

**VOLUME 16, CHAPTER 4: “HEARINGS, INFORMAL DISPUTES, WAIVERS, AND REMISSIONS OF DEBT OWED BY INDIVIDUALS”**

**SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also 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 2021](#) is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
3.0	Removed the word “Active” from title to clarify that retirees are not eligible for hearings.	Deletion
8.3.2	Clarified how many pay periods waiver debt computations must include.	Addition
8.6.1	Added language to clarify that debtors do not submit waiver requests directly to the Defense Office of Hearings and Appeals (DOHA).	Addition
8.8	Added language to clarify that debtors do not submit appeals directly to DOHA.	Addition
9.1	Added statutory reference for National Guard remissions.	Addition
Table 4-1 (previous version)	Pursuant to Office of General Counsel guidance, deleted table on appointing hearing officials outside of the Defense Finance and Accounting Service (DFAS) since DFAS has long-standing expertise and performs all appropriate DoD hearing requests.	Deletion
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision

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## CHAPTER 4

**HEARINGS, INFORMAL DISPUTES, WAIVERS, AND REMISSIONS OF DEBT  
OWED BY INDIVIDUALS**

## 1.0 GENERAL

## 1.1 Purpose

This chapter provides policy and requirements pertaining to the submission and processing of petitions for hearings [or requests for review in order](#) to dispute debt owed by individuals, as well as waiver and remission applications. This chapter does not apply to collection of debts owed by contractors, vendors, assignees, state and local governments, or foreign entities. For guidance on disputed contractor debts, refer to Chapter 5. This chapter does not apply to the collection of child support, alimony, or commercial debts from the pay or salaries of DoD civilian employees or military members through garnishment or involuntary allotment. This chapter also does not apply to antitrust, fraud, tax, and interagency claims. See Volume 7A, Chapters 41 and 43; Volume 7B, Chapter 27; and Volume 8, Chapter 8 for guidance pertaining to other collections, including garnishments, child support, and collections from non-DoD, Federal entities.

## 1.2 Authoritative Guidance

DoD is required to aggressively collect debts in accordance with the following statutes, as well as other statutes and regulations expressly identified in this volume:

1.2.1. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);

1.2.2. Debt Collection Act of 1982 ([Public Law 97-365](#));

1.2.3. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code, section 3701 ([31 U.S.C. § 3701](#)) et seq; [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));

1.2.4. Contract Disputes Act of 1978 ([41 U.S.C. § 7101 et seq.](#));

1.2.5. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));

1.2.6. Federal Claims Collection Standards ([Title 31, Code of Federal Regulations \(CFR\), parts 900-904](#));

1.2.7. Regulations for collection by offset from indebted government employees ([5 CFR 550, subpart K](#)); and

1.2.8. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)).

## 2.0 NON-WAIVER OF RIGHTS BY PAYMENT

A debtor's involuntary payment of all or any portion of a debt must not be construed as a waiver of any rights that the debtor may have under 5 U.S.C. § 5514 or any other provision of a contract or law unless there are statutory or contractual provisions to the contrary. [5 CFR 550.1104\(o\)](#) provides additional information.

## 3.0 HEARINGS UNDER 5 U.S.C. § 5514 AND 31 U.S.C. § 3716 FOR DEBTORS OTHER THAN SERVICE MEMBERS

### 3.1 General

3.1.1. Debtors Under This Section. For the purposes of section 3.0, a debtor is an individual, other than an active duty **or retired** Service member (unless otherwise indicated), who owes a debt to DoD, subject to involuntary offset under 5 U.S.C. § 5514 and [31 U.S.C. § 3716](#).

3.1.2. Requirement for Hearings. Hearings conducted by a hearing official are required prior to salary offset under 5 U.S.C. § 5514. Prior to administrative offset under 31 U.S.C. § 3716, a review by an agency official is legally sufficient, unless a hearing before a hearing official is granted under subparagraph 3.3.3.2.1, pursuant to [31 CFR 901.3\(e\)](#). Defense Finance and Accounting Service (DFAS), in its sole discretion, may perform hearings in other circumstances, as it deems necessary.

3.1.3. Active and Retired Service Members. Due process review procedures for the debts of active duty **or retired** Service members are set out at section 6.0. However, see subparagraph 3.1.5 for Financial Liability Investigation of Property Loss (FLIPL) hearing procedures for FLIPL debts involving active duty Service members.

3.1.4. Due Process Requirement. Granting a debtor the opportunity for a hearing is a due process requirement of 5 U.S.C. § 5514 and 31 U.S.C. § 3716. Debtors must be afforded the opportunity to dispute a debt prior to the initiation of involuntary offset to collect indebtedness due the U.S. Government, except in those instances listed in subparagraph 3.1.8. See 5 CFR 550.1104, [31 CFR 285.5](#), and 31 CFR 901.3. A debtor who repays a debt in part or in full, either before or after the filing of a timely hearing petition, does not waive his or her right to a hearing. Debtors may petition for a hearing to contest either the validity or amount of the debt or the involuntary repayment schedule. Generally, all issues requiring a hearing will be consolidated and decided in one hearing.

3.1.5. Scope of FLIPL Hearings. The DFAS Debt and Claims Management Office (DCMO) performs hearings involving FLIPL debts for both civilians and active Service members. For hearings involving FLIPL debts, the scope of a debtor's hearing before DCMO is limited to a review of the amount of the debt and/or the rate of collection for purposes of salary offset requirements under 5 U.S.C. § 5514 and [Army Regulation 735-5](#). The hearing official's determination regarding the amount of the debt is based on the finding in the approving authority's FLIPL report. The hearing official will not issue a decision that results in the substitution of his or her judgment regarding the interpretation of policies and regulations as applied by the approving

authority. The hearing official will make a determination verifying the amount of the debt submitted for collection matches that of the investigation and the approving authority's final determination.

3.1.6. Hearing Petition. To request a hearing, the debtor must submit, in a timely manner, a hearing petition that meets the requirements of subparagraph 3.2.2. The timely filing of a hearing petition will stay the beginning of collection procedures until the results of the hearing have been rendered, unless collection is deemed necessary to protect the Government's interests.

3.1.7. Reconsideration Performed Prior to Hearing. Upon receipt of the hearing petition, the Debt Collection Office (DCO) must perform a reconsideration of the debtor's records to validate the debt. Reconsideration is an informal examination of internal debt records by the DCO to validate the debt without appointment of a hearing official and is the first step in the hearing process. It is not the formal hearing (see subparagraph 3.2.3.2). The DCO must issue the written reconsideration results to the debtor. Once the debtor receives the results, he or she must notify the DCO of his or her intent to continue with a formal hearing within 30 days from the date of the reconsideration, or by the date indicated in the reconsideration letter. If the debtor proceeds with a formal hearing, a hearing will be held by a hearing official who will make a written determination regarding the validity or amount of the debt, or on the proposed involuntary repayment schedule.

3.1.8. Exception to Requirement for Formal Notice, Hearing, Reconsideration Results, and Final Decision. Pursuant to 5 CFR 550.1104(c), a debtor is not entitled to a formal notice, hearing, written response, or a final decision under certain circumstances.

3.1.8.1. Underdeduction for Life or Health Insurance Premiums. A DoD civilian employee is not entitled to a formal notice, hearing, reconsideration results, or a final decision prior to offset of a debt related to the underdeduction of health or life insurance premiums if the amount to be recovered accumulated over 4 pay periods or less. Chapter 3 contains guidance for the collection of such premiums.

3.1.8.2. Routine Pay Adjustments. A DoD civilian employee is not entitled to a formal notice, hearing, reconsideration results, or a final decision prior to a routine intra-agency pay adjustment [under 5 U.S.C. 5514 in order](#) to collect overpayments of pay and allowances identified as having occurred within the 4 pay periods preceding the adjustment, or for any adjustments that amount to \$50 or less. Refer to Chapter 2 for notification requirements for routine pay adjustments. While the [debtor](#) must be provided, in the notice, a point of contact for contesting the adjustment, in these circumstances, a post-deprivation due process hearing is not required.

## 3.2 Hearing Petitions

### 3.2.1. Filing a Hearing Petition

3.2.1.1. The debtor must file a [written](#) petition to request a hearing in order to contest the validity or amount of the debt or to contest the involuntary repayment schedule. See 5 CFR 550.1104(e) and [31 CFR 901.2\(b\)\(1\)](#). The debtor must file the petition in accordance with the instructions provided by the DCO in the debt notification letter. The debtor must file the

hearing petition no later than 30 calendar days from the mailing date of the debt notification, or by the date indicated in the debt notification.

3.2.1.2. A debtor who wishes to contest an involuntary repayment schedule must file a hearing petition no later than 30 calendar days from the mailing date of a notice rejecting an unacceptable voluntary repayment agreement, or by the date indicated in the notice.

3.2.1.3. If the debtor first makes a written request for records related to the debt, then the debtor must file a hearing petition within 45 days after the date the records are distributed (by mail, electronically, or in person) to the debtor.

3.2.2. Content of Hearing Petition. A hearing petition must identify and explain, with reasonable specificity, the facts and evidence the debtor believes supports his or her position. There is no standardized format for a hearing petition; however, the petition must **be in writing and** contain the following information:

3.2.2.1. Identifying Information. The petition must include information such as a name, telephone number, email address, mailing address, and social security number of the debtor.

3.2.2.2. Reason for Filing the Petition/Basis of the Dispute. A hearing petition should include a written summary of the facts and the date and manner in which the debtor became aware of the overpayment. The debtor must indicate the basis for disputing the debt. If contesting an involuntary repayment schedule, then the petition should include a statement explaining the debtor's financial status.

3.2.2.3. Documentary Evidence. A hearing petition should include all documentary evidence the debtor wants the hearing official to review, including Leave and Earnings Statements (LES) and written testimony from any witnesses. If the debtor is contesting an involuntary repayment schedule, then the debtor should submit an alternate schedule and statement and/or records explaining his or her financial status.

3.2.2.4. Signature and Date. A hearing petition must be signed and dated by the debtor.

### 3.2.3. Action by the DCO on Hearing Petitions

3.2.3.1. Determine Whether Hearing Petition is Sufficient and Timely. The DCO should review the hearing petition to ensure it contains all required information and to ensure it was submitted in a timely manner. For insufficient or untimely hearing petitions, the DCO should take the following actions:

3.2.3.1.1. Insufficient Hearing Petition. The DCO is responsible for reviewing the hearing petition for sufficiency based on the requirements of subparagraph 3.2.2. The DCO **maintains the authority to** retain and identify as insufficient any hearing petitions that do not contain the required information. **For a petition deemed insufficient by the DCO,** the DCO must notify the debtor in writing that his or her hearing petition was insufficient, and request that

the debtor submit additional information within 30 days from the date of the written notice of insufficiency. The DCO must advise the debtor that if he or she fails to submit additional information within 30 days of the written notice of insufficiency, the hearing request will be denied.

3.2.3.1.2. Untimely Hearing Petition. A debtor waives his or her right to a hearing if the debtor fails to file a hearing petition within 30 days from the mailing date of the debt notification or by the date indicated in the debt notification or notice rejecting an unacceptable voluntary repayment agreement. An untimely petition will result in denial of the hearing request. The DCO must notify the debtor in writing of the denial. If the debtor files a hearing petition after the time expires, the DCO may accept a late petition if the debtor can show that the delay was due to circumstances beyond the debtor's control. A DCO should consult with its Office of General Counsel (OGC) regarding the acceptance of late petitions.

3.2.3.2. Perform Reconsideration. Reconsideration is the first step in the hearing process. The DCO must perform the reconsideration once the debtor submits a timely and sufficient hearing petition. Reconsideration is the informal reexamination of the debtor's records by the DCO to validate the amount of the debt and to satisfy any doubt the debtor may have regarding the amount or validity of the debt. The DCO must determine if the debt is valid and issue the written results of the reconsideration to the debtor. See Exhibit 4-1 for a sample reconsideration letter.

3.2.3.2.1. Time Limit for Performing Reconsideration. The DCO should issue written results of the reconsideration to the debtor within 15 days of receipt of the hearing petition. If the DCO needs additional time to investigate the debt, the DCO should advise the debtor of the delay in writing, and include an estimate of when the debtor can expect a final determination.

3.2.3.2.2. When Reconsideration Invalidates the Debt. If the DCO determines all or part of the debt is invalid, then the reconsideration letter must inform the debtor of the finding, and the DCO must take action to adjust or dismiss the debt.

3.2.3.2.3. When Reconsideration Validates the Debt

3.2.3.2.3.1. If the reconsideration validates all or part of the debt, then the reconsideration letter must inform the debtor of the finding. The DCO must inform the debtor that he or she has 30 days from the date of the reconsideration letter to inform the DCO of his or her intent to continue with a formal hearing before a hearing official.

3.2.3.2.3.2. If the debtor requests the matter be forwarded to a hearing official, the DCO must forward the debt information to the DCMO for assignment to a hearing official and must stay [collection of the debt](#). If the debtor does not respond to the reconsideration letter within 30 days, the DCO must remove the debt from disputed status and pursue the appropriate debt collection action. The DCO will initiate the debt collection by using salary offset procedures as outlined in the original debt notification if the debtor does not respond and takes no additional action to repay the debt.



3.2.3.3. Referral to DCMO for Hearing. After performing a reconsideration of the debt, and at the debtor's request to proceed with a hearing, the DCO must refer hearing petitions determined to be timely and sufficient to the DCMO. The DCMO is the office responsible for processing requests for hearings from individuals who are indebted to the DoD and entitled to a hearing before a hearing official. The DCO must forward the hearing petition, and all supporting documentation from the debtor, to the DCMO, DFAS/JFEA-IN, 8899 East 56th Street, Department 3300 (ATTN: Hearings), Indianapolis, IN 46249-3300.

### 3.3 The Hearing Process

3.3.1. General. All hearings are conducted in accordance with 31 CFR 901.3(e) and 5 CFR 550.1104.

3.3.2. Hearing Officials. Generally, DCMO hearing officials will process all requests for hearings. In the event the appointment of another hearing official is necessary, [contact the DCMO for guidance](#).

