



UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000



PERSONNEL AND  
READINESS

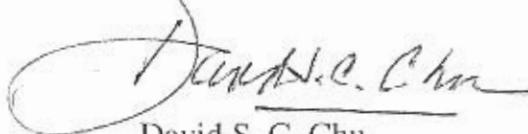
SEP 21 2005

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
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UNDER SECRETARIES OF DEFENSE  
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DIRECTOR, NET ASSESSMENT  
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Increased Annual Premium Pay Limitation

I have determined that Department of Defense (DoD) employees who perform work in support of, or related to, a military operation, including a contingency operation, or an operation in response to a declared emergency, while assigned to an overseas area of responsibility of the Commander of the U.S. Central Command, are paid under an annual limitation of \$200,000 during calendar year 2005, rather than under the limitation defined by the provisions of section 5547 of title 5, United States Code. Section 1008 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109-13, May 11, 2005) authorizes the increased annual premium pay limitation.

The attached DoD policy and procedures provide implementing instructions for the increased limitation for calendar year 2005.



David S. C. Chu

Attachments:  
As stated



**Department of Defense (DoD) Policy  
Annual Limitation on Premium Pay for 2005  
for  
U.S. Central Command Area of Responsibility**

**A. General Information**

1. Section 1008 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109-13, May 11, 2005) authorizes the Secretary of Defense to waive the calendar year 2005 annual premium pay limitation, up to \$200,000, for DoD employees assigned to an overseas location in the area of responsibility of the Commander of the U.S. Central Command (US CENTCOM), notwithstanding the provisions of section 5547 of title 5, United States Code (U.S.C.).
2. Employees eligible for the increased limitation include those employees who:
  - a. Are subject to the provisions of 5 U.S.C. 5547;
  - b. Are assigned to an overseas location in the US CENTCOM area of responsibility;
  - c. Remain in the US CENTCOM area of responsibility for at least 42 consecutive calendar days; and
  - d. Perform work in support of, or related to, a declared emergency or a military operation, including a contingency operation as defined in 10 U.S.C. 101(a)(13). **Note:** Currently, only employees assigned to Iraq and/or Afghanistan who meet the criteria in A.2. (a.-c.) are deemed to meet the requirements of A.2.d. Determinations about whether employees in other US CENTCOM overseas areas of responsibility (Appendix A) perform work that meets the eligibility criteria must be made on a case-by-case basis and documented using the procedures described in section C of this policy.
3. Designees. Secretaries of the Military Departments and the Heads of Defense Agencies and DoD Field Activities with independent appointing authority on behalf of themselves and their serviced populations are hereby delegated the authority to determine when employees meet the eligibility criteria in A.2. This authority may be further delegated, in writing, to managers and supervisors (hereafter referred to as “authorized management officials”) for use in accordance with this guidance.

#### 4. Definitions:

- a. *Aggregate Pay Limitation.* An employee's total calendar year payable income as defined in 5 U.S.C. 5307 and in Title 5, Code of Federal Regulations (CFR) 530.201. For calendar year 2005, the limitation is \$180,100.
- b. *Annual Premium Pay Limitation.* The maximum amount of basic pay and premium pay payable in a calendar year to an employee as specified in 5 U.S.C. 5547(b) or section 1008 of Pub. L. 109-13, as applicable.
- c. *Area of Responsibility.* The geographic area associated with a combatant command within which a combatant commander has authority to plan and conduct operations.
- d. *Contingency Operation.* A military operation that is:
  - i. Designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing force; or
  - ii. Created by definition of law.
- e. *Declared Emergency.* A condition declared by the President or the Congress by virtue of powers previously vested in them that authorize certain emergency actions to be undertaken in the national interest. Action to be taken may include partial, full, or total mobilization of national resources.
- f. *Military Operations.* Operations that encompass the use of military capabilities across the range of military operations short of war. These military actions can be applied to complement any combination of the other instruments of national power and may occur before, during, and after war.
- g. *Premium Pay.* Premium pay is the dollar value of earned hours of compensatory time off and additional pay authorized for overtime, night, Sunday, or holiday work; or for standby duty, administratively uncontrollable overtime work, or availability duty.

