

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>            |
|------------------------|---------------------------|----------------------------------------------|
| 1004 .....             | 37:310.                   | Oct. 12, 1949, ch. 681, § 510, 63 Stat. 828. |

#### § 1005. Army and Air Force: prompt payments required

Members of the Army and of the Air Force shall be paid at such times that arrears will at no time be more than two months, unless circumstances make further arrears unavoidable.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

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| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 1005 .....             | 37:310b.                  | R.S. 1189.                        |

The applicability of this section to members of the Air Force is based on Department of Defense Transfer Order No. 25, dated October 14, 1948.

#### § 1006. Advance payments

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

(1) not more than three months' pay of such member upon such member's change of permanent station; or

(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.

(b) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is on duty at a distant station where the pay and emoluments to which he is entitled cannot be disbursed regularly, may be paid in advance.

(c) Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the Secretary of Defense, of not more than two months' basic pay may be made to a member if the member or the dependents of the member are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member. The Secretary concerned or his designee may waive any right of recovery of not more than one month's

basic pay advanced under this subsection if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

(d) If a person to whom an advance of pay is made under subsection (a), (b), or (c) dies or is separated from his uniformed service, before liquidation of that advance, the amount remaining unliquidated at the time of his death or separation shall be credited to the account of the disbursing officer concerned. However, the unliquidated amount remains a debt of that person or his estate to the United States.

(e)(1) As far as practicable, regulations for the administration of subsections (a)–(d) shall be uniform for all of the uniformed services.

(2)(A) Notwithstanding any other provision of law, an obligation for an advance of pay made pursuant to this section shall be recorded as an obligation only in the fiscal year in which the entitlement of the member to the pay accrues.

(B) Current appropriations available for advance payments under this section may be transferred to the prior fiscal year appropriation available for the same purpose in the amount of any unliquidated advance payments that remain at the end of such prior fiscal year. Such unliquidated advance payments shall then be credited to the current appropriation.

(f) Under regulations prescribed by the Secretary of Homeland Security, an advance of pay of not more than three months' pay may be made to an officer of the Coast Guard who is ordered to sea duty or to or from shore duty beyond the seas. In addition, the Commandant of the Coast Guard may direct such advances as he considers necessary and proper to members of the Coast Guard stationed at distant stations where the pay and emoluments to which they are entitled cannot be paid regularly.

(g) Under regulations prescribed by the Secretary concerned, the dislocation allowance authorized by section 407 of this title for a member of a uniformed service whose dependents are covered by section 405a(a) of this title may be paid in advance of the evacuation of the dependents and to the dependents designated by the member.

(h) Notwithstanding subsections (a) and (b) of section 3324 of title 31, the Secretary concerned may, when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, authorize the payment of pay and allowances to members of uniformed service under his jurisdiction on the preceding workday but not more than three days before the last day of that pay period. If a member dies after he has received an advance payment under this subsection, but before the last day of the pay period for which the payment is made, no part of the amount so advance is recoverable by the United States.

(i) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Armed Forces Health Professions Scholarship program upon reporting for a period of active duty required by section 2121(c) of title 10.

(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the

Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490; Pub. L. 89-26, §1(6), May 22, 1965, 79 Stat. 117; Pub. L. 89-193, Sept. 21, 1965, 79 Stat. 823; Pub. L. 89-718, §70, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-623, §3(1), (9), Oct. 22, 1968, 82 Stat. 1314, 1315; Pub. L. 96-76, title III, §313(b), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-215, §3, Mar. 25, 1980, 94 Stat. 123; Pub. L. 96-343, §8, Sept. 8, 1980, 94 Stat. 1128; Pub. L. 96-513, title V, §516(23), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 97-60, title I, §131(b), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 97-258, §3(j), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99-145, title XIII, §1303(b)(12), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title VI, §602(a), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §602(a), Oct. 23, 1992, 106 Stat. 2420; Pub. L. 103-160, div. A, title VI, §605(a), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 105-261, div. A, title VI, §652, Oct. 17, 1998, 112 Stat. 2051; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

#### HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)          | Source (Statutes at Large)                                                                                           |
|-----------------|-----------------------------|----------------------------------------------------------------------------------------------------------------------|
| 1006(a) .....   | 37:310c(a).                 | Oct. 5, 1949, ch. 600, §1, 63 Stat. 703.                                                                             |
| 1006(b) .....   | 37:319c(b).                 | Oct. 5, 1949, ch. 600, §2; added Aug. 30, 1961, Pub. L. 87-188, §1, 75 Stat. 416.                                    |
| 1006(c) .....   | 37:310c-1.                  | Oct. 5, 1949, ch. 600, §2, 63 Stat. 704; redesignated as section 3, Aug. 30, 1961, Pub. L. 87-188, §2, 75 Stat. 416. |
| 1006(d) .....   | 37:310d.                    |                                                                                                                      |
| 1006(e) .....   | 37:310c (less (a) and (b)). |                                                                                                                      |
| 1006(f) .....   | 14:465.                     | [None.]                                                                                                              |

In subsections (a) and (b), the words “a member of an armed force” are substituted for the words “commissioned and warrant officers, and enlisted men of the armed services.” The words “Secretary concerned” are substituted for the words “heads of the departments concerned” to conform to the definition in section 101(5) of this revised title.

In subsection (b), the words “may be paid in advance” are substituted for the words “may have their pay and emoluments advanced”.

