VOLUME 7B, CHAPTER 64: "CONCURRENT MILITARY RETIREMENT PAY AND DEPARTMENT OF VETERANS AFFAIRS (DVA) DISABILITY COMPENSATION"

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also denoted by blue font.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated February 2025 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with administrative instructions.	Revision
5.2.1	Pursuant to the Defense Office of Hearings and Appeals decision in Claims Case Number 2016-CL-091608-3, military retired pay payable to military retirees under Title 10, Chapter 61, of United States Code that is paid concurrently with Department of Veterans Affairs disability compensation is disposable pay subject to division under the Uniformed Services Former Spouse's Protection Act, because the amount paid effectively removes the disability factor from the Chapter 61 retired pay payable.	Addition
5.2.2	Deleted text which incorrectly limited disposable income for certain members retired under Chapter 61 for disability.	Deletion
References	Updated references.	Revision

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CHAPTER 64
CONCURRENT MILITARY RETIREMENT PAY AND DEPARTMENT OF VETERANS AFFAIRS (DVA) DISABILITY COMPENSATION

1.0 GENERAL

1.1 Purpose

This chapter provides information on the implementation of ***Title 10 United States Code (U.S.C.), section 1414***. It includes the requirements for receipt of concurrent military retired pay and Disability Compensation from the Department of Veterans Affairs (DVA) (hereinafter "DVA Disability Compensation") pursuant to 10 U.S.C. § 1414. It establishes that except for certain Disability Retirees, qualifying members (and former members) who are entitled to military retired pay who are also entitled to DVA Disability Compensation are not required to waive military retired pay in order to receive DVA Disability Compensation. It clarifies the waiver requirement applicable to Career Disability Retirees with more than 20 years of service. The law provides authority for military retirees to receive military retired pay either without application of the waiver requirements set out in ***38 U.S.C. § 5304*** and ***38 U.S.C. § 5305*** or with only limited application of such waiver requirements. Additionally, this chapter provides examples clarifying the rule for determining disposable retired pay under ***10 U.S.C. § 1408*** when a qualified retiree receives concurrent military retired pay and DVA Disability Compensation.

1.2 Authoritative Guidance

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with the U.S.C., including Titles 5, 10, and 38. Due to the subject matter in this chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

1.3 Definitions

1.3.1. DVA Disability Compensation. A monthly tax-free benefit paid by the DVA to veterans (including retirees) found by the Secretary of Veterans Affairs to be at least 10 percent disabled per the DVA schedule for rating disabilities because of injuries or diseases that were incurred in or aggravated during active duty, active duty for training, or inactive duty training. The benefit amount is graduated according to the degree of the veteran's disability on a scale from 10 percent to 100 percent (in increments of 10 percent). This benefit is paid by the DVA.

1.3.2. Disability Retiree. This is a member who was retired under ***Title 10, U.S.C., Chapter 61*** by virtue of being unfit to perform the duties of his office, grade, rank, or rating because of physical disability.

1.3.3. Career Disability Retiree. This is a member who was retired under Title 10, U.S.C., Chapter 61 with 20 years or more of service creditable under *10 U.S.C. § 1405*, or at least 20 years of service computed under *10 U.S.C. § 12732*, at the time of the member's retirement.

1.3.4. Military Retired Pay. This is an amount computed under *Title 10, U.S.C., Chapter 71* and paid to those retired under Title 10, U.S.C., Chapter 61 (Disability), *Title 10, U.S.C., Chapter 63* (Age), *Title 10, U.S.C., Chapter 65* (Warrant Officers), *Title 10, U.S.C., Chapter 741* (Army), *Title 10, U.S.C., Chapter 841* (Navy) *Title 10, U.S.C., Chapter 941* (Air Force), or *Title 10, U.S.C., Chapter 1223* (Non-Regular Service). All references to military retired pay in this chapter, include the term Title 10, U.S.C., Chapter 61 Disability Retired Pay.

