

VOLUME 7A, CHAPTER 35 “SEPARATION PAYMENTS”

SUMMARY OF MAJOR CHANGES

All changes are 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 **July 2013** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
3501	Added General section and renumbered all remaining sections accordingly.	Addition
350301.A.1	Deleted obsolete separation pay payment criteria dating back to November 30, 1993. This paragraph was previously numbered as 350201.A.1.d in the July 2013 version.	Deletion
350303.B	Revised by eliminating 350203.B.2 from the previous July 2013 version referencing readjustment or severance pay verbiage since obsolete. Revised 350303.B of current version for clarity.	Revision
350303.D	Deleted August 10, 1956 reference. This reference was previously numbered as 350203.D in the July 2013 version	Deletion
350305	Deleted reference to readjustment and severance pays. This paragraph was previously numbered as 350205 in the July 2013 version.	Deletion
3504	Added a new section “Readjustment and Severance Pay (Other than Disability) Provisions”. Revised previous numbered paragraph (July 2013) 350205.C through 350302 and included in new section 3504 of current version. Deleted paragraphs previously cited in the July 2013 version; previous paragraphs deleted are 350303 through 350307.	Addition
350504.A.1	Deleted reference to September 24, 1975 criteria as being dated. This reference was previously numbered as 350404.A.1 in the July 2013 version.	Deletion

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
3508	Revised the section to only reflect Entitlement and Forfeiture and Recoupment provisions since the Special Separation Benefit program terminated December 31, 2001. This section was previously numbered as 3507 in the July 2013 version.	Revision
3509	Revised the section by eliminating entitlement computation since the Voluntary Separation Incentive (VSI) program terminated December 31, 2001. This section was previously numbered as 3508 in the July 2013 version.	Revision
350902.D	Expanded the explanation for the forfeiture and recoupment of the VSI. This paragraph was previously numbered 350803.D in the July 2013 version; deleted paragraph previously numbered paragraph 350803.F.	Revision
351010	Clarified service Secretary authority to waive VSI repayments. This paragraph was previously numbered 350910 in the July 2013 version.	Revision
3511	Deleted section for Stop Loss Special Pay as program terminated June 30, 2011. Renumbered remaining sections accordingly. This section was previously numbered 3510 in the July 2013 version.	Deletion
Table 35-3, Note 2	Changed the period of time a member may be discharged early from 3 months to 1 year pursuant to Title 10 United States Code section 1171.	Revision
Table 35-7	Deleted "Entitlement to Readjustment Pay" as being obsolete.	Deletion
Table 35-8	Deleted "Rules for Determining Whether Separation is Involuntary Release from Active Duty" as being obsolete.	Deletion
Table 35-9	Deleted "Computation of Readjustment Pay" as being obsolete.	Deletion
Table 35-10	Deleted "Severance Pay Entitlement (Other than Disability) and its Computation" Table as being obsolete.	Deletion
Table 35-11	Renumbered to Table 35-7.	Revision
Bibliography	Updated references	Revision

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CHAPTER 35

SEPARATION PAYMENTS

*3501 GENERAL

350101. Overview

This chapter prescribes the policy for entitlements that members may receive when separating from military service.

350102. Authoritative Guidance

The information contained in this chapter is in accordance with the references listed in the Bibliography.

3502 ACCRUED LEAVE PAY

350201. General Entitlement

A. A member who is discharged or separated under honorable conditions is entitled to payment of unused accrued leave unless the member continues on active duty under conditions that require accrued leave to be carried forward, or in the case of a Reserve Component member, the member elects to have the leave carried forward to the member's next period of active service. An enlisted member who voluntarily extends their enlistment for the first time is also entitled to payment for unused accrued leave.

1. Conditions for Payment of Unused Accrued Leave. See Tables 35-1 through 35-4 for specific rules governing whether a member may be paid for unused accrued leave.

2. Career Leave Payment Limitation of 60 days

a. Effective February 10, 1976, a military member is entitled to receive payment for no more than 60 days of accrued leave during a military career. Payments for unused accrued leave made before that date will be excluded from this 60-day limitation.

b. A military member eligible for an unused accrued leave settlement is authorized an election with regard to payment or carryover of the leave. The member may elect to receive payment for a portion of the unused leave, not to exceed a career total of 60 days, and to have the remaining accrued leave carried forward to a new or extended enlistment. The total of paid and carried forward leave may exceed 60 days.

3. One-Time Leave Payment. An enlisted member of the Armed Forces who would lose accumulated leave in excess of the 120 days in subparagraph 350202.B.1 may elect to be paid for such leave up to 30 days. This election can only be taken once during a

career. This leave payment does apply against the 60 days of leave paid during a career as stated in subparagraph [350201.A.2](#). This one-time payment exception applies to members who:

- a. Serve on active duty for a continuous period of at least 120 days in an area in which the member is entitled to hostile fire pay/imminent danger pay; **or**
- b. Are assigned to a deployable ship or mobile unit or to other duty designated by the Secretary concerned as qualifying; **or**
- c. On or after August 29, 2005, are performing duty designated by the Secretary of Defense (**SecDef**) as qualifying duty for the purposes of this subparagraph; **or**
- d. Serve on active duty in a duty assignment in support of a contingency operation.

4. Exceptions to the 60-Day Career Leave Payment Limitation

a. Contingency Operations. The 60-day leave payment limitation does not apply with respect to leave accrued by a member of a Reserve Component or in the Retired Reserve or by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, or a member of the Fleet Reserve or Fleet Marine Corps Reserve during any period while the member also is:

(1) Serving on active duty in support of a contingency operation on or after December 5, 1991, or

(2) Serving on active duty in connection with the Persian Gulf conflict (other than for training) under authority of Title 10, United States Code (U.S.C.), sections 672, 688, 12302, 12304, 12306, or 12307, on or after August 2, 1990.

b. Active Duty of 31 to 365 Days. The 60-day leave payment limitation does not apply to leave accrued by a member of a Reserve Component while serving on active duty, full-time National Guard duty, or active duty for training during a period of more than 30 days, but not in excess of 365 days, beginning on or after October 1, 2001.

c. Death on Active Duty. The 60-day leave payment limitation does not apply to leave accrued by a member who dies while on active duty (or a member or former member who dies after retirement or discharge, but before receiving payment of accrued leave). Payment of accrued leave for a deceased member is based upon the unused accrued leave that he or she carried forward into the leave year in which deceased plus the unused leave that accrued during that leave year, beginning on or after February 10, 1996.

d. Career Leave Payment Total. Unused leave accrued specifically under the conditions of subparagraphs [350201.A.4.a](#) through [350201.A.4.c](#) is additional to the member's career leave payment limitation of 60 days. Such unused excepted

leave may be carried forward into a new contract period of active duty and later be eligible for payment in addition to other leave to which the 60-day career ceiling applies. See paragraph [350202](#) for rules that apply to accounting for accrued and used leave, and subparagraph [350203.B](#) for calculating the payment amount and the possible application of the combat zone tax exclusion (CZTE).

Example: On January 1, 2001, a National Guard member on active duty, under Title 32, U.S.C., is mobilized for 3 years with his unit under 10 U.S.C. 672. Although previously paid for career leave of 48 days, the member has elected to carry forward all 32 days of accrued unused leave from the pre-mobilization period. On April 6, 2001, he is discharged and immediately ordered to active duty for another period of 3 years. The member used leave from April 2 through April 5, 2001 (4 days). He has 36 days accrued unused leave at discharge (32 days from his balance brought forward, plus 8 days of accrued under the mobilization, minus the 4 days of leave used). He may elect to be paid for a maximum of 16 days of leave at discharge, which includes the 12 days up to the 60-day limitation, plus 4 days of excepted leave (earned 8 days of excepted leave less the 4 days used). The remaining balance of 20 days (or more, if he takes payment for less than the full 16 days of leave) may be carried forward into the new active duty period. If a payment is made for 12 or less days, then 4 days of the carryover are an exception to the 60-day payment limitation and may be paid in the future if they remain unused.

B. Under regulations prescribed by the Secretary of the Military Department concerned, a member sentenced to unsuspended dismissal or unsuspended dishonorable or bad-conduct discharge by court-martial may be required to take leave pending review of the conviction (i.e., appellate leave) as provided by Article 76a, Uniform Code of Military Justice. Such member may elect to be paid in a lump sum for the leave accrued to his or her credit as of the day before the day the leave begins. Otherwise, each day of appellate leave will be charged as a day of leave and the member paid accordingly until all of the member's accrued leave is used. Payment will be based on the rate of basic pay to which the member was entitled on the day before the day leave is to begin.

C. A member who is discharged under other than honorable conditions forfeits all accrued leave at the time of discharge and is not entitled to payment for accrued leave, regardless of the length of time the separated member has served.

D. Except as provided in [subparagraph 350201.E](#), a member who receives an uncharacterized discharge before completing 6 months of active duty will be considered as having received an honorable discharge with payment of accrued leave being authorized.

E. A member, who is discharged before completing 6 months of active duty because of failure to serve satisfactorily, forfeits all accrued leave at the time of discharge. Such forfeiture also applies to any member with prior military service who had a break in service of 90 or more consecutive days. The following constitute reasons for failure to serve satisfactorily.

1. Enlisted reasons:
 - a. Defective enlistment and inductions (minority and fraudulent entry only);
 - b. Entry-level performance and conduct;
 - c. Unsatisfactory performance;
 - d. Drug and/or alcohol abuse rehabilitation failure;
 - e. Misconduct; moral and/or professional dereliction;
 - f. Separation in lieu of trial by court-martial; or
 - g. Security (unless the member receives an honorable discharge).
2. Officers reasons:
 - a. Separation for cause (e.g., officers separated for substandard performance of duty);
 - b. Dropped from the rolls;
 - c. Misconduct; moral and/or professional dereliction;
 - d. Separation in lieu of trial by court-martial; or
 - e. Security (unless the member receives an honorable discharge).

350202. Leave Accounting

A. Accrued leave must be carefully accounted for and accurately identified as to the time and circumstances under which it was earned. The number of days accrued and value of unused leave that is to be sold depends upon the timeframe and circumstances under which it was earned.

1. Leave accrued on or before August 31, 1976 is valued using basic pay, basic allowance for housing, basic allowance for subsistence, and if applicable to the individual, the personal money allowance. This leave is generally called "saved leave."
2. Leave earned on or after September 1, 1976 is valued using only basic pay.

3. Leave accrued in a combat zone or qualified hazardous duty area or while hospitalized as a result of action in such a zone or area is generally known as CZTE leave. See [Chapter 44](#), paragraph 440103 for full descriptions of the circumstances under which such leave accrues. CZTE leave for enlisted members is exempt from Federal income tax. CZTE leave for officers is exempt from Federal income tax up to a specified limit. See subparagraph [350203.B](#) for a discussion of tax exclusion limits. All leave earned during a month in which a member serves for any period of time in a combat zone or qualified hazardous duty area is CZTE leave. A single day of qualifying service in such circumstance qualifies all leave accrued in that month as CZTE leave.

4. A member of a Reserve Component who accumulates leave during a period of active service may carry over any accumulated leave to the member's next period of active service without regard to separation or release from active service if the separation or release is under honorable conditions. This accumulated leave is subject to fiscal year carry forward limitations (75 days during the period October 1, 2008 to September 30, 2015, and 60 days thereafter).

B. Leave accrues to a service member serving on active duty for 30 days or more. It accrues at the rate of 2½ days for each month of active service, excluding periods of absence from duty without or over leave, periods of confinement resulting from courts-martial, and periods of leave required to be taken pending review of court-martial conviction. For partial months, it accrues at the rate of ½ day for any period of 6 days or less. A member may not carry forward a leave balance of more than 60 days into a new fiscal year, except during the period October 1, 2008 through September 30, 2015, when 75 days may be carried forward or when entitled to Special Leave Accrual (SLA), as outlined in [350202.B.1](#), [350202.B.2](#), and [350202.B.3](#). Members with 75 days of leave under this provision will need to use 45 days of leave during the period from October 1, 2014 to September 30, 2015; otherwise, leave in excess of 60 days on September 30, 2015, will be lost.

1. A member who serves on active duty while entitled to hostile fire/imminent danger pay for a continuous period of at least 120 days may carry forward up to 120 days of SLA into the new fiscal year. Under this exemption, unused leave may be carried forward until the end of the third fiscal year following the fiscal year in which the service in the qualifying hostile fire/imminent danger area is terminated. If the 120 days of SLA were earned during the period October 1, 2008 through September 30, 2015, then unused leave may be carried forward until the end of the fourth fiscal year following the fiscal year in which the service in the qualifying hostile fire/imminent danger area is terminated.

2. A member not qualifying for SLA for service in a hostile fire/imminent danger area may qualify and carry forward up to 120 days of unused leave when assigned to a designated deployable ship, mobile unit, or other similar prescribed duty. On or after August 29, 2005, a member may also qualify and carry forward up to 120 days of unused leave if he or she is performing qualifying duties as designated by the Secretary concerned. The duty assignment must be under conditions where operational mission requirements prohibit normal leave utilization as determined by the military service concerned or designated commander. Under this exemption, unused SLA leave may be carried forward until the end of

the third fiscal year following the fiscal year in which the qualifying service is terminated. If the 120 days of leave were accumulated during the period October 1, 2008 through September 30, 2015, then unused leave may be carried forward until the end of the fourth fiscal year following the fiscal year in which the service in the qualifying assignment or other similar prescribed duty is terminated.

3. The maximum amount of SLA leave that may be carried forward is the leave balance at the end of the fiscal year following the end of the SLA period not to exceed 120 days. The maximum amount will be reduced to a new level whenever the leave balance drops below the previously set level. If at any time the leave balance drops to or goes below 60 days, or 75 days during the period October 1, 2008 to September 30, 2015, then there is no longer any SLA protected leave. Therefore, the actual maximum leave that can be carried forward into succeeding fiscal years is the lowest leave balance achieved following the completion of the SLA duty or the usual 60 days, or 75 days during the period October 1, 2008 to September 30, 2015, whichever is greater. If the SLA qualifying period crosses a fiscal year, then the entire leave balance (not to exceed 120 days) will be carried forward and the leave accrued from the beginning of the new fiscal year through the end of the SLA qualifying period will be added to establish the maximum. Any portion of a leave balance in excess of 60 days that could have been taken before the end of the fiscal year had the member not been assigned to SLA qualifying duty will not be included in the carryover amount.

Example 1: On August 31, 2003, a member had a leave balance of 80 days. On September 15, 2003, he was assigned to duty qualifying for SLA as described in subparagraph 350202.B.1. Had the member not been assigned to SLA duty, he could have possibly taken 15 days leave from September 16 through September 30. If the member had taken leave during this period, then there would still have been a loss of 7.5 days (82.5 days accrued through September 30, less the 15 days potentially taken and the normal 60-day carryover restriction) at the end of the fiscal year. Therefore, since only the portion that potentially could have been taken is protected, the member may carry forward 75 days and will lose 7.5 days of leave.

Example 2: The member in example 1 continued on SLA duty until September 15, 2004. No leave was permitted during this period, and the member's accrued leave totaled 105 days at the end of September. If the leave balance does not drop at any time below 105 days, then it may be carried forward for 3 fiscal years, until September 30, 2007. If the member took 30 days of leave from April 1 through April 30, 2005, then this would result in a leave balance of 92.5 days (105 days accrued through September, plus 17.5 days accrued from October through April, less the 30 days of leave taken) and a new maximum amount of leave that may be carried forward. If no further SLA is earned and the leave balance is not further reduced to a new lower level, then the maximum leave the member may carry forward into succeeding fiscal years (until September 30, 2007) is 92.5 days.

4. Effective January 28, 2008, active duty members who serve in duty assignments in support of a contingency operation are authorized to accumulate annual leave in excess of 60 days, or 75 days for the period October 1, 2008 through September 30, 2015, as shown on the end of month September Leave and Earnings Statement (LES). These members

are authorized to retain up to 120 days until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated.

C. Leave will be accounted for by crediting it sequentially in the chronological order in which it is accrued. Generally, when used, leave will be charged with the most recently accrued leave charged first. This method is known as Last In, First Out. As an exception, CZTE leave will be charged first regardless of when it was earned. Saved leave, described in subparagraph [350202.A.1](#), will be charged last.

Example 1: On August 31, 2001, a member had accrued 65 days of unused leave, 55 days of which had been accrued and remained unused from a period before September 1, 1976 (i.e., saved leave), 10 days of regular leave, and 0 days of CZTE leave. The member took leave from September 5 through 24, 2001, a period of 20 days. The leave taken is first applied to the 12 days accrued since September 1, 1976. This leaves 8 days to apply to the saved leave, reducing that balance to 47 days.

Example 2: On August 31, 2001, a member had accrued 75.5 days of unused leave, 55 days of which had been accrued and remained unused from a period before September 1, 1976 (i.e., saved leave), 13 days of regular leave, and 7.5 days of accrued unused CZTE leave. The CZTE leave had been earned for two separate periods, 5 days for active service from January 2 through February 6, 2001 in a combat zone, and 2.5 days for active service from August 7 through August 30, 2001 in a qualified hazardous duty area. The member took leave from September 5 through September 24, 2001, a period of 20 days. The leave taken is first applied to the 7.5 days of CZTE leave. This leaves 12.5 days to be applied to the non-CZTE leave earned since September 1, 1976, reducing that balance to 2.5 days as of September 24, 2001. The saved leave balance remains at 55 days.

[350203.](#) Leave Payments and Taxability

A. Payments for accrued leave are normally subject to taxation and income tax withholding. Payments for saved leave accrued before September 1, 1976, will also include non-taxable allowances. See Table 35-5 for determining the elements of pay to use in the computation of accrued leave payments.

B. Payments for CZTE leave are tax-exempt from Federal taxation and not subject to Federal or State income tax withholding up to the monthly limit specified by the Internal Revenue Service (IRS). That limit is different for enlisted members and officers. The limit is fully described in [Chapter 44](#), subparagraph 440102.A, summarized as follows:

1. Enlisted members (E-1 and above) and warrant officers (W-1 through W-5) have no limitation or ceiling on the value of payments exempt from Federal or State taxes and Federal tax withholding for any month in which they qualify for an exemption.

2. Officers (O-1 and above) are subject to a limit on the value of federal tax exempt payments and from exemption from federal and state tax withholding for each month in which they qualify for an exemption. The exemption amount for officers is set at the

value of the highest rate of enlisted basic pay plus the value of any hostile fire or imminent danger pay the officer may have been entitled to in that qualifying month. The applicable rate of enlisted basic pay would be that listed in Chapter 1, Table 1-10, Note 2, for the corresponding qualifying month. To determine whether the limitation will apply to a payment for accrued unused leave, the leave must be allocated to the months in which earned and for which the officer qualified for CZTE status. The value of the leave for each individual month must be added to any payments the officer has received for that tax-exempt month and the total compared to the monthly limitation amount. Tax exemption may only be given for the value of that portion of the CZTE leave that does not exceed the limitation available. Any payments for CZTE leave value that exceed the limitation available will be treated as taxable income.

Example: A Reserve Component O-6 with over 12 years of service began active duty on March 25, 2012, and reported temporary additional duty to a designated combat zone on March 26, 2012. He departed the zone on May 2, 2012, and was separated from active duty and paid for unused accrued leave on May 4, 2012. The officer was entitled to monthly basic pay of \$7,232.40 and to imminent danger pay of \$225. The monthly basic pay for the most senior enlisted member in each military service was \$7,489.80 per month during that period. The officer has been paid for his active duty service and is awaiting payment for his earned leave. He had previously sold back 58 days of leave at the end of other active duty periods. The officer earned .5 days of leave in March and in May and 2.5 days for April. The total of 3.5 days leave when added to the 58 days previously sold would exceed the maximum of 60 days that may be sold in a career. This leave, however, is exempt from payment limitation since the Reserve officer was on active duty for a period of more than 30 but less than 366 days. Payment of the .5 days of leave for both March and May is fully exempt from income tax and income tax withholding since the prior tax-free payments for his basic pay and hostile fire/imminent danger pay in those 2 months was well below the tax exemption limitation value of \$7,714.80 (senior enlisted basic pay of \$7,489.80 and hostile fire/imminent danger pay of \$225). However; only a portion of the 2.5 days of unused accrued leave attributable to April is exempt from income tax and income tax withholding. The officer has already received tax-exempt treatment of his April salary and imminent danger pay using all but \$257.40 of his available exemption (exemption equals \$7,714.80 and the amount used was the officer's base pay of \$7,232.40 plus the hostile fire/imminent danger pay of \$225, equal to \$7,457.40). The 2.5 days of leave is valued at \$602.70, leaving \$345.30 of the leave payment subject to tax and tax withholding.

350204. Leave Payments and Debts

Payments for accrued leave may be used to satisfy debts to the United States (U.S.) Government without restriction.

350205. Leave Payment to Beneficiaries

Payments for accrued leave owed at death will be paid to the eligible beneficiary or beneficiaries under the provisions of chapter 36, section 3602.

A. If a member dies while on active duty of 30 days or more, then the accrued leave is payable along with all other unpaid pay and allowances to the eligible beneficiary.

B. If a member or former member dies after retirement or discharge, but before receiving any or all compensation for accrued leave, then the balance is payable to the eligible beneficiary and claims for payment must be submitted to the appropriate following address:

Army and Air Force Members

Director
DFAS-Indianapolis
[DFAS-JFL/IN](#)
8899 E. 56th Street
Indianapolis, IN 46249-0845

Navy Members

Director
DFAS-Cleveland
DFAS-JFLADA
1240 E. 9th Street
Cleveland, OH 44199-2055

Marine Corps Members

Director
DFAS-Cleveland
[MPO-JFLT](#)
1240 E. 9th Street
Cleveland, OH 44199-2055

3503 SEPARATION PAY (NONDISABILITY)

350301. Entitlement

A. Full Separation Pay. Full payment of non-disability separation pay is authorized to Military Service members of the Regular and Reserve Components who have been involuntarily separated from active duty and have met each of the following four conditions:

1. The member has met one of the following criteria for active military service:

a. The member is on active duty or full-time National Guard duty and has completed at least 6 years, but less than 20 years, of active service. Reserve members not on the active duty list when separated must have 6 years of continuous active duty or full-time National Guard duty immediately preceding separation. A period of active duty is considered continuous if any break in active service does not exceed 30 days.

b. The member (other than a Regular enlisted member) was on active duty or full-time National Guard duty on November 5, 1990, and on that date had 5 or more, but less than 6, years of active service. Reserve members not on the active duty when separated must have 5 years of continuous active duty or full-time National Guard duty immediately preceding separation. A period of active duty is considered continuous if any break in active service does not exceed 30 days.

