

# MILITARY & VETERANS SURVIVOR BENEFITS

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<b>Monthly Payments</b>	<b>Lump Sum Payments</b>	<b>Other Entitlements</b>
<b>VA Dependent Indemnity Compensation (DIC)</b>	<b>DoD-Servicemembers Group Life Insurance(SGLI) VA-Veterans Group Life Insurance (VGLI)</b>	<b>DoD/VA Burial Reimbursement</b>
<b>DoD Survivor Benefit Plan (SBP)</b>	<b>DoD Death Gratuity</b>	<b>DoD Relocation</b>
<b>Social Security</b>	<b>Social Security (\$255)</b>	<b>DoD/VA Medical Care</b>
<b>VA Dependent Education Allowance(DEA); Fry; Hazlewood (State)</b>	<b>DoD Unpaid Pay and Allowances</b>	<b>DoD PX/Commissary</b>
<b>DoD Special Survivor Indemnity Allowance</b>	<b>DoD Traumatic Injury Protection (TSGLI)</b>	<b>DoD Emergency Relief Funds</b>

# Servicemembers' Group Life Insurance (SGLI)

- ▶ Guaranteed Insurability
- ▶ Premium Cost: \$28 a month
- ▶ Automatically Insured up to \$400,000 during service (SM can elect lower coverage in \$50K increments)
- ▶ If SM elects lower amount and wants to raise coverage he/she is subject to insurability determination
- ▶ Group Term Policy subsidized by Congress (low cost)
- ▶ Cause of death is irrelevant
- ▶ VGLI and/or commercial insurance after service
- ▶ Ready Reserve and NG is generally still covered (“good year”)

# Servicemembers' Group Life Insurance (SGLI)

- ▶ Provides protections for 120 days following discharge from service (no premiums required)
- ▶ SM may lose entitlement to SGLI
  - Duty Status at time of death (if AWOL more than 30 days or in confinement more than 30 days at time of death).
  - Any person guilty of mutiny, treason, spying, or desertion, or who because of conscientious objections, refuses to perform service in the Armed Forces of the U.S. or refuses to wear the uniform is not covered by SGLI
- ▶ Cause of death is irrelevant for SGLI coverage

# Servicemembers' Group Life Insurance (SGLI)

- ▶ Beneficiaries: Any person designated by the SM on the SGLV Form 8286
  - If no designation, or the SM designates “By Law” then proceeds will be paid pursuant to SGLI statute:
    1. All to spouse, but if none, then
    2. All to surviving children in equal shares and descendants of deceased children, by representation), but if none, then
    3. All to parents (equally divided), but if none, then
    4. All to executor of SM estate, but if none, then
    5. Next of kin under state law.
- ▶ Consider trustee (living or testamentary) or custodian under UGMA/UTMA as designated beneficiary for minor children.

# SGLI Beneficiary Designation

- ▶ SGLI notification via mail (38 U.S.C.S. § 1967(f)).
  - If a SM with a spouse elects not to be insured or to be insured for an amount less than the maximum
  - A SM with a spouse may not modify beneficiaries without providing notice of such modification to the spouse.
  - If SM who is not married elects not to be insured or to be insured in an amount less than the maximum amount, the a person designated as a beneficiary or next-of-kin for purposes of emergency notification shall be notified of the SM's insurance election.

# SGLI/VGLI SETTLEMENT OPTIONS

- ▶ Accelerated Death Benefits under SGLI/VGLI for SMs in terminal condition within nine months of death.
- ▶ May elect lump sum or 36 monthly installments.
- ▶ If no election, beneficiary may elect type of installment.
- ▶ Apply for Death Benefits by submitting SGLV-8283 to OSGLI.

# SERVICEMEMBERS' GROUP LIFE INSURANCE FAMILY COVERAGE (FSGLI) (38 U.S.C. § 1965-1070)

## Family

- ▶ FSGLI available to AD, Reserve & NG if covered by SGLI

## Spouse

- ▶ Automatically eligible for \$100,000 coverage
- ▶ SM pays premium
- ▶ SM is the beneficiary
- ▶ Spouse has no indicia of ownership
- ▶ Spouse cannot change beneficiary designation or revoke policy
- ▶ Convertible into commercial policy (contact OSGLI for participating commercial insurance companies)
- ▶ Cannot convert to VGLI



# SERVICEMEMBERS' GROUP LIFE INSURANCE FAMILY COVERAGE (FSGLI) (38 U.S.C. § 1965-1070)

## Spouse

- ▶ Spousal policy terminates 120 days after:
  - SM elects in writing to terminate spouse coverage
  - SM SGLI coverage terminates
  - SM dies
  - SM and spouse divorce
- ▶ If Spouse and SM die, the spousal SGLI is paid in accordance with the SM's SGLI policy beneficiary designation.

