

FINANCE MEMORANDUM

Department of Finance Policy Relating to the Servicemembers Civil Relief Act and the NYS Soldiers' and Sailors' Civil Relief Act

This Finance Memorandum supersedes Finance Memorandum 03-2, issued March 20, 2003.

Affidavit Requesting Relief

To comply with the Servicemembers Civil Relief Act (50 USC App §§ 501-596) and the NYS Soldiers' and Sailors' Civil Relief Act (Military Law Article 13), Finance allows all active duty Military Personnel (or their representatives) to request relief by completing an affidavit. This affidavit is available at the end of this memorandum. The affidavit will include information about military service and about the relief being requested from Finance as follows:

1. The borough, block and lot of the applicable property.
2. The person's social security number, or employer identification number and docketed tax warrants.
3. The Environmental Control Board violation numbers and addresses.
4. The individual's license plate numbers for vehicles, which will be used to locate parking judgments.

Who May Receive Benefits?

In addition to those in military service, the benefits apply to (a) reservists and National Guard members ordered to report for induction or military service; (b) any servicemember's spouse; (c) any servicemember's unmarried child under 18 or unmarried child ages 18-23 in school full-time (38 USC 101(4)); and (d) anyone else for whom the servicemember provided at least 50% of their support for 180 days before the application for relief. The applicant does not need to be a New York City resident.

Real Property Tax

- Real property tax liens will be removed from any in rem action or tax lien sale.
- If the property tax is not paid when due, the lien will accrue interest until paid at the rate of 6 percent per year from the date when such tax first became a lien. 50 USC App § 561; Military Law § 314.

Tax Warrants Against the Individual: Excise Taxes

- If tax is not paid when due, interest will accrue at 6 percent per year from the date when the tax first became a lien. No other interest or penalty shall be incurred regardless of whether the penalty or interest accrued before or after military service started. 50 USC App § 561; Military Law § 314.

- Finance cannot sell a debtor's property to enforce a tax warrant without a court order. 50 USC App §561 (b), and Military Law Art. 13. Therefore, Finance will not execute on any docketed tax warrant against the individual.
- If Finance has already garnished an individual's wages pursuant to an income execution to collect on a tax warrant, the garnishment may be vacated. 50 USC App § 524, Military Law § 306

Tax Warrants Against the Individual: Income Taxes

Whether a charge was incurred before or during military service, all collections will be deferred until 6 months after service ends; no interest shall accrue during this deferral period. 50 USC App § 570; Military Law § 315.

Environmental Control Board Judgments

Finance may decide that an individual's ability to comply with the judgment is "materially affected" due to the military service (Military Law §306). As a result, Finance may:

1. Stay the execution of any judgment against the person; and
2. vacate or stay any attachment or garnishment of property, money or debt.

Parking Judgments: Relief From Judgment Enforcement

Finance may decide that an individual's ability to comply with a judgment is "materially affected" due to the military service (Military Law §306). As a result, Finance may:

1. Stay the execution of any judgment against the person; and
2. vacate or stay any attachment or garnishment of property, money or debt.

Finance has determined that service in the Persian Gulf combat zone materially affects the ability to defend against a judgment; therefore, stays will be granted. Seized property (bank accounts, vehicles, etc.) will be released and income executions will be terminated.

A person in military service may have a default judgment "opened," i.e., voided. To open a default judgment against a person in military service, the judgment debtor must show:

1. That (s)he is a person covered by the Soldiers' and Sailors' Civil Relief Act, and
2. That the judgment was issued during service or within 30 days thereafter; and
3. That the motion to vacate the judgment is made not more than 90 days after service ends; and
4. That (s)he was prejudiced in defending the matter due to the military service, and
5. That (s)he has a meritorious legal defense.

General Provisions

The following provisions apply to all of the above charges:

- If the debtor fails to appear at any proceeding due to military service, the person may apply within 90 days of the end of military service to have the judgment re-opened. Military Law § 303.
- Any proceedings shall be stayed. Military Law § 304.
- Executions of any judgments recorded in court may be stayed and any attachments and garnishments may be vacated. 50 USC App § 524, Military Law § 306.