* c. A member who is a Regular officer and is separated under 10 U.S.C. chapter 36 (except under sections 630(1)(A) or 643 of such chapter or under 10 U.S.C. 580 or 6383) must have completed at least 6 years, but less than 20 years, of active service.

2. The member's separation must be characterized as "honorable" and none of the conditions apply that are listed in paragraph 350302.

3. A member who is separated involuntarily through either the denial of reenlistment or the denial of continuation on active duty or full-time National Guard duty must meet one of the following four specific conditions:

a. The member must be fully qualified for retention but denied reenlistment or continuation. This includes a Military Service member who is eligible for promotion as established by the Secretary of the Military Service concerned, but is denied reenlistment or continuation on active duty under established promotion or high year of tenure policies; or

b. The member must be fully qualified for retention but involuntarily separated under a Reduction in Force by authority designated by the Secretary of the Military Service concerned; or

c. The member, if a Regular officer, commissioned or warrant, must be separated under 10 U.S.C. 580, 1165, or 6383, or Chapter 36; if a Reserve commissioned officer other than a commissioned warrant officer must be separated or transferred to the retired Reserve under 10 U.S.C. chapters 573 or 861, or, if a Reserve commissioned officer on the active duty list or a Reserve warrant officer must be separated for similar reasons under Military Service policies; or

d. The member must be denied reenlistment or continuation on active duty or full-time National Guard duty under subparagraphs 350301.A.3.a through 350301.A.3.c, and have accepted an earlier separation from active duty.

4. The member must have entered into a written agreement with the Military Service concerned to serve in the Ready Reserve of a Reserve Component of the Armed Forces for a minimum period of 3 years following the separation from active duty.

a. A member who enters into this written agreement and who is qualified for service in the Ready Reserve will, upon separation from active duty, be enlisted or appointed, as appropriate, as a Reserve member by the Military Service concerned. If the

person has a service obligation under 10 U.S.C. 651 or any other law that is not completed at the time of separation from active duty, then the 3-year obligation begins on the day after the day on which the member completes the prior obligation.

b. A member who enters into this written agreement and who is not qualified for enlistment or appointment in the Ready Reserves need not be enlisted or appointed by the Military Service concerned to be considered to have met this condition of eligibility for separation pay.

B. Sole Survivorship Discharge

1. A sole survivorship discharge is the separation of a member from the Armed Forces at the member's request when the member is the only surviving child in a family in which:

a. The father, mother, or one or more siblings served in the Armed Forces; and who was killed, died as a result of wounds, accident, or disease; or is in a captured or missing in action status; or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

b. The death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

2. A member who receives a sole survivorship discharge will be entitled to full separation pay, even though, the member completed less than 6 years of active service immediately before that discharge.

3. The amount of the full separation pay to be paid will be based on the years of active service actually completed by the member before the member's discharge.

4. These sole survivorship discharge provisions will apply to any sole survivorship discharge granted after September 11, 2001.

5. Effective October 28, 2009, members who receive a sole survivorship discharge will not be required to repay any unearned bonus, incentive pay, or similar benefit previously paid to the member.

6. Effective October 28, 2009, the Secretary concerned may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if he determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

C. Half Separation Pay. Half payment of non-disability separation pay is authorized to members of the Regular and Reserve Components who are involuntarily separated

from active duty and have met each of the following four conditions: (NOTE: In extraordinary instances, the Secretary of the Military Service concerned may award full separation pay to a member otherwise eligible for half separation pay when the specific reasons for the separation and the overall quality of the member's service have been such that denial of full separation pay would be clearly unjust.)

1. The member must meet one of the criteria for active service specified in subparagraph [350301.A.1](#).

2. The member's separation must be characterized as "honorable" or "general," and none of the conditions apply that are listed in paragraph [350302](#).

3. The member must be separated involuntarily by the Military Service concerned through either the denial of reenlistment or the denial of continuation on active duty or full-time National Guard Duty under one of the following specific conditions:

a. The member is not fully qualified for retention and is denied reenlistment or continuation under any of the following conditions:

- (1) Expiration of service obligation; or
- (2) Selected changes in service obligation; or
- (3) Convenience of the government; or
- (4) Drug abuse rehabilitation failure; or
- (5) Alcohol abuse rehabilitation failure; or
- (6) Security; or
- (7) Weight control failure.

b. The member must be separated under a Military Service specific program established as a half-payment level by the Secretary of the Military Service concerned.

c. The member must be denied reenlistment or continuation on active duty or full-time National Guard duty under subparagraphs [350301.C.3.a](#) and [350301.C.3.b](#), and accept an earlier separation from active duty.

4. The member must have entered into a written agreement with the Military Service concerned to serve in the Ready Reserve for a minimum period of 3 years following separation from active duty.

a. A member who enters into this written agreement and is qualified for the Ready Reserve will, upon separation from active duty, be enlisted or appointed, as appropriate, as a Reserve member by the Military Service concerned. If the person has a service obligation under 10 U.S.C. 651 or any other law that is not completed at the time of separation from active duty, then the 3-year obligation begins on the day after the day on which the member completes the prior obligation.

b. A member who enters into this written agreement and is not qualified for enlistment or appointment in the Ready Reserve need not be enlisted or appointed by the Military Service concerned to be considered to have met this condition of eligibility for separation pay.

350302. Limitations of Eligibility

Military Service members separated under the following circumstances are not eligible for separation pay:

A. The member is separated from active duty at the member's own request. The following are considered to be separations at the member's own request:

1. A member declines training that the Military Service offers to qualify for a new skill or rating as a precondition to reenlistment or continuation on active duty; or

2. A member requests separation under regulations established by the Secretary of the Military Service concerned as provided for in Department of Defense (DoD) Directives 1332.14 and 1332.30; or

3. A Reserve officer declines a Regular appointment at the mandatory integration point when an all-regular career force program is implemented by the Secretary concerned; or

B. The member is separated from active duty during an initial term of enlistment or an initial period of obligated service. The initial term of enlistment or initial period of obligated service is the active service obligation that the member incurred upon initial enlistment or upon enrollment in a commissioning program. This limitation also applies to a member who desires to reenlist or continue at the conclusion of the initial term of enlistment or an initial period of obligation and is denied by the Military Service concerned; or

C. The member is released from active duty for training or from full-time National Guard duty for training; or

D. The member is immediately eligible at separation for retired or retainer pay based upon his or her military service; or

E. The member is a warrant officer whose appointment is terminated and who then elects to enlist; or

F. The member is separated as a result of the execution of a court-martial sentence; or

G. The member is being dropped from the rolls of the Military Service concerned; or

H. The member is being separated under other than honorable conditions; or

I. The member is an enlisted member who is separated for unsatisfactory performance or misconduct, as set forth in DoD Directive 1332.14, except when half-pay is authorized in subparagraph 350301.C; or

J. The member is an officer who is separated for substandard performance or acts of misconduct or moral or professional dereliction, except when half-pay is authorized in subparagraph 350301.C; or

K. The member is separated under a Military Service-specific program established as a no-payment level by the Secretary concerned; or

L. A determination is made by the Secretary of the Military Department concerned in an extraordinary case that the conditions under which the member is separated do not warrant a separation payment. This authority is not to be delegated. It is intended that only sparing use will be made of this discretionary authority to deny payment; or

M. A Regular officer having twice failed for selection for the promotion to the next higher grade is not entitled to separation pay if that officer, after such second failure of selection for promotion, is selected for, and declines, continuation on active duty for a period that is equal to or more than the amount of service required to qualify the officer for retirement; or

N. A Reserve officer who, is not selected for promotion to the next higher grade for the second time and is to be discharged or released from active duty, and who after such failure of promotion, is selected for and declines continuation on active duty:

1. If the period of time for which the officer was selected for continuation on active duty is less than the amount of service that would be required to qualify the officer for retirement, then the officer's discharge or release from active duty will be considered to be involuntary.

2. If the period of time for which the officer was selected for continuation on active duty is equal to or more than the amount of service that would be required to qualify the officer for retirement, then the officer's discharge or release from active duty will not be considered to be involuntary.

*350303. Computation of Active Service

Compute active service time as follows:

A. Qualifying years, except as noted in subparagraph 350301.A.1, do not have to be continuous; however, the last phase of the qualifying term must end immediately before the separation from active duty occurs;

* B. Fractions of years will be computed by counting each full month of military service that is in addition to the number of full years of active service as 1/12 of a year. Disregard any remaining fractional part of a month;

C. Periods for which a Military Service member previously has received separation pay, severance pay, or readjustment pay may be counted for eligibility purposes (to ensure the member meets the minimum required years of active duty), but may not be used in the multiplier to determine the amount of separation pay for a subsequent separation;

* D. Count periods of active military service in a Regular or Reserve Component. Include periods of active duty for training;

E. Do not include periods of absence without leave, confinement time awaiting trial that results in a conviction, confinement time while serving a court-martial sentence, and time lost while not in the line of duty. Count time in service to make up for lost time; and

F. Do not include service as a cadet or midshipman while in a Military Service academy or a Reserve Officer Training Program.

350304. Computation of Separation Pay

A. Compute full separation pay at 10 percent of 12 times the amount of monthly basic pay to which entitled at the time of separation from active duty, times the active service time as computed in paragraph 350303. Table 35-6 also contains information related to computation of full separation pay.

B. Compute “half separation pay” at 50 percent of what the full separation pay would have been. Table 35-6 also contains information related to computation of half separation pay.

*350305. Recoupment of Separation Pay From Retired or Retainer Pay or From Department of Veterans Affairs (VA) Disability Compensation

* Military members who receive separation pay under any provisions of law based on service in the Armed Forces, and, subsequently, either qualify for retired or retainer pay under 10 U.S.C., 14 U.S.C., or become eligible for disability compensation administered by the VA, are

subject to the recoupment of the gross taxable separation pay they received. Recoupment from retired pay, retainer pay, or VA disability compensation will be completed as follows:

A. Retired Pay. Recoupment will be accomplished through monthly deductions from each payment of retired or retainer pay payable to the retired member until the total amount of the deductions equals the gross taxable amount of separation pay received by the member. (NOTE: See Volume 7B, Chapter 4 of the DoD FMR for guidance on the calculation of the recoupment.)

B. VA Disability Compensation. Recoupment will be accomplished through a deduction from the VA disability compensation payable to the retired member in an amount that is equal to the gross taxable amount of separation pay made after September 30, 1996. The amount to be deducted from the VA disability compensation will be equal to the gross taxable amount of such separation pay, less the amount of Federal income tax withheld from such pay at the flat withholding rate for supplemental payments prescribed under Publication 15, Department of the Treasury, Internal Revenue Service. This reduction, however, will not apply to disability compensation for which the entitlement to that disability compensation is based on a later period of active duty than the period of active duty for which the separation pay was received.