# SERVICEMEMBERS' GROUP LIFE INSURANCE FAMILY COVERAGE (FSGLI) (38 U.S.C. § 1965-1070)

## Children

- ▶ Definition of Child: legitimate children, adopted children, stepchildren living in the home of the SM, illegitimate children of female SMs; illegitimate children of male SM if acknowledged in writing by the SM or judicially recognized
- ▶ Automatically covered for \$10,000; no premium
- ▶ Member cannot decline coverage
- ▶ Coverage if unmarried, dependent child, under 18
- ▶ Coverage extended to age 23 if attending accredited school
- ▶ Any unmarried child who became permanently incapable of self-support before the age of 18 is covered
- ▶ Nonconvertible

# SERVICEMEMBERS' GROUP LIFE INSURANCE FAMILY COVERAGE (FSGLI) (38 U.S.C. § 1965–1070)

## Children

- ▶ SM is the beneficiary of the child's policy
- ▶ Child policy terminates 120 days after:
  - SM SGLI coverage terminates
  - SM separates from service
  - SM dies
  - Child no longer qualifies for military dependent status
- ▶ If child and SM die, the child's SGLI is paid in accordance with the SM's SGLI policy beneficiary designation.
- ▶ Child policy cannot be converted to a commercial policy at anytime.
- ▶ Child of dual military is only covered by one policy. On child's death, FSGLI is paid to SM eligible to SGLI coverage the longest.
- ▶ If dual military divorces, FSGLI for child is paid to the SM with "custody of the child."

# Veterans Group Life Insurance (VGLI)

38 U.S.C.S. § 1977–1979

- ▶ SM may apply for VGLI within 120 of discharge
- ▶ DO NOT NEED PROOF OF INSURABILITY
- ▶ No loan or cash value.
- ▶ Renewable group term life insurance available after SM leaves AD.
- ▶ VGLI is five-year renewable term insurance.
- ▶ Up to \$400K in coverage
- ▶ Monthly Prem Rates: [https://www.benefits.va.gov/insurance/vgli\\_rates\\_new.asp](https://www.benefits.va.gov/insurance/vgli_rates_new.asp)

◦ Example

Amount of Insurance	Age 29 & Below	Age 30-34	Age 35-39	Age 40-44	Age 45-49	Age 50-54	Age 55-59	Age 60-64	Age 65-69	Age 70-74	Age 75 & Over
\$400,000	\$32.00	\$40.00	\$52.00	\$68.00	\$88.00	\$144.00	\$268.00	\$432.00	\$600.00	\$920.00	\$1,840.00
390,000	31.20	39.00	50.70	66.30	85.80	140.40	261.30	421.20	585.00	897.00	1,794.00
380,000	30.40	38.00	49.40	64.60	83.60	136.80	254.60	410.40	570.00	874.00	1,748.00
370,000	29.60	37.00	48.10	62.90	81.40	133.20	247.90	399.60	555.00	851.00	1,702.00
360,000	28.80	36.00	46.80	61.20	79.20	129.60	241.20	388.80	540.00	828.00	1,656.00
350,000	28.00	35.00	45.50	59.50	77.00	126.00	234.50	378.00	525.00	805.00	1,610.00
340,000	27.20	34.00	44.20	57.80	74.80	122.40	227.80	367.20	510.00	782.00	1,564.00
330,000	26.40	33.00	42.90	56.10	72.60	118.80	221.10	356.40	495.00	759.00	1,518.00
320,000	25.60	32.00	41.60	54.40	70.40	115.20	214.40	345.60	480.00	736.00	1,472.00
310,000	24.80	31.00	40.30	52.70	68.20	111.60	207.70	334.80	465.00	713.00	1,426.00

# Death Gratuity

## (10 U.S.C. § 1475)

- ▶ From DoD
- ▶ Conditions of Payment
  - SM died on AD or
  - 120 days after release if death resulted from disease or injury incurred while on AD.
- ▶ \$100,000 lump sum payment by local finance office (same amount for all ranks)
- ▶ Full death gratuity is tax free.

# Death Gratuity

## (10 U.S.C. § 1475)

- ▶ Beneficiaries:
  - SM designates beneficiaries for death gratuity
  - If SM is married but does not designate spouse to receive the entire death gratuity, the spouse will receive notification of the designation
  - If SM fails to make a designation, the death gratuity will be paid:
    1. Spouse, if none then
    2. Children equally without regard to age or marital status, if no children, then
    3. Parents, if no parents, to the administrator of the estate, if none then
    4. Next of kin.

# Hero Earnings Assistance and Relief Tax Act of 2008 (HEART Act)

- Surviving Family members can transfer death gratuity and SGLI into a ROTH IRA
- May withdraw money without penalty
- Must deposit within year of death
- Money grows tax free

# HEART Act

## **Contributions of Military Death Gratuities to Roth IRAs and Coverdell Education Savings Accounts**

*Captain Kurt M. VanBennekom \**

This article discusses how to take advantage of significant tax savings by contributing proceeds from military death benefits to tax preferred accounts—a unique opportunity for survivors of servicemembers who qualify for military death benefits.

