



STATE OF CALIFORNIA
Franchise Tax Board

FTB Publication **1032**

2021 Tax Information for Military Personnel

Advance Draft
of 10/19/21



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Advance Draft
as of 10/13/21



ONLINE SERVICES

Go to **ftb.ca.gov** for:

- **MyFTB** – view payments, balance due, and withholding information.
- **Web Pay** – to pay income taxes. Choose your payment date up to one year in advance.
- **CalFile** – e-file your personal income tax return.
- **Refund Status** – find out when we authorized your refund.
- **Installment Agreement** – request to make monthly payments.
- **Subscription Services** – sign up to receive emails on a variety of tax topics.
- Tax forms and publications.
- FTB legal notices, rulings, and regulations.
- FTB's analysis of pending legislation.
- Internal procedure manuals to learn how we administer law.

2021 Tax Information for Military Personnel

A General Information

Servicemembers domiciled outside of California, and their spouses, exclude the servicemember's military compensation from gross income when computing the tax rate on nonmilitary income.

Requirements for military servicemembers domiciled in California remain unchanged. Military servicemembers domiciled in California must include their military pay in total income. In addition, they must include their military pay in California source income when stationed in California. However, military pay is not California source income when a servicemember is permanently stationed outside of California.

If you mistakenly included military income on a previously filed California tax return, see the discussion of "Amended Tax Returns" on page 4.

Dependent Exemption Credit with No ID – For taxable years beginning on or after January 1, 2018, taxpayers claiming a dependent exemption credit for a dependent who is ineligible for a Social Security Number (SSN) and a federal Individual Taxpayer Identification Number (ITIN) may provide alternative information to the Franchise Tax Board (FTB) to identify the dependent. To claim the dependent exemption credit, taxpayers complete form FTB 3568, Alternative Identifying Information for the Dependent Exemption Credit, attach the form and required documentation to their tax return, and write "no id" in the SSN field of line 10, Dependents, on Form 540, California Resident Income Tax Return, or Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, or of line 8, Dependents, on Form 540 2EZ, California Resident Income Tax Return. For each dependent being claimed that does not have an SSN and an ITIN, a form FTB 3568 must be provided along with supporting documentation.

Taxpayers may amend their tax returns beginning with taxable year 2018 to claim the dependent exemption credit. For more information on how to amend your tax returns, get 540 or 540 2EZ, Personal Income Tax Booklet, or 540NR, Nonresident or Part-Year Resident Booklet, and Schedule X, California Explanation of Amended Return Changes.

Expansion for Credits Eligibility – For taxable years beginning on or after January 1, 2020, California expanded Earned Income Tax Credit (EITC) and Young Child Tax Credit (YCTC) eligibility to allow either the federal ITIN or SSN to be used by all eligible individuals, their spouses, and qualifying children. If an ITIN is used, eligible individuals should provide identifying documents upon requests of the FTB. Any valid SSN can be used, not only those that are valid for work. Additionally, upon receiving a valid SSN, the individual should notify the FTB in the time and manner prescribed by the FTB. The YCTC is available if the eligible individual or spouse has a qualifying child younger than six years old. For more information, get form FTB 3514, California Earned Income Tax Credit, or go to ftb.ca.gov and search for **eitc**.

Young Child Tax Credit – For taxable years beginning on or after January 1, 2019, the refundable YCTC is available to taxpayers who also qualify for the California EITC and who have at least one qualifying child who is younger than six years old as of the last day of the taxable year. The maximum amount of credit allowable for a qualified taxpayer is \$1,000. The credit amount phases out as earned income exceeds the threshold amount of \$25,000, and completely phases out at \$30,000. For more information, get form FTB 3514.

California Earned Income Tax Credit – For taxable years beginning on or after January 1, 2018, the age limit for an eligible individual without a qualifying child is revised to 18 years or older. For more information, go to ftb.ca.gov and search for **eitc** or get form FTB 3514.

Self-Employment Income – For taxable years beginning on or after January 1, 2017, California conforms to federal law to include in the definition of earned income, net earnings from self-employment for the California EITC.

Minimum Essential Coverage Individual Mandate – For taxable years beginning on or after January 1, 2020, California law requires residents and their dependents to obtain and maintain minimum essential coverage (MEC), also referred to as qualifying health care coverage. Individuals who fail to maintain qualifying health care coverage for any month during the taxable year will be subject to a penalty unless they qualify for an exemption. For more information, get the following health care forms, instructions, and publications:

- Form FTB 3849, Premium Assistance Subsidy
- Form FTB 3853, Health Coverage Exemptions and Individual Shared Responsibility Penalty
- Form FTB 3895, California Health Insurance Marketplace Statement
- Publication 3849A, Premium Assistance Subsidy (PAS)
- Publication 3895B, California Instructions for Filing Federal Forms 1094-B and 1095-B
- Publication 3895C, California Instructions for Filing Federal Forms 1094-C and 1095-C

Combat Zone Extended to Egypt's Sinai Peninsula – The Tax Cuts and Jobs Act grants an exclusion from gross income of military pay received while serving in the Sinai Peninsula of Egypt. California does not conform to the act. Additional information can be found in the instructions for California Schedule CA (540), California Adjustment - Residents and Schedule CA (540NR), California Adjustments - Nonresidents and Part-Year Residents.

Residence of Spouse of Servicemember – The Veterans Benefits and Transition Act of 2018 allows the spouse of a servicemember to make the election to use the same residence for purposes of taxation as the servicemember regardless of the date on which the marriage of the spouse and the servicemember occurred. This change also applies to California. Income of a servicemember spouse for services performed in California is not subject to tax if the spouse elects to use the same residence as the servicemember who is a nonresident of California. If the spouse makes the election, write "VBTA" at the top of the tax return in **BLUE INK**, or include it according to the software's instructions.

