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GALLOWAY TOWNSHIP,	:	TAX COURT OF NEW JERSEY
	:	DOCKET NO: 014479-2015
Plaintiff,	:	
vs.	:	**Approved for Publication In the New Jersey Tax Court Reports**
LUCIENNE DUNCAN,	:	
Defendant.	:	

Decided: November 14, 2016

Thomas Smith for plaintiff.

Todd W. Heck for defendant
(Testa Heck Scrocca & Testa, P.A., attorneys).

CIMINO, J.T.C.

Once again, this court is confronted with the issue as to whether a veteran who suffers from a service-connected 100% permanent disability meets the legislatively imposed requirements for the personal residence tax exemption. The matter was tried before this court on August 17, 2016. The opinion of this court follows.

I. FINDINGS OF FACT

Defendant taxpayer, Lucienne Reed Duncan, M.D., took the military oath of office in 1997. She completed her undergraduate

education at Duke University. Thereafter, she attended Officer Training School at Maxwell Air Force Base and was awarded her commission as an officer in the United States Air Force. The Air Force then sent her to the Robert Wood Johnson School of Medicine in Piscataway, New Jersey to study medicine. She graduated from medical school and also obtained specialties in neurology and psychiatry. Her last active duty tour was from August 21, 2006 through September 30, 2010. Her primary specialty with the military was that of neurologist and her highest rank attained was that of Major. Her service ended with an honorable discharge. She is a licensed physician both in New Jersey and in Virginia, but is currently not practicing medicine.

Dr. Duncan's last active duty tour commencing in 2006 was at Andrews Air Force Base in Maryland as part of the 779th Medical Operations Squadron providing medical diagnostics support. At Andrews Air Force Base, she served as a neurologist as part of the special medical care unit. At times, she was the only neurologist stationed at Andrews Air Force Base. Later, she was Chief of Neurology Services. Andrews Air Force Base provided emergency triage to all branches of the military with most of the patients arriving with war injuries from Iraq or Afghanistan. She described her corps' mission as that of a support force providing air medical evacuation for all branches.

She treated military personnel injured in combat including exposure to and suffering from IED (improvised explosive device) blasts, gunfire and artillery fire. She had to treat service members on an emergency basis who suffered from shrapnel wounds, dismembered extremities, traumatic brain injuries, eye injuries, paralysis, and head and spine injuries. She had to perform full medical disaster care including stabilizing the body as well as procedures such as spinal taps, tourniquet wound care, endotracheal placements, and triage diagnostics.

Dr. Duncan explained that medical treatment has changed since the days of the Korean or Vietnam conflicts in which Mobile Army Surgical Hospital (M.A.S.H.) units were deployed close to the battlefield. Currently, there is a preference to not place medical personnel in harm's way and also to evacuate combat personnel to more comprehensive medical facilities. Many times, rather than remaining in Iraq or Afghanistan, injured personnel are evacuated from the point of injury to Andrews Air Force Base before going on to the Walter Reed/Bethesda Medical Center System, as there is a lack of treating neurologists located in Iraq.

Dr. Duncan testified that in 80-85% of the cases, the first-time military members would see a medical doctor would be upon arrival at Andrews Air Force Base. Likewise, the percentage of time that medical doctors would actually be on the evacuation flights were less than five percent. The evacuation transports

were not typical commercial airliners, but rather aircraft retrofitted to provide medical care.

Dr. Duncan quite tearfully described that she often dealt with soldiers who had lost limbs and suffered serious injuries to the spine and head. She was clearly disturbed by witnessing them. She broke down in tears when describing seeing service members die in front of her. She also provided medical evaluations through video link for traumatic brain injury. She became visibly upset describing how she saw the same soldiers again and again, which she would then clear and send back into battle to possibly face a more traumatic outcome.

