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Directive 86-12: Military Income (Non-Resident)

Facts: Taxpayer Adams is a uniformed member in the military service of the United States who is domiciled in a state other than Massachusetts. During her most recent taxable year, Adams lived in Massachusetts because she was assigned to active duty at a military base in the Commonwealth. In addition to her military compensation, Adams' income for federal tax purposes for the year included a \$5,000 prize won in a Massachusetts lottery.

Issue: To what extent, if any, is the income Taxpayer Adams received while on active duty in Massachusetts subject to the Massachusetts income tax?

Discussion: Federal law prohibits a state from imposing a tax on the compensation received for military service by military personnel temporarily located in the state because of military assignment. 50 U.S.C. § 574. Such compensation may be taxed only by their state of domicile. Accordingly, compensation paid by the United States to non-resident uniformed personnel assigned to active duty in Massachusetts is not subject to Massachusetts taxation. G.L. c. 62, § 5A(c). Any other income which non-resident personnel earn or derive from Massachusetts sources, however, is subject to Massachusetts income tax. G.L. c. 62, § 5A(a).

Directive: The compensation received by Taxpayer Adams for her military service while on active duty in Massachusetts is not subject to Massachusetts income tax. The lottery prize is, however, subject to tax and must be reported on a non-resident return, Form 1-NR.

Reference: G.L. c. 62, § 5A(a), (c); 50 U.S.C. § 574; DOR-D 86-10; DOR-D 86-11.

/s/Ira A. Jackson

Ira A. Jackson
Commissioner of Revenue

12 June 1986

DOR-D 86-12

This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR § 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.

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