

## Part III - Administrative, Procedural, and Miscellaneous

### Extension of Relief and Procedures Under Notice 2010-30 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 2011-16

On April 15, 2010, the Treasury Department and the Internal Revenue Service 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 (servicemembers). In particular, the procedures in Notice 2010-30 were made available for the taxable year including November 11, 2009 (generally, this will be the calendar year 2009, and is referred to hereinafter as “2009”), to civilian spouses who (A) accompany their servicemember 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) pursuant to the procedures in Notice 2010-30 or (B) accompany their servicemember 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.

This notice provides that civilian spouses described in the prior paragraph

claiming MSRRA relief for federal income tax purposes for the first taxable year beginning after November 11, 2009 (generally, this will be calendar year 2010, and is referred to hereinafter as “2010”) 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 2010. Such taxpayers should follow the procedures in Part III(A)(1)(b) of Notice 2010-30 to obtain an extension of time through October 17, 2011 to pay federal income taxes for 2010.

As provided in Notice 2010-30, the IRS has determined pursuant to section 6654(e)(3)(A) of the Internal Revenue Code (Code) that with respect to civilian spouses eligible for the extension of time to pay federal income taxes described in Part III(A)(1)(b) of Notice 2010-30, applying the addition to tax under section 6654(a) in the case of an underpayment of estimated tax by such civilian spouses for 2010 is against equity and good conscience due to unusual circumstances.

Civilian spouses who obtain the extension to pay federal income taxes for 2010 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 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 2010, who are: (A) federal employees in American Samoa, Guam, or the USVI; and (B) individuals working in Guam or the NMI to whom section 935 applies. These civilian spouses should file their 2010 federal individual income tax returns and pay any taxes due according to the procedures described in Part III(A)(2) of Notice 2010-30.

Civilian spouses who accompany their servicemember 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 2010 income tax returns.

#### DRAFTING INFORMATION

The principal author of this notice is Rosy L. Lor of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Rosy L. Lor at (202) 622-3880 (not a toll-free call).