



## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

**[Docket ID: DOD-2019-OS-0012]**

### **Voluntary State Tax Withholding From Retired Pay**

**AGENCY:** Office of the Under Secretary of Defense (Comptroller), DoD.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Uniformed Services to accept written requests from current and former members for voluntary State income tax withholding from monthly retired or retainer pay when the Department has an agreement for such withholding with the State named in the request. Rather than an unnecessary part in the Code of Federal Regulations (CFR), this notice provides administrative-type information to those members and States interested in applying for or engaging in this tax withholding arrangement.

**DATES:** This action is applicable on November 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kellie Allison at 703-614-0410.

**SUPPLEMENTARY INFORMATION:** Title 32 CFR part 78, “Voluntary State Tax Withholding from Retired Pay,” set forth DoD’s policies and procedures on the voluntary state income tax withholding from the monthly retired or retainer pay of a member or former member of the Uniformed Services. DoD published a direct final rule to remove 32 CFR part 78 elsewhere in this issue of the *Federal Register* that will become effective 30 days from publication unless significant adverse comment is received which would result in a contrary determination. Should DoD receive a significant adverse comment, the Department will withdraw both direct final rule and this notice by publishing another notice in the Federal Register. It was determined that part 78 was unnecessary because it restated current law, 10

U.S.C. 1045; set forth internal policy and procedures; and conveyed to the public administrative and procedural information that does not require rulemaking. Instead, this notice informs the public of pertinent administrative information concerning the request for state tax withholding in lieu of part 78.

A retiree may request voluntary State income tax withholding from their retired or retainer pay. The withholding amount requested must be in a whole dollar amount and at least \$10, or the state's minimum, if that amount is higher.

To efficiently and accurately implement the request, it should include the member's full name, signature, Social Security number, the fixed amount withheld monthly from retired pay, the state designated to receive the withholding, and the member's current address. The retiree may submit the request by sending a completed DoD Form 2656, "Data for Payment of Retired Personnel" (only sections I and VII of the form need to be completed), a letter, an email, or fax to the U.S. Military Retired Pay office, or submit the request through the member's myPay account. If using myPay, the member's signature is not required. In the case of incompetence, the member's guardian or trustee must sign the request.

Current guidance, including the addresses and other information for the U.S. Military Retired Pay offices can be found in the DoD Financial Management Regulation, Volume 7B, Chapter 26, "State Taxes," that is available at [http://comptroller.defense.gov/Portals/45/documents/fmr/current/07b/07b\\_26.pdf](http://comptroller.defense.gov/Portals/45/documents/fmr/current/07b/07b_26.pdf) (most recently updated in July 2018).

A State requesting an agreement for the voluntary withholding of State tax from the retired pay of members of the Uniformed Services shall address a letter to the Director, Defense

Finance and Accounting Service, 1931 Jefferson Davis Highway, Arlington, VA 22240. The Department of Defense shall enter into a Standard Agreement within 120 days of a request for agreement from the proper State official. This agreement shall provide that the Uniformed Services shall withhold State income tax from the monthly retired pay of any member who voluntarily requests such withholding in writing. In the Standard Agreement, States are allowed to terminate the Agreement within 45 days of any amendment, modification, supplement, or change to the procedures for withholding.

States shall indicate, in writing, agreement to follow the provisions of the DoD FMR, Volume 7B, Chapter 26. If a State proposes an agreement that varies from the Standard Agreement, the State shall indicate, in writing, to the Director, Defense Finance and Accounting Service which provisions of the Standard Agreement are not acceptable and propose substitute provisions.

To be effective, the letter must be signed by a State official authorized to bind the State under an agreement for tax withholding. Copies of applicable State laws that authorize employers to withhold State income tax and authorize the official to bind the State under an agreement for tax withholding shall be enclosed with the letter. The letter also shall indicate the title and address of the official whom the Uniformed Services may contact to obtain information necessary for implementing withholding.

Within 120 days of the receipt of a letter from a State, the Director, Defense Finance and Accounting Service, or designee, will notify the State, in writing, that DoD has either entered

into the Standard Agreement or that an agreement cannot be entered into with the State and the reasons for that determination.

Dated: October 3, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-06-P

[FR Doc. 2019-21968 Filed: 10/11/2019 8:45 am; Publication Date: 10/15/2019]