The Heroes Earnings Assistance and Relief Tax (HEART) Act was enacted in 2008 to provide various tax relief opportunities for servicemembers and their families.<sup>1</sup> Among other forms of tax relief,<sup>2</sup> the Act creates a provision that allows beneficiaries of military death benefits to contribute those proceeds to tax preferred accounts. There are two types of payments<sup>3</sup> that survivors of servicemembers may be eligible for upon the death of a servicemember: (1) payment of a death gratuity,<sup>4</sup> or (2) proceeds from a policy for Servicemembers Group Life Insurance (SGLI).<sup>5</sup> Both of these payments are specifically excluded from gross income under the tax code.<sup>6</sup>

not tax deductible at the time of contribution, and are thus made using after-tax dollars.<sup>8</sup> In addition, qualified distributions from Roth IRAs are not includable in gross income.<sup>9</sup> There is also no mandatory distribution as there is for traditional IRAs,<sup>10</sup> so the beneficiary of the Roth IRA may defer distributions to take further advantage of tax-free growth.<sup>11</sup>

Beneficiaries of death gratuity and SGLI benefits can make use of the Roth IRA to generate significant retirement savings. The Act treats contributions from military death gratuity or SGLI as a “qualified rollover,” and are therefore not subject to tax prior to contribution.<sup>12</sup> This means that because the funds are from a death gratuity or SGLI insurance proceeds, the funds are not taxed prior to contribution, and because it is part of a Roth IRA, neither are the proceeds at the time of distribution. This results in an entirely tax-free transaction, with tax-free growth for the life



# Other Benefits Survivors Receive

## Other Entitlements from DoD

- ▶ Unpaid pay and allowances (10 U.S.C. § 2771)
- ▶ Travel of dependents and shipment of household goods (37 U.S.C. § 406(f))
- ▶ Occupy Family housing or receive basic allowance for housing (BAH) for 1 year
- ▶ Commissary, PX, medical care, legal assistance
- ▶ Marine Gunnery Sergeant John David Fry Scholarship (VA)
  - Provides Post-9/11 GI Bill benefits to the children and surviving spouses of service members who died in the line of duty while on active duty after September 10, 2001.
  - Eligible beneficiaries attending school may receive up to 36 months of benefits at the 100% level.
    - Full tuition & fees paid directly to the school for all public school in-state students. For those attending private or foreign schools, tuition & fees are capped at a statutory maximum amount per academic year.
    - A monthly housing allowance.
    - A books & supplies stipend.

# VA Compensation & Pension

- ▶ Veterans
  - Service-connected disability
  - Non-service connected disability
- Surviving spouses pension
- Dependency & Indemnity Compensation
- Dependent Educational Assistance

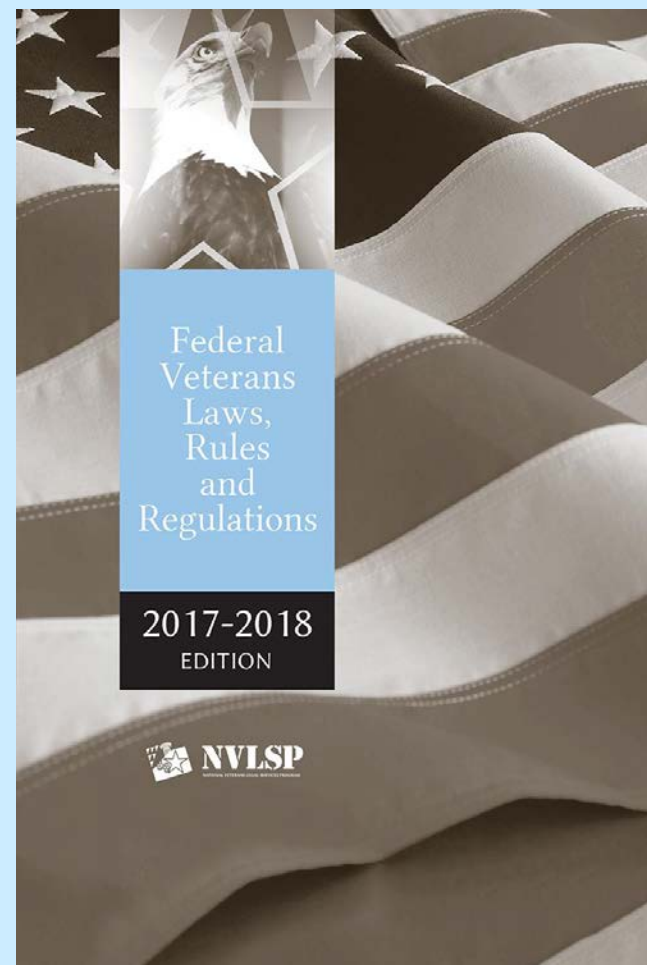
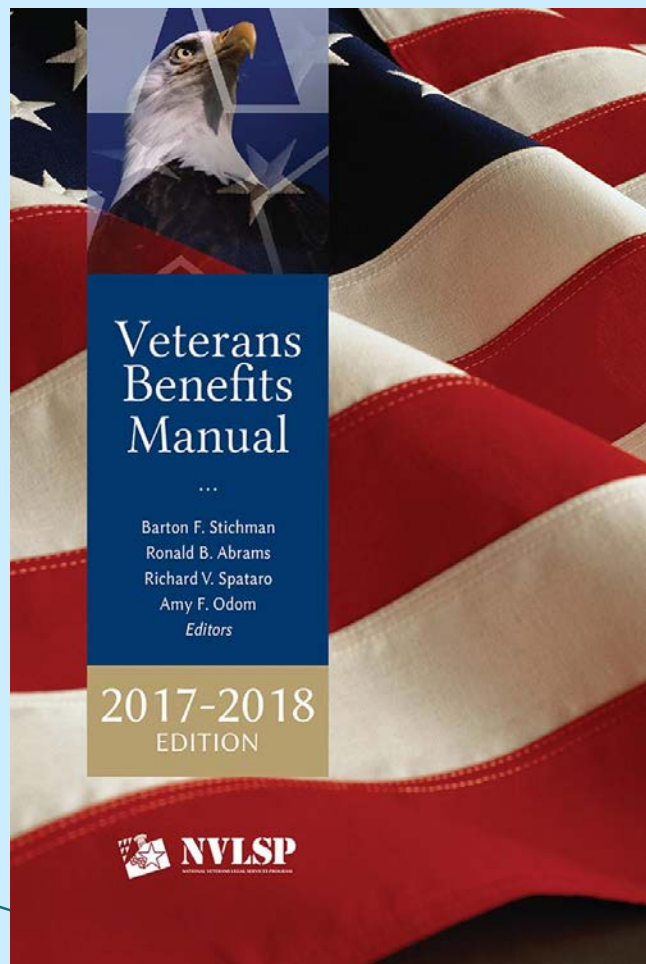