3.3.3. Types of Hearing. The DCMO hearing official will determine which of the following two types of hearings is most appropriate:

3.3.3.1. Paper Hearing. Generally, debtors who present a timely and sufficient petition for a hearing are entitled to a "paper hearing." The hearing official will make a determination based on a review of the available written record, without the parties present. A paper hearing is generally adequate for making determinations concerning the validity or amount of the debt or the terms of the involuntary repayment schedule.

#### 3.3.3.2. Oral Hearing

3.3.3.2.1. If the hearing official, with the advice and guidance of the DFAS OGC, determines that the matter cannot be resolved by a review of the documents alone, then an oral hearing may be granted. For example, if the validity of the debt turns on an issue of credibility or veracity, then an oral hearing may be necessary. Since payroll overpayments seldom present issues of credibility or veracity, the need for oral hearings will be extremely rare.

3.3.3.2.2. An oral hearing is not an adversarial adjudication or a trial-type evidentiary hearing. An oral hearing may include an informal conference with the hearing official where the debtor and agency representative (the DCO) are both given the opportunity to present documents, witnesses, and arguments. Alternatively, oral hearings may take the form of an informal meeting where the debtor and DCO are questioned by the hearing official. The hearing may also consist of formal written submissions by the parties with an opportunity for oral presentation to the hearing official.

3.3.3.3. Checklist for Hearings. See Exhibit 4-2 for information required by the hearing official for a paper or oral hearing.

### 3.3.4. Hearing Official Final Decision

3.3.4.1. Time Limit. Pursuant to 5 CFR 550.1104, within 60 calendar days after the filing of the hearing petition, the hearing official must issue a written decision on the merits of the dispute. [The hearing official may notify the parties of any delay in the issuance of the decision.](#) The final decision must detail the hearing official's findings and conclusions. Generally, the final decision should advise the debtor that the basis for the debt and amount were reviewed, indicate whether the debtor's contentions were accepted in whole or in part, specify the debt amount now owed, and, if applicable, reaffirm the DCO's intent to collect the debt by administrative offset. The hearing official must issue a copy of the final decision to both the debtor and the DCO.

3.3.4.2. Final Decision in Favor of the DCO. If the final decision upholds the validity and amount of the debt (in full or in part) or the involuntary repayment schedule, then the DCO must recommence collection action after sending the debtor a letter that includes the following (refer to Exhibit 4-3 for a sample of the Post-Hearing Notification):

3.3.4.2.1. A brief statement of the hearing official's final decision;

3.3.4.2.2. A request that the debtor repay the debt in full within 15 calendar days following the date of the letter, a request for authorization for a voluntary one-time offset to repay the debt, or agreement to pay the debt in regular installments pursuant to a voluntary repayment agreement;

3.3.4.2.3. A statement that a salary offset will begin with the pay period in which the deadline expires unless the debtor informs the DCO of his or her decision regarding the options in subparagraph 3.3.4.2.2. The letter must be specific as to the pay period in which the offset will occur;

3.3.4.2.4. The amount of the offset and its estimated duration that will be equal to the amount of the debt, or 15 percent of the debtor's disposable pay, whichever is less;

3.3.4.2.5. A statement regarding the assessment of interest, administrative expenses, and penalties; and

3.3.4.2.6. A reminder of the debtor's right to request waiver or remission of the debt.

3.3.4.3. Final Decision in Favor of the Debtor. If the hearing official's final decision finds in favor of the debtor and determines a portion or all of the debt is invalid, then the DCO must inform the debtor as to what portion of the debt is no longer considered valid. Any amount previously collected on the invalid debt must be refunded to the debtor. If the hearing official reduces the amount of the debt, then the DCO must issue a letter to inform the debtor, and begin collection action for the new amount.

3.3.4.4. Appeal of Final Determination. There are no provisions for review or appeal of debt determination decisions rendered with regard to salary or administrative offset. However,

debtors may exercise any other waiver, remission, or review right that may be provided by other statute or regulation with regard to the debt. For example, a federal civilian employee may file an appeal with the Office of Personnel Management concerning a claim involving the employee's compensation and leave. See [5 CFR 178](#). The Defense Office of Hearings and Appeals (DOHA) considers appeals of claims for uniformed services pay and allowances. Refer to [31 U.S.C. § 3702](#); [32 CFR 282.5\(b\)\(2\)](#); and [32 CFR 282, Appendix E](#) for additional information on appeals.

#### 4.0 HEARINGS FOR ADMINISTRATIVE WAGE GARNISHMENT (AWG)

The U.S. Department of the Treasury (Treasury) may request that DCMO hearing officials conduct hearings requested by individuals who owe debts to DoD when the Treasury is attempting to collect from the debtor using AWG procedures pursuant to [31 U.S.C. § 3720D](#) and [31 CFR 285.11](#).

#### 5.0 HEARINGS FOR GOVERNMENT TRAVEL CHARGE CARD DEBTS

Any inquiries or disputes regarding the debt and the 90-day demand notice, which are received by the travel charge card contractor prior to forwarding the debt to DFAS for collection, will be handled and resolved by the travel charge card contractor. If the debtor wants to negotiate an installment agreement prior to the referral of the debt for salary offset, then any such agreement must be made with the travel charge card contractor. If the debtor is not satisfied with the travel charge card contractor's disposition of the dispute, then he or she may submit a petition for a debt hearing to the DCMO.

#### 6.0 REVIEWS FOR [ACTIVE AND RESERVE DUTY SERVICE MEMBERS](#)

##### 6.1 Due Process

Under 37 U.S.C. § 1007 and 5 U.S.C. § 5514, Service members are entitled to due process, consisting of a notice and an opportunity for review, prior to the initiation of debt collection unless otherwise required by statute. See [Chapter 2 for due process requirements for routine pay adjustments](#) and [Chapter 3 for debts transferred from other agencies](#).

##### 6.2 Requesting a Review

A Service member who questions the validity or amount of a debt may request a review and validation of the debt by the DCO. A Service member may also contest the involuntary repayment schedule.

**6.2.1. [Content of the Review Request.](#)** The Service member must submit a written request for a review that identifies and explains, with reasonable specificity, the facts and evidence the Service member believes supports his or her position. There is no standardized format for a request for review; however, the request should contain Service member identifying information, the reason for requesting a review, supporting documentary evidence, and a dated signature.

[6.2.2. Time Limit For Requesting a Review.](#) . The request for review must be received not later than 30 days from the mailing date of the debt notification, or by the date indicated in the debt notification. A Service member waives his or her right to a review if the Service member fails to submit a request in a timely manner. The DCO may accept a late request if the Service member can show that the delay was due to circumstances beyond the Service member's control.

### 6.3 Requesting Records

A Service member may make a written request to the DCO for records related to the debt. A request for records must be made prior to the deadline for submitting a request for review. Within 45 days after the date the records are distributed to the Service member, the Service member must submit a written request for review to the DCO or the Service member will waive his or her right to review.

### 6.4 Review Procedures

Service members who receive debt notifications, and wish to request a review, must email or fax their request to the DCO, at the number or address provided in the debt notification. Upon timely receipt of the review request, the DCO must stay collection of the debt, unless collection is deemed necessary to protect the Government's interests. The DCO will validate the debt and amount, as well as consider all documentation contained in the Service member's request. Once complete, the DCO must issue the written review results to the Service member.

