

Military Spouse Tax Relief Act

North Carolina Department of Revenue
Property Tax Division



We will cover

- The Servicemember's Civil Relief Act
- The 2009 amendments to the Act
- The requirements to qualify for the tax relief
- How to determine if requirements are met

Servicemembers Civil Relief Act

- Allows servicemembers to maintain their state of residence for personal property tax purposes despite military relocations to other states.
- Require “Leave and Earnings Statement” (LES) to determine servicemember’s legal home of record.
- Requirements:
 - Active Duty Military
 - Stationed in North Carolina due to Military Orders
 - LES is not North Carolina
 - Qualifying property cannot be used in a business

Servicemembers Civil Relief Act

- Limitation on sale of property (real or personal)
 - Cannot sale it to recover tax, except by court order and;
 - Court must determine that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.
- Interest on tax or assessment
 - When a servicemember does not pay property tax timely
 - Amount due and unpaid shall bear interest at rate of 6% /yr.
 - No additional penalty or interest is incurred by reason of nonpayment.
- Applies if owned individually or jointly w/ dependent

Review of SCRA

- Servicemember is stationed at Ft. Bragg, NC. Has two vehicles, a boat and a single-wide manufactured home.
- LES displays Texas as the home of record.

What if the property is jointly owned by servicemember and spouse?

2009 Amendments to SCRA

- Provides that a servicemember's spouse shall neither lose nor acquire a residence or domicile in a state when the spouse is present in the state solely to be with the servicemember in compliance with the servicemember's military orders if the residence or domicile is the same for both the servicemember and the spouse.
- So what does this mean?
- Dept. of Defense position?
- Other States position?

Requirements for Spouse

- Must demonstrate they are the spouse of active duty military member stationed in NC.
- Must demonstrate the servicemember's LES is not NC.
- Must demonstrate they have lived in the state shown on the servicemember's LES.
- Must provide proof of an established and maintained domicile in that state.

How to determine if requirements are met?

1. Require proof they are a spouse of active duty military.
 - Dependent military ID Card
2. Require LES of military spouse
 - LES must show a state other than NC.
3. Require proof they lived in that state.
4. Require proof they established and maintained domicile in that state.
 - Tax Returns, Driver's License, Jury Summons, Voting record, Real property ownership, other...

1

Married to active duty Military?

YES

NO

2

LES – State other than NC?

YES

NO

3

Lived in that other state?

YES

NO

4

Maintain domicile in that state?

NO

YES

Deny the Exemption

Grant the Exemption