

'Gray-Area' Reserve Retirement Pay: Interim pay while waiting on recalculation of points

ROA urges Congress to add interim payment when the Defense Finance and Accounting Service (DFAS) conducts an audit of points for retirement pay which can delay retirement pay.

Retired Guardsmen and Reservists are considered "Gray Area." retirees if they have completed 20 "qualifying" years for retirement but have not reached age 60 (or 58th birthdate if eligible for early retirement). As a gray-area retiree they must apply before reaching their approved retirement age to collect retirement pay.

Members eligible for Reserve retirement must request retired pay from the military department in which they last served. Each service has a different time period for application, they Navy Reserve recommends 9- 12 months prior, the Army Reserve 9-4 months prior, and the Air Force Reserve 6-4 months prior.

ROA urges the Department of Defense to establish a standard application and timeline process and one website location for reserve retirements to reduce confusion.

Once this process is complete the branch of services will send the servicemembers retirement package to DFAS for payment of retirement benefits. Upon receipt DFAS will conduct an audit of qualifying service. This confirmation can take between 90 and 180 days. During this time the Servicemember will not receive any payment of benefits.

Although the servicemember will receive "back payment" of all owed entitlements to the first day of eligibility, the non-payment of more than 90 days can create a hardship. It has been reported in the news and by ROA members that the services are experiencing a "back log" on processing retirements which can delay the audit and ultimately delay retirement pay. Additionally, these delays can create a hardship for the servicemember and their family because TRICARE Retired Reserve cannot start until a retirement order is published or the servicemember is able to negotiate a manual update to DEERS.

ROA urges the 116th Congress to add an interim payment capability for National Guard and Reserve to be paid while they wait for complement of the DFAS pay audit. It would allow 40%-80% of projected retirement payment in 10 U.S. Code § 1415. The interim payment will then be deducted from the back payment before issuing to the servicemember.

For further information on "Gray Area Retirement" payments please contact ROA, Kevin Hollinger at (202) 670-1826, khollinger@roa.org or Susan Lukas at 202-646-7713, slukas@roa.org.

10 U.S. Code § 1415

(a) Definitions. — In this section:

(1) Covered retired pay. — The term “covered retired pay” means retired pay under—

(A) this title;

(B) title 14;

(C) the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.); or

(D) the Public Health Service Act (42 U.S.C. 201 et seq.).

(2) Eligible person. — The term “eligible person” means a person who—

(A)

(i) first becomes a member of a uniformed service on or after January 1, 2018; or

(ii) makes the election described in section 1409(b)(4)(B) or 12739(f)(2) of this title; and

(B) does not retire or separate under chapter 61 of this title.

(3) Retirement age. —

The term “retirement age” has the meaning given the term in section 216(l) of the Social Security Act (42 U.S.C. 416(l)).

(4) Interim Payment

Interim Payment- sum of money paid to retiree while conformation calculation and processing of traditional payment is underway. Payment will be a minimum of 40% of projected monthly payment and will not exceed 80% of projected monthly retirement payment

(b) Election of Lump Sum Payment of Certain Retired Pay. —

(1) In general. — An eligible person entitled to covered retired pay (including an eligible person who is entitled to such pay by reason of an election described in subsection (a)(2)(A)(ii)) may elect to receive—

(A) a lump sum payment of the discounted present value at the time of the election of an amount of the covered retired pay that the eligible person is otherwise entitled to receive for the period beginning on the date of retirement and ending on the date the eligible person attains the eligible person’s retirement age equal to—

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- (i) 50 percent of the amount of such covered retired pay during such period; or
- (ii) 25 percent of the amount of such covered retired pay during such period; and

- (B) a monthly amount during the period described in subparagraph (A) equal to—
 - (i) in the case of an eligible person electing to receive an amount described in subparagraph (A)(i), 50 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period; and
 - (ii) in the case of an eligible person electing to receive an amount described in subparagraph (A)(ii), 75 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period.

(2) Discounted present value.—The Secretary of Defense shall compute the discounted present value of amounts of covered retired pay that an eligible person is otherwise entitled to receive for a period for purposes of paragraph (1)(A) by—

- (A) estimating the aggregate amount of retired pay the person would receive for the period, taking into account cost-of-living adjustments under section 1401a of this title projected by the Secretary at the time the person separates from service and would otherwise begin receiving covered retired pay; and
- (B) reducing the aggregate amount estimated pursuant to subparagraph (A) by an appropriate percentage determined by the Secretary—

- (i) using average personal discount rates (as defined and calculated by the Secretary taking into consideration applicable and reputable studies of personal discount rates for military personnel and past actuarial experience in the calculation of personal discount rates under this paragraph); and
- (ii) in accordance with generally accepted actuarial principles and practices.

(3) Timing of election.—

An eligible person shall make the election under this subsection not later than 90 days before the date of the retirement of the eligible person from the uniformed services.

(4) Single payment or combination of payments.—

An eligible person may elect to receive a lump sum payment under this subsection in a single payment or in a combination of payments.

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(5) Commencement of payment.— ~~An eligible person who makes an election under this subsection shall receive the lump sum payment, or the first installment of a combination of payments of the lump sum payment if elected under paragraph (4), as follows:~~

(A) ~~An eligible person who makes an election under this subsection shall receive the lump sum payment, or the first installment of a combination of payments of the lump sum payment if elected under paragraph (4), as follows:~~

(B) ~~An eligible person who is otherwise qualified to receive payment under this section, but is awaiting recalculation, confirmation calculation, or processing by branch of service/ DFAS- Will receive an interim payment of a minimum 40% of their projected retirement pay and will not exceed 80% of their projected retirement pay~~

~~(i) Not later than 60 days after the date of the retirement of the eligible person from the uniformed services.~~

~~(ii) In the case of an eligible person who is a member of a reserve component, not later than 60 days after the earlier of—~~

~~(a) the date on which the eligible person attains 60 years of age; or~~

~~(b) the date on which the eligible person first becomes entitled to covered retired pay.~~

~~(C) The received interim payment will be deducted from final lump sum payment once final recalculation, confirmation calculation, or processing is complete.~~

~~(i) Remainder of lump sum payment deducted from interim payment will be paid to eligible person in one payment at completion of processing~~

~~(D) If interim payment is greater than lump sum payment-~~

~~(i) Debt of interim payment will be collected in equal payments not to exceed 20% of monthly payment~~

~~(ii) Payee will be notified of debt collection a minimum of 60 days prior to deducted payment~~

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