1.3.5. Title 10, U.S.C., Chapter 61 Disability Retired Pay. This is the type of military retired pay to which a member who was retired under Title 10, U.S.C., Chapter 61 is entitled. Disability Retired Pay is computed pursuant to Title 10, U.S.C., Chapter 71. It is determined by applying a percentage multiplier to the member's basic pay at the time of retirement. The percentage multiplier may be computed based on the number of years of creditable service or the disability percentage assigned by the Service (as elected by the member). See Chapter 3. It is paid by the DoD (or the Department who retired the member pursuant to Title 10, U.S.C., Chapter 61). It is not DVA Disability Compensation.

1.3.6. Hypothetical Longevity Retired Pay. This is the amount of retired pay to which the member would have hypothetically been entitled if the member had hypothetically been retired for reasons other than physical disability under Title 10, U.S.C., Chapter 61.

1.3.7. General Waiver Requirement. This is the general rule that a military retiree may not receive both DVA Disability Compensation and military retired pay simultaneously, but may waive military retired pay in order to receive DVA Disability Compensation. See 38 U.S.C. § 5304 and 38 U.S.C. § 5305. The General Waiver Requirement is always subject to the exception under 10 U.S.C. § 1414.

1.3.8. Exception to the General Waiver Requirement. This is the rule enacted in 10 U.S.C. § 1414 to make specific and limited exceptions to the General Waiver Requirement.

1.3.9. Qualified Retiree. This is a member or former member of the Uniformed Services who is entitled for any month to both retired pay and DVA Disability Compensation based on a service-connected disability (or combination of service-connected disabilities) that is rated by the Secretary of Veterans Affairs as not less than 50 percent disabling on the DVA schedule for rating disabilities. A Disability Retiree must be a Career Disability Retiree to be a Qualified Retiree.

1.3.10. Qualified Career Disability Retiree. This is a person who meets both the definition of Career Disability Retiree and Qualified Retiree.

2.0 ELIGIBILITY

2.1 Qualified Retiree

To qualify for the Exception to the General Waiver requirement and receive military retired pay concurrently with DVA Disability Compensation, the member must be a "Qualified Retiree" as defined in paragraph 1.3.9. Career Disability Retirees who are qualified retirees may receive concurrent Title 10, U.S.C., Chapter 61 Disability Retired Pay and DVA Disability Compensation, subject to certain limitations described in paragraph 2.3.4.

2.2 Qualifying Service-Connected Disability

A qualifying service-connected disability is a service-connected disability (or combination of service-connected disabilities) that is rated by the Secretary of Veterans Affairs as not less than 50 percent disabling on the DVA schedule for rating disabilities.

2.3 Physical Disability Retirement

2.3.1. Disability Retirees - Less Than 20 Years. Such members who do not have 20 years or more of service creditable under 10 U.S.C. § 1405, or 20 years of service computed under 10 U.S.C. § 12732, at the time of the retirement are not eligible to receive Title 10, U.S.C., Chapter 61 Disability Retired Pay and DVA Disability Compensation concurrently. Accordingly, such members are subject to the General Waiver Requirement and must waive Title 10, U.S.C., Chapter 61 Disability Retired Pay in order to receive DVA Disability Compensation.

2.3.2. Qualified Career Disability Retirees - 20 Years or More. Such members may receive concurrent Title 10, U.S.C., Chapter 61 Disability Retired Pay and DVA Disability Compensation but, in certain circumstances, may be required to waive a portion of the Title 10, U.S.C., Chapter 61 Disability Retired Pay.

2.3.3. Special Rules for Qualified Career Disability Retirees. The law limits the amount of Chapter 61 Disability Retired Pay that remains subject to the General Waiver Requirement. Specifically, a Career Disability Retiree receiving Title 10, U.S.C., Chapter 61 Disability Retired Pay must waive Chapter 61 Disability Retired Pay, but only to the extent that the amount of Chapter 61 Disability Retired Pay exceeds the amount of hypothetical longevity retired pay to which the member would have been entitled under any other provision of law if the member had not been retired for disability under Title 10, U.S.C., Chapter 61. After application of the limited general waiver requirement, a Qualified Career Disability Retirees will receive their Title 10, U.S.C., Chapter 61 Disability Retired Pay, but the amount received is equal to the dollar amount of hypothetical longevity retired pay. In cases where a Qualified Career Disability Retiree's hypothetical longevity retired pay computation exceeds their Title 10, U.S.C., Chapter 61 Disability Retired Pay (based on percentage of disability), the General Waiver Requirement does not apply.

