## **State Tax Withholding Exceptions**

## **Overview**

#### Introduction

This guide provides the exceptions to normal state income tax withholding (SITW). It is NOT a comprehensive legal analysis for state tax law.

#### **Information**

Members needing assistance with state tax issues should contact their legal assistance office. Helpful information is also available in the State Tax Guide which is intended as a reference for U.S. Military VITA program volunteers and provides basic information and contact points for state tax authorities. The guide is updated annually and can be found on the webpage for U.S. Navy Judge Advocate General's Corps.

**NOTE:** There are several instances where SITW will not be withheld from a member's pay. Each of these special instances requires extra care when completing data entry in Direct Access (DA).

**Self-service members:** If the SPO has entered an exemption from State Tax Withholding, **DO NOT MAKE ANY CHANGES TO YOUR STATE TAX WITHHOLDING**. If exemptions or marital status is changed by the member, the system will begin to withhold state taxes.

# **Combat Tax Exclusion**

When a member qualifies for combat tax exclusion, the system will exclude allowable income from state tax withholding/reporting.

### **Contents**

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# **State Tax Withholding Options Defined**

## Introduction

This section provides definitions for the three special tax withholding options in Direct Access (DA).

### **Definitions**

There are three options in the Special Tax Withholding section of the State Tax Data tab.

| Option  | Payroll   | Use when  |
|---|---|---|
| None  | <ul> <li>Income is subject to SITW.</li> <li>Income is reported to the state and appears as state wages/earnings on the W-2.</li> </ul>   | <ul> <li>Member is a resident of a state that has state income tax, and the state does not exempt military pay. Ex. Member is a resident of Kansas.</li> <li>The state exempts military pay but the member is not eligible for the withholding. Ex. Member is a resident of California and assigned to a unit within the state.</li> </ul>  |
| Do Not<br>Maintain<br>Taxable<br>Gross and Do<br>Not Withhold<br>Tax                  | <ul> <li>Income is not subject to SITW.</li> <li>Income is not reported to state and does not appear on the W-2.</li> </ul>   | <ul> <li>Member is a resident of a state that doesn't have state income tax. Ex. Member is a resident of Alaska.</li> <li>Member is a resident of a state that has exemption AND treats military personnel as "non-residents" for state tax purposes AND the member isn't required to file a return to claim an exemption from the state income tax. Ex. Member is a resident of Arizona, and their only source of income is compensation received for Active Duty military service.</li> </ul> |
| Maintain Taxable Gross; SWT Zero unless specified in the "SWT Additional Withholding" | <ul> <li>Income is not subject to SITW.</li> <li>Income is reported to the state.</li> <li>Income appears on the W-2.</li> <li>Member may elect to have an additional amount withheld.</li> </ul> | • Member is a resident of a state that has exemption from withholding for military personnel and the member meets the requirements for the exemption. These states require the member to file a return to claim the exemption; therefore, the income is reported to the state and appears on the W-2. Ex. Member is a resident of Arkansas and is stationed outside the state of Arkansas.  |

## Do Not Insert Rows on the State Tax Data Tab

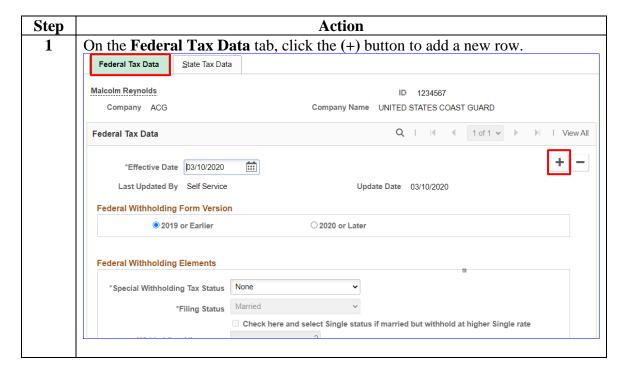
Introduction

This section provides an important warning which **MUST** be followed when updating State Tax Data in Direct Access (DA).

Warning

When changing a member's state tax withholding information, <u>a new</u> <u>row must be inserted on the Federal Tax Data tab first</u>. This will automatically create a new row on the State Tax Data tab for changes.