## B. Implementation

1. The increased annual premium pay limitation of \$200,000 enacted by section 1008 of Pub. L. 109-13 is effective on January 1, 2005, and applies to premium payments payable to an eligible employee during the 2005 calendar year. Premium payments payable before the effective date of an employee's eligibility under A.2.d. are not covered by section 1008.
2. The \$200,000 premium pay limitation (i.e., limitation on basic pay and premium pay) exceeds the 2005 aggregate pay limitation for total annual compensation under 5 U.S.C. 5307 (Executive Level I (\$180,100)), which Pub. L. 109-13 does not waive.
3. Premium pay payable under this policy that is in excess of the 2005 aggregate pay limitation is deferred for payment until the first pay period in 2006 (Appendix B). Deferred payments will count towards the employee's 2006 aggregate limitation.
4. When an employee no longer performs work in support of a covered military operation in an overseas location of the US CENTCOM area of responsibility, or when the employee is reassigned to a position outside the US CENTCOM area of responsibility, the employee will be subject to the biweekly limitation, as stated in 5 U.S.C. 5547(a), for that position and location. The biweekly limitation is the greater of the amount payable per pay period for:
  - a. GS-15, step 10 (including any applicable special salary rate or locality rate of pay); or
  - b. Level V of the Executive Schedule.

However, any premium pay payable to such employee for any given pay period during the remainder of the calendar year still is subject to the \$200,000 annual limitation. Therefore, the employee may be paid premium pay only to the extent that the payment does not cause the total of his or her basic pay and premium pay payable in the 2005 calendar year to exceed \$200,000.

5. If an employee's premium pay limitation is increased to \$200,000 and, at the end of calendar year 2005, the employee does not meet the eligibility criteria defined in A.2.c., the employee must reimburse the Department for premium payments made in excess of the applicable limitation under 5 U.S.C. 5547. The debt collection process for continuing employees is outlined in DoD 7000.14-R, Department of Defense Financial Management

Regulation (DoDFMR), Volume 8, and the debt collection process for debtors no longer in government service is found in DoDFMR, Volume 5.

6. To the extent that a waiver results in payment of additional premium pay of a type that is normally credited as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States code.

### **C. Documentation**

1. Effective upon receipt of this policy, each authorized management official will provide the Defense Finance and Accounting Service (DFAS) with the names, social security numbers, pay plans, series, and grades of eligible employees who have worked or are projected to work in a covered position in an overseas location of the US CENTCOM area of responsibility for a period of at least 42 consecutive days. For employees who were serving in the area on January 1, 2005, the 42 consecutive days may include days served in 2004, although the higher annual pay limitation will apply only to premium pay payable in 2005. The 42 consecutive days also may include days served in 2006, although the higher annual pay limitation will apply only to premium pay payable in 2005.
2. Management officials must ensure DFAS is provided the required data for any employee deemed eligible for the higher calendar year 2005 annual premium pay limitation even if the employee has since left the overseas location in the US CENTCOM area of responsibility by the issuance date of this policy.
3. Future data will be sent to DFAS the first pay period any DoD employee performs work in Afghanistan or Iraq. For employees in other overseas US CENTCOM areas of responsibility, the data will be sent to DFAS the first pay period the authorized management official determines the employee is performing work in support of, or related to, a declared emergency or a military operation as defined in A.2.d.
4. An authorized management official is required to provide DFAS notice when an employee, identified in accordance with the provisions of C.1. of this section, departs the area prior to meeting the eligibility criteria of A.2.c.
5. The timekeepers for each activity will record the premium pay earned each biweekly pay period using normal time and attendance procedures for the Defense Civilian Pay System (DCPS).

#### **D. Accountability**

1. Managers and supervisors of eligible employees are responsible for the appropriate assignment of work to support mission requirements within the US CENTCOM area of responsibility and the application of the increased annual premium pay limitation.
2. Designees are accountable for oversight of this authority.

**COUNTRIES IN THE US CENTCOM OVERSEAS AREA OF  
RESPONSIBILITY**

1. Djibouti
2. Egypt
3. Eritrea
4. Sudan
5. Kenya
6. Ethiopia
7. Somalia
8. Jordan
9. Saudi Arabia
10. Yemen
11. Oman
12. United Arab Emirates
13. Qatar
14. Bahrain
15. Kuwait
16. Pakistan
17. Iran
18. Iraq
19. Afghanistan
20. Tajikistan
21. Kyrgyzstan
22. Kazakhstan
23. Uzbekistan
24. Turkmenistan
25. Seychelles

### Premium Pay Limitation Waiver

**Note:** In the examples, the annual base salary of \$99,819.20 is the payable salary for 26 pay dates during 2005. The salary is derived by taking the GS-14, Step 5 locality rate of \$100,152 for a Washington D.C. employee, dividing \$100,152 by 2087 to determine the hour base rate of \$47.99, multiplying the hourly rate by 80 hours to get the biweekly rate of \$3839.20, and then multiplying \$3839.20 by 26 pay periods to get the annual payable salary of \$99,819.20.