Example 1. Qualified Career Disability Retiree Whose Title 10, U.S.C., Chapter 61 Disability Retired Pay Exceeds Hypothetical Longevity Retired Pay.

If a Qualified Career Disability Retiree who was retired for disability under Title 10, U.S.C., Chapter 61 is entitled to $1000 per month in Disability Retired Pay based on his/her percentage of disability, and that same retiree would hypothetically have been entitled to $800 per month in retired pay if (s)he had (hypothetically) been retired under Title 10, U.S.C., Chapter 741 (Army), Title 10, U.S.C., Chapter 841 (Navy) or Title 10, U.S.C., Chapter 941 (Air Force) based on completion of 20 years of service (i.e., length of service), then the amount of Disability Retired Pay that can be received concurrently with DVA Disability Compensation is $800. The remaining $200 in Disability Retired Pay is still subject to the General Waiver Requirement (i.e., the requirement that a member must waive military retired pay in order to receive DVA Disability Compensation). Assume DVA Disability Compensation paid by the DVA is $1,500. Table 64-1 illustrates this example.

Example 2. Qualified Career Disability Retiree Whose Hypothetical Longevity Retired Pay is Equal or Exceeds Chapter 61 Disability Retired Pay.

In some cases, a Qualified Career Disability Retiree's Hypothetical Longevity Retired Pay will either equal or exceed their Title 10, U.S.C., Chapter 61 Disability Retired Pay (based on percentage of disability). In such cases the General Waiver Requirement will not apply. Assume a Qualified Career Disability Retiree who was retired for disability under Title 10, U.S.C., Chapter 61 and who chooses the more favorable of the following two computation methods: either (a) $900 per month in Title 10, U.S.C., Chapter 61 Disability Retired Pay based on his/her percentage of disability, or (b) $1,500 per month in retired pay based on years of service. (As a reminder, for a Title 10, U.S.C., Chapter 61 retiree, the percentage multiplier may be based on the number of years of creditable service or the disability percentage assigned by the Service as elected by the member). Assume that same retiree would hypothetically have been entitled to $1,500 per month in retired pay if the member had (hypothetically) been retired under Title 10, U.S.C., Chapter 741 (Army), Title 10, U.S.C., Chapter 841 (Navy) or Title 10, U.S.C., Chapter 941 (Air Force) based on completion of 20 years of service (i.e., length of service). In such an instance, the amount of Title 10, U.S.C., Chapter 61 Disability Retired Pay that can be received concurrently with DVA Disability Compensation is $1,500. There is no amount that is subject to the general waiver requirement. Table 64-2 illustrates this example. (Assume DVA Disability Compensation paid by the DVA is $1,500).

2.4 Non-Regular Retired Pay

Members eligible for retirement for non-regular service are not eligible to receive both military retired pay and DVA Disability Compensation concurrently until they reach retirement age and have applied for and have become entitled to receive military retired pay. A member is generally not eligible for non-regular retired pay until they reach age 60. The eligibility age may be reduced in certain cases based on qualifying active duty in response to a national emergency after January 28, 2008.

2.5 Retired Pay Waived (Other Than for DVA Disability Compensation)

A member who waives retired pay in order to credit military service for the purpose of establishing eligibility for a civil service retirement, or for any reason other than to receive VA disability compensation, is not eligible to receive both military retired pay and DVA Disability Compensation concurrently. A member who combines his military time with his civil service time for the sole purpose of enhancing his civil service retirement may be eligible to receive both military retired pay and DVA Disability Compensation concurrently. Members who are in receipt of a civil service retirement and believe they may be eligible to receive both benefits simultaneously should consult the Civil Service Retirement System and Federal Employees Retirement System Handbook for Personnel and Payroll Offices for further information on eligibility. See also ***https://www.opm.gov/retire/pubs/handbook/hod.htm***.