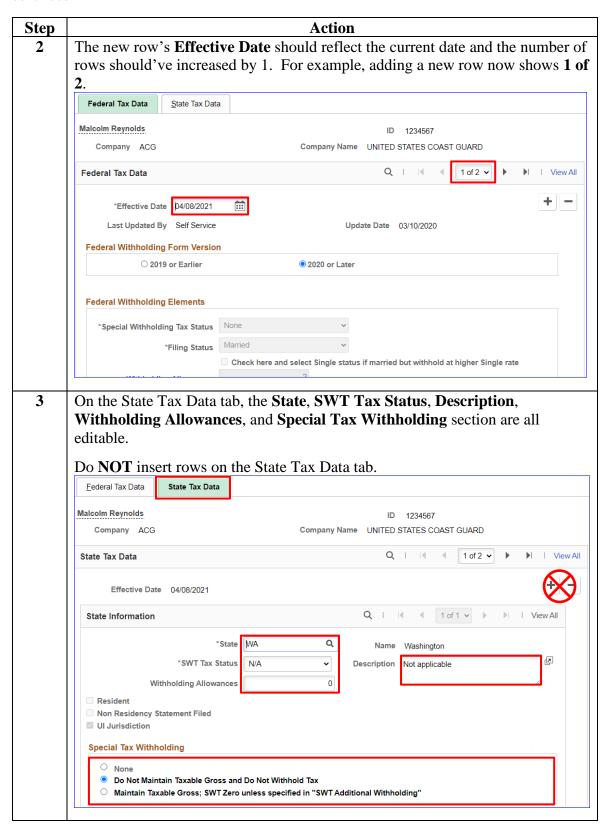
**Procedures** See below.



## Do Not Insert Rows on the State Tax Data Tab, Continued

#### Procedures,

continued



#### Introduction

This section provides the procedure for entering and the rules associated with states/territories that a member is not required to pay state income tax on military pay and PPC is not required to report the income and the state/territory does not have an agreement with the federal government to withhold state income tax.

### **State/Territory**

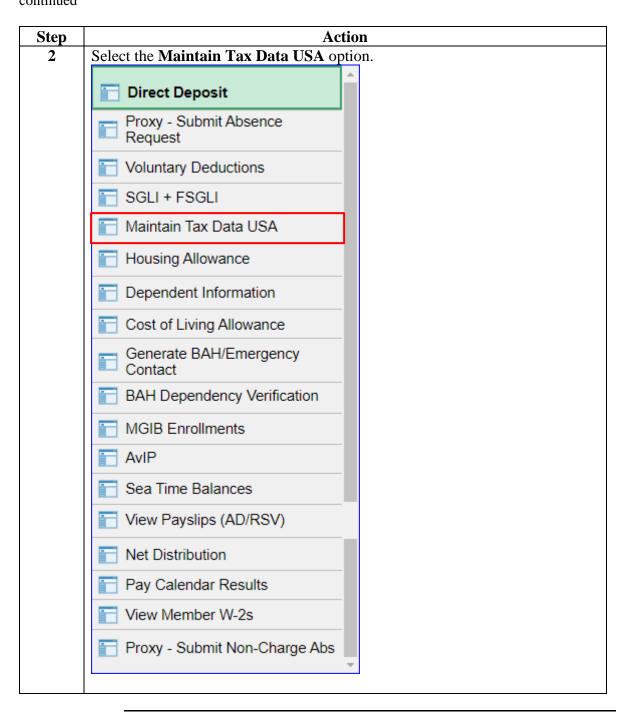
A member is a legal residence in one of the states/territories that does not have state income tax:

- a) Alaska
- b) Florida
- c) Nevada
- d) New Hampshire
- e) South Dakota
- f) Tennessee
- g) Texas
- h) Washington
- i) Wyoming
- j) Federated States of Micronesia (FM)
- k) Republic of the Marshall Islands (MH)
- 1) Palau (PW)

