

VOLUME 7B, CHAPTER 24: “COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX WITHHOLDING (FITW)”

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [August 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter and formatting to comply with administrative instructions.	Revision
2.0 (2402)	Renamed section from “Retired Pay Subject and Not Subject to FITW” to “Gross Retired Pay and FITW” for clarity.	Revision
3.0 (2403)	Renamed section from “Effect on Disability Compensation Award on FITW” to “Disability Compensation Not Subject to FITW” for clarity and streamlining.	Revision
4.0 (2404)	Renamed section to “Gross Retired Pay Partially Taxable” for clarity. Restructured and renumbered paragraph 4.1 due to the deletion of paragraph 4.2. Removed outdated content in paragraph 4.2 relating to retirements prior to October 1, 1949.	Revision
8.0 (2408)	Renamed section from “Collection of Delinquent Taxes” to “Delinquent Federal Taxes” for clarity.	Revision
9.1 (240901)	Renamed paragraph from “Premiums” to “Paid by Deduction From Retired Pay” for structural congruence and clarity.	Revision
10.0 (2410)	Renamed section from “Processing Correction of Records Cases” to “Military Correction of Records Payments” for clarity.	Revision
References	Updated references based on revised chapter content.	Revision

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CHAPTER 24

**COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX
WITHHOLDING (FITW)**

1.0 GENERAL (2401)

1.1 Purpose (240101)

The purpose of this chapter is to provide information on retired pay subject to FITW. FITW is based on payments actually or constructively paid, regardless of the date earned. Retired pay is **considered** constructively paid (**or received**) when credited to the account for a retiree or set apart for a retiree to draw on it at any time, although it is not actually reduced to possession. The retired pay also must have been credited to or set apart for the retiree without any substantial limitations or restrictions **as to the time and manner of payment or condition under which it is to be made and brought within the retiree's control and disposition.**

1.2 Authoritative Guidance (240102)

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with the United States Code (U.S.C.), **specifically** Titles 10 and 26. Due to the subject matter in this chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

***2.0 GROSS RETIRED PAY AND FITW (2402)**

2.1 Subject to FITW (240201)

Retired pay is income and constitutes wages subject to FITW, except as otherwise indicated in this chapter.

2.2 Not Subject to FITW (240202)

The gross retired pay of a member may not be subject to FITW if the member is on the Temporary Disability Retired List (TDRL) or Permanent Disability Retired List (PDRL), receiving disability retired pay and if:

2.2.1. On or before September 24, 1975, the member was entitled to receive retired pay computed on the basis of percentage of disability **in accordance with 26 U.S.C. §§ 104(a)(4) and 104(b)(2)(A);**

2.2.2. On September 24, 1975, he or she was a member of the Armed Forces (or Reserve Component thereof) or under a binding written commitment to become such a member (26 U.S.C. §§ 104(a)(4) and 104(b)(2)(B)).

2.2.3. The member is receiving disability retired pay because of a combat-related injury. The term “combat-related injury” means personal injury or sickness incurred as a direct result of armed conflict, or while engaged in extra hazardous service, or under conditions simulating war, or caused by an instrument of war. See 26 U.S.C. §§ 104(a)(4) and 104(b)(2)(C). The applicable Service makes the determination at the time of discharge. See DoD Instruction [\(DoDI\) 1332.18, Disability Evaluation System \(DES\)](#); or

Note: The amount of disability-retired pay described in subparagraph 2.2.3 not subject to FITW is the amount related to the combat-related injury, but in no circumstances will the nontaxable amount be less than the amount the member would be entitled to receive from the Department of Veterans Affairs (VA) for that injury.

2.2.4. The member would be entitled to disability compensation from the VA. See 26 U.S.C. §§ 104(a)(4) and 104(b)(2)(D). For those members who have waived all or a portion of retired pay in order to receive disability compensation from the VA, subtract the [amount of retired pay waived](#) from the gross retired pay to compute the member’s taxable income. Subtract the [waived retired pay amount](#) prior to subtracting other income reducing amounts, such as Survivor Benefit Plan (SBP) premiums. For members who receive retired pay [computed](#) based upon years of service [and](#) have a portion of retired pay that is tax exempt due to their retirement for disability under [10 U.S.C., Chapter 61](#), taxable pay is determined by reducing the gross retired pay by [either](#) the VA [disability compensation](#) entitlement or by the retired pay that would be exempt due to the percentage of disability, whichever is greater.

