



DEFENSE FINANCE AND ACCOUNTING SERVICE

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AUG 31 1998

DFAS-HQ/FMM

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE  
CLEVELAND CENTER  
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE  
DENVER CENTER

SUBJECT: Update to Department of Defense Financial  
Management Regulation (DoDFMR), Volume 7, Part B,  
Annuities to Certain Military Surviving Spouses  
(DFAS Item G-73)

This is DFAS Interim Number R8-98 to the DoDFMR, Volume 7B.  
This change is effective December 1, 1997, through  
September 30, 2001.

We evaluated your comments on the draft change to the  
DoDFMR, Volume 7B. The attached final version of the change  
includes your comments where appropriate. Assignment of an  
interim change number is your authority to start a procedural  
modification, if necessary, to facilitate this change. For the  
Denver Center, use the attached to initiate the formal printed  
change to the DoDFMR, Volume 7B.

Our point of contact, Mr. Fiti Malufau, may be contacted at  
DSN 327-5061 or Commercial (703) 607-5061. Our fax number is  
DSN 332-5271.

*for Edward T. Grayson*  
Gregory P. Bitz  
Director for Finance

Attachment:  
As stated

cc: DASD (MMP) (COMP)  
ODGC (F)  
DFAS-DE/DG  
Service Liaisons  
USCG/NOAA/PHS Liaisons

1. Revise Part Nine, SBP, by redesignating Chapter 11, Taxability of Annuities, as Chapter 12, and inserting the following new Chapter 11, Annuities for Certain Military Surviving Spouses (ACMSS):

## **"Chapter 11**

### **Annuities for Certain Military Surviving Spouses (ACMSS)**

#### **91101. Temporary Authority for ACMSS**

Public Law 105-85 provides temporary authority to pay certain military surviving spouses who are qualified surviving spouses effective 1 December 1997 through 30 September 2001.

#### **91102. Annuity Application**

A qualified surviving spouse submits a claim, DD Form 2769, to the Military Service concerned. The Military Service reviews the claim and determines whether the applicant is qualified for an ACMSS annuity. If information is unavailable from existing records (such as DEERS), the applicant may be required to submit the following documentation to the Military Service: certified copies of the member's death certificate, marriage certificate, DD Form 214 (Certificate of Release or Discharge From Active Duty), retirement order, retired pay statement; or any additional information needed to substantiate the claim. The Military Service notifies an applicant on the disposition of the claim within 60 days. The Military Service forwards approved claims to the appropriate finance center responsible for payment.

#### **91103. Definition of Qualified Surviving Spouse and Deceased Retired Member**

- a. A qualified surviving spouse is defined as a spouse who:
  1. is not qualified for an annuity under any other provision of Chapter 73, 10 U.S.C., (RSFPP, SBP, or RCSBP);
  2. is not entitled to an annuity under section 4 of

Public Law 92-425 (Minimum Income Widow's benefit);

3. was married to a deceased retired member of a Uniformed Service described below at the time of such member's death and has never been remarried; and

4. either was married to the member at the time the member became eligible for retired pay, or had been married to the member for at least one year before the date of death, or was the parent of a child born of such marriage.

b. A deceased retired member is one who did not decline participation in the SBP and who:

1. retired before 21 Sep 1972, died before 21 Mar 1974, and was entitled to retired or retainer pay on the date of death, or

2. was a member of a Reserve Component during the period beginning on 21 Sep 1972, and ending 1 Oct 1978, who died before 1 Oct 1978, and at the time of death would have been entitled to retired pay under Chapter 1223, 10 U.S.C. (as in effect during 1 Dec 1994) except for not yet being age 60.

#### **91104. Payment of Annuity**

a. **Payment Effective Date.** Upon receipt of a validated claim endorsed by the Military Service, the responsible finance center shall begin payment to a qualified surviving spouse within 30 days. The monthly payments begin effective 1 Dec 1997.

b. **Representative Payee.** ACMSS payments due a mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, as SBP. See Part Nine, Chapter 5, paragraph 90503.

c. **Report of Existence (ROE) and Certificate of Continued Eligibility (COE).** The procedures for ROE and COE on SBP annuity payments also apply to ACMSS payments.

d. **Debt Collection.** Overpayments of annuity are subject to the same collection action as SBP. See Part Six, Chapter 3 and Part Nine, Chapter 6.

e. **Taxability.** The taxability of ACMSS payments is similar

to SBP annuity. See Part Nine, Chapter 12.

f. **Death of Annuitant.** The annuity terminates the first day of the month in which the annuitant dies.

g. **Arrears of Annuity.** Any amounts which are due and payable at the time of the annuitants' death may be paid to the estate of the ACMSS annuitant. The annuity will only be paid upon receipt of properly executed and documented claim, approved by the Secretary of the Service concerned or designee.

h. **Remarriage.** The annuity terminates the first day of the month in which the annuitant remarries.

i. **Expiration of Authority.** The authority to pay ACMSS annuities expires 30 Sep 2001.

#### **91105. Amount of Annuity**

a. The annuity to a qualified surviving spouse is \$165 per month and the annuity increases at the same time and at the same percentage as military retired pay increases under 10 U.S.C. 1401a(b)(2). The first cost-of-living adjustment under 10 U.S.C. 1401a(b)(2) is effective 1 Dec 1997 and the annuity payable is \$168.47 per month. The provision for rounding monthly SBP annuity, 10 U.S.C. 1451(g)(2), is not applicable.

b. The annuity is subject to offset by the amount of Dependency and Indemnity Compensation. Social security offset does not apply.

#### **91106. Funding**

Annuities must be funded by the approving Military Service from O&M funds for the fiscal year in which the payment is made."

2. Change the paragraph 50201b reference from "91102" to "91202."

3. Change the paragraph 80901 reference from "table 9-11-1" to "table 9-12-1."

4. Change the paragraph 91101 (now 91201) reference from "table 9-11-1" to "table 9-12-1."

5. Change the paragraph 100512 reference from "Chapter 11" to "Chapter 12."

6. Change the General Contents, page xi, (June 1995 edition) under Part Nine to show:

"Chapter 11. Annuities for Certain Military Surviving Spouses (ACMSS) .....	91101-91106
Chapter 12. Taxability of Annuities.....	91201-91207"

7. Change the Table of Contents for Part Nine, page 250 (June 1995 edition) to show:

"Chapter 11. Annuities for Certain Military Surviving Spouses (ACMSS).....	91101-91106
Temporary Authority for ACMSS.....	91101
Annuity Application .....	91102
Definition of Qualified Surviving Spouse and Deceased Retired Member..	91103
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Amount of Annuity .....	91105
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Federal Income Tax .....	91201
Federal Income Tax Withholding (FITW)	91202
Income Exclusion .....	91203
Adjustment to Taxable Annuity .....	91204
Federal Estate Tax .....	91205
State Taxation .....	91206
Further Tax Information .....	91207"

8. Bibliography Changes:

Change the existing bibliography for Part Nine, Chapter 11 to Part Nine, Chapter 12.

Insert the following new bibliography for Part Nine, Chapter 11: