

extending between a connection at Grundy and a point within the Bristol Industrial Park, in Bristol Township, Bucks County, PA.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33512, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, N.W., Suite 400, Washington, DC 20036.

Decided: November 21, 1997.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 97-31384 Filed 11-28-97; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97-66

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Notice 97-66, Certain Payments Made Pursuant to a Securities Lending Transaction.

DATES: Written comments should be received on or before January 30, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage,

(202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Payments Made Pursuant to a Securities Lending Transaction.

OMB Number: 1545-1566.

Notice Number: Notice 97-66.

Abstract: Notice 97-66 modifies final regulations which were effective November 14, 1997. The Notice relaxes the statement requirement with respect to substitute interest payments relating to securities loans and sale-repurchase transactions. It also provides a withholding mechanism to eliminate excessive withholding on multiple payments in a chain of substitute dividend payments.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 377,500.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 61,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 18, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97-31402 Filed 11-28-97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretations regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT:

Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 22-97*Question Presented*

May the Department of Veterans Affairs (VA) withhold monthly benefits from beneficiaries in situations where the payee refuses to participate in the Electronic Funds Transfer Program?

Held

The Secretary has authority under the DCIA to withhold monthly VA benefits to a recipient of Federal payments subject to the EFT program if the recipient has not complied with the statutory EFT requirements and is not entitled to a waiver of their application.

Effective Date: June 20, 1997.

VAOPGCPREC 23-97*Question Presented*

Where a claimant has arthritis and instability of the knee, does 38 CFR 4.71a authorize multiple ratings under diagnostic codes 5003 and 5257?

Held

A claimant who has arthritis and instability of the knee may be rated separately under diagnostic codes 5003 and 5257.

Effective Date: July 1, 1997.

VAOPGCPREC 24-97*Question Presented*

Is a veteran who is receiving compensation pursuant to 38 U.S.C. 1151 due to blindness in both eyes which resulted from the veteran's hospitalization, medical, or surgical treatment by VA, and not incurred or aggravated in the line of duty in the active military, naval, or air service, eligible for a special housing adaptation grant under chapter 21 of title 38, United States Code?

Held

A veteran with a disability that resulted from VA hospitalization or medical or surgical treatment who has been determined eligible for compensation "as if" such injury were service connected pursuant to 38 U.S.C. 1151 is not eligible for a special housing adaptation grant as a result of the disability caused by VA medical care.

Effective Date: July 3, 1997.

VAOPGCPREC 25-97*Question Presented*

Should military retired pay that is paid directly to a veteran's ex-spouse by a military finance center pursuant to a divorce decree or garnishment order be considered income of the veteran for purposes of determining his or her

entitlement to Department of Veterans Affairs (VA) need-based benefits?

Held

Whether military retired pay paid directly to a veteran's ex-spouse by a military finance center pursuant to a divorce must be included in the veteran's annual income for purposes of determining eligibility for need-based veterans' benefits is dependent upon the property rights of the parties in the military retired pay, as determined in the pertinent divorce decree and any related property settlement, interpreted in light of applicable state law. Where, in a divorce proceeding, military retired pay is treated as marital property and divided between the parties to the proceeding, only that portion of the retired pay which is determined to be the property of the veteran is countable as income of the veteran for purposes of determining entitlement for need-based veterans' benefits. Where no such division of property has occurred, the full amount of such retired pay is attributable to the veteran, regardless of whether all or a portion of the retired pay is paid directly to the veteran's ex-spouse pursuant to a voluntary or involuntary allotment or a garnishment order.

Effective Date: July 16, 1997.

VAOPGCPREC 26-97*Question Presented*

Was the addition of a diagnosis of post-traumatic stress disorder (PTSD) to the rating schedule, effective April 11, 1980, "a liberalizing law, or a liberalizing [Department of Veterans Affairs (VA)] issue" of 38 CFR 3.114(a)?

Held

The addition of PTSD as a diagnostic entity in the schedule for rating mental disorders was a "liberalizing VA issue" for purposes of 38 CFR 3.114(a). However, an effective date prior to the date of claim cannot be assigned under section 3.114(a) unless the claimant met all eligibility criteria for the liberalized benefit on April 11, 1980, the effective date of the regulatory amendment adding the diagnostic code for PTSD, and such eligibility existed continuously from that date to the date of claim or administrative determination of entitlement.

Effective Date: July 16, 1997.

VAOPGCPREC 27-97*Question Presented*

Whether service on a naval vessel in the waters off the shore of Vietnam constitutes service in the Republic of

Vietnam for purposes of 38 U.S.C. 101(29)(A), which defines the Vietnam era as the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

Held

Service on a deep-water naval vessel in waters off the shore of the Republic of Vietnam does not constitute service in the Republic of Vietnam for purposes of 38 U.S.C. 101(29)(A), as added by section 505 of the Veterans' Benefits Improvements Act of 1996, which provides that the term "Vietnam era" means the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

Effective Date: July 23, 1997

VAOPGCPREC 28-97*Question Presented*

Whether a person insured under Service Disabled Veterans' Insurance, who does not receive a waiver of premiums pursuant to 38 U.S.C. 1912 because the insured died prior to the continuance of total disability for six consecutive months, is nonetheless eligible for supplemental Service Disabled Veterans' pursuant to 38 U.S.C. 1922A.

