



Benefits Administration Letter

Number: 03-105

Date: June 25, 2003

Subject: Computing the Post-1956 Military Deposit for Employees On LWOP-US Who Receive Civilian Pay During Their Active Military Duty

This Benefits Administration Letter (BAL) provides instructions for computing military deposits for employees performing active military duty while in a leave without pay status who periodically receive civilian pay subject to retirement deductions during their active military duty.

Deposit Only Required for Periods Not Covered by Civilian Pay and Retirement Deductions

Employees who perform active military duty during a period of leave without pay (LWOP-US) sometimes receive civilian pay subject to retirement deductions during their active military duty. When those employees return to work and apply to pay a military deposit, they will only owe a deposit for the period of active military duty not covered by civilian pay and retirement deductions.

Example

An employee entered active military duty on November 1, 2001. She elected to use annual leave to cover the period November 1, 2001, to November 30, 2001. She also elected to use military leave to cover the period September 15, 2002, to October 14, 2002. She was honorably discharged from active military duty on July 1, 2003, and exercised her restoration rights to return to her civilian job. When she applies to pay her military deposit, she will only owe a deposit for the periods when she did not receive civilian pay subject to retirement deductions -- December 1, 2001, to September 14, 2002, and October 15, 2002, to July 1, 2003. She will not owe a deposit for the period covered by her annual leave and military leave.

Documenting Civilian Salary Paid During Active Military Duty From Which Retirement Deductions Were Withheld

Employees who receive civilian pay during active military duty from which retirement deductions were withheld must include documentation of their civilian pay with their applications to pay the military deposit. Documentation could include copies of leave and earnings statements showing the civilian pay, or records from the payroll office showing the civilian pay. The documentation should show the specific period covered by the civilian pay, and it should show the retirement deductions withheld for the period.

If employees do not provide documentation that they received civilian pay during their active military duty while in a leave without pay status, compute the military deposit for the entire period of active military duty while they were in a leave without pay status.

Documenting Basic Military Pay

Employees must also provide documentation of their basic military pay. The documentation could be either actual pay records from the military service showing the exact amount of basic military pay earned during the period of military service, or estimated earnings obtained from the appropriate military pay center.

Employees who provide actual pay records should include specific military leave and earnings statements corresponding to the periods during which they received civilian pay.

Employees who do not have official records of military earnings for the entire period of service will need to request estimated earnings from the appropriate military pay center. When requesting estimated earnings, employees need to submit verification of their service (DD 214 or equivalent). If they received civilian pay during their active military duty, they should also include a note asking the military pay center to provide estimated earnings for the specific portion of active military duty not covered by the civilian pay. For example, if an employee on active military duty from November 1, 2001, to July 1, 2003, received military leave covering the period September 15, 2002, to October 14, 2002, the employee would ask the military pay center to provide estimated military earnings for the periods November 1, 2001, to September 14, 2002, and October 15, 2002, to July 1, 2003. The employee would not need estimated military earnings for the period covered by military leave.

Some employees may use their military leave or annual leave intermittently with leave without pay throughout the period of active military duty. For example, they may request 24 hours of annual leave one pay period, 32 hours of military leave a few pay periods later, 40 hours of annual leave a few pay periods later, and so on. When asking the military pay centers to provide earnings for the active military duty not covered by civilian pay, these employees should combine their total hours of civilian pay and treat it as one continuous period occurring at the end of the active military duty. They should then determine the ending date for their military earnings request by first converting the hours to calendar time using the appropriate chart corresponding to the number of hours in a year (2087 Chart for most Federal employees), and then subtracting the calendar time from their discharge date (without adding a day). For example, if an employee on active military duty from November 1, 2001, to July 1, 2003, received a total of 240 hours of civilian pay (combined military leave and annual leave) intermittently while on active military duty, the employee should request estimated military earnings for the period beginning November 1, 2001, and ending May 19, 2003. The period from May 20, 2003, to July 1, 2003, represents the time covered by the 240 hours of civilian pay. (The 240 hours converts to 1 month and 12 days. Subtracting 1 month and 12 days from the July 1, 2003, discharge date (remembering not to add a day) yields the last day for which military earnings are required, May 19, 2003.)

The note to the military pay center should indicate that estimated earnings are not required for the entire period of active military duty because the employee received civilian pay subject to retirement deductions during the period of active military duty. A sample of OPM Form RI 20-97, Request for Estimated Earning During Military Service, with a note to the military pay center is included in the attachment to this BAL.

Employees should be encouraged to document the basic pay they earned during their military service as soon as possible upon returning to their civilian position. You should be prepared to offer employees requesting estimated military earnings assistance in preparing their requests.

Computing the Military Deposit from Basic Military Pay

Generally, you should compute the military deposit from the total basic military pay the employee received during the active military duty. However, do not include in the military deposit computation any period for which the employee received civilian pay from which retirement deductions were withheld. For example, if an employee who entered active military duty on November 15, 2001, was not placed in a leave without pay status until December 15, 2001, do not compute a military deposit for the period November 15, 2001, to December 14, 2001. Likewise, if an employee submits documentation that he or she received civilian pay while on active military duty, do not include the time covered by the civilian pay in the military deposit computation.

IF EMPLOYEE PROVIDES ACTUAL MILITARY RECORDS

When an employee provides you with actual military records and there is evidence that the employee received civilian pay from which retirement deductions were withheld while on active military duty, subtract the amount of military basic pay that is allocable to the period of civilian pay from the total basic military pay before computing the deposit.

