

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 [September 2013](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
B00101 B00102	Inserted paragraphs to further define the General Section.	Addition

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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**

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

B002 SCOPE

The 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 for the Armed Forces Retirement Home determines, on the basis of the financial needs of the Armed Forces Retirement Home, 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 Chief Operating Officer 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 purposes of this appendix, the term “indebted” or “debt” refers to amounts due from the member for reimbursement to the United States; for 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 [*Title 10 United States Code \(U.S.C.\), Section 939, 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. For example, a member is sentenced to forfeiture of pay of \$500 per month for 2 months, and the effective date of the forfeitures 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

A. Separation From Service Not Involved. 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. For example, 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. Transfer the remaining \$300 to the AFRHTF as the debt is collected.

B. Members Who are Separated From the Service. A forfeiture of a limited-duty officer, warrant officer, or enlisted member is not credited to the AFRHTF when the member has unsatisfied indebtedness at the date of separation, except as shown in paragraph B00404. The forfeiture remains in the military personnel appropriation. If the total unsatisfied debt at separation is less than the forfeiture, then credit the difference between the two to the AFRHTF. The DFAS Site will transfer to the AFRHTF the amounts of the debt that subsequently are collected, not to exceed the total amount of the forfeiture. If the unsatisfied debt at separation is more than the forfeiture, then no amounts will be transferred to the AFRHTF at that time. The AFRHTF will receive only those amounts subsequently collected that exceed the difference between the original uncollected debt and the forfeiture amount.

Example 1: If the debt is \$500 and forfeiture is \$600, then the DFAS Site will transfer the difference of \$100 to the AFRHTF. All further collections will be transferred to the AFRHTF.

Example 2: If the debt is \$800 and forfeiture is \$500 at separation, 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 purposes 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.

BIBLIOGRAPHY

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

B003 – GENERAL POLICY

10 U.S.C. § 939

B004 – PROCEDURES

B00401

10 U.S.C. § 939

B00407

10 U.S.C. § 2772(a) (2)

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

Comptroller General B-145618, May 11, 1961