

VOLUME 7A, APPENDIX B: “DISPOSITION OF FORFEITURES AND FINES AS A RESULT OF COURTS-MARTIAL, NONJUDICIAL PUNISHMENT, AND DESERTION”

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 [May 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	This chapter is certified as current.	Current

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APPENDIX B

DISPOSITION OF FORFEITURES AND FINES AS A RESULT OF COURTS-MARTIAL, NONJUDICIAL PUNISHMENT, AND DESERTION

B001 GENERAL

B00101. Purpose

This appendix describes the transfer of certain forfeitures and fines as a result of courts-martial, nonjudicial punishment, and desertion to the Armed Forces Retirement Home Trust Fund (AFRHTF).

B00102. Authoritative Guidance

The policy prescribed in this appendix was prepared in accordance with applicable statutes, regulations, and other guidance referenced throughout the appendix. The primary authoritative source is [Title 10, United States Code \(U.S.C.\), section 2772](#). To ensure accuracy and completeness, a reference page listing the authoritative sources that support this appendix is provided at the end of the appendix. The references are listed in the order they appear in the appendix.

B002 SCOPE

This appendix applies to each Defense Finance and Accounting Service (DFAS) Site that maintains a military pay system and to limited-duty officers, regular and Reserve warrant officers, and regular and Reserve enlisted members of the Army, Navy, Air Force, and Marine Corps.

B003 GENERAL POLICY

The Chief Operating Officer (COO) for the Armed Forces Retirement Home (AFRH) determines, on the basis of the financial needs of the AFRH, a percentage of forfeitures and fines adjudged by courts-martial and nonjudicial punishment, and amounts forfeited on account of desertion against limited-duty officers, warrant officers, and enlisted members to be transferred to the AFRHTF. The COO has determined that 100 percent of all forfeitures and fines will be transferred to the AFRHTF. Transfer only those amounts that are in excess of any indebtedness to the United States and amounts owed to individuals. For the purpose of this appendix, the term “indebted” or “debt” refers to amounts due from the member for reimbursement to the United States.

Example: An amount due the Internal Revenue Service pursuant to a tax levy, which may ordinarily be thought of as a “debt” to the United States, is not a “reimbursement” or “debt” for purposes of this appendix. The term “amounts owed to individuals” refers to amounts owed from a member’s pay by direction of a commanding officer, pursuant to [10 U.S.C. § 939](#), or Article 139 of the Uniform Code of Military Justice.

B004 PROCEDURES

B00401. Transfer of Fines

When a limited-duty officer, warrant officer, or enlisted member is sentenced by a court-martial or nonjudicial punishment to pay a fine, the DFAS Site will transfer the amount to the AFRHTF within 30 days from the end of the month in which the fine was collected.

B00402. Transfer of Courts-Martial and Nonjudicial Punishment Forfeitures

When a limited-duty officer, warrant officer, or enlisted member is sentenced to forfeit all or part of his/her pay, the DFAS Site will transfer the amount to the AFRHTF within 30 days from the end of the month in which the forfeiture is collected. Multiple-month forfeitures, or forfeiture amounts which are collected over 2 or more months, will be transferred on a monthly basis to the AFRHTF. Do not wait until the entire amount of the forfeiture has been collected before making such transfers.

Example: A member is sentenced to forfeiture of pay of \$500 per month for 2 months, and the effective date of the forfeiture is November 29. The transfer would be \$33.33 (\$500 divided by 30 days, times 2 days left in the month) no later than December 30; \$500 (\$500 divided by 30 days times 30 days) no later than January 30; and \$466.67 (\$500 divided by 30 days times 28 days left uncollected) no later than March 2, into the AFRHTF.

B00403. Transfer of Courts-Martial and Nonjudicial Punishment Forfeitures When Indebted to the Government

When a limited-duty officer, warrant officer, or enlisted member is sentenced to forfeit all or part of his/her pay, and the member is indebted to the Government, the DFAS Site will not transfer any amounts to the AFRHTF until all known debts have been established. Any forfeiture amounts exceeding the uncollected indebtedness will be transferred to the AFRHTF. All amounts collected thereafter, not to exceed the total amount of the forfeiture, will be transferred to the AFRHTF.

Example 1: A member has a forfeiture of \$200 per month for 2 months, with outstanding debts totaling \$300. Transfer \$100 to the AFRHTF only after the first \$300 of forfeitures has been collected.

Example 2: If the debt is \$500 and forfeiture is \$600, then the DFAS Site will transfer the difference of \$100 to the AFRHTF.

Example 3: If the debt is \$800 and forfeiture is \$500, then no amounts will be transferred to the AFRHTF at this time. If subsequent collection recovers \$700, then the first \$300 (\$800 indebtedness minus \$500 forfeiture) collected will be credited to the applicable military personnel appropriation, and the next \$400 received will be credited to the AFRHTF.

B00404. Indebtedness After Forfeiture Becomes Effective

Debts incurred by a limited-duty officer, warrant officer, or enlisted member after a sentence has been executed, and before credit of the forfeiture to the AFRHTF, do not affect the disposition of the forfeiture. The forfeiture will be credited to the AFRHTF as if the indebtedness did not exist.

B00405. Remission of Indebtedness

If a forfeiture of a limited-duty officer, warrant officer, or enlisted member is not credited to the AFRHTF due to outstanding debts, and the unliquidated portion of the debts is thereafter remitted or canceled, then the DFAS Site will not credit the forfeiture that equals the amount of indebtedness remitted or canceled to the AFRHTF. It remains in the military personnel appropriation.

B00406. Commissioned Officers

The DFAS Site will credit forfeitures and fines of Regular and Reserve commissioned officers (except warrant and limited-duty officers), to the appropriation to which the member's pay is properly chargeable.

B00407. Forfeitures as a Result of Desertion

When a limited-duty officer, warrant officer, or enlisted member is declared a deserter, the amount of forfeitures on account of the desertion will be credited to the AFRHTF. For the purpose of this paragraph, the phrase "forfeitures on account of the desertion" refers to all pay and allowances due and unpaid at the time of a member's desertion that are automatically forfeited when a member is determined to be a deserter.

B00408. Transfer of Desertion Forfeitures

The DFAS Site will transfer desertion forfeitures according to the procedures in paragraph B00402.

REFERENCES

APPENDIX B - DISPOSITION OF FORFEITURES AND FINES AS A RESULT OF COURTS-MARTIAL, NONJUDICIAL PUNISHMENT, AND DESERTION

B003 GENERAL POLICY

10 U.S.C. § 2772(b)

B004 – PROCEDURES

B00401

10 U.S.C. § 2772

B00407

10 U.S.C. § 2772(a)(2)

United States v. Landers, 92 U.S. 77 (1876)

Comptroller General B-145618, May 11, 1961