Effective Date of 1978 Amendment


Dual Pay Requirements for Pay Periods Subsequent to Enactment of Civil Service Act of 1978

Pub. L. 96–454, title III, §308(g), Oct. 13, 1978, 92 Stat. 1151, provided that:


“(2) Such amendments shall not apply to any individual employed in a position on the date of the enactment of this Act [Oct. 13, 1978] so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, or any individual to whom paragraph (2) applies, in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.”


Effective Date of Repeal

Repeal effective Oct. 1, 1999, see section 651(c) of Pub. L. 106–65, set out as an Effective Date of 1999 Amendment note under section 1466 of Title 10, Armed Forces.

§5533. Dual pay from more than one position; limitations; exceptions

(a) Except as provided by subsections (b), (c), and (d) of this section, an individual is not entitled to receive basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the Office of Personnel Management, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (a) of this section when appropriate authority determines that the exceptions are warranted because personal services otherwise cannot be readily obtained.

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to individual of pay from more than one position, for each of which the pay is disbursed by the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,724 a year ($10,540, in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Chief Administrative Officer of the House of Representatives or the Chief of the Capitol Police, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, “gross pay” means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

(A) the pay of which is paid by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police; or

(B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;
(B) section 23(b) of title 13;
(C) section 327 of title 15;
(D) section 907 of title 20;
(E) section 673 of title 33; or
(F) section 632 or 631a of title 31, District of Columbia Code.

1 See References in Text note below.

1967—Subsec. (c)(1). Pub. L. 91–410 inserted “‘(b) the pay of each such position is fixed at a basic rate plus additional compensation authorized by law, and the aggregate basic pay of the positions exceeds $2,000 a year’.”

1967—Subsec. (c)(2). Pub. L. 91–510 substituted former cl. (2) as (3) and deleted provision which included in gross pay of an individual receiving basic pay plus additional compensation provided by law the aggregate amount received as basic and additional compensation, but excluded sums received as premium pay under subchapter V of this chapter.

1967—Subsec. (c). Pub. L. 90–206 provided for an increase in the aggregate gross pay allowed to certain specified congressional employees on two payrolls as dual office compensation.

1967—Pub. L. 90–57 designated existing dual pay limitation provisions relating to basic compensation as par. (1), redesignated cl. (1) and (2) as (A) and (B), and included in dual pay limitation provisions applicable to aggregate gross compensation of employees receiving single per annum rates of compensation.


1979—Effective Date of 1979 Amendment
Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.
EFFECTIVE DATE OF 1978 AMENDMENT

EFFECTIVE DATE OF 1970 AMENDMENT

EFFECTIVE DATE OF 1967 AMENDMENTS
Amendment by Pub. L. 90–206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 223(a)(3) of Pub. L. 90–206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Amendment by Pub. L. 90–57, effective Aug. 1, 1967, see title 105(k) of Pub. L. 90–57, set out as an Effective Date note under section 542 of Title 6.

INCENSE OF INDIVIDUALS WHOSE PAY IS DISBURSED BY SECRETARY OF SENATE
1970—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2010, to the figure $33,003, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 2002, formerly set out as a note under section 60a–1 of Title 2, The Congress.

1998—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1998, to the figure $23,698, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1997, formerly set out as a note under section 60a–1 of Title 2.

1999—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1999, to the figure $24,433, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 12, 1999, formerly set out as a note under section 60a–1 of Title 2.

2000—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2000, to the figure $25,362, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2000, formerly set out as a note under section 60a–1 of Title 2.

2001—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2001, to the figure $26,322, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 29, 2000, formerly set out as a note under section 60a–1 of Title 2.

2002—The figure $10,540 in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2002, to the figure $27,822, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 2001, formerly set out as a note under section 60a–1 of Title 2.
that office or position in addition to pay and allowances as a Reserve or member of the National Guard.


### HISTORICAL AND REVISION NOTES

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<th>Derivation</th>
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Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5534a. Dual employment and pay during terminal leave from uniformed services

A member of a uniformed service who has performed active service and who is on terminal leave pending separation from, or release from active duty in, that service under honorable conditions may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances as a Reserve or member of the National Guard.


### HISTORICAL AND REVISION NOTES

This section amends chapter 55 of title 5, United States Code, by inserting a new section 5534a. This section is based on subsections (a) and (f) of former 5 U.S.C. 61a–1 the source statute for which (act of Nov. 21, 1945, ch. 489, 59 Stat. 584) was repealed by the act of September 6, 1966, Public Law 89–544 (sec. 8, 80 Stat. 653). Senate Report 1380, 89th Congress, second session, pages 449, 511, explains that the source was repealed since it had been rendered obsolete by section 4(c) of the Armed Forces Leave Act of 1946, as amended (37 U.S.C. 501), and section 219(c) of the Public Health Service Act, as added August 9, 1950 (ch. 654, sec. 2, 64 Stat. 428; 42 U.S.C. 210–1(c)), and that any existing rights are preserved by section 8 of Public Law 89–654.

At the time of enactment of the act of November 21, 1945, there was no authority to make lump-sum leave payments to members of the uniformed services who were being separated from or released from active duty in the uniformed services. Accordingly, they were placed on terminal leave until the expiration of the unused portion of their accumulated and current accrued leave, and only then separated or released. The act of November 21, 1945, in part, authorized the employment of these members during terminal leave and provided they were entitled to receive, in addition to the payment from the employment, military pay and allowances for the unexpired portion of the terminal leave. The Armed Forces Leave Act of 1946 authorized lump-sum leave payments of unused accumulated and current accrued leave. Generally, thereafter, members of the uniformed services were not placed on terminal leave, but were separated and paid a lump-sum leave payment. However, in certain instances a member may be placed on terminal leave. Such a case was considered recently by the Comptroller General of the United States (see B–157500, Oct. 13, 1965, 45 Comp. Gen. 180. In