§ 3.2 Periods of war.

This section sets forth the beginning and ending dates of each war period beginning with the Indian wars. Note that the term period of war in reference to pension entitlement under 38 U.S.C. 1521, 1541 and 1542 means all of the war periods listed in this section except the Indian wars and the Spanish-American War. See §3.3(a)(3) and (b)(4)(i).

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(i) Circumstances of detention or internment. To be considered a former prisoner of war, a serviceperson must have been forcibly detained or interned under circumstances comparable to those under which persons generally have been forcibly detained or interned by enemy governments during periods of war. Such circumstances include, but are not limited to, physical hardships or abuse, psychological hardships or abuse, malnutrition, and unsanitary conditions. Each individual member of a particular group of detainees or internees shall, in the absence of evidence to the contrary, be considered to have experienced the same circumstances as those experienced by the group.

(ii) Reason for detainment or internment. The reason for which a serviceperson was detained or interned is immaterial in determining POW status, except that a serviceperson who is detained or interned by a foreign government for an alleged violation of its laws is not entitled to be considered a former POW on the basis of that period of detention or internment, unless the charges are a sham intended to legitimize the period of detention or internment.

(3) Central Office approval. The Director of the Compensation and Pension Service, VA Central Office, shall approve all VA regional office determinations establishing or denying POW status, with the exception of those service department determinations accepted under paragraph (y)(1) of this section.

(4) In line of duty. The Department of Veterans Affairs shall consider that a serviceperson was forcibly detained or interned in line of duty unless the evidence of record discloses that forcible detainment or internment was the proximate result of the serviceperson’s own willful misconduct.

(5) Hostile force. The term hostile force means any entity other than an enemy or foreign government or the agents of either whose actions are taken to further or enhance anti-American military, political or economic objectives or views, or to attempt to embarrass the United States.

(1) Any extended care facility which is licensed by a State to provide skilled or intermediate-level nursing care.

(2) A nursing home care unit in a State veterans’ home which is approved for payment under 38 U.S.C. 1742, or

(3) A Department of Veterans Affairs Nursing Home Care Unit.


[26 FR 1563, Feb. 24, 1961]
(a) **Indian wars.** January 1, 1817, through December 31, 1898, inclusive. Service must have been rendered with the United States military forces against Indian tribes or nations.

(b) **Spanish-American War.** April 21, 1898, through July 4, 1902, inclusive. If the veteran served with the United States military forces engaged in hostilities in the Moro Province, the ending date is July 15, 1903. The Philippine Insurrection and the Boxer Rebellion are included.

(c) **World War I.** April 6, 1917, through November 11, 1918, inclusive. If the veteran served with the United States military forces in Russia, the ending date is April 1, 1920. Service after November 11, 1918 and before July 2, 1921 is considered World War I service if the veteran served in the active military, naval, or air service after April 5, 1917 and before November 12, 1918.

(d) **World War II.** December 7, 1941, through December 31, 1946, inclusive. If the veteran was in service on December 31, 1946, continuous service before July 26, 1947, is considered World War II service.

(e) **Korean conflict.** June 27, 1950, through January 31, 1955, inclusive.

(f) **Vietnam era.** The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive. In the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive, in all other cases.

(g) **Future dates.** The period beginning on the date of any future declaration of war by the Congress and ending on a date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(h) **Mexican border period.** May 9, 1916, through April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

(i) **Persian Gulf War.** August 2, 1990, through date to be prescribed by Presidential proclamation or law.

(Authority: 38 U.S.C. 101(33))

§ 3.3 **Pension.**

(a) **Pension for veterans—**

(1) **Service pension; Spanish-American War.** A benefit payable monthly by the Department of Veterans Affairs because of service in the Spanish-American War. Basic entitlement exists if a veteran:

(i) Had 70 (or 90) days or more active service during the Spanish-American War; or

(ii) Was discharged or released from such service for a disability adjudged service connected without benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability.

(Authority: 38 U.S.C. 1512)

(2) **Section 306 pension.** A benefit payable monthly by the Department of Veterans Affairs because of nonservice-connected disability or age. Basic entitlement exists if a veteran:

(i) Served 90 days or more in either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, or served an aggregate of 90 days or more in separate periods of service during the same or during different war periods, including service during the Spanish-American War (Pub. L. 87–101, 75 Stat. 218; Pub. L. 90–77, 81 Stat. 178; Pub. L. 92–198, 85 Stat. 663); or

(ii) Served continuously for a period of 90 consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict or the Vietnam era (Pub. L. 87–101, 75 Stat. 218; Pub. L. 90–77, 81 Stat. 178; Pub. L. 91–588, 84 Stat. 1580; Pub. L. 92–198, 85 Stat. 663; Pub. L. 94–169, 89 Stat. 1013; Pub. L. 95–204, 91 Stat. 1455); or