While Dr. Duncan did not directly indicate that she suffered from Post-Traumatic Stress Disorder (PTSD) or psychiatric injuries from her experiences, and seemed reluctant to do so as a result of her status as a physician, she admitted that the "stress" of what she encountered caused her to suffer from neurological conditions including extreme intractable headaches. Dr. Duncan became very tearful and upset when asked about what she saw and experienced during her last tour of duty, and clearly indicated that her experiences played a role in her disability rating, despite her reluctance to term such condition as psychological. While modern warfare tries to avoid co-locating medical personnel with combat personnel, Dr. Duncan nevertheless experienced war even though she was many miles from the immediate battle zone. Parenthetically,

her experience of war led to her 100% disability rating from the Veterans Administration.

Dr. Duncan's duties were directly essential to combat as she had to evaluate the ability of soldiers to reengage in combat after suffering an injury as well as treating those who could not return to battle. Her duties were part of Operation Enduring Freedom. For her service, she received the National Defense Service Medal, Global War on Terrorism Service Medal, and the Air Force Longevity Ribbon.

After leaving the military, Dr. Duncan went into private practice with AtlantiCare Medical Facility in Galloway Township. However, due to her service experiences, she was unable to continue her career as a neurologist. On April 19, 2013, she was declared to have a service-connected 100% permanent disability by the United States Veterans Administration.

II. CONCLUSIONS OF LAW

The starting point of the analysis of this issue is the 1947 New Jersey Constitution, as amended in 1953, that provides in pertinent part:

> Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service, in time of war or other emergency as, from time to time, defined by the Legislature, in any branch of the armed forces of the United States . . . who has been or shall be declared by the United States Veterans Administration . . . to have a

> service connected disability, shall be entitled to such further deduction from taxation as from time-to-time may be provided by law.
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> [N.J. Const. art. VIII, § 1, ¶ 3 (emphasis added).]

The Legislature has "provided by law" that a veteran suffering a disability declared by the United States Veterans Administration as a total or 100% permanent disability sustained through military service is exempt from taxation on his or her residence. N.J.S.A. 54:4-3.30(a). Moreover, the Legislature has defined what "other emergencies" establish eligibility. N.J.S.A. 54:4-3.33a (incorporating by reference N.J.S.A. 54:4-8.10(a)).

One of the "other emergencies" defined by the Legislature is Operation Enduring Freedom, otherwise known as the Global War on Terrorism. The applicable statutory provision includes veterans of:

> Operation "Enduring Freedom" on or after September 11, 2001 who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate of, at least 14 days in such active service commencing on or after the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days service as herein provided.
>
> [N.J.S.A. 54:4-8.10(a).]

Thus, for Dr. Duncan to establish eligibility for the exemption, the following criteria as established by the New Jersey Constitution and statutes must be met: (1) A citizen and resident of this State; (2) now or hereafter honorably discharged or released under honorable circumstances; (3) service in an "other emergency", in this case Operation Enduring Freedom; (4) such service in any branch of the United States military; and (5) declared by the United States Veteran's Administration to suffer a total or 100% permanent disability which is service connected. See N.J. Const. art. VIII, § 1 ¶ 3; N.J.S.A. 54:4-3.30(a), -3.33a, 54:8-10(a).

There is not any serious dispute here that Dr. Duncan meets four of the five prongs. She was a citizen and resident of this state at all relevant times, she served in the military and was honorably discharged from service.

While the issue of disability cannot be seriously disputed, some discussion is necessary. Both the constitutional and statutory provisions defer to the findings of the United States Veterans Administration as to whether a veteran suffers from a service-connected disability. See N.J. Const. art. VIII, § 1, ¶ 3, N.J.S.A. 54:4-3.30(a). The parameters for the Veterans Administration to establish a service-connected disability are defined by Federal statute. See generally, 38 U.S.C. §§ 1110 to 1118.

The people, through the adoption of the Constitution, and the Legislature, through adoption of the implementing statutes, intended that the Veterans Administration determination of disability would not only be defining, but also controlling. As it applies to this case, it is undisputed that Dr. Duncan has a service-connected 100% permanent disability rating from the Veterans Administration. Thus, there cannot be any serious dispute that she satisfies this prong of the statute.

