Compensation Offsets: Readjustment, Separation, & Severance Pay (VSR Advanced)

Instructor Lesson Plan

Time Required: 1.5 Hours

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| Lesson Description | |
| The information below provides the instructor with an overview of the lesson and the materials that are required to effectively present this instruction. | |
| TMS # | 4191205 |
| Prerequisites | Prior to this lesson, the Veteran Service Representatives (VSRs) should have completed Challenge Training or 24 months of VSR experience. |
| target audience | The target audience for Compensation Offsets: Readjustment, Separation, and Severance Pay (VSR Advanced) is the post-Challenge VSR.  Although this lesson is targeted to teach the VSR employee, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 1.5 hours |
| Materials/ TRAINING AIDS | Lesson materials:   * Compensation Offsets: Readjustment, Separation, and Severance Pay (VSR Advanced) PowerPoint Presentation * Compensation Offsets: Readjustment, Separation, and Severance Pay (VSR Advanced) Trainee Handouts * Compensation Offsets: Readjustment, Separation, and Severance Pay (VSR Advanced) Answer Key |
| Training Area/Tools | The following are required to ensure the trainees are able to meet the lesson objectives:   * Classroom or private area suitable for participatory discussions * Seating, writing materials, and writing surfaces for trainee note taking and participation * Handouts, which include a practical exercise * Large writing surface (easel pad, chalkboard, dry erase board, overhead projector, etc.) with appropriate writing materials * Computer with PowerPoint software to present the lesson material   Trainees require access to the following tools:   * VA TMS to complete the assessment * Computer to access the live manual * Combinator Tool on Compensation Services website |
| Pre-Planning | * Become familiar with all training materials by reading the Instructor Lesson Plan while simultaneously reviewing the corresponding PowerPoint slides. This will provide you the opportunity to see the connection between the Lesson Plan and the slides, which will allow for a more structured presentation during the training session. * Become familiar with the content of the trainee handouts and their association to the Lesson Plan. * Practice is the best guarantee of providing a quality presentation. At a minimum, do a complete walkthrough of the presentation to practice coordination between this Lesson Plan, the trainee handouts, and the PowerPoint slides and ensure your timing is on track with the length of the lesson. * Ensure that there are copies of all handouts before the training session. * When required, reserve the training room. * Arrange for equipment such as flip charts, an overhead projector, and any other equipment (as needed). * Talk to people in your office who are most familiar with this topic to collect experiences that you can include as examples in the lesson. * This lesson plan belongs to you. Feel free to highlight headings, key phrases, or other information to help the instruction flow smoothly. Feel free to add any notes or information that you need in the margins. |
| Training Day | * Arrive as early as possible to ensure access to the facility and computers. * Become familiar with the location of restrooms and other facilities that the trainees will require. * Test the computer and projector to ensure they are working properly. * Before class begins, open the PowerPoint presentation to the first slide. This will help to ensure the presentation is functioning properly. * Make sure that a whiteboard or flip chart and the associated markers are available. * The instructor completes a roll call attendance sheet or provides a sign-in sheet to the students. The attendance records are forwarded to the Regional Office Training Managers. |

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| Introduction to Compensation Offsets: Readjustment, Separation, and Severance Pay (VSR Advanced) | | |
| INSTRUCTOR INTRODUCTION | | Complete the following:   * Introduce yourself * Orient learners to the facilities * Ensure that all learners have the required handouts |
| time required | | 20 minutes |
| Purpose of Lesson  Explain the following: | | This lesson is intended to review information on compensation offsets and present scenarios for practice and enhanced application of concepts during claims processing. This lesson will contain discussions and exercises that will allow you to gain a better understanding of:   * Prohibition against duplication of payment * Evidence of potential need for offsets * Dates and considerations for offsets * Practical application of readjustment, severance, and separation pay adjustments |
| Lesson Objectives  Discuss the following:  Slide 2  Handout 2 | In order to accomplish the purpose of this lesson, the VSR will be required to accomplish the following lesson objectives:  TheVSR will be able to:   * Describe prohibition against duplication of benefits * List places to find evidence of pay potentially requiring offsets * Identify critical dates and considerations * Apply compensation offset knowledge by correctly working scenarios | |
| Explain the following: | Each learning objective is covered in the associated topic. At the conclusion of the lesson, the learning objectives will be reviewed. | |
| Motivation | Compensation offsets are often misapplied. Better understanding of this topic will allow VSRs to more efficiently and accurately process claims resulting in both better service for our Veterans and reduced stress and time consumption for employees working these cases. | |
| STAR Error code(s) | G1) Were required adjustments accomplished and correct?  H) Are all payment dates and rates correct?  K2) Was the notification correct? | |
| References  Slide 3  Handout 2 | Explain where these references are located.  All M21-1 references are found in the [Live Manual Website](https://vaww.compensation.pension.km.va.gov/).   * [**38 CFR 3.700**](http://vbaw.vba.va.gov/bl/21/publicat/Regs/Part3/3_700.htm)**,** General * [**M21-1, Part III, Subpart v.4.B**](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/)**,** Recoupment of Separation Benefits | |

