



Office of the Staff Judge Advocate
LEGAL SERVICES
U.S. Army Japan and I Corps (Fwd)

Newsletter

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Hours: Monday,
Tuesday, Wednesday,
& Friday:
0830-1200 &
1300-1630
Thursday:
0830-1200 &
1300-1500

In This Issue

- Residency, Home of Record, and Domicile
- Servicemembers Civil Relief Act – New Law Regarding Cell Phone Contracts in the States
- Commonly Asked Questions

Residency, Home of Record, and Domicile



Did you ever notice that a lot of Soldiers are residents of Florida, Texas, Washington, or Alaska? Soldiers frequently ask questions about changing their state of legal residence. Before deciding to change your legal residence, you should become familiar with the different terms. The terms “residence,” “home of record,” and “domicile” have different legal meanings and are often confused.

“Home of record” is the state from which the Servicemember entered the military. It is a snapshot of where the Soldier lived at that time of initial entry, or upon reenlistment if there is a break in service. “Home of record” is normally used to determine travel entitlements upon separation from the military.

“Residence” is the place a Servicemember is living at a particular time. For example, a Servicemember stationed and living on post at Fort Benning would consider their residence to be Georgia.

“Domicile” is the place where a person has a permanent home and

intends to return at some point. A person's domiciliary state is also called his "state of legal residence," which can be a bit confusing as the term uses the word "residence." "State of legal residence" refers to the person's state of domicile, not the state where the person is temporarily living. Every person has only one domicile. A Soldier, under the

Legal Services Newsletter

Servicemembers' Civil Relief Act, retains the domicile he or she had immediately before entering the service – unless they decide to change that domicile.

Soldiers who wish to change their domicile should normally only do so while physically present in the state. Recent cases have made it clear that a Soldier must have at least have been in the new state. Changing domicile only by mail via registering to vote in a new state using a relative's address, for example, or simply changing their state tax code on their Leave and Earnings Statement, will likely be rejected. In one case, the "real" state of domicile successfully sued the Soldier for back taxes, penalties, and interest.



Domicile determines many important matters. The laws of your state of domicile affect liability for state personal property taxes, where your will is probated and who may act as guardian of your minor children, whether you or your children may attend a state college without paying higher fees required from out-of-state legal residents, and rules on property rights, divorce, and annulment of marriage. Therefore, you are advised to vote, exercise the rights, and claim the benefits of domicile only in the state which really is your domicile.

Servicemembers Civil Relief Act – New Law Regarding Cell Phone Contract in the States

If you previously had to move before your cellular phone service contract was up, you probably had to pay an outrageous penalty. Such an "early contract termination fee" typically costs \$150 to \$250. That fee, when combined with various other unexpected charges, is often why many customers love to hate their cell phone company.

Numerous Servicemembers have had cellular telephone service contracts that were entered into after entry onto active duty. Those Servicemembers then either deployed or transferred overseas or PCSed within the US. They were usually charged the standard contract termination



fee. Prior to moving, Servicemembers often notify the cell phone provider of their move in an effort to avoid the fee. In a few cases, the Servicemembers were asked for a copy of their orders and the termination fee was waived. However, not all vendors have been willing to waive the fees so easily.

Legal Services Newsletter

Now a new law has made jumping the cell phone ship more straightforward and doable by Servicemembers.



The Servicemembers Civil Relief Act was recently amended to require cell phone providers to cancel or suspend contracts free of charge under certain circumstances: (1) deployment outside CONUS for at least 90 days or (2) permanent change of station (PCS) within the US.

The Servicemember must make a request to the cellular phone company before the deployment or PCS begins and include a copy of the military orders. The request must explain that the Servicemember's "ability to satisfy the contract or to utilize the service will be materially affected by such deployment or permanent change." Generally, that means the phone can't be used or won't work at the new location.

The cell phone company cannot impose an early termination fee or a reactivation fee. If deployed outside CONUS for at least 90 days, the company can't require, as a condition of suspending the contract, that the service member extend the contract upon return.

Be advised that the new law does not offer any of the above protections for Servicemembers who have orders for a regular PCS to a location outside the US. That omission is an inconsistency and a definite weakness in the law.

If you have any questions about your various rights under the Servicemembers Civil Relief, call the Camp Zama Legal Assistance Office at 263-4698 for an appointment.

Commonly asked Tax Questions???

Q: Where can I get a copy of my tax return?

A. The Camp Zama Tax Center receives many requests from individuals needing copies of past tax returns. The Internal Revenue Service not only provides copies of old tax returns, but also offers transcripts. Depending upon your situation, requesting a transcript of your tax return may be better than requesting a copy.

Legal Services Newsletter

Q: How do I request a copy of my tax return from the IRS?

A. Form 4506, *Request for Copy of Tax Return*, must be filled out to receive an actual copy of an old tax return. This form is available on the IRS website at www.irs.gov. The Form 4506 must be filled out and mailed in along with \$57.00 for each tax return requested. Copies can be requested for the current year's tax return and for any of the previous six years. This process is lengthy and can take up to 60 calendar days.

Q: How can I get a copy of a transcript?

To obtain a transcript of a tax return by mail, fill out Form 4506-T (PDF), *Request for Transcript of Tax Return*, and mail it to the IRS. Using this method, a transcript will usually be received within two weeks. To request a transcript by phone, call 1-800-829-1040, follow the prompts, and get a transcript faxed to you within a matter of days.

Q: Why would I want a transcript instead of a copy of my tax return?

A. Transcripts are quick and free. Your individual circumstances will determine which is best for you. For example, individuals sponsoring a spouse or another individual for an immigrant visa are required to fill out Form I-864, *Affidavit of Support*. I-864 requires sponsors to attach either a copy of last year's tax return, along with W-2s, or an IRS transcript. In this case, you could obtain a copy of your transcript more quickly than a copy of your tax return.

Q: Should I keep a copy of my tax return?

A. Yes, keep a copy of your tax return and other documents that you file. The IRS recommends keeping tax returns for three years. In some situations, individuals should keep them for a longer period of time.

For questions or assistance, please visit the Camp Zama Legal Assistance Office in Building 101, Room CE209 or call DSN 263-4698 or contact the Camp Zama Tax Center in Building 101 or DSN 263-104

