

National Guard and Reservists Debt Relief Act of 2008

ATTORNEY GUIDE

The National Guard and Reservists Debt Relief Act of 2008 provides a temporary exclusion from the bankruptcy means test for Reservists and members of the National Guard called to active duty or homeland defense activity after September 11, 2001, for at least 90 days. The Judicial Conference has approved an amendment to Official Form 22A which includes a new Part 1C where qualifying debtors can invoke the temporary exclusion from the means test.

If the case is filed by an Individual Debtor who qualifies for the exclusion as a member of the National Guard or Reserves, set the presumption of abuse flag to MEANSNO. If the case is filed by joint debtors, set the flag to whatever value is appropriate for the debtor who is not in the National Guard or Reserves as shown in the table below:

IF:	AND:	THEN:
One debtor has an exclusion	There is no presumption of abuse for the second debtor	Set the presumption of abuse flag to MEANSNO
One debtor has an exclusion	There is a presumption of abuse for the second debtor	Set the presumption of abuse flag to MEANSYES
One debtor has an exclusion	The presumption of abuse is unknown	Set the presumption of abuse flag to MEANSU
One debtor has an exclusion	The second debtor also claims an exclusion	Set the presumption of abuse flag to MEANSNO

MEANS TEST FORM B22A - If “The Presumption is Temporarily Inapplicable” has been checked, the following Text event needs to be entered on docket:

Bankruptcy>Other>Statement of Debtor’s Temporary Exclusion from Means Test

- This new event will set a flag (MEANSTMPEX) indicating that the debtor is temporarily excluded from the Means Test.
- If the Debtor is no longer on active duty, the event sets the date on which the temporary exclusion ends. This event is able to schedule the deadline for one or both debtors if the case is a joint filing.
- If the Debtor is on active duty, no deadline is scheduled until the *Release from Active Duty* event is entered

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IMPORTANT NOTE: Clerk's office staff will not delete or modify this flag (MEANSTMPEX) when a debtor is released from active duty, when the exemption ends, or at case closing as the Administrative Office will use this flag to provide a report as required by the Act.

RELEASE FROM ACTIVE DUTY

Bankruptcy>Other>Release from Active Duty

If the Debtor is released from active duty later in the case, the attorney should docket the event "Release from Active Duty." This event sets the temporary exclusion deadline for one or both debtors in a joint case and sets the flag (MEANSTMPEX) if it has not already been set.

NOTE: The temporary exclusion applies only to cases commenced in the three-year period beginning on the effective date of the National Guard and Reservists Debt Relief Act of 2008, which is December 19, 2008.

Date: 03/18/09