

CHAPTER 50

STOPPAGES AND COLLECTIONS OTHER THAN COURTS-MARTIAL FORFEITURES★5001 VOLUNTARY AND INVOLUNTARY COLLECTIONS

500101. Collection With Member's Consent
Members indebted to the United States will be encouraged to discharge their indebtedness through lump-sum cash payment when possible. When the amount of the debt relative to the member's ability to repay indicates that lump-sum settlement would create financial hardship for the member, installment payments will be accepted. Members will be encouraged to voluntarily accept liability for their indebtedness and to agree to a repayment schedule which adequately protects the interests of both the United States and the member.

500102. Collection Without Member's ConsentA. Current Pay

1. Current pay is available for repayment of an indebtedness without the member's consent only if such recovery is expressly authorized by statute.

2. Where tables 50-1 through 50-5 authorize collection to be made "involuntarily," there is a statute authorizing such collection. When the indebtedness is a type for which there is no statute authorizing collection from pay, the tables authorize collection "with member's consent."

B. Final Pay. When a member receives final pay on separation, indebtedness to the United States may be collected under the general rule of setoff without specific statutory authority. Under this rule, debts which may be collected from current pay only with the member's consent may be collected from final pay and allowances without the member's consent. Amounts owed to a Service relief society (Army Emergency Relief, the Air Force Aid Society, the Navy Relief Society, or the Coast Guard Mutual Assistance) may also be collected from final pay without the member's consent (37 U.S.C. 1007(c) and (h) (reference (aa))).

500103. Limitation on Collections

A. Current Pay. Some of the laws authorizing collection of indebtedness from a

member's pay impose restrictions on the amount that may be collected or on the items that may be collected or on the items of pay from which collection may be made. These limitations are shown in tables 50-1 through 50-6. When a member voluntarily authorizes collection, a rate of collection agreeable to the member and the disbursing officer is determined within guidelines shown in the tables; however, collection in greater amounts may be authorized or requested by the member.

B. Final Pay. Table 50-6 shows which items of final pay and allowances are available for setoff of debts. The items shown as not available are specifically exempted by statute.

C. Gross Pay. Compute gross pay by adding together basic pay, all special and incentive pays, and all reenlistment bonuses. Gross pay does not include allowances or reductions in pay, such as forfeitures and MGIB.

D. Disposable Pay. Disposable pay when used to calculate maximum allowable deduction, is computed by deducting the following from gross pay of active duty members: FICA, Armed Forces Retirement Home, FITW, DDP, SGLI, SITW. For reservists, the deductions to calculate disposable pay are: FICA, FITW, SITW, SGLI, SSLI, DDP.

500104. Installment Deduction for Indebtedness to the United States. Statutory authority to collect indebtedness to the United States by deductions from the member's pay exists under 37 U.S.C. 1007(c) (reference (aa)), 5 U.S.C. 5514 (reference (cl)). Other statutes authorize collection of specific classes of debts. It shall be the policy of the military departments to collect debts owed to the Department of Defense or any of its instrumentalities or other Uniformed Services under 37 U.S.C. 1007(c) (reference (aa)). Debts administratively determined to be owed the United States or any of its instrumentalities other than the Department of Defense or other Uniformed Services shall be collected under 5 U.S.C. 5514 (reference (cl)). Court judgments against a member in favor of the United States may not be collected under Public Law 97-276, 2 October 1982 (reference (cm)).

A. Collections Under 37 U.S.C. 1007(c) (reference (aa)). The law authorizes the deduction from a member's pay of amounts that the Secretary concerned (or designee) administratively determines to be owed the United States or any of its instrumentalities. Where a member of one Service owes a debt to another Service and the creditor Service makes an administrative determination of indebtedness, the creditor agency may forward such determination, along with certification that appropriate procedures set forth below have been complied with, to the applicable servicing DFAS Center. That Center may then initiate collection action.

1. Routine Adjustment. A routine adjustment corrects an overpayment resulting from clerical or administrative errors, delays in processing pay documents, or an automated pay system error which is discovered and collected within no more than two monthly pay periods after the date of overpayment. The member shall be provided with notice of adjustment when it is made, or as soon thereafter as practicable and shall be told whom to contact for additional information.

2. Other Collections. Before initiating any collection action other than a routine adjustment, the member shall be provided with at least 30 days written notice of the following (the Secretary concerned may prescribe additional rights prior to administrative determination of indebtedness under 37 U.S.C. 1007(c)) (reference (aa)). These procedures do not apply when the member has previously consented to pay checkage for the debt.

a. The nature and amount of the debt due the United States, and the intent to commence collection through deductions from pay;

b. That the member has the opportunity to inspect and copy government records related to the debt;

c. That the member has an opportunity for review of all the decisions related to the debt;

d. That the member has an opportunity to enter into a written agreement with the Secretary of the Service concerned or designee under terms agreeable to both parties to establish a schedule for repayment of the debt;

e. That any portion of the debt remaining uncollected at the time of the member's separation shall be collected from the member's final pay and allowances; and

f. That the member has the right to seek waiver or remission of the debt, if appropriate.

3. The procedures specified in subparagraph 2, above, need not be completed prior to commencement of collection action if the time remaining before the member's estimated date of separation is not sufficient to complete collection and the government would be substantially prejudiced in its ability to collect the debt.