*3504 READJUSTMENT AND SEVERANCE PAY (OTHER THAN DISABILITY) PROVISIONS

*350401. Repay Readjustment or Severance Pay

Members, who received readjustment or severance pay before September 15, 1981, and who, on or after September 15, 1981, became entitled to retired or retainer pay under 10 U.S.C. or 14 U.S.C., are required to repay the readjustment or severance pay, in accordance with the laws in effect on September 14, 1981.

350402. Refund Upon Retirement

A Reserve member who received a readjustment payment on separation after June 28, 1962 and before September 15, 1981, and who later qualifies for retired or retainer pay under 10 U.S.C. or 14 U.S.C. (upon completing 20 years of active service), must refund 75 percent of the gross readjustment pay, without interest, by immediate deduction from retired or retainer pay. This is not required if readjustment pay had been waived or refunded under subparagraph 350403.

350403. Waiver or Refund Before Retirement

A member may have waived entitlement to readjustment pay. Also, the full amount of readjustment pay may be refunded before retirement. Under either condition, the member will receive retired or retainer pay immediately upon retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

350404. VA Disability Compensation

When a member who receives readjustment pay before September 15, 1981, becomes entitled to VA disability compensation, the VA deducts 75 percent of the readjustment payment from future VA compensation. The VA does not make a deduction when VA disability compensation is based on a later period of service. A member who elected, on or before June 27, 1962, to receive readjustment pay in lieu of VA disability compensation may have been awarded disability compensation effective on and after June 28, 1962. The VA reduces the disability compensation by 75 percent of the readjustment payment, unless readjustment pay was waived or refunded.

3505 DISABILITY SEVERANCE PAY

350501. Entitlement

A member separated from the Military Service for physical disability is entitled to severance pay if qualified as prescribed in personnel regulations of the Military Service concerned. When a member is entitled to disability severance pay, separation orders specify this entitlement. Academy cadets and midshipmen may be entitled to severance pay if it is determined that they have a qualifying disability, and they have separated as a result of that disability.

350502. Disability Incurred During Non-pay Status

A member who incurs a disability while in a total pay forfeiture status is not entitled to disability severance pay. This is true even though the Secretary of the Military Service concerned remits the unexecuted portion of the sentence, including all uncollected forfeitures.

350503. Computation

A. Formula. To compute disability severance pay, multiply the sum of basic pay for 2 months by the number of combined years (but not over 19) of active service and inactive duty points. Do not include as basic pay the 25-percent increase prescribed under certain conditions for a Navy or Marine Corps member retained on active duty after enlistment expires.

B. Years of Service. There is no minimum amount of performed service time required to be eligible for disability severance pay. The member's separation orders will specify the total combined years of active service and inactive duty points to be counted in computing severance pay. Round this total to the nearest whole year, with 6 months or more rounded up. The maximum number of years of service for computing the disability severance pay will be 19 years. The minimum number of years for computation purposes will be:

1. Six years in the case of a member separated from the Armed Forces for a disability incurred in the line of duty in a combat zone (as designated by the [SecDef](#))

or incurred during the performance of duty in combat-related operations as (designated by the [SecDef](#)); or

2. Three years in the case of any other member.

C. Grade at Which Disability Severance Pay is Computed. Compute severance pay on basic pay of the following highest grade or rank described:

1. The grade or rank in which the member is serving at separation; [or](#)
2. The permanent Reserve grade held at separation; [or](#)
3. The highest temporary or permanent grade or rank in which member served satisfactorily as determined by the Secretary of the Military Service concerned; [or](#)

4. For those selected for promotion, if the disability is found during a physical examination, then the grade or rank to which the member would have been promoted if there [was](#) no disability.

Example An E-6 has 11 years, 4 months, and 9 days of active service and 76 inactive duty training periods (“points”) on the date of separation for physical disability. Compute the entitlement as follows:

$$\begin{array}{r}
 11 \text{ years, 4 months, 9 days} = 11.3583 \text{ years} \\
 \frac{76 \text{ “points”}}{360} = .2111 \text{ years} \\
 \hline
 \text{Total Service} = 11.5694 \text{ years}
 \end{array}$$

Since it is a decimal greater than .5, round the total upward to 12 years. 12 years times 2 months of basic pay of an E-6 over 10 equals the amount of disability severance pay.

NOTE: For purposes of this calculation, the number of points that may be considered may not exceed 60 points for any 1 anniversary year that closed before September 23, 1996; 75 points for anniversary years that closed on or after September 23, 1996; 90 points for anniversary years that close on or after October 30, 2000; and 130 points for anniversary years that close on or after October 30, 2007.

[*350504.](#) Taxability and Withholding

A. General. Disability severance pay is normally taxable income. However, it is not subject to tax withholding or reporting if at least one of the following [two](#) conditions exists:

1. The entitlement resulted from combat-related injury or illness, as determined by the Secretary of the Military Service concerned (or designee), which happens as a result of any of the following activities:

- a. As a direct result of armed conflict; or
 - b. While performing extra-hazardous service, even if the service does not directly involve combat; or
 - c. Under conditions simulating war, including maneuvers or training; or
 - d. By an instrumentality of war, such as weapons; or
2. The member has official notification from the VA approving entitlement to disability compensation for the same illness or injury that caused the entitlement to disability severance pay.

B. Withholding Taxes. Withhold income taxes from all payments of disability severance pay unless the member qualifies for an exemption under subparagraph [350504.A](#). Finance or personnel officers should advise members that their taxable payments of disability severance pay will become nontaxable if, later in the same tax year or a subsequent tax year, the VA awards the member disability compensation for the same illness or injury for which the member was paid disability severance pay. See subparagraphs [350504.C](#) and [350504.D](#) for how to obtain a refund of the income taxes withheld from disability severance pay that becomes non-taxable as a result of the VA's award, at a later date, of VA disability compensation.

NOTE: The VA may award disability compensation in either the same tax year or a subsequent tax year in which a member is paid disability severance pay. Once a member is awarded disability compensation, a refund of the income taxes withheld may be requested as discussed in subparagraphs [350504.C](#) and [350504.D](#).

* C. VA Disability Compensation Awarded in the Tax Year of the Disability Severance Pay Payment. Finance or personnel officers should advise members that a refund of taxes withheld from the gross taxable amount of their disability severance pay payment may be obtained from the supporting Defense Finance and Accounting Service (DFAS) site if disability compensation from the VA is awarded in the same tax year in which the member received disability severance pay. To obtain a refund from the servicing DFAS site, the member's tax refund request must be received and processed by December 31st of the year in which the disability severance pay payment was paid, along with documentation evidencing the VA's award of disability compensation in the same year for the same injury or illness that established the member's entitlement to disability severance pay. A corrected IRS Form W-2 ("Wage and Tax Statement") reducing the member's taxable wages by the gross amount of the disability severance payment amount may be issued when supporting documentary evidence of the same year VA award is received after the [payroll cutoff date for processing refunds but is received by December 31](#).

* D. VA Disability Compensation Awarded in a Tax Year Subsequent to the Year of the Disability Severance Pay Payment. Finance or personnel officers should advise members that a refund for income taxes withheld from their disability severance pay payment must be obtained from the IRS when the date of the VA's award of disability compensation is in

a calendar year subsequent to the year in which the member received disability severance pay. No corrected TD Form W-2 may be issued to the member for any VA documentation received after December 31, since the member's disability severance pay was taxable at the time of payment. The member should also be advised to submit the appropriate documentation from the VA along with related separation documents to claim a reduction in that year's taxable income.

350505. Availability to Liquidate Debts

Disability severance pay may be used to liquidate debts to the U.S. Government.

350506. Recoupment From VA Compensation

The VA deducts disability severance compensation from any VA compensation for the same disability to which the member or member's dependents become entitled under any law administered by the VA. There are two exceptions:

A. No deduction will be made in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations (as designated by the [SecDef](#)); or

B. No deduction will be made from any death compensation to which a member's dependents become entitled after the member's death.

350507. Other Benefits and Claims

A member paid disability severance pay is not entitled to any payment from the Military Service for, or arising out of, service before separation. This does not prohibit payment if an amount is due the member on the date of separation or if a claim is allowed under law.

3506 CONTRACT CANCELLATION PAY AND ALLOWANCES

350601. Entitlement

Reserve members released from active duty (other than for training) without their consent before the end of their active duty agreement made under 10 U.S.C. 12311(a) are entitled to a special payment under 10 U.S.C. 12312. This payment is in addition to any pay and allowances to which the member is otherwise entitled.

350602. Computation

To compute the amount payable, multiply the number of years and fraction of years of the unexpired period of service under the contract by the sum of basic pay, special pay, and allowances for 1 month to which the member is entitled on the day of release. Count a fraction of a month that is 15 days or more as a whole month and disregard a fraction of a month that is less than 15 days. Separation orders show the number of years and months of unexpired service for which contract cancellation pay and allowances are payable.

350603. Restrictions

A member is not entitled to the special payment authorized by this section if:

- A. Dismissed or discharged under the sentence of a court-martial; or
- B. Released because of an unexplained absence without leave of at least 3 months; or
- C. Released because of conviction and sentence to confinement in a federal or state penitentiary or correctional institution which sentence has become final; or
- D. Released because of a physical disability resulting from intentional misconduct or willful neglect; or
- E. Eligible for retired pay, separation pay, or severance pay under another provision of law (this restriction does not apply to readjustment pay); or
- F. Placed on a temporary disability retired list; or
- G. Released to accept an appointment, or to be enlisted, in a Regular Component of an Armed Force.

350604. Withholding Tax

Contract cancellation pay is subject to withholding tax.

350605. Availability to Liquidate Debts

Contract cancellation pay may be used to liquidate debts to the U.S. Government.

3507 MISCELLANEOUS SEPARATION PAYMENTS**350701. Discharge Gratuity**

See Table [35-07](#).

350702. Travel Allowance on Separation

See [Joint Travel Regulations \(JTR\), Chapter 5](#) and Volume 9 of the DoD FMR.

3508 SPECIAL SEPARATION BENEFIT (SSB)**350801. Entitlement**

The SSB program was terminated on December 31, 2001. No member of the Armed Forces can separate under this program after this date.

350802. Forfeiture and Recoupment

A. A deduction will be made from a member who has received SSB and later qualifies for retired or retainer pay. The deduction will be a portion of such retired or retainer pay until an amount equal to the gross amount of such SSB has been deducted. See Volume 7B, Chapter 4, section 0407 of the DoD FMR for details of the recoupment formula.

B. A deduction will be made from a member who has received SSB and qualifies for benefits under the law as administered by VA. The deduction from such benefits will be the gross amount of SSB paid to the member. Effective for payments of SSB that are made after September 30, 1996, the amount subject to recoupment under this paragraph is the total gross amount of SSB paid, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under Publication 15, Department of the Treasury, Internal Revenue Service). There will be no such deduction, however, if the disability for which the member receives compensation was incurred or aggravated during a period of later active duty.

C. Subsequent receipt of basic pay for active or reserve service, of muster duty allowance, or of compensation for a period of inactive duty training does not require the forfeiture of an SSB.

3509 VOLUNTARY SEPARATION INCENTIVE (VSI)*350901. Entitlement**

The VSI program was terminated on December 31, 2001. No member of the Armed Forces can separate under this program after this date.

