

Form W-221 Instructions

Nonresident Military Spouse Withholding Exemption

Instructions for Employee

An employee's wages are exempt from Wisconsin income tax and withholding if the employee meets all the following conditions:

- The employee is the spouse of a servicemember.
- The servicemember is present in Wisconsin in compliance with military orders.
- The spouse is in Wisconsin solely to be with the servicemember.
- The spouse qualifies and chooses to make an election under [50 U.S.C. 4001\(a\)\(3\)](#) to use one of the following residences or domiciles:
 - The residence or domicile of the servicemember.
 - The residence or domicile of the spouse.
 - The permanent duty station of the servicemember.
- The spouse's choice of residence or domicile is not Wisconsin.

If you meet all the above conditions, complete Parts I, II, and IV and give the form to your employer. **Note:** If you are a resident of Illinois, Indiana, Kentucky, or Michigan, you should also complete Wisconsin [Form W-220, Nonresident Employee's Withholding Reciprocity Declaration](#), and give it to your employer.

If you previously claimed this exemption but no longer qualify, you must complete Parts I, III, and IV and give the form to your employer. For example, you would complete Parts I, III, and IV if you changed your residence to Wisconsin or separated from your spouse. **Note:** You may be required to complete a Wisconsin [Form WT-4, Employee's Wisconsin Withholding Exemption Certificate/New Hire Reporting](#), and give it to your employer so that the correct amount of Wisconsin income tax can be withheld from your wages.

It is the employee's responsibility to inform their employer of any changes to the employee's residency, domicile, or exemptions. If your employer has withheld Wisconsin income tax while you qualify for the exemption, you should file a Wisconsin income tax return (Form 1NPR), during the regular filing season, requesting a refund of the withheld taxes.

If you have questions, call (608) 266-2486 or e-mail dorincome@wisconsin.gov.

Instructions for Employer

If an employee completes Parts I, II, and IV, the employer should not withhold Wisconsin income tax from the employee's wages. If an employee completes Parts I, III, and IV, the employer should withhold the appropriate amount of Wisconsin income tax from the employee's wages.

After an employer receives Form W-221 from an employee, the employer must complete Part V and send a copy of the form to the department:

Mail: Wisconsin Department of Revenue
Office Services MS 5-144
PO Box 8906
Madison, WI 53708-8906

Fax: (608) 267-0834

Wages paid to the employee for services performed in Wisconsin must be reported as taxable to Wisconsin (box 16 of Form W-2), unless the employee claims to be a resident of Illinois, Indiana, Kentucky, or Michigan.

If employers have questions, they can call (608) 266-2776 or e-mail dorwithholdingtax@wisconsin.gov.

Example:

Facts:

- Prior to 2023
 - Individual A is a resident of Illinois.
 - Individual B is a resident of Florida.
- On January 1, 2023
 - Individual A becomes a servicemember.
 - Individual A receives military orders with a permanent duty station in Wisconsin.
- On October 7, 2023
 - Individual A and Individual B get married.
 - Individual B moves to Wisconsin solely to be with Individual A.
- On November 6, 2023, Individual B starts working in Wisconsin for Employer C.

Under [50 U.S.C. 4001\(a\)\(3\)](#), Individual B can choose to be a resident of Florida, Illinois, or Wisconsin. Individual B's choice will affect the tax, withholding, and reporting requirements for both Individual B and Employer C.

Option 1 – Individual B chooses to be a resident of Wisconsin.

- Individual B does not need to complete Form W-221.
- Employer C
 - Must withhold the appropriate amount of Wisconsin income tax from Individual B's wages.
 - Must report the wages as taxable to Wisconsin in box 16 of Form W-2.
 - Must file Form W-2 with the department.
- When Individual B files the 2023 Wisconsin individual income tax return, all of the wages from Employer C are taxable to Wisconsin.

Option 2 – Individual B chooses to be a resident of Florida.

- Individual B should complete Parts I, II, and IV of Form W-221 and give it to Employer C.
- Employer C
 - Must complete Part V of Form W-221 and give it to the department.
 - Should not withhold Wisconsin income tax from Individual B's wages.
 - Must report the wages paid to Individual B as taxable to Wisconsin in box 16 of Form W-2.
 - Must file Form W-2 with the department.
- When Individual B files the 2023 Wisconsin individual income tax return, none of the wages from Employer C are taxable to Wisconsin.

Option 3 – Individual B chooses to be a resident of Illinois.

- Individual B should complete Parts I, II, and IV of Form W-221 and give it to Employer C.
- Individual B should complete Form W-220 and give it to Employer C.
- Employer C
 - Must complete Part V of Form W-221 and give it to the department.
 - Should not withhold Wisconsin income tax from Individual B's wages.
 - Should not report the wages paid to Individual B as taxable to Wisconsin in box 16 of Form W-2.
 - Must file Form W-2 with the department.
- When Individual B files the 2023 Wisconsin individual income tax return, none of the wages from Employer C are taxable to Wisconsin.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of October 6, 2023: Servicemembers Civil Relief Act ([P.L. 108-189](#)), Military Spouses Residency Relief Act ([P.L. 111-97](#)), Veterans Benefits and Transition Act of 2018 ([P.L. 115-407](#)), Veterans Auto and Education Improvement Act of 2022 ([P.L. 117-333](#)), and [50 U.S.C. 4001](#).