§ 3.750 Entitlement to concurrent receipt of military retired pay and disability compensation.

(a) Definition of military retired pay. For the purposes of this part, military retired pay is payment received by a veteran that is classified as retired pay by the Service Department, including retainer pay, based on the recipient’s service as a member of the Armed Forces or as a commissioned officer of the Public Health Service, the Coast and Geodetic Survey, the Environmental Science Services Administration, or the National Oceanic and Atmospheric Administration.

(b) Payment of both military retired pay and disability compensation—(1) Compensation. Subject to paragraphs (b)(2) and (b)(3) of this section, a veteran who is entitled to military retired pay and disability compensation for a service-connected disability rated 50 percent or more, or a combination of service-connected disabilities rated 50 percent or more, under the schedule for rating disabilities (38 CFR part 4, subpart B), is entitled to receive both payments subject to the phase-in period described in paragraph (c) of this section.

(2) Chapter 61 disability retirees retiring with 20 or more years of service. Disability retired pay payable under 10 U.S.C. Chapter 61 to a veteran with 20 or more years of creditable service may be paid concurrently with disability compensation to a qualifying veteran subject to the following:

(i) Any waiver required during the phase-in period under paragraph (c)(1)(ii) of this section; and

(ii) If the veteran’s disability retired pay exceeds the amount of retired pay the veteran would have received had the veteran retired based on length of service.

Offset of RECA payment against VA benefits. Notwithstanding paragraph (a) or (b) of this section, the amount of a RECA payment will be deducted from the amount of compensation payable pursuant to §3.309(d) or the amount of dependency and indemnity compensation payable.

(Authority: 38 U.S.C. 1112(c)(4), 1310(c); 42 U.S.C. 2210 note)

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