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| Topic 1: Prohibition against duplication of benefits | |
| Introduction | This topic will allow the trainee to recognize benefits that require offsets of compensation payments. |
| Time Required | 10 minutes |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Review prohibition against duplication of benefits |
| 38 CFR 3.700  Slide 4  Handout 2 | 38 CFR 3.700 is a prohibition against duplication of benefits. This means that we have to *offset* the amount of compensation is due to the Veteran if any of the following types of separation benefits have been paid:   * **readjustment pay** under former 10 U.S.C. 687 and 3814a * non-disability severance pay under [10 U.S.C. 1174(h)(2)](https://www.law.cornell.edu/uscode/text/10/1174) * **separation pay** under [10 U.S.C. 1174](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001174----000-.html) * Reservists’ Involuntary Separation Pay (RISP) * **Special Separation Benefit (SSB)** under [10 U.S.C. 1174a](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001174---a000-.html) * Voluntary Separation Pay (VSP) under [10 U.S.C. 1175a](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001175---a000-.html), and * **disability severance pay** under [10 U.S.C. 1212(c)](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001212----000-.html).   *Note that the most common separation pay benefits and the focus of this training are: readjustment, separation pay, SSB (special separation benefit), and disability severance pay.* |
| Review *Slides 5 - 6* | Name the most common types of separation pay for which we make compensation adjustments and which will be the focus of this training (there are 4).  *Readjustment pay, Separation pay, Special Separation Benefit (SSB), Severance pay* |
| Topic 2: Finding evidence of Separation benefits and Amounts | |
| Introduction | This topic will allow the trainee to look in the correct places for evidence to validate type, dates, and amounts for separation pay received. |
| Time Required | 10 minutes |
| OBJECTIVES/ Teaching Points | Topic objectives:   * List places to find evidence of pay potentially requiring offsets |
| Validating benefits *Slide 7*  Handout 2 | ***Talking point****: Although the 21-526EZ and DD214 are great places to check to see if a separation benefit has been received, they are often inaccurate about what type of benefit was paid and the amount of the benefit. It is critical to validate this information through SHARE, PIES, or the service department.*  The following typically have information telling you there was some sort of separation benefit:   * 21-526EZ/application for compensation * DD Form 214, Certificate of Release or Discharge from Active Duty * Miscellaneous Info tab on Veterans Identification screen in BIRLS * Discharge Pay tab on Military Payment Information screen in VETSNET Awards and VBMS-A or * Military Payments tab on Military Information screen in SHARE |
| Review *Slides 8 - 9* | Where would you look for evidence of separation pay?   * 21-526EZ/application for compensation * DD Form 214, Certificate of Release or Discharge from Active Duty * Miscellaneous Info tab on Veterans Identification screen in BIRLS * Discharge Pay tab on Military Payment Information screen in VETSNET Awards and VBMS-A or * Military Payments tab on Military Information screen in SHARE |

