



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 584-21
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USN,
[REDACTED]

Ref: (a) Title 10 U.S.C. §1552
(b) DoD 7000.14-R FMR, Volume 7A Chapter 44
(c) NAVADMIN 036/16 of 18 Feb 16

Encl: (1) DD Form 149 w/attachments
(2) NPPSC memo 5400 of 23 Mar 21
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting his naval record be corrected to show Petitioner reenlisted in a tax free zone.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 2 November 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In accordance with reference (b), all compensation of an enlisted member or warrant officer received for a month in which the enlisted member or warrant officer performed active duty in a CZ or Qualified Hazardous Duty Area (QHDA) (referenced in subparagraph 440203.A) qualifies for the CZTE under subparagraph 440203.B.

A Service member is entitled to CZ or QHDA tax exclusion for any month during any part in which: The member performs active service in a CZ or QHDA designated area. Periods in the zone or area during which a member is absent from the duty assignment because of sickness, wounds, internment by the enemy, or other lawful cause are periods of active service.

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[REDACTED]

Designated Direct Support Areas of a Combat Zone (CZ) [REDACTED] – Personnel serving in [REDACTED] due to their service in direct support of military operations in the [REDACTED] CZ (note 2) with an effective date of 1 July 2002 to present. The [REDACTED] CZ is the area designated by Executive Order 13239.

c. In accordance with reference (c), Sailors serving in a tier two or three skill and eligible for combat zone tax exclusion (CZTE) are authorized to reenlist anytime within the same fiscal year as their EAOS. These Sailors, along with CCC must annotate in the remarks section of the precertification request whether they are currently CZTE eligible or serving in a qualified hazardous duty area. A condition of approval of their precertification request is that the Sailors reenlistment occurs in a month during which CZTE qualification applies.

d. On 1 May 2006, Petitioner entered active duty.

e. On 15 October 2015, Petitioner arrived to [REDACTED] for temporary instruction.

f. On 5 March 2016, Petitioner was issued Request and Authorization for TDY travel of DoD Personnel (DD Form 1610) for 59 days with a proceed date of 13 March 2016 from [REDACTED] to [REDACTED] and return to [REDACTED]

g. On 28 March 2016, Petitioner reenlisted for 6 years with an End of Active Obligated Service (EAOS) of 27 March 2022. Place of reenlistment was [REDACTED]

h. On 19 May 2016, Commanding Officer, [REDACTED] notified To Whom It May Concern. 1. This letter is to certify that Petty Officer [REDACTED] did in fact re-enlist onboard [REDACTED] in an authorized tax free zone. 2. The tax free zone the member re-enlisted in is Zone 75.

i. On 23 May 2016, Commanding Officer, [REDACTED] notified Petitioner that during this time the member was authorized to Combat Zone Tax Exclusion for Zone 75 with an effective date of 17 March - 23 May 2016 per DoD FMR Volume 7A.

j. On 20 June 2016, Petitioner arrived to [REDACTED] for duty.

k. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner was serving aboard [REDACTED] in an authorized tax free zone at the time of reenlistment as verified by command letter; however, Petitioner's command failed to properly capture place of reenlistment on his contract, causing Petitioner's SRB installments to be taxed.

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[REDACTED]

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner's immediate reenlistment contract (NAVPERS 1070/601) executed on 28 March 2016 for a term of 6 years listed Place of reenlistment was [REDACTED] vice [REDACTED]

Note: Defense Finance and Accounting Service (DFAS) will complete an audit of Petitioner's records to determine tax free eligibility while on temporary additional duty (TAD) in [REDACTED]

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/27/2021

[REDACTED]
Deputy Director
[REDACTED]