3.0 APPLICATION

A member who has already met the requirements to receive military retired pay is not required to submit an application to receive military retired pay and DVA Disability Compensation concurrently. The Defense Finance and Accounting Service (DFAS) will establish procedures to ensure that qualified retirees receive military retired pay to which they are entitled pursuant to 10 U.S.C. § 1414. Members who believe they are entitled to military retired pay, but are not receiving it, should submit a written claim to DFAS to ascertain the reason they are not currently receiving military retired pay. The claim should be sent to DFAS, U.S. Military Retired Pay, 8899 East 56th Street, Indianapolis, IN 46249-1200 or use the askDFAS Online Tools for Retirees at ***https://www.dfas.mil/retiredmilitary/retiree-askDFAS-Online-Tool***. Any survivors seeking retroactive military retired pay, owed a deceased member as arrears of pay, must submit a written claim on a completed Standard Form 1174. See Chapter 30, paragraph 2.5 for additional information.

4.0 PHASE-IN-PERIOD

4.1 Phase-In-Period – 10 Year Period

The law that first allowed retirees to receive military retirement pay and DVA Disability Compensation concurrently was effective on January 1, 2004. It provided for a 10-year phase-in period (January 1, 2004 through December 31, 2013) in which, for most retirees, the amount of military retired pay that was not subject to the General Waiver Requirement would increase gradually each year until the retiree began receiving full military retirement pay simultaneously

with DVA Disability Compensation. There was no phase-in period for retirees with a VA disability rating of 100 percent. The limitations on Career Disability Retirees was applicable.

4.2 Phase-In-Period – Expired

The phase-in period ended on December 31, 2013. Effective on January 1, 2014, (with the exception of Career Disability Retirees who are still subject to the limitations in subparagraph 2.3.3), Qualified Retirees are eligible to receive military retired pay, in full, and concurrently with DVA Disability Compensation (formerly referred to as "Concurrent Retired and Disability Pay (CRDP)"). For historical information on the computation of the amount of military retirement pay that could be paid concurrently with DVA Disability Compensation during the phase-in period, see the archived version of Chapter 64, October 2020.

5.0 RELATION TO OTHER PROVISIONS

5.1 Relation to Combat-Related Special Compensation (CRSC)

Military retirees with disabilities that are attributable to a combat-related event may be eligible for CRSC under ***10 U.S.C. § 1413a***. Combat-related determinations are made by the branch of service from which the member retired. A retired member may receive either CRSC under 10 U.S.C. § 1413a or, in the alternative, military retirement pay and DVA Disability Compensation concurrently under 10 U.S.C. § 1414, but not both. If a retired member is already in receipt of military retirement pay and DVA Disability Compensation concurrently pursuant to 10 U.S.C. § 1414 and then subsequently receives a determination from the branch of service that the member has disabilities that are attributable to a combat-related event under 10 U.S.C. § 1413a, DFAS will compare the possible entitlements under both laws. Unless the member elects otherwise, the CRSC benefit under 10 U.S.C. § 1413a will be paid if it is found to exceed the gross military retired pay entitlement.

5.1.1. All members entitled to both (a) military retirement pay and DVA Disability Compensation concurrently pursuant to 10 U.S.C. § 1414 and (b) CRSC under 10 U.S.C. § 1413a, will be provided an annual open season period during which the member may elect to change between the two entitlement alternatives.

5.1.2. Eligible members will be notified of the opportunity to elect to change between the two alternative entitlements. The notification will be based on the entitlement information available at the time the notice is provided and will specify the date that an election change will be effective.

5.1.3. If a change in the entitlement amount under either alternative entitlement (under 10 U.S.C. § 1414 or 10 U.S.C. § 1413a) occurs after the close of an annual open season period, the change in the entitlement amount will not serve as a basis to alter the current election. The existing election may only be changed at the next annual open season period. This limitation applies to changes in a member's VA disability rating, which have a retroactive effective date specified by VA that precedes the date that DFAS is notified of the change.

Note: The limitation in the prior sentence does not apply if maintaining the member's most recent open season election would result in the establishment of a retired pay debt or result in the loss of the entitlement previously elected altogether.

