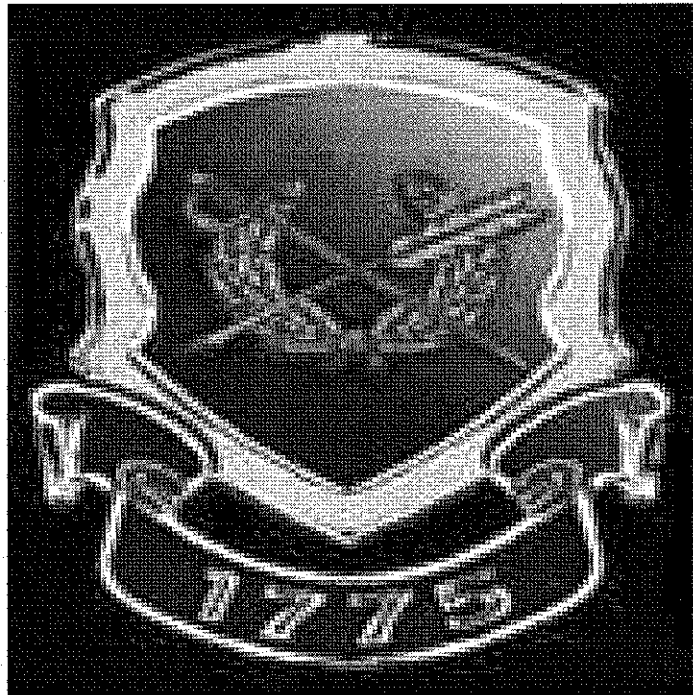


**CAMP SHELBY**  
**JOINT FORCES TRAINING CENTER**  
**DEMOBILIZATION**  
**LEGAL INFORMATION PACKET**



**CAMP SHELBY JOINT FORCES TRAINING CENTER**  
**Office of the Command Judge Advocate**  
**1001 Lee Avenue**  
**Camp Shelby, Mississippi 39401-5500**  
**(601) 558-2782 (CJA)**  
**(601) 558-2598 (Deputy CJA)**

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

**Uniformed Services Employment/Reemployment Rights Act (USERRA)**

1. Purpose: To provide information concerning reemployment rights for demobilizing Reserve Component soldiers under the Uniformed Services Employment/Reemployment Rights Act (USERRA)

2. Facts.

a. Federal law provides demobilizing Reserve Component soldiers with a mechanism for returning to their pre-mobilization civilian careers, without penalty for active military service.

b. USERRA applies to all private employers, the states, and all branches of the Federal government; there is no minimum number of employees required. Generally speaking, USERRA entitles a soldier returning from active duty to reinstatement in his or her former position, together with any seniority-based benefits that accrued during the absence (for example, cost of living raises, or time-in-service based promotions).

c. In order for USERRA to apply, the following four conditions must exist:

(1) You must have held a civilian job prior to mobilization. There is no right to return to seasonal work, or jobs undertaken for a limited period of time (for example, retail sales during a busy holiday season).

(2) You must have given your employer notice, prior to leaving for active duty. Exceptions apply where military necessity prevented notice prior to departure.

(3) The total amount of time away from any given job may not exceed 5 years. Exceptions apply where time expires at sea, or in the hospital.

(4) Characterization of service must be "honorable," or "under honorable conditions."

d. You must return to work promptly.

3. The law provides a timetable for returning to work, based upon the length of mobilization:

a. 30 Days or Less: Report to work for first shift following safe travel time, plus 8 hours rest.

b. 31-180 Days: Apply, in writing, within 14 days of completion of military service.

c. 181 Days or More: Apply, in writing, within 90 days of completion of military service.

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

Submitting an application after extended mobilization allows the employer to plan and distribute personnel. If you fail to do so, you may forfeit your rights under USERRA. A sample letter to apply after completion of military service is enclosed.

4. USERRA also provides that a returning soldier may not be terminated, *without cause*, for 6 months after a mobilization of 31 to 180 days; for mobilization exceeding 180 days, the protected period is 1 year. Persons who serve for 30 or fewer days are not be protected from termination without cause; however, they are protected from discrimination because of military service or obligation.

5. For employment information, check the Employer Support of the Guard and Reserve website at [www.esgr.org](http://www.esgr.org). For information related to enforcement of your rights under USERRA, visit the Veterans' Employment and Training Service website at [www.dol.gov/vets](http://www.dol.gov/vets), or contact the U.S. Department of Labor at 1-866-4-USA-DOL (866-487-2365). For additional information or assistance, you may also contact your servicing Legal Assistance Office.