## LexisNexis® Automated Veterans Benefits Forms

LexisNexis Automated Veterans Benefits Forms includes 245 forms and value-added instructions written by National Veteran's Legal Services Program (NVLSP) attorneys. New and revised forms are provided regularly.

**Publisher:** [National Veterans Legal Services Program](#)

**Frequency:** (2 issues)



## Service-Connected Compensation

- Monthly benefit for veterans with a current health condition that is “at least as likely as not” linked to their military service
- Not means-tested

## Non-Service-Connected Pension

- Monthly benefit for low-income wartime veterans who are totally & permanently disabled **or** elderly
- Means-tested

# VA NON-SERVICE CONNECTED BENEFITS

- ▶ Monthly benefit for low-income wartime Veterans who are totally and permanently disabled or elderly
- ▶ Examples are pension, housebound, aid & attendance
- ▶ Means tested: must furnish income information to the VA to determine eligibility and amount of benefit

# VA NON-SERVICE CONNECTED BENEFITS

- ▶ Who is the Surviving Spouse of a Non-Service Connected Qualified Veteran?
  1. Must have been married for at least one year at the time of the death or had a child together
  2. Common law marriage may be valid (based on state law)
  3. Must have been living together at the time of death
  4. Remarriage typically disqualifies

# Supplemental Income for Wartime Veterans

- ▶ Supplemental income (Veterans Pension benefit – nonservice connected (NSC)) (38 C.F.R. § 3.3)
- ▶ Veterans Pension is a tax-free monetary benefit payable to low-income wartime Veterans.
- ▶ Eligibility
  - a Veteran must have at least 90 days of active duty service, with at least one day during a wartime period to qualify for a VA Pension
  - If you entered active duty after September 7, 1980, generally you must have served at least 24 months or the full period for which you were called or ordered to active duty (with some exceptions), with at least one day during a wartime period.
- ▶ In addition to meeting minimum service requirements, the Veteran must be:
  - Age 65 or older, **OR**
  - Totally and permanently disabled, **OR**
  - A patient in a nursing home receiving skilled nursing care, **OR**
  - Receiving Social Security Disability Insurance, **OR**
  - Receiving Supplemental Security Income
- ▶ Your yearly family income must be less than the amount set by Congress to qualify for the Veterans Pension benefit. Learn more about income and net worth limitation, and see an example of how VA calculates the VA Pension benefit.

# Entitlement to NSC Pension: Low-Income & Few Assets

- ▶ **Means-tested benefit and may be offset by other income**
  - Countable income = Gross annual income (minus) unreimbursed medical expenses (e.g., medication, in-home care, assisted living, nursing home care; Medicare/health insurance; transportation); does not include VA benefits
- ▶ **Countable income must be below “Maximum Annual Pension Rate:”**  
MAPR varies depending upon number of dependents and whether Special Monthly Pension (SMP) applies
  - Single Veteran: \$13,166
  - Single Veteran with Housebound SMP: \$16,089
  - Single Veteran with Aid & Attendance SMP: \$21,962
- ▶ **•Calculating Annual Award:** VA reduces MAPR dollar-for-dollar by the amount of the Veteran’s **countable income** to determine the amount of the benefit. The annual rate is divided by 12 months to determine monthly rate
- ▶ **•Asset limit** is ~ \$50,000 single/ \$80,000 married- subject to change



# Special Monthly Benefits

- ▶ In cases where a veteran has suffered certain severe disabilities, the veteran may be entitled to **special monthly compensation (SMC)**, which can provide compensation payments at a rate much greater than the 100 percent rate.
- ▶ **Special Monthly Compensation (SMC)** is paid in addition to basic compensation for service-connected conditions that involve anatomical or sensory loss (e.g., loss of use of foot, vision, impotence).
- ▶ SMC also provides higher compensation for veterans or the surviving spouse who have “**housebound status**” or require “**aid and attendance**” due to their service-connected conditions.
- ▶ **Special Monthly Pension (SMP)** is paid in addition to basic pension for low-income wartime veterans or their dependents that have “**housebound status**” or require “**aid and attendance.**”
  - Veteran cannot receive both Housebound and Aid & Attendance benefits at the same time.
- ▶ 38 U.S.C.S. §1114; 38 C.F.R. § 3.350 (2015).

