



Massachusetts Department of Revenue

Form M-4-MS

Annual Withholding Tax Exemption
Certificate for Nonresident Military Spouse

Read instructions below before completing this form. After completion, give the certificate to your employer. Keep a copy for your records.

Employee name Employee Social Security number
Military servicemember spouse's name Spouse's Social Security number
Street address where you both currently reside City/Town State Zip Telephone
Name of military servicemember's station City/Town State Zip Telephone

Form M-4-MS is to be used only for employees claiming exemption from Massachusetts income tax withholding requirements because they meet the conditions set forth under the Servicemembers Civil Relief Act, as amended by the Military Spouses Residency Relief Act (P.L. 111-97) and by P.L. 115-407. For further information, see Technical Information Release (TIR) 19-15. Form M-4-MS should also be used by employees that no longer qualify for the exemption. Fill in the appropriate oval below (see instructions).

I certify that:

- I am a legal resident (domiciliary) of the state of \_\_\_\_\_;
My military servicemember spouse's domicile is the same as mine;
My spouse is a member of the armed forces and is present in Massachusetts in compliance with military orders; and
I am present in Massachusetts solely to be with my spouse.

I certify that:

I elect to have the same state of residence for tax purposes as my military servicemember spouse, pursuant to 50 USC § 4001(a)(2)(B).

I no longer qualify for the exemption as of (date)\_\_\_\_\_.

Signature

Under penalties of perjury, I declare that to the best of my knowledge and belief the above information is true, correct, and complete.

Employee signature Date Telephone

# Form M-4-MS Instructions

## Notice to the Military Spouse

The Military Spouses Residency Relief Act (MSRRA) has been amended for tax years beginning on or after January 1, 2018. The spouse of a servicemember in certain circumstances is allowed to elect on a year-by-year basis to use the servicemember's state of residence for purposes of taxation. In all other respects the MSRRA is substantively unchanged. For more information, see TIR 19-15.

When completing Form M-4-MS the military spouse must fill in one of the three ovals indicating the spouse's status. The first oval is where the military spouse claims the servicemember's state of residence based on the criteria in the MSRRA. This is the method that has been in use before the 2018 election option, and it remains a valid means of determining residence of a military spouse.

The second oval is the election by a military spouse to have the same state of residence as the servicemember, and is available in certain circumstances as an option for tax years beginning on or after January 1, 2018. For information on this option, see TIR 19-15.

The third oval is the indication that the spouse no longer qualifies for the exemption for military spouses.

## Notice to Employers

Employers are not exempt from withholding tax liability for failing to withhold the proper Massachusetts tax on a military spouse unless the spouse has properly completed Massachusetts Form M-4-MS and the employer has satisfied the additional requirements set forth below.

## Requirements of Employer

The employee must show the employer an original of the employee's current military spouse ID and provide a clear photocopy. The employer must ensure that the ID denotes the employee as a current military spouse. These IDs are reissued every four years; accordingly, the employer may not accept a military ID that is dated more than four years before the date on which it is given to the employer. In addition to a copy of the military spouse ID, the employee must provide to the employer copies of the following:

- Department of Defense Form 2058, State of Legal Residence Certificate of servicemember;
- Most recent LES, Leave and Earnings Statement, of servicemember; and
- Servicemember's current military orders assigning such servicemember to a post of duty in or near Massachusetts.

The employer must keep the Form M-4-MS with the employee's personnel records. If the employer believes the employee has improperly claimed the Nonresident Military Spouse Residency Withholding Exemption, the employer must contact the Department of Revenue.

**Note:** The Form M-4-MS must be validated on an annual basis. The spouse must show continued eligibility for the exemption. Scenarios that will cause the spouse to no longer be eligible include:

- Servicemember leaves the service;
- Divorce;
- Voluntary physical separation due to duty changes. The servicemember's orders move him or her to a location outside Massachusetts where the spouse is allowed to join him or her but chooses not to; or
- Spouse commits an action that clearly establishes Massachusetts as his or her state of domicile.

## Domicile

In order to claim domicile in a state other than the state in which you currently reside you must have proof that you meet one or more of the criteria listed below. If you previously were not a domiciliary of another state you cannot claim that state as your domicile merely by making an election.

Domicile is a place where a person has established permanent residence with an intention to dwell in that place permanently and to return to it after absence. An individual has only one state of domicile at any time and loses his or her current domicile only when he or she establishes a new domicile. The domicile is created based on performing one or more of the following actions.

## Criteria Used to Determine State of Domicile

**Property, ownership and residence.** Homestead status; the location of permanent home; mailing address; amount of time spent in a state.

**Financial data.** Location of bank accounts; where taxpayer qualifies for unemployment benefits; state where prior resident tax returns were filed; state where business is conducted; state where wages are earned.

**Licenses and registrations.** Where taxpayer is registered to vote; state driver's license; state where vehicles are registered; state where professional licenses are maintained.

**Affiliations.** Location of fraternal, social or athletic memberships; union membership location; place of worship.

**Family and dependents.** Place of family ties for employee, servicemember spouse and dependents.

## Single Domicile Factor Not Sufficient

No single factor determines a person's state of domicile; all factors must be evaluated together.

A person's permanent residence, once established, continues as their state of domicile until they take steps to establish a new domicile in another state.