4. The maximum monthly amount that may be collected under this subparagraph is an amount equal to 2/3 of the member's pay less: (a) amounts deducted in arriving at disposable pay plus; (b) amounts collected under subparagraph B.

B. Collections Under 5 U.S.C. 5514 (reference (cl))

1. When the Secretary of the Service concerned or the Secretary's designee determines that a member is indebted to the United States under the authority of 5 U.S.C. 5514 (reference (cl)), collection may be made in monthly installments or at established pay intervals not to exceed 15 percent of disposable pay for any pay period, unless a greater percentage is authorized by written consent of the member. Unsatisfied debts at discharge or retirement shall be deducted from subsequent payments of any nature due the member. The collection of a debt owed to departments and agencies other than the Department of Defense, its instrumentalities, or other Uniformed Services resulting from a court judgment is included under this authority.

2. Due Process. Debts collected under 5 U.S.C. 5514 (reference (cl)) are those owed to departments and agencies other than the Department of Defense or other Uniformed Services. The creditor agency is responsible for providing due-process rights to member debtors and for certifying to the Secretary of Defense that required due-process rights have been provided when requesting collection action. Once the Secretary of the Service concerned or the Secretary's designee has accepted the debt for collection, members must be

provided written notice informing the member of the nature and amount of the debt due the United States and the intent to commence collection through deductions from pay. The notice should provide a point of contact at the creditor agency for any questions or disputes the member may have.

500105. Interest, Penalties, and Administrative Costs

A. With respect to collections other than routine adjustments, the Secretary concerned shall charge a minimum annual rate of interest on an outstanding debt to the United States that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on 30 September of each year, rounded to the nearest whole percentage point.

B. Interest shall accrue from the date on which notice of debt and the interest requirements are first mailed or hand delivered to the debtor or such date as specified in the notice.

C. Interest may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues in subparagraph B.

D. The Secretary concerned shall assess charges to cover administrative costs of processing and handling a delinquent debt.

E. A penalty charge not to exceed 6 percent a year shall be assessed for failure to pay a part of a debt more than 90 days past due. The charge will be calculated on the 91st day of delinquency, but shall accrue from the date the debt became delinquent.

F. Interest does not accrue on charges assessed under subparagraphs D and E; however, if the member defaults on a repayment agreement, uncollected interest, administrative costs, and penalty charges shall be added to the principal to be repaid.

G. The Secretary concerned may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subparagraphs A, D, and E.

500106. Collection From Retired Pay. Conditions for collection of active duty debts from retired pay are in part six, chapter 28 of the Department of

Defense Financial Management Regulation, Volume 7, Part B (DoDFMR, Vol 7B) (reference (cn)).

500107. Indebtedness Incurred in National Guard or Reserve. When a member reenters active military service, collect for unsatisfied indebtedness incurred in a National Guard or Reserve status.

500108. Early Payment. Payday payments made in advance in accordance with paragraph 320107 are not considered "indebtedness" if the member dies before the date through which the pay was computed and paid.

500109. Bankruptcy. A member may file a petition of bankruptcy under chapters 7, 11, or 13 of the Bankruptcy Code (reference (aj)):

A. When the amount of an indebtedness due the United States is incurred prior to the filing date of the petition, the debt is termed prepetition indebtedness. Such debt may be collected by setoff from the member's pay account only through the day prior to the date the bankruptcy petition is filed, except as provided below:

1. After the date the bankruptcy petition is filed, prepetition indebtedness due the United States may be collected by the filing of proofs of claim with the United States Bankruptcy Court.

2. After the date the bankruptcy petition is filed, prepetition indebtedness due the United States may be setoff from the member's pay account if the member reaffirms indebtedness due the United States. Reaffirmation agreements must be approved by the court.

3. If the court subsequently dismisses a bankruptcy case, collection is permitted by setoff if otherwise authorized in this part.

B. An indebtedness due the United States, but incurred after the filing date of the petition of bankruptcy, is collected by setoff if otherwise authorized by this part.

C. A member may voluntarily enter into a "Chapter 13 Plan" (formerly Wage Earner's Plan) under the Bankruptcy Code (reference (aj)). When required by a Chapter 13 Plan (reference (aj)), send the member's pay to the court-appointed trustee as ordered by the court.

D. Refer to Service regulations listed below for payment procedures required by the foregoing paragraphs:

1. Army: Chapter 13, AR 37-103 (reference (co)).
2. Navy: Navy Comptroller Manual, Volume IV, Chapter 1 (reference (cp)).
3. Air Force: AFR 177-108, and AFR 110-24 (reference (cq)).
4. Marine Corps: MCO 7220-13G (reference (cr)).

500110. Pay Not Affected by Civil Process. An officer or enlisted member may not be deprived of pay by civil process except as follows:

- A. Garnishment for child support or alimony (see section 5002, this chapter).
- B. Levy for delinquent Federal income taxes (see section 4402, chapter 44, this part).
- C. Levy for child support (see section 5002, this chapter).
- D. Statutorily-required child or child and spousal support allotments.

