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PERSONNEL AND READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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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 are not covered by the National Security Personnel System and who perform work in direct support of, or directly related to, a military operation, including a contingency operation, while assigned to an overseas area of responsibility of the Commander of the U.S. Central Command, are paid under an annual limitation of $212,100 during calendar year 2007, rather than under the limitation defined by the provisions of section 5547(a) of title 5, United States Code. Section 1105 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364, October 17, 2006) authorizes the increased annual premium pay limitation.

The attached DoD policy and procedures provide implementing instructions for the increased limitation for calendar year 2007.

David S. C. Chu

Attachments:
As stated

Department of Defense (DoD) Policy
Annual Limitation on Premium Pay for 2007
for
U.S. Central Command Area of Responsibility

A. General Information

1. Section 1105 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364, October 17, 2006) authorizes the Secretary of Defense to waive the calendar year 2007 annual premium pay limitation, up to $212,100, 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 or Subchapter 1930.12 of DoD 1400.25-M, Department of Defense Civilian Personnel Manual (CPM);

    b. Are assigned to an overseas location in the 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 direct support of, or directly related to, 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*. The maximum amount of an employee's total calendar year payable income as defined in 5 U.S.C. 5307 and Title 5, Code of Federal Regulations (CFR) 530.202; and in section SC1930.8.1. of subchapter 1930 of DoD 1400.25-M, "DoD Civilian Personnel Manual (CPM)." For calendar year 2007, the limitation is $186,600.

   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 SC1930.12.1. of subchapter 1930 of DoD 1400.25-M, "DoD Civilian Personnel Manual (CPM); and in section 1105 of Pub.L.109-394.

   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*. As defined in 10 U.S.C. 101(a)(13), a military operation that:

      i. Is 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. Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

   e. *Military Operations*. Operations that encompass the use of military capabilities across the range of military operations. These military actions can be applied to complement any combination of the other instruments of national power and occur before, during, and after war.

f. *Premium Pay*. Premium pay subject to the annual premium pay limitation 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. It excludes overtime pay paid to employees under the Fair Labor Standards Act and compensatory time off earned in lieu of such overtime pay.

B. Implementation

1. The increased annual premium pay limitation of $212,100 enacted by section 1105 of Pub. L. 109-364 is effective on January 1, 2007, and applies to premium payments payable to an eligible employee during the 2007 calendar year. Premium payments payable before the effective date of an employee's eligibility under A.2.d. are not covered by section 1105.

2. The $212,100 pay limitation (i.e., limitation on total compensation) exceeds the 2007 aggregate pay limitation for total annual compensation under 5 U.S.C. 5307 (Executive Level I ($186,600)), which Pub.L. 109-364 does not waive.

3. Premium pay payable under this policy that is in excess of the 2007 aggregate pay limitation is deferred for payment until the first pay period in 2008. Deferred payments will count towards the employee's 2008 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 $212,100 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 2007 calendar year to exceed $212,100.

5. If an employee's premium pay limitation is increased to $212,100 and, at the end of calendar year 2007, the employee did 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 5 U.S.C. 5551.

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 employees who have worked or are projected to work 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, 2007, the 42 consecutive days may include days served in 2006. The 42 consecutive days also may include days served in 2008, although the higher annual pay limitation addressed in this policy will apply only to premium pay payable in 2007.

2. Management officials must ensure DFAS is provided the required data for any employee deemed eligible for the higher calendar year 2007 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 direct support of, or directly related to 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 CENTCOM area of responsibility and the application of the increased annual premium pay limitation.

2. Designees are accountable for oversight of this authority.

Appendix A

COUNTRIES IN 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**
26. **Syria**
27. **Lebanon**

Premium Pay Limitation Waiver
Example 1

On April 29, 2007, 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 $105,976 in annual base salary with an hourly overtime rate of $50.95. (His salary is derived by multiplying his hourly rate by 80 hours each pay period by 26 pay periods in the year.) He also receives danger pay and post differential equal to 70 percent of his basic salary (excluding overtime) each pay period. While duty-stationed in Iraq, John earns the following each pay period:

Base Salary	$ 4,076.00
Danger Pay and Post Differential	$ 2,853.20
Overtime for 64 Hours	$ 3,260.80
Total Each Pay Period	$10,190.00

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

- Total of base salary ($105,976) and premium pay payable during 2007 may not exceed $212,100.
- 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 ($186,600).