### 6.5 Written Review Results

Written results should be provided within 60 calendar days and contain the following information:

6.5.1. A brief statement of the DCO's determination regarding the validity or amount of the debt or the involuntary repayment schedule. If the DCO determines a portion or all of the debt is invalid, or the involuntary repayment schedule should be revised, the DCO will adjust the debt amount or repayment schedule accordingly and inform the Service member in the review results;

6.5.2. A request that the Service member pay the debt in full within 15 calendar days following the date of the letter, authorize a voluntary one-time offset to repay the debt, or agree to pay the debt in regular installments pursuant to a voluntary repayment agreement;

6.5.3. A statement that the offset will begin with the pay period in which the deadline expires, unless the Service member informs the DCO of his or her decision regarding the above options;

6.5.4. The amount of the offset; and

6.5.5. A reminder of the Service member's right to request a waiver or remission of the debt.

## 6.6 Appeal of Final Determination

The DCO's determination on review is final. There are no provisions for review or appeal of the DCO's decision on salary or administrative offset. However, Service members may exercise any other waiver, remission, or review right provided by other statute or regulation with regard to the debt. For example, DOHA considers appeals of claims for uniformed services pay and allowances. Refer to 32 CFR 282.5(b)(2) and 32 CFR 282, Appendix E for additional information on appeal rights.

## 7.0 INFORMAL DEBT DISPUTES

### 7.1 General

At the debtor's request, the DCO may perform an informal courtesy review of a debt. This informal review is typically not intended to satisfy due process requirements and is in addition to such procedures. The informal courtesy review of a debt by the DCO typically occurs when the debtor submits a written "debt protest" or "debt dispute" to the DCO after the time period for filing a hearing petition has expired. The purpose of the courtesy review is to allow the DCO to validate the debt and respond to the debtor's questions. Chapter 5 contains guidance on contractor debt disputes.

### 7.2 Processing Informal Debt Disputes

7.2.1. A written request from the debtor is required before a debt is placed in a disputed or protest status.

7.2.2. For debts placed in dispute, the DCO should make every attempt to complete the courtesy review and issue a written response to the debtor within 30 days of receipt of the written protest.

7.2.3. If any portion of the debt cannot be validated and supported by the DCO, then the invalid portion of the debt should be reversed in the accounting system and closed in the appropriate entitlement systems. The DCO should notify the debtor in writing that the debt has been invalidated or partially invalidated.

7.2.4. If the debt is found to be valid, then the DCO must provide a response with applicable supporting documentation to the debtor and proceed with appropriate collection activity.

## 8.0 WAIVER OF INDEBTEDNESS

### 8.1 Authority

#### 8.1.1. General

8.1.1.1. Title [5 U.S.C. § 5584](#), [10 U.S.C. § 2774](#), and [32 U.S.C. § 716](#) provide the head of an executive agency with the authority to waive an indebtedness that is the result of an erroneous payment of pay or allowances, or an erroneous payment of travel, transportation, or relocation expenses and allowances. Title [10 U.S.C. § 1453](#) provides authority to waive indebtedness that is the result of an erroneous payment of Survivor Benefit Plan (SBP) annuity.

8.1.1.2. The Under Secretary of Defense (Comptroller) delegated waiver authority to the DFAS Director by memorandum, dated January 29, 1992, and upheld that delegation in [DoD Directive \(DoDD\) 5118.05](#), “Defense Finance and Accounting Service (DFAS).” The DFAS Director re-delegated this authority to the DFAS-Indianapolis (IN) Director. The waiver authority is subject to the dollar value limits identified in paragraph 8.2. The exercise of this authority must be coordinated with the affected DoD Component, where appropriate. The DCMO exercises waiver authority for DoD employees (military and civilian), with the exception of waiver authority specifically delegated to the Director, Department of Defense Education Activity (DoDEA); the Director, National Security Agency (NSA); and the heads of non-DoD Components.

8.1.2. Policies and Procedures. Policies and procedures for considering applications for waivers of indebtedness resulting from erroneous payments to or on behalf of Service members and civilian DoD employees are set forth in [DoDD 1340.22](#), “Waiver of Debts Resulting from Erroneous Payments of Pay and Allowances,” which is codified at [32 CFR 283](#). Detailed waiver procedures for debts resulting from erroneous pay and allowances are set forth in [DoD Instruction \(DoDI\) 1340.23](#), “Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances,” which is codified at [32 CFR 284](#).

### 8.2 Designated Waiver Authority Based on Aggregate Amount of Debt

The responsibility of the DCMO, or other designated waiver authority, to grant or deny a waiver is contingent upon the aggregate amount of the debt. The aggregate amount of a debt is the total amount of the debt before deductions for repayments or withholding for taxes.

8.2.1. Authority to Waive Collection for Debts Less Than or Equal to \$1,500 (Civilian) or \$10,000 (Military). Under 5 U.S.C. § 5584, the DCMO, or other designated waiver authority, is authorized to grant a waiver of debt aggregating to not more than \$1,500 for civilian employees. Under 10 U.S.C. § 2774 and 32 U.S.C. § 716, the DCMO, or designated waiver authority, is authorized to grant a waiver of debt aggregating to not more than \$10,000 for military members or National Guard members. There is no threshold for DCMO or other designated waiver authority to deny the waiver of debt for either civilian employees or military members.

8.2.2. Authority to Waive Collection for Debts Greater Than \$1,500 (Civilian) or \$10,000 (Military). If the aggregate amount of a debt is greater than \$1,500 for civilian employees or greater

than \$10,000 for military or National Guard members, then the authority to grant the waiver application resides with the Director, DOHA, or his or her designee under the DoD OGC. All requests should be submitted to the DCMO, and the DCMO will forward relevant requests to DOHA for consideration.

### 8.3 Submission of Request for Waiver

8.3.1. Application. All requests for waiver of indebtedness for DoD civilians (current and separated or former employees) and military members (active, reserve, retired, and National Guard) must be submitted on the Department of Defense ([DD Form 2789](#)), Waiver/Remission of Indebtedness Application. Instructions on submitting a waiver application should be included with the debt notification letter issued by the DCO, or the letter may direct the debtor to an online resource for the information. Refer to Chapter 2, Figures 2-1 and 2-2 for sample debt notifications that include waiver instructions. The debtor must complete and sign the DD 2789 and submit the application to the appropriate organization as indicated on the DD 2789, depending on whether the debtor is a current or former employee or military member. The debtor's application must include all supporting documentation, which includes, but is not limited to:

8.3.1.1. Copies of all supporting documentation referred to on the DD 2789;

8.3.1.2. Copies of the three LESs issued immediately preceding the overpayment through the three LESs issued after the overpayment ended. If LESs are not available, then the individual or DCO must include a statement explaining why LESs are not available;

8.3.1.3. For civilians, copies of Standard Form (SF) 50s, Notification of Personnel Action, for the debt period (including corrections). If unavailable, then the individual must include a statement from the personnel office indicating why the notifications are not available; and

8.3.1.4. Any statement from the individual or another person in support of the waiver application. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief.

