

1974 WL 27990 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 17, 1974

*1 The Soldiers' and Sailors' Relief Act does not require the service person to give notice of his military status to local taxing officials. Although the Act provides that military personnel shall not be deemed to have lost their former domicile solely because of presence in another state, the military personnel may by appropriate acts change their domicile to this or any other state.

James A. Bell, Esq.
Dorchester County Attorney
St. George, South Carolina 29477

Dear Jim:

This is in reply to your request for an Attorney General's opinion with regard to the application of the Soldiers' and Sailors' Relief Act contained in the Appendix to Title 50 U.S.C.A., Section 574. The Act provides that for purposes of taxation in respect to personal property of any person, by any state of which such person is not a resident, such person shall not be determined to have lost a residence or domicile in any state solely by reason of being absent therefrom in compliance with military or naval orders.

It has been held that the rationale of this section is that a nonresident serviceman should be exempt from the burden of supporting government of a state in which he was present solely in compliance with military orders. See [United States v. Sullivan](#), 270 F. Supp. 236. It does not matter whether or not the serviceman actually pays taxes in the state of his residence. [Dameron v. Brodhead](#), 345 U. S. 322, 73 S. Ct. 721.

You have asked two specific questions regarding this provision. First, whether or not there is a 'cutoff date' by which the exemption must be applied for. There is no cutoff date, and it is not necessary for the military person to notify the local taxing authority. This opinion is based on the presumption required by the statute that the military person is not a resident of the taxing state.

Second, you ask whether a military person can become subject to tax by taking such action that would change his domicile. The Act merely provides that military personnel shall not be deemed to have lost their former residence or domicile solely by reason of being absent from a state in compliance with military orders. However, if a person has taken such action that shows that he has changed his domicile or residence to South Carolina, he will no longer be exempted from personal property taxes by the Relief Act.

The question of domicile is a factual one. Each case must be handled separately and we direct your attention to the case of [Phillips v. The South Carolina Tax Commission](#), 195 S. C. 472, 12 S. E. 2d 13, which is the landmark case in this State. A very recent case on the subject is, of course, the Ravenel decision which is to be followed soon by a complete opinion. Although this area of domicile is nebulous, the important fact to be determined is the intention of the person to make South Carolina his permanent home. This intention must be decided from external facts.

If we can help you in any way, please let us know.

Sincerely,

*2 John C. von Lehe

Assistant Attorney General

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