*3.0 DISABILITY COMPENSATION NOT SUBJECT TO FITW (2403)

A member is entitled to exclude the disability compensation, additional amount, and retroactive disability compensation from the taxable portion of retired pay. [In order to exclude retroactive amounts, a member must follow applicable IRS procedures. Amended 1099-Rs are not provided for the retroactive period.](#)

3.1 Disability Compensation (240301)

Disability compensation is the maximum amount that a member would be entitled to receive upon application to the VA.

3.2 Additional Amount (240302)

An additional amount is the difference between a prospective VA disability compensation award and the amount excluded under section 2.0.

3.3 Retroactive Disability Compensation (240303)

The retroactive disability compensation is the amount of a VA disability compensation award not previously excluded from retired pay.

*4.0 GROSS RETIRED PAY PARTIALLY TAXABLE (2404)

For members who are entitled to have their retired pay computed based on both percentage of disability and years of service, a portion of their retired pay may be subject to FITW. Any reduction of wages subject to FITW for disability retired pay must meet one of the conditions set forth in paragraph 2.2.

*4.1 Permanent Disability Retired List (PDRL) (240401)

If the member is placed on the PDRL, subtract retired pay based on the percentage of disability from retired pay based on the years of service. The difference is the amount of wages subject to FITW.

*4.2 Temporary Disability Retired List (TDRL) (240401)

If the member is placed on the TDRL, use one of these methods:

4.2.1. If the member's disability rating is 50 percent or more, compute as in paragraph 4.1.

4.2.2. If the member's disability rating is less than 50 percent on the TDRL and the member is receiving retired pay computed based on years of service, subtract the amount of retired pay the member would have received if retired pay were computed solely on the basis of the member's actual percentage of disability from the gross retired pay the member is receiving. The difference is the amount of wages subject to FITW.

4.2.3. If a member with 20 years or less of service is placed on the TDRL, has a disability rating of less than 50 percent, and elects to receive disability retired pay based on the percentage of disability, the retired pay received is not subject to FITW.

5.0 FITW WAGE REDUCTIONS (2405)

Deductions that reduce the amount of wages subject to FITW include participation in the Retired Serviceman's Family Protection Plan (RSFPP), participation in the SBP, and VA Disability Compensation.

5.1 RSFPP Participation (240501)

The amount of the member's retired pay subject to FITW is reduced by the full amount of the RSFPP costs deducted from the member's retired pay in order to participate in the RSFPP. Effective January 1, 1966, tax laws changed to permit a dollar-for-dollar reduction in taxable income. Prior to January 1, 1966, deductions did not reduce taxable income. See section 9.0 for information on tax implications for a member who pays for this protection by direct remittance.

5.2 SBP Participation (240502)

The amount of the member's retired pay subject to FITW is reduced by the full amount of the SBP costs deducted from the member's retired pay in order to participate in the SBP. See section 9.0 for information on the tax implications for a member who pays for this protection by direct remittance.

5.3 VA Disability Compensation (240503)

There is a waiver of military retired pay when a member receives disability compensation or a pension from the VA, unless the member is entitled to concurrent retirement and disability pay on or after January 1, 2014, as provided under 10 U.S.C. § 1414.

5.3.1. If the member's gross retired pay is fully subject to FITW, subtract the amount of the retired pay waived applied to wages. The amount of retired pay waived reduces the member's retired pay entitlement.

5.3.2. If a member has retired due to physical disability, reduce wages subject to FITW, if any, by the amount of retired pay waived or the portion of the member's retired pay based on the actual percentage of disability, whichever is greater.

6.0 U.S. CITIZENS ABROAD (2406)

The retired pay of members who temporarily or permanently reside in a foreign country is subject to FITW the same as if they resided in the United States or its possessions. The same withholding rules from section 2.0 apply.

7.0 ARREARS OF PAY (2407)

For information on taxation policies that apply to deceased members and their beneficiaries, see Chapter 30.

*8.0 DELINQUENT FEDERAL TAXES (2408)

8.1 Voluntary Withholding (240801)

A retiree may, with the consent of the Internal Revenue Service (IRS), have deductions made from his or her retired pay to satisfy a debt due to tax delinquency. The class T, nondiscretionary allotment, allows a member to make payments to the IRS for this purpose.