The heart of the dispute is whether Dr. Duncan's service constitutes an "other emergency" required by the Constitution and as defined by the Legislature. "The intent of the framers of this [constitutional] provision was to mandate statutory property tax relief to compensate veterans for the experiences of war and to encourage veterans to purchase property in this State." Darnell v. Town of Morristown, 167 N.J. Super. 16, 18 (App. Div.), certif. denied, 81 N.J. 292 (1979) (citing, 5 Proceedings of the New Jersey Constitutional Convention of 1947, Proceedings Before the Committee on Taxation and Finance, July 10, 1947, at pp. 666-72). These cases are markedly easier when someone is physically present on the battlefield during one of the defined military conflicts. The difficulty in determination arises in cases such as this.

Starting with legislative enactments in 1991 and continuing through 2005, the Legislature narrowed eligibility criteria that qualifies for participation in an "other emergency." See Fisher

v. City of Millville, 29 N.J. Tax 91, 94-97, 100-101 (Tax 2016). For conflicts arising during the 1950's through the 1970's, such as the Vietnam and Korean conflicts, only service during the time of the conflict was required.[1] Fisher, supra, 29 N.J. Tax at 100-101. For conflicts in the 1980's through the early 1990's, the Legislature added a geographic requirement. Id. In other words, the service-member had to serve in a specified region of the conflict. Id. Starting with military conflicts from 1995 onward, the Legislature mandated not only a geographic requirement, but also a direct support requirement. Id. This long arc of legislative enactments reveals a narrowing path of eligibility rather than a broadening. To put it simply, for the Vietnam and Korean conflicts, veterans only had to be in active service, and for more recent conflicts, a veteran not only has to be serving in a specified geographic region or theater of operation, but also in a "direct support" role.

To recap, for Operation Enduring Freedom, Dr. Duncan's service must not only be in a theater of operation, but also must be in "direct support." The issue of "theater of operation" is considered first.

[1] One exception is the 1958 Lebanon crisis which has a geographic requirement. However, the Lebanon Crisis was added in 2001. L. 2001, c. 127, § 6.

Operation Enduring Freedom was added to the list of "other emergencies" in 2003. L. 2003, c. 197, § 5. For other conflicts, the Legislature chose to set forth the specific geographic area for eligible service. As an example, for Operation Iraqi Freedom, service was required in Iraq or another area in the region. L. 2003, c. 197, § 5. Likewise, Operation Desert Shield/Desert Storm required service in the Arabian Peninsula or on any ship actively engaged in patrolling the Persian Gulf. L. 1995, c. 406, § 5. In contrast, Operation Enduring Freedom sets forth the eligible geographic region as "a theater of operation". L. 2003, c. 197, § 5. The language "a theater of operation" versus "the theater of operation" signals the Legislature's recognition that there is more than one theater of operation for Operation Enduring Freedom. Operation Enduring Freedom is commonly referred to as the Global War on Terrorism. Fisher, supra, 29 N.J. Tax at 92. Considering the grave loss of life which occurred in nearby New York City on the commencement date of this operation, September 11, 2001, there can be no doubt the Legislature commonly understood that unlike other military operations, this operation would not be confined to a specific geographic region.[2]

[2] Parenthetically, one reference addressing military medical care published by the U.S. Army Surgeon General noted that when it comes to Aeromedical Evacuation, the theater of operation is not limited to actual combat areas such as Afghanistan and includes remote medical facilities outside of the actual combat area. Emergency War Surgery 47 (Borden Inst. ed., 4th U.S. ed. 2013) ("moving a

It is well within the Legislature's discretion to set the scope of included conflicts. In the past, the Legislature chose to define the geographic region of service during the Vietnam and Korean conflicts to be anywhere by virtue of not establishing any geographic limitations. Likewise, the Legislature in defining "other emergency" has the discretion to not even include a conflict. For example, Operation Uphold Democracy in Haiti is a qualifying conflict for a veteran's civil service preference and has been since 2001.[3] L. 2001, c. 127, § 1. However, the Legislature, despite amending the exemption statute a number of times since, has not included the Haiti operation as qualifying for a property tax exemption.[4]

Dr. Duncan served in the United States. Previously, this court considered whether a veteran serving in the United States meets the theater of operations requirement as specified in the definition of Operation Northern/Southern Watch. Wellington v.