Military Spouses Residency Relief Act (MSRRA) – The MSRRA amended the federal Servicemembers Civil Relief Act. For taxable years beginning on or after January 1, 2009, a nonmilitary spouse of a military servicemember shall neither lose nor acquire a residence or domicile for tax purposes by being absent from or present in California to be with the servicemember serving in compliance with military orders if the servicemember and spouse have the same domicile.

Income of a military servicemember's nonmilitary spouse for services performed in California is not California source income subject to state tax if the spouse is in California to be with the servicemember serving in compliance with military

orders, and the servicemember and spouse have the same domicile in a state other than California.

For more information regarding the servicemembers' spouses to whom the MSRRRA applies, see page 13.

Heroes Earnings Assistance and Relief Tax (HEART)

Act – California conforms to the federal HEART Act of 2008 that permits the rollover of a federal military death gratuity payment or Servicemembers' Group Life Insurance proceeds into a Roth Individual Retirement Arrangement (IRA) or Coverdell education savings account (ESA), without regard to otherwise applicable contribution limits.

Differential wage payments made on or after January 1, 2009, to members of the uniformed services on active duty for more than 30 days will be treated as compensation for purposes of a retirement plan and IRA contributions. Differential wages are all or part of the wages paid by an employer as if the member were performing service for the employer rather than being on active duty.

Individual Retirement Plan Contributions – California conforms to the federal Heroes Earned Retirement Opportunities Act that allows members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income.

Early Distributions Not Subject to Additional Tax

California conforms to the exceptions from the additional tax on early withdrawals from retirement plans for qualified distributions made after September 11, 2001, to reservists while serving on active duty for at least 180 days. If you received one of these distributions and were assessed an additional tax, you may amend your tax return to claim a refund within the applicable statute of limitations. See "Amended Tax Returns" on this page.

Registered Domestic Partners (RDP) – For purposes of California income tax, references to a spouse, husband, or wife also refer to a California RDP, unless otherwise specified. When we use the initials RDP, they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

California conforms to the Military Family Tax Relief Act to allow the following:

- **Deduction for Overnight Travel Expenses of National Guard and Reserve Members** – Reservists who stay overnight more than 100 miles away from home while in service (e.g., for a drill or meeting) may deduct unreimbursed travel expenses (transportation, meals, and lodging).
- **Exclusion of Gain on Sale of a Principal Residence** – A taxpayer on qualified official extended duty in the U.S. Armed, Uniformed, or Foreign Services may suspend, for up to 10 years of such duty time, the running of the 5-year ownership-and-use period before the sale of a residence. This applies when the duty station is at least 50 miles from the residence - or while the person is residing under orders in government housing - for a period of more than 90 days or for an indefinite period.
- **Exclusion from Gross Income of Certain Federal Death Gratuity Payments** – A federal death gratuity payment to a survivor of a member of the Armed Forces is excludable from gross income.
- **Combat Zone Extensions Expanded to Contingency Operations** – The various extensions granted to combat zone participants to file tax returns or pay taxes apply to those serving in Contingency Operations, as designated by the Secretary of Defense.

Amended Tax Returns – If you are domiciled outside of California and included your military pay in income from all sources on a previously filed California tax return, you may file an amended tax return to claim a refund for taxable years not closed by the general statute of limitations. In addition, servicemembers who are American Indian tribal members treated as living on an Indian reservation who, on a previously filed California tax return, included military pay in income from all sources, can amend previously filed tax returns to claim a refund for taxable years not closed by the statute of limitations.

Generally, the statute of limitations is the later of:

- Four years from the original due date of the tax return.
- Four years from the date a timely tax return is filed.
- One year from the date of overpayment.

However, the general statute of limitations may be extended by service in a combat zone, a disaster loss, or assignment outside the United States.

To amend your tax return:

- File an amended Form 540NR and check the "AMENDED return" box at the top of Side 1.
- Attach Schedule X to the amended tax return and check box k, Military HR 100, on Part II, line 1 of the Schedule X.
- Attach Schedule CA (540NR) and any other affected forms or schedules.
- Attach a copy of the military W-2, Wage and Tax Statement, to the amended tax return.

If you are filing an amended tax return for a taxable year in which the general statute of limitations has closed, attach a statement explaining how you determined the extended statute of limitations. If the statute is extended because of military service in a combat zone or outside of the United States, attach copies of any documents that show when you served in a combat zone or overseas.

B Filing Requirements

Residents – File a California tax return if either your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) or your adjusted gross income (AGI) (which consists of your federal AGI from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below.

Nonresidents and Part-Year Residents – File a California tax return if you have any income from California sources and your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) from all sources or your AGI (which consists of your federal AGI from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below.

Exception: Married/RDP taxpayers who choose the married/RDP filing separately filing status may have a tax liability in some cases even where combined income is under these amounts.



Even if you do not meet the basic filing requirements, you must file a tax return in order to get a refund if California income tax was withheld from your pay, you have withholding from Form(s) 592-B, Resident and Nonresident Withholding Tax Statement, or 593, Real Estate Withholding Statement, or if you made estimated tax payments.

On 12/31/21, my filing status was:	and on 12/31/21, my age was: (If your 65th birthday is on January 1, 2022, you are considered to be age 65 on December 31, 2021)	California Gross Income			California Adjusted Gross Income		
		Dependents			Dependents		
		0	1	2 or more	0	1	2 or more
Single or head of household (Get FTB Pub.1540, Tax Information for Head of Household Filing Status)	Under 65	19,310	32,643	42,643	15,448	28,781	38,781
	65 or older	25,760	35,760	43,760	21,898	31,898	39,898
Married/RDP filing jointly Married/RDP filing separately (The income of both spouses/RDPs must be combined; both spouses/RDPs may be required to file a tax return even if only one spouse/RDP had income over the amounts listed.)	Under 65 (both spouses/RDPs)	38,624	51,957	61,957	30,901	44,234	54,234
	65 or older (one spouse/RDP)	45,074	55,074	63,074	37,351	47,351	55,351
	65 or older (both spouses/RDPs)	51,524	61,524	69,524	43,801	53,801	61,801
Qualifying widow(er)	Under 65		32,643	42,643		28,781	38,781
	65 or older		35,760	43,760		31,898	39,898
Dependent of another person Any filing status	Any age	More than your standard deduction (Use the California Standard Deduction Worksheet for Dependents in the instructions for your tax return to figure your standard deduction.)					