Finance has issued this Finance Memorandum to advise taxpayers and tax professionals of, and explain our current position and procedures with respect to the issue addressed so that they may act accordingly. Finance Memoranda are advisory in nature and are merely explanatory. Finance Memoranda are not declaratory rulings or rules of the Department of Finance and do not have legal force or effect, do not set precedent and are not binding on taxpayers.



MILITARY PERSONNEL APPLICATION

Mail to: NYC Department of Finance, Collection Division, 59 Maiden Lane, 28th floor, New York, NY 10038

Instructions: Use this form if you are an active member of the military or a reservist ordered to report for induction or military service ("service member"); or if you are a service member's spouse, registered domestic partner or dependent (unmarried child under the age of 18 or unmarried child ages 18-23 in school full-time, or anyone else for whom the service member provided at least 50% of their support for 180 days before the date of this application). Please see Finance Memorandum 05-3, July 12, 2005, for further details.

SECTION I - APPLICANT INFORMATION

Complete item 1 and any other item in this section that is applicable. Please print clearly.

1. Service member's Name: _____

Address: _____
STREET ADDRESS CITY STATE ZIP CODE

2. Dependent's Name: _____

Address: _____
STREET ADDRESS CITY STATE ZIP CODE

3. Agent/Representative name: _____

Address: _____
STREET ADDRESS CITY STATE ZIP CODE

4. Indicate the name of the service member for which you have the Power of Attorney:
(A copy of the Power of Attorney must be attached) _____
SERVICEMEMBER'S NAME

SECTION II - MILITARY STATUS

Select and complete Items 1 or 2 and Items 3 through 5 below.

1. The service member is active and serving full time duty in the Army, Navy, Marine Corps, Air Force, Coast Guard or a member of the National Guard of the United States of America.

2. The service member is a reservist who has been ordered to report for induction or military service.

Indicate the branch and order/commission date: _____
BRANCH DATE

3. I have attached a copy of the Order or Commission instructing the individual service member to report for military service.

4. List rank of service member: _____
PRINT RANK

5. Indicate the service member's social security number: - -

SECTION III - TAX PROVISION REQUEST

Select and complete the applicable tax provision section(s) from the list below:

1. Real Property Tax

The service member owns and occupies the property, for dwelling, professional, business or agricultural purposes, or the property is occupied by the service member's dependents or employees for such purposes during the period of the service member's service.

a. Indicate Borough: _____ Block: _____ Lot: _____

b. Property Address: _____
STREET ADDRESS CITY STATE ZIP CODE

2. Tax Warrants

a. Indicate service member's social security number: [] [] [] ■ [] [] ■ [] [] [] [] [] []

b. Indicate New York City tax warrants that have been docketed against the service member:

| Warrant Number | Type of Tax | Tax Period | Docket Date |
|----------------|-------------|------------|-------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

3. Environmental Control Board Judgments

a. Indicate the New York City Environmental Control Judgments that have been docketed against the service member:

| Violation Number | Property Address |
|------------------|----------------------------------|
| # _____ | _____ STREET CITY STATE ZIP CODE |
| # _____ | _____ STREET CITY STATE ZIP CODE |

ATTACH ADDITIONAL PAGE IF NECESSARY

4. Parking Violation Judgments

a. Indicate service member's license plate number(s):

Plate #: _____ Plate #: _____ Plate #: _____

ATTACH ADDITIONAL PAGE IF NECESSARY

SECTION IV - CERTIFICATION

I agree and I am aware that any intentional false statement on this application would subject me to criminal prosecution and acknowledge that the Department of Finance is acting in reliance on the statements that I have made in this application in deciding whether to apply the benefits of the law to the enforcement of the judgments, to the applicable interest rates or to the real property tax in question.

PRINT NAME OF APPLICANT SIGNATURE DATE

STATE OF NEW YORK }
COUNTY OF _____ } ss.:

On the _____ day of _____, 20____, before me personally came _____
to me known, who, being by me duly sworn did depose and say that (s)he resides at:

STREET ADDRESS CITY STATE ZIP CODE

and that (s)he executed this application.

Sworn to before me this _____ day of _____, 20_____.

NOTARY PUBLIC

▲ NOTARY STAMP OR SEAL HERE ▲