



VA's Requirement to Recover Separation Pay Before the Veteran Can Begin Receiving Full VA Disability Compensation Payments

Understanding VA Recoupment of Separation Pay:

The VA requires veterans to repay separation pay received from the military before they can begin receiving full VA disability compensation. This is done by deducting the taxable portion of the separation pay from disability payments until the full amount has been recouped. This policy applies to all veterans who qualify for VA disability benefits after receiving separation pay.

KEY POINTS:

1. Separation Pay Received from Military Service:

- For example, when you separated from the military, you received a **lump sum payment** of **\$28,000**, commonly referred to as “*separation pay*”. This is a form of compensation given to service members who voluntarily or involuntarily leave the military under certain conditions.

2. VA Disability Compensation and Separation Pay:

- By law, the VA is required to **offset (recoup)** the separation pay you received from your VA disability compensation. This means the VA will withhold a portion (or all) of your disability payments until the separation pay amount has been fully repaid.
- This ensures you don't receive both separation pay and VA compensation for the same period of service, as both are government-provided benefits.

3. Withholding Rules:

A. On or After September 30, 1996:

- The VA will withhold the **separation pay amount *minus* Federal income tax** that was originally withheld -- approximately 25% of the lump sum or **\$7,000**.
- This means the VA is recouping a reduced amount of your separation pay to account for taxes already deducted or **\$21,000**.

B. On or Before October 1, 1996:

- If the separation pay was received on or before this date, the VA would withhold the ***entire amount without accounting for taxes***.

4. Special Separation Benefits (SSB):

- If your separation pay falls under SSB (a specific type of benefit for voluntary separation), the withholding is treated the same: the VA withholds the gross amount minus Federal income tax (**See “A” above**).



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5. When Full VA Compensation Starts:

- Once the total amount of your separation pay (minus applicable taxes) has been recouped, the VA will begin issuing your **full monthly disability compensation payments**.

6. Address Updates:

- The VA emphasizes that you must notify them of any change in your address. Failure to do so could delay payments or result in missing notifications about your compensation.
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REFERENCES

The recoupment of separation pay by the Department of Veterans Affairs is governed by several federal laws and regulations. Below are the key VA references and statutes:

1. Federal Law:

- **10 U.S.C. § 1174(h)(2):**
 - This statute outlines the requirement to deduct separation pay from VA disability compensation. It states that a service member who receives separation pay under this section must have their VA compensation offset by the gross amount of the separation pay received.
 - [Link to statute](#)
- **38 U.S.C. § 5304:**
 - This statute addresses the prohibition against receiving duplicate benefits from the federal government, such as both separation pay and VA disability compensation.
 - [Link to statute](#)

2. Code of Federal Regulations (CFR):

- **38 CFR § 3.700(a)(5):**
 - This regulation provides details on how VA compensation is offset for veterans who received separation pay, specifically addressing the withholding of the gross amount of separation pay (minus Federal taxes if paid after September 30, 1996).
 - [Link to regulation](#)



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3. VA Policy and Guidance:

- **M21-1, Adjudication Procedures Manual:**
 - The VA's internal guidance manual (M21-1) contains specific instructions on recouping separation pay. It outlines the procedures for calculating and withholding amounts, based on the date of separation pay receipt and whether taxes were deducted.
 - Relevant sections:
 - Part III, Subpart v, Chapter 4, Section B: **Recoupment of Separation Benefits**
 - Part V, Subpart i, Chapter 3, Section D: **Offsetting Disability Compensation Due to Receipt of Separation Pay**
- You can access the M21-1 manual on the VA's website:
 - [VA M21-1 Manual](#)

4. VA Frequently Asked Questions (FAQs):

- The VA provides a detailed explanation of separation pay and recoupment in their FAQs and informational pages for veterans.
- Check the VA Compensation website:
 - [VA Compensation and Pension](#)

Additional Resources:

- **VA Form 21-4138 (Statement in Support of Claim):**
 - If you have questions or wish to dispute the recoupment amount, you can use this form to provide additional evidence or make inquiries.
- **Contact VA Benefits Assistance:**
 - Phone: **1-800-827-1000**
 - Website: [VA Benefits Contact Page](#)
- **Contact CaseSix**
 - Phone: **410-803-5049**
 - Email: Provet@CaseSixVets.com