In subsection (c), the words “Secretary concerned” are substituted for the words “heads of the departments concerned” to conform to the definition in section 101(5) of this revised title. The words “member of an armed force” are substituted for the words “members of the armed services”. The words “who are” are substituted for the words “in the event such dependents are”. The words “under subsection (a) or (b) of this section” are substituted for the words “in section 310c of this title” to reflect the section of this revised title which restates that section. The words “dependents of members of the armed forces” are substituted for the words “military dependents.” The words “at a place” are omitted as surplusage.

In subsection (d), the words “If a” are substituted for the words “In the event the”. The words “credited to the account” are substituted for the words “passed to credit in the account”.

#### AMENDMENTS

2002—Subsec. (f). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1998—Subsec. (e). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1993—Subsec. (c). Pub. L. 103-160 substituted “the Secretary of Defense” for “the President” in first sentence.

1992—Subsec. (c). Pub. L. 102-484 inserted first four sentences and struck out former first and second sentences which read as follows: “Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than two months’ basic pay may be made directly to his previously designated dependents who are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b), and may be made only if all dependents of members of the uniformed services are ordered evacuated from the place where the member’s dependents are located.”

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsection (a) or (b)”.

Subsec. (d). Pub. L. 102-25 struck out “of this section” after “subsection (a), (b), or (c)”.

Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsections (a)-(d)”.

1986—Subsec. (j). Pub. L. 99-661 added subsec. (j).

1985—Subsec. (h). Pub. L. 99-145 substituted “subsections (a) and (b) of section 3324” for “section 3324(a) and (b)”.

1982—Subsec. (h). Pub. L. 97-258 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)” after “Notwithstanding”.

1981—Subsec. (i). Pub. L. 97-60 added subsec. (i).

1980—Subsec. (a). Pub. L. 96-343 inserted provision authorizing an advance payment of the amount of an allotment made from the pay of a member of the uniformed services to a dependent if the member is scheduled for duty with a unit deployed outside the United States and the allotment is made not more than 60 days before the scheduled date of the assignment.

Pub. L. 96-215, §3(1), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

Subsec. (b). Pub. L. 96-215, §3(1), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

Subsec. (c). Pub. L. 96-215, §3(1), (2), substituted “a uniformed service” for “an armed force or of the Public Health Service” and “members of the uniformed services” for “members of the armed forces or of the Public Health Service”.

Subsec. (d). Pub. L. 96-215, §3(3), substituted “from his uniformed service” for “from his armed force or from the Public Health Service”.

Subsec. (e). Pub. L. 96-215, §3(4), substituted “uniformed services” for “armed forces and the Public Health Service”.

Subsec. (h). Pub. L. 96-513 substituted “3648 of the Revised Statutes (31 U.S.C. 529)” for “529 of title 31”.

Pub. L. 96-215, §3(5), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

1979—Subsecs. (a) to (d) and (h). Pub. L. 96-76 inserted reference to the Public Health Service.

1968—Subsec. (a). Pub. L. 90-623, §3(9), substituted “change of permanent station” for “permanent change of station”.

Subsec. (f). Pub. L. 90-623, §3(1), substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1966—Subsec. (h). Pub. L. 89-718 redesignated as subsec. (h) the subsection relating to advance payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, formerly designated as subsec. (g).

1965—Subsec. (c). Pub. L. 89-26, §1(6)(A), empowered the Secretary concerned or his designee to waive any right of recovery of not more than one month’s basic pay advanced if he finds that recovery of the advance

would be against equity and good conscience or against the public interest.

Subsec. (g). Pub. L. 89-193 added subsec. (g) relating to the payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday.

Pub. L. 89-26, §1(6)(B), added subsec. (g) relating to advance payment of the dislocation allowance.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 602(b) of Pub. L. 102-484 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to evacuations on or after June 1, 1991."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 602(b) of Pub. L. 99-661, as amended by Pub. L. 100-26, §3(2), Apr. 21, 1987, 101 Stat. 273, provided that: "Subsection (j) of section 1006 of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act [Nov. 14, 1986]."

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-76 effective Oct. 1, 1979, see section 314 of Pub. L. 96-76, set out as a note under section 206 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### FISCAL YEAR OF RECORDATION OF OBLIGATIONS

Pub. L. 94-212, title VII, §744, Feb. 9, 1976, 90 Stat. 175, provided that: "Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned."

### § 1007. Deductions from pay

(a) The pay of an officer of an armed force may be withheld, under section 5512 of title 5, only for an indebtedness to the United States admit-

ted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of Defense (or the Secretary of Homeland Security, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy), or upon the denial of relief of an officer pursuant to section 3527 of title 31.

(b) An amount due to the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10, as the case may be, shall be deducted from the next pay due him after the sale is reported.

(c) Under regulations prescribed by the Secretary concerned, an amount that a member of the uniformed services is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his pay for that month.

(d) Subject to subsection (c), an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

(h)(1) Upon request by a service relief society and subject to paragraph (2), an amount owed by a member of the uniformed services to the relief society may be deducted from the pay on final statement of such member and paid to that relief society.

(2) An amount may not be deducted under paragraph (1) from the pay of a member unless the Secretary concerned makes a determination of the amount owed in accordance with the regulations prescribed under subsection (c). Any amount determined to be owed to a service relief society under this paragraph shall be considered