5002 LEGAL PROCESS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

500201. Garnishment of Pay for Enforcement of Child Support and Alimony Obligations

A. General. Moneys due from or payable by the United States to active duty members, members of the Reserve components not on active duty, and retired members (including members of Fleet Reserve and Fleet Marine Corps Reserve) are subject to legal process issued by a State or Federal court of competent jurisdiction to enforce a legal obligation to pay child support or alimony. Legal process issued by foreign courts may be honored under this authority if issued by a court of competent jurisdiction of a country with which the United States has an agreement which requires the United States to honor such process. Such an agreement has been reached with the Federal Republic of Germany. When the law of the state or foreign nation in which the issuing court is located

conflicts with the Federal law, the more restrictive law applies. The Code of Federal Regulation (5 CFR 581) (reference (cs)) takes precedence when in conflict with the contents of paragraph 500201.

B. Pay Subject to Garnishment. Except for amounts excluded under D below, all moneys due uniformed personnel, regardless of duty status or component, entitlement to which is based on remuneration for employment, are subject to legal process. The following items of pay and bonuses are subject to legal process:

1. Basic pay (including Service academy cadet, academy officials, and midshipmen pay) but excluding reduction for educational benefits under "New G.I." (38 U.S.C. 1411 (reference (bx))).
2. Special pay (including enlistment and reenlistment bonuses).
3. Incentive pay.
4. Accrued leave payments (basic pay portion only).
5. Readjustment pay.
6. Severance pay (including disability severance pay).
7. Lump-Sum Reserve bonus.
8. Inactive duty training pay.
9. Retired pay (including disability retired pay).
10. Retainer pay.
11. Separation pay, Voluntary Separation Incentive (VSI), Special Separation Benefit (SSB), Reservists' Special Separation Pay (RSSP), and Reservists' Involuntary Separation Pay (RISP).

C. Pay and Allowances Not Subject to Garnishment. The following items of pay and allowances are not subject to legal process:

1. Basic allowance for subsistence.
2. Basic allowance for quarters.
3. Family separation allowance.
4. Station allowances.
5. Clothing allowances-enlisted.
6. Uniform allowances-officer.
7. Personal money allowance.
8. Discharge gratuity.
9. Position pay (Navy only).
10. ROTC subsistence allowance.
11. Death gratuity.
12. Allowance for recruiting expenses.
13. Travel and transportation allowances.

14. Armed Forces Health Professions Scholarship Program monthly stipend.

D. Other Amounts Not Subject to Garnishment. The amounts deducted from the pay of a Service member for the following purposes are not subject to legal process:

1. Federal income tax withholding (amount limited only to that which is necessary to fulfill member's tax liability).
2. FICA tax.
3. Armed Services Retirement Homes.
4. Servicemen's Group Life Insurance.
5. Retired Serviceman's Family Protection Plan.
6. Survivor Benefit Plan.
7. State income tax withholding.
8. Indebtedness to the United States.

E. Maximum Amount of Pay Subject to Garnishment. The maximum part of disposable earnings to any pay period which is subject to legal process shall not exceed:

1. Fifty percent if the member concerned is supporting a spouse or dependent child (other than a spouse or dependent child with respect to whose support the legal process is issued);
2. Sixty percent if the member concerned is not supporting a spouse or dependent child within subparagraph 1 above.

Disposable earnings is the pay subject to garnishment under B above, minus the amounts set forth in D above. If the member is in arrears for a period which is 12 weeks prior to the beginning of the pay period involved, the maximum percentage under 1 above is 55 percent and under 2 above is 65 percent. In no case may the amount of pay diverted exceed the limits prescribed by the applicable state law.

F. Allotments To Be Discontinued The following allotments of the items of pay listed in B above are subject to legal process. When possible, allow the member to determine which allotments are to be stopped. If the member involved refuses

to or is unable to advise which allotment should be stopped to permit compliance with the legal process, the allotments of such member shall be involuntarily stopped in the following order:

1. Class C, CFC-Charity Drive.
2. Class B, BOND, Q-BOND-US Savings Bond.
3. Class D, FININ-Financial organizations.
4. Class S, EDSAV, E, V-Post-Vietnam Era Veterans Educational Assistance Program contributions.
5. Class L, AER, RED CR-Repay loans to Service Relief Agencies and Red Cross.
6. Class D, SPT-V-Payment to dependents/relatives.
7. Class X, Emergency payment to dependents.
8. Class D, HOME-Repay home loans.
9. Class D, INS-Commercial Life Insurance.
10. Class D, Navy-Mutual Aid Insurance.
11. Class D, NSLI-United States Government Life Insurance.

The following allotments of pay are not subject to legal process and should not be stopped:

12. Class T, RED-Repay indebtedness to the United States and repayment of delinquent Federal taxes.
13. Class U, RSFPP-Remittance for RSFPP.