\* 8.3.2. DCO Responsibility. The DCO should supplement the debtor's waiver application with additional information in the form of a written report containing a chronological summary of the facts and relevant records. The DCO must forward to the DCMO a debt computation that shows, by pay period, the amount the debtor was paid (as reflected on the LESs), the amount the debtor should have been paid, and the total amount of the overpayment. [The debt computation should include three pay periods prior to, and three pay periods following, the period of indebtedness pursuant to DOHA's submission requirements.](#) The amount of the debt should match the amount in the pay system, as well as the amount in the debt notification sent to the debtor.

8.3.3. DoDEA and NSA Employees. DoDEA and NSA civilian employees must forward applications for waiver to the DoDEA and NSA designated waiver approval authorities.



### 8.3.4. Time Limit for Filing Application

8.3.4.1. Civilian Employees. DoD civilian employees must submit a waiver application within 3 years from the date the erroneous payment was discovered. For the purposes of starting the 3-year period, the date of discovery is the date that an appropriate official first determines that an erroneous payment has been made. The timeframe for submitting a request for waiver cannot be extended or waived.

8.3.4.2. Military Members. Military members (active, reserve, retired, and National Guard) must submit a waiver application within 5 years from the date the erroneous payment was discovered. For the purposes of starting the 5-year period, the date of discovery is the date that an appropriate official first determines that an erroneous payment has been made. The timeframe for submitting a request for waiver cannot be extended or waived.

8.3.5. Contesting the Debt. By submitting an application for the waiver of a debt, an individual is acknowledging that he or she does not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of the debt. To contest the validity or amount of the debt, an individual must petition for a hearing under section 3.0. A waiver application that includes arguments concerning the validity or the amount of the debt may be returned without action or denied.

8.3.6. Application Filed by a Representative. A waiver application submitted by the debtor's agent or attorney must include a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the debtor.

8.3.7. Application Filed by a Guardian for Minor/Incompetent Debtors. If a guardian or committee has been appointed for a debtor who is a minor or an incompetent person, then the waiver application filed on behalf of the debtor must include a certificate of the court showing the appointment and qualification of the guardian or committee. If a guardian or committee has not been appointed for the debtor, then the waiver application submitted on behalf of the debtor must:

8.3.7.1. State the applicant's relationship to the minor or incompetent person;

8.3.7.2. Provide the name and address of the person having care and custody of the minor or incompetent person; and

8.3.7.3. Include an affirmation that any money received will be applied to the use and benefit of the minor or incompetent person and that the appointment of a guardian or committee is not contemplated.

## 8.4 Suspension of Debt Collection Pending Waiver Determination

Collection of a debt should not routinely be suspended pending waiver determination (refer to [31 CFR 903.2\(c\)\(2\)](#)). The DCO will determine, in each case, whether suspension of collection under 31 CFR 903.2, or a delay in implementing collection action, would be appropriate based on the following criteria:



8.4.1. Waiver will likely be granted,

8.4.2. Erroneous payment can be recovered if waiver is not granted, or

8.4.3. Collection of the debt would cause undue financial hardship.

## 8.5 Standards for Reviewing Requests for Waiver

Standards for determining the appropriateness of waiving debt collection are located in DoDI 1340.23. The appropriateness of a waiver depends on the facts of each particular case. Generally, a person who receives an erroneous payment from the U.S. Government acquires no right to the money. The recipient of the payment is bound in equity and good conscience to make restitution. If the payment was made by mistake, no matter how careless the act of the U.S. Government may have been, the recipient of the payment must make restitution. A waiver is not a matter of right and is available only to provide relief as a matter of equity when warranted by the circumstances of the individual case. Economic or financial considerations play no role in the determination of a waiver request.

8.5.1. Indication of Fraud, Misrepresentation, Fault, or Lack of Good Faith. A waiver may only be granted when the collection would be against equity and good conscience and not in the best interests of the United States. There must be no indication the erroneous payment was solely or partially the result of the fraud, misrepresentation, fault, or lack of good faith of the applicant.

### 8.5.2. Considering Debtor Awareness of Erroneous Payment

8.5.2.1. Generally, a waiver is precluded when the individual, or another person who has an interest in obtaining a waiver, receives a significant, unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has occurred and fails to make inquiries or bring the matter to the attention of appropriate officials. A waiver may be inappropriate even though the recipient of the payment makes inquiries or brings the matter to the attention of appropriate officials and is mistakenly advised that the payment is proper. The fact that an erroneous payment is the result of an administrative error by the U.S. Government is not a sufficient basis in and of itself for granting a waiver.

8.5.2.2. An individual does not acquire title to the amounts paid erroneously and should hold the excess amounts for eventual repayment to the U.S. Government. DOHA has held that a waiver will not be granted if it appears the debtor had records (such as LESs) which, if reviewed, would have indicated an overpayment, and the debtor failed to review such documents for accuracy or otherwise failed to take corrective action. Such failure on the part of the debtor renders the debtor partially at fault and ineligible for a waiver of the debt.

## 8.6 Action of the DCMO or Designated Waiver Authority

\* 8.6.1. All applications are first submitted to DCMO. If necessary, DCMO will forward waiver applications, appeals, or doubtful cases to DOHA. After reviewing each application for waiver, the DCMO must take the following action.

8.6.1.1. If the aggregate amount of the debt is not more than \$1,500 for civilian employees or \$10,000 for military or National Guard members, the DCMO may grant or deny part or all of a waiver application.

8.6.1.2. If the aggregate amount of the debt is more than \$1,500 for civilian employees or \$10,000 for military or National Guard members, the DCMO must do the following:

8.6.1.2.1. Deny the waiver application in its entirety; or

8.6.1.2.2. Refer the waiver application to DOHA for its consideration, along with a recommendation that part or all of the debt be waived.

8.6.1.3. Refer the appeal of an initial determination on a waiver application to DOHA.

8.6.1.4. Refer any doubtful case to DOHA for consideration.

8.6.2. After the DCMO (or designated waiver authority) makes a determination on the waiver application, or forwards the waiver to DOHA, the DCMO must notify the debtor and the applicable DCO in writing of its action. If the DCMO denied the request for waiver, then the notification to the debtor must state the basis for that decision. The notification must include guidance regarding the debtor's right to submit an appeal. A debtor may appeal the denial of all or part of his or her waiver application to DOHA.

## 8.7 Final Action of the DCO After Waiver Determination

8.7.1. Upon receipt of notification that the request for waiver was denied, the DCO must immediately initiate collection action if collection action was suspended.

8.7.2. If the request for waiver is approved, then the DCO must refund to the debtor any amount collected prior to the waiver being approved. The waiver application is considered an application for refund for any amount of the debt that was collected prior to the waiver approval. No refund will be paid when the debtor cannot reasonably be located within 2 years after the effective date of the waiver. The refund must be paid from a current applicable appropriation.

## \*8.8 Appeal of Waiver Denial

In accordance with DoDI 1340.23, a debtor may appeal the denial of a waiver application. The appeal must be submitted to the DCMO, or the designated waiver authority that made the determination on the waiver application. The debtor must submit a request for appeal within 30 calendar days of receipt of the written denial of the waiver application. The DCMO may extend this period for up to an additional 30 calendar days if the debtor can show good cause. No appeal will be accepted after this time has expired. The DCMO must review the appeal and forward it to DOHA. **The debtor must submit their appeal to the DCMO and not directly to DOHA.** DOHA will review the debtor's appeal, and affirm, modify, or reverse the initial determination made by the DCMO.