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| Topic 3: Review of Separation Pay and Adjustment Considerations | |
| Introduction | This topic will allow the trainee to identify critical dates and offset considerations when making adjustments for separation pay. |
| Time Required | 20 minutes |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify critical dates and considerations * Apply compensation offset knowledge by correctly working scenarios |
| Separation Pay *Slides 10 - 12 Handout 3* | **Important**: The presence of an amount in the SEPARATION PAY field is ***only*** an indicator the Veteran received *some type* of separation benefit.  It is ***not*** a reliable indicator of whether this benefit is the same “separation pay” described in [10 U.S.C. 1174](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001174----000-.html).  Factors in determining how much separation pay to recoup:   * Type of separation benefit * Date of entitlement to VA compensation * Date of receipt of the separation benefit.   Verify type and amount of separation pay by:   * VIS * PIES * Contacting finance activity center of service department |
| Readjustment pay *Slides 13 -14* *Handout 3* | * 10 U.S.C. 3814a – paid to regular officers below rank of major during a reduction in force; date of entitlement to VA compensation determines if recoupment is required * 10 U.S.C. 687 – paid to reserve officers involuntarily release after completing at least 5 years of active service, but didn’t qualify for retirement. Check for what election was made (VA $, lump sum readjustment, or deferred action) * PL 87-509 enacted 6/28/62 liberalized one-time irrevocable election law, review file for possible current eligibility to compensation   *Talking Point:* how readjustment pay will be recouped is dependent on whether the date of entitlement to compensation was before or on/after September 15, 1981 AND whether the date of receipt of readjustment pay was on/before or after September 30, 1996 (see chart on slide 14). |
| Review *Slide 15 - 16* | 1. What factors do we use to determine if/how much separation pay to recoup? *type of separation pay, date of entitlement to VA compensation, date separation benefit was received* 2. Where might we look to verify amount, dates, and type of separation pay? *VIS, PIES, or service dept. finance activity center* 3. Name an important date in offsetting readjustment pay. *September 15, 1981* |
| Separation Pay *Slides 17 - 18 Handout 3* | Separation pay under [10 U.S.C. 1174](http://law.cornell.edu/uscode/html/uscode10/usc_sec_10_00001174----000-.html) replaced readjustment pay, effective September 15, 1981.   * is paid to regular and reserve officers who   + involuntarily separate from service after completing at least five years of active duty, but   + do ***not*** qualify for retirement, and * is also paid to regular enlisted members under *PL 101-510, Section 501*, (enacted November 5, 1990) who   + involuntarily separate from service after completing six years of active duty, and   + do ***not*** qualify for retirement.   ***Talking point***: *pay attention to whether the Separation Pay is on/before or after September 30, 1996! This determines if a* ***pre****-tax or* ***post****-tax amount must be recouped.* |
| Special Separation Benefit (SSB) *Slides 19 - 20 Handout 3* | SSB is a lump sum amount equal to 15 percent of the service-member’s annual basic pay, multiplied by years of active service.  *DD Form 214* usually indicates whether SSB or Voluntary Separation Incentive (VSI) was received and amount. (SSB codes include CB, FCB, KCB, & MCB).  *The amount shown on the DD214 may not be accurate – verify!*  **Recouping**: This is missed often, so … make a note, highlight, make a check list – whatever works for you!  *PL 105-178* provides for recoupment of the ***after-tax*** amount of SSB a Veteran receives, regardless of the date of receipt.  ***Talking point***: *leave slide up and say, so… does SSB recoupment have to be before or after tax amount? Answers should be after tax.* |
| Disability Severance Pay *Slides 21 - 22 Handout 3* | *Talking point*: *there is also a non-disability severance pay. this is rare, so just look it up in the manual if you come across it. Remember to check whether it is disability or non-disability severance pay as that will change recoupment considerations!*  Before recouping disability severance pay, it is necessary to identify the disability(ies) for which the Veteran received this benefit. The best source for this information is the Veteran’s Physical Evaluation Board (PEB) report, which is normally included in his/her STRs or Personnel Record.   * Generally, if a Veteran received disability severance pay, VA must withhold from his/her monthly compensation an amount equal to the monthly compensation payable for the disability(ies) for which the Veteran received disability severance pay.  VA continues to withhold this amount until it has recouped the amount specified in [M21-1, Part III, Subpart v, 4.B.2.c](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/). * The monthly withholding may never exceed the monthly amount of compensation payable based on the *initial, compensable rating*   *Talking point*:if a Veteran is initially assigned a 0%, there would be no withholding until a compensable evauation is initially assigned. Then withholding would be based on that 1st compensable rating (could be a 10% or a 70%. What matters is that it is the first compensable evaluation for the disability severance condition). |