6. Enforcement Authorities Contact Information:

ESGR: 1-800-336-4590 or <http://www.esgr.com>

VETS: 1-866-487-2365 or <http://www.dol.gov/vets>

DOJ: 202-514-2000 or [AskDOJ@usdoj.gov](mailto:AskDOJ@usdoj.gov)

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

**SAMPLE USERRA LETTER**

Ms. Jane Doe  
Human Resources Director  
XYZ Corporation  
154 Plantation Dr.  
Anytown, CA 96584

Date

Re: Application for Re-employment under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S. Code Sections 4301- 4333.

Dear \_\_\_\_\_:

I went to work for your company on [provide date]. On [date] I gave you notice of my impending call to active duty in the U.S. military. [If you gave written notice, attach a copy, if possible. If your notice was oral, provide as much information as possible about when, how, and to whom you gave the notice.] I have completed my period of service, and I am now applying for re-employment.

I have the right to re-employment under the Uniformed Services Employment and Reemployment Rights Act (USERRA), which you can find in title 38, United States Code, sections 4301-4333. You can find the text of USERRA, and a lot of other information about this law, on the web site of the National Committee for Employer Support of the Guard and Reserve (ESGR). Please see [www.esgr.com](http://www.esgr.com). You can also call ESGR at 1-800-336-4590.

I have attached a copy of my DD-214, showing the date I entered and left active duty and that I was released from duty under honorable conditions. [If you do not have a DD-214, attach and refer to a copy of your endorsed orders, a letter from your Commanding Officer, or some other documentation showing the dates and characterization of your military service.] Please note that I meet USERRA's eligibility criteria as to prior notice, duration and character of service, and timely application for re-employment.

Please accept this letter as my formal application for re-employment. With your permission, I plan to report for work at [insert time and date]. If this is not acceptable to you, please call me as soon as possible at [telephone number]. Thank you for your prompt attention to this matter.

Sincerely,

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

**Servicemembers' Civil Relief Act (SCRA)**

1. Purpose: To provide demobilizing Reserve Component soldiers with information concerning their protections under the **SCRA**, and how demobilization will impact them

2. Facts.

a. Prior to mobilization, you may have taken advantage of protections provided by the **SCRA**. The benefits of the statute typically cease upon your release from active duty.

b. 6% Interest Rate: If you sought a reduction of interest rates on pre-active duty credit accounts, you should notify those creditors of your release immediately. Your rates will return to their previous level. If you delay, your creditors will eventually ask for proof of continued service; when they discover your demobilization, you will likely be required to pay back-interest, from the date of your release. You should not, however, be asked to "make up the difference" in interest rates for the time you were deployed – under the law, that amount is forgiven.

c. Civil Legal Proceedings

(1) Under the **SCRA**, most legal matters were stayed (postponed) during your mobilization. With your return, however, the "time out" expires. If you have a case pending – whether it is a lawsuit to which you are a party (examples: divorce/child custody, personal injury case arising from an accident) or a prosecution against you (even traffic charges) -- you should immediately notify your attorney of your return. If you are not represented, contact the Office of the Clerk of the Court where your case is pending, and advise them of your situation.

(2) If someone obtained a default judgment against you during your mobilization, you may be able to have the judgment vacated, or set aside. If you are presented with a judgment or a demand for payment, seek legal advice immediately, to determine whether the debt is valid, and if you have an opportunity to object.

3. This guidance is intended to provide general information. If you have questions regarding your legal status, or need advice, contact your installation or command Staff Judge Advocate.

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

**Tax Matters for Deployed Soldiers**

1. PURPOSE. To provide information on the various tax benefits afforded to soldiers who serve in a Combat Zone, Qualified Hazardous Duty Area, or area "in direct support" of a combat zone.

2. FACTS.

a. What is a Combat Zone (CZ)? A CZ is an area that the President of the United States has designated by Executive Order as an area where US forces are engaged in combat. A combat zone remains in effect until terminated by Executive Order.

b. What is a Qualified Hazardous Duty Area (QHDA)? A QHDA is an area that Congress has designated through legislation where the Armed Forces are entitled to the same benefits afforded service in a combat zone.

c. What is "in direct support" of a combat zone? The Secretary of Defense has the authority under Treasury Regulations to extend combat zone tax exclusion benefits (CZTE) to service members performing military service outside of a combat zone or qualified hazardous duty area when the Secretary of Defense determines:

(1) Their service directly (as opposed to remotely or indirectly) supports military operations in the combat zone;

(2) Their service qualifies them for hostile fire pay or imminent danger under 37 U.S.C. § 310; and

(3) The reason for paying imminent danger/hostile fire pay is based on risks/dangers related to the QHDA or CZ.

The Secretary can delegate his authority to extend CZTE. Who the Secretary delegates this authority to is dependent on the operation.

d. What are the current CZs? There are three current operations designated CZs:

(1) Executive Order 12744 designates the Persian Gulf, Red Sea, Gulf of Oman, Gulf of Aden, the Arabian Sea north of 10 degrees north latitude and west of 68 degrees east longitude, Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates and the airspace above these locations as a combat zone effective 17 Jan 1991.