### **Procedures** See below.

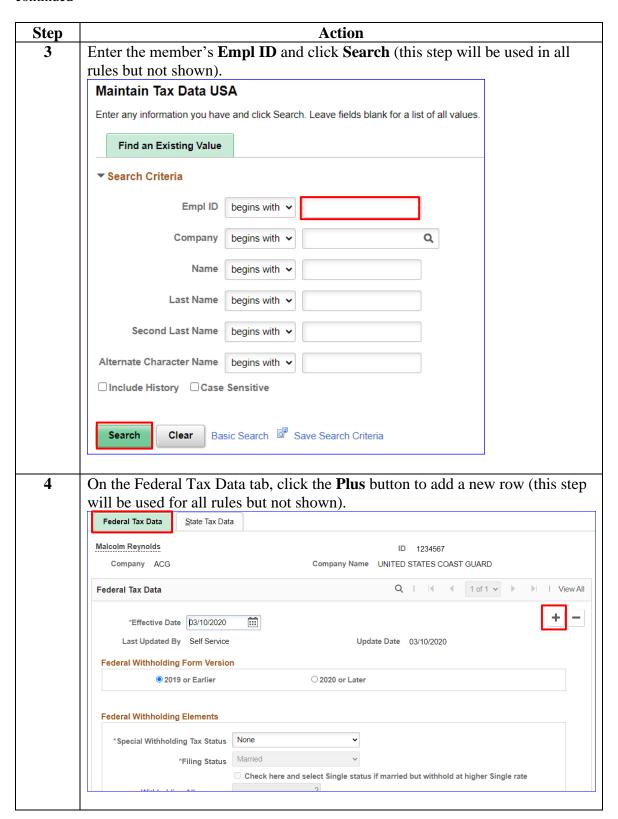


# Procedures, continued



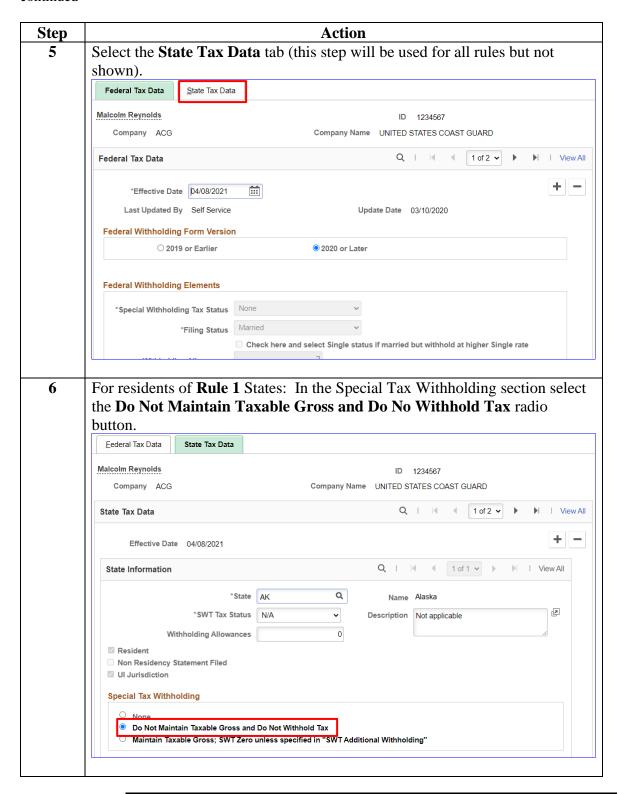
### Procedures,

continued



#### Procedures,

continued



### Introduction

Rule 2 - State of Legal Residence has Income Tax but Exempts Military Income.

This section provides the procedures for entering and the rules associated with State Tax Data when a member is not required to pay state income tax and PPC is required to report the income to the state or territory.

## **State/Territory**

| State    | Exceptions             | *Required to file a claim Exceptions?  |
|----------|------------------------|--|
| Arizona  |                        | Maybe  |
|          |                        | Must meet all the following to NOT file:   |
|          |                        | • Active Duty (AD) member of the U.S armed   |
|          |                        | forces.  |
|          |                        | • Only income is compensation received for AD  |
|          |                        | military service.  |
|          |                        | No Arizona tax was withheld from AD military   |
|          |                        | pay.   |
|          |                        | Yes  |
|          |                        | • If Arizona state tax was withheld from AD military   |
|          |                        | pay, the member must file a tax return to claim any  |
|          |                        | refund that may be due from that withholding.  |
|          |                        | • If the member has been compensated for work  |
|          |                        | besides AD military pay.   |
| Arkansas |                        | Yes  |
|          |                        | If it is the Home of Record (HOR) and the member   |
|          |                        | is stationed outside the state, they must file an  |
|          |                        | AR1000F reporting all income including U.S.  |
|          |                        | military compensation. However, as of tax year   |
|          |                        | 2014, military compensation is exempt in Arkansas.   |
|          |                        | If the member is stationed in Arkansas and HOR is  |
|          |                        | another state, Arkansas does not tax U.S. military   |
|          |                        | compensation.  |
|          |                        | <b>NOTE:</b> Military compensation is wages received by members of Army, Navy, Air Force, Marine Corp, |
|          |                        | Coast Guard, National Guard, and Reserve Units.  |
| Colorado | Only for former        | Maybe  |
| Colorado | residents who          | Tax year beginning January 1, 2016 and for   |
|          | changed state of legal | subsequent tax years if the AD member "reacquired"   |
|          | residence to another   | residency in Colorado does NOT file a state tax  |
|          | state AND changed      | return if only source of income is compensation that   |
|          | state of legal         | is subtracted from Federal taxable income.   |
|          | residence back to      | See Income 21 Military Service Members for more  |
|          | Colorado on or after   | information.   |
|          | 01/01/16.              |  |

