

CHAPTER 4

**RECOUPMENT OF READJUSTMENT PAY, NONDISABILITY SEVERANCE PAY,
SEPARATION PAY, VOLUNTARY SEPARATION INCENTIVE,
AND SPECIAL SEPARATION BENEFIT**

0401 GENERAL PROVISIONS

040101. Purpose. To provide guidance covering recoupment of payments made to certain members upon involuntary discharge, release from active duty, or voluntary separation, when members are later placed on a retired list.

040102. Definitions

A. Readjustment Pay. A lump-sum payment to members of a Reserve Component of any Military Service, members of the Army or Air Force without component, and Regular Army commissioned officers below the grade of major who are involuntarily released after completing at least 5 years of continuous active duty and who do not qualify for retirement.

B. Nondisability Severance Pay. A lump-sum payment specifically authorized by law to certain commissioned and warrant officers who are involuntarily discharged from active duty under certain conditions.

C. Separation Pay. A lump-sum payment to a Regular officer or a member of a Reserve Component who is discharged involuntarily or released from active duty September 15, 1981 or later, who has completed 5 or more, but less than 20 years of active service, and who does not qualify for retirement. Effective October 1, 1983, the 5 years of minimum active duty must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

D. Voluntary Separation Incentive. An annual payment to members who separate voluntarily from service before October 1, 1995, under conditions prescribed by the Secretary concerned.

E. Special Separation Benefit. A lump-sum payment to members who separate voluntarily from service before October 1, 1995, under conditions prescribed by the Secretary concerned.

F. Recoupment. Refund or recovery of readjustment pay, nondisability severance pay, separation pay, voluntary separation incentive or special separation benefit previously received, due to entitlement to retirement benefits based on the same active service.

0402 READJUSTMENT PAY040201. Members Affected

A. A member who receives readjustment pay before September 15, 1981, because of involuntary discharge or release from active duty after June 28, 1962 and later qualifies for retired pay on completion of 20 years of active service must refund 75 percent of the readjustment payment. For this purpose, a member transferred to the Fleet Reserve or the Fleet Marine Corps Reserve is considered to have "qualified for retired pay under a statute authorizing retirement upon completion of 20 years of active service," even though such transfer may have occurred after completion of less than 20 years of actual service. See Table 4-1.

B. A Regular Army commissioned officer in the grade of second lieutenant, first lieutenant, or captain, who receives readjustment pay from December 30, 1974 through December 30, 1977, and who later qualifies for retired pay upon completion of 20 years of active service, must refund 75 percent of the readjustment payment. See Table 4-1.

C. A member of the Uniformed Services who served on active duty as a temporary officer and held a Reserve officer status upon release from active duty receives readjustment pay after June 28, 1962 but before September 15, 1981, and who after a period of enlisted service is retired for temporary or permanent disability and also qualifies for service retirement as a Reserve officer, must refund 75 percent of the readjustment payment. See Table 4-1.

D. A member who receives readjustment pay September 15, 1981 or later, and who later qualifies for retired pay, must refund an amount equal to the total amount of readjustment pay received. See subparagraph 040202.B, below.

040202. Recoupment of Readjustment PayA. Readjustment Pay Received Before September 15, 1981.

1. A total of 75 percent of the gross readjustment pay without interest is deducted immediately from retired pay.

2. There is no entitlement to retired pay until 75 percent of the lump-sum pay is recovered. Cost for coverage under the Survivor Benefit Plan must be paid by direct remittance to the servicing finance activity during the period member is not entitled to retired pay.

3. When applying the 75 percent formula to lump-sum readjustment payment to determine the amount to be recouped from retired pay, any mustering-out payment previously received under the Mustering-Out Payment Act of 1944 (reference (an)) or the Veteran's Readjustment Assistance Act of 1952 (reference (ao)) must be first deducted from the gross readjustment pay.

B. Readjustment Pay Received September 15, 1981 or Later.

1. A member who receives readjustment pay September 15, 1981 or later and subsequently qualifies for retired pay must refund an amount equal to the total amount of the readjustment pay received.

2. Recoupment of the readjustment pay shall be by monthly deduction based on the service used in the computation of readjustment pay.

040203. Special Provisions

A. No income tax withholding is made from retired pay used for satisfying the readjustment pay recoupment. Neither is such pay included on Treasury Department Form W-2P (Statement for Recipients of Annuities, Pensions or Retired Pay) nor reported as taxable earnings.

