform fully to the federal itemized deductions except that the deduction for state and local income taxes is not allowed.

(C) The Omnibus Budget Reconciliation Act of 1990 provides that total otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) are reduced by an amount equal to 3% of the amount of the taxpayer's adjusted gross income in excess of \$108,450 for tax year 1993. In no event, however, are total otherwise allowable itemized deductions reduced by more than 80%. This provision shall generate a proration of state and local income taxes paid in determining Kansas itemized deductions.

**EXEMPTIONS:** \$2,000 for each exemption to which the taxpayer is entitled for federal income tax purposes. A resident filing a federal income tax return using the status of "head-of-household", as defined in 26 USC 2(b), is allowed an additional exemption of \$2,000.

**CREDITS:** Credits are allowed for tax paid to other states on income derived within such states, in proportion that adjusted gross income from other states bears to Kansas adjusted gross income. A credit is also available to those resident taxpayers who make existing buildings more accessible to handicapped individuals.

A child and dependent care expense credit which is based on the Federal child or dependent care expense credit is allowed by Kansas for individuals filing as residents. To determine your Kansas credit for child and dependent care expenses, multiply the amount of credit allowed on the Federal return by 25%.

Information explaining tax credits may be obtained by writing to the Taxpayer Assistance Bureau, P.O. Box 12001, Docking State Office Building, Topeka, Kansas 66612-2001.

**NOTE:** There is no statute of limitations for failure to file a tax return. Where there is no intent to evade, and a return is voluntarily filed within 60 days after due date, a penalty of 10% is added to the unpaid tax, plus interest at the rate of 1 1/2% per month or fraction thereof from due date until paid. If not filed within 60 days after the return is due, a penalty of 25% of the unpaid tax due plus interest as above provided is added to the tax due. Penalties may be waived or reduced by the Director of Taxation where failure to comply was due to reasonable causes, but interest may not be waived.

## KANSAS - 1993

**RETIREMENT INCOME:** The case of *Davis v. Michigan Department of Revenue*, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements. This case raised questions about the Kansas tax treatment of military retirement pay. It is the Kansas Department of Revenue's position that current Kansas statutes do not allow for the exemption of military pay. Because of the Department of Revenue's position and the Michigan case, lawsuits have been filed seeking a ruling as to the proper Kansas tax treatment of military retirement benefits. The US Supreme Court has ruled that the State of Kansas cannot tax military retirement pay while exempting federal civil service and state and local government forms of retirement pay. The case has been remanded back to the Shawnee County District Court on the procedures the Department of Revenue shall follow to implement this decision. The Department of Revenue has encouraged individuals to file protective or amended claims to hold the statute of limitations until a final ruling has been made. The statute of limitations for all tax years commencing after December 31, 1988, is three years. For all tax years commencing before December 31, 1988, the statute of limitation is four years.

**TAX AUTHORITY:** Department of Revenue, Income Tax Division, Docking State Office Building, Topeka, Kansas 66612-2001. (913) 296-5476

**ADDRESS FOR ORDERING TAX FORMS:** Taxpayer Assistance Bureau, P.O. Box 12001, Topeka, Kansas 66612-2001. Telephone (913) 296-0222.

## KENTUCKY - 1993

**STATE LAW:** Kentucky Revenue Statutes Sec. 141.010.

**TAXPAYERS:** Residents with an adjusted gross income exceeding \$5,000; and married residents filing jointly with a combined adjusted gross income exceeding \$5,000 must file a Kentucky income tax return.

**FILING:** See "TAXPAYERS". If these requirements are met a Kentucky income tax return must be filed although no tax is due.

**MILITARY PROVISIONS:** (a) Kentucky imposes an income tax on service members who are residents of the State but maintain an abode elsewhere. Service members having an income tax return due while serving in a combat zone may defer filing and payment until 12 months after such combat service has ended (See below). All other service members will be subject to the same filing and payment requirements as other taxpayers; (b) Service members will be subject to estimated filing requirements if they can reasonably expect to have a gross income exceeding \$5,000 upon which no Kentucky income tax will be withheld. An estimated return is not required if the estimated tax can reasonably be expected to be \$200 or less; (c) Kentucky adopted the provisions of the Internal Revenue Code regarding exclusion of contributions to purchase annuities for service member's survivors; (d) Service connected disability pension payments are not taxable. Military retirement income is exempt from tax.

**RESIDENTS:** Sec. 141.010(17) defines resident as any individual domiciled in Kentucky. All others are nonresidents for income tax purposes.

**DESERT STORM PROVISIONS:** Kentucky follows Section 112 of the Internal Revenue Code and excludes from income all enlisted pay and \$500 per month officers' pay earned by those serving on active duty in a designated combat zone. In addition, the Governor of Kentucky issued an Executive Order #91-77, dated 25 January 1991, which provided an automatic extension for those serving outside the United States in support of Operation Desert Storm in order to retain or renew any licenses, file any return, report or other document, pay any tax, fee or other charge, which became due or expired during the period the member was outside the United States. The extension expires 90 days after the individual returns to the United States. No penalty is assessed during the period of extension.

**INCOME:** "Gross income" means "gross income" as defined in the Internal Revenue Code in effect December 31, 1991, adjusted as follows:

Include: Interest income from obligations of sister states and their political subdivisions;

Exclude: (1) Interest income from U.S. Government obligations; (2) Income from military and Civil Service retirement systems.

## KENTUCKY - 1993

RATES:		TAXABLE INCOME
Over	Not Over	Rates
\$.....	\$3,000	.....2%
\$3,000	4,000	.....\$60 plus 3% on excess over \$3,000
4,000	5,000	..... 90 plus 4% on excess over 4,000
5,000	8,000	..... 130 plus 5% on excess over 5,000
8,000	.....	..... 280 plus 6% on excess over 8,000

**NOTE:** Income splitting on separate returns is not permitted.

**DEDUCTIONS:** (a) An optional standard deduction of \$650 is allowed all taxpayers, or (b) those itemized deductions allowed under the Internal Revenue Code.

**EXEMPTIONS:** See "CREDITS".

**CAPITAL GAINS AND LOSSES:** Generally, the rules are the same as Federal except the adjusted basis of depreciable property may be different for Kentucky.

**CREDITS:**

Individuals .....	\$20
Married couple filing jointly .....	40
Dependents (each).....	20
Blind or 65 or over--taxpayer or spouse (each additional).....	40

**Household and Dependent care credit:**

A credit equal to twenty percent (20%) of the federal credit allowed under section 21 of the Internal Revenue Code is allowed.

**Low Income Credit**

A nonrefundable "low income" credit is allowed resident individuals as determined from the following table:

Amount of adjusted gross income not over	Percent of Tax Liability allowed as credit
\$5,000	100%
over 5,000 but not over 10,000	50%
over 10,000 but not over 15,000	25%
over 15,000 but not over 20,000	15%
over 20,000 but not over 25,000	05%

## KENTUCKY - 1993

For a husband and wife living together whether filing jointly or separately the credit is determined on their combined adjusted gross income and offset against their combined tax liability.

### SUMMARY AND CURRENT STATUS OF PENSION LAWSUITS

#### A. Gossum v. Revenue Cabinet [still pending] Marshall Circuit Court Civil Action No. 89-CI-248

On March 28, 1989, the United States Supreme Court held that Michigan's income tax scheme, which favored retired state and local government employees over retired federal employees, violated the principles of intergovernmental tax immunity and the Public Salary Tax Act of 1939. *Davis v. Michigan Department of Treasury*, 489 U.S. 803, 103 L.Ed.2d 891, 109 S.Ct. 1500 (1989). As a result of the *Davis* decision, a class action was filed in Marshall Circuit Court on August 18, 1989, by residents of Kentucky who receive federal retirement annuities. The suit attacked the constitutionality of the Commonwealth's tax scheme, which also favored retired state government employees over federal employees, and requested refunds of taxes paid under the scheme. In its answer to the action, the Revenue Cabinet admitted "that the taxation system codified in the Kentucky statutes violates the principles set out in "[*Davis*]" but denied the plaintiffs were entitled to refunds. A temporary injunction was entered by the Marshall Circuit Court on December 19, 1989, enjoining and prohibiting the Revenue Cabinet from imposing and collecting state income tax for the year 1989 upon federal retirement benefits. Shortly thereafter, the 1990 Regular Session of the Kentucky General Assembly enacted legislation (SB-4) which exempted retirement annuities from state income tax, thereby treating retired state and federal government employees equally for 1990 and subsequent tax years. KRS 141.021.

Since the Cabinet has admitted the Commonwealth's tax scheme violated the principles set out in *Davis* and since legislation has remedied the scheme for current and future years, there only remains to be decided the relief, if any, to which the plaintiffs are entitled for prior years. In a Motion for Summary Judgment, the plaintiffs argued that the *Davis* decision should be applied retroactively and that they are entitled to refunds for at least the past four years. The Cabinet responded that *Davis* should be applied prospectively only, thereby entitling the plaintiffs to no refunds. However, if the decision is applied retroactively, the Cabinet asserted that refunds should be allowed for only two years.

#### B. Cope, et al. v. Revenue Cabinet [still pending] Franklin Circuit Court Civil Action No. 90-CI-01302

On August 10, 1990, Mr. Cope and Mr. O'Brien and all other people of the same class, filed a declaratory action in Franklin Circuit Court, demanding that the provisions of KRS 141.021, as enacted, effective July 13, 1990, be declared unconstitutional. The plaintiffs allege that the

## KENTUCKY - 1993

provisions of KRS 141.021, exempting income of federal and state pensioners, but not private pensioners, is unconstitutional. Plaintiffs assert that it is unconstitutional as a denial of state and federal constitutional provisions guaranteeing equal protection of the laws, is arbitrary power in violation of Section 2 of the Kentucky Constitution, and special legislation in violation of Section 59 of the Kentucky Constitution. The plaintiffs demand that the court declare KRS 141.021 unconstitutional and issue a permanent injunction prohibiting the Revenue Cabinet from taxing the plaintiffs' private pension benefits.

In response to plaintiffs complaint, the Revenue Cabinet filed a Motion to Dismiss. In the Motion to Dismiss, the Revenue Cabinet alleged that plaintiffs 1) had not availed themselves of their appropriate and express administrative remedy; and, 2) failed to state a claim upon which relief could be granted. That motion was denied verbally by the court on September 17, 1990. On September 25, 1990, the Revenue Cabinet filed its answer and a Motion for Summary Judgment. The Motion for Summary Judgment was heard on October 17, 1990. At that hearing, plaintiffs asked that it be allowed to submit certain financial and fiscal information concerning revenue generated from various groups of pensioners. Despite Revenue Cabinet's objections, Judge Graham granted plaintiffs ninety days to obtain discovery and submit information to the court. At that time, Judge Graham indicated he would rule on the Revenue Cabinet's Motion for Summary Judgment.

"Subsequently, Judge Graham ruled that KRS 141.021 was in violation of Section 59 of the Kentucky Constitution. That action was appealed to the Kentucky Supreme Court and is now awaiting a decision from the Court, which is expected in early 1994." Residents are allowed a tax credit for income taxes paid to other states, provided the Kentucky tax is not reduced more than if the income in the other state was not included in the return.

**PAYMENTS:** Return and payment due 15 April. Individuals who can reasonably expect to have gross income exceeding \$5,000 upon which no Kentucky income tax will be withheld are required to file an estimated tax return and prepay the tax in four quarterly installments. An estimated return is not required if the estimated tax can reasonably be expected to be \$200 or less.

**TAX AUTHORITY:** Division of Compliance and Taxpayer Assistance, Kentucky Revenue Cabinet, Perimeter Park West, Frankfort, Kentucky 40620. (502) 564-4580.

## LOUISIANA - 1993

**STATE LAW:** LSA R.S. 47:21 through 47:299.

**TAXPAYERS:** Any resident or any part-year resident of Louisiana, or any non-resident with income from Louisiana sources must file a return if: (a) The gross income for the taxable year was \$12,000 or more, regardless of the tax-table income; or (b) The net taxable income (Federal adjusted gross income less Federal excess itemized deductions and Federal Income Tax) was: (1) \$4,500.00 if single or if married and filing separate returns; or (2) \$9,000 if married filing a joint return or if filing as a Head of Household or a Qualifying Widow(er) with a dependent child. This is a community property State.

**FILING:** See "TAXPAYERS". Any taxpayer who has overpaid his/her tax through withholding or declaration of estimated tax must file a return to obtain a refund or credit. Forms may be obtained from the Department of Revenue and Taxation, P.O. Box 201, Baton Rouge, Louisiana 70821.

**MILITARY PROVISIONS:** (a) Military personnel whose domicile (home of record) is Louisiana and who meet the requirements of 1 or 2 above must file a return and report all income regardless of where stationed. Credit against Louisiana tax may be taken for any net income tax paid to another state on non-military income and income earned by the spouse provided such income was included in the Louisiana return. (b) Any non-resident and any individual who was a resident for part of the year and a non-resident the remainder of the year must report his/her income from all sources for the period during which he/she was a resident, plus all income from Louisiana sources for the period he/she was a non-resident.

**DESERT STORM PROVISIONS:** The Louisiana income tax calculation starts with federal adjusted gross income; therefore, military pay earned while serving in a combat zone which is excluded from federal income is excluded from Louisiana income.

In addition, Act 889 of the 1991 Regular Session of the Legislature, enacted R.S. 47:292.1, which reads:

"Notwithstanding any provisions of law to the contrary, the secretary shall grant certain relief to military personnel for service in the Persian Gulf area or associated with Operation Desert Shield to the full extent of such relief granted by federal law."

As a result of Act 889, any reduction or waiver of interest or penalties, or any extension of time to pay or file which is granted for federal purposes due to participation in Operation Desert Shield or Operation Desert Storm is also granted for Louisiana individual income tax purposes.

**RATES:** The tax for residents is determined by use of tax tables furnished by the Department of Revenue and Taxation. The tables use tax-table income (Federal adjusted gross income less Federal excess itemized deductions and Federal income tax) as a reference point. The tables were constructed using the following rates:

## LOUISIANA - 1993

Single, Married filing Separate, Head of Household

First \$10,000.....	2%
Next \$40,000.....	4%
Over \$50,000.....	6%

Married filing joint, surviving spouse

First \$20,000 .....	2%
Next \$80,000 .....	4%
Over \$100,000 .....	6%

**EXEMPTIONS:** Personal Exemption - Standard Deduction

Single Individual.....	\$ 4,500.00
Married - Joint Return and a Qualified Surviving Spouse....	\$ 9,000.00
Married - Separate Return.....	\$ 4,500.00
Head of Household.....	\$ 9,000.00

**Dependency Deduction**

- \$1,000.00 for each dependent.
- \$1,000.00 for taxpayer and/or spouse who is over 65 years old.
- \$1,000.00 for taxpayer and/or spouse who is blind.

Nonresidents and Part-year residents should complete form IT-504B and compute their tax using the tax computation worksheet on the back of the form.

**PAYMENT:** Return and payment in full due on May 15 of each year on the preceding year's income or on the 15th day of the 5th month after the close of the taxpayer's fiscal year.

**CREDITS:** A credit of \$100.00 against the tax is permitted for the taxpayer, spouse or dependent who is deaf, blind, mentally incapacitated or who has lost the use of a limb. A credit is allowed in the amount of 10% (limited to a maximum \$25 credit against the Louisiana tax) of the following credits claimed on the Federal return: credit for contributions to candidates for public office, credit for the elderly, credit for child and dependent care expenses, investment credit, foreign tax credit, work incentive credit (WIN), jobs credit and residential energy credit. Credit is allowed for the net income tax properly paid to another state on income taxed by Louisiana. Additional credits can be claimed for donations of computer equipment to educational institutions in Louisiana, donations made under the family

## LOUISIANA - 1993

responsibility program, and for investments in a Louisiana capital company and for donations to a Dedicated Research Fund.

**MISCELLANEOUS CREDITS:** Available to corporations and individuals operating sole proprietorships:

1. A \$750 credit is allowed employers who hire the previously unemployed.
2. A credit is allowed for purchases of equipment which recycles post-consumer goods into commercial products. The credit is 20% of the purchase price, and the equipment must have been purchased between September 1, 1991 and December 31, 1996.
3. A \$5000 credit is allowed for doctors who establish a practice in certain rural areas.
4. A credit is allowed for the cost of conversion of vehicles to alternative fuels. The credit is 20% of the cost of conversion.
5. Any manufacturer, distributor or retailer, including a sole proprietorship, is eligible for a refundable credit against income tax for ad valorem taxes paid to political subdivisions of Louisiana on inventory. The credit is as follows:

20% of inventory taxes paid between 7-1-92 and 6-30-93  
40% of inventory taxes paid between 7-1-93 and 6-30-94  
60% of inventory taxes paid between 7-1-94 and 6-30-95  
80% of inventory taxes paid between 7-1-95 and 6-30-96  
100% of inventory taxes paid on or after 7-1-96

6. Losses from investments in motion pictures with substantial Louisiana content may entitle the investor to tax credits if the investment in the motion picture exceeds \$2,353,000.

**INTEREST AND PENALTY:** Interest is due on all items of tax not paid on time at the rate of 15% per annum from the date due until the date paid. A delinquency penalty accrues for failure to file a return on time, except when failure is due to a reasonable cause, at the rate of 5% per 30 days not to exceed a total of 25%. A late payment penalty accrues for failure to pay the tax in full, when the return is filed, at 5% for each 30 days or fraction thereof during which the failure to pay continues, not to exceed a total of 25%.

**RETIREMENT INCOME:** The State of Louisiana now exempts federal retirement income from taxation. This exemption is available beginning with the taxable year 1988. Act 813 of the 1989 Regular Legislative Session reaffirmed this position and codified the Supreme Court ruling in the case of *Davis v. Michigan Department of Revenue*, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements.

For taxable years prior to 1988, the Department of Revenue and Taxation is unable to issue refunds based on Louisiana Revised Statute 47:1621 which authorizes the refund of

## LOUISIANA - 1993

overpayments and outlines the circumstances which constitutes an overpayment. Part D. of this statute reads as follows:

"D. This section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of the rules and regulations promulgated thereunder. In the event a taxpayer believes that the collector has misinterpreted the law or promulgated rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover, or by appeal to the board of tax appeals in instances where such appeals lie."

**TAX AUTHORITY:** State of Louisiana, Department of Revenue and Taxation, P.O. Box 201, Baton Rouge, Louisiana 70821-0201. (504) 925-7418

## MAINE - 1993

**STATE LAW:** Maine Revised Statutes of 1964 as amended to date. CCH Maine Tax Reporter at 94-801.

**TAXPAYERS:** Every resident regardless of source of income, and nonresidents deriving income from sources within Maine.

**FILING:** A resident is required to file a Maine income tax return if: a) he/she is required to file a federal income tax return, or b) he/she has total income that results in a state tax liability but does not have to file a federal return. A nonresident individual that has Maine source income is required to file as if he/she were a resident. He/she may claim a nonresident credit against his/her taxes otherwise due to Maine that is proportional to the ratio of Maine adjusted gross income to his/her entire federal adjusted gross income. A service member meeting the filing requirements must file a Maine income tax return.

**MILITARY PROVISIONS:** a) An individual domiciled in Maine at the time of entry into the Armed Forces is considered a resident for tax purposes. b) Military service pay and retirement pay if taxable under the Internal Revenue Code are taxable by Maine.

**DESERT STORM PROVISIONS:** Maine follows the federal income tax provisions for Desert Shield/Desert Storm participants.

**RESIDENTS:** A resident is defined as an individual who was domiciled in Maine during the tax year. Accordingly, any service member claiming Maine as his/her state of domicile would be subject to payment of Maine income tax regardless of his/her duty assignment or permanent place of abode.

**INCOME:** Taxable income of residents is defined as federal adjusted gross income, plus or minus the modifications provided in Maine law, less deductions and personal exemptions. Maine source income for nonresidents is the sum of the following: a) net amount of items of income, gain, loss and deduction entering into the taxpayer's federal adjusted gross income derived from or connected with Maine sources; b) portion of the adjustments provided above for residents which relates to income derived from sources in Maine; and c) lottery winnings on a ticket purchased in Maine after July 13, 1993.

New legislation requires nonresident individuals to include in Maine source income winnings from any Maine State Lottery or Tri-state Lotto tickets purchased in Maine. A nonresident with lottery winnings on a ticket purchased in Maine is now subject to Maine income tax on those winnings. The effective date is July 13, 1993.

## MAINE - 1993

The taxable income of a resident estate or trust is the federal taxable income modified by its share of the fiduciary adjustment; i.e., the adjustment apportioning additions and subtractions to federal taxable income between the estate or trust and the beneficiaries. Taxable income of a nonresident estate or trust is determined from income, gain, loss and deduction derived from or connected with sources in Maine. The amount of its federal exemption is deducted.

**RATES:** Individual income tax rates for 1993 are as follows:

[Note: the income tax surcharge that was in effect for tax years 1991 and 1992 has been repealed. The rates listed below include the 1993 inflation factor and do not include a surcharge.]

### Single Individuals and Married Persons Filing Separate Returns:

If the taxable income is:	the tax is:
Less than \$4,150	2.0% of the taxable income
\$ 4,150 but less than \$ 8,250	\$ 83 plus 4.5% of excess over \$ 4,150
\$ 8,250 but less than \$16,500	\$ 268 plus 7.0% of excess over \$ 8,250
\$ 16,500 or more	\$ 846 plus 8.5% of excess over \$ 16,500

### Unmarried or Legally Separated Individuals who Qualify as Heads-of-Households:

If the taxable income is:	the tax is:
Less than \$6,200	2.0% of the taxable income
\$ 6,200 but less than \$12,400	\$ 124 plus 4.5% of excess over \$ 6,200
\$ 12,400 but less than \$24,750	\$ 403 plus 7.0% of excess over \$ 12,400
\$ 24,750 or more	\$ 1,268 plus 8.5% of excess over \$ 24,750

### Married Individuals and Surviving Spouses Filing Joint Returns:

If the taxable income is:	the tax is:
Less than \$8,250	2.0% of the taxable income
\$ 8,250 but less than \$16,500	\$ 165 plus 4.5% of excess over \$ 8,250
\$ 16,500 but less than \$33,000	\$ 536 plus 7.0% of excess over \$ 16,500
\$ 33,000 or more	\$ 1,691 plus 8.5% of excess over \$ 33,000

Personal Exemption: \$2,100

Standard Deduction: Single - \$3,700  
Head-of-Household - \$5,450

Married Filing Jointly - \$6,200  
Married Filing Separate - \$3,100

## MAINE - 1993

### Additional Amount for Age or Blindness:

\$700 if married (whether filing jointly or separately) or a qualified surviving spouse. The additional amount is \$1,400 if one spouse is 65 or over and blind, \$1,400 if both spouses are 65 or over, \$2,800 if both spouses are 65 or over and blind, etc.

\$900 if unmarried (single or head-of-household). The additional amount is \$1,800 if the individual is both 65 or over and blind.

Note: If taxpayer can be claimed as a dependent on another person's return, the standard deduction is the greater of \$600 or earned income up to the standard deduction amount.

**CREDITS:** Residents and estates or trusts are allowed a credit for income taxes imposed by any other state or local government, the District of Columbia, Canadian Province or any political subdivision of a foreign country that is analogous to a state of the United States.

The retirement credit is available to all who claim the retirement credit on their federal return pursuant to IRS Code, Section 22. The credit equals 20% of the federal retirement credit.

Three tax credits have been enacted that affect tax year 1993: the Nursing Home Care Refundable Credit; the Solid Waste Investment Tax Credit, and the Reclaimed Wood Waste and Cedar Waste Credit, which is only effective through December 31, 1993.

The percentage of the child care and dependent credit is 25% of the federal child care credit.

**PAYMENTS:** Individuals, estates and trusts must file returns with the State Tax Assessor on or before the due date for filing the federal income tax return. Residents and nonresidents whose Maine income tax, other than withheld tax, can reasonably be expected to exceed \$500 must make estimated tax payments. Payments for individuals, other than farmers, are due on or before 15 April, June, September, and January. Penalties will accrue automatically on underpayments of estimated tax for the period of underpayment.

### LATE PAYMENTS:

The penalty for failure to file a tax return when due is \$10 or 10% of the tax due, whichever is greater, if the return is filed before or within 30 days after receipt of a demand notice from the State Tax Assessor; or, 100% of the tax due, if the return is filed later than 30 days after receipt of a demand notice from the State Tax Assessor.

The penalty for failure to pay any amount shown as tax on any return in a timely fashion is the maximum of \$5 per month or 1% of the outstanding tax per month for each month the payment is delinquent. The maximum penalty for failure to pay is \$25 or 25% of the outstanding liability.

## MAINE - 1993

If a return is filed that results in a substantial understatement of tax, the penalty is \$5 per month or 1% of the outstanding tax liability attributed to the substantial understatement per month, whichever is greater, for each month the payment is delinquent. The maximum penalty for substantial understatement of tax is \$25 or 25% of the underpayment. There is a substantial understatement of tax if the amount of the understatement on the return exceeds 10% of the total tax or \$1,000, whichever is greater.

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed 891, and related cases, concerning the taxation of federal retirements, has no direct impact upon the application of Maine law. Under Maine law retirement benefits received by federal retirees are treated the same as retirement benefits received by retirees of State or local subdivisions of the State. All pensions are taxed alike.

**TAX AUTHORITY:** Bureau of Taxation, Income/Estate Tax Division, State Office Building, Augusta, Maine 04333-0024. (207) 626-8475.

## MARYLAND - 1993

**STATE LAW:** Codified as Tax - General Article, Titles 10 and 13, Annotated Code of Maryland (effective 1 January 1989).

**TAXPAYERS:** Domiciliaries (legal residents) are taxed on all income regardless of source or where earned; nonresidents deriving income from Maryland sources, if required to file a Federal income tax return, are required to file a Maryland income tax return. A nonresident is not subject to Maryland personal income tax if the sole source of income is payment: 1) for personal services performed in Maryland, 2) which is subject to taxation in the individual's home state (or district), and 3) for which such state (or district) has entered into a written agreement with Maryland.

**RESIDENT:** Any domiciliary on the last day of the tax year or any other person who maintained an abode within Maryland for more than six months of the tax year. Any one who moves out of Maryland with the intention of remaining outside the State permanently is taxed for that portion of the year he lived in Maryland. Similarly, a person moving into Maryland is taxed only for that portion of the year he lived in the State (Sec 10--101(h) T-G).

**MILITARY PROVISIONS:** 1. Generally, the Maryland Income Tax Law is applicable to both residents and nonresidents of the State.

2. Military personnel who are permanent residents of Maryland do not lose or abandon their domicile by reason of duty or assignment that require their physical presence outside this State during the taxable year. Such individuals have a continuing obligation to file Maryland income tax returns which include all income no matter where earned or from whatever source including military pay.

3. In the administration of the Maryland Income Tax Law, the Income Tax Division gives effect to the Federal Soldiers' and Sailors' Civil Relief Act. Under this law, an individual who is domiciled in a state other than Maryland and who is transferred to Maryland for the performance of military duty is not subject to Maryland taxation of his pay. With respect to the taxation of other income received by such an individual, the law provides that the individual shall be taxed as a nonresident on that portion of federal adjusted gross income derived from tangible property, real or personal, permanently located in this State, income from business, trade, profession or occupation carried on in this State, and income from Maryland lottery prizes.

4. Regarding the Maryland law and its application to a civilian spouse, such individual is subject to the law either as a resident or as a nonresident of the State with respect to income in the form of salary, wages or compensation received for services performed in this State. The

## MARYLAND - 1993

civilian spouse may not claim under Maryland law the benefits under the Soldiers' and Sailors' Civil Relief Act but such individuals may be entitled to a credit for taxes paid to the State of Maryland on income which is taxed by their state of legal residence. (See Maryland Form 502CR and instructions). A civilian spouse who has resided within this State for six months or less of the taxable year is a nonresident of this State and is taxable on: that portion of federal adjusted gross income derived from tangible property, real or personal, permanently located in this State; income from business, trade, profession or occupation carried on in this State; and income from State lottery prizes. A civilian spouse who has resided in this State for more than six months of the taxable year is taxable as a resident of this State on all income derived from sources both within and outside this State.

5. Military members who are POW/MIA are treated the same as under the Internal Revenue Code.

6. Contributions to the Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivors' Benefit Plan (SBP) are treated the same as under the Internal Revenue Code.

For the 1992 tax year:

- All combat zone pay for enlisted and warrant grade personnel and up to \$500 per month of combat zone pay for commissioned officers is exempt from Maryland income tax. Any portion of a month served in the combat zone is considered a full month for the exemption.
- Maryland's overseas active duty pay benefit will also apply to tax year 1992 overseas pay not already exempt under combat zone provisions. Section 10-205, T-G.

B. In addition to the above add the following to the Federal Adjusted Gross Income of a Resident:

1. The portion of a Net Operating loss which would allow a taxpayer to realize a net operating loss in excess of the original dollar amount of the loss in absence of this provision.

2. 50% of the sum of tax preference items under Section 10-222 Tax General.

C. Add the following to the Federal Adjusted Gross Income of a Non-Resident:

1. To the extent attributable to Maryland sources additions or adjustments that would be required for residents.

2. Any loss or adjustment to Income which is used in computing Federal Adjusted Gross Income and is not attributable to Maryland sources.

## MARYLAND - 1993

D. To the extent included in Federal Adjusted Gross Income subtract the following from the Federal Adjusted Gross Income of a Resident:

1. Dividends and interests from United States obligations.
2. Dividends and interests from a mutual Fund attributable to U.S. obligation interest.
3. Fire fighter and police disability income arising from injury that arose out of and in the course of individual's employment as a police officer or fire fighter.
4. Two earner married couple subtraction.
5. Earned income of individuals whose income with modifications does not exceed poverty level and eligibility guidelines referenced under Section 10-207 T-G.
6. Railroad and Social Security Income.
7. State income tax refunds.
8. Military income received by a member of the armed forces while serving outside the United States. All military income up to \$15,000 is included in this modification. For income above \$15,000 the amount of modification declines dollar for dollar for each dollar that the military income exceeds \$15,000; at \$30,000 the modification is -0-.

E. Subtract the following from the Federal Adjusted Gross Income of a Resident:

1. Up to \$1,000 of adoption expenses actually incurred by parents who adopt a child with special needs.
2. Expenses up to \$5,000 incurred by a blind person for a reader, or up to \$1,000 incurred by an employer for a reader for blind employee.
3. Amounts representing unreimbursed automobile travel expenses incurred by an individual while serving as a volunteer: (i) to a nonprofit volunteer fire company or organization, the principle purpose or functions of which are the providing of medical, health, or nutritional care, and all of which constitute qualified organizations under Section 170 of the Internal Revenue Code; or (ii) to provide assistance, other than assistance which consists of providing transportation, to handicapped individuals, as defined in Section 190 of the Internal Revenue Code, who are enrolled as students in the State community colleges: (a) the amount of the subtraction shall be based upon the standard business mileage rate provided in the Internal Revenue Code and reduced by the amount of unreimbursed automobile travel expenses claimed on the individual's federal tax return as an itemized deduction, as to the same

## MARYLAND - 1993

organizations, under Section 170 of the Internal Revenue Code.

4. The lesser of (a) amounts received by an individual who has attained the age of 65 years or is totally and permanently disabled before the close of the taxable year (or who has a spouse who is totally or permanently disabled) as an annuity, pension, or endowment under private, municipal, State or Federal employee retirement systems, and included in such individual's Federal adjusted gross income, or (b) an amount equal to the maximum annual benefits permitted for persons who retired at the age of 65 or older under Social Security Act for prior calendar year reduced by the amount of old age, survivors or disability benefits received under the Social Security Act, the Railroad Retirement Act, or both, as the case may be. The Comptroller shall determine the amount of the maximum benefit annually. For the purposes of this paragraph, the Comptroller may allow the subtraction to the nearest \$100.

F. Subtract the same items available to resident taxpayers to the extent attributable to Maryland sources from the Federal Adjusted Gross Income of a Non-Resident.

### TAX RATES:

First	\$1,000	.....2%
Second	1,000	.....3%
Third	1,000	.....4%
	3,001 to 100,000	.....5% (individual)
	3,001 to 150,000	.....5% (joint)
over 100,000	.....6%	(individual)
over 150,000	.....6%	(joint)

Resident taxpayers are required to pay, in addition to state tax, a local tax to the subdivisions of from 20% to 60% of the State tax depending on their county of residence.

### EXEMPTIONS:

The personal exemption for tax-payer spouse or dependent .... \$1,200  
A dependent (other than spouse) 65 or over is allowed an  
additional ..... 1,200

For taxpayer or spouse 65 or over..... 1,000  
Additional personal exemption for blind taxpayers ..... 1,000

CREDITS: One-half (1/2) of the amount of the federal earned income credit is allowed as a credit to eligible state taxpayers.

## MARYLAND - 1993

**PAYMENTS:** Return and payment due 15 April or on the 15th day of the fourth month following the close of a fiscal year or after removal from the State. Estimated tax return is due in quarterly payments on 15 April, June, September and January when a tax of more than \$100 would be due on income not subject to withholding.

**PENALTIES & INTEREST:** Penalties otherwise assessable on delinquent returns may be waived upon voluntary disclosure by resident military members who are outside the State.

**RETIREMENT INCOME:** Subtract up to \$2,500 of military retirement income received by a qualifying individual during the taxable year. To qualify the taxpayer must be at least 55 years old on the last day of the taxable year and must have been an **enlisted** member of the military at the time of retirement. To compute the subtraction, follow the directions on the **MILITARY RETIREMENT INCOME WORKSHEET**. If the taxpayer's federal adjusted gross income exceeds \$22,500, the taxpayer does not qualify for the subtraction.

The case of Davis v. Michigan Department of Revenue, (1989) 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Maryland law. Under Maryland law retirement benefits received by federal retirees are treated the same as retirement benefits received by retirees of State or local subdivisions of the State. Since Maryland does not discriminate against federal employees, the Davis decision has no relevance, even though Maryland was mentioned in the dissenting opinion.

**TAX AUTHORITY:** State of Maryland, Comptroller of the Treasury, Income Tax Division, Annapolis, Maryland 21411. (301) 974-2394 or 1-800-MD TAXES.

**Military personnel who are legal residents of Maryland**

1—without overseas pay	Must file a resident return (Form 502 or 503) and report all income from all sources, wherever earned.
2—with overseas pay	Same as above, may subtract up to \$15,000 in military pay earned outside U.S. boundaries or possessions, depending upon total income.

**Military personnel who are legal residents of another state**

1—with military income only	Not required to file a Maryland return
2—with military income and other income outside Maryland	Not required to file a Maryland return.
3—with military and other income earned in Maryland, with an unemployed civilian spouse	Must file a nonresident return (Form 505), reporting total income, subtracting military pay, unearned and non-Maryland income, then computing the tax on Maryland earned income only. Deductions and exemptions must be apportioned using the ratio of Maryland income to federal adjusted gross income.
4—with military income, and civilian spouse employed in Maryland, residing in Maryland less than six months	Military person and civilian spouse must file a joint nonresident return (Form 505), subtracting military pay, unearned and non-Maryland income, computing the tax on Maryland income only. Deductions and exemptions must be apportioned using the ratio of Maryland income to federal adjusted gross income.
5—with military income, and civilian spouse with any income residing in Maryland more than six months	Civilian spouse becomes a statutory resident and must file a joint resident return (Form 502), subtracting military pay and the military spouse's portion of any investment income (interest, dividends, etc.), and non-Maryland income and computing the tax on the balance of the total income. Deduction and exemption amounts must be adjusted using the instruction 26(c) through (r) in the resident packet.
6—with military income and other income in Maryland and civilian spouse with any income residing in Maryland for more than six months.	Must file a joint Maryland resident return. Civilian spouse becomes a statutory resident. The military spouse's Maryland income is not subject to the local income tax. The local tax, exemptions, standard deduction or itemized deductions must be adjusted to reflect the non-resident income of the military spouse. A Special Military instruction Sheet, including worksheets, is available from any office of the Comptroller.
7—both spouses in the military and not domiciled in Maryland and one or both have Maryland income	Must file a joint nonresident return. Exemptions and the standard deduction or itemized deductions must be adjusted.

*Military personnel should be aware that there may be provisions for tax credits granted either by Maryland or another state. See Maryland Form 502CR and instructions. Read carefully the instructions provided by the state of legal residence for any possible credits allowed by that state.*

## MASSACHUSETTS - 1993

**STATE LAW:** Massachusetts General Laws, Chapter 62

**TAXPAYERS:** Every person domiciled in the State with Massachusetts adjusted gross income in excess of \$8,000 for single taxpayers and \$12,000 for a husband and wife filing jointly. Also a tax reduction may apply if the Massachusetts AGI is not more than \$14,000 for a single taxpayer or \$21,000 for a husband and wife filing jointly. (Note: Per Chapter 106, Section 10, adjusted gross income is determined as if the individual is a full year resident within Massachusetts). Nonresidents with gross income from sources, in excess of \$8,000 or in excess of the personal exemption prorated on an income basis, whichever is less, derived from or effectively connected with any trade or business (including employment) carried on by the taxpayer in Massachusetts or derived from ownership or any interest in real or tangible property located in the State, or the participation in any lottery or wagering transaction in the State. If nonresident military personnel are stationed in Massachusetts and either they or their spouse work at a civilian job as well, the compensation paid by the civilian employer is taxable by Massachusetts.

**FILING:** See "TAXPAYERS". If these requirements are met a Massachusetts income tax return must be filed although tax may not be due. **MILITARY PROVISIONS:** (a) Service members who are domiciliaries of Massachusetts and maintain an abode outside the State are taxed as residents; (b) Compensation paid to nonresident service members stationed in Massachusetts is not includible in their gross income; (c) Massachusetts gross income does not include compensation for any month in which a service member was POW/MIA. The spouse of a POW/MIA service member may file a joint return stating the status of the service member; (d) Contributions to the Retired Serviceman's Family Protection Plan (RSFPP) are taxable. Payments to survivors are includible in Massachusetts gross income to the same extent includible in Federal gross income.

**DESERT STORM PROVISIONS:** See TIR 91-3 (attached)

### MASSACHUSETTS DEPARTMENT OF REVENUE PERSONAL INCOME TAX

#### MILITARY INCOME (RESIDENT)

**FACTS:** Taxpayers Cooper is a uniformed member in the military service of the United States who is domiciled in Massachusetts. During her most recent taxable year, she lived in a state other than Massachusetts because she was temporarily assigned to active duty at a military base in such state.

## MASSACHUSETTS - 1993

**ISSUE:** Is the compensation Taxpayer Cooper received for her military service while on active duty in a state other than Massachusetts subject to the Massachusetts income tax?

**DISCUSSION:** The Massachusetts gross income of an individual domiciled in Massachusetts includes income derived from sources both inside and outside the Commonwealth, G.L. c 62, 2 (a). Accordingly, the compensation paid by the United States to uniformed military personnel domiciled in Massachusetts, but assigned to active duty outside the Commonwealth, is subject to Massachusetts taxation. Such compensation is, however, not subject to taxation in the state of military assignment because such taxation is prohibited by federal law 50 U.S.C. 574.

**DIRECTIVE:** The compensation received by Taxpayer Cooper for her military service while on active duty in a state other than Massachusetts is subject to Massachusetts income tax, and must be reported on a resident return.

**REFERENCE:** G.L. c. 62, 2(a); 50 U.S.C. 574; DOR-D 86-11; DOR-D 86-12.

### MASSACHUSETTS DEPARTMENT OF REVENUE PERSONAL INCOME TAX

#### MILITARY PERSONNEL (NON-RESIDENT: INCOME OF CIVILIAN SPOUSE)

**FACTS:** Mr. and Mrs. Baker are a married couple domiciled in a state other than Massachusetts. During the most recent taxable year, they lived in Massachusetts because Mr. Baker, a uniformed member in the military service of the United States was temporarily assigned to active duty at a military base in the Commonwealth. While in Massachusetts Mrs. Baker secured a job with a local employer.

**ISSUE:** Is the income Mrs. Baker received from her employment in Massachusetts subject to Massachusetts income tax?

**DISCUSSION:** Massachusetts income tax is imposed upon any Massachusetts source income earned by non-residents G.L. c 62, 5A(a). Compensation received by reason of Massachusetts employment is Massachusetts source income. Massachusetts income tax is not imposed upon compensation paid by the United States to non-resident uniformed military personnel assigned to active duty in Massachusetts 50 U.S.C. 574; G.L. c. 62, 5A(c). This exclusion, however, applies only to military compensation received by non-resident military personnel. There is no exclusion for Massachusetts source income earned by civilian spouses of such military personnel.

**DIRECTIVE:** The income Mrs. Baker received from her employment in Massachusetts is subject to Massachusetts income tax and must be reported on a non-resident return, Form 1-NR.

## MASSACHUSETTS - 1993

**REFERENCE:** G.L. c. 62, 5A(a), (c); 50 U.S.C. 574; DOR-D 86-10; DOR-D 86-12.

### MASSACHUSETTS DEPARTMENT OF REVENUE PERSONAL INCOME TAX

#### MILITARY INCOME (NON-RESIDENT)

**FACTS:** Taxpayer Adams is a uniformed member in military service of the United States who is domiciled in a state other than Massachusetts. During her most recent taxable year, Adams lived in Massachusetts because she was assigned to active duty at a military base in the Commonwealth. In addition to her military compensation, Adams' income for federal tax purposes for the year included a \$5,000 prize won in a Massachusetts lottery.

**ISSUE:** To what extent, if any, is the income Taxpayer Adams received while on active duty in Massachusetts subject to the Massachusetts income tax?

**DISCUSSION:** Federal law prohibits a state from imposing a tax on the compensation received for military service by military personnel temporarily located in the state because of military assignment 50 U.S.C. 574. Such compensation may be taxed only by their state of domicile. Accordingly, compensation paid by the United States to non-resident uniformed personnel assigned to active duty in Massachusetts is not subject to Massachusetts taxation G.L. c. 62 5A(c). Any other income which non-resident personnel earn or derive from Massachusetts sources, however, is subject to Massachusetts income tax G.L. c. 62 5A(a).

**DIRECTIVE:** The compensation received by Taxpayer Adams for her military service while on active duty in Massachusetts is not subject to Massachusetts income tax. The lottery prize is, however, subject to tax and must be reported on a non-resident return, Form 1-NR.

**REFERENCE:** G.L. c. 62, 5A(a), (c); 50 U.S.C. 574; DOR-D 86-10; DOR-D 86-11.

**INCOME EXCLUSIONS:** Interest on obligations of the United States; Social Security; public welfare assistance; Veterans Administration disability payments; G.I. Bill education payments; workmen's compensation (Massachusetts income tax law references to the Internal Revenue Code apply to such Code as amended on January 1, 1988 based on the Chapter 106, tax law update. Therefore, income reported as taxable unemployment compensation for Federal tax purposes would also be taxable for Massachusetts income tax purposes); accident or life insurance payments or gifts; undistributed income of a corporation taxable under Subchapter S of the Internal Revenue Code.

**RATES:** Part A Income: Interest, dividends and net capital gain included in Massachusetts gross income, except interest and dividends from savings deposits in Massachusetts banks -- 12% (for tax years 1990 through 1992). Part B Income: Wages, salaries and tips, business/

## MASSACHUSETTS - 1993

professional or farm income, royalty and REMIC income, partnership and S corporation income, trust income, other income (winnings, fees, etc.), and pension and annuity income, alimony received, rental income, unemployment compensation, taxable IRA/ Keogh distributions, and Massachusetts bank income; Part B Income for 1991 is consolidated and taxed at a rate of 6.25% for 1991 only. (Thereafter, Part B income will be taxed at a rate of 5.95%)

**Deductions from Part A Income.** (1) Excess trade or business deduction if 12% gross income is effectively connected with the active conduct of a trade or business. The trade or business deductions must be claimed against 5.95% income first. (2) Capital loss reduction, if any, of interest and dividends, \$1,000 maximum. **Deductions from Part B Income.** Massachusetts deductions are not the same as Federal "itemized deductions". The deductions allowable to an employee include: (1) Amounts paid under the Federal Social Security Act, the Railroad Retirement Act, Federal and Massachusetts Retirement Systems up to \$2,000 per taxpayer; (2) Limited rent deduction of one-half of all rent payments for a principal place of residence in Massachusetts during the taxable year; maximum deduction \$2,500; (3) Alimony paid; (4) Employment-related expenses for children under age 15, disabled dependents and disabled spouse care expenses; (5) One \$600 deduction if not claiming employment-related expenses for child, etc., care AND if the taxpayer has one or more children under age 12; (6) Interest and dividends on savings accounts in Massachusetts banks of \$100 for a single person, \$200 for married persons filing jointly; (7) Moving expenses up to amount reimbursed by employer (IRS Form 1040, line 22), noting also that the reimbursed amount must be included as income on the Massachusetts tax return; (8) Forfeited interest penalty for premature withdrawal (IRS Form 1040, line 26); (9) The deductions allowed against Part B income do not include all business expenses shown on Federal Form 2106. Only those expenses shown on Part 1 (employee business expenses) of Form 2106 are deductible in computing Part B adjusted gross income. The expense must be related to income reported on a Massachusetts tax return. U.S. For Schedule A Miscellaneous Employee Business Expense deductions see attached computations worksheet from 1992 instructions; (10) A long term capital gain deduction of 50% for 1983 and following years. Capital losses may be carried forward without limitation.

**NOTE:** Expenses connected with employment for union or professional dues, tools, uniform maintenance, and other itemized deductions on IRS Form 1040, Schedule A, are not allowed. A self-employed person may deduct all ordinary and necessary expenses paid or incurred during the tax year in carrying on any trade or business provided such trade or business does not consist of the performance of services by the person as an employee.

**EXEMPTIONS:** (1) Personal: Single-\$2,200; Married if filing separately-\$2,200; Married, if filing jointly - a \$2,200 exemption for each spouse whether or not both spouses work. A married person filing separately will also be entitled to a personal exemption; (2) \$1000 for each dependent (3) \$700 if age 65 or over (4) medical & dental expenses allowed as a deduction on taxpayer's Federal return only if they are excess itemized deductions (5) \$2,200

## MASSACHUSETTS - 1993

additional if legally blind (6) portion of child adoption fees (7) interest income in Massachusetts banks: single or married filing separately-\$100; married filing jointly- \$200. If a legal resident for part of the taxable year, allowable exemptions are reduced based on days as a resident divided by 365. If a nonresident, total exemptions are apportioned to an amount based on a ratio of Massachusetts gross income divided by total gross income of the same type anywhere. This ratio is used to apportion the deductions of (a) alimony paid (b) child under 15, disabled dependent and disabled spouse care expense and (c) the \$600 amount allowed if any member of a household was under age 12 at year end and if the taxpayer is not claiming a deduction in (b).

**PAYMENTS:** Return and full payment due 15 April 1992. A Declaration of Estimated Tax must be filed by persons who expect a tax liability on income for which there is no withholding to be \$200 or more. The tax is to be paid in quarterly installments. A four-month automatic extension of time to file may be obtained. Request for an extension should be directed to Massachusetts Department of Revenue, P.O. Box 7011, Boston, Massachusetts 02204. Further extensions may be granted for good cause.

**NOTE:** There is no statute of limitations on the requirement to file a return. Delinquent service members should contact the Department to have circumstances of delinquency reviewed. Penalty for failure to file is 1% per month, up to a maximum of 25% and there is an additional 1/2 of 1% per month penalty, up to a maximum of 25% for nonpayment of taxes. If a person does not file a return the total of penalties and interest would be 3% per month. Penalty may be waived where the circumstances warrant doing so. The current late payment interest rate is 18%.

**SURTAX:** For taxable years beginning on or after January 1,1986, no surtax will be imposed on Massachusetts personal income taxes.

**RETIREMENT INCOME:** See TIR 92-3.

**TAX AUTHORITY:** Commonwealth of Massachusetts, Department of Revenue, Leverett Saltonstall Building, 100 Cambridge Street, Boston, Massachusetts 02204. (617) 727-4545 or 1-800-392-6089.

## 1991 TECHNICAL INFORMATION RELEASES

### TIR Number

91-3. Massachusetts Income Tax Filing Extensions For Military Personnel in the Persian Gulf Area.

### 91-3. Massachusetts Income Tax Filing Extensions For Military Personnel in the Persian Gulf Area

#### I. INTRODUCTION

This Technical Information Release (TIR) explains the recently enacted Massachusetts legislation, G.L. c. 62C, s. 81, allowing military and support personnel who served in the Persian Gulf area to extend the time to file 1990 Massachusetts income tax returns and pay 1990 income taxes. The extension of time to file 1990 income tax returns and pay 1990 income taxes applies to personnel who served as part of Operation Desert Shield or Desert Storm in the Persian Gulf area, which was designated by the President of the United States by Executive Order as a combat zone. The extension period is for the time served in the Persian Gulf area plus at least six months (180 days). The extension provisions are retroactive and apply to personnel who began such service on or after August 2, 1990. The new Massachusetts extension provisions parallel the federal provisions of section 7508 of the Internal Revenue Code (Code), as recently amended.<sup>1</sup>

#### II. EXTENSIONS OF TIME TO FILE RETURNS AND TO PAY TAXES

A. General rule. Military and support personnel who served in the Persian Gulf area as part of Operation Desert Shield or Desert Storm on or after August 2, 1990, are allowed an automatic extension of time to file their 1990 Massachusetts income tax returns and to pay their 1990 income taxes. The extension is for the period served in the Persian Gulf area, plus at least 180 days. No interest or penalties will be charged during the extension period on taxes due in 1990. The extension of time to file returns also applies to spouses of personnel serving in the Persian Gulf area if a joint return is filed. Taxpayers claiming an extension of time to file a return or pay tax under the new provisions of the law should write "DESERT STORM" on the income tax envelope and on the top of the income tax return that they submit to the Department of Revenue.

B. Extension period. The new due date for filing 1990 Massachusetts income tax returns and paying tax is the same as the federal date and is calculated as follows:

<sup>1</sup> Under section 112 of the Code, certain combat pay of military personnel serving in a combat zone is excluded from federal gross income and therefore is not subject to federal income tax. Massachusetts income tax law incorporates the provisions of section 112 of the Code, so that combat pay will be excluded from Massachusetts income to the extent that it is excluded from federal income. However, since the Persian Gulf area was declared a combat zone in 1991, the combat pay exclusion does NOT apply to 1990 income.

1. The date of departure from serving in the Persian Gulf area. The starting date is the date of departure from the Persian Gulf area as part of Operation Desert Shield or Desert Storm (or, if applicable, the date of termination of combatant activities in the Persian Gulf area as designated under section 112 of the Code); plus
2. At least 180 days thereafter. At least 180 days after the starting date in Section II.B.1., above, plus a period of up to 105 additional days, with such additional period representing the number of days remaining in the tax filing period of January 1, through April 15, 1991, calculated as of the time the taxpayer entered the Persian Gulf area; plus
3. The period of qualified hospitalization, if any. Any period of continuous hospitalization as a result of injuries while serving in the Persian Gulf area, including any period of hospitalization outside the United States; and any period for up to five years of hospitalization within the United States (except this provision does not apply to spouses); plus
4. The period of time in a missing status, if any. Any period during which an individual serving in the Persian Gulf area is missing in action or prisoner of war, within the meaning of s. 6013(f)(3) of the Code.

C. Examples.

Example 1. Taxpayer entered the Persian Gulf area on August 26, 1990, and served there through March 16, 1991, when she returned to the United States. She has 285 days (180 plus 105) after her date of departure from the Persian Gulf area (i.e. 285 days from March 16, 1991) to file her 1990 income tax return. The additional 105 days are the number of days that were in the tax filing period of January 1, through April 15, 1991, calculated as of the date she entered the Persian Gulf area. Her 1990 return is due by December 26, 1991.

Example 2. Taxpayer entered the Persian Gulf area on January 5, 1991, and was injured on February 15, 1991. He was flown to a U.S. hospital and was hospitalized through April 21, 1991. He has 281 days (180 plus 101) after the date of his departure from the hospital on April 21, to file his 1990 income tax return. The additional 101 days are the number of days that were left in the tax filing period of January 1, through April 15, 1991, calculated as of January 5, 1991, the date he entered the Persian Gulf area. (See explanation in II.B.2., above). His 1990 return is due by January 27, 1992.

### III. OTHER TAX RELIEF PROVISIONS

In addition to the extension of time to file tax returns and pay taxes, the new legislation, G.L. c. 62C, § 81, contains other tax relief provisions for military and support personnel who served in the Persian Gulf area during Operation Desert Shield or Desert Storm. For those taxpayers, the Commissioner will suspend all tax return examinations and actions to collect back taxes, without interest or penalties, during the extension period described in this TIR (at II.B., above). These tax relief provisions also apply to spouses of

**TIR 91-3****PERSONAL INCOME TAX**

personnel serving in the Persian Gulf area if a joint return is filed. The extension of time to file and other tax relief provisions do not apply to a spouse, however, for any tax year beginning more than two years after the date that combat activities end. Any person claiming eligibility for tax relief under these provisions should write the words "DESERT STORM" on the top of any correspondence to the Department of Revenue.

**IV. USE OF POWERS OF ATTORNEY**

Taxpayers ordinarily must personally sign their income tax returns, whether filing an individual return or, if married, a joint return. As an alternative, personnel serving in the Persian Gulf area may sign a power of attorney, authorizing a spouse, parent, or other person to act as the taxpayer's personal representative to prepare, sign and file a return on the taxpayer's behalf. To use the alternative method of filing, a signed power of attorney, either in the form of a letter or Form M-2848 (Power of Attorney and Declaration of Representative), must be attached to the return.

**V. TAXPAYER ASSISTANCE**

Questions on the income tax filing obligations of personnel serving in the Persian Gulf area should be directed to the Massachusetts Department of Revenue, Taxpayer Assistance Bureau, at (617) 727-4545 or toll free at 1-800-392-6089.

April 12, 1991  
TIR 91-3

/s/Mitchell Adams  
Commissioner of Revenue



# Technical Information Release

Commonwealth of Massachusetts

Department of Revenue

## TIR 92-3 Military Retirement Benefits Remain Subject to Income Tax

### I. Summary

This Technical Information Release (TIR) explains the Massachusetts income tax treatment of U.S. military retirement benefits in light of the U.S. Supreme Court decision in *Barker v. Kansas*, 60 U.S.L.W. 4322 (April 21, 1992). The TIR concludes that the *Barker* decision does not negate the validity of the distinction between contributory and non-contributory public retirement plans under G.L.c. 62, § 2(a)(2)(E). Therefore, payments from non-contributory public retirement plans, generally including military retirement benefits, remain subject to the Massachusetts personal income tax.

### II. Discussion

#### A. Federal Law

Under the Public Salary Act of 1939, 4 U.S.C. § 111, the United States permits individual states to tax the pay of federal officers and employees, provided that the tax does not discriminate against the officers or employees because of the source of their pay.<sup>1</sup> The Supreme Court has held that preferential tax treatment of retirement income paid to former state and local government employees, based on the source of that income, violates 4 U.S.C. § 111 when it is not extended to federal retirees. *Davis v. Michigan Department of the Treasury*, 489 U.S. 803 (1989).

Recently, the U.S. Supreme Court in *Barker v. Kansas*, 60 U.S.L.W. 4322 (April 21, 1992) decided that the state of Kansas discriminated against federal employees in violation of 4 U.S.C. § 111 when it taxed the retirement benefits of military retirees while exempting from tax the retirement benefits of former state employees. Because military "retirees" remain members of the U.S. armed forces and are subject to military justice, to restrictions on civilian employment, and to recall for active service, Kansas had attempted to justify its disparate tax treatment of payments to military retirees and state retirees by describing payments to military retirees as current reduced payments for current services, as opposed to the deferred compensation received by former state employees for past services. The Supreme Court rejected this distinction because payments to a military retiree are based on the retiree's rank and length of service and, in fact, resemble deferred compensation for services previously provided. The Court concluded that Kansas had violated 4 U.S.C. § 111 because its inconsistent tax treatment of state and federal retirees was not "directly related to, and justified by, significant differences between the two classes" of retirees. *Barker*, 60 U.S.L.W. 4322 at \_\_\_\_\_.

#### B. Massachusetts Statutes

Massachusetts generally imposes an income tax on the Massachusetts gross income of residents, with certain deductions and exclusions. G.L. c. 62. Massachusetts gross income is defined as federal gross income with Massachusetts modifications. G.L. c. 62, § 2. One of these modifications excludes "[i]ncome from any contributory annuity, pension, endowment or retirement fund of the United States government or the commonwealth or any political subdivision thereof, to which the employee has contributed." G.L. c. 62, § 2(a)(2)(E). See also G.L. c. 62, § 3(b)(a)(4). Under the terms of this statute, either state or federal pension payments are exempt from Massachusetts income tax if the pension funds are contributory. Military retirement benefits generally are subject to Massachusetts income tax because the military retirement system is not a contributory retirement plan. See Technical Information Release 89-6, Letter Ruling 89-1.

<sup>1</sup> 4 U.S.C. § 111 provides as follows: "The United States consents to the taxation of pay or compensation for personal services as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation."

Department of Revenue  
TIR 92-3  
Military Retirement  
Benefits Remain  
Subject to Income Tax

### C. Barker Decision Does Not Invalidate Massachusetts Law

In *Barker*, the Supreme Court has recognized that state taxing systems do not necessarily violate 4 U.S.C. § 111 merely because they impose tax on the income of federal employees while exempting from tax the income of state employees. Rather, the Court stated that "we evaluate a state tax that is alleged to discriminate against federal employees in favor of state employees by inquiring whether the inconsistent tax treatment is directly related to, and justified by, significant differences between the two classes." *Barker*, 60 U.S.L.W. 4322, at \_\_\_\_\_. Thus, significant differences between classes of federal and state employees may justify different tax treatment of the incomes of those classes of employees.

Massachusetts law does not violate 4 U.S.C. § 111 because it does not discriminate against federal retirees on the basis of the source of their pay. See TIR 89-6 (responding to the *Davis* decision). The significant distinctions between the structures of contributory retirement plans and non-contributory plans directly relate to and justify the difference in tax treatment of distributions from these plans. A contributory pension is one in which amounts contributed to the plan are includable in the Massachusetts gross income of the employee (or would be included in the Massachusetts gross income of the employee if the employee were a Massachusetts resident). Under a non-contributory plan, amounts contributed on behalf of an employee are not included in the gross income of the employee and are therefore not subject to tax at the time of contribution. Thus, taxing distributions from contributory plans can lead to double taxation, while taxing distributions from non-contributory plans will not.

The Supreme Court in *Barker* specifically refrained from invalidating different tax treatment of payments from contributory and non-contributory plans. *Barker*, 60 U.S.L.W. 4322, at \_\_\_\_\_ n. 5. Consequently, the *Barker* decision does not alter the non-discriminatory distinction between payments from these plans currently found in Massachusetts law.



Mitchell Adams  
Commissioner of Revenue

April 28, 1992

## MICHIGAN - 1993

**STATE LAW:** Income Act 1967, Act 281, as amended.

**TAXPAYERS:** All taxable income from any source is allocated to this state, except gains/losses and rental income from real property not located in this state and from business income apportioned to another state.

**NONRESIDENT:** The taxable income allocated to this state includes compensation earned for personal services performed in this state, gains/losses and rental income from real property located in this state and from business income apportioned to this state.

**FILING:** Every person who is required to file a federal income tax return must file a Michigan return if his or her income subject to Michigan tax exceeds the personal exemption allowance allowed under the Income Tax Act.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Michigan but maintain an abode elsewhere are required to file a Michigan income tax return. All military pay is exempt. (b) Michigan does not provide any special treatment for service members who are POW/MIA (or their spouses). (c) Military personnel on duty outside the United States or Puerto Rico, including non-permanent or short term duty, on the due date may delay filing and paying the tax due until the fifteenth day of the sixth month following the close of the tax year.

**DESERT STORM:** The due date for filing a Michigan income tax return is April 15, 1991. However, the Michigan Department of Treasury will follow Internal Revenue Code Section 7508(a), which provides that military personnel assigned to a combat zone on the due date may delay filing and paying the tax due until 180 days after the period of such service. The period of service includes continuous hospitalization due to injuries received while serving in the combat zone. These provisions apply to the spouse as well as the individual entitled to the benefits. Michigan filers are reminded, however, that an extension applies only if tax is due. Persons claiming a refund may file any time within four years following the due date of the return.

**RESIDENTS:** Resident is defined as an individual domiciled in Michigan (Michigan Statute, Section 18). Domicile means a place where a person has his true, fixed, and permanent home and principal establishment to which, whenever absent therefrom intends to return; domicile continues until another permanent residence is established. If an individual during the tax year being a resident becomes a non-resident or vice versa, taxable income shall be determined separately for income in each status. If an individual lives in Michigan at least 183 days during the tax year or more than one-half the days during the tax year of less than twelve months, he/she shall be deemed a resident individual domiciled in the State. A nonresident is anyone not a resident as defined here.

## MICHIGAN - 1993

**INCOME EXCLUSIONS:** Taxable income for Michigan is Federal adjusted gross income with the following modifications:

Subtract -- (a) Compensation and retirement benefits received for service in the Armed Forces of the United States; (b) Income from United States Savings Bonds and other United States obligations; (c) Deductions for capital gains attributable to period prior to inception of Michigan Income Tax (October 1, 1967); (d) Pension benefits received from this State, the U.S. Government (Federal Civil Service), and its local governments are subtracted to the extent included in adjusted gross income or to the extent that the other state permits a similar deduction of public retirement pension by this state or its local governments, whichever is the lesser amount; (e) Any other pension benefits up to \$10,000 on a joint return and \$7,500 on a single return; (f) Contributions to national or Michigan political parties or candidates (the maximum is \$50.00 for single filers and \$100.00 on a joint return); (g) Income from property or business not located in Michigan; (h) Overpayment of state or city income tax that is included as income on the Federal return; (i) Proceeds and prizes won in bingo conducted by this State to the extent included as income on the Federal return. Deduct to extent included in AGI, wages not deductible under 280(c) of the IRC; Tier I, social security benefits, the amount determined on line 19 of Schedule R, (Credit for the elderly or for the Permanently and Totally Disabled), and payments made under an advanced tuition payment contract as provided in the Michigan Education Trust Act; (j) Add to the extent deducted in determining federal adjusted gross income the net operating loss deduction under section 172 of the Internal Revenue Code; (k) Deduct a net operating loss deduction to the extent of federal modified taxable income as computed under section 172(b)(2) of the Internal Revenue Code and subject to the allocation and apportionment provisions.

### RATES

1990	-	4.60%
1989, 1988, 1987, 1986	-	4.60%
1986	-	4.60%
1985	-	5.33%
1984	-	5.85%

**DEDUCTIONS:** See "EXCLUSIONS" and "CREDITS".

**EXEMPTIONS:** The Michigan personal exemption allowance is \$2,100 for each exemption allowed on the federal income tax return. In addition, a special exemption allowance of \$900 is allowed for a taxpayer who is 65 years old or older, blind, permanently disabled, hemiplegic, paraplegic, quadriplegic and whose federal adjusted gross income is composed of 50% or more unemployment compensation. A taxpayer can only claim a special exemption allowance for being either 65 or older or permanently disabled

**CAPITAL GAINS AND LOSSES:** Capital gains and losses from (a) the sale of real property are allocated to state where the property is located; (b) the sale of tangible personal property is

## MICHIGAN - 1993

allocated to Michigan if the property had situs in Michigan at the time of the sale or if the taxpayer is a resident of this state and the taxpayer is not taxable in the state in which the property had situs; (c) the sale of intangible personal property is allocated to the state of residency. Gains or losses realized on property acquired before the enactment of the Michigan Income Tax Act (1 October 1967) may be reduced by a fraction that has as its denominator the number of months the property was held and as its numerator the total number of months held before October 1, 1967.

**INCOME OTHER THAN MILITARY PAY:** Michigan residents are liable for tax on all income received, earned or otherwise acquired regardless of the source, except that attributable to another state under provisions of the Income Tax Act. When computing Michigan taxable income: ADD (a) gross interest income and dividends from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal adjusted gross income; (b) taxes on or measured by income to extent the taxes have been deducted in arriving at federal adjusted gross income; (c) losses on the sale or exchange of obligations of the U.S. Government to the extent that the loss has been deducted in arriving at federal adjusted gross income; (d) losses from a business or property located in another state.

**CREDITS:** Residents are allowed a credit for income taxes paid to another state, political subdivision, District of Columbia, or a Canadian Province, on income derived from sources therein, which are also subject to Michigan tax.

**EXTENSION OF TIME TO FILE A RETURN:** When the taxpayer has been granted an extension of time within which to file a final federal return for a taxable year, the filing of a copy of the extension automatically extends the filing of the Michigan return for an equivalent period. If estimated taxes are due, a Michigan extension should be filed with the estimated payment. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of Act No. 122 of the Public Acts of 1941 shall be added to the amount of tax unpaid for the period of the extension.

**HOMESTEAD PROPERTY TAX:** Homeowners and renters are allowed a credit on homestead property tax or rent paid on a Michigan homestead provided they occupied the Michigan homestead for at least six months of the tax year. Homeowners who were temporarily absent but did not rent their homesteads and relinquish their domicile may claim a homestead credit for the full year. The credit is 60% of the amount by which the property taxes (or 17% of the rent paid) exceed 3.5% of household income. Special formulas are used to compute the property tax credit for senior citizens, veterans, blind persons, totally disabled, paraplegics and quadriplegics. No property tax is allowed on a homestead other than a Michigan homestead.

## MICHIGAN - 1993

**HOME HEATING CREDIT:** This credit helps low income families who spend a large portion of their income to heat their homes. There are income ceilings based on the number of exemptions. Certain situations make a taxpayer ineligible to claim a credit.

**PAYMENTS:** Returns due April 15 for calendar year taxpayers. Installments of estimated Michigan tax is required if amount of expected annual tax exceeds withholding and credits by \$500 or more.

**RETIRED PAY:** As noted under "Income Exclusions", supra, Michigan considers taxable income to be Federal adjusted gross income, less retirement benefits received for service in the Armed Forces or pension benefits received from the U.S. Government (Federal Civil Service).

**TAX AUTHORITY:** Department of the Treasury, Individual Income Tax Division, Treasury Building, Lansing, Michigan 48922. (517) 373-1426.

**TAXPAYER ASSISTANCE:** Telephone number 1-800-487-7000

**TAX FORMS:** Telephone number 1-800-367-6263

## MINNESOTA - 1993

**STATE LAW:** Minnesota Statutes, Sec. 290.01 et seq.

**TAXPAYERS:** Residents of Minnesota must file an income tax return (Form M1) if they are required to file a federal income tax return. Nonresidents and part-year residents must file if the gross income assignable to Minnesota exceeds the federal filing requirement for a single person. Married couples must use the same status as that used for filing their federal return, i.e., if they filed a joint federal they must file a joint Minnesota.

**MILITARY PROVISIONS:** No tax is due from the estate of a deceased member of the Armed Forces for the year in which the date of death falls. In addition, a claim for refund can be filed within seven years from the date the return was filed to collect taxes paid for any year for which the decedent was in military service. Any tax for years prior to the date of death which are unpaid at the time a person on active duty in military service dies shall be abated.

**DESERT STORM PROVISIONS:** Minn. Stat. Section 289A.39, subd 1, is identical to I.R.C. Section 7508(a) as far as extending the limitations of time for the following acts:

- Filing returns;
- Paying taxes past due or to become due;
- Claiming refunds;
- Commencing lawsuits to have returns filed, to collect taxes, or to claim refunds;
- Appealing Tax Court decisions to the Supreme Court.

\*\*\*\*\* Section 289A.39, subd. 2, like its federal counterpart, suspends the assessment and collection of interest and penalties on income tax during the extended period. Note, however, that there is no specific prohibition in the state statute against the assessment and collection of tax, once it is determined that the taxpayer qualifies for the suspension benefits.  
\*\*\*\*\*

Section 289A.39, subd. 3, also extends the time period for assessing tax, penalty, and interest for an additional 6 months beyond the extension period in subdivision 1 and includes a further 6-month period to commence a collection action on the assessment.

Finally, Section 289A.39, subd. 6, provides that if an individual dies while serving in the armed forces of the U.S., income tax is not imposed for the year of death. For prior taxable years, income taxes yet to be assessed will not be assessed, and if assessed and unpaid will be abated. Income taxes paid for any year in which the decedent was in active service will be refunded, but the refund claim must be filed within 7 years after the return was filed.

**RESIDENTS:** A resident is an individual who is either 1) domiciled in Minnesota, or 2) an individual who is physically present in Minnesota for over 183 days and who maintains an abode in Minnesota. The second test of residence ("183 day test") does not apply to members of the military or their spouses nor to individuals domiciled in Wisconsin, North Dakota, or

## MINNESOTA - 1993

Michigan. Change in domicile is a question of fact to be determined on the basis of specific acts combined with stated intent.

**INCOME EXCLUSIONS:** Interest on obligations of the United States which are immune from state tax under Federal law.

**TAX TABLES:** Three schedules (1) married filing joint; (2) single head of household; (3) single or married filing separately.

### TAX RATES FOR 1993

#### MARRIED FILING JOINTLY

Taxable Income	Tax
\$ 0 - \$ 1,600	\$ 0 plus 6% of amount over \$ 0
\$ 21,600 or more	\$ 1,296 plus 8% of amount over \$ 21,680 (8.5% of amount over \$85,830)

#### SINGLE HEAD OF HOUSEHOLD

Taxable Income	Tax
\$ 0 - \$ 18,190	\$ 0 plus 6% of amount over \$ 0
\$ 18,190 or more	\$ 1,091 plus 8% of amount over \$ 18,190 (8.5% of amount over \$73,110)

#### SINGLE

Taxable Income	Tax
\$ 0 - \$ 14,780	\$ 0 plus 6% of amount over \$ 0
\$ 14,780 or more	\$ 887 plus 8% of amount over \$ 14,780 (8.5% of amount over \$48,550)

#### MARRIED FILING SEPARATELY

Rates are the same as single, but the thresholds are one-half of the income thresholds of married filing joint.

**INCOME:** The starting point in determining Minnesota taxable income is federal taxable income as computed under the Internal Revenue Code as amended through December 31, 1992. The income would be modified to reflect addition for interest income from non-Minnesota state and municipal bonds and state income tax deduction claimed for federal. Subtraction for the U. S. bond interest and railroad retirement benefits would be allowed along with a subtraction for state income tax refund included in federal income and a limited deductions for a dependent's tuition and transportation expenses. The allowance is limited to \$650 if child is in kindergarten through grade 6 and \$1,000 for grades 7 through 12. The school must be operated for a profit and it must be located in Minnesota, North or South Dakota, Iowa, or Wisconsin.

## MINNESOTA - 1993

Subtractions are also allowed for the recovery of IRA contributions, Keogh Plan contributions, the picked up employees contribution to public employees retirement paid by the employer, and certain ACRS depreciation deductions which were not allowed or were limited in their deductions in previous years. A subtraction for the elderly or permanently disabled is available and replaces the credit allowed in 1987 for such qualified individuals. The maximum subtraction is \$10,000 married filing joint and \$8,000 for single taxpayers. The maximum would be reduced by nontaxable social security or railroad retirement benefits and nontaxable veteran's pensions paid other than military disability pensions. It would also be reduced by one-half of the federal adjusted gross income which is in excess of \$15,000 if married and both spouses qualify, \$12,000 for other taxpayers.

**DEDUCTIONS:** Included in computation of income above, no deduction for federal income tax is allowed for years beginning after December 31, 1986.

**TAX CREDITS:** Minnesota has a Working Family Credit which is 15% of the federal earned income credit. Minnesota also offers a Child and Dependent Care Credit, which is 100% of the federal Dependent Care Credit for taxpayers with income of under \$15,180. The Minnesota Dependent Care Credit is then phased-out by \$18 for each \$350 of income over \$15,180 for taxpayers with one qualifying dependent and \$36 per \$350 for taxpayers with two or more qualifying dependents.

**EXEMPTIONS:** Same as federal under Internal Revenue Code.

**CAPITAL GAINS AND LOSSES:** Same as under the Internal Revenue Code.

**PAYMENTS:** Individual income tax returns and payments of the tax are due on April 15th. Other than the situation noted in the Desert Storm section, Minnesota no longer allows for an extension of the filing and payment date, even if the individual has a federal filing extension. However, Minnesota's late filing penalty is not imposed if the return is filed by October 15th. The late payment penalty on the other hand is imposed on any tax unpaid on April 15th. Thus to avoid late penalties, you must pay by April 15th and file by October 15th.

**RETIREMENT INCOME:** Neither the of Harper v. Virginia, (1993), nor the case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Minnesota law. Under Minnesota law retirement benefits received by federal retirees are treated the same as retirement benefits received by retirees of State or local subdivisions of the State.

## MINNESOTA - 1993

**TAX AUTHORITY:** State of Minnesota, Department of Revenue, Income Tax Division, P.O. Box 64452, St Paul, Minnesota 55164. (612) 296-1022.

**ADDITIONAL INFORMATION AND FORMS:** To order forms by phone, call 1-800-657-FORM, or write Minnesota Tax Forms, Mail Station 7131, St. Paul, Minnesota 55146-7131.

## MISSISSIPPI - 1993

**STATE LAW:** Mississippi Code (1972), as amended, Title 27, Sec. 7-1 et seq.

**TAXPAYERS:** Residents and all other persons owning or selling property, or otherwise receiving income during the tax year from sources in Mississippi, with gross income exceeding the allowable exemption plus the standard deduction. Residents must report gross income from all sources, regardless where earned and whether or not they are physically present in the State.

**FILING:** See "TAXPAYERS".

**MILITARY PROVISIONS:** (a) Service members who are legal residents of the State but maintain an abode in another jurisdiction are subject to Mississippi income tax. They must file a return if their gross income exceeds their personal exemptions although tax may not be due; (b) Compensation for military duty is generally taxable. Compensation received by persons who are POW/MIA is treated the same as under Internal Revenue Code; (c) Compensation received by military members for service-connected disability is not taxable and therefore excluded from gross income. (Mississippi will follow the provisions of Sec. 104(b), Internal Revenue Code, in determining disability). Nondisability retirement pay, up to \$6,000, and National Guard and Reserve, up to \$5,000 for each tax year may be excluded from gross income; (d) Contributions by service members to the Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivors Benefit Plan (SBP) are not excluded in determining gross income.

**DESERT STORM PROVISIONS:** Mississippi follows the federal income tax provisions regarding non-taxation of military pay for enlisted personnel while in the combat zone (and up to \$500 per month exclusion for commissioned officers). Mississippi also allows an automatic filing extension for state residents serving in the gulf region until 180 days after their return to the States.

**RESIDENTS:** Residents who enter the military service remain residents during the tenure of their military service, or until such time as some positive action is taken to establish residence in another state and their personnel records are changed accordingly.

**NOTE:** Service members entering Mississippi by reason of military or naval orders, who later become legal or actual residents of the State, or who purchase property for residential purposes claiming homestead exemption for tax purposes, are considered residents of Mississippi for tax purposes and subject to taxation. Military members who are not residents of the State who receive military pay while stationed in Mississippi shall not be deemed to have received such income for services performed in or from Mississippi sources. Spouses of military members who earn income in the State, and military members who earn nonmilitary income in the State, are taxed on such income in the same manner as other nonresidents.

## MISSISSIPPI - 1993

**INCOME EXCLUSIONS:** (a) Life insurance proceeds; (b) Gifts and bequests; (c) Interest on obligations of Mississippi or its subdivisions and direct obligations of the United States (as Series E US bond); (d) Compensation for personal injuries, including workmen's compensation and disabled veterans' benefits; (e) Annuities to extent of taxpayer's contribution, plus a \$ 6,000 exclusion.

**RATES:**

First \$5,000 .....	3%
Next 5,000 .....	4%
Over 10,000 .....	5%

Income splitting on joint returns is not permitted.

**DEDUCTIONS:** (a) Ordinary and necessary business expenses; (b) Itemized deductions allowable for federal income tax purposes may be claimed for Mississippi income tax purposes except the deductions for state income tax. Federal income tax forms may be used and attached to the Mississippi return, for adjustments to income. However, Mississippi does not recognize federal credits, e.g., child care credit.

The Standard Deduction, in lieu of itemized personal deductions, is as follows:

Married Individuals filing joint or combined return	\$3,400
Married Individuals filing separate returns .....	1,700
Head of Family .....	3,400
Single Individuals.....	2,300

**EXEMPTIONS:**

Single Individual .....	\$6,000
Married Individuals (jointly) .....	9,500
Married filing separate returns.....	4,750
Head of Family .....	9,500
Each dependent (other than spouse) .....	1,500
Age 65 or over (husband, wife or single only) .....	1,500
Blind (husband, wife or single only)....	1,500

If a married couple files joint or combined returns (one return), either spouse may claim all or any portion of the aggregate exemption permitted the couple. If separate returns are filed (two returns), the aggregate exemption must be divided equally between spouses.

**CAPITAL GAINS AND LOSSES:** Beginning in 1992, Mississippi follows the Federal provisions for capital losses. Gain on sale of residence follows the Federal tax law.

## MISSISSIPPI - 1993

**CREDITS:** Credit is allowed to a taxpayer who has liquidated distribution from a corporation for his pro rata share of the tax on the liquidation paid by the corporation. This credit may be taken against the gain of taxpayer, however, it is not refundable. Resident taxpayers may take a credit for income tax paid to another state.

**PAYMENTS:** Return due 15 April. Tax due is payable in full by the original due date of the return.

**NOTE:** Letter from the State Tax Commission, dated March 17, 1976, states that the Commission cannot waive or set aside income tax obligations for prior years due by members of the Armed Forces. If a member is delinquent, returns are requested for three prior years, plus the current year. Interest is mandatory. Interest and penalty will be charged on taxes not paid by the original due date, even if an extension of time to file is granted. The interest rate is 1% per month. The penalty rate is 1/2 of 1% per month to a maximum of 25%. A penalty of 5% of "tax liability" for each month delinquent to a maximum of 25% is added if it becomes necessary to make a formal assessment. In the case of voluntary disclosure by a military member, the penalty may be waived.

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has resulted in changes to the Mississippi law. For 1990 and thereafter there is a \$ 6,000.00 exclusion on all retirement pay. Beginning January 1, 1994 all retirement income is exempt.

**TAX AUTHORITY:** State Tax Commission, Income Tax Division, P.O. Box 960, Jackson, Mississippi 39205. (601) 359-1141.

## MISSOURI - 1993

**STATE LAW:** Vernon's Ann. Missouri State, Sec. 143.009 et seq.

**TAXPAYERS:** Every resident required to file a Federal income tax return, and nonresidents who had an income from Missouri sources of \$600 or more.

**FILING:** See "TAXPAYERS". If Missouri income tax was withheld, in order to obtain a refund, a return must be filed. All Missouri domiciled military personnel who qualify for exemption from taxation should file an income tax return each year and attach an Affidavit of Nonresidency.

**MILITARY PROVISIONS:** A domiciliary who is a member of the Armed Forces is exempt from Missouri income tax if: (1) He/she maintained no permanent place of abode in the State during the tax year; (2) Did maintain a permanent place of abode elsewhere; and (3) Did not spend more than thirty (30) days of the tax year in Missouri.

**DESERT STORM PROVISIONS:** Any resident of this state who is a member of the national guard or of any reserve component of the armed forces of the United States or who is a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order by the President or Congress for any period of thirty days or more shall be relieved from certain provisions of state law, as follows:

Any person with an indebtedness, liability or obligation for state income tax or property tax on personal or real property who is performing such military service, or a spouse of such person filing a combined return or owning property jointly, shall be granted an extension to file any papers or to pay any obligation until 180 days after the completion of such military service, or continuous hospitalization as a result of such military service, and shall be allowed to pay such tax without penalty or interest if paid within the 180 day period. (See Missouri Senate Bill 358, 492.070, section 5, subp. 8.)

**RESIDENTS:** Resident is an individual who either: (1) Maintained a domicile in Missouri; or (2) Did not maintain a domicile in Missouri but did have permanent living quarters and spent more than 183 days of the tax year in Missouri. Exception: An individual who, although domiciled in Missouri, did not maintain permanent living quarters in Missouri and did maintain them elsewhere, and who spent thirty (30) days or less of the tax year in Missouri is considered a nonresident. A nonresident is an individual who is not a resident.

**INCOME EXCLUSIONS:** Same as Federal with the following adjustments:

Subtract -- (a) Interest on obligations of the United States and its territories and possessions, or of any authority, commission or instrumentality of the United States to the extent exempt

## MISSOURI - 1993

from Missouri income taxes under the laws of the United States, and (b) Certain other items of income to avoid double taxation by Missouri because of the income tax law revision, effective 1 January 1973.

Add -- (a) Interest on certain governmental obligations excluded from Federal gross income by section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the State of Missouri or any of its political subdivisions or authorities, and does not apply to interest described in (a) above.

RATES:		TAXABLE INCOME	Rates
Over	Not Over		
	\$1,000 ....	1.5%	
\$1,000	2,000 ....	\$ 15 plus 2.0% on excess over	\$1,000
2,000	3,000 ....	35 plus 2.5% on excess over	2,000
3,000	4,000 ....	60 plus 3.0% on excess over	3,000
4,000	5,000 ....	90 plus 3.5% on excess over	4,000
5,000	6,000 ....	125 plus 4.0% on excess over	5,000
6,000	7,000 ....	165 plus 4.5% on excess over	6,000
7,000	8,000 ....	210 plus 5.0% on excess over	7,000
8,000	9,000 ....	260 plus 5.5% on excess over	8,000
9,000	.....	315 plus 6.0% on excess over	9,000

Tax table is required on taxable income of less than \$9,000. Missouri tax liability is not joint but a combined return of separate liabilities, rather than joint liability.

**DEDUCTIONS:** Same as Federal, subject to certain modifications.

**EXEMPTIONS:**

Taxpayer .....	\$1,200
Taxpayer's Spouse .....	1,200
Unmarried Head of Household, if qualified for Federal income tax (additional).....	800
Dependents (additional-each)...	400

**CAPITAL GAINS AND LOSSES:** Same as Federal, subject to certain modifications.

**PAYMENTS:** Return and payment in full due 15 April or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Estimated tax declarations and payments are due quarterly if Missouri estimated tax can reasonably be expected to be at least one hundred (\$100.00) dollars. (Section 143.191.2 and 143.521).

## MISSOURI - 1993

Note: Effective January 1, 1973, military members claiming Missouri domicile are not subject to Missouri tax while maintaining a permanent place of abode outside the State. The Statute of Limitations on the Revenue Law is three years from the time the return was filed or two years from the time the tax was paid, whichever of such periods expires the later. If no return is filed, there is no statute of limitations and a notice of deficiency can be made at any time. An affidavit must accompany the returns stating the reason for delinquent filing and requesting a waiver of penalties and additions to the tax. Interest is mandatory and cannot be waived.

NOTE: The City of St. Louis and Kansas City impose a 1% earnings tax on the gross income of residents of those cities. Returns and payment due 15 April.

### RETIREMENT:

143.123. Taxes on annuities, pensions and retirement allowances,, subtraction per taxpayer, maximums per year or six month period. Any six thousand dollar subtraction provided by law for annuities, pensions, and retirement allowances in total per taxpayer, as hereafter provided by subsequent law, shall be implemented in a maximum amount of six thousand dollars per year, or three thousand dollars for a six-month period. Effective 6-14-89.

143.124. Annuities, pensions or retirement allowances provided by state, United States, political subdivisions or any other state, above six thousand dollars annually to be taxable.-

1. Other provisions of law to the contrary notwithstanding, the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax under the provisions of this chapter, in the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, annuity, pension, or retirement allowance shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state.

2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be subtracted from Missouri adjusted gross income for that period, determined pursuant to section 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and his Missouri adjusted gross income is less than twelve thousand five hundred dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than sixteen thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and his Missouri adjusted gross income is less than eight thousand dollars.

3. For the tax years beginning on or after January 1, 1990, there shall be subtracted from Missouri adjusted income, determined pursuant 143.121, the first six thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and his Missouri adjusted gross income is less than twenty-five thousand dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri

## MISSOURI - 1993

adjusted gross income is less than thirty-two thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and his Missouri adjusted gross income is less than sixteen thousand dollars.

4. To determine the maximum Missouri adjusted gross income limits referenced in this section, any social security benefits included in Missouri adjusted gross income shall be subtracted. But social security benefits shall not be subtracted for purposes of other computations under this chapter, and are not to be considered as retirement benefits for purposes of this section.

5. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply during all tax years in which the federal Internal Revenue Code provides exemption levels for calculation of the taxability of social security benefits that are the same as the levels in subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the calculation of the taxability of social security benefits are adjusted by applicable federal law or regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall be accordingly adjusted to the same exemption levels.

6. For each tax year beginning on or after January 1, 1990, the portion of a taxpayer's lump sum distribution from an annuity or other retirement plan not otherwise included in Missouri adjusted gross income as calculated under this chapter but subject to taxation under Internal Revenue Code section 402 shall be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution for the same tax year.

7. The exemptions provided for in this section shall not affect the calculation of the income to be used to determine the property tax credit provided in sections 135.010 to 135.035, RSMo.

8. The provisions of this section shall apply to all other annuities, pensions and retirement allowances as subsequently defined and provided by law for tax years beginning on or after January 1, 1991. (L. 1989 H.B. 674 SS 1) Effective 7-1-89

### OTHER TAX PROVISIONS:

143.191. Employer to withhold tax from wages-armed services, withholding from wages or retirement-federal civil service retirement, withholding authorized, when.

1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under sections 143.011 to 143.998 to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 means wages as defined by section 340(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means any person, firm, corporation, association, fiduciary of any kind, or other type of organization for whom an individual performs service as an employee, except that if the person or organization for whom the individual performs service does not have control of the payment of compensation for such service, the term "employee" means the person having control of the payment of the compensation. The term includes the United States, this state, other states and all agencies, instrumentalities, and subdivisions of any of them.

## MISSOURI - 1993

3. The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonable estimated to be due from the employee under sections 143.011 to 143.998 with respect to the amount of such wages included in his Missouri adjusted gross income during the calendar year.

4. For purposes of this section an employee shall be entitled to the same number of personal and dependency withholding exemptions as the number of exemptions to which he is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employee, except where the employee provides the employer with a form claiming a different number of withholding exemptions in this state.

5. The director of revenue may enter into agreements with the tax departments of other states (which require income tax to be withheld from the payment of wages) so as to govern the amounts to be withheld from the wages of residents of such states under this section. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the director of revenue, may relieve employers in this state from withholding income tax on wages paid to nonresidents employee. The agreements authorized by this subsection are subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

6. The director of revenue shall enter into agreements with the Secretary of the Treasury of the United States or with the appropriate secretaries of the respective branches of the armed forces of the United States for the withholding, as required by subsections 1 and 2 of sections 143.191, of income taxes due the state of Missouri on wages or other payments for service in the armed services of the United States or on payments received as retirement or retainer pay of any member or former member of the armed forces entitled to such pay.

7. Subject to appropriations for the purpose of implementing this section, the director of revenue shall comply with provisions of the laws of the United States as amended and the regulations promulgated thereto in order that all residents of this state receiving monthly retirement income as a civil service annuitant from the federal government taxable by this state may have withheld from any such moneys, whether pension, annuities or otherwise, an amount for payment of state income as required by state law, but such withholding shall not be less than twenty-five dollars per quarter. (L. 1972 S.B. 549, A.L. 1988 H.B. 1054, et.al) Effective 1-1-89

143.265. Retirement income, withholding authorized, when. Every resident receiving retirement income from an entity in this state and provided that such income is taxable by this state may have an amount withheld from such income as a payment of state income tax as required by state law. The entity administering such pension or retirement fund or program shall, upon written application from the recipient of such payments, deduct and withhold from such payments for each payment period an amount designated by the recipient, but such withholding shall not be less than ten dollars per month, and shall forward this amount to the

## MISSOURI - 1993

director of revenue as prescribed by section 143.221. (L1988 H.B. 1054, et al. SS 1).  
Effective 1-1-89

**TAX AUTHORITY:** Department of Revenue, Division of Taxation and Collection, P.O. Box 629, Jefferson City, Missouri 65105. (314) 751-4081.

## MONTANA - 1993

**STATE LAW:** Montana Code Annotated, Title 15, Sec. 15-30-101 et seq.

**TAXPAYERS: Residents -** A resident is any person domiciled in Montana, and any other person who maintains a permanent abode in the State although temporarily absent therefrom and who has not established a residence elsewhere. Residents who enter military service do not lose their Montana residence/domicile solely by being absent therefrom in compliance with military orders. Residents must file a Montana State income tax return if they: a) are single, b) qualify for Head of Household, or c) are married and choose to file separately, and their gross income, including active duty pay, exceeds \$1,750. If married and filing a joint return, a return must be filed if gross income, including active duty pay, exceeds \$3,490. These amounts are increased by \$1,750 for each additional exemption to which the taxpayer and spouse are entitled for age 65 and blindness.

### **NONRESIDENTS AND PART-YEAR RESIDENTS OF MONTANA -**

Nonresidents and Part-year residents are required to file a return if they had income, including active duty pay from Montana sources.

**FILING:** See "TAXPAYERS". If these requirements are met a Montana income tax return must be filed.

**MILITARY PROVISIONS:** (a) Compensation for active duty service as a member of the Armed Forces is exempt from Montana income tax, but must be reported. Federal filing requirements and the exclusions for military service compensation of POW/MIA person apply for Montana income tax purposes. Spouses of such persons are required to file returns by the regular due date.

**DESERT STORM PROVISIONS:** Military income earned by a guard or reserve member while on active duty in support of "Operation Desert Storm" is also not taxable. All members involved in Operation Desert Storm also have an automatic six month filing extension from the time they return from the area of operation. Any member claiming the benefit of the extension must clearly mark the words "Desert Storm" on the return.

[Note to practitioners: Montana has not published separate guidelines explaining the tax consequences to military members involved in Desert Storm. Any questions concerning a member's qualification for Desert Storm tax exemptions should be resolved by contacting the state tax authority, *infra*, for further specific guidance.]

**INCOME:** Montana adjusted gross income is the same as Federal adjusted gross income (Sec. 62, Internal Revenue Code) subject to the following adjustments:

**ADDITIONS TO INCOME** (a) Interest received on obligations of another state, or their political subdivision. (Interest income from Montana bonds is not taxable.) (b) Federal income

## MONTANA - 1993

tax refunds to the extent previous deduction of such tax resulted in a reduction of Montana income tax liability. (c) Certain other types of income may have to be adjusted. They included passive losses, IRA deductions, Social Security income, Capital losses, S Corporation income and losses. (d) See Montana Individual Income Tax Booklet for additional modifications.

**REDUCTION OF INCOME** (a) Installment sales of capital assets entered into before January 1, 1987 are eligible for a 40% capital gain exclusion. (b) If you are 65 or older, and filing single, separately, or head of household, you may exclude up to \$800 of interest income and up to \$1600 if married and filing jointly. (c) Interest income received on obligations of the United States Government is exempt for Montana purposes. (d) State income tax refunds included in your federal adjusted gross income are not taxable. (e) Agent orange payments are not taxable to Montana. (f) See Montana Individual Income Tax Booklet for additional modifications.

**CAPITAL GAINS AND LOSSES:** Capital gains are taxable in the same manner as under the Internal Revenue Code, with the following exceptions. Installment sales of capital assets which were entered into on or before January 1, 1987 are eligible for a 40% exclusion.

**DEDUCTIONS:** All items included in Sec. 161 and 211, Internal Revenue Code, are deductible as itemized deductions with the exception of state income taxes. Federal income tax is deductible. If spouses file separate returns, each must itemize deductions or each must claim the standard deduction. The Standard Deduction is 20% of the Montana adjusted gross income subject to the following maximum amounts.

Single persons or married persons filing separately....\$2,620  
Married filing jointly or Head of Household.....\$5,240

### EXEMPTIONS:

Individual ..... \$ 1400  
Spouse ..... 1400  
Blind or over 65 - Taxpayer or  
Spouse (additional)..... 1400  
Dependents (each)..... 1400  
Handicapped Child (additional)..... 1400

**CREDITS:** Residents are allowed a credit for taxes paid to other states, provided such states do not allow Montana residents a credit for amounts paid to Montana. Nonresidents receive no credit for taxes paid to their state of legal residence. Tax credits are also available for Elderly Care, Contractor's Gross Receipt Tax, Qualified Investment Credit, Installment of Nonfossil/Biomass/Geothermal Energy Systems, Energy Conservation Installations, Wind-Powered Generation Equipment and Investments in Montana Capital Companies,

## MONTANA - 1993

Physician Credit for Rural Practice, College Contribution Credit, and Recycling Credit. Further explanation of these credits can be found in the Montana Individual Income Tax Booklet.

### TAX TABLE:

If Taxable Income is:

Over	But not over	Multiply by	& Subtract
	\$1,700	x 2%	\$ 0
1,700	3,500	x 3%	17
3,500	7,000	x 4%	52
7,000	10,500	x 5%	122
10,500	14,000	x 6%	227
14,000	17,500	x 7%	367
17,500	24,400	x 8%	542
24,400	34,900	x 9%	786
34,900	61,100	x 10%	1,135
	61,100	x 11%	1,746

A 4.7% surtax has been enacted for 1993.

**PAYMENTS:** Return and payment in full are due on or before 15 April. Amounts shown to be due of one dollar or less need not be remitted, nor will refunds be issued for less than one dollar. A Declaration of Estimated Tax is required to be filed if your net income from sources not subject to withholding of Montana income tax is expected to exceed your net income from sources subject to withholding of tax.

**ESTIMATED TAX:** In most cases you must make estimated tax payments during the tax year if you expect to owe at least \$500, after subtracting any withholding and credits you may have. Estimated Income tax forms and instructions may be obtained from the address/phone number shown below.

**EXTENSIONS OF TIME FOR FILING:** (Note: Legislation has changed the requirements to obtain a Montana extension.) A six month extension for filing must be obtained by submitting form EXT-91. Use of this form is necessary to report the amount you and/or your spouse expect to owe. If required, attach your remittance to the Montana extension. When filing a calendar year return, extension requests must be postmarked by April 15. When filing a tax return with an extension, interest must be added to any tax due at a rate of 3/4% per month. No additional extensions will be granted.

## MONTANA - 1993

**RETIREMENT INCOME:** If your federal adjusted gross income is smaller than \$30,000, you may exclude up to \$3,600 of your retirement income. If you file married filing separately, the \$30,000 limit applies to each spouse separately. If your federal adjusted gross income is larger than \$30,000, you need to calculate the amount of your retirement exclusion by using the worksheet provided in the tax booklet. Premature distributions/early withdrawals do not qualify for a retirement exclusion. Retroactive application of Davis v. Michigan Department of Revenue: Goernor Racicot announced that Montana would pay refunds on 1988 amended returns since it has been determined the Department of Revenue provided incorrect advice on how to file that year's return. The Department encourages everyone who has not already filed a 1988 amended return to do so before April 15, 1994 which is the last day to file. The Governor will also present the question of whether refunds will be issued for tax years 1983 through 1987 to the Legislature since the U.S. Supreme Court case "Harper v. Virginia" left a question as to whether the State was obligated to pay refunds for 1983-1987.

**TAX AUTHORITY:** State of Montana, Department of Revenue, Income and Miscellaneous Tax Division, P.O. Box 5805, Helena, Montana 59604. (406) 444-2837

**TAX FORMS:** May be obtained from the above address/phone number.

## NEBRASKA - 1993

**STATE LAW:** Nebraska Revenue Act of 1967, as amended, Section 77- 2714 to 77-27,123 R.R.S. 1943.

**TAXPAYERS:** Residents of Nebraska required to file a Federal income tax return must file a Nebraska Individual Income Tax Return, Form 1040N. Nonresidents required to file a Federal income tax return, and who have income derived from or connected with Nebraska sources, must file a Nebraska Individual Income Tax Return, Form 1040N. Such income includes wages, salaries and income from partnerships, estates, trusts S Corporations or limited liability companies doing business in Nebraska. Part-year residents required to file a Federal income tax return, and who have income derived from or connected with Nebraska sources, must file a Nebraska Individual Income Tax Return, Form 1040N. Such income includes that listed above for nonresidents, and also interest and dividends received while residing in Nebraska.

**FILING:** See "TAXPAYERS" and "MILITARY PROVISIONS". When husband and wife (both of whom are either residents or nonresidents), have elected to file a joint Federal income tax return they are required to file a joint Nebraska return, or if they have elected to file separate Federal returns, they are required to file separate Nebraska returns. If one spouse is a resident and the other a nonresident for some part of the year, they may either file separate Nebraska returns or they may elect to file a joint Nebraska return if the couple has filed a joint federal return, in which case all income must be included as if both were residents. Where the resident and nonresident have filed a joint Federal return and elect to file separate Nebraska returns, all amounts on the separate Nebraska returns must be computed as if they filed separate Federal returns.

**MILITARY PROVISIONS:** Nebraska income tax is imposed on all the federal adjusted gross income of a Nebraska resident who is a member of the armed forces, regardless of where the income is received. A nonresident service member is not required to file a Nebraska income tax return if he/she has no income from Nebraska. Military pay received by a nonresident service member stationed in Nebraska is not taxed by this state. Income earned in Nebraska by a nonresident service member for employment not connected with military service is subject to Nebraska taxation. Income derived from Nebraska sources by a service member's spouse is subject to taxation. A service member's spouse living in Nebraska over six months is a resident. If the nonresident service member and the spouse who has become a resident file a joint Nebraska return, the service member has elected to have the service pay taxed by Nebraska. Internal Revenue Code provisions governing the following items are applicable for Nebraska income tax purposes:

- (i) Tax liability of service members who are POW/MIA (and their spouses);
- (ii) Disability and nondisability pay of retired Armed Forces personnel;

## NEBRASKA - 1993

(iii) Contributions to the Retired Servicemen's Family Protection Plan (RSFPP) and/or Survivor's Benefits Plan (SBP);

(iv) All other provisions concerning the tax liability of service members. See "INCOME EXCLUSIONS".

**DESERT STORM PROVISIONS:** In most cases, Nebraska law is the same as federal law on income exclusions and filing extensions for military service members outside the United States.

**Combat Pay Exclusion** - Military pay received by enlisted personnel while serving in the combat zone is exempt from Nebraska income tax. For commissioned officers, up to \$500 a month can be excluded from income. This exclusion also extends to periods of hospitalization resulting from injury or sickness suffered while serving in the combat zone. The wages shown in box 10 on a military service member's 1992 Wage and Tax Statement (Form W-2) should not include combat pay.

**Filing Extensions** - Members of the armed forces and support personnel serving in the combat zone will receive an automatic extension of time to file of 180 days after the later of:

- The last day in a combat zone (or the last day the area qualifies as a combat zone), or
- The last day of any continuous qualified hospitalization for injury from service in the combat zone.

In addition to the 180 days, filing deadlines are also extended by the number of days the individual had remaining to take action with the Nebraska Department of Revenue when he or she entered the combat zone. No penalty or interest will be charged during this period. Spouses of these military service members and spouses of support personnel who file a joint return are also covered by this provision.

To claim this extension, print "DESERT STORM" in bold letters at the top of the return when it is filed. This extension is effective August 2, 1990, or the date the individual entered the area designated as a combat zone, whichever is later. Reservists not serving in Operation Desert Storm/Desert Shield but called to active duty may be able to qualify for a deferment of payment on their back taxes, without interest, if their ability to pay has been severely impaired. Even if they do not meet this test, a reduced interest rate of 6% on taxes owed before they entered active service may be available upon request. For information on requesting such deferment, contact the department's taxpayer assistance office, *infra*.

**RESIDENTS:** "Resident" is defined as an individual who is domiciled in Nebraska, or maintains a permanent abode in Nebraska and spends more than six months of the tax year in the State. A non-resident is defined as an individual who is not a resident. A part-year resident is defined as an individual who either establishes or terminates residence during the tax year.

Military dependents may change their domicile and become residents upon moving into Nebraska, or the military dependents automatically become residents of Nebraska for income

## NEBRASKA - 1993

tax purposes six months after moving into Nebraska. Military dependents who become residents during the taxable year will file as partial-year residents.

**NOTE:** Military service pay can be taxed only by the state in which the service member is a legal resident (Soldiers' and Sailors Civil Relief Act). Legal residence at the time of entry into the Armed Forces is presumed to remain so until legal residence is established in another jurisdiction, service records are changed accordingly, and Nebraska revenue authorities are advised of the change.

**INCOME EXCLUSIONS:** Internal Revenue Code provisions governing Armed Forces pay while serving in a combat zone or area in direct support of a combat zone qualifying for hostile fire pay, are applicable for Nebraska purposes.

**NOTE:** Effective 2 September 1977, and pursuant to LB355, Nebraska authorized the withholding of State income tax from military pay.

**DEDUCTIONS:** None

**EXEMPTIONS:** None

**CHECK OFFS:** Individuals entitled to a refund of Nebraska income tax will be allowed to give some or all of that refund, by checkoff, to the Nongame and Endangered Species Fund.

**PAYMENTS:** Due on or before 15 April following the close of the tax year. Penalty for not filing a return is 5% per month of the balance due on the return, not to exceed 25% in the aggregate. Interest is charged at the rate of 7% per year from the due date of the return to the date of payment.

### NEBRASKA PERSONAL EXEMPTIONS

1993 - Has been replaced by \$65 personal exemption credit for each federal exemption.

### NEBRASKA STANDARD DEDUCTION

	1993	65 or blind	65 and blind
Single	\$ 3,700	\$ 4,600	\$ 5,500
Married			
Filing sep	3,100	\$ 3,800	\$ 4,500
HOH	5,450	\$ 6,350	\$ 7,250
Widow(er)	6,200	\$ 6,900	\$ 7,600
MFJ	6,200	\$ 6,900	\$ 7,600
if both are		\$ 8,300	\$ 9,000

## NEBRASKA - 1993

NEBRASKA TAX RATES ON NEBRASKA TAXABLE INCOME AFTER STANDARD DEDUCTION OR ITEMIZED DEDUCTIONS AS ADJUSTED, AND OTHER ADJUSTMENTS FROM FEDERAL ADJUSTED GROSS INCOME RATES FOR 1993:

### SINGLE TAXPAYER

If taxable income is:	The Nebraska tax is:
Over - but not over	
\$ 0 \$ 2,400	2.62% of taxable income
\$ 2,400 17,000	\$ 62.88 + 3.65% of the excess over \$ 2,400
\$ 17,000 26,500	\$ 595.78 + 5.24% of the excess over \$17,000
\$ 26,500 _____	\$1,093.58 + 6.99% of the excess over \$26,500

**\$65 personal exemption credit is phased out beginning at \$54,000 AGI**

### MARRIED TAXPAYERS FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The Nebraska tax is:
Over - but not over	
\$ 0 \$ 4,000	2.62% of taxable income
\$ 4,000 30,000	\$ 104.80 + 3.65% of the excess over \$ 4,000
\$ 30,000 46,750	\$1,053.80 + 5.24% of the excess over \$30,000
\$ 46,750 _____	\$1,931.50 + 6.99% of the excess over \$46,750

**\$65 personal exemption credit is phased out beginning at \$90,000 AGI**

### MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If taxable income is:	The Nebraska tax is:
Over - but not over	
\$ 0 \$ 2,000	2.62% of taxable income
\$ 2,000 15,000	\$ 52.40 + 3.65% of the excess over \$ 2,000
\$15,000 23,375	\$526.90 + 5.24% of the excess over \$15,000
\$23,375 _____	\$965.75 + 6.99% of the excess over \$23,375

**\$65 personal exemption credit is phased out beginning at \$45,000 AGI**

## NEBRASKA - 1993

### HEAD OF HOUSEHOLD

If taxable income is:		The Nebraska tax is:	
Over -	but not over		
\$ 0	\$ 3,800		2.62% of taxable income
\$ 3,800	24,000	\$ 99.56	+ 3.65% of the excess over \$ 3,800
\$24,000	35,000	\$ 836.86	+ 5.24% of the excess over \$24,000
\$35,000	_____	\$1,413.26	+ 6.99% of the excess over \$35,000

### **\$65 personal exemption credit is phased out beginning at \$75,000 AGI**

NOTE: If a return has never been filed there is no statute of limitations; therefore, a service member would be required to file commencing with the year 1968.

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Nebraska law. Under Nebraska law retirement benefits received by federal retirees are treated the same as retirement benefits received by retirees of State or local subdivisions of the State.

**TAX AUTHORITY:** Nebraska Department of Revenue, Box 94818, Lincoln, Nebraska 68509-4818. For tax assistance within the continental U.S.A: 1-800-742-7474; Forms can be obtained by calling 1-800-626-7899.

## NEVADA - 1993

Nevada currently does not have a state individual income tax. Nevada is a community property state.

## NEW HAMPSHIRE - 1993

**STATE LAW:** Revised Statutes Ann, Ch 77 et seq.

**TAXPAYERS:** Individuals who are inhabitants or residents of New Hampshire during any part of the year providing they received more than \$1,200 of taxable interest and/or dividend income for a single individual or \$2,400 of such income for a married couple. Joint returns are permitted.

**FILING:** See "TAXPAYERS". Military members are required to file a New Hampshire income tax return if after deductions and exemptions, there is taxable income.

**MILITARY PROVISIONS:** Military compensation is not taxed by New Hampshire.

**RESIDENTS:** Persons entering the Armed Forces from New Hampshire are regarded as permanent residents of the State wherever located (Letter from State Tax Commissioner, 12 December 1960).

**INCOME DEDUCTIONS:** There is no general income tax in New Hampshire. The sole taxable income is that derived from: (a) Interest from bonds, notes, money, with the exceptions of interest from notes and bonds of New Hampshire and its political subdivisions, as well as interest received from United States Treasury notes/bonds; interest income from New Hampshire and Vermont banks and credit unions; (b) Dividends on shares in corporations and stock companies organized in any state, except New Hampshire non-holding company banks. Earned income is not taxable. Annuities and retirement pay are not taxable.

**RATES:** 5%

**EXEMPTIONS:** (a) \$1,200 per taxpayer; (b) \$2,400 for married couples.

**CAPITAL GAINS OR LOSSES:** Gains are not taxable, and losses are not recognized. Capital gains distribution by mutual funds is not taxable as dividends or interest.

**CREDITS:** None

**PAYMENTS:** Return and payment due 15 April 1994. Penalty for not filing is 5% for each month or part thereof that the return is late (maximum 25%) or \$10.00 for each month or part thereof (maximum \$50) that the return is late, whichever is greater.

**TAX AUTHORITY:** State of New Hampshire, Department of Revenue Administration, P.O.

## NEW JERSEY- 1993

**STATE LAW:** New Jersey Gross Income Tax Act N.J.S. 54A:1-1.

**TAXPAYERS:** Residents are taxed on their entire gross income after deductions and personal exemptions. Nonresidents are taxed on their gross income only from New Jersey sources.

**FILING:** Gross income over \$3,000 if single or married and filing jointly (over \$1,500 for married persons filing separately); calendar year taxpayers must file on or before 15 April following the close of the calendar year. Fiscal year taxpayers must file on or before the 15th day of the 4th month following the close of the fiscal year.

**RESIDENTS:** Resident is defined as an individual who is: (a) Domiciled in New Jersey, or (b) If not domiciled, has a permanent place of abode in New Jersey and spends more than 183 days of the tax year in the State.

**NOTE:** A New Jersey domiciliary will be treated as a nonresident if: (a) He/she has no permanent place of abode in New Jersey, (b) Spends no more than 30 days of the tax year in New Jersey, and (c) Has a permanent place of abode outside the State. Division of Taxation takes the position that a service member maintaining an apartment or house for himself/herself and family in another state, whether the dwelling is on a military base or private property, is a permanent place of abode, but that barracks, bachelor officers quarters and billets are not.

**MILITARY PROVISIONS:** (a) Members of the Armed Forces who are domiciliaries of New Jersey are subject to income tax regardless where their income is earned -- compensation for military service paid by the United States to nondomiciliaries of New Jersey is excluded from gross income. However, nonmilitary income received from New Jersey sources by a nondomiciliary service member, the spouse or by members of the family is subject to income tax; (b) Mustering-out pay is excluded for both the domiciliary and nondomiciliary service member; (c) Members of the Armed Forces serving in a designated combat zone, or recovering from injuries or a disease incurred in such zone, have 180 days after the end of service in such zone, or after the end of hospitalization, to comply with the tax law. Members of the Armed Forces who die while serving in a combat zone as a result of injury or disease while so serving, are relieved of any income tax with respect to the tax year in which falls the date of death, or with respect to any prior tax year ending on or after the first day he/she so served in a combat zone; (d) Dependents of military members -- because of the ambiguities and present incomplete development of the law, separate coverage is provided in attached NOTE 1 through NOTE 4, INFRA.

**DESERT STORM PROVISIONS:** Members of the Armed Forces of the United States and civilians providing support to the Armed Forces who are serving in a designated combat zone or were hospitalized outside the United States as a result of an injury received while serving in

## NEW JERSEY- 1993

a combat zone are granted an extension of time for filing individual income tax returns and paying tax for the period of combat service or hospitalization, plus 180 days. This extension is also granted to such taxpayer's spouse who files jointly. No penalty, interest or addition to tax will be assessed for late filing or late payment of the tax pursuant to this section.

**ITEMS TAXED:** In New Jersey, gross income consists of the following categories: (1) Salaries, wages, tips, fees, commissions, bonuses, and other remunerations received for services rendered; (2) Net profits from operation of business or profession; (3) Net gains on income from disposition of property (NOTE: There is no 50% deduction for long-term capital gains); (4) Net rents, royalties, patents and copyrights; (5) Interest; (6) Dividends (NOTE: There is no \$100 exclusion); (7) Gambling winnings; (8) Income from estates and trusts; (9) Income in respect of a decedent; (10) Pensions and annuities; (11) Alimony and separate maintenance; (12) Income from partnerships; (13) Rental value of a residence furnished by an employer; (14) Prizes and awards.

**EXCLUSIONS:** Federal Social Security Benefits; Railroad Retirement Act payments; proceeds of life insurance contracts; employees' death benefits; property acquired by a gift or inheritance (but not income derived therefrom); workman's compensation recovery and damages for personal injury or sickness; disability benefits and unemployment insurance benefits; amounts received as scholarship or fellowship grants; New Jersey lottery winnings; gains on sale of principal residence (follows Federal income tax law); interest on obligations issued by New Jersey and its political subdivisions and those that are tax-free under the laws of the United States; pensions received for personal injuries or sickness resulting from active service in the Armed Forces of the United States or as paid under any public or private plan by reason of total and permanent disability; employees' contributions, plus \$10,000 if married and filing jointly, \$5,000 for married persons filing separately, \$7,500 for single taxpayers and heads of households if taxpayer is 62 years of age or older or disabled under social security; distributions from an employee's trust which are rolled over for Federal Internal Revenue purposes; other retirement income received by qualified persons which does not exceed a total per return of \$1,000, married filing jointly; \$5,000 married filing separately; and \$7,500 for a single taxpayer and heads of households when combined with pension exclusion if taxpayer is 62 years of age or older; a special exclusion from gross income of \$6,000 married filing jointly and heads of households and \$3,000 married filing separately or single taxpayers, for persons who are not covered by either social security benefits or railroad retirement benefits but would be eligible if covered thereby.

On 11 December 1987, Assembly Bill No. 274, P.L. 1987, c. 310 which was made retroactive to 1 January 1987, amended the New Jersey Gross Income Tax Act to exclude from gross income distributions paid by a mutual fund which is invested in obligations issued by New Jersey and its political subdivisions and those that are tax free under the laws of the United States. This exclusion from gross income is available provided that the fund has no investments other than interest bearing obligations, obligations issued at a discount, and cash, and not less

## NEW JERSEY- 1993

than 80% of the fund's investments are in obligations which are exempt under the Gross Income Tax Act. No personal income tax will be levied on payments received under the Railroad Retirement Act, both Tier 1 and Tier 2 income.

**DEDUCTIONS:** Alimony and separate maintenance payments; medical expenses in excess of 2% of New Jersey gross income. Losses can only offset income within the same category. Loss carry forward or carry back is not allowed.

**EXEMPTIONS:** \$1,000 for (1) Taxpayer; (2) Spouse not filing separately; \$1,500 for each dependent who qualifies as such for Federal income tax purposes. An additional \$1,000 for: (1) Taxpayer 65 or over; (2) Taxpayer blind or disabled; (3) Spouse 65 or over; and (4) Spouse blind or disabled.

**NOTE:** Nonresidents are allowed the same personal exemptions but must apportion their total income, if total income from all sources exceeds New Jersey income by more than \$100. For 1993, the exemption for dependents is \$ 1,500.

### TAX RATES:

New rates for: Married Individuals Filing Jointly,  
Head of Household, or  
Surviving Spouse

Over	Not Over	Rates
.....	\$20,000	2%
\$20,000	\$50,000	\$400 plus 2.5% of the excess over \$ 20,000
\$50,000	\$70,000	\$ 1,150 plus 3.5% of the excess over \$ 50,000
\$70,000	\$80,000	\$ 1,850 plus 5.0% of the excess over \$ 70,000
\$80,000	\$150,000	\$ 2,350 plus 6.5% of the excess over \$ 80,000
over	\$150,000	\$ 6,900 plus 7.0% of the excess over \$ 150,000

New rates for:

Unmarried Individuals, or  
Married Individuals Filing Separately

Over	Not Over	Rates
.....	\$20,000	2%
\$20,000	\$35,000	\$400 plus 2.5% of the excess over \$ 20,000
\$35,000	\$40,000	\$ 775 plus 5.0% of the excess over \$ 35,000
\$40,000	\$75,000	\$ 1,025 plus 6.5% of the excess over \$ 40,000
over	\$75,000	\$ 3,300 plus 7.0% of the excess over \$ 75,000

## NEW JERSEY- 1993

**CREDITS:** A credit for income or wage taxes paid to other States or their political subdivisions.

**HOMESTEAD TAX RELIEF:** Taxpayers will be able to apply for a Homestead Property Tax rebate on the 1991 NJ-1040, provided their gross income does not exceed \$ 100,000. Application for the rebate is called the HR-1040.

Under the rebate program, residents who pay property taxes on their homesteads, either directly or through rent, will receive a rebate, provided that their gross income does not exceed \$100,000 (Gross income means all income required to be reported under the Gross Income Tax Act, reduced by all authorized income exclusions).

The law gives qualified homeowners a minimum rebate of \$150 if their gross income is \$70,000 or less. Homeowners will receive a rebate of \$100 if their income is over \$70,000 but not over \$100,000. Tenants will receive a minimum rebate of \$65 if their gross income is \$70,000 or less, a rebate of \$35 if their gross income is over \$70,000 but not over \$100,000. All taxpayers who are married filing separately and who maintained the same residence as their spouse must combine their income with their spouse's when determining the rebate to which they are entitled. Such taxpayers will be entitled to one-half of the specified rebate amount. The rebate program provides certain claimants with a rebate of up to \$500. Taxpayers whose gross income is \$70,000 or less (\$35,000 for single taxpayers or taxpayers who are married filing separately and maintained a different residence from their spouse) and who paid property tax or rent constituting property tax that exceeds 5% of gross income, will receive a rebate equal to either the amount over 5% of gross income or \$500, whichever is less. If the amount by which the claimant's property taxes or rent constituting property taxes exceeds gross income is less than \$150 for homeowners or \$65 for tenants then the claimant will be entitled to the minimum rebate.

Special legislative limitations were adopted for the 1991 and 1992 tax years which restricted rebates to those who are not 65 years of age or more, or disabled or blind. Homeowners who fell into that classification were given a \$90 rebate if gross income was \$40,000 or less and tenants who fell into that category were given a \$30 rebate if gross income was \$40,000 or less. If gross income exceeded \$40,000, no rebate was allowed.

**NOTE:** Effective 1 January 1978, the State of New Jersey and the Commonwealth of Pennsylvania entered into a reciprocal income tax agreement whereby compensation for services rendered in the other jurisdiction is only subject to income tax in the taxpayer's state of residence -- either New Jersey or Pennsylvania.

The following notes pertain to the New Jersey gross income tax.

**NOTE 1:** The State of New Jersey has enacted a Gross Income Tax Act (L. 1976, c.47). Since its enactment, several areas in regard to members of the military and their dependents

## NEW JERSEY- 1993

have been in need of interpretation.

**NOTE 2:** Section 54A:5-1(m) would appear to indicate that the housing allowances received by members of the military are a part of their gross income for New Jersey income tax purposes. However, it has been indicated by the Office of the Director of the New Jersey Division of Taxation that these allowances or their value to those who live in on-base housing or government leased housing are nontaxable.

**NOTE 3:** By statutory definition, a military member who is a domiciliary of another state is classified as a nonresident. However, it has been unclear whether the spouse who has New Jersey income should file a resident or a nonresident tax return. Under the statute, as it is presently enacted, it would appear that the spouse should file a separate resident tax return (see 54A:8-3.1 and 54A:1-2-m(2)). If the military member has a part-time job in New Jersey he/she should file a nonresident tax return. Therefore, you would have a situation where one spouse files a nonresident and the other files a resident form for the same taxable year. In general, the Division has taken the position that the nonmilitary spouse (who is a domiciliary of another state) will not be considered a resident for New Jersey income tax purposes if she/he lives on a military base with her/his military spouse. However, such nonmilitary spouse could be considered a resident if she/he maintains a permanent place of abode in New Jersey and spends more than 183 days in New Jersey during the tax year.

**NOTE 4:** Until specific regulations are written, military members and their dependents should be cautioned to seek advice from their tax advisors, because each will have an individual fact pattern which will have to be considered. Taxpayers who file individual income tax returns and pay gross income tax late should attach a statement to the return which indicates their qualification for the tax relief granted pursuant to this section. The Director may request supporting information.

**TAX AUTHORITY:** State of New Jersey, Division of Taxation, 50 Barrack Street, CN 269, Trenton, New Jersey 08646. (609) 292-5185.

## NEW MEXICO - 1993

**STATE LAW:** New Mexico Stats. Sec. 7-1-1 through 7-5-7.

**TAXPAYERS:** Every resident who is required to file a Federal income tax return must file a New Mexico income tax return. Every nonresident who is required to file a Federal income tax return and who has income from New Mexico sources must file a New Mexico income tax return. This is a community property state.

**MILITARY PROVISIONS:** There is no provision in New Mexico law expressly exempting a service member's compensation or veterans benefits from taxation. However, most income exempt under the Internal Revenue Code is exempt from New Mexico taxation. See "Income Exclusions".

**DESERT STORM PROVISIONS:** New Mexico honors the federal tax filing extension for 1990 taxes only. No penalty or interest is imposed on returns filed within the extended (federal) due date.

**RESIDENTS:** Every person domiciled in New Mexico during any part of the tax year. Any person who on or before the last day of the tax year changes his/her place of abode to another state with the bona fide intention of continuing to actually abide permanently out of New Mexico, shall be taxed as a nonresident on that portion of his/her income derived within the State.

**INCOME EXCLUSIONS:** New Mexico base income equals federal adjusted gross income as defined under Section 62 of the Internal Revenue Code, as amended or renumbered, plus net operating loss deductions, plus income from federally-tax-exempt (municipal) bonds (note: subsequent deductions are allowed for a state net operation loss carryforward amount, and for certain municipal bond income). (Retired Serviceman's Family Protection Plan (RSFPP) and Survivor's Benefit Plan (SBP) exclusions apply). Taxable income is derived as follows:

New Mexico uses the same amounts as the Federal Standard Deduction and personal exemption, including the Federal "additional standard deduction" for persons age 65 and over or blind.

Subtract -- (a) personal exemption amount allowed for federal purposes; (b) greater of standard deduction of \$6,200 for married persons filing jointly, \$5,450 for head of household filing status, \$3,700 for single individuals and \$3,100 for married persons filing separately; or itemized deductions equal to total federal itemized deductions allowed. New Mexico allows exemption and deduction amounts "allowed" for federal purposes; therefore, higher-income taxpayers who, for federal purposes, have their exemption and deduction amounts reduced by the AGI phase-out reduction will be treated the same for state purposes.] (c) income not taxable by the State, such as interest on obligations of the United States; (d) up to \$8,000 of

## NEW MEXICO - 1993

income for persons 65 years of age or older (the amount excluded depends on the adjusted gross income of the taxpayer and decreases from \$8,000 for: (1) married filing jointly with AGI of \$30,000 or less and (2) AGI of \$18,000 or less for single individuals, to \$0 for: (1) married filing jointly with an AGI of \$51,000 or more and (2) AGI of \$28,500 or more for single individuals); (e) certain railroad retirement income taxable under Federal law; (f) \$2,500 (1,250 married filing separate returns) per year, per child for any individual who has adopted a "special needs" child.

New residents also see "CREDITS"

**RATES:** New Mexico has a detailed tax rate schedule for: (a) Single individuals, (b) Head of household, and married individuals filing jointly; and (c) Married individuals filing separate returns.

**INCOME:** New Mexico income tax is based on the taxpayer's Federal adjusted gross income less Federal personal exemption and standard deduction amounts. Any itemized deductions allowed on a taxpayer's Federal income tax return will be allowed on the New Mexico return. Note: New Mexico does not allow income averaging, although a special averaging method is allowed for lump sum income reported on Federal Form 4970 or 4972.

**DEDUCTIONS:** Deductions, include a State Standard Deduction (equal to Federal standard deduction amount) or total itemized deductions allowed under the Internal Revenue Code. See Income Exclusions for other allowable deductions from New Mexico base income.

**EXEMPTIONS:** Same as under the Internal Revenue Code. Also, an individual aged 65 years or older (or blind) may claim a deduction in an amount up to \$8,000 of net income, depending on filing status and adjusted gross income. (Sec. 7-2-5.2, N.M.S.A. 1978).

**CAPITAL GAINS AND LOSSES:** New Mexico base income is essentially Federal adjusted gross income. Therefore, insofar as capital gains and losses are reflected in a taxpayer's Federal base income, they will also be reflected in his/her New Mexico adjusted gross income.

**MUNICIPAL BOND INTEREST AND DIVIDEND INCOME (Federally Tax Exempt)** Interest and dividends received from tax-exempt municipal bonds issued by other states and their local governments must be added back to federal adjusted gross income when determining New Mexico base income (see income exclusions). However, income from bonds issued by New Mexico, Puerto Rico, Guam and other U.S. possessions (and their political subdivisions) are not includable as taxable income in New Mexico.

## NEW MEXICO - 1993

### NON-REFUNDABLE CREDITS:

(1) **Tax Paid Other States:** Residents receive credit for taxes paid to other states (not cities) on income subject to taxation in both New Mexico and other states so long as the credit does not exceed 5.5% of such taxable income. In other words, credit is available for income subject to tax in two states ("double-taxed" income), such as a New Mexico resident with a California-source pension.

(2) Nonresidents receive tax credit in the proportion that their out-of-state income bears to their New Mexico income. For first-year residents, the law states that: "... during the first taxable year in which an individual incurs tax liability as a resident, only income earned on or after the date he became a resident, and, in addition, income earned in New Mexico while nonresident of New Mexico shall be allocated to New Mexico ..." for tax purposes.

(3) **Historic Property Preservation Credit:** A credit of 50% of eligible costs, not to exceed \$25,000, is allowed for costs of preserving or restoring a property listed on the New Mexico register of cultural properties.

### REFUNDABLE CREDITS AND REBATES:

(1) **CHILD DAY CARE REBATE:** A refundable credit of 40% of the costs of day care services for eligible dependents is available for low-income working individuals. The maximum credit allowable is \$1,200.

(2) **LOW-INCOME COMPREHENSIVE TAX REBATE:** This rebate is intended to return to taxpayers at or below the poverty level a portion of the total State taxes paid by them. The rebate amount varies from \$5 to \$375. The rebate is claimed by filing an income tax return (and supporting schedule) and may be claimed even if no income tax is due. For the purposes of this rebate the allowable exemptions are those allowed for federal tax purposes for each individual domiciled in New Mexico plus two for each individual 65 or over or blind. Allowable exemptions (i.e. household size) for LICTRebate.

(3) **PROPERTY TAX REBATE FOR LOW INCOME PERSONS 65 OR OLDER:** A 65 or older to partially offset property taxes paid on owned or rented residential property in New Mexico.

**PAYMENTS:** Return and payment due 15 April for calendar year filers or by the 15th day of the fourth month following the close of the fiscal year for fiscal year filers.

New Mexico accepts an extension of time granted by the Internal Revenue Service if a copy of the extension is attached to the return. If no Federal extension has been granted, an Application for Extension of Time to File a New Mexico Return, RP-27 Form, must be submitted to the New Mexico Revenue Division on or before the due date of the return.

**REFUNDS AND REFUND INTERCEPTS:** Refunds may be voluntarily contributed to any of the following:

- 1) New Mexico Game Protection Fund;
- 2) Veterans National Cemetery Fund (to purchase additional land to expand the Santa Fe

## NEW MEXICO - 1993

National Cemetery); and

- 3) Substance Abuse Education Fund;
- 4) New Mexico Forest Re-Leaf program;
- 5) New Mexico Political Parties (limit of \$2 per person).

Refunds may be intercepted and paid over to the state or federal governments for:

- 1) Delinquent child support payments;
- 2) Federal educational loan payments;
- 3) Over payments of public assistance or food stamps;
- 4) Over payments of benefits or unpaid contributions (taxes due) under the unemployment compensation law;
- 5) Outstandings fines issued by the Bernalillo County Metropolitan Court.

### NOTE:

**Interest --** If New Mexico income tax is not paid when due, the taxpayer is liable for interest at the rate of 15% per year or 1 1/4% per month. A fraction of a month is treated as a full month. Interest will accrue without regard to any extension of time for filing. (Except for Desert Storm).

**Penalty --** In case of failure to pay any tax owed due to negligence or disregard of rules and regulations, but without intent to defraud, a penalty of 2% per month or fraction thereof from the date the tax was due or from the date the return was required to be filed (not to exceed 10%) will be added. In addition to civil penalties, any individual or person who makes a false statement or who commits fraud will, upon conviction, be fined not more than \$5,000, or imprisoned not less than 6 months or more than 3 years, or both, together with prosecution costs.

### RETIREMENT INCOME:

Tax year 1990 and all subsequent tax years:

All pension and retirement income (excluding certain railroad retirement and social security income) is fully taxable, pursuant to 1990 legislation. Thus, the full amount of federal civil service, federal military and other federal retirement system pensions is now fully taxable.

Tax year 1989: All state, federal civil service and military retirement income is fully exempt from taxation, pursuant to Taxation and Revenue Department policy.

## NEW MEXICO - 1993

Tax years 1985 through 1988:

All taxes previously imposed on federal civil service and military retirement income are subject to refund for a period of three years from the date the tax return was due, pursuant to the State District Court summary judgement in the class action suit, Robert L. Burns, et al. v. State of New Mexico, et al., Santa Fe County Cause No. SF-1314C.

TAX AUTHORITY: State of New Mexico, Taxation and Revenue Department, P.O. Box 630, Santa Fe, New Mexico 87509-0630. (505) 827-0700

## NEW YORK - 1993

**STATE LAW:** New York Tax Law, Article 22, Sec. 601 et seq.

### **TAXPAYERS:**

(1) Every resident must file New York returns if: (a) they are required to file a Federal income tax return; or (b) they are subject to the minimum tax or the separate tax on lump sum distributions; or (c) the sum of their federal adjusted gross income and New York addition modification is more than \$4,000, or (d) the sum of their federal adjusted gross income and New York addition modification is more than their standard deduction (if that deduction is under \$4,000) or you want to claim a refund of any New York state, City of New York or City of Yonkers income taxes withheld from your pay.

(2) Every nonresident who has income from New York sources and the sum of the federal adjusted gross income and New York addition modifications is more than the New York standard deduction are subject to the minimum tax; or are subject to the separate tax on lump-sum distributions.

**FILING:** See "TAXPAYERS". If these requirements are met a New York Income tax return must be filed.

### **New Income Tax Rates for Taxable Years Beginning After 1989**

Chapter 190 of the Laws of 1990 amended various sections of the New York State Tax Law to establish new tax rates to be imposed on individuals, estates and trusts. The new law, explained below, applies to taxable years beginning after 1989.

The Tax Reform and Reduction Act of 1987 enacted a four-year personal income tax reduction. Under the act, the top tax rate was to have been reduced in each of the four years, ultimately reaching 7% for taxable years beginning after 1990. Chapter 190 amended the law to delay the tax rate cut scheduled for 1990, and then to phase in the remaining tax rate reduction over a four-year period beginning in 1991. As a result, the rates that were in effect for 1989 will also apply to 1990, and the top rate of 7% will be effective for taxable years beginning after 1993.

## NEW YORK - 1993

The new tax rate schedules are shown on the following pages.

1993

New paragraph (1) of sections 601(a), (b) and (c) establishes new tax rate schedules effective on the first day of the fourth month of a taxpayer's taxable year beginning in 1993. For implementation purposes, section 699 provides that the 1993 income tax is to be computed using the following schedules:

### Married Filing Jointly and Surviving Spouse

If the New York taxable income is:

over	not over	tax
\$ 0	\$14,000	5.125% of amount over \$ 0
14,000	28,000	\$718 plus 6.125% 14,000
28,000 .....		1,575 plus 7.125% 28,000

### Single, Married Filing Separately and Estates and Trusts

If the New York taxable income is:

over	not over	tax
\$	\$ 7,000	5.125% of amount over \$ 0
7,000	14,000	\$359 plus 6.125% 7,000
14,000	.....	788 plus 7.125% 14,000

### Head of a Household

If the New York taxable income is:

over	not over	tax
\$ 0	\$ 9,000	5.125% of amount over \$ 0
9,000	20,000	\$461 plus 6.125% 9,000
20,000		....1,135 plus 7.125% 20,000

## NEW YORK - 1993

1994 and thereafter:

For taxable years beginning after 1993 there are two income tax rates and two income tax brackets. The income tax for years 1994 and thereafter is to be computed using the following schedules:

### Married Filing Jointly and Surviving Spouse

If the New York taxable income is:

over            not over    tax

\$ 0	\$27,000	5.5% of amount over \$ 0	
27,000		..... 1,485 plus 7%	" " " 27,000

### Single, Married Filing Separately and Estates and Trusts

If the New York taxable income is:

over            not over    tax

\$ 0	\$12,500	5.5% of amount over \$ 0	
12,500	..... \$688	plus 7%	12,500

### Head of a Household

If the New York taxable income is:

over            not over    tax

\$ 0	\$19,500	5.5% of amount over \$ 0	
19,500	.....\$1,073	plus 7%	" " " 19,500

### MILITARY PROVISIONS:

A person entering military service from the state of New York is considered to continue to be a New York domiciliary and therefore is required to file a resident return and pay any tax due. A New York state resident's military pay is taxable in the same way it is taxable on a federal return. Likewise, disability pensions and any other benefits granted for the relief of injured or disabled veterans, as well as tuition payments, subsistence allowances and any other benefits paid to, or on account of, a veteran or beneficiary under the laws relating to veterans, are treated the same for New York tax purposes as for federal tax purposes. If these amounts are excluded from gross income for federal income tax purposes, they are not subject to New York State income tax. Further, a New York resident does not pay income tax on military compensation if the member meets all three conditions in Group A or Group B:

## NEW YORK - 1993

### Group A:

1. The member did not maintain any permanent place of abode in New York during the taxable year; and
2. The member maintained a permanent place of abode outside New York during the entire taxable year; and
3. The member spent 30 days or less in New York during the taxable year.

### Group B:

1. The member was in a foreign country for at least 450 days during any period of 548 consecutive days; and
2. During the 548 consecutive days, the member did not spend more than 90 days in New York and did not maintain a permanent place of abode in New York at which the member's spouse (unless legally separated) or minor children spent more than 90 days; and
3. During the nonresident portion of the taxable year in which the 548-day period either begins or ends, you were present in New York for no more than the number of days that bears the same ratio to 90 as the number of days in such portion of the taxable year bears to 548. That is:

$$\frac{\text{number of days in the nonresident portion}}{548} \times 90 = \text{maximum number of days allowed in New York}$$

Members who meet the conditions in either Group A or Group B, above, are considered a nonresidents for the taxable year and not subject to tax on their military compensation. If a member's domicile was not New York when they entered the military and they were later assigned to active duty in New York state, then the member does not become a New York State resident by reason of their assignment and their military compensation is not subject to New York tax. However, other income received from New York sources while the member is a nonresident (including a spouse's income) may be subject to tax. Earnings from a member's off-duty employment is subject to tax. Income or gain from property located in New York or from a business, trade or profession carried on in the state is also subject to tax. [For further information on nonresident and part-year resident income tax returns, get IT-203-P, Nonresident and Part-Year Resident Income Tax Return Packet.]

New York state residents' military pay is subject to withholding of New York income tax. Members who believe that the conditions of Group A or B apply to them may obtain Form IT-2104-MS, New York State Withholding Exemption Certificate for Military Service Personnel, from the state tax department or Department of Defense Form 2058-1, State Income Tax Exemption Certificate and file it with the members' military finance office. (Do not send it to New York).

### DESERT STORM PROVISIONS:

New York State will conform to the federal tax relief provisions granted to members of the armed forces and support personnel serving in Operation Desert Storm. This includes:

## NEW YORK - 1993

- Filing extensions until at least 180 days after departure from the Persian Gulf with no penalty or interest charges. The deadline for payment of taxes is similarly extended. (These relief measures also apply to the member's spouse.)
- Effective January 1, 1991, exemption of military pay received from New York State taxation for enlisted personnel and \$500 income per month exclusion for commissioned officers while serving in the combat zone (including hospitalization resulting from injury while serving in the combat zone).
- The words "DESERT STORM" should be written at the top of an audit or collection notice, as well as on the member's 1990 and 1991 tax returns and envelopes.

**FILING DEADLINES:** Military members have the same filing deadlines as other New York residents; that is, as soon as possible after January 1, 1992, but not later than April 15, 1992. If the member is stationed in a foreign country when the return is due, the member qualifies for an automatic two-month extension, to June 15, 1992. The member does not have to apply or request this extension, but must attach a statement of eligibility with the return.

### **FEDERAL PENSIONS:**

Chapter 664 of the Laws of 1989 amended the Tax Law and the Administrative Code of the City of New York to exempt federal pensions from New York State personal income tax, New York City personal income tax and the Yonkers income tax surcharge. This legislation was enacted in response to the United States Supreme Court decision in *Paul S. Davis v. Michigan Department of Treasury*, which held that states such as New York that exempt pensions of their own employees from income taxes must provide a similar exemption to employees of the federal government. The new exemption also applies to the New York State and New York City separate taxes on lump sum distributions.

Chapter 664 amended sections 612(c)(3) of the Tax Law and 11-1712(c)(3) of the Administrative Code to allow a new subtraction from federal adjusted gross income to arrive at New York adjusted gross income. The subtraction is for the amount of pensions paid to officers or employees, or their beneficiaries, of the United States, any territory or possession or political subdivision of such territory or possession, the District of Columbia, or any agency or instrumentality of any of the foregoing (including the military), to the extent the pension payments were included in gross income for federal income tax purposes.

The new law applies to federal pension payments received on or after January 1, 1989. Therefore, New York State will not issue refunds for prior years even where the statute of limitations has not expired.

However, two pending New York Supreme Court cases may result in the state being required to issue refunds for prior years. Pending the outcome of this litigation, taxpayers have the right to file protective claims for refund for all open years on Form IT-113X. If a taxpayer's refund claim is denied, the taxpayer must file a petition with the Commissioner of Taxation and Finance in order to

## NEW YORK - 1993

preserve his or her refund rights.

**ESTIMATED PAYMENTS:** Returns and payment in full due 15 April. A New York state resident, or a nonresident who derives income from New York sources is required to make estimated tax payments if: (1) they expect the withholding to be less than 90% of the tax shown on their 1993 return and less than 100% of the tax shown on their 1992 return (if that return covered all 12 months), and (2) they expect to owe, after withholding and credits, at least \$100 of either New York state, City of New York, or City of Yonkers tax for 1992. If the 1992 return is filed by 1 February 1993 and the full amount of tax due is paid, the taxpayer does not have to make the estimated payment that would otherwise be due on 15 January 1993.

**TAX AUTHORITY:** State of New York, Department of Taxation and Finance, State Campus, Albany, New York 12227 For tax assistance within New York, call 1-800-225-5829; outside New York, call 1-800-438-8581.

## NORTH CAROLINA - 1993

**TAXPAYERS:** Residents and part-year residents are required to file North Carolina income tax returns if they are required to file Federal income tax returns for the taxable year, excluding the applicable Federal Standard deduction and personal exemption adjustments. Every nonresident who derives income from North Carolina sources is required to file a North Carolina income tax return if he is required to file a Federal income tax return for the taxable year, excluding the applicable Federal standard deduction and personal exemption inflation adjustments.

**FILING:** If these requirements are met an income tax return must be filed. A husband and wife must file a joint return if:

(a) Their Federal taxable income is determined on a joint Federal return; and, (b) Both spouses are residents of this State or both spouses have income from sources within this state. On joint returns, both spouses are jointly and severally liable for the tax due. However, if a spouse has been relieved of any liability for Federal income tax as an "innocent spouse" for tax attributable to a substantial understatement of income by the other, the "innocent spouse" would not be liable for the State income tax attributable to such understatement by the other spouse.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of North Carolina but maintain an abode in another jurisdiction are subject to North Carolina income tax (See "RESIDENTS"); (b) Military pay is taxable. Since the law does not permit filing of joint returns, the tax liability of a service member's spouse is computed the same as any other taxpayer; (c) Military disability pay is not taxable; (d) An amount not to exceed \$4,000 received by a taxpayer during any year as retirement or retainer pay as a result of service in the Armed Forces of the United States is exempt from North Carolina income tax.

### **DESERT STORM PROVISIONS:**

North Carolina follows the federal rule on excluding all military pay from an enlisted member's income for any month served in a combat zone, with an exclusion of the first \$500 per month military pay for commissioned officers. Military personnel performing duties outside the combat zone in direct support of Operation Desert Storm also qualify for the exclusions if the duties are under circumstances qualifying for hostile fire pay. North Carolina also precludes the accrual of interest during the period a member of the armed forces serves in the combat zone or is hospitalized as a result of wounds, disease, or injury sustained while serving in the combat zone.

Members of the armed forces serving in the combat zone and qualifying support personnel will be granted extensions of 180 days after they leave the combat zone or are dismissed from a hospital outside the United States to file their State income tax returns. Extensions of more than 180 days will be granted if a longer extension has been granted for federal income tax purposes or upon a showing of reasonable cause supporting the request for an additional

## NORTH CAROLINA - 1993

extension.

In addition, examinations of state income tax returns of military personnel assigned to Operation Desert Storm and actions to collect any back taxes owed by these taxpayers for years prior to 1990 will also be suspended until at least 180 days after the taxpayer leaves the combat zone. A statement should accompany the income tax return when filed stating the dates the individual was stationed in the combat zone. These extensions also apply to the spouses of military personnel serving in Operation Desert Storm.

**RESIDENTS:** N.C. Gen. Stat. @ 105-134.1 (1992)

105-134.1. Definitions

(12) Resident. -- An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

To change legal residence, a serviceman must not only be present in the new location with the intention of making it his domicile, but must also factually establish that he has done so.  
**FILING STATUS AND TAX RATES:** N.C. Statutes 105-134.1 through 105-134.8 require a taxpayer to calculate his income tax liability on his North Carolina taxable income based on filing status and tax rates as follows:

(a) married filing a joint return and surviving spouses:

6 percent of North Carolina taxable income up to \$21,250;

7 percent on \$21,250 up to \$100,000;

7.75 percent on amounts over \$100,000.

(b) heads of households:

6 percent of North Carolina taxable income up to \$17,000;

7 percent on \$17,000 up to \$80,000 7.75 percent on amounts over \$80,000

(c) unmarried individuals other than surviving spouses and heads of households:

6 percent of North Carolina taxable income up to \$12,750;

7 percent on \$12,750 up to \$60,000;

7.75 percent on amounts over \$60,000.

(d) married individuals who do not file a joint return:

## NORTH CAROLINA - 1993

6 percent of North Carolina taxable income up to \$10,625;  
7 percent on \$10,625 up to \$50,000;  
7.75 percent on amounts over \$50,000.

**TAXABLE INCOME STARTING POINT:** The starting point in determining North Carolina taxable income is taxable income for Federal income tax purposes determined under the Internal Revenue Code in effect as of January 1, 1989, but not including the inflation adjustments to the standard deduction for taxable years beginning after 1988 and to the personal exemption for taxable years beginning after 1989.

**ADDITIONS TO TAXABLE INCOME:** Federal taxable income must be increased for the following additions:

- (a) Interest received upon obligations of states other than North Carolina and their political subdivisions;
- (b) Any amount allowed as a deduction from gross income that is taxed by a separate tax under the Internal Revenue Code. This would include lump-sum distributions from certain employees' retirement plans which a taxpayer may elect to exclude from taxable income in the regular tax computation and compute the tax separately using the favorable ten-year or five-year forward averaging rules.
- (c) State, local, and foreign income taxes deducted on the Federal return; and
- (d) The standard deduction and personal exemption inflation adjustments.
- (e) The fair market value, up to \$100,000 of donated property interest for which the taxpayer claims a tax credit for certain real property donations and the market price of the gleaned crop for which the taxpayer claims a tax credit.

**DEDUCTIONS FROM TAXABLE INCOME:** The following items are allowed as deductions from Federal taxable income:

- (a) Interest upon obligations of the United States or its possessions, North Carolina or its political subdivision, or nonprofit educational institutions located in North Carolina;
- (b) Interest upon obligations and gain from the disposition of obligations to the extent exempt under North Carolina law;
- (c) Benefits received under Title II of the Social Security Act and retirement benefits received under the Railroad Retirement Act of 1937;
- (d) Federal mortgage interest tax credit;
- (e) Refunds of State, local, and foreign income taxes;
- (f) Up to \$4,000 in retirement benefits from one or more Federal, State, or local, government retirement plans; and
- (g) Up to \$2,000 in retirement benefits from one or more private retirement plans.

If an individual receives Federal, State, or local government retirement benefits and also receives other retirement benefits, the total exclusion is limited to \$4,000. For married couples filing a joint return, the maximum dollar amount of retirement benefits that may be deducted from Federal taxable income applies separately to the benefits received by each spouse. To

## NORTH CAROLINA - 1993

qualify for the exclusion, the retirement benefits must be received under a written plan providing benefits to the employee after his employment or self-employment ends. Retirement benefits include amounts received from individual retirement accounts and individual retirement annuities (IRA).

**TRANSITIONAL ADJUSTMENTS:** The following transitional adjustments are also required in arriving at North Carolina taxable income:

(a) Amounts that were included in the basis of property under Federal law but not under State law prior to January 1, 1989, must be added to taxable income in the year the taxpayer's income includes a gain or loss from the sale or other disposition of the property. These adjustments include the increase in basis for Federal gift tax paid on property received as a gift and in certain cases where the taxpayer was permitted under Federal law to capitalize certain expenditures for interest and taxes.

(b) Amounts that were included in the basis of property under State law but not under Federal law prior to January 1, 1989, must be deducted from taxable income in the year the taxpayer's income includes a gain or loss from the sale or other disposition of the property. These adjustments include the increase in basis for State gift tax paid on property received as a gift and expenditures that the taxpayer elected to expense under Section 179 of the Internal Revenue Code which were required to be capitalized for State tax purposes.

(c) Net economic losses sustained in the five taxable years preceding the taxpayer's first taxable year beginning on or after January 1, 1989, may be deducted from taxable income as under prior law.

(d) A loss or deduction that was incurred or paid and deducted in full for North Carolina income tax purposes under prior state law in a taxable year beginning before January 1, 1989, but was carried forward and deducted from Federal taxable income in a taxable year beginning on or after January 1, 1989, must be added to taxable income.

(e) Adjustments must also be made in the taxable income of a shareholder of an S corporation.

**NONRESIDENTS AND PART-YEAR RESIDENTS:** Nonresidents and part-year residents are required to prorate their Federal taxable income to determine the portion of their taxable income, after the above adjustments, that is subject to North Carolina income tax. For nonresidents, North Carolina taxable income is taxable income as calculated under the Code, adjusted for additions, deductions, and transitional adjustments, multiplied by a fraction the denominator of which is the taxpayer's gross income as adjusted, as calculated under the Code, and the numerator of which is the amount of that gross income, as adjusted, that is derived from North Carolina sources attributable to the ownership of any interest in real or tangible personal property in this State or is derived from a business, trade, profession, or occupation carried on in this state.

If a taxpayer was a resident for only part of the taxable year, having moved into or out of the State during the year, North Carolina taxable income has the same meaning as above except

## NORTH CAROLINA - 1993

that the numerator must include gross income, as adjusted, derived from all sources during the period the taxpayer was a resident.

**TAX CREDITS:** The tax credit for child and dependent care (G.S. 105-151.11) is based on the same employment-related expenses on which the Federal child and dependent care credit is based. The tax credit is allowed for 7 percent of employment-related expenses for dependents who are seven years old or older and are not physically or mentally incapable of caring for themselves. For employment-related expenses paid in connection with any other qualifying individual, the credit is 10 percent of the employment-related expenses.

A tax credit (G. S. 105-151.18) is allowed for one-third of the tax credit to which an individual who is totally and permanently disabled is entitled to claim for Federal income tax purposes.

Another tax credit (G. S. 105-151.19) is allowed for 6 percent of the amount of dividends received up to a maximum credit of \$300 per year provided over 50 percent of the income or loss of the corporation paying the dividend is allocated to North Carolina (no credit is allowed for dividends received from an S corporation). The dividend tax credit applies only to dividends received while the taxpayer was a resident of North Carolina. In the case of a married couple filing a joint return where both spouses received qualifying dividends, the \$300 maximum applies to each spouse's dividends separately for a potential credit of \$600 for the couple. A tax credit (G. S. 105-131.8) is also allowed to a resident shareholder for his share of the corporate income tax paid by an S corporation to another state that taxes the corporation rather than the shareholder on the S corporation's income.

The following additional tax credits are also allowed: Credit for Tax Paid to Another State or Country, credit for Qualified Business Investments, Credit for Creating Jobs in Distressed Counties, Credit for Property Taxes on Farm Machinery, credit for Exporting Goods From North Carolina Ports, Credit for Solar Heating, Cooling or Hot Water Systems, Credit for Donating Real Property for Certain Public and Conservation Purpose, Credit for Construction of Dwelling Units for Handicapped Persons, Credit for Purchase of Conservation Tillage Equipment, Credit for Fuel Ethanol Distillery, Credit for Conversion of Industrial Boiler, Credit for Cleaned Crops, Credit for Hydroelectric Generator, Credit for Solar Heat in Manufacturing Process, Credit for Wind Energy Device, Credit for Methane Gas, and Credit for Fortified and Unfortified Wine.

For information about these credits, contact the Department of Revenue.

The standard deduction for North Carolina purposes is shown in the schedules below:

### SCHEDULE A

Individuals who are not claimed as dependents by another taxpayer

#### FILING STATUS

#### STANDARD DEDUCTION

Single.....\$ 3,000

## NORTH CAROLINA - 1993

65 or older or blind.....	3,750
35 or older and blind.....	4,500
Married Filing Jointly/Qualifying Widow(er)...	5,000
65 or older or blind.....	5,600
65 or older and blind.....	6,200
Both spouses 65 or older or blind.....	6,200
Both spouses 65 or older and blind.....	7,400
* Married Filing Separately.....	2,500
65 or older or blind.....	3,100
65 or older and blind.....	3,700
Head of Household.....	4,400
65 or older or blind.....	5,150
65 or older and blind.....	5,900

### SCHEDULE B

Individuals who can be claimed as dependents by another taxpayer who have earned income of \$500 or less

#### FILING STATUS STANDARD DEDUCTION

Single Under 65 and not blind.....	500
65 or older or blind.....	1,250
65 or older and blind.....	2,000
* Married Filing Separately Under 65 and or blind.....	1,100
65 or older and blind.....	1,700

### SCHEDULE C

Individuals who can be claimed as dependents by another taxpayer and have earned income of \$500 or more

#### STANDARD DEDUCTION

FILING STATUS	AMOUNT OF EARNED INCOME	ADDITIONAL ALLOWANCES	LIMITED TO
Single Under 65 and not blind....	\$ _____ +	\$ -0-	\$3,000
65 or older or blind.	\$ _____ +	\$ 750	\$3,750
65 or older and blind	\$ _____ +	\$1,500	\$4,500
* Married Filing Separately			
Under 65 and not blind	\$ _____ +	\$ -0-	\$2,500
65 or older or blind	\$ _____ +	\$ 600	\$3,100
65 or older and blind	\$ _____ +	\$1,200	\$3,700

## NORTH CAROLINA - 1993

\* The standard deduction is zero for a married individual filing separately whose spouse claims itemized deductions.

Nonresident aliens and individuals filing a short year return due to a change of accounting period may not claim any standard deductions.

### MINIMUM FILING REQUIREMENTS

	Standard Deduction	Personal Exemption	Total
Single	\$3,000	\$2,000	\$ 5,000
Single over age 65	3,750	2,000	5,750
Married filing joint.	5,000	4,000	9,000
Married filing joint, one spouse 65 or older	5,600	4,000	9,600
Married filing joint return and both age 65 or older	6,200	4,000	10,200
Married filing separate return	2,000	2,000	
Head of Household	4,400	2,000	6,400
Head of Household age 65 or older	5,150	2,000	7,150
Qualifying widow(er) with dependent child.	5,000	2,000	7,000
Qualifying widow(er) age 65 or older	5,600	2,000	7,600

A personal exemption of \$2,000 00 is allowed for each dependent.

An additional standard deduction of \$600 00 is allowed to a married taxpayer or qualifying widow(er) 65 years old or older or who is blind. The additional standard deduction amount for single taxpayers and heads of household is \$750 00 if 65 years of age or older or blind. The exemption allowed for a dependent, the additional standard deduction allowed for being blind, and the standard deduction of \$2,500 00 allowable to a married person filing a separate

## NORTH CAROLINA - 1993

return are not included in determining the minimum filing requirements.

**PAYMENTS:** Returns are due 15 April. Military personnel on active duty outside the United States are allowed the same automatic two-month extension of time for filing the return as allowed for Federal income tax purposes provided a statement is attached to the State return indicating service outside the United States on the 15th of April (or other due date).

Pre-payment of tax is made through withholding or by payment of estimated tax or payment with extension. Payment of any tax not prepaid through withholding, extensions, or estimated tax is due when return is filed. North Carolina income tax was withheld from military pay of service members whose home of record is North Carolina (July 1977). Estimated income tax must be filed if the service member's net tax (tax due less tax withheld and any tax credit) is \$500 or more. Estimated tax payments are due on or before 15 April, June, September and January.

**FILING EXTENSION:** To receive an extension of time, both the extension application, Form D-410, and the total tax expected to be owed must be paid by the original due date of the return. Form D-410A may be filed for an additional extension of time.

**TAX AUTHORITY:** State of North Carolina, Department of Revenue, Income Tax Division, P.O. Box 25000, Raleigh, North Carolina 27640-0001. Information: 1-800-222-9965; Forms: 1-800-451-1404.

## NORTH DAKOTA - 1993

**STATE LAW:** North Dakota Century Code Chapter 57-38

**DEFINITION OF RESIDENT:** North Dakota Century Code Section 57-38-01 (6) provide that a resident for North Dakota income tax purposes means (1) any person domiciled in North Dakota or (2) any person not domiciled in North Dakota who maintains a permanent place of abode within North Dakota and spends in the aggregate more than seven months of the income year within North Dakota.

Note: The seven month rule does not apply to individuals in the U.S. Armed Forces due to the residency provisions of the Soldiers' and Sailors' Civil Relief Act.

**FILING REQUIREMENTS:** Every resident who is required to file a Federal individual income tax return must file a North Dakota individual income tax return. This applies to an individual serving in the U. S. Armed Forces even though the individual is stationed outside North Dakota (including overseas).

Every nonresident who derives any gross income from North Dakota sources and is required to file a Federal individual income tax return must file a North Dakota individual income tax return.

**Gross income from North Dakota sources** - For purposes of the nonresident filing requirement, gross income from North Dakota sources includes (1) compensation for services performed in North Dakota, (2) income from a trade or business carried on in North Dakota, (3) income from tangible property located in North Dakota, and (4) any other income having a source in North Dakota.

Except where derived from a trade or business carried on in North Dakota, gross income from North Dakota Sources does not include interest or dividend income, nor does it include pensions or annuities.

**Filing Status** - The filing status (i.e., Single, Married Filing Joint, etc.) must be the same as that used for Federal income tax purposes. **Exception** - In the case of married persons where one spouse is a North Dakota resident and the other spouse is a nonresident of North Dakota, separate North Dakota returns must be filed even though a joint Federal return is filed. If this exception applies, Schedule SF must be obtained from the North Dakota tax authority, completed as instructed, and attached to the separate North Dakota return(s).

**WHICH FORM TO USE** North Dakota income tax law provides two methods of computing an individual income tax liability. They are implemented on Form 37-S (short-form method) and Form 37 (long-form method).

## NORTH DAKOTA - 1993

**Important** - The two methods are governed by different law provisions and will produce different tax liabilities. All individuals, whether residents or nonresidents, may use either form. The North Dakota tax authority strongly advises taxpayers to calculate the tax on both forms and compare the results to determine which method yields the lowest tax liability. This advice applies even though taxpayers may qualify for one or more of the adjustments and credits on Form 37. Taxpayers may file the form showing the lower tax liability.

Nonresidents must also complete **Schedule NR** and attach it to either Form 37-S or Form 37 (Note: If Form 37 is used by a nonresident, Schedule 3 must also be completed and attached to Form 37.)

**TAX COMPUTATION** The tax computation and the tax rates are different under the two methods available to individuals.

**Form 37-S** - Under this method, the tax liability is computed by multiplying the Federal income tax liability (before any Federal income tax credits are subtracted) by 14%. A credit is allowed for income tax paid to another state.

**Form 37** - Under this method, the tax liability is computed by starting with Federal taxable income, making certain state adjustments to it, and applying the tax rates below to the result.

<u>Taxable income</u>	<u>Rate</u>		
First \$3,000	2.67%	Next 10,000	8.00
Next 2,000	4.00	Next 10,000	9.33
Next 3,000	5.33	Next 15,000	10.67
Next 7,000	6.67	Next 50,000	12.00

In addition to a credit for income tax paid to another state, a number of other income tax credits are allowed on Form 37.

**DUE DATE:** A calendar year return must be filed by April 15. A fiscal year return must be filed by the fifteenth day of the fourth month following the close of the tax year. The tax must be paid in full by the due date of the return.

**Note:** An extension (whether automatic or applied for) to file a Federal individual income tax return is automatically recognized for North Dakota income tax purposes.

**STANDARD DEDUCTION OR ITEMIZED DEDUCTIONS** Same as Federal

**PERSONAL AND DEPENDENCY EXEMPTIONS** Same as Federal

**CAPITAL GAINS AND LOSSES** Same as Federal

## NORTH DAKOTA - 1993

**MILITARY PROVISIONS:** Individuals serving in the U.S. Armed Forces who are residents of North Dakota are treated the same as other residents of North Dakota regardless of where the military persons are stationed. North Dakota income tax law follows Federal income tax law with respect to what is taxable and nontaxable income. Any special income exclusions allowed under Federal income tax law are recognized for North Dakota income tax purposes.

The following adjustments to Federal taxable income are allowed to residents on Form 37:

1. Up to \$1,000 of active duty military compensation or compensation for attending periodic training for drill and instruction as a member of the National guard or of a reserve unit of the U.S. Armed Forces may be excluded.

2. Except for field grade and general officers, an individual in the U.S. Armed Forces who is stationed outside the United States (including the District of Columbia) for at least 30 days may exclude up to \$300 of compensation received for each month or a fraction of a month while on active duty at such location.

3. Up to \$5,000 of military retirement benefits which are taxable on the Federal return may be excluded if the individual is at least 50 years of age. The taxable amount of the retirement benefits or \$5,000, whichever is smaller, must be reduced by any Social Security benefits received.

**Note:** The U.S. Supreme Court's decision in Davis vs. Michigan has no impact on North Dakota. Except for highway patrol officers, police officers, and firefighters who may take the same limited \$5,000 retirement benefits exclusion allowed to Federal retirees (including military retirees), state and local retirees in general are not allowed to exclude any part of their retirement benefits from North Dakota income tax.

**Note:** The above adjustments are allowed only on Form 37 (long-form method). No adjustments are allowed on Form 37-S.

**DESERT SHIELD AND DESERT STORM PROVISIONS:** All income excluded for Federal income tax purposes is similarly excluded for North Dakota income tax purposes. The due date for filing a return and payment of tax is extended to 3 months after returning to North Dakota or the extended Federal due date, whichever is later, however, if not returning to North Dakota after leaving the combat zone, the extended Federal due date applies. No penalty or interest will apply during the extension period. Examination and collection actions are suspended for a similar period.

The 1993 North Dakota Legislature passed House Bill 1389. This bill provides for the payment of additional compensation by the State of North Dakota to eligible active duty members of the United States Armed Forces for service in the Persian Gulf War, or for

## NORTH DAKOTA - 1993

service in the armed conflicts in Grenada, Lebanon, or Panama. Application for the additional compensation must be made to the North Dakota Adjutant General's Office. The additional compensation is exempt from North Dakota income tax and, to the extent included in federal taxable income, may be excluded in computing North Dakota income tax on Form 37-S (Short Form) or Form 37 (Long Form).

**TAX AUTHORITY:** Office of State Tax Commissioner, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505-0599. Phone: (701)224-3450.

## OHIO - 1993

STATE LAWS Chapter 5747, Ohio Revised Code, as enacted by Am. Sub. H.B. 475, Laws 1971.

**TAXPAYERS:** An annual tax is levied on every individual Ohio resident or nonresident earning or receiving income in Ohio. The levy of state income tax does not prevent a municipal corporation from levying a tax on income.

**FILING:** All taxpayers are required to file an Ohio income tax return unless the retirement income credit, senior citizen credit, dependency exemptions, or reciprocal agreements eliminate the tax liability. Husband and wife must file using the same method as used for Federal income tax purposes, i.e., if a joint Federal return was filed, a joint Ohio return must be filed; if separate Federal returns were filed, separate Ohio returns must be filed.

**MILITARY PROVISIONS:** (1) Service members who are legal residents of Ohio but maintain an abode in another jurisdiction are subject to Ohio taxation. Sec. 5747.01(I)(2) bases residence on the number of days per year which an individual lived in Ohio as his place of abode, but does not pertain to service members or other individuals who are domiciled in Ohio for that year (Special Instruction No. 8, 31 July 1972); (2) There are no special exemptions for service members who are POW/MIA (or their spouses). However, military compensation excluded from Federal Adjusted Gross Income is not taxable in Ohio; (3) Pay of retired service members who have elected to forfeit a portion of their retirement pay to provide an annuity for their survivors and the survivor's annuity are treated the same as under the Internal Revenue Code; (4) Disability retirement pay (to the extent it is excluded from Federal Adjusted Gross Income) is excluded under Ohio law; (5) Filing requirements for military members are the same as other Ohio taxpayers generally. Service members who have been granted an "undue hardship" for Federal purposes are also granted an extension for Ohio purposes. "Undue hardship" extension is granted until six months after termination of service (extension is granted only upon application and approval by the Federal authorities). Service members stationed overseas may have an automatic extension of 180 days after return to the United States. A request for Federal Automatic Extension extends Ohio filing dates and local dates.

## OHIO - 1993

**DESERT STORM PROVISIONS:** Ohio follows federal law for pay exemptions, extensions, and other specific tax provisions.

**RESIDENTS:** Resident includes the estate of a decedent who, at death, was domiciled in Ohio, and certain trusts if the settlor or decedent was domiciled in Ohio at death, when the trust was created, or when the trust became irrevocable. (Trusts are not taxable. Letter, Ohio Department of Taxation, 11 February 1972).

### TO BE USED FOR TAXABLE YEARS ENDING ON OR AFTER JANUARY 1, 1988, BUT PRIOR TO JANUARY 1, 1993

0 - \$ 5,000	\$	.743%	of Ohio taxable income
5,000 - \$ 10,000	\$	37.15 + 1.486%	of excess over \$ 5,000
10,000 - \$ 15,000	\$	111.45 + 2.972%	of excess over \$10,000
15,000 - \$ 20,000	\$	260.05 + 3.715%	of excess over \$15,000
20,000 - \$ 40,000	\$	445.80 + 4.457%	of excess over \$20,000
40,000 - \$ 80,000	\$	1,337.20 + 5.201%	of excess over \$40,000
80,000 - \$100,000	\$	3,417.60 + 5.943%	of excess over \$80,000
over \$100,000	\$	4,606.20 + 6.9%	of excess over \$100,000

### TO BE USED FOR TAXABLE YEARS ENDING ON OR AFTER JANUARY 1, 1993

0 - \$ 5,000	\$	.743%	of Ohio taxable income
5,000 - \$ 10,000	\$	37.15 + 1.486%	of excess over \$ 5,000
10,000 - \$ 15,000	\$	111.45 + 2.972%	of excess over \$ 10,000
15,000 - \$ 20,000	\$	260.05 + 3.715%	of excess over \$ 15,000
20,000 - \$ 40,000	\$	445.80 + 4.457%	of excess over \$ 20,000
40,000 - \$ 80,000	\$	1,337.20 + 5.201%	of excess over \$ 40,000
80,000 - \$100,000	\$	3,417.60 + 5.943%	of excess over \$ 80,000
100,000 - \$200,000	\$	4,606.20 + 6.9	% of excess over \$100,000
Over \$200,000	\$	11,506.20 + 6.9	% of excess over \$200,000

**INCOME:** (of an individual is defined as follows) -- Ohio taxable income is Federal Adjusted Gross Income less adjustment.

Subtract -- (1) Interest or dividends on obligations or securities of the United States, its territories, instrumentalities and possessions that are taxable under the Internal Revenue Code but not taxable under state income tax laws; (2) Amount of a state or

## OHIO - 1993

municipal income tax refund which is included in Federal Adjusted Gross Income as a result of itemizing deductions on the federal income tax return; (3) Disability benefits received from an employee disability and survivorship plan paid as the result of a permanent or presumed permanent physical or mental impairment by which you are unable to engage in gainful employment for which qualified by training and experience, or as survivorship benefits paid as the result of the death of a covered employee. This deduction may not be claimed for payments which otherwise qualify as retirement or pension benefits or as a temporary wage continuation plan; (4) Gains that are specifically exempt from taxation by the State of Ohio received from the sale of Ohio state or municipal bonds, such as Ohio public facilities commission bonds; (5) Employers may deduct the amount of wage and salary expense not otherwise deducted for federal tax purposes because of the targeted jobs tax credit for taxable years beginning in 1980; (6) Legislation has been enacted that allows all amounts of Social Security old age benefits and Tier I and II Railroad Retirement income which are included in Federal Adjusted Gross Income, as a deduction on the Ohio return; (7) Interest or interest equivalent on Ohio public obligations and Ohio purchase obligations; (8) Gain from the sale, exchange, or other disposition of Ohio public obligations; (9) For tax years beginning in 1990, deduct the increase in the value of nonrefunded tuition credits and supplemental tuition credits in excess of the purchase price to the extent the increase is included in the Federal Adjusted Gross Income. In general it is a college savings program that allows Ohio citizens to send their children to college later at today's tuition cost. If you want to know more about the Ohio Guaranteed College Tuition Trust program, please call 1-800-589-6882 or 1-614-752-9200; (10) For tax years beginning in 1993, you may deduct a refund or reimbursement of an expense you originally deducted on a prior-year Federal income tax return as an itemized deduction if the following conditions are met: (a) The refund or reimbursement was included in your Federal Adjusted Gross Income on your Federal income tax return, (b) The expense for which you were refunded or reimbursed was deducted as an itemized deduction on Schedule A of a prior-year federal income tax return, IRS Form 1040, (11) For tax years beginning in 1993, deduct the repayment of income reported in a prior year if the following three conditions apply: (a) For Federal income tax purposes, you claimed an itemized deduction on Schedule A of your 1993 Federal

## OHIO - 1993

income tax return for the amount repaid or you claimed a tax credit on your 1993 federal income tax return based upon the amount repaid and (b) The repayment has not otherwise reduced your Federal Adjusted Gross Income for any taxable year and (c) In the year that you received the income it did not qualify for either the resident or nonresident/part year resident tax credits on Schedules C or D of your Ohio income tax return; (12) For tax years beginning in 1993, if you were self-employed, you may be entitled to deduct a portion of the amount you paid during the taxable year for health insurance coverage. Do not claim this deduction if you or your spouse was eligible to participate in a health insurance plan maintained by your employer or by your spouse's employer.

Add -- (1) Income on obligations of states and political subdivisions thereof, other than Ohio and Ohio local government securities or obligations; (2) Income on Federal obligations exempt from Federal tax but not from state income tax; (3) Losses on Ohio public obligations.

**DEDUCTIONS:** Ohio taxable income, except the above adjustments, is computed with no other deductions. See "CREDITS".

**EXEMPTIONS:** All residents and nonresidents are allowed an exemption of \$650 for the taxpayer, spouse, and each natural dependent. Taxpayers may also claim an additional \$20 credit.

### CREDITS:

**JOINT FILING CREDIT:** A credit for taxpayers filing a joint return is available. The maximum amount on the joint filing credit is \$650. The joint filing credit is taken from the amount of tax otherwise due, and the following percentages are used:

If the Ohio Taxable Income is:	The Credit for the year is:
\$25,000 or less	20%
25,001 to 50,000	15%
50,000 to 75,000	10%
75,001 or more	5%

## OHIO - 1993

To qualify for this credit, each party on the joint return must have an Ohio Adjusted Gross Income of \$500 or more, not including dividends, interest, royalties, rents, or capital gains;

**SENIOR CITIZEN CREDIT:** Taxpayers 65 or older prior to January 1, 1994, are allowed a credit equal to \$50 per return;

**LUMP SUM SENIOR CITIZEN CREDIT:** Taxpayers 65 or older who received a lump sum distribution from a pension, retirement or separation from employment are allowed a credit equal to \$50 times the expected remaining life (taxpayers electing this credit are not entitled to claim the \$50 Senior Citizen credit on this return or any future year's return);

**RETIREMENT CREDIT:** The following chart is to be used to determine the credit amount for retirement income, included in the Federal Adjusted Gross Income. This income must have been received on account of retirement.

AMOUNT OF RETIREMENT INCOME INCLUDED IN FEDERAL ADJUSTED GROSS INCOME	CREDIT FOR THE TAXABLE YEAR
\$500 or less	\$ 0
Over \$500 but not more than \$1,500	\$ 25
Over \$1,500 but not more than \$3,000	\$ 50
Over \$3,000 but not more than \$5,000	\$ 80
Over \$5,000 but not more than \$8,000	\$130
Over \$8,000	\$200

**LUMP SUM RETIREMENT CREDIT:** Lump sum distribution must have been received on account of retirement (See attached worksheet);

**CHILD AND DEPENDENT CARE CREDIT:** You are entitled to credit if your Ohio Adjusted Gross Income is less than \$40,000 and if you made qualified payments for child and/or dependent care (Instructions available from Ohio Dept. of Taxation);

**BUSINESS CREDITS:** If you own or operate a business or if you have invested in a partnership or a sub "S" corporation, you may qualify for business credits, such as the qualifying property used

## OHIO - 1993

in manufacturing credit, the export sales credit and the new jobs tax credit. (To obtain the necessary forms needed to claim these credits, please call 1-800-282-1780 or 614-846-6712);

**MISCELLANEOUS CREDITS:** (1) Amount of Ohio income tax otherwise due on adjusted gross income of nonresidents that is not allocable to Ohio; (2) Amount of Ohio income tax otherwise due on adjusted gross income of a resident that is subject to income tax in another state or District of Columbia.

**PAYMENTS:** Return and payment in full due on or before 15 April. Amounts shown to be due of one dollar or less need not be remitted, nor will refunds be issued in the amount of one dollar or less. Declarations of Estimated Tax are required if estimated tax in excess of withholding can reasonably be expected to exceed \$300. Declarations are due on or before the 15th day of the fourth month of the tax year. A payment of at least one-fourth of the estimated annual tax must accompany the declaration. At least a similar amount must be paid on or before the 15th day of the sixth and ninth months after the beginning of the tax year and the first month of the following tax year. No waiver exists for failure to file returns. While penalties exist only for willful neglect, interest is required by statute and may not be waived.

### **NOTE: NONRESIDENTS OF OHIO BUT STATIONED IN OHIO:**

If you are a nonresident of Ohio but stationed in Ohio, and have earned income other than military pay from either your outside employment or spouses employment in Ohio, this income is subject to Ohio taxation. You must use the same filing status for Ohio purposes as used on the corresponding federal return. Where a joint federal return is filed, the Ohio return must reflect the total federal adjusted gross income figure. Your military pay can be used to compute a nonresident tax credit, Schedule D, of the IT-1040. The military pay of a nonresident serviceman is no longer a deductible item in arriving at Ohio Adjusted Gross Income.

**SCHOOL DISTRICT INCOME TAX:** See attached listing.

## OHIO - 1993

**RETIREMENT INCOME:** Since Ohio law does not differentiate in the tax treatment of retirees, *Davis v. Michigan* did not require corrective legislation.

**TAX AUTHORITY:** State of Ohio, Department of Taxation, Columbus, Ohio 43215. (614) 433-7777 For taxpayer assistance and requests for forms: (614) 346-6712.

**DIRECT CORRESPONDENCE TO:**

OHIO DEPARTMENT OF TAXATION  
TAXPAYER SERVICES  
P.O. BOX 2476  
COLUMBUS, OH 43266-0076

**OR PHONE:**

1-800-282-1782  
(614) 846-6712

# 1991 OHIO LUMP SUM RETIREMENT INCOME CREDIT WORKSHEET

NAME \_\_\_\_\_ SSN: \_\_\_\_\_

If an individual receives a lump sum distribution on account of retirement, the taxpayer may be entitled to claim a "lump sum retirement income credit". To be eligible, the distribution must be a qualified lump sum as defined by Internal Revenue Code Section 402(e) (4), and at least a portion of the distribution must be included in Federal Adjusted Gross Income (FAGI) on line 1 of the taxpayer's Ohio Income Tax Return, Form IT-1040.

## SECTION I - ANSWER THE FOLLOWING QUESTIONS TO DETERMINE IF YOU ARE ELIGIBLE TO CLAIM THE LUMP SUM RETIREMENT INCOME CREDIT:

1. Was the distribution received on account of retirement? \_\_\_\_\_
2. Was the lump sum distributed from a qualified employee benefit plan (pension, profit-sharing, stock bonus, Keogh, IRC 401(k), STRS, PERS, 529)? \_\_\_\_\_
3. Was the distribution made from all of the employer's qualified plans of one kind in which the employee had funds? \_\_\_\_\_
4. Was the distribution for the full amount credited to the employee? \_\_\_\_\_
5. Was the distribution paid within a single tax year? \_\_\_\_\_
6. Was either the employee a participant in the plan for 5 or more taxable years before the tax year of the distribution or was the distribution made because the employee died? \_\_\_\_\_
7. Was at least a portion of the distribution included in Federal Adjusted Gross Income on line 1 of your Ohio Income Tax Return? \_\_\_\_\_

**IF YOU ANSWERED NO TO ANY OF THE ABOVE QUESTIONS, YOU DO NOT QUALIFY FOR THIS CREDIT. DO NOT COMPLETE THE REST OF THIS FORM.**

**NOTE:** If for Federal purposes you used Form 4972, Special 5 or 10-Year Averaging Method, to report all or part of the lump sum distribution, that portion taxed on Form 4972 is not included in Federal Adjusted Gross Income. Therefore, it is not included in line 1 of the Ohio IT-1040 and cannot be used to compute the lump sum retirement income credit. Ohio does not require the amount reflected on Form 4972 to be added back to the Ohio return.

## SECTION II - HOW TO FIGURE THE LUMP SUM RETIREMENT INCOME CREDIT:

- A.**
1. Amount of Lump Sum that is included in FAGI \_\_\_\_\_
  2. Taxpayer's age at the end of the tax year of the distribution. \_\_\_\_\_
  3. Life Expectancy from Annuity Tables (see reverse) based on line 2 \_\_\_\_\_
  4. Divide line 1 by line 3 \_\_\_\_\_
  5. Retirement Income Credit from Credit Tables (see reverse) based on line 4 amount \_\_\_\_\_

**IF A LUMP SUM AND AN ANNUAL RETIREMENT ARE RECEIVED AND APPEAR IN FAGI, STOP HERE AND GO TO PART B**

6. Lump Sum Retirement Credit (line 3 times line 5). Enter this Amount on line \_\_\_\_\_, IT-1040 \_\_\_\_\_

**IF THE LUMP SUM RETIREMENT CREDIT EXCEEDS THE TAX DUE, AFTER ALL OTHER CREDITS, COMPLETE LINE 7; OTHERWISE, STOP HERE.**

7. Future Retirement Credit Carryover to subsequent tax years
  - (A) Line 6 or line 12(C) Amount \_\_\_\_\_
  - (B) Ohio Tax Due after Other Credits \_\_\_\_\_
  - (C) Unused Credit (7A)-7(B). If zero (0) or less, stop here \_\_\_\_\_
  - (D) Line 3 minus 1 Year \_\_\_\_\_
  - (E) Future Retirement Credit Carryover  $7(c) \div 7(d)$  \_\_\_\_\_

## B. LUMP SUM AND ANNUAL RETIREMENT

8. Annual Retirement that is included in FAGI \_\_\_\_\_
9. Line 4, Section I, amount \_\_\_\_\_
10. Line 8 plus line 9 \_\_\_\_\_
11. Retirement Income Credit from Credit table (based on line 10 Amount) \_\_\_\_\_
12. Line 8, Section II, amount
  - (A) Line 12 times line 3, Section II, less 1 Year \_\_\_\_\_
  - (B) Line 11 Amount \_\_\_\_\_
  - (C) Retirement Credit  $(12(A) + 12(B))$ . Enter this amount on line \_\_\_\_\_, IT-1040 \_\_\_\_\_
 (To determine if there is any Retirement Credit Carryover, see line 7, Section I)

If the lump sum retirement income credit is used in its entirety, no future lump sum retirement income credit or annual retirement income credit can be claimed on any future return in which this taxpayer is a party. (Section 5747.068(E) (3) of the Ohio Revised Code).

### RETIREMENT INCOME CREDIT TABLE

Amount of qualifying retirement income received and included in federal adjusted gross income during the taxable year.

Retirement income credit for the taxable year.

Over \$0 but not more than \$3,000  
 Over \$3,000 but not more than \$5,000  
 Over \$5,000 but not more than \$8,000  
 Over \$8,000

\$ 50  
 \$ 80  
 \$130  
 \$200

#### UNISEX TABLE ORDINARY LIFE ANNUITIES ONE LIFE — EXPECTED RETURN MULTIPLES (THIS LIFE ANNUITY TABLE IS TO BE USED FOR DISTRIBUTIONS RECEIVED ON OR AFTER JULY 1, 1986)

AGE	MULTIPLE	AGE	MULTIPLE	AGE	MULTIPLE
5	78.8	42	40.8	79	10.0
6	75.8	43	39.8	80	9.5
7	74.7	44	38.7	81	8.9
8	73.7	45	37.7	82	8.4
9	72.7	46	36.8	83	7.8
10	71.7	47	35.8	84	7.4
11	70.7	48	34.9	85	6.9
12	69.7	49	34.0	86	6.5
13	68.8	50	33.1	87	6.1
14	67.8	51	32.2	88	5.7
15	66.8	52	31.3	89	5.3
16	65.8	53	30.4	90	5.0
17	64.8	54	29.5	91	4.7
18	63.9	55	28.6	92	4.4
19	62.9	56	27.7	93	4.1
20	61.9	57	26.8	94	3.9
21	60.9	58	25.9	95	3.7
22	60.0	59	25.0	96	3.4
23	59.0	60	24.2	97	3.2
24	58.0	61	23.3	98	3.0
25	57.0	62	22.5	99	2.8
26	56.0	63	21.8	100	2.7
27	55.1	64	20.9	101	2.5
28	54.1	65	20.0	102	2.3
29	53.1	66	19.2	103	2.1
30	52.2	67	18.4	104	1.9
31	51.2	68	17.6	105	1.8
32	50.2	69	16.8	106	1.8
33	49.3	70	16.0	107	1.4
34	48.3	71	15.3	108	1.3
35	47.3	72	14.6	109	1.1
36	46.4	73	13.9	110	1.0
37	45.4	74	13.2	111	.9
38	44.4	75	12.5	112	.8
39	43.5	76	11.9	113	.7
40	42.5	77	11.2	114	.6
41	41.5	78	10.6	115	.5



Nevada City, S.D.	2906
Yellow Springs Ex. Vil. S.D.	2907
<b>GUERNSEY COUNTY (Phone: 439-3558)</b>	
Cambridge City S.D.	3001
East Geauga Local S.D.	3002
Rolling Hills Local S.D.	3003
<b>HAMILTON COUNTY (Phone: 742-2209)</b>	
Cincinnati City S.D.	3101
Deer Park Community City S.D.	3102
Finsertown Local S.D.	3103
Forest Hills Local S.D.	3104
Winton Woods City S.D.	3105
Indian Hill Ex. Vil. S.D.	3106
Lockland City S.D.	3107
Loveland City S.D.	3108
Mason City S.D.	3109
Manassah City S.D.	3110
Mower Healthy City S.D.	3111
North College Hill City S.D.	3112
Northwest Local S.D.	3113
Norwood City S.D.	3114
Oak Hills Local S.D.	3115
Princeton City S.D.	3116
Reading Community City S.D.	3117
Southwest Local S.D.	3118
St. Bernard-Blewood Place City S.D.	3119
Sycamore Community City S.D.	3120
Three Rivers Local S.D.	3121
Wyoming City S.D.	3122
<b>HANCOCK COUNTY (Phone: 422-7325)</b>	
Arcadia Local S.D.	3201
Arlington Local S.D.	3202
Cory-Ravens Local S.D.	3203
Findlay City S.D.	3204
Liberty-Benton Local S.D.	3205
McCumb Local S.D.	3206
Van Buren Local S.D.	3207
Vashti Local S.D.	3208
<b>HARDIN COUNTY (Phone: 674-2288)</b>	
Ada Ex. Vil. S.D.	3301
Hardin Northern Local S.D.	3302
Kenosha City S.D.	3303
Ridgemont Local S.D.	3304
Riverdale Local S.D.	3305
Upper Scioto Valley Local S.D.	3306
<b>HARRISON COUNTY (Phone: 269-2008)</b>	
Conorton Valley Union Local S.D.	3401
Harrison Hills City S.D.	3402
<b>HENRY COUNTY (Phone: 592-1861)</b>	
Hojasen Local S.D.	3501
Patrick Henry Local S.D.	3504
<b>HIGHLAND COUNTY (Phone: 393-1331)</b>	
Bright Local S.D.	3601
Fairfield Local S.D.	3602
Greenfield Ex. Vil. S.D.	3603
Hillsboro City S.D.	3604
Lynchburg-City Local S.D.	3605
<b>HOCKING COUNTY (Phone: 385-8317)</b>	
Logan-Hocking Local S.D.	3701
<b>HOLMES COUNTY (Phone: 674-1941)</b>	
East Holmes Local S.D.	3801
West Holmes Local S.D.	3802
<b>HURON COUNTY (Phone: 648-1658)</b>	

<b>LAKE COUNTY (Phone: 357-3563)</b>	
Fairport Harbor Ex. Vil. S.D.	4301
Kirtland Local S.D.	4302
Madison Local S.D.	4303
Maner Ex. Vil. S.D.	4304
Peleeville City Local S.D.	4305
Palmerville Township Local S.D.	4306
Perry Local S.D.	4307
Wickliffe City S.D.	4308
Willoughby-Bastlake City S.D.	4309
<b>LAWRENCE COUNTY (Phone: 532-4323)</b>	
Chesapeake Union Ex. Vil. S.D.	4401
Dravos-Bryant Local S.D.	4402
Fairland Local S.D.	4403
Ironson City S.D.	4404
Rock Hill Local S.D.	4405
South Point Local S.D.	4406
Symmes Valley Local S.D.	4407
<b>LICKING COUNTY (Phone: 349-6884)</b>	
Granville Ex. Vil. S.D.	4501
Heath City S.D.	4502
Johnstown-Moson Local S.D.	4503
Lakewood Local S.D.	4504
Licking Heights Local S.D.	4505
Licking Valley Local S.D.	4506
Newark City S.D.	4507
North Park Local S.D.	4508
Northridge Local S.D.	4509
Southwest Licking Local S.D.	4510
<b>LOGAN COUNTY (Phone: 599-5195)</b>	
Bellevue City S.D.	4601
Benjamin Logan Local S.D.	4602
Indian Lake Local S.D.	4603
Riverside Local S.D.	4604
<b>LORAIN COUNTY (Phone: 523-7518)</b>	
Ames Ex. Vil. S.D.	4701
Avon Lake City S.D.	4702
Avon Local S.D.	4703
Clearview Local S.D.	4704
Columbus Local S.D.	4705
Elyria City S.D.	4706
Pittsford Local S.D.	4707
Kryston Local S.D.	4708
Lorain City S.D.	4709
Midview Local S.D.	4710
North Ridgeville City S.D.	4711
Obertle City S.D.	4712
Sheffield-Sheffield Lake City S.D.	4713
Wellington Ex. Vil. S.D.	4715
<b>LUCAAS COUNTY (Phone: 345-4158)</b>	
Antwerp-Walton Local S.D.	4801
Ottawa Hills Local S.D.	4804
Springfield Local S.D.	4805
Sylvania City S.D.	4806
Toledo City S.D.	4807
Washington Local S.D.	4808
<b>MADISON COUNTY (Phone: 852-2174)</b>	
Jefferson Local S.D.	4901
Jonathan Alder Local S.D.	4902
London City S.D.	4903
Madison-Plaine Local S.D.	4904
<b>MAHONING COUNTY (Phone: 788-3481)</b>	
Austintown Local S.D.	5001
Boardman Local S.D.	5002
Campbell City S.D.	5003
Cantfield Local S.D.	5004

Wadsworth City S.D.	5207
<b>MEigs COUNTY (Phone: 692-8592)</b>	
Enon Local S.D.	5301
Meigs Local S.D.	5302
Southern Local S.D.	5303
<b>MERCER COUNTY (Phone: 584-6428)</b>	
Collins City S.D.	5401
Coldwater Ex. Vil. S.D.	5402
Marion Local S.D.	5403
Parsons Local S.D.	5405
Port Recovery Local S.D.	5406
St. Henry Consolidated Local S.D.	5407
<b>MIAMI COUNTY (Phone: 832-6887)</b>	
Berkel Local S.D.	5501
Bradford Ex. Vil. S.D.	5502
Covington Ex. Vil. S.D.	5503
Miami East Local S.D.	5504
Milton-Union Ex. Vil. S.D.	5505
Newton Local S.D.	5506
Piqua City S.D.	5507
Tipp City Ex. Vil. S.D.	5508
Troy City S.D.	5509
<b>MORROS COUNTY (Phone: 472-5801)</b>	
Switzland of Ohio Local S.D.	5601
<b>MONTGOMERY COUNTY (Phone: 225-4598)</b>	
Brookville Local S.D.	5701
Centerville City S.D.	5703
Dryden City S.D.	5702
Huber Heights City S.D.	5715
Jefferson Township Local S.D.	5704
Kelley City S.D.	5705
Mad River Local S.D.	5706
Miamisburg City S.D.	5707
New Lebanon Local S.D.	5708
Northmont City S.D.	5709
Northridge Local S.D.	5710
Oakwood City S.D.	5711
Tronwood-Madison City S.D.	5712
Valley View Local S.D.	5713
Wendland-Border City S.D.	5714
West Carrollton City S.D.	5716
<b>MORGAN COUNTY (Phone: 962-2377)</b>	
Morgan Local S.D.	5801
<b>MORROW COUNTY (Phone: 946-7078)</b>	
Cardington-Lincoln Local S.D.	5901
Highland Local S.D.	5902
Wesleyan Local S.D.	5903
Wesleyan Local S.D.	5904
Wesleyan Local S.D.	5905
Wesleyan Local S.D.	5906
Wesleyan Local S.D.	5907
Wesleyan Local S.D.	5908
Wesleyan Local S.D.	5909
Wesleyan Local S.D.	5910
Wesleyan Local S.D.	5911
Wesleyan Local S.D.	5912
Wesleyan Local S.D.	5913
Wesleyan Local S.D.	5914
Wesleyan Local S.D.	5915
Wesleyan Local S.D.	5916
Wesleyan Local S.D.	5917
Wesleyan Local S.D.	5918
Wesleyan Local S.D.	5919
Wesleyan Local S.D.	5920
Wesleyan Local S.D.	5921
Wesleyan Local S.D.	5922
Wesleyan Local S.D.	5923
Wesleyan Local S.D.	5924
Wesleyan Local S.D.	5925
Wesleyan Local S.D.	5926
Wesleyan Local S.D.	5927
Wesleyan Local S.D.	5928
Wesleyan Local S.D.	5929
Wesleyan Local S.D.	5930
Wesleyan Local S.D.	5931
Wesleyan Local S.D.	5932
Wesleyan Local S.D.	5933
Wesleyan Local S.D.	5934
Wesleyan Local S.D.	5935
Wesleyan Local S.D.	5936
Wesleyan Local S.D.	5937
Wesleyan Local S.D.	5938
Wesleyan Local S.D.	5939
Wesleyan Local S.D.	5940
Wesleyan Local S.D.	5941
Wesleyan Local S.D.	5942
Wesleyan Local S.D.	5943
Wesleyan Local S.D.	5944
Wesleyan Local S.D.	5945
Wesleyan Local S.D.	5946
Wesleyan Local S.D.	5947
Wesleyan Local S.D.	5948
Wesleyan Local S.D.	5949
Wesleyan Local S.D.	5950
Wesleyan Local S.D.	5951
Wesleyan Local S.D.	5952
Wesleyan Local S.D.	5953
Wesleyan Local S.D.	5954
Wesleyan Local S.D.	5955
Wesleyan Local S.D.	5956
Wesleyan Local S.D.	5957
Wesleyan Local S.D.	5958
Wesleyan Local S.D.	5959
Wesleyan Local S.D.	5960
Wesleyan Local S.D.	5961
Wesleyan Local S.D.	5962
Wesleyan Local S.D.	5963
Wesleyan Local S.D.	5964
Wesleyan Local S.D.	5965
Wesleyan Local S.D.	5966
Wesleyan Local S.D.	5967
Wesleyan Local S.D.	5968
Wesleyan Local S.D.	5969
Wesleyan Local S.D.	5970
Wesleyan Local S.D.	5971
Wesleyan Local S.D.	5972
Wesleyan Local S.D.	5973
Wesleyan Local S.D.	5974
Wesleyan Local S.D.	5975
Wesleyan Local S.D.	5976
Wesleyan Local S.D.	5977
Wesleyan Local S.D.	5978
Wesleyan Local S.D.	5979
Wesleyan Local S.D.	5980
Wesleyan Local S.D.	5981
Wesleyan Local S.D.	5982
Wesleyan Local S.D.	5983
Wesleyan Local S.D.	5984
Wesleyan Local S.D.	5985
Wesleyan Local S.D.	5986
Wesleyan Local S.D.	5987
Wesleyan Local S.D.	5988
Wesleyan Local S.D.	5989
Wesleyan Local S.D.	5990
Wesleyan Local S.D.	5991
Wesleyan Local S.D.	5992
Wesleyan Local S.D.	5993
Wesleyan Local S.D.	5994
Wesleyan Local S.D.	5995
Wesleyan Local S.D.	5996
Wesleyan Local S.D.	5997
Wesleyan Local S.D.	5998
Wesleyan Local S.D.	5999
Wesleyan Local S.D.	6000
Wesleyan Local S.D.	6001
Wesleyan Local S.D.	6002
Wesleyan Local S.D.	6003
Wesleyan Local S.D.	6004
Wesleyan Local S.D.	6005
Wesleyan Local S.D.	6006
<b>NOBLE COUNTY (Phone: 732-2884)</b>	
Calwell Ex. Vil. S.D.	6101
Noble Local S.D.	6102
<b>OTTAWA COUNTY (Phone: 894-1318)</b>	
Barton-Carroll-Salem Local S.D.	6201
Danbury Local S.D.	6202
Oscon Area Local S.D.	6203
Middle Sam Local S.D.	6204
North Sam Local S.D.	6205
Wesleyan Local S.D.	6206

## OKLAHOMA - 1993

**STATE LAW:** Oklahoma Stats. Ann. Title 68 Sec. 2351 et seq.

**TAXPAYERS:** Residents who had gross income or gross receipts in an amount sufficient to require the filing of a Federal income tax return. Residents having income from property located in and business conducted in Oklahoma; interest and dividends; compensation for personal services, regardless where earned. Nonresidents having income from any property owned or business conducted in Oklahoma, or from compensation earned (except military) in Oklahoma having gross income of \$1,000 or over.

**FILING:** See "TAXPAYERS". If these requirements are met an Oklahoma income tax return must be filed.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Oklahoma but who maintain a permanent abode in another jurisdiction are taxed as residents subject to the military pay exclusion. Under this exclusion, the first \$1,500 received from the United States as military compensation is deductible from Oklahoma adjusted gross income. Nonresident service members are not subject to Oklahoma income tax on their military compensation. This (nonresident) exemption is not applicable to other compensation earned in Oklahoma. Income earned in Oklahoma by the spouse of a service member stationed in Oklahoma is subject to taxation; (b) Income of service members or civilians who are POW/MIA (and their spouses) is exempt from taxation. If tax has been paid on such income, it is refundable; (c) Disability retirement pay and nondisability retirement pay (subject to \$1,500 exclusion) is treated the same as under the Internal Revenue Code; (d) Contributions to the Retired Serviceman's Family Protection Plan (RSFPP) are treated the same as under the Internal Revenue Code.

**DESERT STORM PROVISIONS:** Oklahoma applies the same military income exclusions allowed by federal law. In addition, activated National Guard and Reservists receive an additional \$400 exclusion.

**RESIDENTS:** Any person domiciled in Oklahoma and any other person who maintains an abode in the State and spends, in the aggregate, more than seven months of the tax year in the State. Time spent on vacations or trips for health or business out of the State will be considered time spent in the State once a place of abode in the State has been established.

**INCOME EXCLUSIONS:** Same as under the Internal Revenue Code.

**RATES:** Tables unavailable at time of publication. Contact Oklahoma tax authority for rates. Generally, married couples filing joint Federal income tax returns must file joint Oklahoma income tax returns. An exception exists in the case where only one spouse is a resident and a joint Federal tax return was filed. In such cases: (1) the resident spouse may file a separate Oklahoma tax return and the adjusted gross income as reported in the Federal return may be allocated between them; or (2) the nonresident spouse may elect to be taxed as a resident and a

## OKLAHOMA - 1993

joint Oklahoma return may be filed.

**DEDUCTIONS:** Itemized deductions as reported on the Federal income tax return will be the same for Oklahoma tax purposes. Individuals who do not itemize on the Federal return are allowed the larger of \$1,000 or 15% of Oklahoma adjusted gross income, not to exceed \$2,000; if married filing separate returns the larger of \$500 or 15% of Oklahoma gross income, not to exceed \$1,000. In addition, the Oklahoma income tax law provides for an individual taxpayer, at his/her option, to compute Oklahoma tax by either one of two methods. If Method I is used the taxpayer may not deduct the accrued Federal income tax.

**EXEMPTIONS:** Individual exemptions are allowed in the amount of \$1,000 each beginning 1 January 1982.

**CAPITAL GAINS AND LOSSES:** Same as under the Internal Revenue Code.

**CREDITS:** (a) Tax paid by residents to other states on income for personal services also taxed by Oklahoma, not to exceed that proportion of Oklahoma tax that compensation subject to taxation in other states bear to Oklahoma adjusted gross income; (b) 20% of the Federal credit for child care which is reduced by prorating the basis of Oklahoma adjusted gross income to Federal adjusted gross income. A copy of Federal Form 2441 must be attached to the Oklahoma income tax return to obtain this credit and taxpayer must be an Oklahoma resident or part-year resident filing jointly.

**PAYMENTS:** Return and payment in full due 15 April. Persons whose tax liability can reasonably be expected to be \$100 or more, in excess of taxes to be withheld from wages, must file a Declaration of Estimated Tax and pay the first installment on 15 April, the second and third installments on 15 June and September, respectively, and the fourth on 15 January of the succeeding taxable year. If the income tax return is filed and taxes due paid on or before 31 January, the payment of the installment due 15 January is waived.

There is no provision in the income tax law for the forgiveness of delinquent taxes. If a military member discovers that returns for prior years are due, he/she should promptly correspond with the Oklahoma Tax Commission, Income Tax Division. On an individual basis, penalties and interest may be waived.

**TAX AUTHORITY:** Oklahoma Tax Commission, Income Tax Division, 2501 Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Tax Information: (405) 521-3125 Tax Forms: (405) 521-3108 Tax Refund Status: (405) 521-3146

## OREGON - 1993

**STATE LAW:** Oregon Revised Statutes, Chapters 305, 314 and 316.

**TAXPAYERS:** Every resident who is required to file a Federal income tax return; and every nonresident who has income from Oregon sources.

**FILING:** An Oregon income tax return must be filed by: (a) Any resident who is required to file a Federal income tax return for the tax year, or has Federal net income of more than \$600 if single or more than \$1200 if married; (b) Any nonresident whose Federal gross income from Oregon sources is more than \$600 if single and \$1200 if married; (c) Any individual seeking a refund of Oregon taxes withheld; (d) Any individual charged with the care of the estate of an Oregon decedent (i.e., executor, administrator or surviving spouse); or (e) Any individual, who in the judgment of the Department of Revenue, should file an income tax return.

**MILITARY PROVISIONS:** (a) Unless you meet the three nonresident requirements (see "RESIDENT"), Military personnel who are residents of Oregon are subject to tax on their military active duty pay, however, the first \$3,000 of such pay is subtracted from adjusted gross income; (b) Nonresident military members are not subject to tax on their military pay but are subject to tax on any other income earned in Oregon. Military personnel who enter the armed forces from Oregon do not lose their Oregon residence or "domicile" merely by being stationed outside of Oregon. However, for income tax purposes, if you meet certain requirements you may be considered a nonresident. You won't have to pay Oregon tax on your military pay. But if you are still considered to be a full-year resident, all of your military pay and other income are taxable by Oregon.

For the tax year of initial draft or enlistment or for the tax year of discharge from or termination of full-time active duty, compensation received for services performed outside of Oregon is subtracted from adjusted gross income.

**DESERT STORM PROVISIONS:** Taxpayers who are sent out of Oregon for either Operation Desert Shield or Operation Desert Storm have additional time to file their Oregon returns. They have 180 days from the due date of the return or the date they return to Oregon, whichever is later, to file their returns. Taxpayers should indicate in red at the top of the tax return that they are filing because of Desert Storm to avoid penalty and interest for filing late. Interest is paid on refunds due to Desert Storm from the due date of the original return instead of 45 days from the due date, the date the return is filed or the date the tax is paid.

Taxpayers can subtract all active duty pay earned outside of Oregon from August 1, 1990, until the taxpayer returns to Oregon or until the President declares an end of combat activities. Taxpayers may also claim the \$3,000 active duty pay subtraction for active duty pay earned before being sent out of Oregon for Desert Storm or earned after returning to Oregon from military duty associated with Desert Storm, up to the amount included in income.

## OREGON - 1993

**RESIDENTS:** An individual domiciled in Oregon is generally an Oregon resident unless: (a) No permanent place of abode was maintained in Oregon at any time during the tax year; (b) A permanent place of abode was maintained elsewhere during the tax year; and (c) He did not spend more than 30 days in Oregon during the tax year. To qualify as a nonresident (for tax purposes) all three tests must be met.

An individual not domiciled in Oregon may be taxed as a statutory resident if: (a) A permanent place of abode was maintained in Oregon; and (b) He/she spent in the aggregate over 200 days of the tax year in Oregon. Such person is presumed to be a resident unless he/she can prove his/her presence in the State was for temporary or transitory purposes.

You are considered a nonresident if:

1. You don't have a personal residence in Oregon, for yourself or for your family, during any part of the tax year; and
2. Your personal residence is outside Oregon during the entire tax year; and
3. You spend less than 31 days in Oregon during the tax year.

If you meet all three requirements, your military pay is not taxable by Oregon. Income earned by your spouse outside of Oregon is not taxable by Oregon. You owe Oregon tax only if you have income from an Oregon source.

If you do not meet all three requirements, your military pay and all other income is subject to Oregon tax. You must file an Oregon individual income tax return. But you may subtract up to \$3000 of your active duty pay from Oregon taxable income.

Oregon income tax may be withheld from your military pay. If you meet the three nonresident requirements listed above, you should file for a refund of Oregon tax withheld.

If you are not a resident of Oregon but you are stationed in Oregon, your military pay is not subject to Oregon tax. You must file an Oregon individual income tax return only if you or your spouse have income from an Oregon source.

**INCOME:** In general, Oregon income is based on Federal adjusted gross income (FAGI) with the following modifications and adjustments:

- (a) Social Security (not taxable by Oregon)
- (b) Interest from U.S. Government obligations
- (c) Interest on Government bonds of other states
- (d) Depreciation

There are other modifications. Follow the instructions in your Oregon income tax booklet.

Generally, you will:

Subtract -- All items included in Federal adjusted gross income which are not taxable by Oregon.

Add -- All items of income taxable by Oregon but not taxed or included in the Federal income tax return.

## OREGON - 1993

**NOTE:** A Federal tax refund is not taxed by Oregon unless it is a refund of tax previously subtracted on an Oregon tax return.

**DEDUCTIONS:** In general, itemized deductions are the same as Federal as they existed on December 31, 1990 with the following exceptions:

**Oregon tax.** Any Oregon tax withheld that is deducted on the Schedule A, must be added back to income on the Oregon return.

**Special Oregon Medical Deduction.** If the taxpayer or spouse are age 58 or older, they may claim all of their medical expenses without regard to the 7 1/2 percent floor. Their deduction is the lesser of line 1 or line 3 from federal schedule A.

Oregon's Standard Deduction is as follows:

Joint return	....	\$3,000
Single	....	1,800
Married Filing Separately	....	1,500
Head of Household	....	2,640

An additional standard deduction is allowed for nonitemizers who are age 65 or over or blind as follows:

Joint returns and Married Filing Separately	.....	\$1,000 per exemption per person
Single and Head of Household	.....	\$1,200 per exemption per person

### COMPUTING TAX:

TAXABLE INCOME:                      RATE:

For persons filing Single, or Married Filing Separately

Not Over \$2,050	5%
Over \$2,050 but not over \$5,150	\$103 + 7% of excess over \$2,050
Over \$5,150	\$320 + 9% of excess over \$5,150

For persons filing Jointly; Head of Household; or Qualifying Widow(er) with Dependent Child

Not over 4,100	5%
Over \$4,100 but not over \$10,300	\$205 + 7% of excess over \$4,100
Over \$10,300	\$639 + 9% of excess over 10,300

**CREDITS:** A credit of \$113 for each exemption claimed or allowable on the Federal return is allowed (personal and dependent(s)). Also Oregon allows an additional credit of \$113 for a taxpayer and/or spouse who is severely disabled and/or a dependent child, age 17 and younger, who is handicapped.

## OREGON - 1993

The Oregon credit for the Elderly or the Permanently and Totally Disabled is 40% of the allowable federal credit.

The Oregon Child Care Credit is equal to a percentage of the qualifying employment-related expenses determined for federal purposes. The percentage decreases as federal taxable income increases. The credit is eliminated for federal taxable incomes over \$45,000.00.

Full year residents, part-year residents, and certain non-residents\* can receive a credit for income taxes paid to another state to the extent of: (a) That portion of the Oregon tax applicable to mutually taxed adjusted gross income; or (b) Income taxes actually paid to another state, whichever is the lesser.

New for 1992. The taxpayer must claim the credit on their nonresident return if the income is taxed by both Oregon and one of the following: Arizona, California, Indiana, or Virginia.

**PAYMENTS:** Return and income tax payment are due April 15 or the following Monday, if the 15th falls on Saturday or Sunday.

Penalty for failing to file an income tax return (or failure to pay tax due) is 5% of the tax due if the return is filed within three months from due date of the return. An additional penalty of 20% (total 25%) is added to delinquent tax if the return is filed after that period.

A special penalty applies if a return has not been filed for three consecutive years by the due date of the third return required for the third consecutive year. The penalty is 100% of the net tax liability on each of the returns.

Interest accrues from the due date of the return until the date of payment.

As of June 1, 1982, the interest rate is 1.5% per month.

As of August 1, 1986, the interest rate is 1.4167% per month.

As of January 1, 1987, the interest rate is 1.3334% per month.

As of January 1, 1988, the interest rate is .9167% per month.

As of January 1, 1993, the interest rate is .6667% per month.

**ESTIMATED TAX:** Generally, the following people may need to pay Oregon estimated tax:

- Wage earners who don't have enough tax withheld from their wages, and expect to owe \$500 or more in addition to the tax already withheld from wages may need to pay estimated tax. You have two choices: (1) increase the amount of withholding from your wages; (2) pay estimated tax in addition to the usual amount withheld from wages.
- Self-employed people who don't have Oregon tax withheld from their income and expect to owe \$500 or more.
- Others who expect to owe \$500 or more and don't have Oregon tax withheld from their income, such as pensions, interest or dividends.

## **OREGON - 1993**

**HOW TO FILE ESTIMATED TAX:** Complete an Oregon Estimated Tax Form 40ES. Forms and instructions are in the Oregon Estimated Tax packet. File separately or jointly with spouse - the same way you file Oregon income tax return.

**TAX AUTHORITY:** Oregon Department of Revenue, Audit Division, Revenue Building, Salem, Oregon 97310. Telephone (503) 378-4988).

**TO ORDER TAX FORMS:** Oregon Department of Revenue P.O. Box 14999  
Salem, OR 97309-0990 (503) 378-4988

## PENNSYLVANIA - 1993

When this publication went to print, the 1993 tax information was unavailable. It will be forwarded under separate cover once received.

**STATE LAW:** Tax Reform Code of 1971, Sec. 301 et seq (Title 72 P.S. 301 et seq). Title 61 Pa. Code 101.1 et. seq.

**TAXPAYERS:** Resident and nonresident individuals, estates or trusts on the privilege of earning, receiving or acquiring eight specified classes of taxable income.

**FILING:** Individuals who receive Pennsylvania gross taxable income in excess of \$50 during 1993 must file a Pennsylvania Personal Income Tax Return. Also, you must file a return if you incurred a loss in one or more classes of income even if you had less than \$50 of taxable income.

**ESTIMATED TAXES:** When Pennsylvania taxable income not subject to withholding can be expected to exceed \$2,500, the taxpayer must file a Declaration of Estimated Tax and pay the amount due in equal installments. [See PAYMENT section.]

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Pennsylvania at the time of their induction into the service and (1) who maintain no permanent abode in Pennsylvania, (2) maintain a permanent abode in another jurisdiction, and (3) spend no more than 30 days of the tax year in Pennsylvania, are considered nonresidents for tax purposes. All three conditions must be met to be considered a nonresident. Pennsylvania presumes that servicemen who reside in barracks or bachelor office quarters on an armed forces base or on a ship under the command of the armed forces are "not maintaining a permanent place of abode in another jurisdiction."

a. Military pay received by a Pennsylvania resident while not on Federal active duty or not on Federal active duty for training is fully taxable regardless of where the military service is performed. For example, all income received for inactive duty while attending weekend drills is taxable. Any compensation received by United States serviceman serving in a combat zone is not taxable (See Desert Storm Provisions, *Infra*).

b. Income received by a Pennsylvania resident for military service performed within the Commonwealth is subject to Pennsylvania Personal Income Tax.

## PENNSYLVANIA - 1993

However, income paid to residents by the United States Government for active duty outside Pennsylvania as a member of the Armed Forces is not subject to Pennsylvania personal income tax. Reservists and National Guardsmen ordered to active duty for training at a two week summer encampment pursuant to Title 10 or Title 32 of the U.S. Code are presumed to be on federal active duty. The taxpayer has the burden of establishing that income received from military service outside the Commonwealth was earned while on federal active duty. The Department of Revenue will accept as proof the authority section of the military orders directing the taxpayer to federal duty outside the Commonwealth. Military pay received for such service only will be excludable from compensation if the active duty training is performed outside the Commonwealth.

Under the Soldiers' and Sailors' Civil Relief Act nonresident military personnel who are serving at a military installation in Pennsylvania are not subject to the income tax on their military pay; (b) There are no special provisions for military personnel who are POW/MIA (or their spouses); (c) Disability retirement pay is not subject to state income taxes. Nondisability retirement pay, like all old age or retirement benefits, is not taxable; (d) Neither the retirement pay of a servicemember who elects to forfeit a portion of his/her retirement pay to provide an annuity for his/her survivors, nor the survivors annuity, is taxable; (e) Filing requirements are the same as for other taxpayers.

**RESIDENTS:** A resident, for income tax purposes, is an individual domiciled in Pennsylvania who does not qualify as a nonresident. An individual domiciled in Pennsylvania, but who (1) has no permanent place of abode in Pennsylvania, (2) does maintain a permanent place of abode elsewhere, and (3) did not spend more than 30 days of the tax year in the State is considered, for tax purposes, to be a nonresident. A nonresident is also an individual not domiciled in Pennsylvania who does not maintain a permanent place of abode in the State and spends less than 183 days of the tax year in the State. A part-year resident is an individual who changed residency during the tax year (1) from a place outside Pennsylvania to Pennsylvania with the intent of residing permanently in Pennsylvania, or (2) from Pennsylvania to a place outside Pennsylvania with the intent of residing permanently outside the State.

**RATES:** The withholding rate for pay periods ending on or after:

The revised annual tax rate for 1993 is:

## PENNSYLVANIA - 1993

**NONTAXABLE ITEMS:** The following items are not taxable: (a) Disability retirement pay; (b) Retirement pay received from a qualifying retirement benefit program, whether in a lump sum or annuity (i.e., pensions); (c) Unreimbursed employee business expenses (i.e., travel, meals and lodging expenses incurred away from home, union dues, mandatory educational expenses); (d) Social Security; (e) Unemployment compensation; (f) Interest and gains derived from Pennsylvania (including its municipalities and instrumentalities) and United States obligations which are statutorily free from taxation. A list of the tax-exempt U.S. obligations is located in the 1993 PA-40 Instructions Booklet; (g) Pennsylvania Lottery prizes won on or after July 21, 1983; (h) Alimony; (i) Compensation received by U.S. Servicemen serving in a combat zone (See Desert Storm Provisions, *Infra.*).

**DESERT STORM PROVISIONS:** (a) No combat zone pay received by a United States serviceman is taxable for Pennsylvania personal income tax purposes (See 72 P.S. Section 7301(d)(vii)). No combat zone pay received by a United States serviceman is considered "poverty income" for purposes of the tax's special forgiveness provisions (See 72 P.S. Section 7301(o.2)(vii)). "Combat zone" means any area designated by the President by Executive Order a "combat zone" for any period of combatant activities. United States reservists and Pennsylvania National Guardsmen are United States servicemen while they are serving in a combat zone for purposes of this exclusion. The \$500 "combat zone" pay exclusion limit for military officers contained in the Internal Revenue Code is not in the state taxation statute.

(b) An extension of time for filing a return, declaration, statement or other document may be granted by the Department, upon application. Except for a taxpayer who is outside the United States this extension shall not exceed six months. (See 72 P.S. Section 7334) This extension only extends the time to file--not to pay. However, as a result of the hostilities in the Persian Gulf, the legislature passed Act 3, which was signed by the Governor. Its provisions are retroactive to August 2, 1990. It provides additional tax relief for any "combat zone" military and support personnel and waives income tax liabilities for qualifying individuals killed in any "combat zone". The Act is attached.

(c) For Pennsylvania local earned income tax purposes, wages or compensation paid to persons on active military service, regardless of whether or not the person is a resident or nonresident individual and regardless of whether or not the service is performed within or outside the Commonwealth, is not taxable. (See 53 P.S. Section 6913)

## PENNSYLVANIA - 1993

(d) Furthermore, the state enacted Act 2. Under this law, local municipalities may extend their local tax deadlines for Persian gulf combatants. Act 2 is also attached.

**TAXABLE ITEMS:** Taxable Income Items for resident individuals, estates, and trusts are limited to the following: (a) Compensation (b) Net profits from a business, profession, occupation or any taxable income derived from a Pennsylvania S corporation, partnership or association; (c) Taxable interest, including interest from other states' or countries' obligations; (d) Dividends, including the first \$100 or \$200 of dividend income; (e) Net gains or income from the sale, exchange or disposition of real or personal property including the sale of one's personal residence in all cases. However, as of July 1, 1987 taxpayers age 55 or older who sell their personal residence and are eligible for the federal income tax exclusion on the gain from the sale will also be able to exclude up to \$100,000 of the gain realized on a joint return and \$50,000 on a single return. The June 1, 1971 valuation of the property can be used in determining gains. The installment sales method of reporting may be used for 1984 and subsequent years' sales on real or tangible personal property. See 1988 PA-40 Instruction Booklet and Schedule D-1); (f) Net gains or income derived from or in form of rents, royalties, copyrights or patents; (g) Net gains or income derived through estates or trusts; (h) Lottery and gambling winnings other than Pennsylvania Lottery winnings won on or after July 21, 1983. Losses can only be offset against gains within a class and a gain realized by one spouse cannot be offset by a loss realized by the other spouse within the same income class.

Individuals cannot reduce their compensation by contributions they make to IRAs, IRC 401(k) salary reduction agreements or IRC 403 government tax-sheltered plans. Individuals cannot reduce their net profits by contributions to a Keogh Plan or IRAs.

Taxable income items, for nonresident individuals, estates and trusts, are limited to the following:

Compensation, net profits, gains, dividends, interest, net gains, or net income, less net losses from the disposition of property, net gains or income earned from estates or trusts and lottery and gambling winnings other than Pennsylvania Lottery winnings won on or after July 21, 1983 to the extent such income is earned, received or acquired from sources from within Pennsylvania:

- (1) By reason of ownership or disposition of any interest in real or tangible personal property in Pennsylvania; or

## PENNSYLVANIA - 1993

- (2) In connection with a trade, profession, or occupation carried on in Pennsylvania or for the rendition of personal services performed in Pennsylvania; or
- (3) As a distributive share of the income of an unincorporated business, Pennsylvania S corporation, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in Pennsylvania, except as allocated to another state pursuant to regulations promulgated by the Pennsylvania Department of Revenue; or
- (4) From intangible personal property employed in a trade, profession, occupation or business carried on in Pennsylvania.

However, income from sources within Pennsylvania for a nonresident individual, estate or trust does not include any classes of income enumerated above received or acquired from any investment company registered with the Federal Securities and Exchange Commission under the Investment Company Act of 1940.

However, compensation earned within Pennsylvania by residents of any state that has a reciprocal agreement with Pennsylvania (New Jersey, Maryland, Ohio, Virginia, West Virginia and Indiana) is not taxable.

Also, individuals cannot reduce their compensation by contributions made to an IRC 457 government thrift plan.

**CREDITS:** Credits are allowed for the following:

(a) Pennsylvania Personal Income Tax withheld from compensation; (b) Estimated tax payments; (c) Special tax forgiveness credits - such credits allow eligible claimants to receive total state income tax forgiveness on up to \$7,000 of taxable income (with an additional income allowance of \$2000 for each additional dependent or household member); (d) Employment Incentive Payments Credit - Sole proprietors, partners and Pennsylvania S corporation shareholders can reduce their state income tax liability by receiving credits for their employment of former Pennsylvania welfare recipients and additional credits for providing daycare services for the children of such workers. (See 1993 PA-40 Booklet); (e) Resident Tax Credits - Income taxes or other taxes on gross or net earned or unearned income paid to other states or foreign countries by resident on income taxable in Pennsylvania. This credit may not exceed the proportion of the tax otherwise due that the amount of the taxpayer's income subject to tax by the other jurisdiction bears to his entire

## PENNSYLVANIA - 1993

taxable income. This credit will only be allowed if substantiated by the submission of a copy of the other jurisdiction's tax return or proof that the amount withheld is nonrefundable.

**PAYMENTS:** Return and payment due by April 15. Declaration of Estimated Tax is required from resident and nonresident individual, trust and estate whose Pennsylvania taxable income, other than from compensation subject to withholding, can reasonably be expected to exceed \$2,500. Declaration of Estimated Tax is due by 15 April of the tax year if requirements for filing are met on or before 1 April. Payment of estimated tax is due in four equal installments if requirements for filing a declaration are met on or before April 1st; first due at the time the declaration is filed, second, third and fourth due on or before 15 June, September, and January.

**NOTE:** Where no return is filed or if a taxpayer shall fail when required to file an amended return, the amount of tax due may be assessed at any time. Any person failing to pay the tax or to file a return as required by law or regulation shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall upon conviction be sentenced to pay a fine, not exceeding \$5,000, or to undergo imprisonment, not exceeding 2 years or both.