***350902. Forfeiture and Recoupment**

A. A member who has received VSI may later qualify for retired or retainer pay through additional military service. See Volume 7B, Chapter 4, section 0406 for the requirement to reduce the member's retired pay until total reductions equal the gross amount of VSI the member has received. The reductions in retired pay will include only the amounts of VSI the member has received. Do not include prior reductions the member may have elected who is in receipt of basic pay for active or Reserve service or inactive duty training compensation and elected to have his or her next VSI installment payment reduced by an amount no greater than the total amount of such pay or compensation received since the prior VSI

installment payment. Do not reduce the installment payment unless the member provides a signed authorization **that** specifies the exact dollar amount by which to reduce the installment payment. If the member fails to qualify for retired/retainer pay for any reason, then the amounts that have been offset are not refundable. A member may not reduce installment payments on account of muster duty allowances.

Example: A member separated on June 30, 1992 with entitlement to VSI of \$8,000 per year for 16 years (a total of \$128,000). During each of the next 8 years, the member drilled with a Reserve unit and authorized a reduction in VSI of \$5,000 per year because of the Reserve training compensation she received. Thereafter, she received 7 more VSI anniversary payments in the full amount of \$8,000 per year. When she became eligible for retired or retainer pay, the total reduction of such pay is \$88,000 (\$8,000 for the initial installment, plus \$3,000 for each of the next eight installments, plus \$8,000 for each of the next seven installments). The reductions in retired pay were equal to the gross amount that she received, including any taxes withheld from the VSI payment.

B. A member who receives VSI, and subsequently qualifies for disability compensation under laws administered by the VA, will have the amount of disability compensation payable to the member offset from the next VSI payment.

1. The annual VSI payment will be offset by the same amount of disability compensation received during the 12-month period immediately preceding the VSI payment. In no instance will the disability compensation offset exceed the annual VSI installment.

Example 1: The VSI recipient was separated from active service on September 30, 1992 and received an initial VSI payment in the amount of \$7,000. On the VSI anniversary date of September 30, 1993 an annual payment of \$7,000 was made. On April 15, 1994, the member was paid a \$1,800 retroactive disability compensation payment (for the period November 1992 through April 1994) and received \$100 per month thereafter. The September 30, 1994 annual gross VSI payment will be offset by \$2,300 (\$1,800 retroactive payment plus \$100 received per month from May 1994 through September 1994).

Example 2: Same as in example 1, except the member received a \$6,000 retroactive payment on April 15, 1994, and \$500 per month thereafter. The September 30, 1994 annual gross VSI installment of \$7,000 will be completely offset with no payment due the member. Although the member received \$8,500 in disability compensation during the immediate preceding 12-month period, the maximum deduction from the September 30, 1994 payment is \$7,000. No collection action is required on the remaining \$1,500, nor will it be carried forward to the September 30, 1995 payment.

Example 3: Same as in example 1, except through administrative oversight, \$2,300 was not offset from the September 30, 1994, VSI installment. The \$2,300 becomes a debt owed by the member and is subject to immediate collection action. If collection is not accomplished, then deduct \$3,500 (\$2,300 which should have been offset from the

previous payment plus the current offset of \$100 per month for 12 months) from the September 30, 1995, payment.

Example 4: Same as in example 2, except through administrative oversight \$7,000 was not offset from the September 30, 1994 VSI installment. As in example 3, the \$7,000 becomes a debt and requires immediate collection from the member. If collection action is not accomplished, then the \$7,000 debt can be collected from future VSI payments. Since the member received \$6,000 (\$500 for 12 months) disability compensation during the immediate 12-month period prior to the next September 30, 1995 installment, collect the remaining \$1,000 towards the \$7,000 debt. In this case, carry the remaining \$6,000 unpaid debt forward.

2. Do not deduct from the member's VSI payment if the member is receiving VA disability compensation related to a period of service earlier than the period of service for which the member is receiving VSI.

C. If a member elected to have deducted any amount of basic pay for active or Reserve service or compensation for inactive duty training, then deduct the gross amount of such pay or compensation from the next installment of VSI due before computing tax withholding.

* D. Do not pay any further installments to a former member who fails to continue to serve in the Ready Reserve or whose Reserve Personnel Activity certifies that the member was transferred to the Standby or Retired Reserve through fault of the member. The VSI installments terminate on the date of separation from the Reserve Component or transfer to the Retired Reserve. Collect on a pro-rata basis any unearned portion of the member's VSI from the date of the member's failure to maintain Reserve affiliation through the date the next installment would have been due.

Example: A member separated on July 31, 1995, with annual VSI entitlement of \$7,500. Effective November 30, 1995, the member is separated from his Reserve unit because of usage of illegal drugs. The unearned portion of the VSI is 8/12 of \$7,500 or \$5,000. Establish a debt against the member in that amount.

If the member becomes ineligible to serve for any of the following reasons, then the VSI installments continue for the remaining period authorized if:

1. The separation or transfer is required by reason of the age or number of years of service of the member; or

2. The separation or transfer is required by reason of failure of selection for promotion or medical disqualification of the member, except in a case in which the Secretary of Defense or Secretary of Transportation determines that the basis of the separation or transfer is a result of a deliberate action by the member with intent to avoid retention in the Ready Reserve or Standby Reserve; or

3. In the case of separation, the member is separated from the Reserve Component for appointment or enlistment in or transfer to another Reserve Component of an Armed Force for service in the Ready Reserve or Standby Reserve of that Armed Force.

E. In the event a member becomes eligible for retired or retainer pay concurrently with annual VSI payments, both entitlements may continue to be paid (see Volume 7B, Chapter 4, subparagraph 040603.B). Retired/retainer pay is offset according to subparagraph 350902.A.

350903. Death

Upon the death of the member, VSI annual payments continue for the remaining period of the entitlement. Make the payment to the beneficiary as designated by the member or as otherwise provided by law (see section 3602). See Volume 7B, Chapter 23, subparagraph 230403, for beneficiary payment procedures.

350904. Transfer or Assignment

The member may not transfer or assign the right to VSI payments to any person or entity, except as indicated in paragraph 350903.

3510 VOLUNTARY SEPARATION PAY (VSP)

351001. Entitlement

A member who separates voluntarily may, under conditions prescribed by the Secretaries of the Military Departments concerned, be paid a VSP. The authority to separate a member in conjunction with VSP applies for the period October 17, 2006 through December 31, 2018.

351002. Eligibility

The Secretaries of the Military Departments may offer a member the opportunity to apply for VSP if the member:

A. Has served on active duty or full-time National Guard for more than 6 years but less than 20 years; or

B. Has served at least 5 years of continuous active duty or full-time National Guard duty immediately preceding the date of separation from active duty; or

C. Has not been approved for payment of voluntary separation incentive under section 3509 (10 U.S.C. 1175); or

D. Upon separation is not immediately eligible for retired or retainer pay based upon his/her military service; or

E. Meets such other requirements as the Secretaries of the Military Departments may prescribe, which may include requirements relating to years of service; skill; rating; military specialty; or competitive category, grade, or rank; remaining period of obligated service; or any combination of these factors; or

F. Requests separation from active duty or full-time National Guard duty.

351003. Initial Term of Obligated Service

Effective January 1, 2009, the member is required to complete the initial term of obligated service in addition to meeting requirements in paragraph 351002 prior to separation. Prior to January 1, 2009, a member's obligation to complete an initial term of obligated service before separation will be subject to the discretion of the Secretaries of the Military Departments. For the purpose of this section, "initial term of obligated service" means the initial period of required active-duty service incurred upon commissioning or enlistment, together with any additional period of required active-duty service incurred during the initial period of required active-duty service.

351004. Ineligible for VSP

The Secretaries of the Military Departments will not offer a member the opportunity to apply for VSP if a member:

- A. Does not meet any of the eligibility requirements of paragraph [351002](#); or
- B. Is discharged with disability severance pay under section [3505](#) (10 U.S.C. 1212); or
- C. Is transferred to the temporary disability retired list under 10 U.S.C. 1202 or 1205; or
- D. Is being evaluated for disability retirement under 10 U.S.C. chapter 61; or
- E. Had previously been discharged with VSP; or
- F. Is subject to pending disciplinary action or is subject to administrative separation or mandatory discharge under any other provision of law or regulation.

351005. Application for VSP

A member may request and subsequently enter into a written agreement with the Secretary of the Military Department concerned to separate from active duty or full-time National Guard duty and accept an appointment or enlistment in, or transfer to, the Ready Reserve of a Reserve Component for a period of not less than 3 years, as a condition of receipt of VSP and benefits.

351006. Approval for VSP

The Secretary of the Military Department will determine each year the number of military members to be separated, and provided separation pay and benefits during the fiscal year beginning in such year. Eligible members will not be automatically entitled to receive VSP based solely upon request. The Secretaries of the Military Departments will review all applications for voluntary separation and approve only those that meet the needs of the Military Departments. A member whose request is approved will be separated from active duty.

351007. Computation of VSP

A. The Secretary concerned will specify the amount of VSP to be paid to an individual, but the amount may not be greater than four times the full amount of separation pay that a member of the same pay grade and years of service would receive for an involuntary separation under 10 U.S.C. 1174.

B. Compute years of active service according to the formula in subparagraphs [350303.B](#), [D](#), [E](#), and [F](#). Do not count any period of prior military service for which the member has received separation pay under any provision of law relating to members of the Uniformed Services. When computing partial years of service, round the fractional parts of a year to the nearest 1/10 of 1 percent or 3 decimal points. For example, if the officer has 10 years and 7 months of service, then the multiplier would be 10.583.

351008. Payment

VSP will be paid in a lump sum payment. The VSP gross amount cannot be greater than the amount computed in paragraph [351007](#).

351009. Repayment of VSP When a Member Qualifies for and Receives Retired Pay

A. A member who is paid VSP and later qualifies to receive retired pay will have deducted from each payment of such retired pay a monthly installment as specified by the Secretaries of the Military Departments. The total amount of retired pay deductions will equal the gross VSP amount paid to the member. More information can be found in [Volume 7B](#), Chapter 4, section 0408.

B. The requirement to repay VSP following retirement from the Armed Forces does not apply to a member who is eligible to retire at the time the member applied for and was accepted for VSP benefits.

C. The Secretaries of the Military Departments may waive the requirement to repay VSP if it is determined that recovery would be against equity and good conscience and would be contrary to the best interests of the United States.

D. For exception, see paragraph [351011](#).

***351010.** Veterans Affairs Disability Compensation

A member who received the VSP and subsequently qualifies for disability compensation from the VA is subject to recoupment of the gross amount of VSP paid, less Federal income taxes withheld from such pay. The VA administers the recoupment program for affected members. If the disability for which the member receives VA compensation was incurred or aggravated during a period of later active duty, then no recoupment of VSP is required, regardless of when paid. **In individual cases**, the Secretaries of the Military Departments may waive the requirement to repay the VSP if it is determined that recovery would be against equity and good conscience and would be contrary to the best interests of the United States. **A blanket waiver for all members within a service signed by a service Secretary is not authorized.**

351011. Members Returned to Active Duty

A. Except for the provisions in subparagraphs **351011.B** and **351011.C**, members who return to active duty in a Regular or Reserve Component for 180 days or more will have deducted from each payment of basic pay a monthly installment amount specified by the Secretary of the Military Department concerned. The total amount of basic pay deduction will equal the gross amount of VSP paid to the member.