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

(2) Executive Order 13119 designates the former Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, the Ionian Sea north of the 39<sup>th</sup> parallel and the airspace above these locations as a combat zone effective 24 Mar 1999.

(3) Executive Order 13239 designates Afghanistan, including the airspace above, as a combat zone effective 19 Sep 2001.

e. What are the current QHDAs? There are two current QHDAs:

(1) Public Law 104-117 designates Bosnia and Herzegovina, Croatia, or Macedonia so long as members are entitled to receive imminent danger/hostile fire pay for service in that location as a QHDA effective 21 Nov 1995.

(2) Public Law 106-21 designates the former Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, the Ionian Sea north of the 39<sup>th</sup> parallel and the airspace above so long as members are entitled to receive imminent danger/hostile fire pay for service in that location as a QHDA effective 24 Mar 1999.

f. What are the current “in direct support” areas for the Afghanistan CZ? The Assistant Secretary of Defense (Force Management Policy) pursuant to the Secretary of Defense’s delegation has designated the following areas as “in direct support”:

(1) Military personnel deployed to Incerlik Air Base, Turkey in support of Operation Enduring Freedom effective 21 Sep 2001.

(2) Military personnel in Pakistan, Tajikistan, and Jordan effective 19 Sep 2001 and Uzbekistan and Kyrgyzstan effective 1 Oct 2001.

(3) Military personnel deployed to the Philippines in conjunction with Operation Enduring Freedom—Philippines effective 9 Jan 2002.

(4) Military personnel in Yemen effective 10 Apr 2002.

(5) Military personnel in Djibouti effective 1 Jul 2002.

g. What are the current “in direct support” areas for Operation Iraqi Freedom? The following areas are designated in direct support of Iraqi Freedom:

(1) Military personnel in Turkey supporting Iraqi Freedom effective 1 January 2003.

(2). Military personnel in Israel in support of Iraqi Freedom effective 1 January 2003.

CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

(3). Military personnel deployed to water areas of the Eastern Mediterranean east of the 30 degree east longitude in support of Iraqi Freedom effective 11 April 2003.

h. What are the benefits of serving in a CZ, QHDA, or “in direct support” of a CZ? The most significant benefits include:

(1) IRC § 7508 - Providing a 180-day extension after departing the combat zone for filing, paying, and performing certain other tax related acts. The deadline is also extended for an additional day for every day that the soldier is in a CZ/QHDA during tax season (1 January to 15 April). These provisions apply to certain civilians in the combat zone in support of the U.S. Armed Forces, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the U.S. Armed Forces.

(2) IRC § 112 - Allows enlisted soldiers and warrant officers to exclude from gross income all compensation received during the months spent in a CZ/QHDA. Commissioned officers can exclude up to the highest enlisted soldier’s pay plus the hostile fire pay amount (for 2003 that maximum amount is \$5,883). If a soldier spends any part of a month in the CZ/QHDA, compensation for that entire month is excluded. The soldier’s servicing finance office must be notified of service so that the soldier’s W-2 accurately reflects excluded pay. This provision does not apply to civilians in the combat zone.

(3) Other potential benefits are IRC § 2(a)(3) (special rule for “surviving spouse status” if MIA service member is later determined to be deceased); IRC §692 (death in a CZ results in tax free wages); IRC §4253(d) (exempts from excise tax toll telephone calls originating from a CZ); and IRC §6013(f)(1) (allows surviving spouse to file a joint return if service member is MIA).

i. IRS Notice 2002-17, available at [www.irs.gov](http://www.irs.gov) provides IRS guidance in a question and answer format on CZ tax relief for Afghanistan. IRS Notice 2003-21 provides the same guidance for CZ tax relief for Iraqi Freedom.



CSJFTC DEMOBILIZATION  
LEGAL INFORMATION PACKET

**Other Legal Information for Deployed Soldiers**

1. PURPOSE. To provide information on the other legal issues related to redeployment and/or demobilization.

2. FACTS.

a. Claims. Claims arising from damage or loss of personal property during deployment or redeployment should be reported to the Claims Section of the Staff Judge Advocate office.

b. Legal Assistance. Reserve Component (RC) soldiers are currently authorized legal assistance from RC judge advocates on personal legal problems and needs that have arisen during, or been aggravated by their mobilization. Such assistance must commence not later than two years following the mobilized soldier's release from active duty.

c. Tuition Refunds/Credits. RC soldiers may have left school early due to mobilization. They may contact the Servicemembers Opportunity Colleges (SOC) organization to mediate tuition refunds, readmission to graduate school, and related issues. The toll-free number for Servicemembers Opportunity Colleges organization is 800-368-5622.

3. This guidance is intended to provide general information. If you have questions regarding your legal status, or need advice, contact your installation or command Staff Judge Advocate.