To compute the amount of military basic pay that is allocable to the period of civilian pay, convert the military pay to an hourly rate, and then multiply that rate by the number of hours reflected in the employee's civilian pay. Military basic pay is expressed as a monthly rate on the employee's military leave and earnings statement. To convert the monthly rate to an hourly rate, multiply the monthly rate by 12 and then divide by the number of hours in a work year (2087 for most Federal employees).

Example

An employee performed active military duty from November 1, 2001, to July 1, 2003. She provides actual pay records showing a total of \$72,625 of basic military pay for the entire period of active military duty. She also submits documentation showing she received 96 hours of annual leave in November 2001, 120 hours of military leave in April 2002, and 60 hours of military leave in December 2002, along with military leave and earning statements showing military base pay of \$3,500 for November 2001, and for April 2002, and \$3,750 for December 2002.

- The amount of military earnings attributable to the 96 hours of annual leave in November 2001, equals \$1,931.52, computed as follows:
$$[(\$3,500 \times 12) \div 2087] \times 96 = (\$42,000 \div 2087) \times 96 = \$20.12 \times 96 = \$1,931.52.$$

- The amount of military earnings attributable to the 120 hours of military leave in April 2002, equals \$2,414.40, computed as follows:

$$[(\$3,500 \times 12) \div 2087] \times 120 = (\$42,000 \div 2087) \times 120 = \$20.12 \times 120 = \$2,414.40.$$
- The amount of military earnings attributable to the 60 hours of military leave in December 2002, equals \$1,293.60, computed as follows:

$$[(\$3,750 \times 12) \div 2087] \times 60 = (\$45,000 \div 2087) \times 60 = \$21.56 \times 60 = \$1,293.60.$$
- The amount of military basic pay used to compute the military deposit equals \$66,985.48, computed as follows:

$$\$72,625 - (\$1,931.52 + \$2,414.40 + \$1,293.60) = \$72,625 - \$5,639.52 = \$66,985.48.$$

If an employee received civilian pay covering an entire calendar month (from the first day of the month to the last day of the month), simply subtract the basic military pay reported for the month from the total basic military pay before computing the military deposit.

IF EMPLOYEE PROVIDES ESTIMATED MILITARY EARNINGS

If an employee submits estimated military earnings obtained from a military pay center and those estimated earnings do not cover the entire period of active military duty, verify that the estimated earnings cover all periods of active military duty during which the employee did not receive civilian pay. If they do, compute the military deposit based on the earnings provided. If they don't, help the employee prepare another request for estimated military earnings making sure the request covers the appropriate periods.

Alternative Method for Calculating the Deposit

Under the "Uniformed Services Employment and Reemployment Rights Act of 1994" (USERRA), the amount of the military deposit is limited for employees on LWOP-US who return to civilian service after exercising their restoration rights. The amount of the deposit, before interest, cannot exceed the amount of civilian retirement deductions that would have been deducted from the employee's civilian basic pay had the employee not performed the active military duty.

To determine the amount of the deposit under this alternative method when an employee submits documentation that he or she received civilian pay while performing active military duty:

- calculate the amount of retirement deductions that would have been withheld from the employee's civilian basic pay during the entire period the employee was in a leave without pay status (LWOP-US), and then
- subtract the retirement deductions that were actually withheld from the civilian pay the employee received while in the leave without pay status (LWOP-US) .

Example

A FERS employee performed active military duty from November 1, 2001, to July 1, 2003. He was in a leave without pay status (LWOP-US) from November 1, 2001, until July 13, 2003. On July 14, 2003, he returned to his civilian job after exercising his restoration rights. He submits documentation showing he received 96 hours of annual leave in December 2001, 120 hours of military leave in April 2002, and 60 hours of military leave in November 2002. The retirement deductions that were withheld from those leave payments totaled \$73.45. Had the employee

continued working in his civilian position, retirement deductions totaling \$963.17 would have been withheld from his civilian basic pay for the period November 1, 2001, to July 13, 2003.

- The military deposit (before interest) the employee owes for his active military duty from November 1, 2001, to July 1, 2003, cannot exceed \$889.72 ($\$963.17 - 73.45 = \889.72).

Retirement Deductions for Military Leave Under 5 U.S.C. 6323(b) and (c)

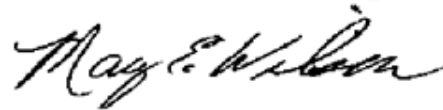
5 U.S.C. 6323(b) provides 22 workdays per calendar year for emergency duty as ordered by the President or a State governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property.

5 U.S.C. 6323(c) provides unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty ordered or authorized under title 39 of the District of Columbia Code.

For military leave under 5 U.S.C. 6323(b) and (c), an employee's civilian pay is reduced by the amount of military pay for the days of military leave. While the military pay affects the amount of the military leave payment, it does not affect the employee's rate of basic pay for retirement purposes. The employee's full rate of basic pay (that is, the rate of pay before the offset for military pay) will be used in the high-3 average pay computation if this time falls within the average pay period. Because the employee's basic pay for retirement is not affected by the military pay reduction, agencies should withhold retirement deductions based on the amount of the military leave before it is reduced by the military pay.



Abby Block, Senior Advisor
for Employee and Family Support
Strategic Human Resources Policy



Mary Ellen Wilson, Manager
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Attachment

- Sample Request for Estimated Military Earning