B. A member who receives readjustment pay and also is immediately eligible to receive disability compensation from the Department of Veterans Affairs may retain the gross readjustment pay; however, 75 percent (or the total amount, if applicable) of that gross readjustment payment is deducted from the disability compensation. Acceptance of the gross readjustment pay, however, does not prevent the member from becoming entitled to disability compensation based on service performed after that payment was received.

1. Readjustment pay received before September 15, 1981, which has not been recovered from disability compensation shall, upon a later retirement from an active Uniformed Service, be immediately deducted from retired pay. Readjustment pay received September 15, 1981 or later, which has not been recovered from disability compensation shall, upon a later retirement from an active Uniformed Service, be deducted from retired pay by monthly deductions.

2. No deduction from retired pay is required when 75 percent (or the total amount, as applicable) of the readjustment payment has been recovered by the Department of Veteran's Affairs before retirement.

C. If a member previously was paid readjustment pay or a payment of mustering-out pay under the Mustering-Out Payment Act of 1944 (reference (an)) or the Veterans' Readjustment Assistance Act of 1952 (reference (ao)), the prior readjustment or mustering-out payments are deducted from the readjustment pay to which member is entitled after June 28, 1962. If the member has repaid the prior payment of readjustment pay to the United States, the period covered by it is treated as a period for which a payment has not been made.

D. A member may waive entitlement to readjustment pay. Also, the full amount of such pay may be refunded before retirement. Under either condition, the member receives retired pay immediately upon retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

E. Reserve members retired under 10 U.S.C. 12731-12737 (reference (c)), who received readjustment pay before September 15, 1981, are not subject to recoupment or readjustment pay. Such members receiving readjustment pay September 15, 1981, or later are subject to recoupment of readjustment pay under subparagraph 040202.B, above.

0403 SEVERANCE PAY-NONDISABILITY

040301. General. Before September 15, 1981, certain provisions of law governing separation, from the active list required refund of severance pay upon a member's retirement. See Table 4-2 for conditions governing refund of severance pay received before September 15, 1981. Members who receive severance pay September 15, 1981, or later and subsequently qualify for retirement are subject to recoupment under paragraph 040302, below.

040302. Recoupment of Nondisability Severance Pay

A. Lump-sum severance pay must be recouped by deducting from retired pay each month an amount based on the service for which the severance pay was received until the total deducted equals the amount of the severance pay.

B. The member may refund the full amount by direct remittance to the servicing finance activity or may authorize deduction in an amount greater than that required by law.

0404 SEPARATION PAY

040401. Members Affected

A. Entitlement After September 15, 1981. A Regular officer (including a Regular warrant officer) and nonregular member of an Armed Force involuntarily discharged or released on or after September 15, 1981, with at least 5 but less than 20 years of active service, are entitled to separation pay as determined by the Secretary concerned. Effective October 1, 1983, the 5-year minimum active duty requirement must have been continuous for any member who was not on the active duty list. A period of active duty is continuous if any break in service does not exceed 30 days.

B. Entitlement Before September 15, 1981. A member of the Army, Navy, Air Force, or Marine Corps on active duty September 14, 1981, who later is involuntarily discharged or released from active duty, is entitled to readjustment pay or severance pay under the laws in effect on that date. A member who also is eligible for separation pay elects which payment to receive. If the member fails to make an election in a timely manner, the more favorable amount is paid.

040402. Recoupment of Separation Pay

A. A member who receives separation pay and who later qualifies for retired pay will repay an amount equal to the total amount of separation pay received by a monthly deduction from retired pay based on the service for which separation pay was computed.

B. A member who receives separation pay and who also is eligible for disability compensation from the Department of Veterans Affairs will repay an amount equal to the total amount of separation pay received from the disability compensation awarded. However, no deduction for separation pay shall be made from disability compensation based on service performed after the separation pay was received.

0405 VOLUNTARY SEPARATION INCENTIVE (VSI)

040501. Members Affected. Certain members who voluntarily separated before October 1, 1995, received annual payments of voluntary separation incentive (VSI), based on their grade or rank at separation and number of years of service creditable for retirement purposes.

040502. Recoupment of VSI. If a member who has received VSI becomes eligible for retired pay, recoup from the member the gross amount of VSI paid. The gross amount paid does not include any amounts offset because of the member's receipt of military compensation between the date of separation which caused the VSI to begin and the date the member becomes eligible for receipt of retired pay. Recoupment is according to the following formula—divide the total days service for retirement prior to the separation by the total days of service for retirement: the resulting fraction is the percentage of retired pay to recoup until the entire amount due has been collected. Also apply this collection rate to any increases in the member's retired pay resulting from any cost-of-living increases.