G. Official Responsible for Dealing With Legal Process. The officials listed below, or their representatives designated by Service regulations, have been designated as the official responsible for receiving and processing all legal process concerning active duty members, members of the Reserve components not on active duty, and retired members (including members of the Fleet Reserve and Fleet Marine Corps Reserve) of their departments:

1. Army:
Director
DFAS-Indianapolis
Indianapolis IN 46249-0160

2. Air Force:
Director
DFAS-Denver Center
Attn: DFAS-DE-DG
Denver CO 80279-8000
3. Navy:
Director
DFAS-Cleveland
Anthony J. Celebrezze Federal
Building, Room 967
Cleveland OH 44199
4. Marine Corps:
Director
DFAS-Kansas City
Kansas City MO 64197

5. In the case of active duty members stationed in the Federal Republic of Germany, all legal process issued by German courts are to be served in the manner prescribed by German law on the appropriate liaison agency listed below for such members:

- a. Army, Navy and Marine Corps:
Headquarters
USAREUR and
Seventh Army
Attn: AEAJA-1A
6900 Heidelberg 1
Postfach, 10 43 23
- b. Air Force:
Commander-in-Chief
US Air Forces in Europe
Attn: Judge Advocate,
Director of Civil Law
Ramstein AB GE

Legal process issued by German courts received by the liaison agencies listed above shall be reviewed to determine whether they comply with applicable German law. In addition, the liaison agencies listed above shall determine whether the member was served notice and certification of Service issued in accordance with the provisions of Article 32(1)(a) of the German Supplementary Agreement in the prior German court proceeding which resulted in an order creating the member's obligation to pay child support or alimony. Once the appropriate liaison agency listed above determines that legal process issued by a German court is legally sufficient and that the notice provisions of Article

32(1)(a) were complied with, the legal process shall be forwarded to the appropriate official designated in clauses (1) through (4) above. Upon receipt by the appropriate official, the legal process shall be processed in the manner set forth in paragraphs 70711h(1)-(8).

H. Action Required. Once legal process has been served on the United States, the appropriate designated official indicated in g above shall take or cause to be taken the following actions:

1. Notify the member and, where appropriate, the member's commanding officer of the proceedings within 15 days after valid service. The written notification shall explain the potential effect of the legal process on the member's pay, including allotments, and advise the member that the burden to raise any available defenses in the appropriate court rests with the member. A copy of the legal process shall be included with the written notice. Further, the notice shall comply with any additional requirements for notice in the law of the state in which the proceeding is brought.

2. Determine the amount of pay due the member which is subject to the legal process.

3. Temporarily suspend payment of sufficient pay due the member named in the legal process so as to permit compliance with such process.

4. Examine the legal process to ensure that:

- a. It was served in accordance with Federal law and regulations by an official having authority, under the applicable law of the jurisdiction, to make service of process;

- b. On its face, it complies with the applicable law;

- c. It constitutes legal process;

and

- d. The designated official is satisfied that the process is for the enforcement of a legal obligation of the Service member for child support or alimony in the form and amount specified in the process, and that the underlying judgment is not void on its face.

5. Determine whether the applicable law provides an exemption that is more favorable to the member than the exemption stated in paragraph 500201E. Apply the greater exemption.

6. Determine whether the member is indebted to the United States. If such member owes a specific amount, such amount will be setoff against the amount of pay determined to be subject to legal process. Money owed to a non-appropriated fund activity may not be setoff. The following kinds of indebtedness may be setoff:

- a. Amounts required to satisfy prior advance of pay and allowances;
- b. Amounts required to satisfy prior overpayments of pay and allowances;
- c. Courts-martial and non-judicial fines and forfeitures; and
- d. Administratively determined indebtedness.

7. Where required, file an answer to the legal process with the court in which the proceeding was brought and answer any interrogatories regarding the pay and allowances due the member. In all cases, the designated official shall make an appropriate response to the issuing authority within 30 days or such longer period as may be allowed under the applicable state law.

8. Pay the amount determined to be due and subject to legal process as ordered by the court. Where notice is received that the member has appealed the issuance of a legal process, which meets the requirements of (4) above, the process shall be honored nevertheless unless the issuing or appellate court orders otherwise or the applicable law of the jurisdiction provides otherwise. Where written notice is received, including copies of any appeal documents, that the member has appealed the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended until the governmental entity is ordered by a court, or other authority, to resume payments. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending.

9. If the legal process is determined not to be legally sufficient, and after any coordination within the department required by applicable Service directives, advise the General Litigation Section, Civil Division, Department of Justice, and the United States Attorney for the district in which the proceeding was brought that the legal process will not be honored. Send all pertinent documentation to the following address:

General Litigation Section
Civil Division
Department of Justice
Wash DC 20530

- i. Priority. The amount of pay being withheld pursuant to legal process may not be used to satisfy a notice of levy for unpaid Federal taxes.

500202. Levy on Pay and Allowances for Enforcement of Child Support Obligations

A. Authority. Under the provisions of Public Law 93-647, effective 1 July 1975, the Secretary of the Treasury, upon receiving the certification of the Secretary of Health and Human Services, shall assess and collect the amount certified as unpaid child support in the same manner as if the amount were a delinquent Federal tax, the collection of which would be jeopardized by delay. (See paragraphs 440201 and 440204.)

B. Satisfaction of Levy. When the Secretary of the Treasury issues a notice of levy as described in a above, satisfy the levy in the manner prescribed in paragraphs 440204. However, in the case of a first assessment against an active duty, retired (including members of the Fleet Reserve and Marine Corps Fleet Reserve), or Reserve member for unpaid child support, satisfaction of the levy shall be stayed for a period of 60 days immediately following notice and demand. If a portion of such member's pay is being withheld in garnishment or attachment pursuant to a judgment entered by a court of competent jurisdiction for the support of minor children, the amount of pay withheld is exempt from the levy.