# Housebound

- ▶ When a veteran or the surviving spouse of a veteran is:
  - Permanently confined to his/her home
  - Does not require assistance with activities of daily living (ADL) on a daily basis to remain in a safe environment
  - Only leave the home, with the assistance of another, to attend doctor's appointments
- ▶ VA Housebound Pension Payments
  - Veteran \$16,089 year (\$1,341 per month)
  - Married Veteran \$20,166 year (\$1,680 per month)
  - Surviving Spouse \$10,792 year (\$899 per month)

# Aid & Attendance

- ▶ When a Veteran or Surviving Spouse permanently requires aid of another person to perform 2 or more personal functions (ADLs) required in everyday living, such as
  - Bathing, feeding, dressing yourself;
  - Attending to the needs of nature
  - Adjusting prosthetics, or
  - Protecting yourself from the hazards of your daily environment, 38 CFR 3.353(a); **OR**
  - You are bedridden - - disability or disabilities require veteran to remain in bed apart from any prescribed course of convalescence or treatment 38 CFR § 3.352(a)
- ▶ Home or assisted living facility
- ▶ 38 CFR § 3.352

# Aid & Attendance

- ▶ Veteran – A&A Without Dependents
  - \$1,830 month
  - \$21,962 year
- ▶ Veteran –A&A With One Dependent
  - \$2,170 month
  - \$26,036 year
- ▶ Surviving Spouse
  - \$1,176 month
  - \$14,113 year
- 38 U.S.C.S. 1114; 38 C.F.R. § 3.352 (2015)
  - ▶ [http://www.benefits.va.gov/pension/aid\\_attendance\\_housebound.asp](http://www.benefits.va.gov/pension/aid_attendance_housebound.asp)

# Dependency & Indemnity Compensation (DIC)

- ▶ Like an annuity, but Government pays premium
- ▶ Death on active duty, Reservist on AT, ADT, IDT, or death after retirement if service-connected
  - Death cannot be due to misconduct
  - IDT: only deaths due to injury (not illness)
  - Periods of travel to and from AD, ADT, and qualifying IDT are included, but only if travel accomplished by most direct means.
- ▶ Death after active duty from service-connected causes
- ▶ Death after active duty not due to service-connected causes and not due to member's willful misconduct if decedent held a total service-connected disability rating

# Dependency & Indemnity Compensation (DIC)

- ▶ Beneficiaries: spouse, children, parent dependents
  - Surviving spouse can lose DIC if remarries before age 57
  - Surviving Spouse may have DIC benefits reinstated, if the subsequent marriage was terminated by divorce or annulment, unless the VA determines divorce or annulment was secured through fraud or collusion
  - Spouses must have continuously cohabitated since date of marriage (some exceptions)
  - Some separations not due to fault of surviving spouse and temporary separations disregarded
  - Surviving Spouse must have lived with the Veteran for at least one year immediately before the Veterans death if the couples never had children
  - Surviving spouse if lived together for any length of time if had a child.

# Dependency & Indemnity Compensation (DIC)

- ▶ Beneficiaries: spouse, child(ren), parent dependents
  - Child: unmarried biological, adopted, or a stepchild of Veteran.
    - Stepchild: must be resident in Veteran's household at the time of Veteran's death.
  - Age: 18 or 23 if in school
  - Disabled child: permanently incapable or self-support BEFORE reaching age 18. VA refers to Disabled child as "helpless child"

# Dependency & Indemnity Compensation (DIC)

- ▶ Beneficiaries: spouse, child(ren), parent dependents
- ▶ Parents:
  - Eligibility: Parent of a Servicemember who died in the line of duty or a Veteran who died of a service-related injury or disease.
  - The term "parent" includes:
    - Biological,
    - Adoptive, and
    - Foster parents.
  - Must have been dependent on deceased.
  - Based on annual income (under \$20,128 for two parents) – very few parents qualify for DIC. Must complete annual expected income questionnaire.
  - Rate is \$634 per parent or lower based on annual income
  - Parents may receive additional DIC allowance if severe disabilities require aid & attendance from someone else or if they are housebound.



# Dependency & Indemnity Compensation (DIC)

- ▶ Basic monthly rate payable to a surviving spouse increased to \$1,283.11 (38 U.S.C. § 1311(a)(1))
- ▶ The total amount of the DIC monthly payment can vary, depending on the circumstances
- ▶ Additions to the basic monthly rate:
  - If veteran was totally disabled for a continuous 8 years prior to death and the surviving spouse was married to the veteran for the same eight years – add \$267.12
  - For each dependent child under the age of 18
    - add \$317.87
  - If the surviving spouse is entitled to aid and attendance benefits – add \$317.87
  - If the surviving spouse is entitled to housebound benefits – add \$148.99
  - If the surviving spouse has one or more children under the age of 18 – add \$270.00

# Dependency & Indemnity Compensation (DIC)

- ▶ An individual who “intentionally and wrongfully” caused the death is not entitled to pension, dependency, or DIC benefits by reason of the Veterans death.
- ▶ Paid by the VA (income tax free), but must apply to receive DIC
- ▶ Application to VA:
  - Must apply on VA Form 21P-534ez, "Application for Dependency and Indemnity Compensation, Death Pension and/or Accrued Benefits by a Surviving Spouse or Child"
  - Apply within 12 months of date to receive full DIC retroactive to date of death
  - After 12 months, DIC is retroactive only to date of application.