C Are You a Resident?

Active Duty Military – Generally, for tax purposes, you are considered a resident of the state from which you entered the military. The federal Servicemembers Civil Relief Act (SCRA) provides that:

- A person shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent in compliance with military orders.
- A person shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there in compliance with military orders.
- Compensation for military service is not considered to be from sources within the state where a member is stationed if that state is not the member's domicile.

Domicile is defined as the one place:

- Where you maintain a true, fixed and permanent home.
- To which you intend to return whenever you are absent.

For tax purposes, a military servicemember is not considered a resident of California unless he or she is domiciled in California.

An individual domiciled in California when entering the military is considered to be a:

- Resident while stationed in California.
- Resident while stationed in California on permanent change of station (PCS) orders and temporary duty (TDY) assignments outside California, regardless of the duration.
- Nonresident while stationed outside California on PCS orders.

Military servicemembers domiciled outside of California are considered nonresidents for tax purposes when stationed in California on PCS orders.

Spouses Not Covered Under the MSRRA and Retired Military – For purposes of determining residency, civilian spouses of military servicemembers not meeting the MSRRA requirements and retired military servicemembers are not covered by the federal SCRA, as amended by the MSRRA. For tax purposes, their residency is determined under state laws. California Revenue and Taxation Code (R&TC) Section 17014 defines a resident as:

1. Every individual who is in this state for other than a temporary or transitory purpose.
2. Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

For more information, get FTB Pub. 1031, Guidelines for Determining Resident Status.

D Examples of Resident Status

Military Personnel With a California Domicile

- **Stationed in California** – Military servicemembers whose domicile is California are residents of California and are subject to tax on all income, regardless of source, while stationed in California on permanent military orders.
- **Stationed Outside California** – California military servicemembers who leave California under PCS orders become nonresidents of California for income tax purposes. All income received or earned prior to departure is subject to tax by California. After departure, only income from California sources is subject to tax by California. Nonresidents are generally not taxed by California on income from intangibles, such as dividends from stocks or interest from bonds or bank accounts.
- California military servicemembers who leave California under a TDY assignment continue to be California residents even though absent from the state.
- California military servicemembers on a ship whose home port is in California remain California residents while on sea duty, regardless of the ship's location.

Nonmilitary Spouse – If the spouse of the military servicemember remains in California, the nonmilitary spouse is considered a California resident. As a California resident, the spouse is subject to tax on all of his or her separate income, regardless of where it is earned. If the military servicemember retains a California domicile, the spouse is also subject to tax on his or her one-half community property share of all income, including the military servicemember's military pay.

The nonmilitary spouse of a military servicemember who is domiciled in California, but leaves the state with the military spouse on PCS orders outside California, becomes a nonresident upon leaving California. The MSRRA does not alter this result. All income received or earned while a California resident is subject to tax. While a nonresident, only income from California sources is subject to tax.

Military Personnel Domiciled Outside of California – Military servicemembers who are domiciled outside California remain nonresidents, even though stationed in California, unless they establish a California domicile.

Military Couples – Each servicemember follows the above rules applicable to each of them as an individual military servicemember.

E Joint or Separate Tax Returns

Active duty military servicemembers and their spouses who file joint federal tax returns may file joint or separate tax returns for California.

When filing separate tax returns, a full-year resident spouse must file Form 540. A nonresident or part-year resident spouse must file Form 540NR. When filing a joint tax return and one spouse is a nonresident or part-year resident, you must file Form 540NR. You should figure your tax both jointly and separately to determine which filing status will result in the lower amount of tax.

A married couple who file a joint tax return may amend that tax return, within the general statute of limitations, after the original due date to change their filing status from married filing jointly to married filing separately if either spouse was one of the following:

- An active servicemember of the armed forces or any auxiliary branch, or
- A nonresident for the entire taxable year who had no income from a California source.

F Income Subject to California Tax

In general, California taxes all of the income you receive while you are a resident of California and all of the income you receive from California sources while you are a nonresident.

Under the federal SCRA, military servicemembers who are not domiciled in California are not taxed by California on pay received for military services performed in California, even though they were stationed in California for the entire year. However, all other income of nonresident military servicemembers from California sources is subject to California tax.

California Source Income – California source income includes income from all of the following:

- Nonmilitary services performed in California such as salaries or wages from a second job held by a nonresident military member.
- A trade or business for which the benefit of the services received are in California.
- Real or tangible personal property located in California.

Intangible Income – Income from intangible property (such as dividends from stocks or interest from bonds or bank accounts), regardless of the location of the payor, is sourced in the state of residence of the recipient. Therefore, intangible income is not taxable by California if received by a nonresident.

Military Pay – Military pay is not included in California source income unless the military servicemember is domiciled in California and stationed in California. However, American Indian tribal servicemembers treated as living on an Indian reservation are not taxed on their military pay. For information on how American Indians treat other types of income, go to ftb.ca.gov and search for **native americans**.

Military Retirement Pay – Military retirement pay is taxable by California if it is received by a California resident. This applies to all military pension income received while the retiree is a California resident regardless of where the retiree was stationed or domiciled while on active duty.

Example: John Douglas was a nonresident of California stationed outside California all of his active duty military career. He retires and moves to California. His military pension income received after he moves to California is taxable by California.

Nonresidents of California are not taxed on military retirement pay or other qualified retirement income. For more information, get FTB Pub. 1005, Pension and Annuity Guidelines.

Division of Income, When Separate Tax Returns Are Filed – For tax purposes, income is allocated between spouses based upon whether the person receiving the income is domiciled in a community or separate property state.

Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

Puerto Rico, Guam, and Northern Mariana Islands are community property territories. All other states and U.S. territories are separate property states or territories.

The domicile of the spouse earning the income determines the division of income between the spouses when separate tax returns are filed. See Section C, Are You a Resident?, for the definition of domicile. Each spouse must follow the laws of his or her state of domicile to determine if the income is separate or community property. If the state of domicile is a community property state, when filing separate tax returns, each spouse must report half of the community property plus each spouse's separate income on each tax return.

Income from joint accounts is assumed to belong equally to each party. Therefore, if you and your spouse file separate tax returns, each must report one-half of any taxable income from a joint account.

Example: Lt. Tucker is domiciled in New York, a separate property state, and Mrs. Tucker is domiciled in California, a community property state. Wages earned by Lt. Tucker are his separate income for tax purposes. Wages earned by Mrs. Tucker are community property for tax purposes and each spouse must report his or her community half if they are filing separate tax returns.

Nonresident Military Personnel With California

Domicile – When you compute your total AGI from all sources under California law on Schedule CA (540NR), column A should include all income you reported on your federal tax return. **Do not enter your military income or non-California source income in column B.** Use column B and column C to make only the adjustments described in the instructions for Schedule CA (540NR). Be sure to read the instructions for Schedule CA (540NR), Part II, Section A, line 1.

To compute your part-year or nonresident California AGI, **do not** enter your military income or other non-California source income in Schedule CA (540NR), column E.

Resident Nonmilitary Spouse – Resident nonmilitary spouses are taxed on their entire share of taxable income. If a military servicemember is domiciled in California, the resident nonmilitary spouse's community half of military pay is included in total California AGI regardless of the military servicemember's residency status.

Military Pay Adjustment (MPA) – Military pay of a servicemember domiciled outside of California cannot be used to determine the amount of California tax you (or your spouse) must pay. Since the California tax return starts with federal AGI, which includes your military pay, you must make an adjustment on your California tax return. This is called the "military pay adjustment" or "MPA"

If you file:

Form 540NR, enter your military pay on Schedule CA (540NR), Part II, Section A, line 1, column B. Write "**MPA**" to the left of column A or include it according to your software's instructions. **Do not** include your military pay in column E.

Example: Lt. Pope is a nonresident domiciled outside of California. Mrs. Pope is a resident of California. They should enter Lt. Pope's military pay on Schedule CA (540NR), Part II, Section A, line 1, column B. See the examples on page 10 for the division of pay between spouses.

Modified Federal Adjusted Gross Income – Some deductions and credits are limited by federal AGI. Military pay of a servicemember domiciled outside of California cannot be used to reduce the amount of these deductions and credits. You must modify your federal AGI used to compute these limitations by subtracting your military pay from federal AGI. The deductions and credits subject to a federal AGI limitation are:

- Exemption Credit – if using modified federal AGI to compute the exemption credit phase out, write "**MPA**" to the left of the exemption credit amount on Form 540NR, line 39, or for the resident spouse filing a separate tax return, Form 540, line 32, or include it according to your software's instructions.
- Medical and Dental Expenses – limited to amounts in excess of 7.5% of federal AGI on federal Schedule A, Itemized Deductions.
- Gifts to Charity – subject to a 20%, 30%, and 50% federal AGI limitation.
- Casualty and Theft Losses – total amount of all losses limited to amount in excess of 10% of federal AGI on federal Schedule A.
- Job Expenses and Most Other Miscellaneous Expenses – limited to amounts in excess of 2% of federal AGI.
- Investment expenses included as a Miscellaneous Itemized Deduction – subject to the 2% of federal AGI limitation and reported on form FTB 3526, Investment Interest Expense Deduction.
- Passive Activity Losses – modified federal AGI limitation.
- Student Loan Interest Deduction – figured on the Student Loan Interest Deduction Worksheet.

- Child and Dependent Care Expenses Credit – see Section I, Nonrefundable Child and Dependent Care Expenses Credit.
- Alternative Minimum Tax (AMT).
- Underpayment of Estimated Tax.

G Tax Computation for Part-Year Residents or Nonresidents

The California tax on part-year residents or nonresidents is the **California taxable income** multiplied by a **California tax rate**. Nonresidents use **Form 540NR** and **Schedule CA (540NR)** to compute their tax.

California taxable income is the income subject to California tax as explained in Section F, Income Subject to California Tax, of this publication less certain deductions, such as a prorated portion of the standard deduction or itemized deductions.

The **California tax rate** is figured as follows:

Step 1: Generally nonresidents or part-year residents determine their total taxable income as if they were California residents for the entire year and taxable on all their income. However, military servicemembers domiciled outside of California, whether residing inside or outside of California, exclude their military compensation from this total taxable income amount. See Section F, Income Subject to California Tax. Nonresident servicemembers must refigure any federal AGI limitations by first subtracting military compensation from federal AGI. See Section F.

Step 2: Compute the tax on the total taxable income from Step 1.

Step 3: Divide the tax from Step 2 by the total taxable income from Step 1. This is the California tax rate. Multiply California taxable income by the California tax rate to determine your part-year or nonresident California tax.

$$\begin{array}{rcl} \text{California taxable income} & \times & \frac{\text{Tax on total taxable income}}{\text{Total taxable income}} \\ & & \text{Prorated tax} \end{array}$$

H Nonrefundable Renter's Credit

California residents or part-year residents who paid rent for at least six months on their principal residence located in California and meet certain income requirements may claim a **nonrefundable** renter's credit against tax.