| Exceptions *Slides 23 – 29 Handout 4* | **3.324 10%** - If a Veteran has multiple severance pay disabilities, each rated 0 percent disabling, and VA assigns a 10 percent disability rating to them under [38 CFR 3.324](http://www.ecfr.gov/cgi-bin/text-idx?SID=551958c4c12b9d27d79484f158b3f4bb&mc=true&node=se38.1.3_1324&rgn=div8), ***no*** withholding is necessary for these disabilities until VA assigns a compensable rating to one or more of them individually.  **Temp 100%** - If VA ***initially*** assigns a severance pay disability a temporary 100-percent rating under [38 CFR 4.28](http://www.ecfr.gov/cgi-bin/text-idx?SID=79753b8afb59289b3399dcc2d1027bab&mc=true&node=se38.1.4_128&rgn=div8), [4.29](http://www.ecfr.gov/cgi-bin/text-idx?SID=79753b8afb59289b3399dcc2d1027bab&mc=true&node=se38.1.4_129&rgn=div8), or [4.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=79753b8afb59289b3399dcc2d1027bab&mc=true&node=se38.1.4_130&rgn=div8),   * VA must withhold all of the Veteran’s monthly compensation until entitlement to the temporary 100-percent rating ends, and * monthly withholdings thereafter may never exceed the monthly amount of compensation payable based on the disability rating VA assigns the severance pay disability(ies) *immediately after* entitlement to the temporary 100-percent rating ends.   **Combat related disability severance** - *PL 110-181*, as implemented in [38 CFR 3.700(a)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=551958c4c12b9d27d79484f158b3f4bb&mc=true&node=se38.1.3_1700&rgn=div8), prohibits the recoupment of disability severance pay from VA compensation if the Veteran   * separated from service on or after January 28, 2008, and * incurred the disability for which he/she received disability severance pay in the line of duty in a combat zone or during combat-related operations.   The provisions of this block may apply to a Veteran who separated from service ***prior*** to January 28, 2008, ***if***   * the Veteran incurred a disability in the line of duty in a combat zone, and * DoD subsequently   + placed the Veteran on the Temporary Disability Retirement List (TDRL)   + later removed the Veteran from TDRL *on or after* January 28, 2008, and   + awarded the Veteran disability severance pay for the same disability. * In order to meet the “combat-related operations” requirement, the disability must be the result of armed conflict. * DoD – ***not*** *VA* – decides whether a disability was incurred in the line of duty in a combat zone or during combat-related operations.   **How do we tell whether it’s combat related?**  Blocks 26 and 28 on a Veteran’s *DD Form 214* usually contain information that indicates whether he/she received disability severance pay that is ***not*** subject to recoupment under [38 CFR 3.700(a)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=551958c4c12b9d27d79484f158b3f4bb&mc=true&node=se38.1.3_1700&rgn=div8).  Usually, this is how this information appears on the *DD Form 214*:    **If it’s unclear, check the PEB for the following text:**  *Disability was incurred in a combat zone or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense (NDAA 2008, Sec 1646)*.  ***Note***:  A service department might add *Yes* or *No* behind this statement.  If it adds *No*, the Veteran’s disability severance pay ***is*** subject to recoupment.  These codes also indicate possible combat disability: combat zone, CZ, Czone, Armed Conflict, AC, CR-AC, and CR-CZ. |
| Mixed regular S/C conditions and S/C disability severance pay conditions *Slide 30 Handout 4* | VA may not withhold an amount greater than that to which the Veteran is entitled based on the non-severance pay disability(ies).  Scenario: In a decision on a Veteran’s original claim for benefits, VA awards service connection for   * a severance pay disability rated 50 percent disabling, and * a non-severance pay disability rated 100 percent disabling.   Result:  VA may not withhold any compensation to recoup the Veteran’s disability severance pay while the non-severance pay disability is rated 100  percent disabling. |
| Examples: recouping disability severance pay  Slide 31 Handout 4 |  |
| Recouping Disability Severance Pay *Slide 25 Handout 4* | ***Talking point***: *pay attention to whether the Disability Severance Pay is on/before or after September 30, 1996! This determines if a* ***pre****-tax or* ***post****-tax amount must be recouped.*  **Review question** – *what other separation benefit has pre-tax or post-tax recoupment amount determined by on/before or after 09/30/1996? (Separation Pay).*  **Review question** *– will SSB recoupment always be before tax or after tax amount?* ***AFTER****-tax, always after tax.* |
| Review *Slide 33* | 1. Separation pay replaced what? *Readjustment pay* 2. If 10% under 3.324, will there be withholding for disability severance pay? *No, if 3.324 grants 10% vs. multiple 0s, withholding will start with original compensable grant of severance condition* 3. If combat-related disability severance pay, will there be withholding? *No, withholding prohibited for verified combat condition* 4. If non-severance condition is 100% and severance condition is 50%, what would be the withholding? *No withholding as 100% is warranted for non-severance condition* |
| Regional Office Specific Topics | **This row should be included ONLY in the last topic before the Practical Exercise.**  At this time add any information pertaining to:   * Station quality issues with this lesson * Additional State specific programs/guidance on this lesson |

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| Practical Exercise | | |
| Time Required | | 20 minutes |
| EXERCISE | | The instructor is to review the questions and scenarios with the trainees and provide the answers to the associated questions during class discussion.  Ask if there are any questions about the information presented in the exercise, and then proceed to the Review. |
| Lesson Review, Assessment, and Wrap-up | | |
| Introduction  Discuss the following: | The Compensation Offsets: Readjustment, Separation, & Severance Pay (VSR Advanced) lesson is complete.  Review each lesson objective and ask the trainees for any questions or comments. | |
| Time Required | 10 minutes | |
| Lesson Objectives | You have completed the Compensation Offsets: Readjustment, Separation, & Severance Pay (VSR Advanced) lesson.  The trainee should be able to:   * Review prohibition against duplication of benefits * List places to find evidence of pay potentially requiring offsets * Identify critical dates and considerations * Apply compensation offset knowledge by correctly working scenarios | |
| Assessment | Remind the trainees to complete the on-line assessment in TMS to receive credit for completion of the course.  The assessment will allow the participants to demonstrate their understanding of the information presented in this lesson. | |