# Survivor Benefit Plan (SBP)

- ▶ It is Like Life Insurance, BUT
  - Upon Death, Beneficiaries Receive an Annuity
  - Annuity is Taxable Income to Beneficiaries
- ▶ Subsidized by Congress and paid by DFAS (Department of Defense)

# SBP – Retirement Death

- ▶ Retirees must affirmatively elect NOT to participate during retirement planning
- ▶ Election is irrevocable, but can withdraw in 3d year
- ▶ Coverage types
- ▶ Spousal veto if less than full or child only coverage – spouse must sign in writing if veto used

# SBP Options

## ▶ Spouse only

- Cost: 6.5% of Selected Base Amount
- Potential lifetime SBP annuity
- Remarriage before age 55 terminates SBP annuity

## ▶ Child only

- Cost: Cost factor of base amount based on child's age
- Paid until age 18, married, or 22 if full-time student

## ▶ Spouse + Child option

# SBP Calculator

<http://actuary.defense.gov/Survivor-Benefit-Plans/>


actuary.defense.gov/Survivor-Benefit-Plans/

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U.S. DEPARTMENT OF DEFENSE

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SBP FINANCIAL ANALYSIS TOOLS



The programs you see here are designed to help you make an informed decision about your Survivor Benefit Plan (SBP) election.<sup>1</sup>

**SBP Premium** – This program shows the monthly premium for the SBP coverage you select. When you enter your relevant information, such as base amount and date of retirement, the program estimates your monthly SBP premium.

\*\*\*New This Year – RC-SBP premiums for reserve coverage\*\*\*

**SBP Probability** – This program shows the probability that your spouse will receive SBP benefits, i.e., the probability you will pre-decease your spouse. When you enter your and your spouse's respective dates of birth, the program estimates the likelihood that your spouse will receive at least one month of benefits up to 30 years of benefits, using military-specific mortality tables.

**SBP Subsidy** – This program shows what proportion of SBP benefits are subsidized by the Department of Defense. When you enter your relevant information, such as your retirement date, your and your spouse's dates of birth, your SBP election, and some financial data, the program estimates the percentage of your SBP coverage that is paid by DoD, the value of your SBP benefits, and how much SBP adds to the value of your retired pay.

**SBP Insurance** – This program shows how SBP compares to purchasing a term life insurance policy from a private insurer. When you enter your relevant information, such as your and your spouse's dates of birth, your SBP base amount, and the amount of life insurance you are considering, the program estimates whether the SBP benefits will outperform a life insurance policy that may be paid, for selected times and amounts. The program also shows average life expectancies.

<sup>1</sup> Note that these tools do not provide a comprehensive education about all aspects of SBP and RC-SBP. They are intended for users who have a general understanding of the SBP and RC-SBP benefit plans.

# Spousal SBP Reduction Due to DIC Offset

- ▶ **Caveat:** if surviving spouse receives Dependent Indemnity Compensation (DIC) from VA, SBP is reduced or offset
- ▶ Any SBP to which Surviving Spouse is entitled will be reduced by amount of spousal DIC entitlement.
- ▶ Offset is mitigated by pro rata lump sum return of SBP premiums paid. HOWEVER, surviving spouses who remarry after age 57 will not get any offset between SBP and DIC.
- ▶ Any SBP paid to non-spouse beneficiaries is not reduced even if that beneficiary receives DIC.
- ▶ **Special Survivor Indemnity Allowance (SSIA):** Starting in 2009, indemnity allowance started for those affected by DIC offset.
  - If surviving spouse is receiving DIC and SBP the offset will continue but the Surviving Spouse will receive additional compensation (\$310 per month).
  - SSIA is taxable (DIC is not taxable)

# Disabled Military Child Protection Act

## ▶ Disabled Military Child Protection Act

(Section 624 of the FY 2015 National Defense Authorization Act. Public Law 113-291).

- This law allows a military parent to provide a survivor benefit for a disabled child and have it paid to a special needs trust for that child's benefit.
- The dilemma was that the benefit could not be assigned to a special needs trust and could potentially interfere with the child's eligibility for government benefit programs such as Supplemental Security Income (SSI) or Medicaid
- Prior to the new law, SBP could only be paid to a "person" and the Defense Department took the position that "person" did not include a trust for a child with disabilities.



# Disabled Military Child Protection Act

- ▶ If the disabled child over age 18 has assets of less than \$2,000 and minimal income, the child will usually be eligible for SSI and Medicaid.
- ▶ SBP income payments paid directly to a disabled child will offset the SSI benefit as unearned income.
- ▶ If the SBP payment exceeds the SSI benefit amount, the child with a disability will lose SSI and as a result may also lose Medicaid health care and community support benefits.

# Disabled Military Child Protection Act

- Disabled Military Child Act specifically authorizes military parents to elect that the SBP benefits for a disabled child be assigned to a supplemental or special needs trust.
  - The trust must be a first party or self-settled special needs trust that includes provisions to reimburse the Medicaid program on the death of the disabled child for Medicaid benefits the child received during his or her lifetime.
  - Families considering assigning the SBP to a special needs trust should consult an experienced special needs planning attorney to ensure that the correct type of special needs trust is utilized in their plan.