I Nonrefundable Child and Dependent Care Expenses Credit

Taxpayers may claim a **nonrefundable** child and dependent care expenses credit against tax. You may be eligible to claim this credit if you paid someone to care for your child or other qualifying person so you (and your spouse, if married) could work or look for work. If you are a nonresident of California, your earned income must be from California sources. For purposes of this credit, income for services

performed in California by a servicemember's spouse that is not subject to state tax under the MSRRA is not considered earned income from California sources. Active duty pay is considered earned income from California sources, regardless of whether the servicemember is domiciled in California. Generally, if you are married, you must file a joint tax return. To qualify for the credit, both spouses must have California earned income. A full-time student or disabled person is deemed to have earned income. Your federal AGI must be \$100,000 or less. For more information, get form FTB 3506, Child and Dependent Care Expenses Credit.

Military Personnel Domiciled In California.

Example: Sgt. Miller is domiciled in California, but stationed all year in Virginia. Sgt. Miller's only source of earned income is his military pay. His wife, Ann, and their child remained in California. Ann worked in California and they incurred childcare expenses for care provided in California. Because Sgt. Miller's military pay, while serving in Virginia, is **considered** California earned income for purposes of computing the credit, they qualify for the credit, if they meet all other qualifications.

Military Personnel Domiciled Outside of California.

This is additional information you need to complete form FTB 3506.

- **Military pay is considered California earned income for purposes of computing the credit** – Under California law, your military pay for service in California is considered California earned income for purposes of computing the credit.
- Income for services performed in California by a servicemember's spouse that is not subject to state tax under the MSRRA is not considered California earned income for purposes of computing the credit.
- **Modified federal adjusted gross income** – Use the federal AGI less your military pay to determine:
 - If your federal AGI is \$100,000 or less.
 - The decimal amount to use on form FTB 3506, line 7 and line 9.

If using modified federal AGI to compute the Child and Dependent Care Expenses Credit, write "MPA" to the left of the credit amount on form FTB 3506, line 12 or include it according to your software's instructions.

J Refundable California Earned Income Tax Credit

Taxpayers who earned wage income subject to California withholding and/or have net earnings from self-employment may claim a refundable California earned income tax credit (EITC). If you are a nonresident of California, your earned income must be from California sources. For purposes of this credit, income for services performed in California by a servicemember's spouse that is not subject to state tax under the MSRRA is not considered earned income from California sources. If you are married, you must file a joint tax return to claim the credit. A servicemember may elect to include his or her nontaxable military combat pay in earned income for purposes of the EITC. Each servicemember must include all of his or her combat pay, not just a portion of it. You do not need a child to qualify for the credit, but must file a California tax return to claim the credit and attach a completed form FTB 3514 to your California tax return. For more information, get form FTB 3514.

Military Personnel Domiciled In California.

Example: Sgt. Miller is domiciled in California, but stationed all year in Virginia. Sgt. Miller's only source of earned income

is his military pay. His wife, Ann, remained in California. Because Sgt. Miller's military pay, earned while serving in Virginia, is **considered** California earned income for purposes of computing the credit, they qualify for the credit, if they meet all other qualifications.

Military Personnel Domiciled Outside of California.

This is additional information you need to complete form FTB 3514.

- **Military pay is not considered California earned income for purposes of computing the credit** – Under California law, your military pay for service in California is not considered California earned income for purposes of computing the credit.
- Income for services performed in California by a servicemember's spouse that is not subject to state tax under the MSRRA is not considered California earned income for purposes of computing the credit.
- A servicemember's income from a second job in California that is subject to California withholding and/or net earnings from self-employment qualifies as earned income for computing this credit.
- **Modified federal adjusted gross income** – Use the federal AGI less your military pay to determine if your modified federal AGI is \$30,000 or less.

K Alternative Minimum Tax (AMT)

If you claim certain types of deductions and income exclusions, you may be subject to California's AMT. Generally, if you filed federal Form 6251, Alternative Minimum Tax – Individuals, you must also file California's Schedule P (540), Alternative Minimum Tax and Credit Limitations – Residents, with Form 540; or Schedule P (540NR), Alternative Minimum Tax and Credit Limitations – Nonresidents or Part-Year Residents, with Form 540NR.

The MPA as described in Section F, Income Subject to California Tax, if applicable, is used to reduce the federal AGI when computing several lines of Schedule P and when determining other limitations.

L Extensions – Combat Zone, Military Overseas, or Contingency Operations

Military servicemembers are allowed a filing extension of up to 180 days to file their California income tax returns and pay their tax, without interest or penalties, under the following conditions:

- If you were in a designated **combat zone, contingency operation** or in a **qualified hazardous duty area (QHDA)** anytime during the taxable year or filing period (January 1 to April 15), you are entitled to an extension to file and pay, without interest and penalties, of up to 180 days after leaving the combat zone or QHDA. In addition to the 180 day extension, you are entitled to an extension for the number of days you were in a combat zone or QHDA during the filing period.
- If you served outside the United States, but not in a designated **combat zone, contingency operation** or **QHDA**, you are entitled to an extension of time to file and pay without interest and penalties, of up to 180 days after returning from overseas.

IMPORTANT:

How do I indicate that I qualify for the extension to file and pay?

- If you were serving in the military overseas, write **“MILITARY OVERSEAS”** at the top of your tax return in **BLUE INK**.
- If you served in a designated combat zone or QHDA, write **“COMBAT ZONE”** and the **area you served** in at the top of your tax return in **BLUE INK**.
- You must also write the **date you were deployed** overseas or **entered** a designated **combat zone** or **QHDA** and the date you returned from overseas or from a designated **combat zone** or **QHDA**.
- If both you and your spouse were in the military, write the information for both of you and indicate which is your information and which is your spouse's information.

The extensions apply to the servicemember and spouse regardless of whether a joint tax return or separate tax returns are filed.

M Examples of Income Reporting Requirements

The chart on the next page includes examples that illustrate California's income reporting requirements. To use the chart, read down the first column to find your status: Military servicemember (M) or Spouse (S), then read across to find the type of tax return to file and the type of income to report. These examples assume you were either a nonresident for the entire year or a resident for the entire year. Part-year residents should get FTB Pub. 1031 for more information.

