Subsec. (b). Pub. L. 114–58, § 601(21)(B), struck out ''(as that term is defined in section 1712A(a)(2)(B) of this title)'' after ''hostilities''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 110–252, title I, § 1303(c), June 30, 2008, 122 Stat. 2328, provided that: ''The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [June 30, 2008], and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.''

EQUITABLE REFUND

Pub. L. 110–389, title VIII, § 801(b), Oct. 10, 2008, 122 Stat. 4185, provided that: ''The Secretary of Veterans Affairs may refund to the estate of such person any amount collected by the Secretary (whether before, on, or after the date of the enactment of this Act [Oct. 10, 2008]) from a person who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.''

Pub. L. 110–252, title I, § 1303(b), June 30, 2008, 122 Stat. 2327, provided that: ''In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act [June 30, 2008], and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.''

§ 5302B. Prohibition of debt arising from overpayment due to delay in processing

(a) LIMITATION.—(1) Except as provided in paragraph (2), no individual may incur a debt to the United States that—

(A) arises from the participation of the individual in a program or benefit administered by the Under Secretary for Benefits; and

(B) is attributable to the failure of an employee or official of the Department to process information provided by or on behalf of that individual within applicable timeliness standards established by the Secretary.

(2) Nothing in this section shall be construed to affect the penal and forfeiture provisions for fiduciaries set forth in chapter 61 of this title.

(b) NOTICE.—(1) If the Secretary determines that the Secretary has made an overpayment to an individual, the Secretary shall provide notice to the individual of the overpayment.

(2) Notice under paragraph (1) shall include a detailed explanation of the right of the individual—

(A) to dispute the overpayment, including a detailed explanation of the process by which to dispute the overpayment; or

(B) to request a waiver of indebtedness.

(c) DELAY ON COLLECTION.—(1) Subject to paragraph (2), the Secretary may not take any action under section 3711 of title 31 regarding an overpayment described in a notice under subsection (b) of this section until the date that is 90 days after the date the Secretary issues such notice.

(2) The Secretary may take action under section 3711 of title 31 regarding an overpayment described in a notice under subsection (b) of this section before the date that is 90 days after the date the Secretary issues such notice if the Secretary determines that delaying such action is—

(A) likely to make repayment of such overpayment more difficult for an individual;

(B) likely to cause an unpaid debt to be referred to the Treasury Offset Program; or

(C) not in the best interest of the individual.

(Added Pub. L. 117–328, div. U, title II, § 252(a)(1), Dec. 29, 2022, 136 Stat. 5462.)

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 117–328, div. U, title II, § 252(a)(3), Dec. 29, 2022, 136 Stat. 5463, provided that: ''The Secretary of Veterans Affairs shall prescribe regulations to establish standards under section 5302B(a)(2) of such title, as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Dec. 29, 2022].''

§ 5303. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that such person was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Secretary that there are compelling circumstances to warrant such prolonged unauthorized absence, or of an officer by the acceptance of such officer's resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Secretary based upon the period of service from which discharged or dismissed, notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Secretary that, at the time of the commission of an offense leading to a person's court-martial, discharge, or resignation, that person was insane, such person shall not be precluded from benefits under laws administered by the Secretary based upon the period of service from which such person was separated.

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on the individual's own application or solicitation as an alien. No individual shall be considered as having been discharged on the individual's own application or solicitation as an alien in the absence of affirmative evidence establishing that the individual was so discharged.

(d) This section shall not apply to the following: