

103 KAR 17:130. Individual income tax - military personnel - nonresidents.

RELATES TO: KRS 141.020 and 50 U.S.C. 4001

STATUTORY AUTHORITY: KRS 131.130, 141.020, 141.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. 50 U.S.C. 4001 prohibits a state from imposing a tax on income or compensation from military service on servicemembers who are temporarily located in the state because of military assignments and prohibits a state from using the military income to increase any tax due on income from nonmilitary sources. A servicemember shall file state income tax returns with his or her state of legal domicile, which usually is the state of residence prior to entering military service. This administrative regulation establishes the income tax filing requirements for servicemembers of the U.S. government, including residents of other states that are serving in the military and stationed in Kentucky.

Section 1. Definition. "Servicemember" means servicemember as defined by 50 U.S.C. 3911(1).

Section 2. A Kentucky resident servicemember shall file and report all income earned or received under the provisions of 103 KAR 17:060.

Section 3. A nonresident servicemember who is temporarily located in Kentucky because of military assignment shall not be required to report income or compensation from service in the military. Income from nonmilitary Kentucky sources shall be subject to Kentucky income tax and shall be reported under the provisions of 103 KAR 17:060.

Section 4. A civilian spouse of a nonresident servicemember shall be taxed in Kentucky in accordance with the provisions of 50 U.S.C. 4001.

Section 5. A nonresident civilian who marries a Kentucky resident servicemember who is living outside of Kentucky shall not be considered a resident of Kentucky merely because the servicemember is considered a resident for tax purposes.

Section 6. A resident servicemember may change his or her state of domicile from Kentucky to another state in which he or she resides. Notice of intent to change shall be filed with the personnel department of the appropriate military service. (33 Ky.R. 1201; 1519; eff. 1-5-2007; 45 Ky.R. 735, 11863; eff. 12-7-2018.)