# State/Territory, continued

| State     | Exceptions   | *Required to file a claim Exceptions?  |
|-----------|--|--|
| Illinois  |  | Yes If member is an Illinois resident or a part-year resident and filed a federal return OR Illinois base income is greater than their exemption allowance.  |
| Iowa      | Only applies to AD pay of regular and Reserve members: NOT for drill pay received by Reserve members       | Maybe Provided the member has no income other than military pay, they would not be required to file an Iowa income tax return.   |
| Kentucky  | AD and drill pay,<br>but does not apply<br>to pay received by<br>cadets or academy<br>preparatory students | Maybe Provided the member has no income other than military pay, they would not be required to file a Kentucky income tax return.  |
| Michigan  |  | Yes Regardless of where income is earned, a member is considered a Michigan resident and is required to file a tax return (MI-1040). Military pay is exempt from Michigan tax, but most interest, dividends, capital gains and other income received is subject to Michigan income tax. File an MI-1040 Schedule 1 and Schedule W and subtract military pay to the extent it is included in the federal Adjusted Gross Income (AGI). |
| Minnesota | AD and drill pay,<br>but does not apply<br>to pay received by<br>cadets or academy<br>preparatory students | Yes Military residents are allowed to exclude AD military pay for services performed in state when determining if they meet the state individual income tax filing requirement, effective for tax years beginning after 31 December 2010. Previous law allowed only AD military pay for services preformed outside the state to be excluded when determining the filing requirement.   |
| Montana   | AD and drill pay,<br>but does not apply<br>to pay received by<br>cadets or academy<br>preparatory students | Yes Military compensation that is included in the members federal AGI, a member can subtract basic, special, and incentive pay from the federal AGI that is received from serving on AD as a member of the regular armed forces.   |

## State/Territory,

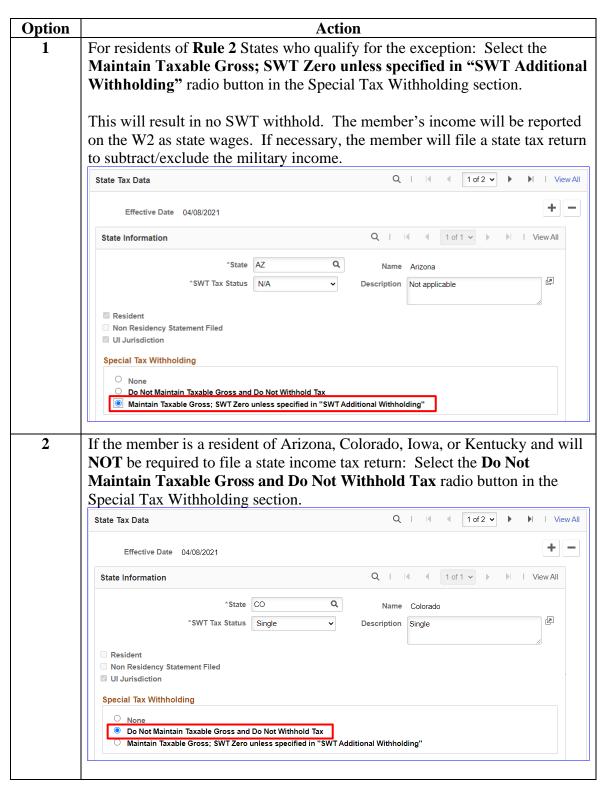
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| State    | Exceptions           | *Required to file a claim Exceptions?                  |
|----------|----------------------|--|
| New      | Only applies to AD   | Yes  |
| Mexico   | pay of regular and   | AD pay earned by AD members of the armed forces        |
|          | Reserve members:     | is exempt from personal income tax. File a PIT-1       |
|          | NOT for drill pay    | resident tax return and use a PIT-ADJ schedule to      |
|          | received by Reserve  | deduct any military AD pay.                            |
|          | members and pay      |  |
|          | received by cadets   |  |
|          | or academy           |  |
|          | preparatory students |  |
| Oklahoma | AD and drill pay,    | Yes  |
|          | but does not apply   | Every resident who has sufficient gross income to      |
|          | to pay received by   | file a federal income tax return is required to file a |
|          | cadets or academy    | state return regardless of the source of income.       |
|          | preparatory students |  |
|          |                      |  |

