

CHAPTER 47

SURVIVOR BENEFIT PLAN - ANNUITY OVERPAYMENTS4701 CAUSES OF OVERPAYMENTS

470101. Generally, SBP annuity overpayments are caused by:

- A. Failure to reduce annuity by amount of Dependency and Indemnity Compensation (DIC) or social security benefits.
- B. Nontermination of annuity because of ineligibility.
- C. Erroneous computation.
- D. Insufficient or untimely information.
- E. A determination by the Secretary of the Military Department concerned that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

4702 LIABILITY

The annuitant is liable for debts created from the overpayment of an annuity. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under 10 U.S.C. 2774 or 1453 (reference (c)). If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See Chapter 28, Table 28-1 for the collection of member's indebtedness.)

4703 LIQUIDATION OF DEBT

470301. Upon discovery of an overpayment, advise the annuitant of the debt and the method in which the overpayment is being, or may be, liquidated. The debt may be liquidated by:
- A. The annuitant making direct remittance to the DFAS-Denver Center.
 - B. The annuitant authorizing the Department of Veterans Affairs to reduce DIC and remit the amount collected to the DFAS-Denver Center.
 - C. The DFAS-Denver Center reducing later SBP annuity payments.

4704 WAIVER OF INDEBTEDNESS

When applicable, the DFAS-Denver Center advises the annuitant of the right to request a waiver of indebtedness. The right to request a waiver does not constitute removal of the responsibility for repayment of the debt.

470401. Recovery of an overpayment of an SBP annuity is not required if, in the judgment of the Secretary of the Military Department concerned (or designee) and the Comptroller General, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good judgment. DFAS reviews the facts of the case and recommends to the Comptroller General whether the debt should be waived.

470402. Suspension of collection action may be authorized upon receipt of a waiver request. Refund of an amount withheld before receipt of a request for a waiver is not authorized. When a waiver is granted, any amount collected after the receipt of the waiver request is refunded to the annuitant.