

DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of  
Coast Guard Record of:

BCMR Docket  
No. 2000-068

FINAL DECISION

██████████ Deputy Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on February 9, 2000, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated November 30, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a ██████████ pay grade E-5), asked the Board to correct his record to show that he reenlisted on August 19, 1999 instead of July 28, 1999 so that he would qualify for tax exempt status in accordance with a Defense Finance Accounting Service (DFAS) message dated June 5, 1999. The applicant received a Zone A SRB with a multiple of 3 upon his reenlistment in July 1999.

The applicant stated that "[he] was erroneously counseled about . . . being able to reenlist and have [his] SRB fall into the tax-exempt status. . . . [He] was told by the command that if [he] reenlisted before the end of July [his] SRB would be tax-exempt." He stated that he advised his command that he could wait until August to reenlist when his unit would re-enter a combat zone.

The applicant's reenlistment contract stated that he was eligible for "combat zone tax exclusion for month of July 99 while serving aboard the ██████████. A copy of a message from his command listed the applicant among those individuals who were eligible for the tax-exempt status for the month of August 1999.

The Chief Counsel of the Coast Guard recommended that relief be granted to the applicant. He stated the following:

The Board should grant Applicant relief because he has proved by a preponderance of the evidence that he was provided erroneous information indicating he would qualify for the Combat Zone Tax Exclusion if he reenlisted in July 1999. That information was incorrect and because Applicant was deployed . . . at the time, he was unable to verify that information through other, more authoritative sources and

necessarily had to depend on the advice and counseling he received from his superiors aboard [REDACTED]. If Applicant, who had the flexibility under ALCGENL [all general Coast Guard] 034/99<sup>1</sup> to delay his reenlistment, had chosen to reenlist in August 1999, he would have received the Combat Zone Tax Exclusion he clearly sought.

On October 15, 2000, the applicant responded to the views of the Coast Guard and agreed with them.

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions, the Coast Guard's submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.
2. The Coast Guard concedes, and the Board finds, that the applicant was erroneously advised by his unit that if he reenlisted in July 1999, he would qualify for the Combat Zone Tax Exclusion at that time. In order to qualify for the exclusion, the member would have had to be serving in a combat zone during the month in which he would qualify for the exclusion. He was not serving in the combat zone in July 1999, but he was serving in a combat zone in August 1999. Moreover, the applicant could have waited to reenlist until as late as September 16, 1999, pursuant to ALCGENL 034/99. He reenlisted earlier than necessary (July 1999) only because he was erroneously advised to do so by his unit.
3. Accordingly, the Board finds the applicant is entitled to relief.

---

<sup>1</sup> ALCGENL 034/99 identified those members who were eligible for reenlistment. It gave these individuals, including the applicant, 90 days from June 17, 1999 to reenlist or extend.

**ORDER**

The application of USCG, for the correction of his military record is granted. His military record shall be corrected to show that he reenlisted on August 19, 1999 rather than on July 30, 1999 making his SRB payment subject to the Combat Zone Tax Exclusion.