The position of the Department of Revenue with respect to delinquent taxes of former military personnel was expressed by the Chief Counsel of the Personal Income Tax Bureau in a letter dated 16 April 1976 as follows: "The Soldiers and Sailors Civil Relief Act defers any collection on the income tax of a person in the military service until six (6) months after the termination of the period of military service, if such person's ability to pay such tax is materially impaired by reason of such service. Consistent with the aforementioned Act, penalties and interest may not be assessed. \*\*\* The Act also provides that the running of any Statute of Limitations against the collection of such tax by distraint or otherwise should be suspended for the period of military service of any individual, the collection of whose tax is deferred under this Section, and for an additional period of nine (9) months beginning with the day following the period of military service. By reason of the extension afforded military personnel under \*\*\* the Act and the tolling of any statute of limitations, this Department will require tax returns to be filed for all prior years wherein taxable income was received. Arrangements for partial payments can be made so long as the plan is reasonable as to the amount and not unduly prolonged."

**CITY INCOME TAX:** Nearly 1,500 municipalities and school districts impose an income tax on residents. Most taxes are limited to a maximum of 1% of earned

## PENNSYLVANIA - 1993

income. Act 511, "The Local Enabling Tax Act", adopted by the State Legislature and effective 1 January 1966, specifically prohibits the imposition of an income tax on "wages or compensation paid to persons on active military service."

The major cities impose the following taxes:

CITY and COLLECTOR	Rate*	Return and Tax Due
ERIE - Receiver of Taxes	1%	Return due 15 April; withholding tax due 15 April, 15 July, 15 October, 15 January
PHILADELPHIA - Department of Collections	4.3125%	Nonresidents working in Philadelphia
	4.96%	Residents of Philadelphia withholding 31 January, 30 April, 31 July, October
PITTSBURGH - Treasurer	4%****	Return due 15 April; 15 April, July, October, January **, 30 April, 31 July, October January***
SCRANTON - Collector of Taxes	3.4%	Return due 15 April; active duty military - exempt from and paying

\* In other than Philadelphia and Pittsburgh, the combined municipal and school district tax rates may not exceed 1% of "earned income." Although the municipal and school district taxes are independently assessed, they are collected together.

\*\* Income from business only.

\*\*\* Wages not subject to withholding only.

\*\*\*\* Combined city and school wage tax.

## PENNSYLVANIA - 1993

**RETIREMENT INCOME:** The case of *Davis v. Michigan Department of Revenue*, 489 U.S. 803, 103 L.Ed.2d 891 (1989), concerning the taxation of federal retirements, has no direct impact upon the application of Pennsylvania law. Pennsylvania has never taxed payments commonly recognized as old age or retirements benefits paid to person retired from service after reaching a specific age or after a stated period of employment, regardless of whether payments are from state, local or federal plan or private sector plan.

**TAX AUTHORITY:** Commonwealth of Pennsylvania, Department of Revenue, Harrisburg, Pennsylvania 17105.

You may order Pennsylvania tax forms or schedules by calling one of the Department's special 24-hour answering service numbers for forms ordering: Harrisburg (717) 787-8094, Philadelphia (215) 560-2065, and Pittsburg (412) 565-3601. Address written requests to: PA Department of Revenue, Tax Forms Service Unit, 2850 Turnpike Industrial Drive, Middletown, PA 17057-5492. Allow two to three weeks for delivery.

## RHODE ISLAND - 1993

**STATE LAW:** Title 44, Chapter 30 of the Rhode Island General Laws as amended.

**TAXPAYERS:** A tax is imposed on Rhode Island residents and nonresidents receiving income from Rhode Island sources.

**FILING:** Every individual, including resident service members, required to file a Federal income tax return must file a Rhode Island income tax return.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Rhode Island but maintain an abode in another jurisdiction are subject to taxation (see "RESIDENTS"). If a resident service member is required to file a Federal income tax return, he/she must file a Rhode Island income tax return; (b) Tax liability of service members who are POW/MIA (and their spouses), disability and nondisability retirement pay, and such portion of retirement pay forfeited to provide an annuity for survivors, are all treated the same as under the Internal Revenue Code.

**DESERT STORM PROVISIONS:** Rhode Island will treat the military pay and the filing requirements of those who served in Operation Desert Storm/Shield in the same manner as they are treated for federal purposes, with one exception: the State will not waive or cancel any late payment interest that may be due on a late payment of a tax balance. All other late charges will be waived or cancelled upon receipt of payment of the tax in full.

**RESIDENTS:** A resident is defined as an individual "who is domiciled in Rhode Island." Accordingly, Rhode Island domiciliary service members are subject to Rhode Island taxation even though they reside outside Rhode Island and spend no time in Rhode Island during a taxable year.

**RATES:** Income tax rate for calendar year 1991 will be 27.5% of the taxpayers federal income tax liability. "Federal income tax liability" is the amount of Federal income tax (less Federal surtaxes, self-employment taxes and Social Security taxes) for which a taxpayer would have been liable had he paid the tax based on Federal taxable income as modified below for residents and nonresidents.

**INCOME:** The Rhode Island income of a resident individual is his/her Federal adjusted gross income as modified below:

Subtract -- Interest or dividends on Federal obligations to the extent includible in Federal gross income but exempt from state taxes under Federal law. (The amount subtracted must be reduced by any interest on indebtedness incurred to purchase or carry the obligations to the extent such interest is deducted in determining Federal adjusted gross income or taxable income.) Effective on and after July 1, 1989 Rhode Island Lottery prize winnings awarded

## RHODE ISLAND - 1993

and/or received are subject to Rhode Island personal income tax both for residents and nonresidents.

Rhode Island has a new modification for amounts paid into a Family Education Account. Amounts must be paid into a Rhode Island financial institution to pay for post-secondary education for a qualified dependent. Form RI-1040 FEA has to be completed and attached to the return when claiming this modification.

Add - (a) Interest on obligations of any state or political subdivision other than Rhode Island; (b) Interest or dividends on Federal obligations exempt from Federal income tax but not from state taxes; (c) income subject to Rhode Island taxation but not required to be included in Federal adjusted gross income and, therefore, is exempt from Federal taxation.

The Rhode Island income of a nonresident individual is the sum of: (a) Net amount of items of income and deduction entering into Federal adjusted gross income derived from or connected with Rhode Island sources including a distributive share of partnership income and deductions, and any share of estate or trust income and deductions; and (b) The portion of the modifications described above for residents which relate to income derived from Rhode Island sources. Compensation for services while in the Armed Forces received by nonresidents is not income derived from Rhode Island sources. The Federal tax liability of a nonresident attributed to Rhode Island income is that proportion which Rhode Island income bears to Federal adjusted gross income after the above modifications. The definition of the Rhode Island income for a non-resident has been changed to include: Winnings and Prizes from the Rhode Island Lottery and parimutual betting events conducted in Rhode Island.

NOTE: References to Federal laws are to provisions of the Internal Revenue Code and other Federal provisions relating to Federal income taxes for the same taxable year.

DEDUCTIONS: Rhode Island taxable income, except for the above adjustments, is computed with no other deductions.

EXEMPTIONS: Rhode Island personal exemptions are the same as under the Internal Revenue Code.

CREDITS: (a) Residents are allowed a credit for the aggregate of net income taxes imposed on the taxpayer for the taxable year by other states and the District of Columbia. A signed copy of the return filed with the other state must be attached to the Rhode Island return. (b) Rhode Island taxpayers are allowed a credit for the purchase and installation of a qualifying renewable energy system in real property located in Rhode Island. Also the owners of residential rental property located in Rhode Island may qualify for a credit on qualified energy conservation items installed in such rental property. (c) Rhode Island Artifacts: A credit is allowed to owners of object of significance to Rhode Island when they lend those items for public viewing. The lender must enter into an agreement with the Board of Curators prior to

## RHODE ISLAND - 1993

being allowed to take the credit. (d) A taxpayer may claim a credit of up to ten percent (10%) of certified maintenance and/or rehabilitation costs. A certificate from the State Historical Preservation Commission must be obtained and filed with the Rhode Island tax return.

**PAYMENTS:** Returns and payment in full due on or before the 15th day of the fourth month following the close of the tax year. Residents and nonresidents who can reasonably expect their estimated tax to be \$100 or more in excess of any credits must file a Declaration of Estimated Tax. The declaration is due on or before the 15th day of the fourth month of the tax year unless the taxpayer is not required to file a declaration until a later date. In that case, the declaration is due on or before the next installment due date. Estimated tax payments are due in four equal installments if the declaration is filed on or before 15 April, the first installment due when filing the declaration; second, third and fourth installments due on the 15th of June, September and January following. Fewer installments are required if the declaration is filed later in the year.

A penalty is assessed of 5% per month (maximum 25%) for failure to file by due date; penalty of 1/2% per month (maximum 25%) for failure to pay by due date; interest charge is assessed on the tax balance due for failure to pay by the due date. An interest charge is assessed for under payment of estimated tax liability. The charge is based on 80% of the tax liability less any prepaid taxes. However, the Tax Administrator may, upon application in writing, abate or cancel late filing and/or late payment charges if the service member was unaware of the Rhode Island filing requirements. There is no statute of limitations if the service member has failed to file. Accordingly, the service member is required to file for all delinquent years. Consideration is given, on an individual basis, to requests to waive any penalties and/or interest. Time payments may be arranged in cases where full payment of taxes would create financial hardships.

### 1993 RHODE ISLAND TAX RATE SCHEDULE

#### SINGLE

IF THE AMOUNT

ON R.I. 1040, OR 1040NR

LINE 1 IS:

ENTER ON R.I. FORM

1040, OR 1040NR LINE 2:

OVER                      BUT NOT  
OVER                      OVER

\$ 0	\$15000	\$ 0	+	27.50%	of amount over \$ 0
\$15000	\$31172	\$ 4125	+	32.00%	of amount over \$15000
\$31172	\$79772	\$ 9300	+	27.55%	of amount over \$31172
\$79772	.....	\$22689	+	25.05%	of amount over \$79772

## RHODE ISLAND - 1993

THE ABOVE TAX RATE SCHEDULE MAY NOT BE USED BY TAXPAYERS WHO FILE A FEDERAL SCHEDULE-D AND HAD TAXABLE INCOME GREATER THAN \$115,000. THESE INDIVIDUALS MUST COMPUTE THEIR RI TAX ON FORM RI SCHEDULE-D.

### MARRIED FILING JOINT OR QUALIFIED WIDOW(ER)

IF THE AMOUNT ENTER ON R.I. FORM  
ON R.I. 1040, OR 1040NR 1040, OR 1040NR LINE 2:  
LINE 1 IS:

BUT NOT  
OVER                      OVER

\$ 0	\$15000	\$ 0	+	27.50% of amount over \$ 0
\$15000	\$35929	\$ 4125	+	32.00% of amount over \$15000
\$35929	\$75529	\$10822	+	27.55% of amount over \$35929
\$75529	.....	\$21732	+	25.05% of amount over \$75529

THE ABOVE TAX RATE SCHEDULE MAY NOT BE USED BY TAXPAYERS WHO FILE A FEDERAL SCHEDULE-D AND HAD TAXABLE INCOME GREATER THAN \$140,000. THESE INDIVIDUALS MUST COMPUTE THEIR RI TAX ON FORM RI SCHEDULE-D.

### HEAD OF HOUSEHOLD

IF THE AMOUNT ENTER ON R.I. FORM  
ON R.I. 1040, OR 1040NR 1040, OR 1040NR LINE 2:  
LINE 1 IS:

BUT NOT  
OVER                      OVER

\$ 0	\$15000	\$ 0	+	27.50% of amount over \$ 0
\$15000	\$33385	\$ 4125	+	32.00% of amount over \$15000
\$33385	\$77485	\$10008	+	27.55% of amount over \$33385
\$77485	.....	\$22158	+	25.05% of amount over \$77485

THE ABOVE TAX RATE SCHEDULE MAY NOT BE USED BY TAXPAYERS WHO FILE A FEDERAL SCHEDULE-D AND HAD TAXABLE INCOME GREATER THAN \$127,500. THESE INDIVIDUALS MUST COMPUTE THEIR RI TAX ON FORM RI SCHEDULE-D.

## RHODE ISLAND - 1993

### MARRIED FILING SEPARATELY

IF THE AMOUNT ON R.I. 1040, OR 1040NR LINE 1 IS:                      ENTER ON R.I. FORM 1040, OR 1040NR LINE 2:

OVER                      BUT NOT OVER

\$ 0	\$15000	\$ 0	+	27.50%	of amount over \$ 0
\$15000	\$17964	\$ 4125	+	32.00%	of amount over \$15000
\$17964	\$37764	\$ 5073	+	27.55%	of amount over \$17964
\$37764	.....	\$10528	+	25.05%	of amount over \$37764

THE ABOVE TAX RATE SCHEDULE MAY NOT BE USED BY TAXPAYERS WHO FILE A FEDERAL SCHEDULE-D AND HAD TAXABLE INCOME GREATER THAN \$70,000 THESE INDIVIDUALS MUST COMPUTE THEIR RI TAX ON FORM RI SCHEDULE-D

**RETIREMENT INCOME:** The case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Rhode Island law. Rhode Island treats all pension and annuity income the same.

**TAX AUTHORITY:** Department of Administration, Division of Taxation, One Capitol Hill, Providence, Rhode Island 02908-5800. For taxpayer assistance: (401) 277-2905

**TO ORDER TAX FORMS:** State of Rhode Island, Division of Taxation, One Capitol Hill Providence, RI 02908-5800 (401) 277-3934

## SOUTH CAROLINA - 1993

**STATE LAW:** South Carolina Code of Law 1976, as amended, Sec. 12-7-210 et seq.

**TAXPAYERS:** Every resident who is required to file a Federal income tax return must file a South Carolina income tax return. Every nonresident who has income from South Carolina sources must file a South Carolina nonresident income tax return.

**FILING:** See "TAXPAYERS". If these requirements are met an income tax return must be filed. When husband and wife (both of whom are either residents or nonresidents), have elected to file a joint Federal income tax return they are required to file a joint South Carolina return, or if they have elected to file separate Federal returns, they are required to file separate South Carolina returns. If one spouse is a resident and the other a nonresident for some part of the year, and they elect to file a joint federal return, they are required to file a joint South Carolina return and may make the election allowed to part year residents (see *infra*). If neither spouse files a federal return, their South Carolina taxable income must be determined on a separate basis unless both elect to file jointly.

**MILITARY PROVISIONS:** There is no provision in South Carolina law expressly exempting a service member's compensation or veterans benefits from taxation. However, income exempt under the Internal Revenue Code is exempt from South Carolina taxation. See "Income Exclusions".

Military pay received by a nonresident service member stationed in South Carolina is not taxed by the State. Income earned in South Carolina by a nonresident service member from employment not connected with military service is subject to South Carolina taxation. Income derived from South Carolina sources by a service member's spouse is subject to taxation.

Note: Military Service pay can be taxed only by the state in which the service member is a legal resident (Soldiers' and Sailors' Civil Relief Act). Legal residence at the time of entry into the Armed Forces is presumed to remain so until legal residence is established in another jurisdiction and service records are changed accordingly.

**DESERT STORM PROVISIONS:** See SC Information Letter #91-6, attached.

**RESIDENTS:** You are a South Carolina resident, even if you live outside South Carolina when: (1) You think of South Carolina as your permanent home; AND (2) South Carolina is the center of your financial, social, and family life; AND (3) When you are away, South Carolina is the place to which you intend to return.

**NONRESIDENTS:** You are a nonresident if your permanent home is outside South Carolina all year and none of the above (see residents) applies to you. As a part-year resident you may consider yourself a full-year resident or a nonresident. If you

## **SOUTH CAROLINA - 1993**

elect to be a full-year resident, file the resident form SC1040 (Long Form). You will report all your income, no matter where earned, and will be allowed a tax credit for taxes paid to another state on this same income. If you elect to be a nonresident, file the nonresident form, SC1040NR. You will be taxed only on income earned in South Carolina and will prorate your deductions and exemptions. A part-year resident may choose the way most advantageous to him.

**INCOME ADJUSTMENTS:** South Carolina taxable income means income taxable for Federal income tax purposes under the Internal Revenue Code (Retired Servicemen's Family Protection Plan (RSFPP) and Survivor's Benefit Plan (SBP) exclusions apply), with these adjustments:

**Additions to Federal Taxable Income --** (a) State Income Taxes, if itemizing on Federal return. (b) Out-of-state rental or business losses. (c) Expenses related to military reserve income. (d) Interest income on obligations of States and political subdivisions other than South Carolina.

(e) Expenses deducted on the federal return related to any income exempt or not taxable by South Carolina, such as U.S. Savings Bonds or out-of-State investments. (f) Effective 1-1-88, foreign income exclusion generally is allowed (no longer an addition to federal taxable income), but foreign areas allowance, cost of living allowances, and/or income from possessions of the United States remain additions to federal taxable income.

**Subtractions from Federal Taxable Income --** (a) Income not taxable to State, such as interest on obligations of the United States. (b) Effective for taxable years beginning after 1992, beginning in the first taxable year the taxpayer receives retirement income the taxpayer may: 1) deduct up to \$3,000 of retirement income annually or 2) make an irrevocable election to defer the deduction until age 65, at which time the taxpayer may deduct up to \$10,000 annually. (c) Supplemental annuities under the Railroad retirement Act and Social Security Act. (d) State Income Tax refund. (e) Military Reserve income and National Guard pay. (f) Disability income included on Federal return if you qualify under Federal guidelines. (g) Income from a business, trade, or profession located outside South Carolina; however, personal service income or a resident would be taxable to South Carolina no matter where it is earned. (h) Adoption of a "special needs child" allows a \$2,000 subtraction. (i) 29% deduction of net capital gains which have been included in South Carolina taxable income. The property must have been held for a period of two or more years.

**RATES:** South Carolina residents and nonresidents use the same tax rate schedule.

**INCOME:** South Carolina income tax is based on the taxpayer's Federal taxable income with adjustments. See "Income adjustments" for list of additions and subtractions. Since South Carolina starts with federal taxable income, the deductions and exemptions have already been deducted on the federal tax return.

**DEDUCTIONS:** Deductions, including the Standard Deduction and itemized deductions, are generally the same as under the Internal Revenue Code. See "Income Adjustments" for allowable deductions to arrive at South Carolina base income.

## **SOUTH CAROLINA - 1993**

**EXEMPTIONS:** Same as under the Internal Revenue Code.

**CAPITAL GAINS AND LOSSES:** South Carolina taxable income is essentially Federal taxable income. Therefore, insofar as capital gains and losses are reflected in a taxpayer's Federal taxable income, they will also be reflected in his/her South Carolina taxable income. Capital loss carryovers prior to 1985 are not allowed. Adjustments are necessary when real property is located outside South Carolina. Effective 1 January 1990, there is a long term capital gain deduction (see (l) above) under subtractions from federal taxable income.

**CREDITS:** Residents receive tax credit for income taxes paid to other states not to exceed South Carolina tax on same income; but for nonresidents, no such credit is granted; they must look to their state of legal residence for tax relief.

**Two Wage Earned Income Credit --** Effective January 1, 1987, married couples filing a joint return are allowed a credit when both have qualified earned income. The credit is equal to .7% (.007) of qualified earned income of the spouse with the lesser qualified earned income (maximum credit \$210). See Schedule W for details.

**Child and Dependent Care Credit --** A credit is allowed for child and dependent care expenses. Multiply the Federal expense by .07 (7%). Amount of income does not change the percentage factor.

**Nursing Home Credit --** A credit of 20% of expenses (to a maximum of \$300) may be taken for expenses paid by an individual for his/her own support or the support of another to an institution in any state, providing nursing facility level of care or paid to a provider for in-house or community care.

**PAYMENTS:** Return and payment due April 15 for calendar year filers or by the 15th day of the fourth month following the close of the fiscal year for fiscal year filers.

South Carolina accepts an extension of time granted by the Internal Revenue Service provided the South Carolina income tax return shows a refund or no balance of tax due when the return is filed. If you intend to use the federal extension in lieu of South Carolina's extension, it is not necessary to send South Carolina a copy of the Federal form by the due date of the tax return. Simply attach a copy of the federal extension to the face of the return when you file the tax return within the extended period. If you owe additional tax, attach payment of taxes due to South Carolina to a separate copy of your federal extension or to South Carolina extension Form 4868, and forward payment by the original due date of the return.

Every individual who expects to have a balance due of \$100 or more and whose withholding is less than 90% of total tax must file a Declaration of Estimated Tax by April 15 and pay estimated tax in four equal installments on the 15th day of April, June, September and January. A Declaration of Estimated Tax is not required of an individual who was a resident of S.C.

## **SOUTH CAROLINA - 1993**

throughout the preceding taxable year, had no S.C. tax liability for the prior year, and whose prior tax year was for a full 12 months.

### **NOTE:**

**Interest** -- If South Carolina income tax is not paid when due, the taxpayer is liable for interest using the prevailing federal interest rates. Interest will accrue without regard to any extension of time for filing.

**PENALTY** -- Delinquent filing penalty is 5% of the balance of tax due for the first month plus 5% for each additional month or fraction thereof, not exceeding 25%, in the aggregate. For returns filed more than 60 days late, the penalty will be the lesser of \$100.00 or 100% of the balance of tax due. Delinquent payment penalty is .5% of the balance of tax due for the first month plus .5% for each additional month or fraction thereof, not exceeding 25%, in the aggregate. South Carolina has adopted negligence and substantial understatement penalties which are similar to the federal.

**RETIREMENT INCOME:** Before the U.S. Supreme Court decided *Davis v. Michigan Department of Revenue*, South Carolina taxed federal retirement pay above a \$3,000 exclusion and totally exempted state retirement pay. Legislation effective 1 January 1989 provided a \$3,000 exclusion of retirement income for both federal and state retirees. This remedy was prospective only, and a group of federal retirees brought suit to collect refunds on taxes paid for the previous three years. The South Carolina Supreme Court ruled in May 1990 that refunds were not required. This decision was appealed to the U.S. Supreme Court. The case is still pending.

**TAX AUTHORITY:** South Carolina Department of Revenue, Office Services Division, P. O. Box 125, Columbia, South Carolina 29214. To request forms call 1-800-768-3676.



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC INFORMATION LETTER #91-6

TO: Vicki J. Ringer  
Public Information Director

FROM: John P. McDermack  
Tax Policy and Appeals Department

DATE: January 22, 1991

SUBJECT: Tax Assistance - Operation Desert Storm

REFERENCE: Title 12 - South Carolina Code of Laws, As Amended (1976,  
Supp. 1990)

AUTHORITY: S.C. Code Section 12-3-140 (1976)  
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document  
issued for the purpose of disseminating general  
tax information and to respond to technical  
questions from within the Commission which are  
not related to a specific set of facts.

In order to assist military personnel stationed in the Persian Gulf as a result of Operation Desert Storm, and their families, the Commission has established the following procedures and assistance programs.

Extensions of Time to File Tax Returns:

Individual Income: The Commission has extended, for military personnel stationed in the Persian Gulf as a result of Operation Desert Storm, the time for filing their individual income tax returns (SC 1040, SC 1040A, and SC 1040NR) until at least 180 days after the taxpayer departs from the Persian Gulf. The time for paying additional taxes due on the return, if any, has also been extended until at least 180 days after the taxpayer departs from the Persian Gulf. The above extensions also apply to any joint returns such military personnel may file with their spouses. (See section below regarding interest.)

If the military person expects a refund, another person, such as a spouse or other family member, may sign the return for the military person, if the military person has given that person the authority to do so.

Corporate Income: The Commission will extend, upon proper notification, the time for filing any corporate tax return (including S corporation and nonprofit returns), if all the corporate officers are in the regular military, reserves, or national guard and stationed in the Persian Gulf as a result of Operation Desert Storm. The time for filing the return and paying additional taxes due on the return, if any, has also been extended until at least 180 days after the first corporate officer departs from the Persian Gulf. (See section below regarding interest.)

Corporations qualifying for this extension must notify the Commission, in writing at the address below, that all corporate officers are stationed in the Persian Gulf as a result of Operation Desert Storm. This will minimize the issuance of unnecessary delinquency notices for failure to file and prevent the cancellation of the corporate charter.

Sales and Use Tax and other Taxes filed on a Monthly or Quarterly Basis: The Commission will not automatically extend the time for filing these monthly or quarterly returns, where the business continues operations while the owner is stationed in the Persian Gulf as a result of Operation Desert Storm, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Partnerships: The Commission will not automatically extend the time for filing partnership returns, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Other Reasons: The Commission will review all other extension requests, which are the result of military service anywhere in the world due to the Persian Gulf crisis, on a case by case basis.

Mailing Address for Extension Requests: All extension requests related to the Persian Gulf and Operation Desert Storm must be in writing and sent to the following address:

Problems Resolution Office  
P. O. Box 11189  
Columbia, South Carolina 29211-1189  
Attn: Desert Storm

Such extension requests should include a copy of the taxpayer's military orders, or other documentation establishing military service due to the Persian Gulf crisis.

Further Extensions: The extension deadlines established by the Commission may be extended further, depending on circumstances in the Persian Gulf at that time and to ensure compliance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

Documentation Required Upon Filing of Return(s): Upon return from the Persian Gulf, a taxpayer filing a return extended under the provisions of this document should attach to the front of the return a copy of his or her military orders for the Persian Gulf, or other documentation establishing that he or she participated in Operation Desert Storm. With respect to a corporation where all the corporate officers were stationed in the Persian Gulf as a result of Operation Desert Storm, a copy of each corporate officer's military orders should be attached to the front of the return. In addition, the taxpayer should write "Desert Storm" across the top of the face of the tax return. The purpose of this is to minimize the issuance of unnecessary assessment notices for failure to file and/or failure to pay penalties.

If a taxpayer is inadvertently assessed failure to file and/or failure to pay penalties which have been waived pursuant to this document, the taxpayer should request, in writing, relief of such penalties. Such request, along with any documentation, should be sent to the Problems Resolution Office at the above address.

#### Suspension of Collection Activities:

State Taxes: The Commission will suspend the enforced collection of any assessed liability of a taxpayer stationed in the Persian Gulf as a result of Operation Desert Storm if the assessed liability is (1) the sole obligation of the taxpayer or, (2) the joint obligation of the taxpayer and his or her spouse.

The Commission will review all other tax liabilities, with respect to the possible suspension of enforced collections, on a case by case basis and in accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

County Property Tax: Questions regarding the possible suspension of enforced collection of county property taxes should be addressed to the individual counties. The Commission and the State Comptroller General's office will provide technical assistance to the counties with respect to this matter.

Reinstatement of Collection Activities: The Commission will reinstate enforced collection activities of any assessed liabilities suspended pursuant to this document no sooner than 180 days after the taxpayer departs from the Persian Gulf.

#### Penalties and Interest:

Penalties: The Commission will waive any penalties due as a result of any extensions, or suspension of collection activities, granted under this document; however, penalties will be assessed if the above returns and taxes are not filed or paid by any extended due date authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

Penalties due as the result of the failure to pay estimated taxes will be waived for any estimated taxes due while the individual taxpayer was stationed in the Persian Gulf as a result of Operation Desert Storm.

Interest: The South Carolina General Assembly is currently considering legislation which will provide that no interest will be assessed with respect to any income tax due on a 1990 return, the period for which the filing date has been extended pursuant to this document or the Soldiers' and Sailors' Civil Relief Act of 1940.

With respect to tax debts prior to active service, the Soldiers' and Sailors' Civil Relief Act of 1940 limits interest to 6% per year on all tax debts incurred prior to a taxpayer's active military service, but only for the period of the taxpayer's active service.

In all cases, interest will accrue at the rates established by South Carolina law for any taxes due after the extended due dates authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

Combat Pay of Members of the Armed Forces:

South Carolina has adopted many of the provisions of the Internal Revenue Code, including the provisions of Section 112. This section excludes certain combat pay from the definition of "gross income", thereby, exempting such pay from income taxes. The section provides various definitions and procedures with respect to exempting such income. All income exempt from federal income taxes under this section is also exempt from the South Carolina income tax.

Possible Legislation:

Congress and the South Carolina General Assembly are both considering legislation to provide tax relief for military persons stationed in the Persian Gulf as a result of Operation Desert Storm. The Commission will review all such legislation and issue additional Information Letters as necessary to inform military persons and their families of future tax assistance provisions and programs.

Desert Storm Tax Hotline:

The Commission has established a hotline to provide tax assistance for military persons and their families affected by Operation Desert Storm. The tax hotline number is 1-800-277-TAXX (1-800-277-8299).

Other Tax Assistance:

Military persons and their families affected by Operation Desert Storm can also receive tax assistance at any one of the Commission's nine Taxpayer Service Centers listed below.

Aiken	410 Barnwell Street N.W.	(803) <del>643-3002</del> 571-7685
Beaufort	Carolina Cove Executive Ctr.-Suite 112	(803) 524-2852
Charleston	3 Southpark Circle - Suite 202	(803) 571-3000
Columbia	301 Gervais Street	(803) 737-4661
Florence	1452 West Evans Street	(803) 661-4850
Greenville	211 Century Drive	(803) 241-1200
Myrtle Beach	141 McDonalds Court	(803) 293-6550
Rock Hill	875 Albright Road	(803) 324-7641
Spartanburg	Hillcrest Offices - Suite 475	(803) 594-4900

Soldiers' and Sailors' Civil Relief Act of 1940:

It is the intent of this document to comply with the Soldiers' and Sailors' Civil Relief Act of 1940. The Commission will, therefore, revise any extension dates as deemed necessary and establish any procedures or programs in order to comply with this Act.



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC INFORMATION LETTER #91-18

TO: Vicki J. Ringer  
Public Information Director

FROM: John P. McCormack  
Tax Policy and Appeals Department

DATE: July 1, 1991

SUBJECT: Tax Assistance - Operation Desert Storm

REFERENCE: Title 12 - South Carolina Code of Laws, As Amended (1976,  
Supp. 1990)

AUTHORITY: S.C. Code Section 12-3-140 (1976)  
SC Revenue Procedure #87-3

SCOPE: An Information Letter is a temporary document  
issued for the purpose of disseminating general  
tax information and to respond to technical  
questions from within the Commission which are  
not related to a specific set of facts.

In order to assist military personnel stationed in the Persian Gulf as a result of Operation Desert Storm, and their families, the Commission established various procedures and assistance programs. These procedures and programs were outlined in SC Information Letter #91-6.

The General Assembly, in a bill signed by the Governor on May 21, 1991, has provided additional assistance to military personnel and their families affected by Operation Desert Storm. The following sets forth the entire assistance program established by the General Assembly and the Commission.

Extensions of Time to File Tax Returns:

Individual Income: For military personnel that are or were stationed in the Persian Gulf as a result of Operation Desert Storm, or who were called to active duty as a result of Operation Desert Storm, the time for filing their individual income tax returns (SC 1040, SC 1040A, and

SC 1040NR) has been extended until at least 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

The time for paying additional taxes due on the return, if any, has also been extended until at least 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

The above extensions also apply to any joint returns such military personnel may file with their spouses. (See section below regarding penalties and interest.)

If the military person expects a refund, another person, such as a spouse or other family member, may sign the return for the military person, if the military person has given that person the authority to do so.

Corporate Income: The time for filing any corporate tax return (including S corporation and nonprofit returns) will be extended upon proper notification, if all the corporate officers are in the regular military, reserves, or national guard and stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm.

The time for filing the return and paying additional taxes due on the return, if any, will be extended until at least 180 days after the first corporate officer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm. (See section below regarding penalties and interest.)

Corporations qualifying for this extension must notify the Commission, in writing at the address below, that all corporate officers are or were stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm. This will minimize the issuance of unnecessary delinquency notices for failure to file and prevent the cancellation of the corporate charter.

Sales and Use Tax and other Taxes filed on a Monthly or Quarterly Basis: The Commission will not automatically extend the time for filing these monthly or quarterly returns, where the business continues operations while the owner is stationed in the Persian Gulf as a result of Operation Desert Storm, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Partnerships: The Commission will not automatically extend the time for filing partnership returns, but will review any request for an extension on a case by case basis, pursuant to the Commission's normal procedures.

Other Reasons: The Commission will review all other extension requests, which are the result of military service anywhere in the world due to the Persian Gulf crisis, on a case by case basis.

Mailing Address for Extension Requests: All extension requests related to the Persian Gulf and Operation Desert Storm must be in writing and sent to the following address:

Problems Resolution Office  
P. O. Box 11189  
Columbia, South Carolina 29211-1189  
Attn: Desert Storm

Such extension requests should include a copy of the taxpayer's military orders, or other documentation establishing military service due to the Persian Gulf crisis.

Further Extensions: The extension deadlines established by the Commission may be extended further, depending on circumstances in the Persian Gulf at that time and to ensure compliance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

Documentation Required Upon Filing of Return(s): Upon return from the Persian Gulf or active duty, a taxpayer filing a return extended under the provisions of this document should attach to the front of the return a copy of his or her military orders for the Persian Gulf, or other documentation establishing that he or she participated in Operation Desert Storm. With respect to a corporation where all the corporate officers were stationed in the Persian Gulf or called to active duty as a result of Operation Desert Storm, a copy of each corporate officer's military orders should be attached to the front of the return. In addition, the taxpayer should write "Desert Storm" across the top of the face of the tax return. The purpose of this is to minimize the issuance of unnecessary assessment notices for failure to file and/or failure to pay penalties and interest.

If a taxpayer is inadvertently assessed failure to file and/or failure to pay penalties or interest which have been waived pursuant to this document, the taxpayer should request, in writing, relief of such penalties and interest. Such request, along with any documentation, should be sent to the Problems Resolution Office at the above address.

Suspension of Collection Activities:

State Taxes: The Commission will suspend the enforced collection of any assessed liability of a taxpayer stationed in the Persian Gulf as a result of Operation Desert Storm if the assessed liability is (1) the sole obligation of the taxpayer or, (2) the joint obligation of the taxpayer and his or her spouse.

The Commission will review all other tax liabilities, with respect to the possible suspension of enforced collections, on a case by case basis and in accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

County Property Tax: For military personnel that are or were stationed in the Persian Gulf as a result of Operation Desert Storm, or who were called to active duty as a result of Operation Desert Storm, the time for filing property tax returns and property taxes was extended until June 15, 1991. The Commission has also been granted the authority, if deemed necessary, to extend the filing of property tax returns and paying property taxes beyond June 15, 1991.

Questions regarding the possible suspension of enforced collection of county property taxes should be addressed to the individual counties. The Commission and the State Comptroller General's office will provide technical assistance to the counties with respect to this matter.

Reinstatement of Collection Activities: The Commission will reinstate enforced collection activities of any assessed liabilities suspended pursuant to this document no sooner than 180 days after the taxpayer departs from the Persian Gulf or departs the military station to which he or she was called to active duty as a result of Operation Desert Storm.

#### Penalties and Interest:

Penalties: The Commission will waive any penalties due as a result of any extensions, or suspension of collection activities, granted under this document; however, penalties will be assessed if the above returns and taxes are not filed or paid by any extended due date authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

Penalties due as the result of the failure to pay estimated taxes will be waived for any estimated taxes due while the individual taxpayer was stationed in the Persian Gulf as a result of Operation Desert Storm or called to active duty as a result of Operation Desert Storm.

Interest: The Commission will waive any interest due as a result of any extensions granted under this document; however, interest will be assessed if the above returns and taxes are not filed or paid by the extended due date.

With respect to tax debts prior to active service, the Soldiers' and Sailors' Civil Relief Act of 1940 limits interest to 6% per year on all tax debts incurred prior to a taxpayer's active military service, but only for the period of the taxpayer's active service.

In all cases, interest will accrue at the rates established by South Carolina law for any taxes due after the extended due dates authorized by the Commission or the Soldiers' and Sailors' Civil Relief Act of 1940.

#### Combat Pay of Members of the Armed Forces:

South Carolina has adopted many of the provisions of the Internal Revenue Code, including the provisions of Section 112. This section excludes certain combat pay from the definition of "gross income", thereby,

exempting such pay from income taxes. The section provides various definitions and procedures with respect to exempting such income. All income exempt from federal income taxes under this section is also exempt from the South Carolina income tax.

