



DEFENSE FINANCE AND ACCOUNTING SERVICE

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JUL 29 1997

DFAS-HQ/FMM

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
- CLEVELAND CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
- DENVER CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
- INDIANAPOLIS CENTER
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
- KANSAS CITY CENTER

SUBJECT: Change to the DoDFMR, Vol 7A, regarding Deductions and
Collections from Waived Forfeitures Paid to Dependents
(DFAS Item F-58)

This is DFAS Interim Change 24-97 to the DoDFMR, Vol 7A.
This change is effective April 1, 1996. It is intended to
clarify the changes made by IC 18-96 on Forfeiture of Pay and
Allowances During Certain Court Martial Confinements.

We have evaluated your comments on the draft change to the
DoDFMR, Vol 7A. The, attached, final version of the change
includes your comments where appropriate. Assignment of an
interim change number is your authority to start a procedural
modification, if necessary, to facilitate this change. For the
Denver Center, use the attached to initiate the formal printed
change to the DoDFMR and the interim change.

My point of contact, Lt Col Wies, may be contacted at
(703) 607-5068 or DSN 327-5068.

Roger W. Spearce
Brigadier General, USA
Deputy Director for Finance

Attachment:
As stated

cc: DASD (MMP) (COMP)
ODGC (F)
DFAS-DE/DG
Service Liaisons
USCG/NOAA/PHS Liaisons
DJMS-PM

DFAS ITEM NUMBER F-58
DFAS INTERIM CHANGE NUMBER 24-97

1. **Renumber** paragraph 70506.1 (old numbering under IC 18-96) as 480306 and insert paragraph 480306 after paragraph 480305, retaining subparagraphs a., b., c., and d. of obsolete paragraph 70506.1 as 480306A, 480306B, 480306C, and 480306D.

2. **Revise** the second part of the sentence and renumbered-paragraph 480306B to read:

"...but are limited to two-thirds of all pay."

3. **Revise** paragraph 480306C as follows:

"C. Waiver of Forfeitures in Favor of Dependents. The convening authority or a person acting under 10 U.S.C. 860 may waive any or all of the forfeitures of pay and allowances that were imposed by operation of law ("automatically"). The portion waived is payable to the accused member's dependent(s) as directed by the convening authority or person taking action.

1. **Intent of Waiver and Taxability of Waived Forfeiture Amount.** Direct payments, to dependents, of the waived portion of a forfeiture are intended to provide transitional compensation and direct financial assistance for a period not to exceed six months. Because the waived portion of the forfeiture remains wages generated by the member's military status, it is taxable income to the accused member, even though, paid to the member's dependents. Therefore, after appropriate Federal, State, and FICA taxes are withheld from the taxable portion of the waived forfeiture amount, the remaining (net) waived amount is paid to the member's dependent(s), as directed. Also, see table 44-1, rule 8.

2. **Other Deductions and Collections.** The Uniform Code of Military Justice (UCMJ) contains no provisions for the deduction of any of the items appearing in table 52-1 from the waived forfeiture of pay and allowances. Therefore, only applicable taxes listed in subparagraph 1 above, may be deducted from the waived portion of pay and allowances that would otherwise be forfeited, with the remaining amount paid to the member's dependent(s), as directed by the convening authority. See table 44-1, rule 20, and table 45-2, rule 2.

3. **Effective Date of Payments.** As directed by the convening authority or, if not specifically stated, the date of the convening authority action on the waiver.

4. **Add** the following rule and note to table 44-1:

a. Add rule 20 as follows:

Rule	A	B
20	Waived portion of CM forfeiture of taxable pay or pay and allowances (Chapter 48)	See para. 480306C

5. **Add** subparagraph 450202G to read:

"G. Waived portions of forfeitures of basic pay payable to dependent(s) of confined members as prescribed in paragraph 480306.

6. **Add** note 1 to Table 45-2, rule 2, as follows:

a. In rule 2, Column B, at end of text, add the following:

"(note 1)"

b. Below Table 45-2, add the following:

"Note 1: However, the waived portion of a forfeiture under paragraph 480306 is taxable income to the confined member and subject to FICA under paragraphs 480306C and 450202G.

7. Change the bibliography as follows:

a. **Add** the following paragraph and citation:

paragraph	citation
"480306	10U.S.C. 858b (Art. 58b, UCMJ), as added by Public Law 104-106, Sect. 1122, 10 Feb 1996, and amended by Public Law 104-201, Sec. 1068(a)(1), 23 Sep 1996."