If John is projected to work 64 hours of overtime during each of the 17 pay periods for which he will receive pay during 2007 (while detailed to Iraq), he will earn $55,433.60 payable as premium pay added to his base salary of $105,976.

Base Salary	$105,976.00
Overtime for 1088 Hours	$ 55,433.60
2007 Base + Premium Pay	$161,409.60

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 2007.

Base Salary	$105,976.00
Danger Pay and Post Differential	$ 48,504.40
Overtime for 1088 Hours	$ 55,433.60
Total for the Year	$209,914.00

Although the total in base salary plus premium pay does not exceed $212,100, his total compensation for calendar year will exceed the aggregate cap of $186,600 by

$ 23,314 and that amount will be deferred until the pay date for the first pay period in 2008.

Premium Pay Limitation Waiver
Example 2

On February 20, 2007, Mary Smith (a GS-14, Step 5, in Washington D.C.) began a 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 in $105,976 annual base salary (with an hourly overtime rate of $50.95). She also receives danger pay and post differential equal to 70 percent of her basic salary (excluding overtime) each pay period. While duty-stationed in Iraq, Mary earns the following each pay period:

Base Salary	$ 4,076.00
Danger Pay and Post Differential	$ 2,853.20
Overtime for 64 Hours	$ 3,260.80
Total Each Pay Period	$10,190.00

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

- Total of base salary ($105,976) and premium pay payable during 2007 may not exceed $212,100.
- 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 ($186,600).

If Mary is projected to work 64 hours of overtime during each of the 17 pay periods while detailed to Iraq, she will earn $55,433.60 payable as premium pay added to her base salary of $105,976. If she also works 5 holidays while she is in Iraq, she will have a premium pay for holiday work entitlement of $2,038.

In addition, prior to deployment Mary worked 16 hours overtime at her permanent duty (home) station for an entitlement of $815.20 payable as premium pay. After returning from deployment, Mary worked 8 hours overtime on a special project for an entitlement of $407.60.

Base Salary	$105,976.00
Overtime for 16 hours (Pre-Deployment)	$ 815.20
Overtime for 1088 hours (Deployed)	$ 55,433.60
Pay for Holiday Work	$ 2,038.00
Overtime for 8 hours (Post-Deployment)	$ 407.60
2007 Base + Premium Pay	$164,670.40

However, Mary will also receive $4,565.52 in salary deferred from 2006 and danger pay and post differential during the time she is detailed to Iraq. She is entitled to the following for calendar year 2007.

Deferred Pay	$ 4,565.52
Base Salary	$105,976.00
Danger Pay and Post Differential	$ 48,504.40
Holiday Pay	$ 2,038.00
Overtime for 1112 Hours	$ 56,656.40
Total for the Year	$217,740.32

Although the total in base salary plus premium pay does not exceed $212,100, her total compensation for calendar year will exceed the aggregate cap of $186,600 by $31,140.32 and that amount will be deferred until the pay date for the first pay period in 2008.

Premium Pay Limitation Waiver
Example 3

On April 29, 2007, John Jones (a DoD NSPS YA-3 employee 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 $105,976 in annual base salary (with an hourly overtime rate of $50.95). He also receives danger pay and post differential equal to 70 percent of his basic salary (excluding overtime) each pay period. While duty-stationed in Iraq, John earns the following each pay period:

Base Salary	$ 4,076.00
Danger Pay and Post Differential	$ 2,853.20
Overtime for 64 Hours	$ 3,260.80
Total Each Pay Period	$10,190.00

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

- Total of base salary ($105,976) and premium pay payable during 2007 may not exceed $212,100.
- 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 ($186,600).

If John is projected to work 64 hours of overtime during each of the 17 pay periods for which he will receive pay during 2007 (while detailed to Iraq), he will earn $55,433.60 payable as premium pay added to his base salary of $105,976.

Base Salary	$105,976.00
Overtime for 1088 Hours	$ 55,433.60
2007 Base + Premium Pay	$161,409.60

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 2007.

Base Salary	$105,976.00
Danger Pay and Post Differential	$ 48,504.40
Overtime for 1088 Hours	$ 55,433.60
Total for the Year	$209,914.00

Although the total in base salary plus premium pay does not exceed $212,100, his total compensation for calendar year will exceed the aggregate cap of $186,600 by $ 23,314 and that amount will be deferred until the pay date for the first pay period in 2008.