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casualty between two theaters (intertheater), such as moving a casualty from Afghanistan to Germany.")

[3] The N.J. Constitution also provides that veterans receive hiring preference for civil service jobs. N.J. Const. art. VII, § 1, ¶ 2. The legislative implementation is provided by N.J.S.A. 11A:5-1 to -15.

[4] Generally, when the Legislature amends the tax exemption statute to include an additional conflict, it simultaneously amends the Civil Service preference statutes to include the same conflict as well. See, e.g., L. 1991, c. 390; L. 2003, c. 197; L. 2005, c. 64.

Township of Hillsborough, 27 N.J. Tax 37 (Tax 2012). Utilizing the plain language of the statute, this court determined that said service satisfied the statutory requirements. Id. at 49. Plainly described above, Dr. Duncan's service at Andrews Air Force Base was in a theater of operation of Operation Enduring Freedom. Thus, Duncan did indeed serve in a theater of operation for Operating Enduring Freedom.

We are left with the question of whether Dr. Duncan's service constitutes "direct support." Courts must presume that every word in a statute as having meaning and is not mere surplusage. Cast Art Industries, Inc. v. KPMG, LLC, 209 N.J. 208, 222 (2012). Since the Court must presume that every word of the statute has meaning and is not "mere surplusage," the court must give each word effect and not render any word a nullity. In Re Attorney General's Directive, 200 N.J. 283, 297-98 (2009). As applied here, this court must evaluate the legislative requirement of not merely support, but "direct support."

In Wellington, supra, the service member suffered injuries from chemical agents collected in the battlefield while serving in a laboratory in the United States. 27 N.J. Tax at 50. In particular, Mr. Wellington's military service took place at a naval weapons laboratory in California where he examined chemical agents recovered from the battlefield in Iraq and transported to the United States. Id. Mr. Wellington was indeed entitled to benefits

because he was no less endangered by Iraqi chemical weapons at his laboratory in California than the service men and women who encountered these enemy agents on the battlefield. Id. Thus, in Wellington, the injuries sustained in the testing of these hazardous chemical agents demonstrated direct support of the military operation. Id. at 51.

Conversely, in Fisher, the service member was primarily involved in the shipment of materials to the battlefield location. Fisher, supra, 29 N.J. Tax at 98. The Legislature did not envisage that the "direct support" requirement would be dependent upon the final destination of materials a service member handles. Id. at 99. For example, two service members could be serving side-by-side shipping the same materials, one member could be shipping materials to Europe, and the other shipping materials to Afghanistan. If the ultimate destination of materials were the determining factor for direct support, that would result in one service member being entitled to the exemption, while the other would not. This would lead to an absurd result which is contrary to the goal of reading a statute to avoid an absurd result. Id. (citing Walcot v. City of Plainfield, 282 N.J. Super. 121, 127 (App. Div. 1995); Reisman v. Great American Recreation, Inc. 266 N.J. Super. 87, 96 (App. Div. 1992)). Distilling Wellington and Fisher reveals practical determinations which turn upon whether the experiences, which include the dangers, of war are encountered

by the service member. However, exposure to danger is not the sole consideration of "direct support." Fisher, supra, 29 N.J. Tax at 99.

The question becomes how to integrate the legislative mandate of "direct support" with the oft-stated purpose of the constitutionally provided veterans' property tax exemption to "compensate veterans for the experiences of war." Township of Wrightstown v. Medved, 193 N.J. Super. 398, 402 (App. Div. 1984); Darnell, supra, 167 N.J. Super. at 19; Wellington, supra, 27 N.J. Tax at 50; Hennefeld v. Township of Montclair, 22 N.J. Tax 166, 202 (Tax 2005).

Dr. Duncan was the chief neurologist and at times the only neurologist at Andrews Air Force Base performing emergency procedures and triage for service members who were injured on the battlefield. She treated individuals with a number of serious injuries including lost limbs, vision, spinal and head trauma. As a neurologist, she had a primary responsibility for dealing with many of these injuries.