5.2 Relation to Uniformed Services Former Spouses' Protection Act (USFSPA)

* 5.2.1. Title 10, U.S.C., § 1408, provides a mechanism for a former spouse to enforce a retired pay property award for direct payments from the member's disposable military retired pay. Disposable military retired pay is defined in Chapter 29 and equals a member's total monthly military retired pay (gross pay) entitlement minus certain authorized deductions. The disposable military retired pay of a retired member who is a Qualified Retiree (including Qualified Career Disability Retiree) is computed by taking the member's total monthly retired pay (gross pay) entitlement being received concurrently and reducing it by the authorized deductions pursuant to 10 U.S.C. § 1408. Military retired pay that is paid concurrently with DVA Disability Compensation, formerly referred to as CRDP, is disposable retired pay and subject to division under the USFSPA. This includes concurrent retired pay received by members retired under Chapter 61 of Title 10, U.S.C. pursuant to 10 U.S.C. § 1414.

* 5.2.2. Qualified Career Disability Retirees continue to receive Chapter 61 Disability Retired Pay, even when paid concurrently with DVA Disability Compensation under 10 U.S.C. § 1414. Chapter 61 Disability Retired Pay payable under 10 U.S.C. § 1414 (b)(1) is all disposable retired pay because it effectively removes the disability factor from the amount of retired pay payable limiting payment to the hypothetical longevity retired pay.

5.3 Relation to Other Laws and Processes

When a member is entitled to receive military retired pay and DVA Disability Compensation concurrently pursuant to 10 U.S.C. § 1414, the military retired pay that is paid is still military retired pay. As military retired pay, it remains subject to any other action or process, and to the same extent, that applies to military retired pay as described in law or this regulation. In all instances, when military retired pay is paid concurrently with DVA Disability Compensation pursuant to 10 U.S.C. § 1414 military retired pay, the nature of the military retired pay is not changed because the retiree is a Qualified Retiree under 10 U.S.C. § 1414.

5.3.1. Pursuant to ***10 U.S.C. § 1452***, premium deductions from military retired pay are made for participants in the Survivor Benefit Plan (SBP). Military retired pay which is paid concurrently with DVA Disability Compensation pursuant to 10 U.S.C. § 1414 is available for SBP premium deductions. If a member has sufficient military retired pay to cover SBP premium deductions, then SBP premiums will be deducted from the military retired pay. See Chapter 45.

5.3.2. The Treasury Offset Program allows military retired pay to be offset (reduced) to recover a debt owed to the United States. Military retired pay which is paid concurrently with DVA Disability Compensation pursuant to 10 U.S.C. § 1414 is available for collection of a debt through the Treasury Offset Program. See Volume 16.

5.3.3. Military retired pay which is paid concurrently with DVA Disability Compensation pursuant to 10 U.S.C. § 1414 is subject to any other action or process and is governed by the specific laws and regulations governing the other action or process, including but not limited to garnishment for child support or alimony allotments.

5.4 Taxability

5.4.1. A Qualified Retiree who is entitled to be paid Military Retired Pay concurrently with the DVA Disability Compensation is receiving Military Retired Pay. Military Retired Pay is taxable unless it qualifies for exemption to taxation under the Internal Revenue Code. See Chapter 24.

5.4.2. A Qualified Career Disability Retiree receiving Title 10, U.S.C., Chapter 61 Military Retired Pay concurrently with the DVA Disability Compensation pursuant to 10 U.S.C. § 1414, receives Title 10, U.S.C., Chapter 61 Military Retired Pay, which is subject to the taxation rules for Title 10, U.S.C., Chapter 61 Military Retired Pay found in ***10 U.S.C. § 1403*** and ***26 U.S.C. § 104***.

5.4.2.1. If a Qualified Career Disability Retiree's Title 10, U.S.C., Chapter 61 Disability Retired Pay exceeds Hypothetical Longevity Retired Pay, and the retiree is receiving Title 10, U.S.C., Chapter 61 Disability Retired Pay based upon percentage of disability, then all of Title 10, U.S.C., Chapter 61 Disability Retired Pay received concurrently with DVA Disability Compensation may be non-taxable if otherwise qualified to be excluded from gross income under 26 U.S.C. § 104. See Chapter 24, paragraph 2.2.