## 8.9 Waiver of SBP Overpayments

8.9.1. Authority. Recovery of debts resulting from erroneous payments made under the SBP may be waived pursuant to 10 U.S.C. § 1453. The Under Secretary of Defense (Comptroller) delegated waiver authority to the DFAS Director by memorandum dated February 1, 1991. See DoDD 5118.05 for additional information. The DFAS DCMO exercises waiver authority on behalf of the Director.

8.9.2. Debts Not Eligible for Waiver. Debts that are the result of unpaid SBP premium payments are not eligible for waiver under this provision.

### 8.9.3. Submission of Request for Waiver

8.9.3.1. Application. To request a waiver of indebtedness resulting from an SBP annuity overpayment, an indebted SBP annuitant, or his or her authorized representative (see subparagraph 8.3.6), must submit a DD 2789. The debtor must complete and sign the DD 2789 and submit the application to the [address listed on the debt notification](#). The application must include the following supporting documentation:

8.9.3.1.1. Copies of all supporting documentation referred to on the DD 2789;

8.9.3.1.2. Any statement from the debtor or another person in support of the waiver application. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief; and

8.9.3.1.3. Other information as requested by the DCMO.

8.9.3.2. DCO's Responsibility. The DCO for SBP annuity payments is DFAS-Cleveland Annuitant Pay. A debtor's waiver application must be supplemented with additional information from the DCO in the form of a written report containing a chronological summary of facts and all relevant records. The DCO must forward the written report to the DCMO and must include a debt computation that shows, by pay period, the amount the debtor was paid, the amount the debtor should have been paid, and the total amount of the overpayment.

### 8.9.3.3. Action by the DCMO

8.9.3.3.1. The DCMO must take the following action on a waiver application:

8.9.3.3.1.1. Deny the waiver application in its entirety,

8.9.3.3.1.2. Grant the waiver application in its entirety, or

8.9.3.3.1.3. Partially grant the waiver application and deny the remainder.

8.9.3.3.2. After the DCMO makes a determination on the waiver application, the DCMO must notify both the debtor and the applicable DCO of its action in writing. If the DCMO denied the request for waiver, then the notification to the debtor must state the basis for that decision. The notification must include guidance regarding the debtor's right to submit an appeal of the determination. A debtor may appeal the denial of all or part of his or her waiver application to DFAS-IN. Refer to subparagraph 8.9.7 for additional guidance on appeals.

8.9.3.4. Time Limit for Filing Application. Debtors must submit a waiver application within 3 years from the date the erroneous payment was discovered. For the purposes of starting the 3-year period, the date of discovery is the date that an appropriate official first determined that an erroneous payment was made, which is typically marked by the date the debt notification was issued to the debtor. The timeframe for submitting a request for waiver cannot be extended or waived.

8.9.3.5. Contesting the Debt. By submitting an application for the waiver of a debt, an individual is acknowledging that he or she does not intend to dispute the validity or amount of the debt. A waiver is not the proper forum to contest the validity or amount of the debt. To contest the validity or amount of the debt, an individual must petition for a hearing under section 3.0. A waiver application that includes arguments concerning the validity or amount of the debt may be denied as ineligible for consideration.

8.9.3.6. Application Filed by Representative. If an annuitant has a representative payee who is authorized to receive payments on the annuitant's behalf pursuant to Volume 7B, Chapter 46, paragraph 2.2, the representative may submit a waiver application if the representative also maintains the legal authority to act on behalf of the annuitant. The representative must submit additional documentation as required by the DCMO, for example, a power of attorney or other documentary evidence of the agent's or attorney's right to act for the debtor.

8.9.4. Suspension of Collection Pending Waiver Determination. Collection of a debt should not routinely be suspended pending the outcome of a waiver determination (refer to [31 CFR 903.2\(c\)\(2\)](#)). The DCO will determine, on a case-by-case basis, whether a formal suspension of collection under 31 CFR 903.2 is necessary or, alternatively, whether an informal delay in implementing collection action would be appropriate, based on the following criteria:

8.9.4.1. Whether the waiver will likely be granted,

8.9.4.2. Whether the erroneous payment can be recovered if waiver is not granted,

or

8.9.4.3. Whether collection of the debt would cause undue financial hardship.

8.9.5. Standards for Reviewing Requests for Waiver. Waiver of the recovery of an SBP annuity overpayment may be appropriate when the debtor is not at fault, and recovery of the overpayment would be contrary to the purposes of SBP, or against equity and good conscience. The appropriateness of granting a waiver will depend on the facts of each particular case. Pursuant

to [Comptroller General \(Comp. Gen.\), B-133142 \(1978\), B-178696 \(1978\)](#), the standards for reviewing a request for waiver of SBP annuity overpayment are the same as those used for considering waiver requests under 10 U.S.C. § 2774 and 5 U.S.C. § 5584. DFAS DCMO uses the standards set out in DoDI 1340.23 for considering waiver applications for debts resulting from SBP annuity overpayments. Refer to paragraph 8.5 for a discussion of the standards used in waiver application determinations.

8.9.6. Refund of Amounts Collected. Any amount collected before DFAS-IN receives the debtor's waiver application will not be refunded. A refund is not authorized by law. If a waiver is granted, amounts collected after DFAS-IN received the completed waiver application from the annuitant may be refunded to the annuitant. Refer to [Comp. Gen. B-184532 \(1975\)](#) for information on when refund is appropriate.

#### 8.9.7. Appeal of the DCMO Determination

8.9.7.1. Who May Appeal. A waiver applicant may appeal the DCMO's denial of all or part of the applicant's request to waive SBP annuity overpayments under 10 U.S.C. § 1453. An applicant may also appeal the denial of a waiver application that was not received by DFAS within the time limit required.

8.9.7.2. Determining Official. The determining official on all appeals is a DFAS official assigned to review the DCMO's initial waiver determination. Pursuant to subparagraph 8.2.1 and 10 U.S.C. § 1453, DFAS has been delegated full authority to consider all waivers, including any appeals or requests for reconsideration.

#### 8.9.7.3. When and Where to Submit an Appeal

8.9.7.3.1. The DCMO must receive an applicant's appeal within 30 days of the date of the DCMO's final written determination of the waiver application, or by the date indicated in the written determination. The DCMO may extend this period for up to an additional 30 days for good cause shown. No appeal may be accepted after this time has expired.

8.9.7.3.2. The applicant's appeal must be sent to the address indicated in DCMO's written determination of the waiver application.

8.9.7.4. Content of an Appeal. No specific format for an appeal is required; however, the appeal must be written and signed by the applicant, the applicant's authorized agent, or the applicant's attorney. The following information must be included with the appeal request:

8.9.7.4.1. Applicant's mailing address;

8.9.7.4.2. Applicant's telephone number;

8.9.7.4.3. Applicant's social security number;

8.9.7.4.4. A written statement that identifies, with specificity:

- 8.9.7.4.4.1. Errors or omissions of material and relevant facts;
- 8.9.7.4.4.2. Legal or equitable considerations that were overlooked or misapplied;
- 8.9.7.4.4.3. Conclusions that were arbitrary, capricious, or an abuse of discretion; and
- 8.9.7.4.4.4. The reasons why the findings or conclusions of the DCMO should be reversed or modified; and
- 8.9.7.4.5. Copies of supporting documentation, including any statements by the applicant or other persons in support of the appeal. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief.