# Disabled Military Child Protection Act



MANPOWER AND  
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

DEC 3 1 2015

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR HUMAN  
RESOURCES  
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR  
MILITARY PERSONNEL POLICY  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE FOR  
FORCE MANAGEMENT AND PERSONNEL  
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE

SUBJECT: Enabling Payment of Survivor Benefit Plan Annuities to a Special Needs Trust

This memorandum establishes the policy required for implementing section 624 of the Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (FY 15 NDAA), Public Law 113-291, which amends title 10, United States Code (U.S.C.), sections 1448, 1450, and 1455. The amendments allow a person who has established a Special Needs Trust (SNT) in accordance with either title 42, U.S.C., section 1396p(d)(4)(A) or (C), to direct payment of a dependent child Survivor Benefit Plan (SBP) annuity directly to the SNT as an add-on election to a member or retiree's SBP election for coverage of a dependent child.<sup>1</sup> In general, members entitled to receive retired pay make an irrevocable decision when they elect to provide SBP coverage for a beneficiary.

The FY 15 NDAA gives military members and retirees the option to direct payment of a SBP annuity for a dependent child to a SNT for the benefit of a disabled child when they elect or elected coverage for that dependent child as a SBP beneficiary (the statute does not apply to disabled spouses). Generally speaking, a SNT is a legal instrument specifically designed solely for the benefit of a person with a disability by providing a set of instructions for managing

# DEPENDENTS EDUCATIONAL ASSISTANCE (DEA)

(38 U.S.C. § 3500–3566; 38 C.F.R. Part 21)

## Dependents Educational Assistance for Spouse and/or Child

- ▶ In short, the death of SM/Veteran must be under the same circumstances that qualify dependents for receipt of DIC
  - *A Veteran who died or is permanently and totally disabled as the result of a service-connected disability.*
  - A Veteran who died from any cause while such permanent and total service-connected disability was in existence.
  - A Servicemember missing in action or captured in line of duty by a hostile force.
  - A Servicemember forcibly detained or interned in line of duty by a foreign government or power.
  - A Servicemember who is hospitalized or receiving outpatient treatment for a service connected permanent and total disability and is likely to be discharged for that disability.

# DEPENDENTS EDUCATIONAL ASSISTANCE (DEA)

(38 U.S.C. § 3500–3566; 38 C.F.R. Part 21)

## Dependents Educational Assistance for Spouse

- ▶ Spouse benefits end 10 years from the date of death of the Veteran.
- ▶ If VA rated the Veteran permanently and totally disabled with an effective date of three years from discharge, a spouse will remain eligible for 20 years from the effective date of the rating.
- ▶ A spouse using DEA remains eligible to receive DIC payments from VA.
- ▶ For surviving spouses of SM who died on active duty, benefits end 20 years from the date of death.
- ▶ Remarriage permanently terminates DEA payments.

# DEPENDENTS EDUCATIONAL ASSISTANCE (DEA)

(38 U.S.C. § 3500–3566; 38 C.F.R. Part 21)

## Dependents Educational Assistance for Child(ren)

- ▶ Children must elect between DEA and DIC
  - Election of educational benefits is irrevocable
  - DIC may not be received once educational benefits begin
  - Can receive DIC until 23; Educational benefits to age 26.
- ▶ Children up to age 26
- ▶ Marriage does not bar payments to a child.

# DEPENDENTS EDUCATIONAL ASSISTANCE (DEA)

(38 U.S.C. § 3500–3566; 38 C.F.R. Part 21)

## Dependents Educational Assistance for Spouse and/or Child

- ▶ School must be approved for VA benefits
- ▶ Max 45 school months (\$1,041 per month)

Training Time	Monthly rate
Full time	\$1,041.00
$\frac{3}{4}$ time	\$780.00
$\frac{1}{2}$ time	\$519.00
less than $\frac{1}{2}$ time and more than $\frac{1}{4}$ time	\$519.00 **
$\frac{1}{4}$ time or less	\$260.25 **

# Burial Benefits

(10 U.S.C. § 1482; 38 U.S.C. § § 2301–08 & 2402;  
38 C.F.R. § 3.1600)

- ▶ Burial benefits (DoD & VA)
  - National Cemetery
    - All active duty;
    - Reservist who die on AD or as a result of a service-connected injury or after completing 20 good years toward retirement.
    - Veterans who served a minimum period of time on AD (generally 2 years) and were discharged with an other than dishonorable discharge
    - On a space available basis.
    - Eligibility creates a right to a headstone and grave liner.



# Burial Benefits

(10 U.S.C. § § 1481–2; 38 U.S.C. § § 2301–08 & 2402; 38 C.F.R. § 3.1600)

## ▶ Burial benefits

- All active duty SM are eligible for
  - Interment allowances
    - If military service arranges preparation and casket
      - \$6000 if consigned to funeral home & burial in civilian cemetery
      - \$3,600 if consigned to funeral home & burial in government cemetery
      - \$1,000 if remains consigned directly for burial in a government cemetery
    - If family arranges preparation and casket
      - \$8,800 for burial in civilian cemetery
      - \$7,300 for burial in government cemetery
  - Reimbursement for next of kin travel to the burial site.  
(37 U.S.C. § 411f)

## Eligibility & Costs

### The following are the general eligibility requirements to be buried at a Texas State Veterans Cemetery.

- Veterans and members of armed forces
- Certain Members of Reserve Components & Reserve Officer Training Corps
- Commissioned Officers of the National Oceanic & Atmospheric Administration and Public Health Services
- World War II Merchant Marines
- Philippine Armed Forces
- Spouses and Dependents (however, burial of dependent children is limited to unmarried children under 21 years old or 23 years old if a full-time student at an approved educational institution.)

