



Exemption from withholding for a qualifying spouse of a U.S. armed forces servicemember

For Calendar Year
20___

- ▶ **Employee** - See "Instructions for employee" for eligibility requirements and other information.
- ▶ **Employer** - See "Instructions for employer" for the purpose and proper handling of this form.

Part 1 - To be completed by the employee

1. For each of the following statements, indicate whether it applies to you. If it applies, check "YES." If it does not apply, check "NO." If you check "NO" to any of the statements, you are not eligible for the withholding exemption.

- | | YES | NO |
|---|-----------------------|-----------------------|
| a. I am not a member of the U.S. armed forces | <input type="radio"/> | <input type="radio"/> |
| b. I am married to an active duty member of the U.S. armed forces | <input type="radio"/> | <input type="radio"/> |
| c. My military spouse and I are domiciled in a state other than North Dakota | <input type="radio"/> | <input type="radio"/> |
| d. My military spouse's permanent duty station is in North Dakota | <input type="radio"/> | <input type="radio"/> |
| e. I am residing and working in North Dakota only because I want to be with my military spouse while he or she is stationed in North Dakota | <input type="radio"/> | <input type="radio"/> |

2. If you checked "YES" to ALL of the statements in item 1, provide the following information for you (the employee) and your military spouse. All boxes must be filled in to be valid.

Employee information	Name (<i>First, MI, Last</i>)		Social security number		State of domicile (legal residence)	
	Street address where currently residing		City		State	Zip code
Military spouse information	Name (<i>First, MI, Last</i>)				Social security number	
	Military spouse's permanent duty station			Military spouse's state of domicile (legal residence)		

3. I declare, under penalty of perjury, that the wages I earn for my services performed in North Dakota are exempt from North Dakota income tax because I meet the conditions of the Military Spouses Residency Relief Act (P.L. 111-97), and the information I provided on this form is accurate to the best of my knowledge and belief.

Employee's signature	Date signed	Phone number
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- ▶ **ATTACH A COPY OF YOUR DEPENDENT MILITARY ID CARD ISSUED BY THE U.S. DEPT. OF DEFENSE**
- ▶ **Give the completed Form NDW-M with attached copy of military ID card to your employer.**
- ▶ **Notify your employer if you become ineligible for this exemption - see instructions.**
- ▶ **You must complete a new Form NDW-M each year to maintain the exemption - see instructions.**

Part 2 - To be completed by the employer

Note: An employer shall be held harmless from liability for withholding based on the employee's representations on this form.

Employer name			Employer identification number (EIN)		
Address		City	State	Zip code	

▶ See "Instructions for employer" for the proper handling of this form.

Privacy Act information. In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of a social security number or a federal employer identification number (EIN) on this form is mandatory and is required under N.D.C.C. 57-38-56. A social security number or federal employer identification number is used as an identification number by the Office of State Tax Commissioner for file control purposes, recordkeeping, and for cross-checking the taxpayer's files with the Internal Revenue Service.

Instructions to Form NDW-M

Purpose of form

The Military Spouses Residency Relief Act (“Act”) (P.L. 111-97) is federal legislation that was signed into law on November 11, 2009. This Act amended the Servicemembers Civil Relief Act to provide a number of benefits to civilian spouses of active duty U.S. armed forces servicemembers. If certain conditions are met, one of the benefits exempts a civilian spouse’s compensation received for working in the state where the servicemember spouse is stationed.

An employee whose wages are exempt from North Dakota income tax because of the Act may use Form NDW-M to apply for exemption from North Dakota income tax withholding.

Instructions for employee

Eligibility

If you are a civilian spouse of an active duty U.S. armed forces servicemember, you may complete Form NDW-M if you meet all of the following conditions:

- You and your servicemember spouse maintain domicile in a state other than North Dakota. This applies even if you have different states of domicile. See “Domicile outside North Dakota” below;
- Your servicemember spouse’s permanent duty station is in North Dakota; and,
- You are in North Dakota only because you want to be with your servicemember spouse who is stationed in North Dakota.

Domicile outside North Dakota

“Domicile” refers to your residence by law, and is also referred to as your legal residence. It is the place that is your permanent home, and is the place to which you always intend to

return whenever you are absent from it. Domicile is based on your intent and actions, which must be consistent. The Servicemembers Civil Relief Act provides that the domicile of a U.S. armed forces servicemember does not change based only on the servicemember’s presence in a state in compliance with military orders. The Military Spouses Residency Relief Act provides that a civilian spouse’s domicile does not change based only on the civilian spouse’s presence in a state to be with the servicemember.

Completing Form NDW-M

If you meet all of the eligibility requirements for the exemption from withholding, fill in the last two digits of the calendar year in the upper right-hand corner, then fill out Items 1 through 3 of Part 1. Attach a copy of your dependent military ID card to Form NDW-M, and give them to your employer.

When the withholding exemption takes effect

Form NDW-M takes effect on the later of (1) the date you give it to your employer or (2) the first payroll period your employer is able to put the exemption into effect. The exemption does not apply to wages paid prior to the date Form NDW-M takes effect.

Annual renewal

Form NDW-M is valid only for the calendar year for which it is completed. Provided you are still eligible, you must file a new Form NDW-M for each subsequent year you want to continue the exemption from North Dakota withholding.

Notification of ineligibility

You must notify your employer to begin the withholding of North Dakota income tax from your wages if you become ineligible for the exemption. This would occur in the following cases:

- Divorce from the servicemember;
- Death of the servicemember;
- Change in domicile to North Dakota by either spouse; or
- A change in the servicemember’s permanent duty station to a location outside North Dakota.

Instructions for employer

Requirement to withhold

North Dakota income tax law requires you to withhold North Dakota income tax from wages paid to an employee if the employee performs services within North Dakota and the wages are subject to federal income tax withholding.

Form NDW-M exemption

An exception to the requirement to withhold North Dakota income tax applies if an employee completes and gives to you a Form NDW-M. This exception applies only if you have a Form NDW-M on file for the employee; it is not enough that the employee is eligible for the exemption under the Act.

What you must do

If an employee gives you a completed Form NDW-M, do the following:

1. Check to see that all items in Part 1 are filled in and a copy of the employee’s dependent military ID card is attached. If not, return the form to the employee;
2. Fill in Part 2;
3. Keep the original signed Form NDW-M and the attached copy of the military ID card for your payroll records; it relieves you of your obligation to withhold North Dakota income tax, and you shall be held harmless from liability for withholding based on the employee’s representations on the form; and,
4. Mail a copy of the completed Form NDW-M and attached military ID card to:

Attn: Withholding Tax Section
Office of State Tax Commissioner
600 E. Blvd. Ave., Dept. 127
Bismarck, ND 58505-0599

Or fax it to the Withholding Tax Section at (701) 328-1942.

Questions

If you have questions about this form, call the Withholding Tax Section at (701) 328-1248. Or send an e-mail to withhold@nd.gov.