B. Recoupment will not be required for a member who is involuntarily recalled to active duty or full-time National Guard in accordance with sections 10 U.S.C. 12301(a), (b), (g); 12302; 12303; 12304, or 32 U.S.C. 502(f)(1).

C. Recoupment will not be required for a member who is recalled or performs active duty or full-time National Guard duty, so long as the period of active duty is less than 180 consecutive days with consent of the member in accordance with 10 U.S.C. 101(d)(1), (2), (5); 12301(d); 12319; 12503, or section 32 U.S.C. 114; 115 or 502(f)(2).

D. The **SecDef** may waive, in whole or in part, repayment required under subparagraph **351011.A** if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. Requests for waiver under this authority should be forwarded to the Under Secretary of Defense for Personnel and Readiness.

3511 RETROACTIVE STOP LOSS SPECIAL PAY COMPENSATION

351101. Authority

The Secretaries concerned will provide Stop Loss Special Pay Compensation to members of the Armed Forces, including members of the Reserve Components, and former and retired members under the jurisdiction of the Secretary who at any time during the period beginning on September 11, 2001, and ending on September 30, 2009, served on active duty while subject to 10 U.S.C. 123 or 12305, or any other provision of law (commonly referred to as a “stop loss authority”) authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of

national emergency declared by Congress or the President. This compensation is payable to members:

A. Who served on active duty while the members' enlistment or period of obligated service was extended under a stop loss authority, or

B. Whose eligibility for retirement was suspended under a stop loss authority.

351102. Amount

The amount to be paid to or on behalf of an eligible member, retired member, or former member described in this section will be \$500 per month for each month or portion of a month during the period specified that the member was retained on active duty as a result of application of the stop loss authority.

351103. Limitation

Claims for retroactive Stop Loss Special Pay Compensation under this section will be submitted to the Secretaries concerned no later than October 21, 2012, which is 3 years after the date the implementing rules issued by the [SecDef](#) took effect. The Secretaries concerned may not pay claims that are submitted more than 3 years after the date the implementing rules took effect.

351104. Treatment of Deceased Members

If an eligible member, retired member, or former member, described in paragraph [351101](#), dies before the payment required by this section is made, the Secretaries concerned will make the payment in accordance with 10 U.S.C. 2771.

351105. Exclusion of Certain Former Members

A former member of the Armed Forces is not eligible for a payment under this section if the former member was discharged or released from the Armed Forces under other than honorable conditions.

351106. Relation to Other Stop Loss Special Pay

A member, retired member, or former member may not receive a payment, under this section and section [3510](#), for the same month or portion of a month during which the member was retained on active duty as a result of application of the stop loss authority.

351107. Effect of Subsequent Reenlistment or Voluntary Extension of Service

Effective December 19, 2009, service members, who voluntarily reenlisted or extended their service after their enlistment or period of obligated service was extended, or after their

eligibility for retirement was suspended, and who received a bonus for such reenlistment or extension of service, are not eligible to receive the Retroactive Stop Loss Special Pay.

3512 VOLUNTARY RETIREMENT INCENTIVE

351201. Authority

The [SecDef](#) may authorize the Secretary of a military department to provide a voluntary retirement incentive (VRI) payment to an officer of the armed forces under that Secretary's jurisdiction. Any authority provided the Secretary of a military department will expire as specified by the [SecDef](#), but not later than December 31, 2018. The total number of officers who may be provided a VRI payment may not exceed 675 officers.

351202. Eligible Officers

An officer of the armed forces is eligible for a VRI payment under this section if the officer:

- A. Has served on active duty for more than 20 years, but not more than 29 years, on the approved date of retirement;
- B. Meets the minimum length of commissioned service requirement for voluntary retirement as a commissioned officer in accordance with 10 U.S.C. 3911, 6323, or 8911;
- C. On the approved date of retirement, has 12 months or more remaining on active duty service before reaching the maximum retirement years of active service for the member's grade as specified in 10 U.S.C. 633 or 634;
- D. On the approved date of retirement, has 12 months or more remaining on active duty service before reaching the maximum retirement age under any other provision of law; and
- E. Meets any additional requirements for such eligibility as is specified by the Secretary concerned, including any requirement relating to years of service, skill rating, military specialty or competitive category, grade, any remaining period of obligated service, or any combination thereof.

351203. Ineligible Officers

The following officers are not eligible for a VRI payment under this section:

- A. An officer being evaluated for disability under chapter 61 of title 10; or
- B. An officer projected to be retired under 10 U.S.C. 1201 or 1204; or

C. An officer projected to be discharged with disability severance pay under 10 U.S.C. 1212; or

D. A member transferred to the temporary disability retired list under 10 U.S.C. 1202 or 1205; or

E. An officer subject to pending disciplinary action or subject to administrative separation or mandatory discharge under any other provision of law or regulation; or

F. Any member serving a service related commitment due to an accession or retention bonus program.

351204. Payment

The amount of the VRI payment will be an amount determined by the Secretary concerned, but not to exceed an amount equal to 12 times the amount of the officer's monthly basic pay at the time of the officer's retirement. The amount may be paid in a lump sum at the time of retirement.

351205. Members Returning to Active Duty

A. An officer, who after having received all or part of a VRI under this section, returns to active duty, will have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned will specify, until the total amount deducted equals the total amount of the VRI received.

B. The SecDef may waive, in whole or in part, repayment required under subparagraph [351205.A](#) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interest of the United States. This authority may be delegated only to the Under Secretary of Defense for Personnel and Readiness and the Principal Deputy Under Secretary of Defense of Personnel and Readiness.

C. Members who are involuntarily recalled to active duty or full-time National Guard duty under any provision of law will not be subject to repayment of this incentive.

Table 35-1. Payment of Accrued Leave – Officers and Enlisted Members – Separation Without Immediate Reentry on Active Duty (Note 1)

R U L E	A	B	C
	If a member has been on active duty for 30 or more consecutive days and	and	then accrued leave is
1	is discharged (including as a result of resignation)	separation is under honorable conditions (note 2)	payable (notes 3 and 9).
2	is released from active duty (note 4)		payable (notes 3, 5, 9, and 10).
3	retires		payable (notes 3, 6 and 9).
4	is transferred to Fleet Reserve or Fleet Marine Corps Reserve		
5	is discharged for fraudulent enlistment after completing 6 months of active duty	discharge characterization is under other than honorable conditions	not payable (note 7).
6	is released from duty because of void enlistment or void induction due to erroneous enlistment or defective enlistment after completing 6 months of active duty	discharge characterization is under other than honorable conditions	
7	is discharged from service as a cadet or midshipman at a Military Service academy, or as a midshipman elsewhere		
8	dies on or after August 28, 1965, while on active duty	member is not put to death as lawful punishment for a crime or a military offense	payable to beneficiary with other unpaid pay and allowances as prescribed in section 3602 (notes 8 and 9).
9	receives a discharge that is not characterized before completing six months of active duty	separation is for failure to serve satisfactorily for any reason set forth in subparagraph 350201.E	not payable.
		separation is not for unsatisfactory performance or misconduct for any reason set forth in subparagraph 350201.E	payable.

NOTES:

- Any member who is discharged under other than honorable conditions forfeits all accrued leave.
- If member is discharged or relieved from active duty because of expiration of term of service (ETS), and is under investigation as an alleged security risk, then do not pay accrued leave until investigation is completed and the character of the discharge determined. If discharge is under honorable conditions, then accrued leave may then be paid.
- The period when a member is home awaiting further orders in connection with physical evaluation board proceedings is charged as leave, to the extent that leave is available, beginning with the day after member arrives home or the day after constructive travel time ends, whichever is earlier. Limit payment to accrued leave remaining at time of retirement or discharge. (See note 4 for exception.) Authorized absence under these circumstances in excess of accrued leave is not chargeable as leave.
- A period of active duty as a Reserve or National Guard member meets the 30-day requirement if it covers 30 or more consecutive days, even though it may be directed by more than one order covering unrelated duties.

Table 35-1. Payment of Accrued Leave – Officers and Enlisted Members – Separation Without Immediate Reentry on Active Duty (Note 1)(continued)

NOTES:

5. If a Reserve member is entitled to pay and allowances during a disability period after a specified tour of active duty has expired, then the period after that expiration date is not included in the period for which accrued leave is paid.
6. Member may not take accrued leave in lieu of payment beyond the effective date of retirement.
7. This rule does not apply when an individual inducted or enlisted into the Military Service is discovered by Military Service medical authorities to have been medically unfit for induction at the time of entrance into the Military Service and such individual is released from military control for such reason.
8. Accrued leave is payable retroactive to February 28, 1961 for a member in a missing status whose death is prescribed under [Chapter 34](#), section [3407](#). Payment is made according to [Chapter 34](#), section [3410](#).
9. On and after February 10, 1976, a member may be paid for a maximum of 60 days accrued leave during a military career. See subparagraph [350201.A.3](#) for exceptions.
10. Reserve members may elect to carry forward unused accrued leave to their next period of active duty.

Table 35-2. Payment of Accrued Leave – Officers – Separation With Immediate Reentry on Active Duty

R U L E	A	B	C	D
	If	has been on active duty for 30 or more consecutive days and is	and	then accrued leave is
1	an officer of any Military Service	retired	immediately reenters on active duty	not payable.
2		separated, on a day other than the end of the specified period of active duty, for the purpose of reentering on active duty in any status within any Uniformed Service (note 4)		
3		transferred to a different Uniformed Service by separation and immediate reappointment	immediately enters on active duty with the other Military Service	
4		separated for having failed selection to a higher grade	immediately reenters on active duty in an enlisted status	
5	a Reserve officer of any Military Service	released from active duty under honorable conditions under 10 U.S.C. 12313 or similar laws authorizing release of Reserve officers at convenience of government, not for the purpose of reentering active service	immediately reenters on active duty (including active duty in enlisted or warrant officer status) for the purpose of retirement	payable (note 3).
6		released from active duty under honorable conditions at end of a specified period of time member agreed to serve or was obligated to serve (notes 2 and 4)	immediately reenters on active duty (note 4)	payable (note 3 and 5).
7	a commissioned officer of any Military Service, who simultaneously holds a warrant officer appointment	released from active duty as a commissioned officer	reverts to warrant officer status and continues on active duty	not payable.
8	a temporary officer of the Navy or Marine Corps whose enlistment has expired	reverted to enlisted status and simultaneously discharged	immediately reenlists	payable at rate of pay of rank held at time of reversion (note 3).

NOTES:

- Officers who, after notification of an impending discharge, resign for the purpose of continuing a military career, are not entitled to payment of accrued leave.
- A Reserve officer, who remains on active duty beyond expiration date of initial obligation while awaiting Regular officer appointment, is not entitled to payment of unused accrued leave as the separation to accept the appointment is not considered to be at the end of a specified period. The officer must be separated on the expiration date of the initial obligation for entitlement to exist.
- On or after February 10, 1976, a member may be paid for a maximum for 60 days of accrued leave during a military career. See subparagraph 350201.A.3 for exceptions.
- A National Guard member serving on active duty under Title 10 or Title 32, U.S. Code, who is ordered to active duty under the other title (Title 10 or Title 32), is considered to have met the obligated service period for which the member agreed to serve (for the purposes of accrued, unused leave payment only), regardless of the unexpired time remaining on that Title 10 or Title 32 obligation. The member is not considered separated for the specific purpose of reenlisting or reentering active duty. Accrued unused leave is payable.
- Reserve members may elect to carry forward unused accrued leave to their next period of active duty.

