**Tax Protections Under the Servicemembers Civil Relief Act (SCRA)**

**Choice of Residency**

Legal residency for tax purposes determines which state’s taxes an individual will pay when they file their income taxes. Based on a recent change to the Servicemembers Civil Relief Act, active service members and their spouses now independently have the option to maintain their legal residence in a state other than the one they physically occupy and work in (previously, a military spouse was not protected in being able to establish a legal residence that differed from the legal residence of the service member unless that spouse was physically present in the state). Please see the examples below for an analysis on how this works practically.

*Example 1*: A service member and their spouse reside in Alabama and establish residency there. The service member receives military orders to Fort Bliss, Texas. The service member and their spouse now have the ability to decide whether they both will keep their Alabama residency or they may establish residency in Texas.

*Example 2*: The same service member from above decides to establish Texas residency instead of keeping his Alabama residency. Their spouse alternatively has the option to maintain their Alabama residency while still being able to live and work in Texas.

*Example 3*: Assume now that the service member and their spouse, having previously established residency in Alabama and receiving orders to Texas, decide they want to be residents of California while living and working in Texas. The service member and their spouse would not be able to do so because they have not established residency in California, as most states require a person to reside in that state with the intent of making it their residence to establish residency and in this example neither the service member nor the spouse have done so.

**Deferred Income Taxes**

Another tax protection provided in the SCRA is the ability for service members to defer their income taxes. All taxing authorities, to include the Internal Revenue Service and state and local taxing authorities, must defer income taxes due before or during military service if the service member’s ability to pay the income tax is materially affected by military service. In addition to this, the taxing authority cannot collect interest or establish penalties because the service member took advantage of this type of deferral. Taxes deferred in this manner may be deferred for up to 180 days after release from service so long as the service member’s inability to pay due to their military service continues.

**Limitations on the Sale of Property to Satisfy Tax Debts**

An often-overlooked tax protection included in the SCRA are the limits placed on the sale of a service member’s property to satisfy tax debts. A service member’s personal and real property may not be sold to enforce the collection of a tax, other than income tax, if military service has materially affected the service member’s ability to pay. Courts may choose not to enforce collection of such taxes or sale of such property for up to 180 days after release from service. If a service member’s property is sold or forfeited to enforce the collection of a tax or assessment, they will have the right to redeem their property within 180 days after release from service. Interest in the amount of 6% will be charged on unpaid taxes imposed on property. No additional interest charges or penalties are admissible.