0406 SPECIAL SEPARATION BENEFIT (SSB)

040601. Members Affected. Certain members who voluntarily separated before October 1, 1995, received a lump-sum special separation benefit (SSB) based on years of service for pay purposes and grade or rank at date of separation.

040602. Recoupment of SSB

A. If a member who has received an SSB payment becomes eligible for retired pay, recoup from the member the gross amount of SSB received, as shown on the member's DD Form 214. Use the formula in paragraph 040502, above, to compute the collection rate.

B. A member who receives SSB and who subsequently becomes eligible for disability compensation from the Department of Veterans Affairs will repay an amount equal to the SSB from the disability compensation. However, no deduction for SSB shall be made from disability compensation based on service performed after the SSB was received.

RECOUPMENT OF READJUSTMENT PAY RECEIVED BEFORE SEPTEMBER 15, 1981 (Note 1)				
R U L E	A	B	C	D
	If a member was a	and received before	and later qualifies	then readjustment
		September 15, 1981 (note 1)	for retirement	pay is
1	Reserve member (or member of the Army or Air Force without component (temporary))	readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	after 20 years of active service (note 2)	recouped immediately upon retirement at the rate of 75 percent of the gross readjustment pay (note 3).
2	Regular Army officer below the grade of major	readjustment payment upon involuntary release after at least 5 years of continuous active service because of a reduction in force for the period December 30, 1974 through December 30, 1977		
3	temporary officer on active duty and held a Reserve officer status	readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	for disability after a period of enlisted service and also qualifies for retirement for 20 years of active service	
4	Reserve member (or member of the Army or Air Force without component (temporary))		under 10 U.S.C. 12731	not recouped from retired pay (note 4).

NOTES:

1. For recoupment of readjustment pay received September 15, 1981 or later, see subparagraph 040202.B.
2. Includes transfer to Fleet Reserve with less than 20 years of active service if otherwise qualified.
3. Payment of readjustment pay before June 28, 1962 is not for recoupment from retired pay.
4. There is no provision of law that authorizes recoupment of readjustment pay for members not qualified for retired pay based on 20 years of active service.

Table 4-1. Recoupment of Readjustment Pay Received Before September 15, 1981 (Note 1)

RECOUPMENT OF SEVERANCE PAY RECEIVED BEFORE SEPTEMBER 15, 1981 (Note)					
R U L E	A	B	C	D	E
	If a member was	and was discharged	and received before September 15, 1981 (note)	and later qualifies for	then
1	a Regular commissioned Air Force or Army officer	because of failure of selection for promotion to grade O-3 or above	severance pay	retired pay	do not deduct severance pay.
2		because of moral or professional dereliction, or unsatisfactory performance			
3	a Regular commissioned officer of the Navy, Marine Corps, or Coast Guard	because of unsatisfactory performance with less than 20 years			deduct full amount of severance pay.
4		because of failure of selection for promotion to grade O-3 or above			
5	a Regular warrant officer of any Military Service	because of unfitness or unsatisfactory performance of duty and did not reenlist			
6		because of failure of selection for promotion and did not reenlist or was not retained on AD commissioned grade			
7	an officer of the Navy or Marine Corps	because found not qualified from causes arising from own misconduct upon reexamination for promotion			do not deduct severance pay.

Table 4-2. Recoupment of Severance Pay Received Before September 15, 1981 (Note)

R U L E	A	B	C	D	E
	If a member was	and was discharged	and received before September 15, 1981 (note)	And later qualifies for	then
8	a woman officer of the Regular Navy or Regular Marine Corps in grade O-3	because she is not on a promotion list and has completed 13 years of active service in the Navy or Marine Corps	severance pay	retired pay	do not deduct severance pay.
9	a woman officer of the Regular Navy or Regular Marine Corps in grade O-2	because she is not on a promotion list and has completed 7 years of active service in the Navy or Marine Corps			
10	an ensign in the Navy or a second lieutenant in the Marine Corps	because found not professionally qualified upon reexamination for promotion			
11	a Reserve member of any Military Service	without member's consent before active duty agreement under 10 U.S.C. 12311(a)			
12	a Regular commissioned officer of the Coast Guard	because performance is below standard or because of moral or professional dereliction			

NOTE: For recoupment of severance pay received September 15, 1981 or later, see paragraph 040302.

**Table 4-2. Recoupment of Severance Pay Received Before September 15, 1981 (Note)
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