*Table 35-3. Payment of Accrued Leave – Enlisted Members – Separation With Immediate Reentry on Active Duty

R U L E	A	B	C	D
	If an enlisted member	has been on active duty for 30 or more consecutive days and	and	then accrued leave is (note 1)
1	of any Military Service	on or after October 5, 1999, is discharged for the specific purpose of enlisting or reenlisting (note 5)	immediately reenlists or immediately reenters on active duty	payable.
2		prior to October 5, 1999, is separated under honorable conditions upon expiration of enlistment or is released from active duty under honorable conditions at the end of a specified period of time or was obligated to serve (notes 2, 4 and 6)		
3		prior to October 5, 1999, is separated before expiration of normal term of service or obligated period of duty for the specific purpose of enlisting or reenlisting (notes 3 and 6)		not payable.
4		is discharged for the purpose of accepting a commission or appointment as a warrant officer in any Uniformed Service		
5		enlistment is extended		
6		extension of enlistment is canceled before or during service under the extension		
7		is retired	continues on or is recalled to active duty	not payable.
8		accepts an appointment as a cadet or midshipman without being discharged from enlisted status	enters on duty as a cadet or midshipman	payable as though member was discharged on day before date appointment was accepted.
9	inducted under the Universal Military Training and Service Act, or enlisted in the Regular Army under that Act	is separated under honorable conditions at the end of the period member is required to serve	immediately enlists or reenlists	payable.
10	of the Army or Air Force who has more than 20 but less than 30 years' service	is retired and transferred to the Reserve Component of member's Military Service	is immediately ordered into active service	not payable.
11	of the Navy or Marine Corps	is transferred to the Fleet Reserve or Fleet Marine Corps Reserve	continues on active service without a break in active service	

Table 35-3. Payment of Accrued Leave – Enlisted Members – Separation With Immediate Reentry on Active Duty (continued)

NOTES:

1. On or after February 10, 1976, a member may be paid for a maximum of 60 days of accrued leave during a military career. See subparagraph 350201.A.3 for exceptions.
- *2. A member is considered as discharged upon expiration of enlistment if discharged not more than 1 year before the normal expiration date of the enlistment. The date of normal expiration of enlistment is excluded in computing the 1-year period.
3. A member is not considered as having been discharged for the purpose of enlisting or reenlisting if discharge occurs not more than 3 months before the normal expiration of the extension period (effective January 2, 1968). The date of normal expiration of the extension period is excluded in computing the 3-month period.
4. An extension of the active duty obligation does not create an entitlement under this rule.
5. For these purposes, the term “discharge” means separation or release from active duty under honorable conditions, or termination of an enlistment in conjunction with the commencement of a successive enlistment (without regard to the date of the expiration of the term of the enlistment being terminated).
6. A National Guard member serving on active duty under Title 10 or Title 32, U.S.C., who is ordered to active duty under Title 10 or Title 32, is considered to have met the obligated service period for which the member agreed to serve (for the purposes of accrued unused leave payment only), regardless of the unexpired time remaining on that Title 10 or Title 32 obligation. The member is not considered separated for the specific purpose of reenlisting or reentering active duty. Accrued unused leave is payable.

Table 35-4. Payment of Accrued Leave – Enlisted Members – Extension of Enlistment: Discharge and Reenlistment Before Extension is Completed

R U L E	A	B	C	D
	If an enlisted member of	has been on active duty for 30 or more consecutive days and	and member	then accrued leave is (note 1)
1	any Military Service	enlistment is involuntarily extended	continues on active duty in extension period	not payable until discharge.
2		voluntarily first extends enlistment, regardless of duration of extension		payable on day before effective date of extension (leave accrued during extension is paid on discharge after extension is completed) (note 2).
3	any Military Service, whose enlistment has been involuntarily extended	is separated under honorable conditions upon expiration of the involuntary extension of enlistment	immediately reenlists	payable.
4		is separated under honorable conditions, before extension period expires, for purpose of reenlisting		
5	any Military Service, who has voluntarily extended enlistment	prior to October 5, 1999, extension is canceled before service under it begins and member is discharged under honorable conditions at normal expiration of enlistment		not payable.
6		prior to October 5, 1999, extension is canceled after service under it begins and member is discharged under honorable conditions, for purpose of reenlisting		
7		on or after October 5, 1999, extension is canceled after service under it begins and member is discharged under honorable conditions, for purpose of reenlisting		

NOTES:

1. On and after February 10, 1976, a member may be paid for a maximum of 60 days of accrued leave during a military career. See subparagraph [350201.A.3](#) for exception.
2. No payment can be made on second or subsequent extensions.

Table 35-5. Computation of Accrued Leave Payment (Note 1)

R U L E	A	B	C			
	If member is entitled to accrued leave payment under Table 35-1, 35-2, 35-3, or 35-4, and is an	and member has	the complete payment for the number of days accrued leave, but not more than 60 in a military career, to include: (note 2)			
			Basic Pay (note 3)	Basic Allowance for Subsistence (BAS) (note 1)	Basic Allowance for Housing (BAH) (note 1)	Personal Money Allowances (note 1)
1	enlisted member in pay grades E-5 to E-9	dependents (note 4)	at rate applicable on date of separation (note 5)	70 cents per day	\$1.25 per day	none.
2		no dependents			none	
3	enlisted member in pay grades E-1 to E-4					
4	officer	dependents (note 4)	at rate applicable on date of separation (prorate for number of days of accrued leave)	at rate contained in Chapter 10, JTR for member with dependents on date of separation (notes 5 and 6)	if officer was receiving this allowance on date of separation (limited to allowances listed in chapter 31). Compute at rate payable on that date (note 5).	
5		no dependents				at rate contained in Chapter 10, JTR for member without dependents on date of separation (notes 5 and 6)

NOTES:

1. Cash settlement of leave accrued as of August 31, 1976 will be on the basis of basic pay, BAS, BAH-II, and Personal Money Allowance, as appropriate. Cash settlement of leave accrued on and after September 1, 1976 will be on the basis of basic pay only for all grades, officer and enlisted. See subparagraph 350202 for examples.
2. When the final leave balance includes a one-half day total, compute the amount to be paid by crediting the member with one-half of a day entitlement. Round the total to the nearest penny.
3. Do not include in basic pay the 25-percent increase authorized certain Navy and Marine Corps members retained beyond normal ETS.
4. A dependent on active duty is not considered a dependent in determining right to BAH.
5. Date of separation is date of: discharge; release from active duty; transfer to Reserve; or death; day before effective date of retirement; day before date of appointment as cadet or midshipman; or day before effective date of extension of enlistment.
6. Pay BAH even though the member is not receiving BAH on date of separation because public quarters are occupied or available.

Table 35-6. Separation Pay Entitlement and Computation

R U L E	A	B	C
	If a member is	and is involuntarily discharged or released from active duty because of (note 1)	then compute separation pay at
1	an officer (notes 2 and 3)	failure to be selected for promotion (note 4)	10 percent of 12 months of basic pay multiplied by years and fractions of a year based on additional full months of active service.
2	a warrant officer separated during the 3-year probationary period	failure to be selected for promotion	
3	a warrant officer	second failure to be selected for promotion and does not enlist or the request to enlist is denied and is not retained on active duty in grade above W-4	
4	a Reserve member	non-selection for an additional tour of active duty for which member volunteered unconditionally	
5	a chaplain	failure to maintain professional qualifications	
6	a Reserve member	separation at any time prior to the completion of a specified period of active duty or indefinite period of active duty except separations for reasons shown in rules 8 and 9	
7	a warrant officer or Reserve officer	age (notes 6 and 7)	one half of 10 percent of 12 months of basic pay multiplied by years and fractions of a year based on additional full months of active service.
8	an officer or Reserve enlisted member (note 5)	substandard performance of duty, moral or professional dereliction, unfitness or unsatisfactory performance, misconduct, unsuitability, drug abuse, to include drug rehabilitation failure, inability to perform prescribed duties, repetitive absenteeism, non-availability for worldwide assignment as a result of parenthood, or retention is not consistent with the interest of national security	
9	an officer	written notification that member must show cause for retention and who subsequently requests discharge or release from active duty	

NOTES:

1. Includes member's acceptance of an earlier release before the scheduled involuntary separation date, as directed by the Secretary of the Military Service concerned.
2. Includes a Regular commissioned officer with less than 5 years of commissioned service.
3. Includes a Regular officer continued on active duty pursuant to 10 U.S.C. 637(a) or a Reserve officer continued on active duty after failure to be selected for promotion, upon expiration of the period of continuation on active duty, or upon separation if continuation is declined.
4. Includes officer not found qualified for promotion to grade of First Lieutenant or Lieutenant Junior Grade.
5. A warrant officer who is eliminated for unfitness or unsatisfactory performance of duty and elects to enlist is not entitled to separation pay.
6. Includes members separated after expiration of Secretarial retention period.
7. If the member is eligible for voluntary retirement, then the member is not entitled to separation pay even though the member does not apply for retirement concurrently with release from active duty.

*Table 35-7. Entitlement to Discharge Gratuity

R U L E	A	B	C	D	E	F
	If	is	and	and	and	then
1	an enlisted member of any Military Service	a prisoner released from confinement in a military or contract prison to parole, appellate review leave, or expiration of sentence			has less than \$25 in possession	pay the member the difference between funds in possession and \$25 (note).
2		discharged for fraudulent enlistment	discharge is not for returning member to another branch of the Armed Forces on account of absence without authority from that branch	the member is present to receive the discharge		
3		discharged under other than honorable conditions				
4		discharged from active duty because of void enlistment				
5		an enlisted member of any Military Service	discharged from active duty because of void enlistment	enlistment is void because contracted when member was mentally incompetent		
6	discharged for minority with pay and allowances payable through date of discharge					

NOTE:

Funds in the member's possession include personal funds and any item paid at the time of discharge or release, excluding mileage and cash advanced incident to furnishing transportation in kind.