8.9.7.5. DCMO Action on Appeal. The DCMO must select an individual within the DCMO, who had no involvement in the initial waiver application, to serve as the determining official on an appeal. The DCMO must provide the determining official a written statement in support of the original determination on the initial waiver application.

8.9.7.6. Determining Official's Review

8.9.7.6.1. The determining official must review an applicant's appeal request and must affirm, modify, or reverse the initial determination on the waiver application made by the DCMO. The determining official must issue a final written determination to both the applicant and DFAS Annuitant Pay. The written determination must explain the determining official's decision and must include any appropriate action to resolve the debt.

8.9.7.6.2. After review of an appeal concerning whether the receipt of the waiver application was timely, the determining official must notify the applicant of his or her decision in writing. If the determining official determines that the waiver application was timely, he or she must provide the waiver application to the DCMO for consideration.

8.9.7.7. Finality of Determining Official's Decision. Decisions by the determining official are final if DFAS does not receive a request for reconsideration within 30 days of the date of the determining official's final written determination of the appeal.

8.9.7.8. Request for Reconsideration

8.9.7.8.1. Time Limit for Requesting Reconsideration. An applicant may request the determining official reconsider his or her final written determination of the appeal. A request for reconsideration must be received within 30 days from the date of the determining official's final written determination of the appeal. This period may be extended for up to an additional 30 days for good cause shown. The determining official must review any rebuttal submitted by the applicant in support of the request for reconsideration and issue a written determination.

8.9.7.8.2. Review of a Request for Reconsideration. No earlier than 31 days after the date of the determining official's written determination of the appeal, or the day after the end of the period for submitting a request expires, the determining official must:

8.9.7.8.2.1. Consider the request for reconsideration;

8.9.7.8.2.2. Affirm, modify, or reverse the appeal decision;

8.9.7.8.2.3. Prepare a written response explaining the reason for the finding; and

8.9.7.8.2.4. Send the response to the applicant and the DCMO, and notify them of the appropriate action on the debt.

8.9.7.8.3. Finality of a Reconsideration Decision. The reconsideration response is a final action.

## 8.10 Other Waiver Authority

Other waiver authority may apply to payments that were not erroneously paid. Such waiver authority is generally exercised by the agency component. A debt resulting from a non-erroneous payment may be eligible for a waiver under the following statutory authorities:

8.10.1. Voluntary Separation Incentive Payment and Reemployment ([5 U.S.C. § 3524\(c\)](#)),

8.10.2. Employee Agreements, Service after Training ([5 U.S.C. § 4108\(c\)](#)),

8.10.3. Student Loan Repayments ([5 U.S.C. § 5379\(c\)\(3\)](#)),

8.10.4. Recruitment and Relocation Bonuses ([5 U.S.C. § 5753\(e\)](#)),

8.10.5. Quarters Allowances ([5 U.S.C. § 5922\(b\)](#)),

8.10.6. Physicians Comparability Allowances ([5 U.S.C. § 5948\(e\)](#)), or

8.10.7. Payments to Dependents of Missing Civilians ([5 U.S.C. § 5566\(g\)](#)).

## 9.0 REMISSION OF INDEBTEDNESS

### \*9.1 Remission of Indebtedness Due From Military Members

Title [10 U.S.C. § 7837](#), [10 U.S.C. § 8271](#), and [10 U.S.C. § 9837](#) provide authority for the remission of indebtedness due from a military member. Remission is not available to DoD civilian employees. This authority may be exercised with respect to any debt incurred on or after October 7, 2001. Title [32 U.S.C. § 710\(c\)](#) provides for remission for National Guard members.



## 9.2 Submission of Request for Remission

Requests for Remission from [members of the Army, Air Force, Navy, Marine Corps, or National Guard](#) must be submitted on forms designated by the respective Services and forwarded to the Service for processing. DFAS does not process remission requests for any Service.

## 9.3 Restriction for Reserve Component Personnel

Remission/cancellation of indebtedness is not applicable for Reserve Component personnel performing inactive duty training or active duty for training, except that:

9.3.1. An enlisted member of the Army National Guard, who is charged with liability for government property that is lost, damaged, or destroyed on or after October 1, 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Military Service concerned (or designee); or

9.3.2. Any member of the Air National Guard (officer or enlisted member), who is charged with liability for government property that is lost, damaged, or destroyed on or after October 1, 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Military Service concerned (or designee).

## 9.4 Indebtedness Which May Be Remitted

9.4.1. Debts to the United States. Generally, any indebtedness may be considered for remission/cancellation. Denial of a waiver under 10 U.S.C. 2774 does not preclude a member from applying for the remission or cancellation of the debt. Debts arising from an erroneous payment of basic pay due to non-collection of court-martial forfeitures may not be remitted or cancelled.

9.4.2. Debts Within Jurisdiction of Military Service Concerned. The debt must be a debt over which the Military Department concerned has jurisdiction. For example, the Secretary of one Military Department may not remit a member's indebtedness because of liability for damage to property of another Military Department.

## 10.0 ADDITIONAL OPTIONS FOR DEBT RELIEF

### 10.1 Claim for Refund

A military member may file a written claim, using a [DD Form 827](#), Application for Arrears in Pay, for any amounts considered erroneously collected from his or her pay account. The form must be submitted to the individual's pay office, or if separated for more than a year, to DFAS-IN/JFEC, Department 3300 (ATTN: Claims), 8899 East 56<sup>th</sup> Street, Indianapolis, IN 46249-3300 or via submission of a ticket. If the claim for refund is denied in whole or in part, then an appeal may be submitted to DOHA under the procedures set forth in 32 CFR 282, Appendix E.



## 10.2 Correction of Military Records

The Secretary of a Military Department, under procedures established by that Secretary and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that Military Department, may correct any military record of that department when the Secretary concerned considers it necessary to correct an error or remove an injustice. If an individual is owed money pursuant to the correction of record, any earnings received from civilian employment, self-employment, or any income protection plan for such employment during the period for which active duty pay and allowances are payable must be deducted from the settlement. To the extent authorized by law and regulation, a settlement must be reduced by the amount of any existing indebtedness the individual owes to the Government arising from military service. Refer to Volume 7B, Chapter 10 for additional guidance on correction of records.

