

State of Rhode Island - Division of Taxation

Personal Income Tax

Regulation PIT 90-03

RHODE ISLAND FILING STATES - NONRESIDENT MILITARY PERSONNEL AND HIS/HER SPOUSE

I. GENERAL

A. The Rhode Island General Laws, section 44-30-5, defines a resident of this state as:

1. One who is domiciled in this state.
2. One who is not domiciled in this state but maintains a permanent place of abode in this state and spends more than 183 days of the taxable year in this state, unless he/she is in the armed forces of the United States.

B. Section 44-30-51 of the Rhode Island General Laws requires a Rhode Island personal income tax return to be filed by or for:

1. Every resident individual required to file a Federal income tax return.
2. Every nonresident individual having Rhode Island source income.

C. Section 44-30-31 of the Rhode Island General Laws states, in part:

1. If the Federal income tax liability of a husband and wife, both of whom are nonresidents, is determined on a joint Federal return, their Rhode Island tax shall be determined on a joint Rhode Island return.
2. If either husband or wife is a resident and the other is a nonresident, separate Rhode Island taxes shall be determined on their separate Rhode Island source income, unless both elect to determine their joint Rhode Island taxes on their joint income as if both were residents. If separate returns are filed, Rhode Island personal income tax shall be determined as if they had filed separate Federal income tax returns.

II. FILING STATUS OF A SINGLE NONRESIDENT MILITARY PERSON

A person who is a nonresident of Rhode Island and is in the United States military service and is stationed in Rhode Island on military orders is required to file a Rhode Island nonresident personal income tax return (RI-1040NR) if he/she has Rhode Island source income other than his/her military wages.

III. FILING STATUS OF A MARRIED NONRESIDENT MILITARY PERSON AND HIS/HER SPOUSE WHEN A JOINT Federal INCOME TAX HAS BEEN FILED

A. Both spouses may elect to file a resident Rhode Island personal income tax return as married filing jointly on their joint income.

If one or both of the spouses must file and pay personal income taxes in another state, then a special computation has to be made for any allowable out-of-state tax credit on the Rhode Island return. Refer to Regulation [PIT 90-9](#).

B. If either spouse claims Rhode Island as his/her legal residence, then separate Rhode Island personal income tax returns have to be filed.

1. The spouse claiming Rhode Island residency is required to file a resident Rhode Island personal income tax return (RI-1040A or RI-1040).
2. The spouse claiming nonresident status files a Rhode Island nonresident personal income tax return (RI-1040NR) if that person had any Rhode Island source income other than military wages.

By using Schedule 1 on page 2 of the Rhode Island 1040NR form, the portion of the Federal income tax liability to be used for Rhode Island purposes will be computed.

3. When separate Rhode Island returns are filed, the Federal married filing separate status has to be used to compute the Federal income tax liability for Rhode Island purposes.

The Federal married filing separately requirements have to be followed as they pertain to income reporting, itemized deductions, personal exemptions and dependents.

CROSS REFERENCE: [REGULATION PIT 90-09 - Out-of-State Tax Credit - "Double Resident"](#).

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