500203. Regulations

Detailed policies and procedures governing the administration of garnishment of pay for the enforcement of court-ordered child support and

alimony and levy of pay and allowances for enforcement of court-ordered child support are contained in:

- A. Army: AR 37-104-3.
- B. Navy: SECNAVNOTE 7200 of 20 May 1975.
- C. Air Force: AFM 177-373, volumes I and III.
- D. Marine Corps: MCO P7220.31.

★5003 INVOLUNTARY ALLOTMENT OF PAY FOR ENFORCEMENT OF COMMERCIAL DEBTS

★500301. General. Monies due from, or payable by, the United States to active duty members (as defined in paragraph 430502B) are subject to the involuntary allotment to satisfy a judgment for commercial indebtedness. The involuntary allotment application must be supported by a final judgment. The allotment of pay shall not exceed the lesser of 25 percent of a member's pay subject to involuntary allotment or the maximum percentage of pay subject to garnishment proceedings under the applicable State law. For further procedures, see part six, chapter 43, section 4305.

★500302. Pay Subject to Involuntary Allotment. Only the following types of pay are subject to the involuntary allotment process (subject to the amounts excluded under paragraphs 500303 and 500304):

- A. Basic pay (excluding the reduction for education benefits under 38 U.S.C. section 1411 ("New GI Bill"))
- B. Special pay, to include:
 - 1. Health care professionals (Including optometrists, dental officers, psychologists and nonphysician health care providers, registered nurses, nurse anesthetists, nurse corps officers, medical officers)
 - 2. Veterinarians
 - 3. Diving Duty
 - 4. Foreign duty
 - 5. Career sea pay
 - 6. Responsibility pay
 - 7. International military head-

quarters

- 8. Proficiency pay and Special duty assignment pay for enlisted members
- 9. Reenlistment bonus
- 10. Enlistment bonus
- 11. Prior service enlistment bonus
- 12. Hostile fire or imminent danger pay
- 13. Nuclear-qualified officers extending period of active duty
- 14. Nuclear-trained and qualified enlisted members
- 15. Nuclear career accession bonus
- 16. Nuclear career annual incentive bonus
- 17. Enlisted members extending duty at designated overseas locations
- 18. Foreign language proficiency pay
- 19. Officers in critical acquisition positions extending period of active duty
- 20. Multi Year Special Pay (MSP)
- 21. Aviation Retention Bonus
- 22. Continuation Pay for Engineering & Scientific Career
- 23. Selective Reenlistment Bonus (SRB)

- C. Incentive pay, including:
 - 1. Hazardous duty
 - 2. Aviation career
 - 3. Submarine duty

- D. Accrued leave payments (basic pay portion only)
- E. Readjustment pay
- F. Severance pay (Including disability severance pay)

★500303. Pay and Allowances Not Subject to Involuntary Allotment. Separation pay, Voluntary Separation Incentive (VSI), and the Special Separation Benefit (SSB) are not subject to the involuntary allotment. In addition, allowances paid under titles 10 and 37 of the United States Code, and other reimbursements for expenses incurred in connection with duty in the Military Service or allowances in lieu thereof, are not subject to the involuntary allotment.

★500304. Other Amounts Not Subject to the Involuntary Allotment. After computing the pay subject to involuntary allotment (paragraph 500302

above), the following items must be deducted to compute the final value of pay subject to involuntary allotment:

A. Federal and State income tax withholding (amount is limited to that which is necessary to fulfill the member's tax liability)

B. FICA tax

C. Armed Forces Retirement Home

D. Servicemen's Group Life Insurance

E. Indebtedness to the United States (including tax levies)

F. Fines and forfeitures ordered by a court-martial or a commanding officer

G. Amounts otherwise required by law to be deducted from a member's pay (except payments under 42 U.S.C. sections 659, 661, 662 and 665)

★500305. Voluntary Allotments to be Discontinued. See paragraph 430506D.

★500306. Designated Agent Responsible for Dealing With Involuntary Allotments. The designated agent listed below is responsible for receiving and processing the involuntary allotment application concerning active duty members (as defined in paragraph 430502B):

DFAS-Cleveland Center
DFAS-CL/L
PO Box 998002
Cleveland OH 44199-8002

Telephone (216) 522-5301

★500307. References. The following source directives contain detail on entitlements, policies, and procedures for processing of involuntary allotment of pay for enforcement of commercial debts:

A. Army: AR 37-104-4, ADSM

B. Navy: DFAS PAY/PERSONNEL Procedures Manual (Navy) DFAS-CL (NAVSOP) 3050-2

C. Air Force: DFAS-DEM 177-373, Volume 1 (1 Nov 1994); AFM 177-373, Volume 3; and AFI 36-2906

D. Marine Corps: Bond and Allotment Manual (B & A Manual) MCO p7220.45; Automated Pay Systems Manual (APSM), MCO p7220.31

5004 REMISSION AND CANCELLATION OF INDEBTEDNESS-ENLISTED MEMBERS

500401. Who May Apply

A. An enlisted member on active duty (including a Navy or Marine Corps temporary officer with permanent enlisted status) or member's commander may apply for remission of the enlisted member's indebtedness to the United States. The debt may not be remitted or cancelled after the member is discharged, retired, or released from active duty. An indebtedness arising in one period of active duty may, however, be remitted during a later period of active duty.