(continued on the next page)

Advance Draft
as of 10/13/21

Status**Examples of Income Reporting Requirements**

M = Military servicemember S = Spouse

California Domiciled Military**SINGLE TAXPAYERS**

- | | |
|---|---|
| 1. M – Domiciled in California. Stationed in California all year. | File Form 540 2EZ and report all income, including military income; or file Form 540 and report all income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C. |
| 2. M – Domiciled in California. Stationed outside California all year. | If you have California source income, file Form 540NR and report all income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Exclude your military compensation and other non-California source income from Schedule CA (540NR), column E. If you have no California source income, you are not required to file a California tax return. |

MARRIED TAXPAYERS

- | | |
|--|--|
| 3. M – Domiciled in California. Stationed in California all year.
S – Domiciled in California. Resided in California all year. | If filing a joint tax return, file Form 540 2EZ and report all income, including military income, or file Form 540 and report all income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C.
If filing separate tax returns, each spouse must file Form 540 and report his or her one-half share of all community income, including military income, and his or her separate income, if any, on Schedule CA (540), column A. Do not enter military income in column B or column C. |
| 4. M – Domiciled in California. Stationed outside California all year.
S – Domiciled in California. Resided in California all year. | If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Report all California source income, all S's separate income, and S's community one-half share of all non-California source income on Schedule CA (540NR), column E. This includes S's community one-half share of military pay and intangible income.
If filing separate tax returns, M must file Form 540NR. Report all separate income and one-half share of all community income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Report all separate California source income and one-half share of community California source income on Schedule CA (540NR), column E. Do not enter military income, intangible income, or other non-California source income on Schedule CA (540NR), column E.
If filing separate tax returns, S must file Form 540 and report all separate income and his or her one-half share of all community income, including military income, on Schedule CA (540), column A. Do not enter military income in column B or column C. |
| 5. M – Domiciled in California. Stationed in California all year.
S – Domiciled in California. Resided outside California all year. | If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Report on Schedule CA (540NR), column E, all California source income, including all military income, and M's community one-half share of S's non-California source income, and M's one-half share of intangible income.
If filing separate tax returns, M must file Form 540, and report his or her one-half share of all community income, including military pay, and his or her separate income, if any, on Schedule CA (540), column A. Do not enter military income in column B or column C.
If filing separate tax returns, S must file Form 540NR. Report on Schedule CA (540NR), column A, one-half of all community income, including military income, and his or her separate income, if any. Do not enter military income in column B or column C. Report your one-half share of California source community income, including military income, and any separate California source income in column E. |
| 6. M – Domiciled in California. Stationed outside California all year.
S – Domiciled in California. Resided outside California all year. | If filing jointly or filing separately, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Do not enter military income on Schedule CA (540NR), column B or column C. Report on Schedule CA (540NR), column E, all California source income. Do not include in column E, military, intangible, or other non-California source income (including the spouse's income for services performed outside of California). If there is no California source income, M and S do not have to file a California tax return. |

Status**Examples of Income Reporting Requirements (continued)**

M = Military servicemember S = Spouse MPA = Military pay adjustment

Non-California Domiciled Military**SINGLE TAXPAYERS**

- 7.** M – Domiciled outside California. Stationed in or out of California all year. If you have California source income, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Enter all military income on Schedule CA (540NR), column B. Report on Schedule CA (540NR), column E, California source income. Do not enter military income on Schedule CA (540NR), column E. If M has no California source income, M is not required to file a California tax return.

MARRIED TAXPAYERS

- 8.** M – Domiciled in a community property state (other than California). Stationed in or out of California all year. If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Report all military income in column B. Report all California source income, plus S's share of intangible income, and S's other non-California source income in column E. Do not include M's military income, M's share of intangible income, or M's other non-California source income in column E.
- S – Domiciled in a community property state. Resided in California all year. If filing separate tax returns, M must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income and your one-half share of all community income, including M's one-half share of military income. Enter your one-half share of military income on Schedule CA (540NR), column B. Report all separate California source income and one-half of California source community income in column E. Do not enter military or intangible income in column E.
- If filing separate tax returns, S must file Form 540. Report all separate income and your one-half share of all community income, including S's community one-half share of military income on Schedule CA (540), column A. Enter S's community one-half share of military income on Schedule CA (540), column B.
- See page 12 for an illustration of how to complete Schedule CA when filing jointly or filing separately.
- 9.** M – Domiciled in a separate property state. Stationed in or out of California all year. If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Enter all military income in column B. Report all California source income, plus S's intangible income, and S's other non-California source income in column E. Do not enter military income in column E.
- S – Domiciled in a separate property state. Resided in California all year. If filing separate tax returns, M must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including all military income, M's intangible income, California source income and non-California source income. Enter in column B all M's military pay. Report in column E all M's California source income. Do not report military or intangible income in column E. If M has no California source income, M does not have to file a California tax return.
- If filing separate tax returns, S must file Form 540 and report all separate income of S from all sources.
- 10.** M – Domiciled in a separate property state. Stationed in or out of California all year. If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Enter all military income in column B. Report on Schedule CA (540NR), column E, all California source income plus S's intangible income, and S's other non-California source income. Do not include military income.
- S – Domiciled in a community property state. Resided in California all year. If filing separate tax returns, M must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income including military income and one-half of S's community income. Enter in column B all M's military income. Report on Schedule CA (540NR), column E, all separate California source income and your one-half share of California source community income. Do not include M's military or intangible income.
- If filing separate tax returns, S must file Form 540. Report all separate income and your one-half share of all community income on Schedule CA (540), column A.
- 11.** M – Domiciled in a community property state (other than California). Stationed in or out of California all year. If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Enter all military income in column B. Report all California source income, plus S's share of intangible income, and S's other non-California source income in column E. Do not include M's military income, M's share of intangible income, or M's other non-California source income in column E.
- S – Domiciled in a separate property state. Resided in California all year. If filing separate tax returns, M must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income and M's one-half share of all community income, including military income. Enter in column B one-half of M's military income. Report all separate California source income and M's one-half share of California source community income in column E. Do not include military or intangible income in column E.
- If filing separate tax returns, S must file Form 540. Report all separate income and your one-half share of all community income, including S's community one-half of military income on Schedule CA (540), column A. Enter S's community one-half of military income on Schedule CA (540), column B.

