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Navigating the Supremacy Clause:
How Federal SCRA Preemption Defeats Municipal Property Tax Overreach
By Taylor A. Hart, Esq. & CAPT Samuel F. Wright, JAGC, USN (Ret.)

1. Introduction

A recurring friction point in military legal assistance occurs when municipal tax assessors apply narrow state-law definitions of the "armed forces" to deny federal protections. When municipalities attempt to retroactively assess taxes on servicemembers by ignoring the Servicemembers Civil Relief Act (SCRA), they invite a clash with the Supremacy Clause of the United States Constitution.

A recent 2026 case, *Tait v. Town of Montville*, illustrates both the severity of this municipal overreach and the blueprint for defeating it. By leveraging a coordinated strategy involving the Department of Justice (DOJ), state-court procedural maneuvers, and the SCRA's fee-shifting provisions, practitioners can force municipal compliance. Central to this defense is a triad of federal jurisprudence: *Dameron v. Brodhead*, *Sullivan v. United States*, and *United States v. Illinois*.

2. The Factual Matrix: *Tait v. Town of Montville*

Lieutenant Commander (LCDR) Rhondie N. Tait is an active-duty commissioned officer in the U.S. Public Health Service (USPHS) stationed in Connecticut under federal orders. From 2020 through 2024, the Town of Montville, Connecticut, properly granted LCDR Tait and her husband—a 90% service-connected disabled Marine Corps veteran—active-duty motor vehicle property tax exemptions.

In September 2025, the municipal assessor unilaterally revoked these exemptions retroactively for all five years, asserting that the USPHS is not a branch of the "armed forces" under Connecticut General Statutes § 12-81(53). The Town issued demand notices for $8,596.80, applied an 18% statutory delinquency interest rate retroactively, and later issued a new tax bill for the 2025 Grand List bearing the aggressive notation: "BACK TAXES ALSO DUE."

3. Statutory Preemption: The SCRA Framework

The municipality's fundamental error was relying exclusively on state law while ignoring federal preemption. Under 50 U.S.C. § 4001, the SCRA protects servicemembers from personal property taxation by jurisdictions other than their legal domicile when they are present in the host state solely in compliance with military orders.

Critically, 50 U.S.C. § 3911(2)(A)(ii) explicitly defines "military service" to include "active service by commissioned officers of the Public Health Service." The Supremacy Clause mandates that this federal definition preempts any narrower municipal or state tax code. The Town of Montville lacked the legal authority to exclude a USPHS officer from active-duty tax relief.

4. Jurisprudential Anchors*: Dameron*, *Sullivan,* and *Illinois*

To successfully litigate SCRA property tax disputes, practitioners must navigate the nuances of federal tax preemption case law. Three cases form an impenetrable shield against municipal property tax assessments:

- *Dameron v. Brodhead*, 345 U.S. 322 (1953): This is the foundational Supreme Court case establishing the constitutionality of the SCRA's tax preemption rules. The Court held that the federal government possesses the absolute constitutional power to exempt the personal property of military members from host-state taxation, regardless of whether the servicemember's home state actually taxes that property.
- *Sullivan v. United States*, 395 U.S. 169 (1969): Municipal attorneys frequently attempt to cite *Sullivan* to justify local taxation, as the Supreme Court in this case permitted a host state to levy a one-time sales and use tax on a servicemember. However, a close reading of *Sullivan* reveals it is a weapon *for* the servicemember, not against them. While the Court allowed

a transactional tax, it explicitly carved out and reaffirmed *Dameron*: annually recurring *ad valorem* property taxes (such as vehicle taxes) are the exact type of burdens Congress strictly and absolutely preempted.

- *United States v. Illinois*, 387 F. Supp. 638 (E.D. Ill. 1975): This case decisively closes the *Sullivan* loophole. When the state of Illinois attempted to tax military personal property, the District Court explicitly distinguished the one-time transactional tax permitted in *Sullivan* from annually recurring taxes. The *Illinois* court reaffirmed that recurring *ad valorem* taxes on personal property are exactly what the SCRA forbids, striking down the state's attempt to conflate the two.

In *Tait*, the Town of Montville was levying an annually recurring *ad valorem* tax on motor vehicles—the precise class of taxation strictly prohibited by *Dameron*, *Sullivan*, and *Illinois*.

5. Tactical Execution: The Multi-Front Defense

Defeating entrenched municipal bureaucracies requires overwhelming, coordinated pressure. In *Tait*, the Coast Guard Legal Assistance Office deployed a three-pronged strategy:

1. Federal Enforcement: The case was formally referred to the DOJ's Civil Rights Division (Servicemembers and Veterans Initiative). Recognizing the systemic threat, the DOJ opened a formal investigation and issued a Cease-and-Desist order to the Town. When the Town issued the 2025 tax bill attempting to collect the disputed back taxes, this evidence of willful non-compliance was immediately escalated to federal investigators.

2. Tolling the State Statute of Limitations: DOJ investigations can be protracted, whereas Connecticut municipal tax appeals must be filed within two months of a Board of Assessment Appeals denial (C.G.S. § 12-117a). To preserve the clients' rights, local Connecticut counsel was retained to serve

a formal Summons and Complaint via State Marshal just 48 hours before the statutory deadline, legally stopping the clock.

3. Utilizing SCRA Fee-Shifting: To protect the servicemembers from crippling hourly legal fees, the legal team utilized 50 U.S.C. § 4042(b), which grants courts the discretion to award reasonable attorney’s fees to a prevailing plaintiff. A national military-rights firm (Maher Legal Services) joined as co-counsel. A settlement demand was transmitted making the Town’s reimbursement of all court costs a non-negotiable condition of withdrawing the lawsuit.

6. Conclusion: Total Capitulation

Faced with an active Superior Court lawsuit, a DOJ investigation, ironclad federal jurisprudence, and compounding statutory attorney's fees, the Town of Montville capitulated entirely.

The Town agreed to issue Certificates of Correction, abating the $8,500+ retroactive debt in full, waiving the new 2025 assessment, and reimbursing the exact hard court filing costs to the plaintiffs. The clients achieved a total victory with zero out-of-pocket legal expenses.

Key Takeaway for Practitioners: Military legal assistance attorneys must actively bridge the gap between federal SCRA protections and state-level procedural deadlines. By arming themselves with the *Dameron-Sullivan-Illinois* triad and aggressively utilizing the SCRA's fee-shifting provisions, JAGs can recruit high-caliber civilian co-counsel, ensuring servicemembers receive elite representation that forces municipal compliance.

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