B. Remission action is not for application in the case of Reserve component personnel performing inactive duty training or active duty for training except:

Army: An enlisted member of the Army National Guard who is charged with liability for government property that is lost, damaged, or destroyed on or after 1 October 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Service concerned.

Air Force: Any member of the Air National Guard (officer or enlisted member) who is charged with liability for government property that is lost, damaged, or destroyed on or after 1 October 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Service concerned.

500402. Indebtedness Which May Be Remitted

A. Debts to United States. Generally, any indebtedness may be considered for remission (including those listed in tables 50-1, 50-3, and 50-4). Debts for erroneous payments may be processed for remission if relief action has been denied under the appeal provisions (section 5004). However, debts arising from erroneous payment of basic pay due to noncollection of courts-martial forfeitures may not be remitted or cancelled.

B. Debts Within Jurisdiction of Service Concerned. The debt must be one over which the military department concerned has jurisdiction. For example, a Secretary may not remit a member's indebtedness because of liability for damage to property of another Service. The member must have incurred the debt while serving as an officer or enlisted member of the military department in which the member currently serves.

500403. How To Apply. Process applicants for remission and cancellation of indebtedness as prescribed in procedural regulations of the Service concerned.

5005 APPEALS

500501. Right of Appeal. When it is established that a member is indebted to the United States because of an erroneous payment made by any Service within the Department of Defense, the member has the right to appeal. A member may appeal the validity of the debt, the amount, or the liability for it. A member may also request review of the rate of stoppage on the basis of undue hardship, or upon proof that the rate of stoppage is inequitable.

500502. Processing Appeals. Process appeals as prescribed in procedural regulations of the Service concerned.

500503. Claim for Refund. A member may file a written claim for any amounts considered erroneously collected from the pay account. The claim is sent to the disbursing officer or, if separated, to Defense Finance and Accounting Service-Indianapolis Center; Defense Finance and Accounting Service-Cleveland Center; Defense Finance and Accounting Service-Kansas City Center; or Defense Finance and Accounting Service-

Denver Center, as applicable. After an adverse ruling the member has the right to submit claim to the United States General Accounting Office, Claims Group, Room 5451, FGMS, Wash DC 20548. An adverse ruling by that office may be appealed to the Comptroller General or a civil suit for recovery may be started.

5006 VALIDATION OF PAYMENTS BASED ON PURPORTED MARRIAGES

500601. Authority for Validation. Payment of allowances based on a purported marriage and made under Title 37 U.S.C. (reference (aa)) or prior laws, before the marriage is annulled or terminated, are valid if:

A. A court of competent jurisdiction adjudges or decrees that the military member entered the marriage in good faith; or

B. In the absence of such judgment or decree, a finding of good faith is made by the Secretary of the Service concerned or a person designated by the Secretary to investigate the matter.

500602. Responsibility for Validation. Findings of good faith under subparagraph 500501B are made (or forwarded to the appropriate office) by the offices listed in subparagraph 260403F. Purported marriages requiring such finding include those listed in paragraph 260403.

500603. Payments Not Validated. Payments based on invalid marriages are considered erroneous payments or overpayments unless validated.

5007 WAIVER OF CLAIMS FOR ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES

500701. Applications for Waiver Under 10 U.S.C. 2774 of Claims of United States Arising Out of Erroneous Payments. When a member applies for waiver of a claim under 10 U.S.C. 2774, forward such applications to the servicing DFAS Center. Only the waiver application processing office, as designated by the Directors of the DFAS Centers, has authority to suspend collection action pending action on a waiver application under 10 U.S.C. 2774. See DFAS Regulation No. 005 and implementing instructions of the DFAS Center.

INDEBTEDNESS DUE TO ERRONEOUS PAYMENTS, GAO DISALLOWANCES, AND NOTICES OF EXCEPTION						
R U L E	A	B	C	D	E	F
	If	of	is indebted to the United States for	and	then collect from current pay	at monthly rate not to exceed that shown below or in rule cited:
1	an officer or enlisted member	any Service	payment disallowed by General Accounting Office (GAO) in accounts of a disbursing or certifying officer		involuntarily (note 1)	disposable pay (see subparagraph 500103C).
2			debt cited in GAO notice of exception or informal inquiries (note 2)			
3			erroneous payment (including allotments the member knew or reasonably should have known were erroneous) made to or on behalf of the member of any Uniformed Service (note 3)	the Secretary of the Service concerned or the Secretary's designee has determined the indebtedness is valid		
4	an officer	a military department	erroneous payment of allotment caused by failure to report, as required, the death of the allotter or any other fact making the allotment not payable	appropriate investigation is made, and the overpaid amount is not recovered from the allottee	with officer's consent; or with approval of the Secretary concerned	amount applicable.

NOTES:

1. This does not change rules on collections of indebtedness of accountable, certifying, or disbursing officers.
2. If notice of exception covers erroneous payment by a Uniformed Service, rule 3 will be applied.

3. When a member's pay is not promptly reduced to allow for court-marital forfeiture, the resulting indebtedness is considered an erroneous payment within this rule.