The military has moved away from the days of hospital tents close to the battlefield.[5] The modern goal is airlifting injured individuals to more comprehensive facilities that can provide

[5] For an overall history of the treatment of battle injuries from ancient times to present, see M.M. Manring et al., Treatment of War Wounds, A Historical Review, 469 Clin. Orthop. & Relat. Res. 2168 (2009).

better outcomes. Prior to the helicopter airlift capabilities first introduced in the Korean War, injured soldiers could be left on the field of battle for extended periods of time. With the advances in air transport, soldiers are more quickly removed from the battlefield. Thus, even though Dr. Duncan was located some hours away via air transport from the battlefield, the condition of her patient soldiers were not necessarily any less severe or critical than those seen by medical professionals in prior conflicts in which the same medical care took just as long to receive, but was provided closer to the battlefield. Even with the current regimen, Dr. Duncan testified that for some 85% of the soldiers she treated, the first time that they would have contact with a medical doctor would be stateside.

When asked, Dr. Duncan indicated that her service-connected disability was generally related to neurological, muscoskeletal, gastrointestinal, and respiratory issues. Pressed for further conditions, such as psychological or PTSD, she was reluctant to concede to same on the record. However, she indicated that she suffered from intractable headaches and other abnormalities as a result of the stress that resulted from her treating these injured combatants.

Dr. Duncan became visibly upset when she was asked to describe her experiences. She was especially upset when asked to discuss the loss of life which occurred during the time that she was

providing emergency treatment. Some may argue that though Dr. Duncan has experienced war, she was not exposed to the dangers of war and is therefore ineligible. However, such parsing of words ignores the stark reality of Dr. Duncan's experience. For the experiences of war also put her at risk for her condition which rendered her 100% disabled. This is not to say that the sufficiency of a veteran's war experiences is dependent upon such experiences contributing to a disability finding. Rather, the severity of Dr. Duncan's experiences of war contributed to her disability rating. In other words, her 100% disability rating supports Dr. Duncan's assertion that her experiences of war constitute direct support. Her service is no less deserving of benefits than a soldier who treated the same mangled bodies closer to the battlefield.

It is beyond doubt that Dr. Duncan directly experienced war in treating gravely injured soldiers on a recurring basis, a number of whom did not survive. These experiences caused what she indicated on the record as stress and led to her neurological and other difficulties which incidentally resulted in her being declared service-connected 100% permanent disabled. Day after day of seeing fresh injured limbs which were blasted off, young soldiers who were blinded and those possibly permanently paralyzed by spinal injuries took its toll upon Dr. Duncan. Just like the service member in Wellington having been exposed to war and having

incurred significant permanent disabilities as a result of that exposure, Dr. Duncan likewise suffered a disability from her experiences.

The Legislature, through a number of successive amendments, has demonstrated intent to limit eligibility to only those who were involved in "direct support," as opposed to support or just service during the time of conflict. Dr. Duncan's service is vastly different than that of the service member in Fisher who was shipping materials to the battlefield and never experienced war. Dr. Duncan's service is more akin to that of the service member in Wellington who experienced war through his exposure to chemicals from the battlefield. Wellington's experience of war was directly brought to him through his exposure to chemicals of the battlefield. Duncan's experience of war was directly brought to her through constant contact with the death and trauma wrought by the battlefield.[6] Like Wellington, Dr. Duncan meets the criteria for the exemption.

With modern warfare, it defies reality to claim that one has be on the battlefield to experience war. It also defies reality to require that one has to be on the battlefield to provide "direct

[6] The U.S. Army Surgeon General has documented both in text and in photographs the grave condition of battlefield injured service members evacuated to the United States. See, e.g., War Surgery in Afghanistan and Iraq, a series of cases 2003-2007 36 (Shawn C. Nessen et al. eds. 2008).

support." The Legislature separately addressed the geographic requirement by mandating that service occur in a theater of operation. As stated, supra, Dr. Duncan served in a theater of operation. Dr. Duncan's treatment of the torn limbs, traumatic brain injuries and other injuries directly resulting from war renders her service as "direct support." The fact that she was in a permanent facility in the United States, instead of some medical tent in a war zone in Iraq, does not minimize the "direct support" she provided in treating severely wounded soldiers of battle. Moreover, the distance of her stationed facility did not diminish the severity of torn limbs and other injuries she treated such that her service was not an experience of war.