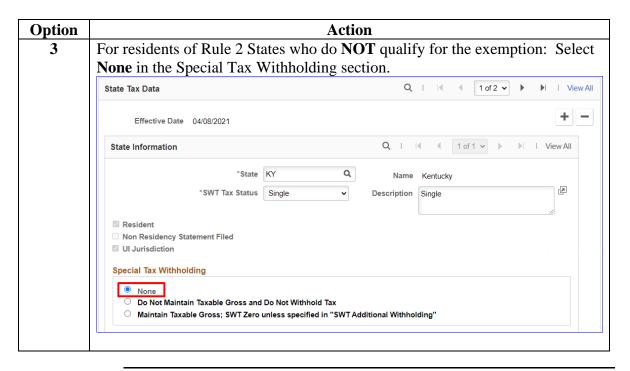
# Additional Information

Refer to each state's individual income tax instructions if pay is earned from civilian sources, interest dividends, property, etc. This table generally assumes that no other incomes taxable by your state of legal residence. Refer to State Tax Guide, intended as a reference for U.S. Military VITA program volunteers, that provides basic information and contact points for state returns (updated annually).

**Options** See below.



# Options, continued



### State/Territory

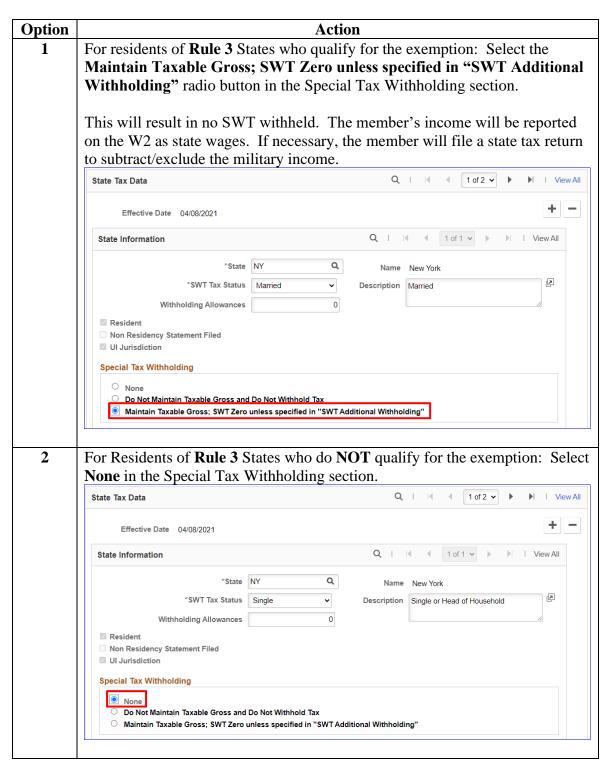
The section provides the procedures for and the rules associated with a state that allows exemption of military income earned outside the state and the member is a legal resident of and is permanently assigned under military orders outside the geographical boundaries of that state, the member claims exemption from SITW.

