

Direct Payment of Retired Pay to Former Spouses

The material in this handout represents general legal principles. Since the law is continuously changing, some provisions in this pamphlet may change with time. If further assistance is required, consult with an attorney about your legal rights and responsibilities regarding your particular situation.

REQUIREMENTS:

To receive direct payment of a former spouse's military retired pay, the following requirements must be met:

- (1) The marriage must have lasted at least ten years during which time the military member must have served 10 or more years of creditable service towards retirement; and
- (2) There must be a final decree of divorce, dissolution, annulment, or legal separation; and
- (3) The court order must specifically provide that payment is to be made from disposable retired pay; and
- (4) The court order must express payment in dollars or a percentage of the member's disposable retired pay.

LIMITS:

The amount paid directly to a former spouse cannot exceed 50 percent of the member's disposable retired pay. As a result, any court award of payment above 50 percent must be paid to the former spouse by the retired military member.

TERMINATION OF DIRECT PAYMENTS

Direct payments terminate upon the earliest of three events:

- (1) Terms of the court order are satisfied; or
- (2) Death of the retired member; or
- (3) Death of the former spouse.

PROCEDURE TO REQUEST DIRECT PAY

The former spouse must deliver to the DFAS service center for the member's branch of service:

- (1) A signed DD Form 2293, Request for Former Spouse Payments from Retired Pay, or a signed statement that includes:
 - (a) request for direct payment to the former spouse from the member's pay;
 - (b) a certified copy of the court order and other accompanying documents that provides for payment of child support, alimony, or division of property;
 - (c) a statement that the court order has not been amended, superseded, or set aside;
 - (d) sufficient identifying information about the member to enable processing of the application. The identification should give the member's full name, social security number, and branch of service;

- (e) the full name, address, and social security number of the former spouse;
 - (f) a statement that the former spouse agrees personally that any future overpayments are recoverable and subject to involuntary collection from the former spouse or their estate; and
 - (g) a statement that the former spouse agrees to notify DFAS promptly if the court order is vacated, modified, or set aside. This includes notice of the former spouse's remarriage if all or part of the payment for alimony or any change in eligibility for child support payments as a result of the child's death, emancipation, adoption, or attainment of majority if pay is for child support.
- (2) If the court order does not state that the former spouse satisfied the 10/10 year rule, the former spouse must furnish sufficient evidence for DFAS to verify that the requirement was met (a copy of the marriage license, for example).

Notification to DFAS can be by regular mail, e- mail, fax or certified mail.

Not later than 90 days after receiving the required notification, DFAS will make payment to the former spouse and inform him or her of the amount to be paid. DFAS may reject any request for direct pay that does not satisfy the requirements above.

WHERE TO SEND THE REQUEST

Send the application to Garnishment Law Directorate at the Defense Finance Accounting Service (DFAS):

DFAS-HGA/CL
Assistant General Counsel for Garnishment Law Directorate
P.O. Box 998002
Cleveland, OH 44199-8002

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