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TO COUNTY ASSESSORS AND
 COUNTY ASSESSMENT APPEALS BOARDS

PROPERTY TAX RELIEF FOR MILITARY PERSONNEL

With the deployment of over 250,000 military troops to Afghanistan and Iraq, we have received inquiries regarding the provisions of the Soldiers' and Sailors' Civil Relief Act (SSCRA).¹ Enacted in 1940, the SSCRA offers certain protections to all personnel on active duty in military service, including reservists and members of the National Guard called to active duty. The principal protections involve civil rights and financial assistance.

As to tax relief, the SSCRA exempts service personnel from strict compliance with rules for the payment of taxes to various tax authorities. Section 50 of the SSCRA specifies that property taxes and assessments are covered under the Act. The following is a brief description of the SSCRA provisions that affect property taxes.

Taxability of Personal Property

The SSCRA provides that a person on active duty in military service may declare the situs of his or her personal property to be his or her home state or county.² This declaration renders the personal property immune from taxation in the state or county where the individual is stationed on active duty. The SSCRA does not provide for an exemption from personal property taxation. Instead, it establishes tax situs of the property and thus establishes an exception to the general rule that personal property has its tax situs at the place it is located. The taxing agency with jurisdiction over the military person's domicile may tax the property if the laws so provide.

The SSCRA does not apply to real property (land, improvements, possessory interests, or mining rights) or to personal property used in or arising from a trade or business. Examples of property falling under the provisions of the SSCRA include manufactured homes, boats, and airplanes not used for business purposes.

A military person who declares situs of personal property to be located elsewhere must complete form BOE-261-D, *Soldiers' and Sailors' Civil Relief Act Declaration*. The county assessor should receive a signed declaration on file for each military person who declares situs of personal property to be located elsewhere.

¹ 50 Appendix U.S.C.A. 501-594.

² Section 574.

Assessment Appeals

Under the SSCRA, the statute of limitations may be tolled for the procedural requirements of certain administrative proceedings, such as an assessment appeals hearing, during the period of time military persons are on active military duty. Section 525 of the Act states:

The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any person in military service or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after October 6, 1942 be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment.

The assessment appeals board must determine whether a serviceperson's inability to file a timely application or attend a scheduled appeals hearing was the result of the military service. An appeals board may require the taxpayer to provide evidence, such as military orders, prior to accepting an application after the assessment appeals filing period has expired, or to reschedule an application for hearing that had been dismissed for nonappearance by the applicant.

Postponement or Suspension of Property Tax

The SSCRA offers protection to all personnel on active duty by allowing postponement or suspension of property tax obligations beginning on the date of active duty and terminating within one to three months after discharge from active duty.³ The protection under the SSCRA extends to all military personnel regardless of duration of military service or financial status. The SSCRA permits a qualifying individual to apply for temporary relief from payment of local property taxes, and the serviceperson does not need to show that the ability to pay their property taxes is impaired by their military service.

Other provisions of the SSCRA include:

- Counties may not charge more than 6 percent annual interest for overdue taxes.
- Counties may not issue penalties for overdue taxes.
- Counties may not sell property to acquire back taxes.

Revenue and Taxation Code section 4985.2 presents servicepersons an opportunity to avoid payment of any charge, beyond the principal amount due, if they can show that the failure to pay the current taxes on time was due to circumstances beyond their control, notwithstanding ordinary care and in the absence of willful neglect. A county auditor or tax collector who

³ Section 560.

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considers military service a sufficient excuse or determines that there are other mitigating circumstances for not paying property taxes on time, may waive penalties, costs, and other charges levied under California law. In that case, the allowable 6 percent annual interest under the SSCRA would also be waived.

We hope that the above information assists you in applying the provisions of the Soldiers' and Sailor's Civil Relief Act to taxpayers within your county.

Sincerely,

s/s David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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