

CHAPTER 2

SUSPENSION OF PAY

***30201. General**

The pay amount of a retiree maybe placed in a suspended (non-payment) status for a definite or indefinite period of time. The pay may be suspended to comply with statutory or regulatory requirements, or Military Department procedures. Such suspension may not necessarily affect continued or future entitlement when the requirements or procedures that were the basis for the suspension no longer apply. When a retired member is missing and there is no information concerning the member's whereabouts, the member's retired pay must be suspended from the date that the member was last known to be alive.

30202. Statutory Requirements

a. The statutes may prohibit the retiree's receipt of concurrent payments, payments after a specific period of time, or payments if a member fails to comply with statutory requirements.

b. A retiree's pay is suspended if the retiree:

- (1) Is recalled to active duty; or
- (2) Request for waiver of retired pay because of:

(a) Award of Department of Veterans Affairs disability compensation or pension payments, or

(b) Military service being used for United States civil service retirement annuity purposes; or

(3) Completes 5 years on the TDRL; or

(4) Fails to report for a required physical examination while on the TDRL or while a member of the Fleet Reserve/Fleet Marine Corps Reserve; or

* (5) Is employed by a foreign government (to include local government units within a foreign country as well as the national government itself) without applicable congressional or secretarial approval; or

(6) Is a retired regular officer selling to Department of Defense or other specified agencies during the 3 years immediately after retirement; or

(7) Is reported to be, or is found to be, mentally incapable of managing his or her own affairs, and no guardian, trustee, or other legal representative has been appointed (see table 3-2-1); or

(8) Is repaying readjustment pay.

30203. Regulatory Requirements:

Retired pay may be suspended if certain

situations exist when regulations prohibit making payments. For example, retired pay is suspended if the retiree requests that the retired pay check be mailed to a country listed in Appendix 1.

30204. Military Department Administrative Requirements

a. Procedures of the Military Departments may suspend retired pays under authority of the head of the retired pay activity, if the retiree fails to take necessary administrative actions on time, or if the retiree declines further payments.

b. Retired pay is suspended if the retiree:

(1) Fails to furnish a required proof of existence;

(2) Fails to notify the cognizant Military Department of an address change and the retiree's current address is unknown;

(3) Refuses to accept further payments;

or

(4) Is potentially being overpaid because there is some doubt concerning entitlement.

c. Retired pay may be suspended if the retiree is repaying government debts or delinquent RSFPP or SBP costs.

30205. Effect of Suspension on Taxable Income, Federal Income Tax Withheld, and Other Actions

a. **Taxable Income and Federal Income Tax Withheld.** The suspension of a retiree's pay account for any reason cited in paragraphs 30202 through 30204 may result in the suspension of any other reporting of taxable income and income taxes withheld. The reporting of taxable income and taxes withheld, if applicable, resumes upon removal of the suspension of pay. See part five, chapter 1 regarding taxable income, tax withheld, and issuance of TD Form W-2P.

b. **Allotment Deductions.** Handle the retiree's allotments according to the respective Military Department's procedures. See part four.

c. **Survivor Annuity Deductions.** Handle the retiree's cost for participation in the Retired Serviceman's Family Protection Plan and/or the Survivor Benefit Plan according to the respective Military Department's procedures. See parts eight, nine and ten.

TABLE 3-2-1			
SUSPENSION OF PAY - STATUTORY REQUIREMENTS			
R U L E	A	B	C
	If a member of the	has pay suspended for	then authority is
1	Army	recall to active duty	10 U.S.C. 3504.
2	Air Force		10 U.S.C. 8504.
3	Navy or Marine Corps		10 U.S.C. 6481. 10 U.S.C. 6482. 10 U.S.C. 6485.
4	Armed Forces	waiver of retired pay in favor of VA compensation or pension	38 U.S.C. 3105.
5		waiver of retired pay in favor of civil service annuity	5 U.S.C. 8332.
6		completion of 5 years on TDRL	10 U.S.C. 1210(h).
7		failure to report for TDRL periodic physical	10 U.S.C. 1210(a).
8	Navy or Marine Corps	failure to report for quadrennial physical examination - Fleet Reserve/ Fleet Marine Corps Reserve	10 U.S.C. 6485(b).
9	Armed Forces	employment by a foreign government without Congressional or Secretarial approval	Public Law 95-105, section 509, 17 Aug 1977; Article 1, section 9, clause 8, United States Constitution.
10		selling to DoD or other specified agencies during the 3 years immediately after retirement - retired regular officer	37 U.S.C. 801(c).
11		being mentally incapable of managing own affairs	37 U.S.C., chapter 11.
12		repayment of readjustment pay	10 U.S.C. 687.