Held

A person insured under Service Disabled Veterans' Insurance, who does not qualify for a waiver of premiums pursuant to 38 U.S.C. 1912 because the insured died prior to the continuance of total disability for six months, is not eligible for supplemental Service Disabled Veterans Insurance pursuant to 38 U.S.C. 1922A.

VAOPGCPREC 29-97*Question Presented*

Does 38 C.F.R. 3.105(e) apply to cases subject to the special settlement review under the provisions of the October 15, 1993, Stipulation and Order in *Fernando Giusti Bravo, et al v. U.S. Department of Veterans Affairs, et al.*, where there is no reduction of a service-connected disability rating which results in reduction or discontinuance of compensation payments currently being made?

Held

38 C.F.R. 3.105(e) applies to cases subject to the special settlement review under the provisions of the October 15, 1993, Stipulation and Order in *Fernando Giusti Bravo, et al. v. U.S.*

Department of Veterans Affairs, et al.
only where there is a reduction of service-connected disability rating which results in reduction or discontinuance of compensation payments currently being made. Thus, the provisions of section 3.105(e) which require VA to provide a proposed rating action and a 60-day pretermination notice are inapplicable where there is no reduction of a service-connected disability rating which results in reduction or discontinuance of compensation payments currently being made.

Effective Date: August 7, 1997.

VAOPGCPREC 30-97

Question Presented

What level of special monthly compensation (SMC) should be awarded to a claimant with nonservice-connected paraplegia who is entitled to compensation under 38 U.S.C. 1151 for disarticulation of the hips?

Held

Regardless of preexisting paraplegia, SMC is payable at the rate prescribed in 38 U.S.C. 1114(n) to a claimant who is entitled to compensation for bilateral disarticulation of the hips under 38 U.S.C. 1151.

Effective Date: August 29, 1997.

VAOPGCPREC 31-97

Question Presented

If the Board of Veterans' Appeals concludes upon reconsideration that the Department of Veterans Affairs Regional Office erred in determining the effective date of a reduction in compensation pursuant to 38 U.S.C. 5112(6) and 38 CFR 3.105(e), does that error render the decision reducing the rating void ab initio, requiring reinstatement of the prior rating?

Held

The reduction of a disability rating, if otherwise supportable, is not rendered void ab initio by virtue of error in the assignment of the effective date for it.

Effective Date: August 29, 1997.

VAOPGCPREC 32-97

Question Presented

When a claimant has service-connected, partial hearing loss in only one ear, should the hearing in the other ear be considered normal for purposes of rating the service-connected hearing loss?

Held

If a claimant has service-connected hearing loss in one ear and nonservice-connected hearing loss in the other ear, the hearing in the ear having nonservice-connected loss should be considered normal for purposes of computing the service-connected disability rating, unless the claimant is totally deaf in both ears.

Effective Date: August 29, 1997.

VAOPGCPREC 33-97

Question Presented

Are assets which are placed in an irrevocable special needs trust includable in the claimant's net worth for purposes of determining eligibility for improved pension?

Held

Assets transferred by a legally competent claimant, or by the fiduciary of a legally incompetent one, to an irrevocable "living trust" or an estate-planning vehicle of the same nature designed to preserve estate assets by restricting trust expenditures to the claimant's "special needs," while maximizing the use of governmental resources in the care and maintenance of the claimant, should be considered in

calculating the claimant's net worth for improved-pension purposes.

Effective Date: August 29, 1997.

VAOPGCPREC 34-97

Question Presented

Does 38 U.S.C. 3104(b) or any other statute or regulation, e.g., Department of Labor Rehabilitation Act of 1973 and associated regulations, either require or preclude VA from assisting appellant in purchasing a computer and related materials for recreational activities?

Held

1. No statute or regulation, including section 702 of the Rehabilitation Act of 1973 and its associated regulations, either specifically directs VA to authorize or precludes VA from authorizing services and assistance of a recreational nature as a component of an eligible veteran's program of independent living services and assistance under 38 U.S.C. 3120.

2. VA has the authority, and responsibility, to provide all services and assistance deemed necessary on the facts of the particular case to enable an eligible veteran participating in such a program to live and function independently in his or her family and community without, or with a reduced level of, the services of others. This includes the authority to approve, when appropriate, services and assistance that are in whole or part recreational in character when the services are found to be needed to enable or enhance the veteran's ability to engage in family and community activities integral to the veteran's achieving his or her independent living program goals.

Effective Date: November 5, 1997.

By the Direction of the Secretary:

Robert E. Coy,

Acting General Counsel.

[FR Doc. 97-31329 Filed 11-28-97; 8:45 am]

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