Desert Storm Tax Hotline:

The Commission has established a hotline to provide tax assistance for military persons and their families affected by Operation Desert Storm. The tax hotline number is 1-800-277-TAXX (1-800-277-8299). The local number for the Columbia area is 737-4849.

Other Tax Assistance:

Military persons and their families affected by Operation Desert Storm can also receive tax assistance at any one of the Commission's nine Taxpayer Service Centers listed below.

Aiken	410 Barnwell Street N.W.	(803) <del>649-3061</del> 611-7635
Beaufort	Carolina Cove Executive Ctr.-Suite 112	(803) 524-2852
Charleston	3 Southpark Circle - Suite 202	(803) 571-3000
Columbia	301 Gervais Street	(803) 737-4660
Florence	1452 West Evans Street	(803) 661-4850
Greenville	211 Century Drive	(803) 241-1200
Myrtle Beach	141 McDonalds Court	(803) 293-6550
Rock Hill	875 Albright Road	(803) 324-7641
Spartanburg	Hillcrest Offices - Suite 475	(803) 594-4900

Soldiers' and Sailors' Civil Relief Act of 1940:

It is the intent of this document to comply with the Soldiers' and Sailors' Civil Relief Act of 1940. The Commission will, therefore, revise any extension dates and interest provisions as deemed necessary and establish any procedures or programs in order to comply with this Act.



## **SOUTH DAKOTA - 1993**

South Dakota currently does not have a state individual income tax.

## TENNESSEE - 1993

**STATE LAW:** Tennessee Code Sec. 67-2-101 et. seq.

**TAXPAYERS:** The Tennessee Individual Income tax applies only to certain types of dividend and/or interest income received by Tennessee residents. Any person having legal domicile in Tennessee or any person maintaining a place of residence in Tennessee for more than six months in the tax year who has dividends and/or interest income from all sources totaling \$1,250.00 or more must file a return. Each individual may claim a \$1,250.00 exemption (\$2,500.00 for joint filers) against taxable income. A person 65 years of age or older having total income derived from any and all sources of \$9,000.00 or less (\$15,000 or less for joint filers where one spouse is 65 or older) is totally exempt from the income tax but must file the required affidavit form to establish and claim their exemption. Blindness is a basis for total exemption.

**FILING:** See "TAXPAYERS". If these requirements are met a Tennessee income tax return must be filed by 15th of April (or 15th of 4th month after close of year for previously approved fiscal year taxpayer)..

**MILITARY PROVISIONS:** Tennessee citizen declared POW by DOD not liable for payment of tax until 60 days after release. All military compensation is exempt. Tennessee does not levy a personal income tax upon the earnings of its citizens.

**RESIDENTS:** Resident is any person who has a legal domicile in Tennessee or who maintains a place of residence in the State for more than six months, regardless where domiciled. Persons entering the Armed Forces from Tennessee retain their legal domicile, and are liable for tax on income received from stocks and bonds until such time as, of their own volition and not under orders, domiciles are established in other states (Letter from State Tax department, 5 December 1960) 67-2-101(4).

**INCOME EXCLUSIONS:** (a) Income from obligations of the United States; however, income from Federal National Mortgage Association and Government National Mortgage Association is taxable since the notes and bonds are not primary obligations of the United States. (b) Income from bonds of Tennessee, its counties, municipalities

## TENNESSEE - 1993

or political subdivisions ("Bond" means all obligations issued by any person, firm, joint-stock company, business trust or corporation organized and doing business under the laws of this state, or any other state, evidenced by an instrument whereby the obligor is bound to pay interest to the obligee regardless of whether the obligator is doing business in this state, or whether the obligation under the terms of which the interest accrues is a mortgage or lien on property located in this state or beyond the jurisdiction thereof." (67-2-101(1)(A)). (c) Distribution of capital; (d) Income from stocks and bonds of pension or profit-sharing trusts exempt from federal income tax; (e) Interest on commercial paper or trade acceptance, etc. maturing in less than six months; (f) Dividends from regulated investment companies, qualified as such under Subchapter M, Chapter 1, Subtitle A, Internal Revenue Code (26 USCA, 851-860G), and which further have as their corpus not less than 75% of their investments in bonds of the State of Tennessee, or subdivisions thereof; (g) Interest income received from a certificate of deposit issued by a bank, savings and loan association, or credit union (67-2-104).

**RATES:** Income in the form of dividends on  
stocks .....6%

Income in the form of interest not  
exempt under State law .....6%

**DEDUCTIONS:** None.

**EXEMPTIONS:** See "TAXPAYERS" and "INCOME EXCLUSIONS".

**CAPITAL GAINS AND LOSSES:** Capital gains and losses are not recognized for purposes of the tax law. However, capital gains distributions by mutual funds are treated as income in the form of dividends from stocks.

**PAYMENTS:** Payment is due with the return. There is no statute of limitations on failure to file or the filing of fraudulent returns. Penalty charges (.05% per month not to exceed 25%) are mandatory on all delinquent returns (67-2-114). There is a minimum penalty of \$15.00 on delinquent returns. The interest rate is presently 12.5% per annum. Interest rate is adjustable based

## TENNESSEE - 1993

formula administered by Commissioner of Revenue (67-1-801).

**RETIREMENT INCOME:** The case of *Davis v. Michigan Department of Revenue*, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, has no direct impact upon the application of Tennessee law.

**TAX AUTHORITY:** State of Tennessee, Department of Revenue, Office Audit and Examination Division, Andrew Jackson State Office Building, Nashville, TN 37242. For taxpayer assistance: (615) 741-3665.

## TEXAS - 1993

Texas currently has no individual income tax.

This is a community property state.

## UTAH - 1993

**STATE LAW:** The Utah Individual Income Tax Act of 1987 (Utah CodeSec. 59-10). For tax years beginning after December 31, 1986.

**WHO MUST FILE?** A Utah income tax return must be filed by:

- (1) every Utah resident required to file a federal tax return
- (2) every non-resident having gross income from sources within Utah who is required to file a federal tax return, or
- (3) every individual meeting the following requirements:

**Filing Status:** Age at end of 1992: Gross Income at least:

Single	under 65	\$5,463
	65 or older	\$6,363
HOH	under 65	\$7,213
	65 or older	\$8,113
MFJ	both under 65	\$9,726
	one under 65	\$10,426
	both over 65	\$11,126
MFS	under 65	\$4,863
	65 or older	\$5,425

A return must be filed to receive a refund of any overpayment of income tax regardless of gross income amount.

**MILITARY PROVISIONS:** (1) Residents: Utah residents who go into military service do not lose their Utah residency or domicile solely by being absent due to military orders. They are still liable for filing resident income tax returns in Utah on all income regardless of source. If an income tax is required to be paid to another state on nonmilitary income, a credit is allowed for the tax paid to the other state. (2) Nonresidents: Nonresidents who are stationed in Utah solely due to military orders are not subject to tax on their military pay in Utah. However, if nonresident military personnel or members of their family residing in Utah have income from Utah sources, other than active military service pay, they are required to file Utah nonresident returns and pay any tax due.

## UTAH - 1993

**NOTE:** The Spouse of a person in active military service is generally considered to have the military person's domicile and is subject to the same income tax laws and rules that apply to the military person.

**DESERT STORM PROVISIONS:** Combat pay that is exempt from federal income tax is exempt from state tax. The extension for filing for residents serving in a combat zone coincides with the federal extension. No penalties or interest will be charged on unpaid 1990 Utah income tax due from Utah active military or reservists deployed due to Desert Storm, provided they file their returns and pay any taxes due within the applicable extended time period.

**RESIDENTS:** A resident is an individual domiciled in Utah for any period of time during the tax year, but only for the duration of such period. An individual who is not domiciled in Utah but maintains a permanent abode in Utah and spends in the aggregate 183 or more days of the tax year in Utah is deemed a "resident individual". An individual in the active military service shall not be deemed to have lost his/her domicile in Utah solely by reason of being absent therefrom under military orders. An individual in the active military service stationed in Utah solely by reason of military orders does not establish a domicile in Utah for income tax purposes.

**EXEMPTIONS:** Same as Federal. However, 25% of the personal exemptions as defined and calculated in the Internal Revenue Code must be added back to income.

**DEDUCTIONS:** The Standard Deduction. It is the same as allowed by the Internal Revenue Code.

**CAPITAL GAINS AND LOSSES:** Same as under the Internal Revenue Code.

**CREDITS:** Residents are allowed tax credit for income taxes paid to other states with certain limitations.

**PAYMENTS:** Return and full payment are due 15 April. Extensions may be granted upon receipt of the necessary extension prepayment prior to the date the tax is due.

**RETIREMENT INCOME:** The impact of the case of Davis v. Michigan Department of Revenue, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, is uncertain at this time. The issue of refunds and the retroactive application of the Davis v. Michigan case is currently pending in the Utah court system.

**TAX AUTHORITY:** Utah State Tax Commission, 160 East Third South, Salt Lake City, Utah 84134. Phone (801) 530-4848, or toll free within Utah, 1-800-662-4335.

## VERMONT - 1993

**STATE LAW:** Vermont Statutes, Title 32.

**TAXPAYERS:** Every resident and every nonresident or part-year resident who receives income from Vermont sources.

**FILING:** Every individual who has a Vermont tax liability, or who is required to file a Federal income tax return and has more than \$100 of Vermont income.

**MILITARY PROVISIONS:** (a) Compensation for full-time active duty as a member of the United States Armed Forces is exempt from Vermont income tax if the compensation was earned outside the state. (The requirement that income be earned outside the state is effective for taxable years beginning on or after 1 January 1990. If military personnel have income from Vermont sources of \$100 or more, they are required to file an income tax return although there may be no tax liability; (b) Active duty service personnel, and their dependents, are treated as residents for income tax purposes if they are domiciled within Vermont or if they maintain a permanent place of abode in Vermont and are present in Vermont for more than 183 days of the year; and must report income from all sources regardless of where it is earned; (c) Military retirement pay is not excludable and constitutes Vermont income to the extent included as Federal adjusted gross income.

**RATES:** Vermont tax is 28% of an individual's Federal income tax liability, or what the federal income tax liability would have been if the taxable municipal obligations were included, reduced by a percentage equal to the percentage of the taxpayer's adjusted gross income that is not Vermont income.

Effective for taxable years beginning January 1, 1991, through December 31, 1993, there is an additional surtax of three percent of the Federal income tax liability on the taxpayer between \$3,400 and \$13,100, and a surtax of six percent of the federal income tax liability of the taxpayer in excess of \$13,100.

**INCOME:** Vermont income of a resident is the Federal adjusted gross income, increased to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after July 1, 1987 as interest income from state and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations.

Subtract -- (a) Income exempt from state taxation under the laws of the United States; (b) Military pay for full-time active duty with the Armed Forces earned outside of the state (Retirement pay and annuities are taxable to the extent included in Federal adjusted gross income); (c) Vermont state lottery prizes; (d) Wages required to be included as income by employers for Federal tax credit incentive work programs.

## VERMONT - 1993

Vermont income of a nonresident individual is the sum of the following items, to the extent they are required to be included in Federal adjusted gross income: (a) Rents and royalties derived from Vermont property; (b) Gains from the sale or exchange of Vermont property; (c) Wages, salaries, commissions or other income received with respect to services performed within Vermont (exclusive of military pay for full-time active duty); (d) Income from the taxpayer's business or trade carried on within the State, including any compensation received under an agreement not to compete with a business operating in Vermont and any goodwill received for the sale of a Vermont business; (e) Income previously defined under a non-qualifying deferred compensation plan and that would have been previously included in income if it had not been deferred, and income derived from such previously deferred income. Vermont income of a part-year resident is all income earned and received from any source during the period of residency and that income set forth above as a nonresident.

**CREDITS:** (a) Residents may claim credit for income taxes paid to another state if, without such credit, the resident would pay a tax on any item of income to both Vermont and the other state. Any credit claimed must be evidenced with a copy of the non-resident state income tax return; (b) Vermont sales and use taxes paid by resident individuals physically present in Vermont for more than nine months. Amount is determined by modified adjusted gross income brackets and number of exemptions.

**Earned Income Credit** - based on Federal earned income credit, residents and part-year residents only.

**Homeowner/Renter Rebate** - amount determined by modified adjusted gross income percentages to property tax and rent paid.

**PAYMENTS:** Returns and payment due 15 April. A person who expects to incur an income tax liability which exceeds the tax withheld must file a Declaration of Estimated Tax on April 15 and pay one-fourth of the amount due. The balance is payable in three installments on 15 June, September and January.

**TAX AUTHORITY:** Department of Taxes, Montpelier, Vermont 05602. For taxpayer assistance: (802) 828-2865, forms: (802) 828-2515.

## VIRGINIA - 1993

**STATE LAW:** Code of Virginia, Sec. 58.1-1 et seq.

**TAXPAYERS:** Generally. For purposes of determining the income tax liability of any individual, the term "resident" includes: (1) any individual domiciled in this State (domiciliary resident), and (2) any individual who is not domiciled in this State but who maintains a place of abode (actual resident) in Virginia for more than 183 days (in the aggregate) during the taxable year.

**ACTUAL RESIDENT:** An individual may be an actual resident even though he retains his legal domicile elsewhere. The term "actual resident" does not include members of the United States Congress or members of the armed forces who are legally domiciled in another state.

**DOMICILIARY RESIDENT:** A domiciliary resident is one whose legal domicile is Virginia. Most domicile residents actually live in Virginia; however actual presence in the state is not required. Any person who has not moved from the state with the intention of permanently residing outside of Virginia is still a domiciliary resident even though he may be actually living some place else.

**NONRESIDENT:** A nonresident is any person who is not an actual or domiciliary resident of Virginia. Residents and nonresidents must file a Virginia income tax return if their Virginia Adjusted Gross Income (VAGI) is \$5,000.00 or more if single, \$8,000.00 or more if married and a joint or combined (filing status) Virginia return will be filed, or \$4,000.00 or more if a separate Virginia return will be filed. VAGI is defined as one's Federal Adjusted Gross Income (FAGI) plus any additions to FAGI less any subtractions from FAGI required by the Code of Virginia.

**FILING:** See "TAXPAYERS". If one's Virginia Adjusted Gross Income is at or above the filing threshold amounts specified in "TAXPAYERS", an income tax return must be filed.

**EXCEPTION:** If your Virginia adjusted gross income is less than the threshold amounts specified in "TAXPAYERS", you are not required to file. If you are not required to file, but had income tax withheld by your employer or made estimated tax payments, you must file an income tax return in order to receive a refund.

**MILITARY PROVISIONS:** (a) Members of the Armed Forces who are residents of Virginia at the time of enlistment are required to file Virginia resident income tax returns until such time as necessary steps are taken to abandon Virginia and establish a legal residence in another jurisdiction; (b) Active duty pay, disability pay, and retirement pay (including Retired Serviceman's Family Protection Plan), are treated the same as for Federal tax purposes.

**DESERT STORM PROVISIONS:** See Guidelines, attached.

## VIRGINIA - 1993

**RESIDENTS:** Every person domiciled in Virginia at any time during the tax year, and every other person who, for an aggregate of more than 183 days of the tax year, maintained an abode in Virginia, whether domiciled in Virginia or not. A nonresident in the Armed Forces living in Virginia is expected to produce evidence in support of his/her claim of nonresidence. This is especially true if living outside a Federal area, and particularly true if a residence was purchased in Virginia. A non-Virginian in the Armed Forces is taxable by Virginia on nonmilitary income from Virginia sources the same as other nonresidents.

RATES:		TAXABLE INCOME	
Over	Not Over	Your Tax Is	Of Excess Over
.....	\$ 3,000	.... 2% of Virginia taxable income	
\$ 3,000	5,000	\$ 60 plus 3%	\$ 3,000
5,000	17,000	120 plus 5%	5,000
17,000	.....	720 plus 5.75%	16,000

Income splitting on joint returns is not permitted.

**INCOME:** Virginia taxable income of residents is Federal adjusted gross income, with the following modifications:

Subtract (to the extent included in Federal adjusted gross income) -- (a) Interest or dividends on Federal obligations to the extent exempt from state income taxes under Federal law; (b) Interest on obligations of Virginia or any political subdivision thereof; (c) any amount included in federal adjusted gross income which is foreign service income and defined as follows: (1) Interest other than interest derived from sources within the United States; (2) Dividends other than dividends derived from sources within the United States; (3) Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use or the privilege of using without the United States any patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like properties; and (4) Gains, profits, or other income from the sales of intangible or real property located without the United States. In determining the source of income for purposes of this section, the provisions of Sections 861, 862 and 863 of the Internal Revenue Code will be applied. The term "technical fees" does not include wages, salaries, compensation or other "earned income" as defined in Section 911(b) of the Internal Revenue Code. (Section 58.1322C7, Code of Virginia); (d) \$6,236 of income from all sources, less social security and Tier I railroad retirement income, if age 62 to 64; \$12,472 of income from all sources, less social security and tier I railroad retirement income, if age 65 or over.

Add (to the extent excluded from Federal adjusted gross income) -- (a) Interest, less certain related expenses, on obligations of other states or their political subdivisions; (b) Interest or dividends, less certain related expenses, on obligations of any authority, commission or

## VIRGINIA - 1993

instrumentality of the United States exempt from Federal income tax, but not from state income tax; (c) the amount of a lump-sum distribution from qualified retirement plan if income averaging is claimed under Section 402, Internal Revenue Code, less any federal minimum distribution allowance, federal death benefit exclusion and federal tax exclusion; (d) the amount of self-employment tax claimed as a deduction under Internal Revenue Code Section 164 on Form 1040.

**DEDUCTIONS:** (a) The standard deduction is based on the filing status claimed on the return. Standard deduction with filing status of Single is \$3,000, Married, filing joint or combined return filing status is \$5,000 and Married, filing separate return filing status is \$2,500. It must be used unless the taxpayer itemized on the Federal income tax return; (b) If the taxpayer itemized his/her deductions for Federal tax purposes, he/she must itemize for Virginia tax purposes (less state income taxes paid); (c) A deduction can be claimed for child and dependent care expenses on the Virginia return only if the taxpayers were eligible to claim a "credit" for Child and Dependent Care Expenses" on their federal return. Enter the amount of employment upon which the federal credit is based, and attach a copy of form 2441 to receive this deduction.

Itemized deductions may be claimed only by the person to whom attributable when only one spouse is liable for taxation by Virginia.

**EXEMPTIONS:** \$800 for each personal exemption is allowed.

**CAPITAL GAINS AND LOSSES:** Same as under the Internal Revenue Code.

**CREDITS:** Residents are allowed a credit for income taxes paid to another state on income from sources therein, unless eligible to receive a credit by the other state for taxes paid in Virginia. The amount of credit cannot exceed the lesser of: (a) Income on other state's tax is computed over Virginia taxable income times Virginia tax or; (b) Income tax paid other state. Nonresidents are allowed a credit for income taxes paid in their home state on income from Virginia sources in the proportion that income taxable in Virginia bears to the entire income taxable in their home state. Such a credit is available only when the home state grants a similar credit to Virginia residents.

**PAYMENTS:** Return and full payment due 1 May in the County or City of the taxpayer's residence. Nonresidents make payment to the County or City where the income was derived. An **INDIVIDUAL** must file a declaration if: (a) all of your income is from wages on which Virginia income tax is not withheld and your estimated tax liability exceeds your tax credits by \$150 or more; or (b) all of your income is from sources other than wages and your estimated tax liability exceeds your tax credits by \$150 or more; or (c) a part of your income is from wages on which Virginia income tax is not withheld and part from other sources and your estimated tax liability exceeds your tax credits by \$150 or more; or, (d) a part of your income

## VIRGINIA - 1993

is from wages on which Virginia income tax is withheld and part from other sources (including wages on which Virginia income tax is not withheld) and your estimated tax liability exceeds your withholding and tax credits by \$150 or more. The declaration is due on or before 1 May, 15 June, 15 September or 15 January, depending upon when requirements for filing the declaration first arise. Estimated tax payments are due in four equal installments on 1 May, 15 June, 15 September and 15 January.

The civil penalty for late filing is 6% of the tax due for each month or fraction of month that the return is late, to a maximum of 30%. The civil penalty for late payment is assessed at the same rate. No late payment penalty is applied in any month for which a late filing penalty has already been imposed. The maximum combined penalty (late filing and late payment) is 30% of the tax due. If the full balance is not paid when due, interest accrues on the outstanding balance from the due date through the date paid, at the underpayment rate established under IRC Section 6621, plus 2%.

Under the provisions of Section 58.1-312, Code of Virginia, which relates to the Statute of Limitations, an assessment may be made at any time if no return is filed.

**TAX AUTHORITY:** Commonwealth of Virginia, Department of Taxation, P.O. Box 760, Richmond, Virginia 23206. Income tax return should be mailed to the Commissioner of the Revenue or Director of Finance for the county or city in which the person resides. Nonresidents should mail the returns to the Commissioner of the Revenue or Director of Finance of the locality where the income was earned. (See attached for telephone assistance.)

## WASHINGTON - 1993

Washington currently has no state individual income tax.

This is a community property state.

## WEST VIRGINIA - 1993

**STATE LAW:** West Virginia Code, Article 21, Chapter 11 (1961).

**TAXPAYERS:** Residents required to file a Federal income tax return or with adjusted gross income (regardless of source) in excess of personal exemption deduction allowance; and nonresidents with adjusted gross income from West Virginia sources in excess of personal exemption deduction allowance.

**FILING:** See "TAXPAYERS". If these requirements are met an income tax return must be filed.

**MILITARY PROVISIONS:** The first \$2,000 of military retirement benefits received to the extent includable in Federal taxable income is exempt.

**DESERT STORM PROVISIONS:** Combat pay which is exempt from federal income tax is also exempt from state personal income tax.

**RESIDENTS:** West Virginia takes the position that members of the Armed Forces who are domiciled in the State at the time of entrance into the military service maintain their status as residents unless they had no permanent abode in West Virginia, or they maintained a permanent abode elsewhere and did not spend over 30 days in the State during the tax year. It is generally recognized that service members do maintain a permanent abode if they lease, rent or buy a dwelling place near the duty station and occupy it and the assignment is of indefinite duration (Sec. 7 of State Tax Law).

**INCOME EXCLUSIONS:** West Virginia adjusted gross income is Federal adjusted gross income under the Internal Revenue Code with the following adjustments:

Subtract -- (1) the first \$2,000 of military retirement or federal civil service retirement benefits received to the extent includable in federal taxable income; (2) the first \$2,000 of benefits received under the West Virginia Public Employees' Retirement or Teachers' Retirement Systems; (3) all benefits received under the West Virginia Department of Public Safety Death, Disability and Retirement Fund, or any police or firemen's retirement system after December 31, 1979; (4) income from any source received by persons who are 65 years of age or older or who are totally and permanently disabled or by their surviving spouses, regardless of age, to the extent includable in federal taxable income, provided that the deduction does not exceed \$8,000 for a single return or a maximum of \$8,000 per person for a joint return; (5) interest on United States obligations to the extent included in federal adjusted gross income; (6) interest or dividends on obligations or other securities of any United States authority, commission or other entity or agency, which is includable in federal adjusted gross income but which is exempt by federal law from state income tax with the exception of dividends from national bank stock, including federal interest dividends paid to shareholders of a regulated investment company under section 852 of the IRC for taxable years ending after June 30, 1987; (7) certain other elements of income received from partnership or

## WEST VIRGINIA - 1993

fiduciary roles, principally those of the type described in items 5 and 6; (8) the amount of any lottery prize awarded by the West Virginia State Lottery Commission to the extent properly included in gross income for federal income tax purposes; (9) interest or dividend income from bonds issued by the Stat of West Virginia or its authorities, commissions or instrumentalities, where the interest is subject to federal taxation but exempt, by West Virginia law, from state taxation; and (10) shareholder modifications related to distributive shares of ownership in an S corporation.

Add -- (1) interest income on state and local obligations other than those of West Virginia and its political subdivisions; (2) interest or dividend income from obligations or securities of any United States authority, commission or other entity or agency which are, by federal law, exempt from federal income tax but not from state income tax; (3) interest on money borrowed to purchase obligations which earn income exempt from state income tax; (4) certain other elements of income received from partnership or fiduciary roles, primarily those of the type described in items 1, 2 and 3 and ; (5) for taxable years beginning after December 31, 1990, the amount of lump sum distributions for which the taxpayer has elected to be separately taxed for federal income tax purposes under Section 402(e) of the IRC.

**RATES:** West Virginia rates range from 3.0% on the first \$10,000 of taxable income to \$2,775 plus 6.5% on the excess over \$60,000 for all taxpayers except married couples filing separate returns; from 3.0% on the first \$5,000 of taxable income to \$1,387 plus 6.5% of the excess over \$30,000 for married couples filing separate returns.

**DEDUCTIONS:** No subtraction is allowed against West Virginia adjusted gross income for any federal itemized deductions.

**EXEMPTIONS:** Individuals are allowed an exemption of \$2,000 for each exemption allowed for Federal income tax purposes. Children under the age of 14 who file their own returns are allowed a \$500 exemption. Estates and trusts are allowed only one \$600 exemption.

**CAPITAL GAINS OR LOSSES:** Same treatment as under the Internal Revenue Code.

**CREDITS:** Residents receive credit for income taxes paid to states where such income is derived, limited to that portion of West Virginia income tax attributable to the income also subject to tax by the source state, and provided such states do not allow credit for nonresidents.

**PAYMENTS:** Returns and payment due 15 April. Estimated Tax Declarations and payments are due from persons with income not subject to withholding that exceeds \$400 plus the amount allowed for personal exemptions. Military members may receive extensions of time within which to file returns and pay tax, without the imposition of penalties, on showing cause, and in particular that military service has impaired ability to pay. Military members outside the Continental United States may receive automatic extension of reasonable time in which to file returns.

## WEST VIRGINIA - 1993

There are no "forgiveness" provisions in the West Virginia Personal Income Tax Act. Prompt filing of the delinquent returns plus payment of any deficiency and interest at 6% per annum is required. There is no statute of limitations where a return has not been filed; therefore, military members not meeting the exemption requirements are required to file tax returns for the years applicable not to precede the taxable year 1961. Interest must be added at the rate of 6% per annum from the due date of the return. Penalties for delinquent filing may be waived. Interest due on delinquent returns is calculated based on a variable rate which shall not be less than 8%.

**TAX AUTHORITY:** Department of Tax and Revenue, Charleston, West Virginia 25305.

**FORMS ORDER ADDRESS:** Taxpayer Services Division, Department of Tax and Revenue, P.O. Box 2389, Charleston, WV 25305. For taxpayer assistance and forms, call (304) 558-3333.

8

## WISCONSIN - 1993

**STATE LAW:** Wisconsin Statutes, Sec. 71.01 et seq.

**TAXPAYERS:** Returns are required of residents, and nonresidents deriving income from sources within the State, whose status on 31 December and gross or combined gross incomes were as follows:

Single and under 65.....	\$5,200 or over
Single and 65 or over.....	5,710 or over
Married and both under 65 .....	
(filing joint return).....	8,900 or over
Married and either 65 or over.....	
(filing joint return).....	9,410 or over
Married and both 65 or over.....	
(filing joint return).....	9,920 or over
Nonresidents or part-year resident (regardless of age or marital status)....	2,000
Dependents with unearned income.....	600 or over of gross income which includes unearned income
Married filing separate return .....	4,230 or over

**FILING:** Residents and nonresidents are required to file and pay estimated taxes if the Wisconsin tax on their income, not subject to withholding, can be expected to exceed \$200. Joint returns are permitted.

**MILITARY PROVISIONS:** (a) Service members who are legal residents of Wisconsin and maintain an abode in another jurisdiction are taxed as residents; (b) Internal Revenue Code provisions as of 12/31/92 governing the following items are applicable for Wisconsin tax purposes: (1) Tax liability of service members who are POW/MIA (and their spouses); (2) Disability retirement pay; (3) Nondisability retirement pay, (4) Contributions to the Retired Serviceman's Family Protection Plan (RSFPP) and/or Survivors' Benefit Plan (SBP); and (5) Combat pay exclusions; and (c) Service members who meet the requirements must file Wisconsin income tax returns although tax may not be due.

Residents (and spouses, if residents) stationed in another state must include in their income all compensation earned from civilian employment outside Wisconsin. Nonresidents (and spouses) stationed in Wisconsin are subject to taxation on wages earned from civilian employment in Wisconsin unless they are legal residents of one of the following states having reciprocity with Wisconsin: Illinois, Indiana, Kentucky, Michigan, or Minnesota.

**RESIDENTS:** Wisconsin imposes a tax on every individual domiciled in the State. A resident entering military service, regardless where stationed, retains Wisconsin as a domicile

## WISCONSIN - 1993

while in the service unless a domicile is established elsewhere and the Department of Revenue is notified of such change.

### SINGLE TAXPAYER

If Taxable Income Is:		1993 Gross Tax Is:	
Over	But Not Over	This Amount	Plus
\$ 0	7,500	0	+4.9% of the amount over 0
7,500	15,000	368.00	+6.55% of the amount over 7,500
15,000		859.00	+6.93% of the amount over 15,000

### MARRIED FILING JOINTLY

If Taxable Income Is:		1993 Gross Tax Is:	
Over	But Not Over	This Amount	Plus
\$ 0	10,000	0	4.9% of the amount over 0
10,000	20,000	490.00	6.55% of the amount over 10,000
20,000		1,145.00	6.93% of the amount over 20,000

### MARRIED FILING SEPARATELY

If Taxable Income Is:		1993 Gross Tax Is:		
Over	But Not Over	This Amount	Plus	Of the Amount Over
\$ 0	5,000	0	4.9%	of the amount over 0
5,000	10,000	245.00	6.55%	of the amount over 5,000
10,000		573.00	6.93%	of the amount over 10,000

**INCOME:** (a) Long-term capital gains are taxable as follows: 40% of net capital gain on assets held more than one year. Subject to an annual limitation, capital losses are deductible as follows: 100% of net capital losses incurred in the 1987 taxable year or carried forward to the taxable year. The maximum amount of net loss which may be deducted in any one year is \$500. (b) Federal adjustments (e.g., alimony) to income are generally recognized. (c) Compensation for personal services performed in Wisconsin by a nonresident is excluded if

## WISCONSIN - 1993

the person's home state and Wisconsin have a reciprocal agreement; (d) The Statutes require specific additions to or subtractions from Federal adjusted gross income in determining Wisconsin taxable income. The two most common ones are municipal bond interest (addition) and interest from United States obligations (subtraction). Other modifications include (1) 60% capital gain deduction, (2) \$500 capital loss limitation, and (3) certain unemployment compensation.

**DEDUCTIONS:** Itemized deductions are not allowable for Wisconsin income tax purposes, but see "Wisconsin item red deduction Credit" below. A variable standard deduction is allowed for 1993 based on income level and filing status. For most persons filing Wisconsin Form WI-Z, Form 1A or Form 1, the standard deduction is built into the tax table. No separate deduction is required to claim the standard deduction.

Nonresidents and part-year residents must file Wisconsin Form 1NPR. Form 1NPR must also be filed by a married couple filing a joint return if one spouse is a full-year resident and the other spouse is a nonresident or part-year Wisconsin resident.

Nonresidents/part-year residents must prorate the standard deduction using the percentage their Wisconsin total income is of their Federal adjusted gross income.

**EXEMPTIONS:** See "CREDITS".

**CAPITAL GAINS AND LOSSES:** See "INCOME".

### CREDITS:

#### Personal Exemption Credits:

Dependents (same as  
claimed on Federal Form 1040) (each).. \$50  
Taxpayer or spouse over 65 (each)..... \$25

Nonresidents and part-year residents must prorate these credits using the percentage their Wisconsin total income is of their Federal adjusted gross income.

**Home Owner's and Renter's School Property Tax Credits.** A home owner's credit and renter's credit are allowable for property taxes paid during the year and rent paid for the taxpayer's principal residence. The credit may not exceed \$200 (\$100 if married filing separately). Nonresidents are not eligible for the home owner's or renter's credits. Part-year residents prorate the credit using the percentage their Wisconsin total income is of their federal adjusted gross income.

## WISCONSIN - 1993

**Wisconsin Itemized Deduction Credit.** The Wisconsin credit is based on certain items which are deductible as itemized deductions for federal tax purposes. The credit is 5% of the amount by which certain federal itemized deductions exceed the Wisconsin standard deduction.

**Married Couple Credit.** Married couples filing a joint return may claim as a credit against Wisconsin income taxes due, an amount equal to 2% of the qualified earned income of the spouse with the lower earned income. The credit may not exceed \$300. Earned income includes wages, salaries, tips, other employee compensation and net earnings from self-employment taxable by Wisconsin, with certain adjustments.

**EARNED INCOME CREDIT.** Full-year residents who qualify for the federal earned income credit also qualify for the Wisconsin earned income credit. The Wisconsin earned income credit is a percentage of the federal basic earned income credit based on the number of the claimant's qualifying children.

**TAXES PAID TO OTHER STATES:** Wisconsin residents receive credit for taxes actually paid to another state on income taxed by both states. Credit cannot be claimed for taxes paid to Illinois, Indiana, Kentucky, Michigan or Minnesota on wages earned in these States. Reciprocal agreements which Wisconsin has with these States provide that they are not to tax the wages of Wisconsin residents. If income taxes were erroneously withheld from a Wisconsin resident's wages by any of these States, a return must be filed with such State to obtain a refund.

**HOMESTEAD CREDIT:** Full-year residents, 18 years of age or over, whose total household income is less than \$19,154, may be allowed a credit based on real estate taxes and/or rent they paid for occupying living quarters in Wisconsin.

**PAYMENTS:** Return and payment in full is due 15 April. An extension granted by Internal Revenue Service will be accepted provided provided by federal law or and a copy of any extension received from IRS is attached to the Wisconsin return. A US citizen or resident in military service on duty outside the US and Puerto Rico on April 15th is allowed an automatic extension of time to file. A statement should be attached to the return explaining how these requirements were met. Taxes not paid by 15 April, or the extended due date, are considered delinquent and subject to interest at the rate of 1.5% per month until paid. During the extension period, the interest rate is 12% per year.

### INTERNAL REVENUE SERVICE ADJUSTMENTS AND AMENDED RETURNS.

If an individual's Federal income tax return is adjusted by the Internal Revenue Service and the adjustments affect the amount of his/her Wisconsin income, a Wisconsin credit, or tax payable, the adjustments must be reported by the individual to the Wisconsin

## WISCONSIN - 1993

Department of Revenue within 90 days after they become final. If an individual files an amended return with the Internal Revenue Service or another state and the changes affect the amount of his/her Wisconsin income, a Wisconsin credit, or tax payable, an amended Wisconsin return reflecting these changes must be filed. The amended Wisconsin return must be filed within 90 days after the amended return is filed with the Internal Revenue Service or another state. In lieu of filing an amended Wisconsin return, a copy of the Federal audit report or amended return filed with the Internal Revenue Service or another state may be submitted.

**NOTE:** The State of Wisconsin enacted a Marital Property Act which became effective January 1, 1986. This is a form of community property.

**RETIREMENT INCOME:** The issue of the retroactive application of the case of *Davis v. Michigan Department of Revenue*, (1989), 489 U.S. 803, 103 L.Ed.2d 891, concerning the taxation of federal retirements, is currently being litigated.

Federal retirement benefits received by certain individuals are exempt from Wisconsin tax (effective 1989 and thereafter). Retirement benefits received from a U.S. Government civilian employment and /or military personnel retirement system are exempt provided the benefit is paid on the account of a person who:

- (1) Was a member of the system as of December 31, 1963, or
- (2) Was retired from the system as of December 31, 1963.

**TAX AUTHORITY:** Wisconsin Department of Revenue, P.O. Box 8906, Madison, Wisconsin 53708.

**TAX FORMS ORDER ADDRESS:** Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708. Telephone forms request (608) 266-1961.

## WYOMING - 1993

Wyoming currently does not have an income tax.