5.4.2.2. If a Qualified Career Disability Retiree has elected to receive Title 10, U.S.C., Chapter 61 Retired Pay based upon a percentage multiplier for number of years of creditable service because it exceeds the Title 10, U.S.C., Chapter 61 Disability Retired Pay they would have received based on percentage of disability, then only a portion of Title 10, U.S.C., Chapter 61 Disability Retired Pay received concurrently with DVA Disability Compensation may be non-taxable. In accordance with 10 U.S.C. § 1403, the amount of Title 10, U.S.C., Chapter 61 Disability Retired Pay that may qualify for tax exempt status cannot exceed the amount that equals Title 10, U.S.C., Chapter 61 Military Retired Pay based upon the disability percentage assigned by the Service at retirement. In order to be non-taxable, the Title 10, U.S.C., Chapter 61 Disability Retired pay received concurrently with DVA Disability Compensation must otherwise be qualified to be excluded from gross income under 26 U.S.C. § 104. See Chapter 24, Section 4.0.

> Example. Assume Qualified Career Disability Retiree is entitled to receive either $1,500 a month in Title 10, U.S.C., Chapter 61 Military Retired Pay based upon percentage multiplier for years of service or $900 a month based upon disability percentage and has elected to receive $1,500 a month in Title 10, U.S.C., Chapter 61 Disability Retired Pay. Only $900 a month of the $1,500 of Title 10, U.S.C., Chapter 61 Retired Pay of received concurrently with DVA disability compensation may be considered non-taxable if otherwise qualified to be excluded from gross income under 26 U.S.C. § 104.

Thus, in this example, $600 of Title 10, U.S.C., Chapter 61 Disability Retired Pay received concurrently with DVA Disability compensation is taxable and cannot be excluded from gross income under 26 U.S.C. § 104.

5.5 Relation to Individual Unemployability

5.5.1. Individual Unemployability (IU) is a supplement to the DVA's disability compensation program that allows the DVA to pay certain veterans disability compensation at the 100 percent rate, even though the DVA may not have rated the member's service-connected disabilities at the total level. A veteran qualifying for the IU supplement receives a monthly VA disability compensation payment equal to the amount that he or she would receive if rated 100 percent disabled.

5.5.2. Subject to the exceptions for Disability Retirees explained in subparagraphs 5.5.2.1 and 5.5.2.2, a member or former member of the Uniformed Services who is entitled for any month to both military retired pay and DVA Disability Compensation based on a service-connected disability (or combination of service-connected disabilities) which the Secretary of Veterans Affairs determines qualifies the member for the IU supplement may receive concurrent military retired pay and DVA Disability Compensation.

5.5.2.1. Disability Retirees (Less than 20 years)

Disability Retirees with less than 20 years of service creditable under 10 U.S.C. § 1405 or less than 20 years of service computed under 10 U.S.C. § 12732 at the time of the retirement are not eligible to receive Title 10, U.S.C., Chapter 61 Disability Retired Pay and DVA Disability Compensation concurrently even if the Secretary of Veterans Affairs determines that the member qualifies for the IU supplement.

5.5.2.2. Disability Retirees (More than 20 years)

Disability Retirees with 20 years or more of service creditable under 10 U.S.C. § 1405 or 20 years or more of service computed under 10 U.S.C. § 12732 at the time of the retirement and for whom the Secretary of Veterans Affairs determines that the member qualifies for the IU supplement are eligible to receive Title 10, U.S.C., Chapter 61 Disability Retired Pay and DVA Disability Compensation concurrently. However, the Special Rule for Qualified Career Disability Retirees applies. As a result, the retiree must waive Chapter 61 Disability Retired Pay to the extent that the amount of Chapter 61 Disability Retired Pay exceeds the amount of hypothetical longevity retired pay to which the member would have been entitled under any other provision of law if the member had not been retired for disability under Title 10, U.S.C., Chapter 61.