Illustration for example 8:

The following provides partial views of Schedule CA (540) and Schedule CA (540NR).

Lt. Pope is domiciled in Texas, a community property state, and Mrs. Pope is domiciled in California, a community property state. Lt. Pope was stationed in California for all of 2021 and received \$32,500 in military wages and Mrs. Pope, who also lived in California, received \$29,000 in wages. Lt. and Mrs. Pope also have a joint savings account from which they received \$200 in interest income. Following are illustrations of how their income would be reported on Schedule CA (540 or 540NR) of their California tax return(s) (refer to example 8 on page 11):

Filing a Joint Tax Return (Form 540NR)

They would make the following entries on Schedule CA (540NR):

Part II		Income Adjustment Schedule				
		A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income from federal Form 1040 or 1040-SR						
1	Wages, salaries, tips, etc. See instructions before making an entry in column B or C 1	\$61,500	\$32,500****		\$29,000	\$29,000*
2	Taxable interest 2b	200			200	100

Filing Separate Tax Returns

Lt. Pope would file Form 540NR and would make the following entries on Schedule CA (540NR):

Part II		Income Adjustment Schedule				
		A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income from federal Form 1040 or 1040-SR						
1	Wages, salaries, tips, etc. See instructions before making an entry in column B or C 1	\$30,750**	\$16,250****		\$14,500	\$14,500***
2	Taxable interest 2b	100			100	

Mrs. Pope would file Form 540 and would make the following entries on Schedule CA (540):

Part I		Income Adjustment Schedule		
		A	B	C
		Federal Amounts	Subtractions	Additions
Section A – Income from federal Form 1040 or 1040-SR				
1	Wages, salaries, tips, etc. See instructions before making an entry in column B or C 1	\$30,750**	\$16,250****	
2	Taxable interest 2b	100		

* Mrs. Pope's \$29,000 in wages.
 ** One-half of Lt. Pope's military pay, \$16,250 plus one-half of Mrs. Pope's wages, \$14,500.
 *** One-half of Mrs. Pope's wages.
 **** R&TC Section 17140.5 military pay adjustment.

N Military Spouses Residency Relief Act (MSRRA)

Are You a Resident?

Generally, for tax purposes you are considered to maintain your existing residence or domicile. If the military servicemember and nonmilitary spouse have the same state of domicile, the federal MSRRA provides:

- A spouse shall not be deemed to have lost a residence or domicile in any state solely by reason of being absent to be with the servicemember serving in compliance with military orders.
- A spouse shall not be deemed to have acquired a residence or domicile in any other state solely by reason of being there to be with the servicemember serving in compliance with military orders.

Domicile is defined as the one place:

- Where you maintain a true, fixed and permanent home.
- To which you intend to return whenever you are absent.

A military servicemember's nonmilitary spouse is considered a nonresident for tax purposes if the servicemember and spouse have the same domicile outside of California and the spouse is in California solely to be with the servicemember who is serving in compliance with PCS orders. (Note: California may require nonmilitary spouses of military servicemembers to provide proof that they meet the criteria for California personal income tax exemption as set forth in the MSRRA.)

Income Subject to California Tax

In general, California taxes all of the income you receive while you are a resident of California and all of the income you receive from California sources while you are a nonresident.

Under the MSRRA, the income of a nonmilitary spouse of a military servicemember for services performed in California is not considered to be from sources within this state if the spouse is not a California resident because the spouse is in California solely to be with the servicemember serving in compliance with military orders and both have the same out-of-state domicile.

Thus a spouse is not taxed by California on income received from services performed in California if the spouse is not a California resident because the spouse meets the three MSRRA requirements above. However, all other income of nonresident spouses from California sources is subject to California tax.

California Source Income – For the Military Servicemember's Nonmilitary Spouse Who Meets the MSRRA Requirements.

California source income includes income from all of the following:

- Real or tangible personal property located in California.
- A trade or business located in California except to the extent it receives income for services performed by the MSRRA-qualifying servicemember's spouse.

Tax Computation for Part-Year Residents or Nonresidents

To determine the amounts of "California taxable income" and "total taxable income" described in Section G, Tax Computation for Part-Year Residents or Nonresidents, the income for services performed in California by a military servicemember's nonmilitary spouse meeting the MSRRA requirements is not included in California income, Schedule CA (540NR), column E. However, this income is included in total income, Schedule CA (540NR), column D, to arrive at the applicable California tax rate.

Status	Examples of Income Reporting Requirements
M = Military servicemember S = Spouse	
Military Servicemembers and Nonmilitary Spouses Who Meet the MSRRA Requirements	
MARRIED TAXPAYERS	
1. M – Domiciled in a community property state (other than California). Stationed in California all year.	If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Report all military income in column B. Report all California source income, in column E. Do not include intangible or non-California source income in column E.
S – Domiciled in the same community property state as M. Resided in California all year.	If filing separate tax returns, M and S must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income and your one-half share of all community income, including M's one-half share of military income. Enter your one-half share of military income on Schedule CA (540NR), column B. Report all separate California source income and one-half of California source community income in column E. Do not enter military or intangible income in column E. See page 14 for an illustration of how to complete Schedule CA when filing jointly or separately.
2. M – Domiciled in a separate property state. Stationed in California all year.	If filing a joint tax return, file Form 540NR. Report all income, including military income, on Schedule CA (540NR), column A. Enter all military income in column B. Report all California source income in column E. Do not enter military or intangible income in column E.
S – Domiciled in the same separate property state as M. Resided in California all year.	If filing separate tax returns, M must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including all military income, M's intangible income, California source income and non-California source income. Enter in column B all of M's military pay. Report in column E all of M's California source income. Do not report military or intangible income in column E. If M has no California source income, M does not have to file a California tax return. If filing separate tax returns, S must file Form 540NR. Report on Schedule CA (540NR), column A, all separate income, including S's intangible income, California source income and non-California source income. Report in column E all of S's California source income. Do not report intangible income in column E. If S has no California source income, S does not have to file a California tax return.

Illustration for example 1:

The following provides partial views of Schedule CA (540NR).

Lt. and Mrs. Johnson are domiciled in Texas, a community property state. Lt. Johnson was stationed in California for all of 2021 and received \$32,500 in military wages and Mrs. Johnson, who also lived in California, received \$29,000 in wages. Lt. and Mrs. Johnson also have a joint savings account from which they received \$200 in interest income. They also sold California rental property for a net gain of \$50,000. Following are illustrations of how their income would be reported on Schedule CA (540NR) of their California tax return(s) (refer to example 1 on page 13):

Filing a Joint Tax Return (Form 540NR)

They would make the following entries on Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income from federal Form 1040 or 1040-SR						
1	Wages, salaries, tips, etc. See instructions before making an entry in column B or C.	1	\$61,500	\$32,500 ¹	\$29,000 ²	
2	Taxable interest	2b	200		200	
7	Capital gain or (loss). See instructions	7	50,000		50,000	50,000 ³

Filing Separate Tax Returns (Form 540NR)

Lt. and Mrs. Johnson must each file Form 540NR and would make the following entries on their individual Schedule CA (540NR):

Part II	Income Adjustment Schedule	A	B	C	D	E
		Federal Amounts	Subtractions	Additions	Total Amounts Using CA Law	CA Amounts
Section A – Income from federal Form 1040 or 1040-SR						
1	Wages, salaries, tips, etc. See instructions before making an entry in column B or C.	1	\$30,750 ⁴	\$16,250 ¹	\$14,500 ⁵	
2	Taxable interest	2b	100		100	
7	Capital gain or (loss). See instructions	7	25,000		25,000	25,000 ⁶

¹ R&TC Section 17140.5 military pay adjustment.
² Mrs. Johnson's \$29,000 in wages.
³ Income from sale of rental property.
⁴ One-half of Lt. Johnson's military pay, \$16,250 plus one-half of Mrs. Johnson's wages, \$14,500.
⁵ One-half of Mrs. Johnson's wages.
⁶ One-half of income from sale of rental property.

O Additional Information

What if I am involved in an audit or have received correspondence from the Franchise Tax Board?

If you are a military servicemember stationed in the United States, follow the instructions in the correspondence you received. If you are stationed outside the United States, in most cases, we will defer any audit activity for up to 180 days following your return to the United States. Contact us or have your authorized representative contact us at the number shown on the correspondence we sent you, or see Section S, General Phone Service, to get more information. You will be asked to provide all of the following information:

- Copy of correspondence from the FTB.
- Name and social security number.
- Branch of service.
- Unit name and number.
- Dates you entered and left the United States.
- Mailing and/or permanent address.

What if I owe back taxes?

In most cases you will be able to defer payment of back taxes, without interest or penalties, for up to 180 days following your return to the United States.

If you received a notice from the FTB, call the number shown on the notice, or have your authorized representative contact us. You will be asked to provide all of the following information:

- Name and social security number.
- Branch of service.
- Unit name and number.
- Dates you entered and left the United States.
- Mailing and/or permanent address.

If you were a servicemember of the National Guard or a reservist called to full-time active duty, you may be able to defer payment of back taxes, without interest and penalties, from the date you were called to full-time active duty service until 180 days following the date you left service, if your ability to pay the tax is materially impaired by reason of the service.

In order to qualify for a deferral of back taxes, you must provide the FTB a certificate signed by an appropriately authorized officer of the military with all of the following information:

- Name.
- Dates you entered and left full-time active duty.
- Place where the service occurred.
- Rank, branch, and unit.
- Monthly pay received at the date the certificate was issued.

P Where to Get California Tax Forms and Publications

By Internet – You can download, view, and print California tax forms, instructions, and publications at ftb.ca.gov/forms.

By Phone – Use our automated service to order California tax forms, publication, and booklets. Call 800.338.0505 and follow the recorded instructions. This service is available 24 hours a day, 7 days a week. Allow two weeks to receive your order. If you live outside of California allow three weeks to receive your order.

In Person – Many libraries and post offices provide free California tax booklets during the filing season.

Employees at libraries and post offices cannot provide tax information or assistance.

By Mail

TAX FORMS REQUEST UNIT MS D120
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Q Letters

If you write to us, be sure your letter includes your social security number and your daytime and evening telephone numbers. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

We will respond to your letter within ten weeks. In some cases, we may need to call you for additional information.

R Volunteer Income Tax Assistance

Military members and their spouses may be eligible to receive free tax return preparation assistance. The Internal Revenue Service (IRS), FTB and U.S. Armed Forces participate in the Volunteer Income Tax Assistance (VITA) program which provides free tax advice, tax preparation, return filing and other tax assistance to military members and their families.

VITA tax specialists at military-based VITA sites are trained to address military-specific tax issues, such as combat zone tax benefits and the Earned Income Tax Credit guidelines. Contact the legal assistance office for tax assistance.

S General Phone Service

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday, except holidays. Hours subject to change.

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States

California

Relay

Service: 711 or 800.735.2929 for persons with hearing or speaking limitations

IRS: 800.829.1040 for federal tax questions, call the IRS

Asistencia En Español

Asistencia telefónica está disponible durante todo el año desde las 7 a.m. hasta las 5 p.m. de lunes a viernes, excepto días feriados. Las horas están sujetas a cambios.

Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos

Servicio de

Retransmisión

de California: 711 or 800.735.2929 para personas con limitaciones auditivas o del habla.

IRS: 800.829.1040 para preguntas sobre impuestos federales, llame al IRS