| State       | Select   | If defined  |
|-------------|--|---|
| California  | If no other income and stationed outside the state, may select <b>Do Not Maintain Taxable Gross and Do Not Withhold Tax</b> .  |   |
| Connecticut | If no other income, stationed outside the state and considered a non-resident for tax purposes and as defined, may select <b>Do Not Maintain Taxable Gross and Do Not Withhold Tax</b> . | <ul> <li>Member did not maintain a permanent place of abode in state.</li> <li>Did maintain a permanent place of abode outside the state.</li> <li>Spent 30 days or less in the state.</li> </ul>   |
| Idaho       | Must file a return to claim exemption.   |   |
| Missouri    | Must file a return to claim exemption.   |   |
| New Jersey  | If no other income, stationed outside the state and considered a non-resident for tax purposes and as defined, may select <b>Do Not Maintain Taxable Gross and Do Not Withhold Tax</b> . | <ul> <li>HOR is in state, stationed out of state and living aboard ship, in barracks, or billets, bachelor officer quarters, apartment or house, do NOT intend to remain outside of the state, remain a state resident for tax purposes, and do NOT maintain a permanent home outside the state.</li> <li>If maintain an abode outside the state, either by out-of-pocket payments or forfeiture of quarters allowance, that residence is considered a permanent abode outside of state and member will be considered a non-resident for tax purposes.</li> </ul> |

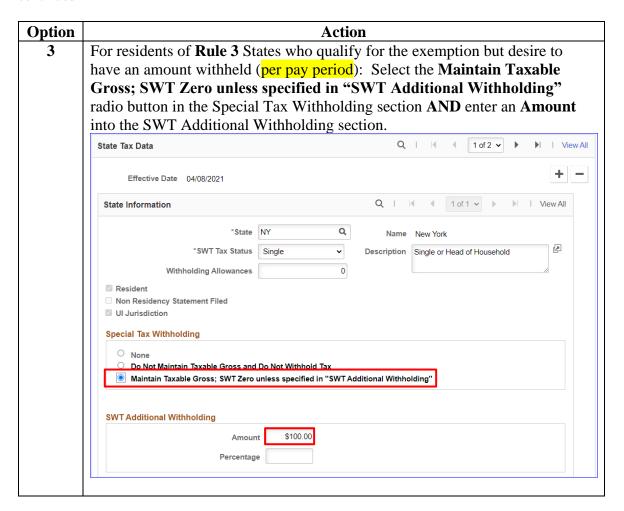
# State/Territory, continued

| State        | Select   | If defined   |
|--------------|--|--|
| New York     | If no other income, stationed outside the state and considered a non-resident for tax purposes and as defined, may select Do Not Maintain Taxable Gross and Do Not Withhold Tax. See NY State Dept. of Taxation & Finance for more information.              | <ul> <li>Did not maintain a permanent place of abode in state during tax year; did maintain a permanent place of abode outside of state; spent 30 days or less in state during the tax year (any part of a day = one day for this purpose throughout this description), OR</li> <li>Were in a foreign country:</li> <li>~for at least 450 days during any period of 548 consecutive days; the member or spouse or dependents spent 90 days or less in state during the 548-day period;</li> <li>~during the non-residential portion of the tax year in which the 548-day period begins OR ends,</li> <li>~and were present in state for no more than the number of days which bears the same ratio to 90 as the number of days in such portion of the tax years bears to 548.</li> </ul> |
| Ohio         | Must file a return to claim exemption.   | 0.101  |
| Oregon       | Check the box for <b>Do Not Maintain Taxable Gross and Do Not Withhold Tax.</b> Member is required to complete the Oregon form OR-W4 and submit it to the SPO via the P&A in order for the SPO to update your tax profile.  Check the <b>Do not withhold</b> | Active Service in the Armed<br>Forces exempts them from<br>Oregon Statewide Transit Tax.   |
| Pennsylvania | Oregon Statewide Transit Tax.  Must file a return to claim   |  |
|              | exemption.   |  |
| Vermont      | Must file a return to claim exemption.   |  |

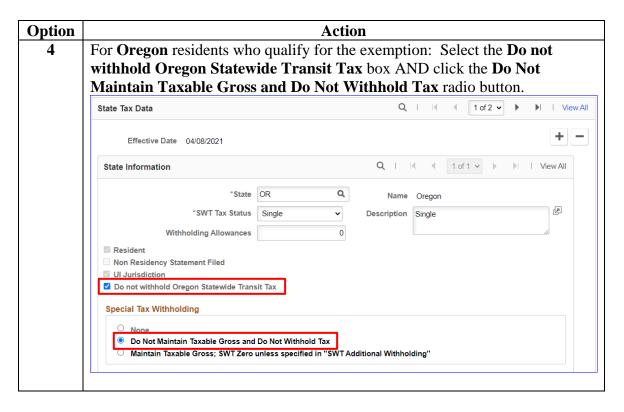
**Options** See below.