## Exhibit 4-1. Sample Format - Reconsideration Results Letter

(1)	(Date)
(2)	
Dear (3)	
On (4), you were notified that you were overpaid for pay periods ending (5) through (5). The net amount of the debt currently owed by you is \$ (6).	
<b>Reconsideration Results.</b> You submitted a timely request for review of your debt on (7). In response, DFAS has performed an informal reexamination (“Reconsideration”) of your pay records in order to validate the amount of debt you owe and to satisfy any doubts you may have regarding the amount or validity of your debt. Reconsideration of your debt is the initial step in the hearing process. After reviewing the results of the Reconsideration, you may decide not to proceed with the formal hearing process. However, if you wish to continue with a formal hearing, you must notify DFAS of your intent by (8), which is 30 days from the date of this letter.	
DFAS has determined your debt is valid for the following reasons:	
(9)	
<b>Payment of Your Debt.</b> If you do not wish to continue with a formal hearing, please pay the debt in full by (8). Your check or money order should be made payable to DFAS-CL DSSN 8522 in the amount of \$ (6). Please send your payment to DFAS-CL/FTB P.O. Box 9955, Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump-sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.	
<b>Continuing with a Formal Hearing.</b> If you wish to continue with a formal hearing in order to dispute the validity or amount of your debt, you must notify DFAS of your intent in writing by (8), by faxing or mailing your request to continue to (10).	
<b>If You Take No Additional Action.</b> If you do not notify DFAS of your intent to continue with a formal hearing, pay your debt in full, or submit a Voluntary Repayment Agreement within 30 days of the date of this letter, DFAS is required by statute to collect your debt using other collection procedures. Beginning on (8), DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions) as outlined in the debt notification you received on (4).	
If you require further assistance please contact our toll free number at 1-800-538-9043.	
(11)	
Enclosures:	
1. Hearing Petition received on (4)	
2. Payroll Audit	
3. Copy of Voluntary Repayment Agreement	

## Exhibit 4-1. Sample Format – Reconsideration Results Letter (Continued)

**NOTES: Explanation of Blank Spaces on Sample Reconsideration Results Letter**

- (1) The title or office symbol/code of the civilian payroll office issuing the debt notification.
- (2) The full name and mailing address of the employee.
- (3) Last name of employee with proper title (Mr. or Ms.).
- (4) Date the debt notification letter was issued by DFAS.
- (5) The pay period(s) that the overpayment occurred.
- (6) The net dollar amount of the overpayment.
- (7) Date of employee's hearing petition.
- (8) Date 30 days from the date of the reconsideration results letter.
- (9) Explanation of the overpayment and any responses to questions raised in the employee's hearing petition.
- (10) Fax and mailing address of the Payroll Office.
- (11) Identify by name, the signatory for the letter.

## Exhibit 4-2. Checklist for Hearing on Overpayment of Pay and/or Allowances

**I. Items Required From the Debtor:**

The petition for the hearing will include:

- A. Name
- B. SSN
- C. Date
- D. Reason(s) for requesting the hearing, e.g.,
  - 1. Contesting the validity of the debt
  - 2. Contesting the amount of the debt
  - 3. Contesting the terms of the offset
- E. Reason(s) for contesting the debt
  - 1. When contesting validity or amount of the debt, the debtor must
    - (a) Provide a statement why he or she believes the payroll office's determination of the validity and/or the amount of the debt is erroneous. Also provide a complete description of the facts, evidence, and a summary of testimony of any witnesses which support the debtor's belief.
    - (b) Copies of any pertinent records that the debtor wishes to have considered at the hearing if they differ from those records previously provided by the payroll office.
  - 2. When contesting the terms of the repayment schedule proposed by the payroll office, the debtor must
    - (a) Propose an alternate schedule, i.e., how much can be repaid each pay period.
    - (b) Enclose an affidavit of financial status.
    - (c) Provide copies of any records he/she wishes to be considered at the hearing if they differ from the records previously provided by the payroll office.
- F. Debtor's signature

**II. Items Required From the Payroll Office:**

- A. Full name and SSN of the debtor.
- B. Exact date the error was discovered.
- C. Exact date and manner (debt notification) in which the debtor was advised of the debt.
- D. Aggregate (total) amount of the debt.
- E. Computation of the amount of the debt including/excluding interest-to-date, and administrative fees, if applicable.
- F. Detailed circumstances that led up to, and under which, the erroneous payment(s) was made.
- G. Statement(s) corroborating and/or refuting the statement(s) made by the debtor.
- H. Copies of Leave and Earnings Statements for 3 pay periods prior to the error and the first 3 pay periods beginning with the first overpayment.
- I. Copies of all other documents pertaining to the case.
- J. Annual leave cases require special documentation. They should include the following documents:
  - 1. Copy of the erroneous SF 50 data (for Civilian Employees).
  - 2. Copy of the corrected SF 50 data (for Civilian Employees).
  - 3. The balance brought forward (and the date) from the last year in which the correct leave accrual was used.
  - 4. Debtor's leave record.
  - 5. The hourly rate of pay and changes.
  - 6. A copy of the SF 2806/3100, Individual Retirement Record.

## Exhibit 4-3. Sample Post-Hearing Notification

FROM: (1)

TO: (2)

SUBJECT: Indebtedness to the United States as a Result of an Overpayment of Pay and/or Allowances

Reference: (a) (The initial notification of indebtedness)  
 (b) (The employee's petition for a hearing)  
 (c) (The hearing official's determination)

Reference (a) advised of your indebtedness to the United States in the amount of \$ (3) as a result of an overpayment of pay and/or allowances. By reference (b), you submitted a petition for a hearing to dispute the (4) of the debt. Reference (c) is the hearing official's determination affirming your indebtedness in the amount of \$ (5).

In order to liquidate the debt in full, please submit a personal check or money order payable to (6), and mail the payment to the civilian payroll office at (7) no later than 15 days from the date of this letter. Alternatively, you may request your debt be paid by a deduction from your current pay. Please contact the civilian payroll office in order to arrange for a one-time voluntary payroll deduction. It may also be possible for you to establish a written agreement for repayment of the debt by periodic installment deductions from your pay, please contact the civilian payroll office to request this option.

As stated in Reference (a), delinquent debts are subject to the assessment of interest, penalties, and administrative expenses. To date, these assessments have not yet been made on your debt. The assessments may not be imposed if you repay the debt in full or are able to reach an agreement with the civilian payroll office to pay your debt by installment.

If you do not repay the debt in full, consent to a one-time payroll deduction, or establish an agreement for payment by installment, DFAS will initiate collection of your debt involuntarily from your pay using salary offset beginning on (8). You must contact the civilian payroll office by (8) in order to avoid salary offset. Deduction by salary offset would begin with the pay period ending on (9). Please refer to Reference (a) for the estimated amount and duration of the payroll deduction. If the amount of the deduction from your pay would cause you to experience extreme financial hardship, then you must contact the civilian payroll office to determine if an alternative repayment schedule may be implemented. Your point of contact in this matter is (10).

Please consult Reference (a) for information concerning your right to request a waiver of the collection of your debt. An application for a waiver must be received within three (3) years after the erroneous payment was discovered. Collection of your debt generally will not be suspended during the waiver review process. In the event that your request is granted, all amounts deducted will be refunded.

*(Signature Element)*

#### EXPLANATION OF BLANK SPACES ON SAMPLE POST-HEARING NOTIFICATION

- (1) The title or office symbol/code of the civilian payroll office.
- (2) The full name of the employee.
- (3) The amount of the debt in the initial debt notification.
- (4) Either "existence," "amount," or "the terms of the proposed repayment schedule," as appropriate.
- (5) The amount of the debt as determined by the hearing official. If the hearing official affirmed the civilian payroll office's contention, the amount will be the same as blank (3).
- (6) The office to which the check or money order is to be made payable.
- (7) Identify the mailing address of the civilian payroll office.
- (8) The date the involuntary deduction from pay begins.
- (9) The payday for the pay period indicated in blank (8).
- (10) Include the name, phone number, and office symbol/code of the point of contact in the civilian payroll office who can answer questions regarding this debt.