

**SUMMARY OF MAJOR CHANGES TO
DoD 7000.14-R, VOLUME 7B, CHAPTER 17
“BANKRUPTCIES”**

All changes denoted by blue font

Substantive revisions are denoted by a ★ preceding the section, paragraph, table,
or figure that includes the revision

Hyperlinks are denoted by *underlined, bold, italic, blue font*

PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
1701	Added a General Information section.	Update
170206	Deleted reference to outdated service regulations.	Delete
1703	Added a Procedures section.	Update
Bibliography	Updated with current references.	Update

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BANKRUPTCIES

- ★ 1701 General Information
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CHAPTER 17

BANKRUPTCIES★1701 GENERAL INFORMATION

170101. Military retirees may seek protections of voluntary bankruptcy as “debtors,” a class of persons specified in *Title 11 United States Code (U.S.C.) section 101*, as entitled to the benefits of voluntary bankruptcy.

170102. This section applies to military retirees who have filed a bankruptcy petition under *11 U.S.C., Chapter 7*, or *11 U.S.C., Chapter 13* of the Bankruptcy Code. The law waives the United States Government’s sovereign immunity for purposes of compliance with payroll deduction orders issued by the bankruptcy courts. Accordingly, the Defense Finance and Accounting Service (DFAS) will honor the bankruptcy orders.

170103. Continued deduction from the retiree’s pay of most types of debts to the United States after the filing of a petition in a bankruptcy is improper and violates the automatic stay provisions of the bankruptcy statute. Such amounts withheld after the date the bankruptcy petition is filed must be refunded to the retiree’s pay account. The automatic stay provisions of the bankruptcy statute do not preclude continued deductions based on court-ordered support obligations or divisions of retired pay.

170104. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the retiree has listed the United States Government as a creditor, DFAS-Cleveland, Retired Pay Operations.

- A. Requests the local U.S. attorney to file a claim with the federal court concerned, or
- B. Files a proof of claim with the Federal court concerned.

170105. The bankruptcy proceedings have no bearing on the liquidation of any new item of indebtedness discovered after the filing of a petition in bankruptcy and not included in the petition.

★1702 WAGE EARNER’S PLAN UNDER THE BANKRUPTCY ACT, CHAPTER 13

170201. A member may file a petition with the court to enter into a “Chapter 13 Plan” under the Bankruptcy Code (11 U.S.C.). Under *11 U.S.C., Chapter 13*, a member must submit a proposed repayment plan to the bankruptcy court that provides, among other things, that all or a specified amount of future income as is necessary to pay priority claims under the plan, are under the control of the bankruptcy trustee. A wage earner’s plan under *Chapter 13 of the Bankruptcy Act* is one relating to future earnings of the debtor, and relief is predicated upon the primary concept that, while the debtor is unable to pay existing debts, a plan to effect a composition or extension out of future earnings has been presented to the bankruptcy court for

approval. The plan will provide for the submission of such earnings or wages to the supervision and control of the court for the purpose of enforcing the plan.

170201. When the plan is confirmed by the court, its provisions are binding upon the debtor and all creditors of the debtor, whether they are affected by the plan, have accepted it and have filed their claims, or whether their claims have been scheduled or allowed, or are allowable.

170202. The court has authority to issue orders needed to implement the provisions of the plan including orders directed to an employer of the debtor.

170203. The retired pay of a retiree is subject to payment to the trustee appointed by the court pursuant to [Chapter 13](#). The payment by the DFAS of part of the retiree's pay in response to a court order issued in a [Chapter 13](#) Wage Earner's Plan case does not violate [31 U.S.C. 3727](#). Compliance with such a court order gives the government a valid acquittance against the member since the court order is binding on the retiree.

170204. If the United States is both the debtor and creditor when the member files a [Chapter 13](#) Wage Earner's Plan, then the government's priority under [31 U.S.C. 3713](#) may be asserted in the absence of a judicial determination to the contrary.

170205. A retiree who is participating in a [Chapter 13](#) Wage Earner's Plan must pay the delinquent taxes which he or she owes that had not been assessed before the date of confirmation of the plan. The retiree also is responsible for all taxes that may become due. The United States may accept the provisions of any plan dealing with the assumption, settlement, or payment of any such delinquent taxes.

A. When the DFAS-Cleveland Site sends the entire amount of the retiree's pay to the court-appointed trustee, the Internal Revenue Service (IRS) Notice of Levy should be forwarded to the court-appointed trustee for disposition.

B. When the DFAS-Cleveland Site sends part of the pay due the retiree to the court-appointed trustee, the IRS Notice of Levy should be processed in the normal manner against the amount due the retiree. The court-appointed trustee is provided a copy of the IRS Notice of Levy and notified of the action taken in establishing the liquidation procedures on a continuing Notice of Levy.

★[1703 PROCEDURES](#)

170301. [Bankruptcy withholding orders should be submitted or faxed to:](#)

DFAS Cleveland
Garnishment Operations
P.O. Box 998002
Cleveland, OH 44199-8002
Commercial Fax: (877) 622-5390
(216) 522-6960

DSN Fax: 580-6960

- A. The following information should be included with the bankruptcy order:
 - 1. Full name.
 - 2. Full social security number.
- B. The notice is effective when it is received in the office of the designated official.
- C. When the notice does not sufficiently identify the member, it will be returned directly to the person who submitted the order with an explanation of the deficiency.

170302. Upon receipt of an effective bankruptcy order, together with all the required information, the office of the designated official will review the case to determine if there are any involuntary allotments or garnishments that need to be terminated as a result of the automatic stay (child support, alimony and child support arrears, are not terminated unless the bankruptcy order specifically states so). The office of the designated official will then establish the withholding against the member's pay to comply with the bankruptcy order within 30 days. Withholdings will continue until the amount specified in the order is collected, or the order is cancelled or suspended.

A. Within 30 calendar days after the date of receipt of the order, the designated official will send notice to the member stating this fact.

B. The letter will inform the member the date that the withholding is scheduled to begin and the amount or percentage that will be deducted.

C. When the member identified in the order is found not to be entitled to money due from or payable by DFAS, the designated official will return the order to the person who submitted it and advise him or her that no money is due from or payable by DFAS to the named individual. When it appears that amounts are exhausted temporarily or otherwise, unavailable, the authorized person shall be told why and for how long any money is unavailable, if known.

BIBLIOGRAPHY**CHAPTER 17 – BANKRUPTCIES**

★ 1701 – GENERAL INFORMATION

170102	11 U.S.C. 106
170003	11 U.S.C. 362
170104.B.	11 U.S.C. 501
170105	11 U.S.C. 1328

★ 1702 – WAGE EARNER’S PLAN UNDER THE BANKRUPTCY ACT, CHAPTER 13

1702	11 U.S.C. 1301-1330
170201	11 U.S.C. 1322
170202	11 U.S.C. 1327
170203	11 U.S.C. 101
170204	47 Comp Gen 522 (1968). <u>US vs. Shannon</u> , 342 US 288 (1951)
170205	47 Comp Gen 522