Table 64-1. Example 1 - Illustration to subparagraph 2.3.4.

Entitlement Type	Amount	Amount payable from VA	Amount payable from DoD
Hypothetical Longevity Retired Pay	$800	Blank	Blank
Chapter 61 Disability Retired Pay Entitlement based on percentage of disability	$1,000	Blank	$800 (Note 1)
Amount Disability Retired Pay Exceeds Hypothetical Length of Service entitlement	$200 (Note 2) ($1,000- $800)	Blank	Blank
DVA Disability Compensation Entitlement	$1,500	$1,500	Blank

Note:
1. This $800 amount is Chapter 61 Disability Retired Pay paid concurrently and is not subject to General Waiver Requirement as it is not required to be waived to receive it concurrently with DVA Disability Compensation. It is paid as Chapter 61 Disability Retired Pay concurrently with the DVA Disability Compensation.

2. This $200 amount is subject to the General Waiver Requirement as it must be waived to receive DVA Disability Compensation concurrently.

Table 64-2. Example 2 - Illustration to subparagraph 2.3.4.

Entitlement Type	Amount	Amount payable from VA	Amount payable from DoD
Hypothetical Length of Service Entitlement	$1,500 (Note 1)	Blank	$1,500 (Note 2)
Chapter 61, Disability Retired Pay Entitlement computed based on years of service (Note 1)	$1,500	Blank	Blank
Chapter 61, Disability Retired Pay Entitlement computed based on percentage of disability (Note 1)	$900	Blank	Blank
Amount Chapter 61 Disability Retired Pay that Exceeds Hypothetical Length of Service entitlement	$0 (Note 3)	Blank	Blank
DVA Disability Compensation Entitlement	$1,500	$1,500	Blank

Note:
1. Pursuant to ***10 U.S.C. § 1401***, a member retired under Chapter 61 is entitled have their Chapter 61 Disability Retired Pay computed based upon their disability percentage or their years of service. Assume the member elected the more favorable computation of $1,500.

2. This $1,500 is Chapter 61 Disability Retired Pay paid concurrently with DVA Disability Compensation and is not subject to general waiver requirement, as members are not required to waive this compensation to receive it concurrently with DVA Disability Compensation. See Paragraph 5.4 for taxability.

3. The amount the Chapter 61 Disability Retired Pay based upon years of service ($1500) that exceeds the Hypothetical Length of Service entitlement ($1500) is $0. Thus, there is no amount that must be waived to receive DVA Disability Compensation concurrently.

*REFERENCES

CHAPTER 64 – CONCURRENT MILITARY RETIREMENT PAY AND DEPARTMENT OF VETERANS AFFAIRS (DVA) DISABILITY COMPENSATION

1.0	General	
		Public Law 108-136, section 641, November 24, 2003 10 U.S.C. § 1414 38 U.S.C. § 5304 38 U.S.C. § 5305
	1.3	38 U.S.C. § 5304 38 U.S.C. § 5305 Chapter 61 of Title 10 10 U.S.C. § 1414
2.0	Eligibility	10 U.S.C. § 1414
	2.3	10 U.S.C. § 1201(b)(3)(A) 10 U.S.C. § 1208 10 U.S.C. § 1405 10 U.S.C. § 12732
	2.4	10 U.S.C. § 12731
	2.5	5 U.S.C. § 8332 5 U.S.C. § 8411
4.0	Phase-in- Period	Public Law 108-136, section 641, November 24, 2004
5.0	Relation to Other Provisions	
	5.1	10 U.S.C. § 1413a 10 U.S.C. § 1414(d)
	5.2	10 U.S.C. § 1408 Defense Office of Hearing and Appeals Decision, Claims Case Number 2016-CL-091608-3, March 1, 2022
	5.3	10 U.S.C. § 1452
	5.4	Title 26, Code of Federal Regulation, section 1.104-1(e)

REFERNCES (Continued)

	26 U.S.C. § 104(a)(4) 10 U.S.C. § 1403
5.5	10 U.S.C. § 1414 10 U.S.C., Chapter 61