Table 50-1. Indebtedness Due To Erroneous Payments, GAO Disallowances, and Notices of Exception

INDEBTEDNESS DUE TO LOSS OF PUBLIC FUNDS						
R U L E	A	B	C	D	E	F
	If	of	is indebted to the United States for	and	then withhold from current pay	at monthly rate not shown below or in rule cited
1	an account-able officer (note 1)	the Armed Forces	arrears in accounts because of failure to account for funds entrusted to the member	debt is admitted by officer (note 4)	involuntarily	disposable pay (see subparagraph 500103C).
2				debt is shown by the judgment of a court		
3				debt is shown by special order issued by the Secretary of the Service concerned		
4	an account-able enlisted member (note 2)	any Service				disposable pay (see subparagraph 500103C).
5	an officer or enlisted member			public funds obtained or converted to own use through fraud, larceny, embezzlement, or other unlawful means		the misappropriation of funds is admitted by the member

NOTES:

1. Applies to officers who hold in trust sums or balances of public money for which they are required to account, such as disbursing officers and deputies or agents to disbursing officers.
2. Applies to enlisted members who are entrusted with public funds. It includes military postal clerks and members who, though not bonded, are entrusted with public funds for small purchases.
3. If exact amount of debt is not known at the time the loss is discovered, establish the debt at the amount then known and adjust when investigation is completed.

4. A mere acknowledgment or report of a shortage in accordance with Service regulations is not an admission for the purpose of this rule. The phrase "debt is admitted" means either a written statement made by the accountable officer admitting indebtedness, acknowledged or witnessed before a person authorized to administer oaths or, another person designated by higher authority, or if the accountable officer refuses to sign a statement, a certification by a commissioned officer that the accountable officer clearly and unequivocally admitted the indebtedness is sufficient to authorize the withholding from officer's current pay.

Table 50-2. Indebtedness Due To Loss of Public Funds

INDEBTEDNESS DUE TO LOSS OR DAMAGE TO PUBLIC PROPERTY OR SUPPLIES							
	A	B	C	D	E	F	G
R U L E	If	of	is indebted to the United States for	and	and	then collect from current pay	at monthly rate not to exceed that shown below or in rule cited
1	an account-able officer	the Army or Air Force	loss or damage to military supplies, upon final settle-ment of accounts of officer charged with issue of the supplies	the officer fails to show satisfactorily that the loss or damage of property was not due to any fault on the officer's part	the officer is found pecuniarily liable by a report of survey or by a board of officers, and findings are approved by the Secretary concerned	involuntarily	disposable pay (see subpara-graph 500103C).
2		the Navy or Marine Corps	loss or damage to public property entrusted to the officer, such as stores, supplies and receipts from sale of public property	the Commander, Naval Supply Systems Command or the Comman-dant of the Marine Corps (L) renders determination	the Director, DFAS-Cleveland Center, or the Director, DFAS-Kansas City Center (L) issues instructions to the member's com-manding officer on action to take to liqui-date debt		disposable pay (see subpara-graph 500103C) or lesser amount ap-proved by the Comptroller of the Navy or the Commandant of the Marine Corps.
3	an officer or enlisted member	the Army or Air Force	damage or cost of repairs to arms or equipment	the member had the care of, or was using the property when damaged	negligence or abuse in care or use of pro-perty is established by a board of officers or on a report of survey, and findings are approved by Secretary concerned		disposable pay (see subpara-graph 500103C).
4	a non-accountable officer or enlisted member	any Uni-formed Service	loss of or damage to Government property	liability is estab-lished under regu-lations of the Ser-vice concerned	case is not within the scope of rule 3		table 50-6, rule 2.
5	an officer or enlisted member	Armed Forces	damage to or failure to satis-factorily clean assigned housing or damage to or loss of equipment or furnishings of such housing	the damage, loss or requirement for cleaning was caused by the abuse or negli-gence of the mem-ber, the member's dependent(s) or a guest of either the member or the member's dependent(s)	the negligence or abuse is established by administrative determination under regulations of the Service concerned		

Table 50-3. Indebtedness Due To Loss Or Damage To Public Property Or Supplies

MISCELLANEOUS INDEBTEDNESS TO UNITED STATES				
R U L E	A	B	C	D
	If	of any Service is indebted to the United States	then collect from current pay	at monthly rate not to exceed that shown below or in rule cited
1	an enlisted member	enlistment or reenlistment bonus for period unserved	involuntarily	table 50-6, rule 2.
2	an officer or enlisted member	unpaid hospital bills for medical services furnished a dependent	involuntarily or pursuant to Service regulations	
3		excess cost of shipment of household goods		
4	a medical officer	compensation or stipend payments received from state, county, municipal, or privately owned hospitals for medical service		amount received.
5	an officer or enlisted member	jury duty fees (as distinguished from expenses) from any court, except while on authorized leave, and receiving active duty pay and allowances	involuntarily	
6		amount due the DoD, its instrumentalities, or other Uniformed Services by reason of court judgment		table 50-6, rule 2.
7		a debt determined valid from a Federal agency outside DoD or other Uniformed Service including debts resulting from court judgments		table 50-6, rule 3.
8		a travel advance in excess of entitlements (note)		involuntarily or pursuant to Service regulations

NOTE: If the member has not filed a claim on a timely basis as defined by Service regulations, the entire amount of the advance is considered to be in excess of entitlements.