8.2 Involuntary Withholding (240802)

If a retiree neglects or refuses to pay his or her federal income tax liability within 10 days after receiving notice of liability, the IRS District Director may collect the amount by placing a levy on the member's retired pay. The IRS is required to give the member 10 days notice prior to levy

execution. This notice is normally included with the notification of liability. For additional information on the collection of delinquent federal tax debts by tax levy, see Chapter 28.

9.0 SBP/RSFPP PREMIUMS (2409)

*9.1 Paid by Deduction From Retired Pay (240901)

SBP/RSFPP premiums are deducted from retired pay, which reduces the retiree's taxable income.

9.2 Paid by Direct Remittance (240902)

SBP/RSFPP premiums paid by direct remittance do not reduce the retiree's taxable income.

*10.0 MILITARY CORRECTION OF RECORDS PAYMENTS (2410)

If a correction of military records results in payment, the payment is processed according to whether or not it is subject to FITW.

10.1 Amounts Previously Paid and Reported (241001)

When amounts previously paid and reported as FITW wages are not subject to FITW as a result of the correction of record pursuant to 10 U.S.C. § 1552, the member may be provided a corrected IRS Form 1099-R, Distributions From Pension, Annuities, Retirement or Profit-Sharing Plans, Individual Retirement Accounts, Insurance Contracts, etc., for the 3 calendar years before the year that the correction action is made, if such correction is appropriate in accordance with the Internal Revenue Code. Alternatively, the member may be provided a letter citing the previous amount taxed and the amount that would have been withheld based upon the record as corrected. The member may seek to obtain a tax refund, if any is due, from the IRS based on his or her total tax liability. Any additional claims for tax liability may be treated as a claim for pecuniary benefits under 10 U.S.C. § 1552.

10.2 Subject to FITW (241002)

When the member's retired pay is subject to FITW, the payment is reported as FITW wages for the current year and paid out of the Military Retirement Fund.

11.0. DISABILITY SEVERANCE PAY (2411)

For information on the taxability and withholding of disability severance pay, see Volume 7A, Chapter 35.

12.0 RETIRED PAY FOR FLEET RESERVIST/FLEET MARINE CORPS RESERVIST (FR/FMCR) NOT PHYSICALLY QUALIFIED FOR RETENTION (2412)

The retired pay of a member of the FR/FMCR, who is transferred to the retired list after being found physically [un](#)qualified for retention in the FR/FMCR, is subject to FITW. [See](#) Chapter 2, subparagraph 1.1.2.

REFERENCES*CHAPTER 24 - COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX
WITHHOLDING (FITW)****2.0 – GROSS RETIRED PAY AND FITW (2402)**

- | | |
|-------|---|
| 2.1 | 26 CFR 31.3401(a)-1(b) |
| 2.2.1 | 26 U.S.C. § 104(a)(4)
26 U.S.C. § 104(b)
26 U.S.C. § 104(b)(2)(A) |
| 2.2.2 | 26 U.S.C. § 104(a)(4)
26 U.S.C. § 104(b)(2)(B) |
| 2.2.3 | 26 U.S.C. § 104(a)(4)
26 U.S.C. § 104(b)(2)(C)
DoDI 1332.18, August 5, 2014 |
| 2.2.4 | 26 U.S.C. § 104(a)(4)
26 U.S.C. § 104(b)(2)(D) |

3.0 – EFFECT OF DISABILITY COMPENSATION AWARD ON FITW (2403)

- | | |
|-----|---|
| | 26 U.S.C. § 104(b)(4) |
| 3.3 | Strickland v. Commissioner of Internal Revenue,
540 F.2d 1196 (1976) |

4.0 – GROSS PAY PARTIALLY TAXABLE (2404)

- | | |
|-----|----------------|
| 4.1 | 26 CFR 1.104-1 |
|-----|----------------|

5.0 – FITW WAGE REDUCTIONS (2405)

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|-----|------------------|
| 5.3 | 10 U.S.C. § 1414 |
|-----|------------------|

8.0 – DELINQUENT FEDERAL TAXES (2408)

- | | |
|-----|------------------|
| 8.2 | 26 U.S.C. § 6331 |
|-----|------------------|

REFERENCES (Continued)*9.0 – SBP/RSFPP PREMIUMS (2409)**

10 U.S.C. § 1448(g)(5)

10.0 – MILITARY CORRECTION OF RECORDS PAYMENTS (2410)**10.1**

Ray v. U.S., 453 F.2d 754, 197 Ct.Cl.2 (1972)

52 Comp. Gen. 420

10 U.S.C. § 1552