**Example 1.** On May 1, 2005, John Jones (a GS-14, Step 5, in Washington D.C.) began a 12-month detail to a position in Iraq. He works 12-hour shifts, Monday through Saturday, for a total of 144 hours per pay period (80 hours normal tour and 64 overtime hours). John earns \$99,819.20 in annual base salary (with an hourly overtime rate of \$47.99). He also receives danger pay and post differential equal to 50 percent of his basic salary (excluding overtime) each pay period. While duty-stationed in Iraq, John earns the following each pay period:

Base Salary	\$3839.20
Danger Pay and Post Differential	\$1919.60
Overtime for 64 Hours	<u>\$3071.36</u>
Total Each Pay Period	\$8830.16

As a Federal employee, John is subject to two annual pay caps:

- Total of base salary (\$99,819.20) and premium pay payable during 2005 may not exceed \$200,000.
- Total of all pay (e.g., base salary, premium pay, danger pay, post differential, awards, foreign language proficiency pay, retention allowance, recruitment allowance) may not exceed the amount for Executive Level 1 (\$180,100).

If John is projected to work 64 hours of overtime during each of the 17 pay periods for which he will receive pay in the remainder of calendar year 2005 (while detailed to Iraq), he will earn \$52,213.12 payable as premium pay added to his base salary of \$99,819.20.

Base Salary	\$ 99,819.20
Overtime for 1088 Hours	<u>\$ 52,213.12</u>
2005 Base + Premium Pay	\$152,032.32

However, John will also receive danger pay and post differential during the time he is detailed to Iraq. He is entitled to the following for calendar year 2005.

Base Salary	\$ 99,819.20
Danger Pay and Post Differential	\$ 32,633.20
Overtime for 1088 Hours	<u>\$ 52,213.12</u>

Total for the Year \$184,665.52

Although the total in base salary plus premium pay does not exceed \$200,000, his total compensation for the calendar year will exceed the aggregate cap of \$180,100 by \$4,565.52, and that amount will be deferred until the pay date for the first pay period in 2006.

**Example 2.** On February 20, 2005, Mary Smith (a GS-14, Step 5, in Washington D.C.) began an 8-month detail to a position in Iraq. She works 12-hour shifts, Monday through Saturday, for a total of 144 hours per pay period (80 hours normal tour and 64 overtime hours). Mary earns \$99,819.20 in annual base salary (with an hourly overtime rate of \$47.99). She also receives danger pay and post differential equal to 50 percent of her basic salary (excluding overtime) each pay period. While duty-stationed in Iraq, Mary earns the following each pay period:

Base Salary	\$3839.20
Danger Pay and Post Differential	\$1919.60
Overtime for 64 Hours	<u>\$3071.36</u>
Total Each Pay Period	\$8830.16

As a Federal employee, Mary is subject to two annual pay caps:

- Total of base salary (\$99,819.20) and premium pay payable during 2005 may not exceed \$200,000.
- Total of all pay (e.g., base salary, premium pay, danger pay, post differential, awards, foreign language proficiency pay, retention allowance, recruitment allowance) may not exceed the amount for Executive Level 1 (\$180,100).

If Mary is projected to work 64 hours of overtime during each of the 17 pay periods while detailed to Iraq, she will earn \$52,213.12 payable as premium pay added to her base salary of \$99,819.20. She works each of the 5 holidays occurring while she is in Iraq for an entitlement of \$1,919.60 payable as premium pay.

In addition, prior to deployment Mary worked 16 hours overtime at her permanent duty (home) station for an entitlement of \$767.84 payable as premium pay. After returning from deployment, Mary worked 8 hours overtime on a special project in support of GWOT for an entitlement of \$383.92.

Base Salary	\$ 99,819.20
Overtime for 16 hours (Pre-Deployment)	\$ 767.84
Overtime for 1088 hours (Deployed)	\$ 52,213.12
Holiday Pay	\$ 1,919.60
Overtime for 8 hours (Post-Deployment)	<u>\$ 383.92</u>
2005 Base + Premium Pay	\$155,103.68

However, Mary will also receive danger pay and post differential during the time she is detailed to Iraq. She is entitled to the following for calendar year 2005.

Base Salary	\$ 99,819.20
Danger Pay and Post Differential	\$ 32,633.20
Holiday Pay	\$ 1,919.60
Overtime for 1112 Hours	<u>\$ 53,364.88</u>
Total for the Year	\$187,736.88

Although the total in base salary plus premium pay does not exceed \$200,000, her total compensation for the calendar year will exceed the aggregate cap of \$180,100 by \$7,636.88 and that amount will be deferred until the pay date for the first pay period in 2006.