The parties have pointed to seemingly conflicting military regulations as to whether or not Dr. Duncan is entitled to benefits. Plaintiff points to award and decoration regulations adopted by each military branch. Under these regulations, "direct support" must take place on foreign soil and overall participation must be outside the United States. See, e.g., U.S. Dep't of Army, Reg. 600-8-22, Military Awards 35-37, 185-86 (Jun. 25, 2015); U.S. Dep't of Air Force, Instr. 36-2803, The Air Force Awards and Decorations Program 186-89, 234, 237 (Dec. 18, 2013).

Conversely, defendant points to definitions used by the Joint Chiefs of Staff which define "direct support" as:

> A mission requiring a force to support another specific force and authorizing it to answer directly to the supported force's request for assistance.
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> [Department of Defense Dictionary of Military and Associated Terms, Joint Publication JP 1-02 69 (Nov. 8, 2010, amended Jun. 15, 2015).]

However, the Joint Chiefs define "support" as:

> The action of a force that aids, protects, complements, or sustains another force in accordance with a directive requiring such action. 2. A unit that helps another unit in battle. 3. An element of a command that assists, protects, or supplies other forces in combat.
>
> [Id. at 231]

Based upon the Joint Chiefs' definitions, Dr. Duncan seemingly performed "direct support" as did the service member in Wellington. Conversely, the service in Fisher would only constitute support.

"Interpreting the statutory text, we ascribe to the statutory words their ordinary meaning and significance." IE Test LLC v. Carroll, 226 N.J. 166, 182 (2016). Generally, the courts give words which are left undefined by statute their plain or ordinary meaning. In re appeal of Twp. of Monroe, 289 N.J. Super. 138, 148, 15 N.J. Tax 661, 671 (App. Div. 1995); Burger King v. Director, Div. of Taxation, 9 N.J. Tax 251, 253 (Tax 1987). "In the absence of any explicit indication of special meaning, words of a statute are to be given their ordinary and well understood meaning." Levin v. Parsippany Troy Hills, 82 N.J. 174, 182 (1980).

However, "technical terms or terms of art, having special or accepted meaning in the law, shall be construed in accordance with that meaning." Lee v. First Union, 199 N.J. 251, 258 (2009) (emphasis added); In re Lead Paint Litigation, 191 N.J. 405, 430 (2001).

These judicial pronouncements conform with the Legislature's general rules of construction which provide that:

> Unless another or different meaning is expressly indicated, [the] generally accepted meaning, according to the approved usage of the language [controls]. Technical words and phrases having a special or accepted meaning in the law, shall be construed in accordance with such technical or special and accepted meaning.
>
> [N.J.S.A. 1:1-1 (emphasis added).]

For both the judicial and the legislative rules of construction pertaining to technical words and terms of art, the key proviso is that said words or terms have an accepted meaning in the "law." "It has long been recognized that in the substantive sense, the term law when used without restriction or qualification refers to the public law of the state." State v. Duble, 172 N.J. Super. 72, 75 (App. Div. 1979). Likewise, when interpreting a statute, a court must enforce the legislative will expressed by the clear language in the statute and not presume that the Legislature intended something not expressly stated. Gonzalez v.

Sch. Dist., City of Union, 325 N.J. Super. 244, 253 (App. Div. 1999). Unlike the definition of what constitutes a disability (i.e., per Veterans Administration determination), the Legislature did not define "direct support" or any other term. Moreover, the Legislature did not defer to a technical definition or term of art prescribed by military regulation or otherwise.

There is simply no indication that the Legislature understood either of the seemingly conflicting definitions of "direct support" set forth in the military regulations to be applicable in interpreting the eligibility criteria for the exemption. For example, in other states, entitlement to a veterans' exemption is explicitly dependent upon whether the service member has been awarded an expeditionary medal. Me. Stat. Tit. 36, § 653. Mich. Comp. Laws Serv. §§ 35.21, 206.516. N.H. Rev. Stat. Ann. § 72.28. N.Y. Real Prop. Tax Law § 458-a. That is not the case here.