Eligibility requirements for a Texas State Cemetery are the same as for United States Department of Veterans Affairs National Cemeteries. Exact eligibility requirements can be seen at the [Veterans Affairs website](#) or by calling the VA's toll-free burial benefits number at **1-800-827-1000**. If you have any questions about eligibility, please call us at the Texas Veterans Land Board toll free at **1-800-252-VETS (8387)**.

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### Charges for Interment

Burial at a Texas State Veterans Cemetery is a benefit earned by Veterans, their spouses, and eligible dependents for their dedicated service to our country. There is no charge for the interment of Veterans, their spouses and eligible dependents. The burial benefit includes military honors for Veterans, the grave plot, the opening and closing of the grave, a concrete grave liner for casketed burials, a headstone or marker, presentation of the burial flag to the next of kin, a Presidential certificate, playing of Taps, a gun salute, and perpetual care of the grave. The funeral home will obtain a burial flag to accompany the Veteran's casket or urn and will assist with requesting military honors.

The burial benefit for Veterans, their spouses and eligible dependents does not cover funeral home charges such as the cost of a casket, cremation, viewing, flower cars, or transportation of the remains and family. However, if the Veteran dies of a service connected cause of death, the family may be eligible for reimbursement from the VA for some of the funeral home costs up to \$2,000.

# Veterans' Benefits are Excluded from Federal Taxable Income

- ▶ The following amounts paid to Veterans or their Families are **not taxable**:
  - Education, training, and subsistence allowances.
  - Disability compensation and pension payments for disabilities paid either to Veterans or their Families.
  - Grants for homes designed for wheelchair living.
  - Grants for motor vehicles for Veterans who lose their sight or use of their limbs.
  - Veterans' insurance proceeds and dividends paid either to Veterans or their beneficiaries.
  - The death gratuity paid to a survivor of a member of the Armed Forces
  - Payments made under VA compensated work therapy program.

# Texas Hazlewood Act Exemption

## Veteran

1. Entered the military service from Texas, or Home of Record at the time of entry is Texas, or was a Texas resident at the time of entry into military service
2. Served more than 180 days of federal military services – Excluding Initial Entry Training as defined in the Texas Administrative Code §461
3. Received an Honorable Discharge or General Discharge under Honorable Conditions
4. Exhausted GI Bill benefits if eligible for Post 9/11 GI Bill benefits at the 100% rate
5. Reside in Texas during term of enrollment
6. Provide DD Form 214 or equivalent supporting documentation
7. Meet the grade point average satisfactory academic progress requirements and other requirements of Texas Education Code §54.2001

# Texas Hazlewood Act Exemption

## Legacy – Transfer of Hazlewood benefit to a child

1. Veteran must qualify for the Hazlewood Exemption
2. Provide death certificate if veteran is deceased
3. Recipient must be the biological child, stepchild, adopted child, or claimed as dependent for current or previous tax year on IRS Tax Transcript
4. Recipient must be 25 years old or younger on first day of class
5. Recipient must enroll in a degree or certificate program and meet the grade point average satisfactory academic progress requirements and other requirements of Texas Education Code §54.2001
6. Recipient must meet the institution's resident tuition requirements
7. Provide DD Form 214 or equivalent supporting documentation

# Texas Hazlewood Act Exemption

## Child or Spouse – child and spouse of a totally and permanently disabled or individually unemployable veteran

1. Veteran must have entered the military service from Texas, or Home of Record at the time of entry is Texas, or was a Texas resident at the time of entry into military service
2. Veteran's disability must be verified by a current VA disability rating letter
3. Recipient must be current or surviving spouse of a qualifying veteran or Recipient must be the biological child, stepchild, adopted child, or claimed as dependent for current or previous tax year on IRS Tax Transcript
4. Recipient must meet the grade point average satisfactory academic progress requirements and other requirements of Texas Education Code §54.2001
5. Recipient must meet the institution's resident tuition requirements
6. Provide DD Form 214 or equivalent supporting documentation

# Texas Hazlewood Act Exemption

Child or Spouse – child and spouse of a service-related deceased, missing in action, or killed in action veteran

1. Veteran have entered the military service from Texas, or Home of Record at the time of entry is Texas, or was a Texas resident at the time of entry into military service
2. Recipient must meet the institution's resident tuition requirements
3. Provide DD Form 1300, Report of Casualty
4. Provide DD Form 214 and VA documentation if veteran's service-related death was after being discharged

# Property and Home Owners

## ► Property Tax Exemption (Texas)

- **100% Disabled Veteran & Surviving Spouse**  
exemption of the total appraised value of homestead  
(primary residence only)

DISABILITY RATING	EXEMPTION AMOUNT UP TO
10% to 29%	\$5,000 from the property's value
30% to 49%	\$7,500 from the property's value
50% to 69%	\$10,000 from the property's value
70% to 100%	\$12,000 from the property's value



# QUESTIONS?

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