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Analysis
As of: Jul 23, 2013

Notice 2012-41

Extension of Relief and Procedures Under Notice 2010-30 and Notice 2011-16 for
Spouses of U.S. Servicemembers Who are Working In or Claiming Residence or Domicile
In a U.S. Territory Under the Military Spouses Residency Relief Act

Notice 2012-41; 2012-1 C.B. 1048; 2012 IRB LEXIS 325; 2012-26 I.R.B. 1048

June 07, 2012

[*1]

TEXT:

On April 15, 2010, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published *Notice 2010-30, 2010-18 I.R.B. 650*, which provides relief and procedures for certain taxpayers who are spouses (civilian spouses) of active duty members of the uniformed services (service members). The relief and procedures were made available to civilian spouses who (A) accompany their service member spouses to a military duty station in American Samoa, Guam, the Northern Mariana Islands (NMI), Puerto Rico, or the U.S. Virgin Islands (USVI) (each a "U.S. territory") and claim residence or domicile (tax residence) in one of the 50 States or the District of Columbia under the Military Spouses Residency Relief Act (MSRRA) or (B) accompany their service member spouses to a military duty station in one of the 50 States or the District of Columbia and claim tax residence in a U.S. territory under MSRRA. The relief and procedures set forth in *Notice 2010-30* were initially available for the taxable year including November 11, 2009 (generally, this would be calendar year 2009, referred to hereinafter as 2009). On April 8, 2011, the Treasury Department and the IRS published *Notice 2011-16, 2011-17 I.R.B. 720*, [*2] which extended the relief and procedures announced in *Notice 2010-30* to the first taxable year beginning after November 11, 2009 (generally, this would be calendar year 2010).

This notice further extends the relief set forth in *Notice 2010-30* for civilian spouses described in the prior paragraph to taxable years beginning after November 11, 2010 (generally, these will be calendar year 2011 and subsequent calendar years, referred to hereinafter as 2011 and subsequent taxable years), and provides that such civilian spouses should follow the applicable procedures described in *Notice 2010-30*.

The extension of time to pay federal income taxes described in Part III (A) (1) (b) of *Notice 2010-30* for 2009 is available to eligible civilian spouses described in Part III (A) (1) (b) of *Notice 2010-30* claiming MSRRA relief with respect to individual federal income tax returns filed for 2011 and subsequent taxable years. To obtain an extension of time through October 17, 2012, to pay federal income taxes for 2011, such taxpayers should follow the procedures in Part III (A) (1) (b) of *Notice 2010-30*. To obtain an extension to pay federal income taxes for subsequent taxable years, such taxpayers should [*3] follow those same procedures adjusted for the appropriate filing dates in each such subsequent taxable year.

As provided in *Notice 2010-30*, the IRS has also determined pursuant to *section 6654 (e) (3) (A) of the Internal Revenue Code* that, with respect to civilian spouses eligible for the extension of time to pay federal income taxes described in this notice and Part III (A) (1) (b) of *Notice 2010-30*, the addition to tax under *section 6654 (a)* will not apply

in the case of an underpayment of estimated tax by such civilian spouses for 2011 and subsequent taxable years due to unusual circumstances.

Civilian spouses who obtain the extension to pay federal income taxes for 2011 and subsequent taxable years provided by this notice are required to pay interest on the amount of tax from the original payment due date until the date the tax is paid. Pursuant to *section 6601*, interest is calculated from the prescribed payment due date determined under *section 6151* without regard to any extension to pay federal income tax, including the extension to pay tax provided by this notice.

For the reasons discussed in Part III (A) (2) of *Notice 2010-30*, the extension to pay federal income taxes described [*4] in Part III (A) (1) (b) of *Notice 2010-30* is not available to civilian spouses claiming tax residence in a State or the District of Columbia under MSRRA and filing individual federal income tax returns for 2011 and subsequent taxable years who are (A) federal employees in American Samoa, Guam, or the USVI, or (B) individuals working in Guam or the NMI to whom *section 935* applies. These civilian spouses should file their individual federal income tax returns for 2011 and subsequent taxable years, and pay any taxes due, according to the procedures described in Part III (A) (2) of *Notice 2010-30*.

Civilian spouses who accompany their service member spouses to a military duty station in one of the 50 States or the District of Columbia and who claim tax residence in a U.S. territory under MSRRA should follow the procedures in Part III (B) of *Notice 2010-30* with respect to their individual federal income tax returns for 2011 and subsequent taxable years.

DRAFTING INFORMATION

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