*BIBLIOGRAPHY

CHAPTER 35 – SEPARATION PAYMENTS

3502 ACCRUED LEAVE PAY

350201.A	37 U.S.C. 501 Public Law 94-419, September 22, 1976 Public Law 94-361, July 14, 1976
350201.A.3	Public Law 110-181, section 551, January 28, 2008 PDUSD (P&R) Memo, June 24, 2008
350201.A.4.b	Public Law 107-107, section 651, December 28, 2001
350201.A.4	37 U.S.C. 501(b)(5)
* 350201.B	10 U.S.C. 706
350201.C	Public Law 98-525, October 19, 1983 OASD Memo, February 8, 1985 OASD(C-DFAS) Item A-16, April 8, 1991 37 U.S.C. 501(e)(1)
350201.D	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011 37 U.S.C. 501(e)(1)
350201.E	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011
350202	Public Law 94-361, July 14, 1976 OASD(C-DFAS) Item A-16, April 8, 1991
350202.A	OASD(MPP) Memo, January 8, 1998
350202.A.4	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011
350202.B	Public Law 110-181, section 551, January 28, 2008 PDUSD (P&R) Memo, June 24, 2008 Public Law 111-84, section 504, October 28, 2009 Public Law 112-239, section 521, January 2, 2013
350202.B.1	OUSD (P&R) Memo, September 30, 2004 PDUSD (P&R) Memo, June 24, 2008
350202.B.2	Public Law 109-163, section 682, January 6, 2006 OUSD (P&R) Memo, April 7, 2006
350202.B.4	Public Law 111-383, section 516, January 7, 2011 DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011
350202.B.5	OUSD (P&R) Memo, September 30, 2004
350202.B.5.b	PDUSD (P&R) Memo, June 24, 2008

350202.C	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011 DoDI 1327.06, June 16, 2009 DoDI 1327.06, April 22, 2005 DFAS Memo, February 19, 1997
350203	26 U.S.C. 112 IRS Rev. Rule 73-343 as amplified by IRS Rev. Rule 73-187 Public Law 104-117, March 20, 1996 26 CFR 1.112-1 (b) (2)
350204	5 U.S.C. 5514 34 Comp Gen 504
350205	37 U.S.C. 501(d) Public Law 102-25, section 309, April 6, 1991
350205.B	Public Law 101-510, section 1115, November 5, 1990 OASD(FM&P) Memo, February 15, 1991 Public Law 102-25, section 314, April 6, 1991
3503 SEPARATION PAY (NONDISABILITY)	
350301-350203	DoD Instruction 1332.29, September 20, 2011
350301.A	Public Law 103-160, section 501, November 30, 1993 10 U.S.C. 1174 (a) (1)
350301.B	Public Law 110-317, sec 3 and 10, August 29, 2008 Public Law 111-84, sec 617, October 28, 2009
350301.C.3.a.(7)	OASD(FM&P) Memo, March 10, 1992
350302.M	Public Law 106-398, section 508, October 30, 2000 10 U.S.C. 1174(a)
350302.N	Public Law 106-398, section 508, October 30, 2000 10 U.S.C. 1174(c) 39 Comp Gen 223, 226
350304 and 350305	DoD Instruction 1332.29, September 20, 2011
350305.B and C	Public Law 104-201, section 653, September 23, 1996
3504 READJUSTMENT AND SEVERANCE PAY (OTHER THAN DISABILITY)	
350401	Public Law 96-513, December 12, 1980
350401.B	Public Law 96-513, December 12, 1980 Public Law 98-525, October 19, 1984
350404.A	36 Comp Gen 390
350404.B	39 Comp Gen 223
350404.C	43 Comp Gen 240
350404.D	36 Comp Gen 129

350404.E	37 Comp Gen 357
3505	DISABILITY SEVERANCE PAY
350501	10 U.S.C. 1203, 1206, 1217
350502	34 Comp Gen 65
350503.A	10 U.S.C. 1212 Public Law 110-181, section 1646 January 28, 2008
350503.B	10 U.S.C. 1208, 1212 39 Comp Gen 291 Public Law 110-181, section 1646 January 28, 2008
350503.C	10 U.S.C. 1212
350503.C.2	38 Comp Gen 268
350503.C.3	46 Comp Gen 17
350503.C.4	Public Law 107-107, section 593, December 28, 2001
350503.D	10 U.S.C. 12733
350503 NOTE	DoDI 1215.07, January 24, 2013
350504	26 U.S.C. 104 St. Clair v. U.S. 778 F. Supp 894
350506	10 U.S.C. 1212(c) Public Law 104-201, Section 653, September 23, 1996 Public Law 110-181, section 1646 January 28, 2008
350506.B	10 U.S.C. 1212(d)(3)
350507	10 U.S.C. 1213
3506	CONTRACT CANCELLATION PAY AND ALLOWANCES
350601	10 U.S.C. 12312
3508	SPECIAL SEPARATION BENEFIT (SSB)
350801.A	10 U.S.C. 1174a(c)(2), as amended by Public Law 102-484, Section 4422(a), October 23, 1992 Public Law 103-160, section 502, November 30, 1993
350801.B	10 U.S.C. 1174(e) 10 U.S.C. 1174a(g)
350801.C	10 U.S.C. 1174a(c)(3) and (4), as amended by Public Law 102-484, section 4422(a), October 23, 1992
350801.D	10 U.S.C. 1174(e)(2)(D)

350801.E	10 U.S.C. 1174a(g) 10 U.S.C. 1174a(e)(5) Atch to OASD(FM&P) Memo, January 2, 1992, para C.1.d
350801.F	10 U.S.C. 1174a(e)
350801.G	10 U.S.C. 1174(e)(1)(A)
350801.H	10 U.S.C. 1174a(g) 10 U.S.C. 1174(e)(2)(c)
350802	10 U.S.C. 1174a(g) 10 U.S.C. 1174a(b)(2)(A) Public Law 103-139, section 8127, November 11, 1993
350802.A	10 U.S.C. 1174a(g) 10 U.S.C. 1174(f) Atch to OASD(FM&P) Memo, January 3, 1992, Para C.4.b.(1).
350802.B	DoDPM Para 70104a
350802.C	DoDPM para 70702b
350802.D	DoDPM para 70202
350803.A	10 U.S.C. 1174(h)(1) 10 U.S.C. 1174a(g)
350803.B	10 U.S.C. 1174(h)(2) 10 U.S.C. 1174a(g) Public Law 104-201, Section 653, September 23, 1996
350803.C	Atch to OASD(FM&P) Memo, January 3, 1992, para C5c
350803.E	Public Law 103-335, section 8106a, September 30, 1994, amended by Public Law 104-6, section 105, April 10, 1995 ASD(FMP) Memo, February 6, 1995
350804	Public Law 106-398, section 571(b), October 30, 2000
3509	VOLUNTARY SEPARATION INCENTIVE (VSI)
350901.A	10 U.S.C. 1175(b)(1), as amended by Public Law 102-484, section 4422(b), October 23, 1992 Atch to OASD(FM&P) Memo, January 3, 1992, Para C1a
350901.A.2	Public Law 103-160, section 502, November 30, 1993
350901.B	Atch to OASD(FM&P) Memo, January 3, 1992, Para C1a
350901.C	10 U.S.C. 1175(b)(2), as amended by Public

350901.D	Law 102-484, section 4422(b), October 23, 1992 Atch to OASD(FM&P) Memo, January 3, 1992, Para C1c
350901.E	10 U.S.C. 1175(b)(3)
350901.F	10 U.S.C. 1175(a)(2) Atch to OASD(FM&P) Memo, January 3, 1992 Para C2
350901.G	Public Law 105-261, section 563, October 17, 1998 10 U.S.C. 1175(a)
350902.A	10 U.S.C. 1175(e)(1) Atch to OASD(FM&P) Memo, January 3, 1992, Para C4a(1)
350902.B	OASD(FM&P) Memo, January 3, 1992, Para C4a(3)
350902.C	10 U.S.C. 1175(e)(5) Atch to OASD(FM&P) Memo, January 3, 1992, Para C5b
350902.D	Public Law 103-139, section 8127, November 11, 1993
350902.E	26 U.S.C. 3402(i)
350902.F	Public Law 100-180, section 633, December 4, 1987
350902.G	42 U.S.C. 409(d)
350903.A	10 U.S.C. 1175(e)(3)
350903.B	10 U.S.C. 1175(e)(4)
350903.C	10 U.S.C. 1175(e)(2), as amended by Public Law 102-484, section 4406, October 23, 1992
350903.D	10 U.S.C. 1175(f)
350903.E	10 U.S.C. 1175(e)(3)(B)
350903.F	Public Law 103-335, section 8106a, September 30, 1994, amended by Public Law 104-6, section 105, April 10, 1995
350906	ASD(FMP) Memo, February 6, 1995 Public Law 106-398, section 571(b), October 30, 2000

3510 VOLUNTARY SEPARATION PAY (VSP)

	USD (P&R) Memo, January 8, 2007 10 U.S.C. 1175a DoDI 1332.43, February 26, 2014
351001	10 U.S.C. 1175a(a) 10 U.S.C. 1175a(k)(10)
351002	10 U.S.C. 1175a(b)

351004	10 U.S.C. 1175a((b)(2)
351005	10 U.S.C. 1175a(d)
351006	10 U.S.C. 1175a(d)
351007	10 U.S.C. 1175a(f)
351008	10 U.S.C. 1175a(g)
351009	10 U.S.C. 1175a(h)
351010	10 U.S.C. 1175a(h)(2)
351011	10 U.S.C. 1175a(j)

3511 RETROACTIVE STOP LOSS SPECIAL PAY COMPENSATION

Public Law 111-32, section 310
June 24, 2009

OUSD (P&R) Memo, September 23, 2009

Public Law 111-32, section 310, June 24, 2009,
amended by Public Law 112-10, section 8111,
April 15, 2011 and Public Law 112-74, section
8105, December 23, 2011

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Public Law 111-118, section 8108(d),
December 19, 2009

OUSD (P&R) Memo, January 5, 2010.

3512 VOLUNTARY RETIREMENT INCENTIVE

Public Law 112-81, sec 504, December 31, 2011
10 U.S.C. 638b

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Note 9	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011
Rule 7	37 U.S.C. 504
Rule 8	37 U.S.C. 501(a)(1)(c)
Note 2	32 Comp Gen 348
Note 3	43 Comp Gen 802
Note 7	Public Law 92-596, October 27, 1972
Note 8	Public Law 94-361, July 14, 1976
Rule 9	DoDI 1332.14, August 28, 2008

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Rule 1	30 Comp Gen 328
Rule 2	31 Comp Gen 387 Public Law 94-361, July 14, 1976
Rule 3	10 U.S.C. 716 DoD Directive 1300.4, April 2, 1984

	Rule 4	31 Comp Gen 668
	Rule 6	35 Comp Gen 25
	Note 2	MS Comp Gen B-176858, December 12, 1973
	Note 3	Public Law 94-361, July 14, 1976
	Note 4	OASD(FM&P) Memo, December 10, 1991
	Note 5	DoDI 1327.06, June 16, 2009, Incorporating Change 1, September 30, 2011
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	Rule 1	Public Law 106-65, section 671, October 5, 1999
*	Rule 2	10 U.S.C. 1171
	Rule 8	36 Comp Gen 334
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	Note 2	10 U.S.C. 1171 30 Comp Gen 280 42 Comp Gen 399
	Note 3	10 U.S.C. 1171 30 Comp Gen 280 42 Comp Gen 399
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	Rule 2	37 U.S.C. 906 48 Comp Gen 127
	Rule 4	30 Comp Gen 531
	Rule 5	42 Comp Gen 447 MS Comp Gen B-150737, March 27, 1963
	Rule 6	42 Comp Gen 447 MS Comp Gen B-150737, March 27, 1963
	Rule 7	Public Law 106-65, section 671, October 5, 1999
	Note 1	Public Law 101-510, section 1115, November 5, 1990 OASD(FM&P) Memo, February 15, 1991 Public Law 94-419, September 22, 1976
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	Rule 7	10 U.S.C. 1164, 3843, 3844, 3845, 6383(i), 6391, 8843, 8844, and 8845
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Rule 1	10 U.S.C. 956
Rule 2	10 U.S.C. 1048
Rule 3	39 Comp Gen 860
Rule 4	39 Comp Gen 742
Rule 5	39 Comp Gen 860