# Options, continued



# Options, continued



## State Rules - Rule 4 & 5

#### Introduction

Certain income tax withholding requirements are needed for some agencies who have members who work in the Commonwealth of the Northern Mariana Islands (CNMI) or Puerto Rico. In accordance with 5 USC Section 5517 (also known as the 5517 Agreements), the U.S. Coast Guard is required to withhold U.S. territory income taxes, rather than federal income taxes, from compensation paid to service members of the U.S. Armed Forces whose state of legal residence (SLR) is PR or MP, regardless of duty station location.

**NOTE:** Effective 1Jan2020, Direct Access will systematically change all members with PR or MP as their state of legal residence to the following tax withholdings:

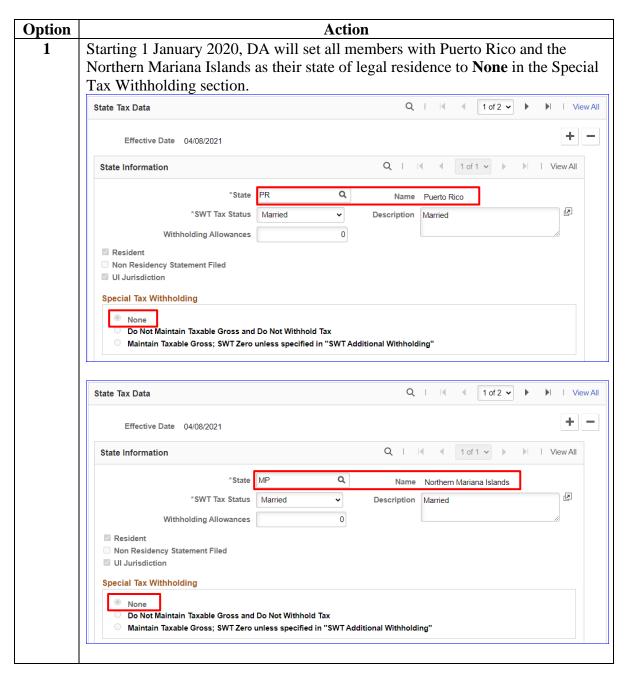
- Federal: Special Tax Withholding set to "Maintain Taxable Gross; FWT Zero unless specified in FWT Additional Withholding." No amount will be entered in the additional withholding block. No federal tax will be deducted.
- State: Special tax Withholding set to "None." State tax will be deducted based on the member's state of legal residence of PR or MP.
- No other special tax withholdings will be permitted for residents of PR or MP.

Additionally, all wages are to be reported in block 1 wages of the IRS Form W2.

This tax withholding setting will apply to all newly accessed members whose state of legal residence is PR or MP.

Additional information on the 5517 Agreements can be found here: https://www.irs.gov/individuals/international-taxpayers/special-withholding-rules-for-us-federal-agency-employers-with-employees-incnmi-or-puerto-rico .

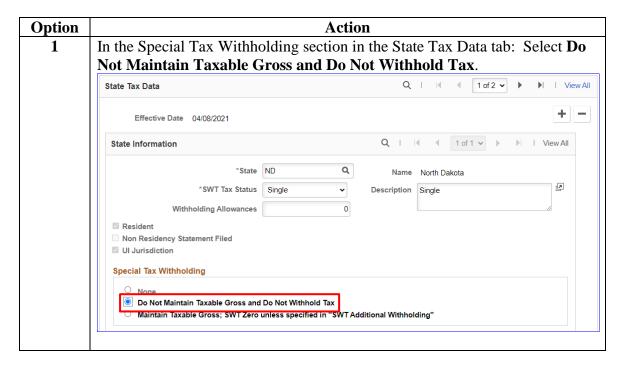
**Options** See below.



#### Introduction

This section provides the procedure for entering and the rules associated with State Tax Data setup when a member is a Native American and claims legal residence on a recognized tribal reservation.

**Options** See below.



#### Introduction

This section provides the procedure for entering and the rules associated with State Tax Data setup for Legal residents of Guam, the Virgin Islands, and American Samoa.

#### **Information**

When a member is a legal resident of Guam, the Virgin Islands, or American Samoa, they are not authorized to have state tax withheld.

### **Options** See below.