Accordingly, reference to the prior legislative and judicial construction of the terms, as well as plain usage is proper. In the past, the Legislature has appended "direct" to legislative enactments to denote a closer relationship to the event to be defined. For example, in legislation which requires the disability from public employment to be the direct result of a traumatic injury, the Supreme Court has noted that "the word 'direct' connotes relative freedom from remoteness whether in terms of time, intervention or other contributive causes or the like". Gerba v.

Bd. Of Trustees, 83 N.J. 174, 186 (1980). Likewise, the legislation here has not required support, but "direct support." All words of the legislative enactment are to be given meaning and not treated as superfluous. Cast Art Industries, supra, 209 N.J. at 222. In re Atty. Gen. Directive, supra, 200 N.J. at 297-98. Thus, for the word "direct" to have any meaning, something more than mere support is necessary. This court has previously required direct support to be something more than remote support without the experience of war. See Fisher, supra, 29 N.J. Tax at 99-100. As set forth at greater length, supra, Dr. Duncan's experiences of war were in "direct support" of Operation Enduring Freedom.

To add to the confusion, in 2006, the Director of the Division of Taxation adopted regulations which were to be effective for five years. The regulations defined eligibility requirements for the conflicts for the 1980's onward. The notice of the rulemaking indicated that new regulations had not been adopted since at least 1968. 38 N.J.R. 2105 (May 15, 2006). In any event, the Director attempted to define the conflicts from the 1980's forward as merely peace-keeping missions and uniformly required that said service occur in a "combat zone," a term neither defined nor mentioned by the Legislature. The Legislature did not apply "direct support" to all these conflicts, yet the Director imposed the same blanket "combat zone" requirement to each conflict.

Based upon a reading of the regulations, it seems that the Director may have derived the concept of "combat zone" from the Internal Revenue Code in which Congress provided for certain income tax exemptions for soldier's income earned while serving in a combat zone. See I.R.C. § 112. In any event, the regulation was set to expire, but was extended by two years by a blanket order that applied to all tax regulations, yet still expired by its own terms in 2013. 43 N.J.R. 1203 (May 2, 2011). To date, subsequent regulations have not been promulgated.

Typically, the interpretation of New Jersey tax provisions are not dependent upon federal construction of the same concepts. Centex Homes of New Jersey v. Director, Div. of Taxation, 10 N.J. Tax 473, 492-493 (Tax 1989). When the Legislature wanted to incorporate federal law into interpreting state tax law, it did so in clear terms. Amerada Hess Corp. v. Director, Div. of Taxation, 107 N.J. 307, 321-322 (1987). Such reference to federal provisions must be explicit. Smith v. Director, Div. of Taxation, 108 N.J. 19, 33 (1987). Thus, the state tax provision must specifically reference the Federal provision for the federal provision to have any effect. Tischler v. Director, Div. of Taxation, 17 N.J. Tax 283, 291 (Tax 1998). Baldwin v. Director, Div. of Taxation, 10 N.J. Tax 273, 284-285 (Tax), aff'd, 237 N.J. Super. 327 (App. Div. 1990).

Here, the Legislature did not indicate that federal tax standards were to apply, let alone even mention the words "combat zone." While it may have been convenient for the Director to seemingly rely upon the Internal Revenue Code, that is simply beyond what the Legislature provided. Nevertheless, this court does not have to take any action with regard to the validity of said regulations since said regulations have expired by their own terms in 2013.

For the foregoing reasons, Dr. Duncan qualifies for the disabled veteran's personal residence tax exemption.[7] An order will follow.

[7] Dr. Duncan also challenged the denial of her exemption as being in derogation of constitutional equal protection. But cf. Pers. Admin. of Mass. v. Feeney, 442 U.S. 256, 99 S. Ct. 2282, 60 L. Ed. 2d 870 (1979); Ballou v. Dep't of Civ. Serv., 75 N.J. 365 (1978). Since the court has decided that Dr. Duncan is entitled to the exemption, there is not any need to reach the constitutional issue.