Table 50-4. Miscellaneous Indebtedness to United States

INDEBTEDNESS TO INDIVIDUALS AND GOVERNMENT INSTRUMENTALITIES AND AGENTS							
R U L E	A	B	C	D	E	F	G
	If	of	is indebted to	for	and	then collect from current pay	at monthly rate not to exceed that shown below or in rule cited
1	an officer or enlisted member	any Service	any person	willfully damaging or wrongfully taking property of that person	the commander has convened a board to investigate complaint, and board has assessed damages, and commander has approved an amount of assessment	involuntarily	amount approved by commander not to exceed disposable pay (see subparagraph 500103C).
2			member's spouse, former spouse or child	court ordered child support or alimony			(see part 7, chapter 50, section 5002).
3		the Army or Air Force	a commissary	uncollectible check which member or member's authorized agent has issued or endorsed to the commissary (note 1)			disposable pay (see subparagraph 500103C).
4		the Navy or Marine Corps		uncollectible check endorsed or issued by member or member's agent (note 1)		involuntarily or pursuant to Service regulations	table 50-6, rule 2.
5		the Armed Forces	other appropriated fund activity or office				
6		any Service	a nonappropriated fund activity	any indebtedness by member or member's agent	the custodian of the nonappropriated fund instrumentality has tried all means for direct collection from member, and a request has been sent to member's commander for assistance in obtaining direct payment		
7			the Internal Revenue Service	delinquent income taxes or court ordered child support (note 2)	IRS Notice of Levy is served		(see part 7, chapter 44, section 4002 and chapter 50, section 5002).
8			a military banking facility overseas	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member	military banking facility overseas has complied with required procedures	involuntarily	table 50-6, rule 2.

NOTES:

1. Generally, an agent is one who has been given a power of attorney by the member.

2. Upon certification from Department of Health and Human Services to the Department of Treasury, an IRS Notice of Levy may be issued for delinquent child support. (See paragraph 500201.)

★Table 50-5. Indebtedness to Individuals and Government Instrumentalities and Agents

RATES OF COLLECTION						
R U L E	A	B	C	D	E	F
	If	is indebted for	and	then the Service may authorize or approve liquidation by monthly installments that	and if debt remains at time of separation, collect from final pay	and if total debt is not liquidated from final pay, establish collection from
1	officer or enlisted member of any Service	court-ordered child support or alimony	garnishment or attachment of pay is directed by court order	do not exceed limitations set forth in section 5002, chapter 50, part 7	as directed by court order	retired pay, retainer pay, or pay in new enlistment and limited by part 7, chapter 50, section 5002.
2		an administratively determined indebtedness to the United States or its instrumentalities		do not exceed maximum limitation specified in subparagraph 500104A.4 unless member consents to collection of greater amount. Commander may authorize collection of a lesser amount when justified or as provided for in the regulations of the Service concerned (note 5)	unpaid pay and allowances, separation payments under part 4, chapter 35, (except donation); Reservists' Involuntary Separation Payment; amounts deducted for United States savings bonds including undelivered bonds; separation travel allowance for officers;	retired pay (see paragraph 500105) or pay in new enlistment.
3	an officer or enlisted member of the Armed Forces	an administratively determined indebtedness to the United States excluding the Department of Defense and its instrumentalities or other Uniformed Services		do not exceed 15 percent of disposable pay for that month (see subparagraph 500104B)	reimbursement for transportation of household goods, dislocation and trailer allowance (for enlisted members, do not collect from separation travel allowance, or donation on discharge). If member is retiring, see paragraph 500106 (notes 1, 2, 6 and 7)	
4	an officer or enlisted member of the Armed Forces	amount due United States as determined by a Federal court		do not exceed 25 percent of disposable pay for that month (see subparagraph 500104C) (note 3)		
5	an officer or enlisted member of any Service	any indebtedness incurred on or after 4 Dec 87 to a Service relief society, (Army Emergency Relief, Air Force Aid Society, Navy Relief Society, or Coast Guard Mutual Assistance)			involuntarily or pursuant to Service regulations (note 4)	

NOTES:

1. For Army and Air Force enlisted members do not exceed maximum limitation specified in subparagraph 500104A.4. This limitation does not apply to enlisted members whose accounts are being settled on discharge for fraud, desertion, discharge because of mental incompetency.
2. For enlisted members, travel allowances remaining due after the completion of separation travel may be collected.
3. The limitation does not apply when deduction of a greater amount is necessary to complete the collection within the period of anticipated service and is required by court order.
4. Do not exceed maximum limitation specified in subparagraph 500104A.4.

5. In unusual circumstances, the initiation of collection action of travel advances pursuant to a consent agreement may be delayed if the delay is approved by the Director, Defense Finance and Accounting Service, or his designee. However, the repayment period shall, in all cases, be scheduled to repay the advance before the member's expected date of separation.
6. For members transferring to the Retired Reserve and receiving Reservists' Special Separation Pay (RSSP), the entire amount of the RSSP payment(s) is available for offset.
7. If indebtedness is a result of an unfulfilled bonus agreement, and separation is under the Special Separation Benefit (SSB) or Voluntary Separation Incentive (VSI) program, see paragraph 350702F for SSB or 350802D for VSI.

★Table 50-6. Rates of Collection