

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 36-3034

21 NOVEMBER 2013

Personnel

REMISSION OF INDEBTEDNESS



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RELEASABILITY: There are no releasability restrictions on this publication.

OPR: SAF/MRB

Certified by: SAF/MR
(Honorable. Daniel B. Ginsberg)

Pages: 12

This Instruction implements Air Force Policy Directive (AFPD) 36-30, *Military Entitlements*. It provides policy, procedures, and evaluation standards for debt remission. It also delegates authorities, assigns responsibilities, and establishes a Secretary of the Air Force Remissions Board (SAFRB), within the Air Force Review Boards Agency (AFRBA). It provides new guidance and procedures for submitting and processing applications for remission of indebtedness to the United States Air Force. It applies to all current and former members of the Regular Air Force, Air Force Reserve, and Air National Guard whose debts were incurred while on active duty. To the extent its directions are inconsistent with other Air Force publications; the information herein prevails, in accordance with AFI 33-360, Publications and Forms Management. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS). This publication requires the collection and/or maintenance of information protected by the Privacy Act of 1974. Authorities to collect and/or maintain the records prescribed in this publication are 10 U.S.C. §§8013 and 9837, DoDFMR, Vol 7A, and AFMAN 65-116V1. Applicable Privacy Act System Notice, F065 AF FMP, is available online:

http://dpclo.defense.gov/privacy/SORNs/component/airforce/F065_AF_FMP_A.html. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate functional chain of command. This instruction may not be supplemented.

1. Authorities, Roles, and Responsibilities.

1.1. Secretary of the Air Force (SAF).

1.1.1. In accordance with 10 U.S.C. § 9837, *Settlement of Accounts: Remission or Cancellation of Indebtedness of Members*, the SAF is authorized to remit or cancel any part of the indebtedness of a person to the United States incurred while serving on active duty as a member of the Air Force, if the SAF considers such action to be in the best interest of the United States. In the context of this instruction, the terms remission and cancellation are synonymous and are defined as forgiveness or pardon of indebtedness, either in whole or in part.

1.1.2. DoD authorization and policy for the Air Force remission program can be found in *DoDFMR, Vol 7A, Chapter 50, Stoppages And Collections Other Than Courts-Martial Forfeitures, Paragraph 5003, Remission/Cancellation of Indebtedness*. The provision also delegates to the SAF the authority to implement procedural regulations for remission of debt.

1.2. **Assistant Secretary of the Air Force for Manpower and Reserve Affairs (SAF/MR).** SAF/MR exercises the authority under 10 U.S.C. § 9837 on behalf of the SAF. SAF/MR has further delegated this authority to the Director of the AFRBA. The Director, AFRBA shall exercise this delegated authority through a board and may further delegate this authority.

1.3. Director, AFRBA shall:

1.3.1. Exercise oversight and control over the AFRBA remissions process;

1.3.2. Develop and publish remission policy, procedures, and evaluation standards as approved by SAF/MR;

1.3.3. Establish and manage a SAFRB.

1.4. **SAFRB.** SAFRB shall be responsible for reviewing remission applications and providing final decisions or recommendations to the Director, AFRBA in accordance with the standards and procedures provided by this instruction.

1.4.1. A SAFRB panel will be composed of three or more members appointed by the Director, AFRBA with at least one member being a military member. All members of the panel will be voting members.

1.4.2. One of the members will be appointed as board chair and shall be a civilian or military member in the grade of GS-15 or O-6, permanently assigned to the AFRBA.

1.4.3. The other two members shall be in the grade equivalent of O-5 or O-6 (GS-14 or GS-15) except that when the applicant is enlisted, then one member of the board will be enlisted in the grade of E-8 or E-9. When the applicant is a General Officer, then at least one member of the board will be either a member of the Senior Executive Service or in the grade of O-7 or above, and in the equivalent or higher grade than the applicant.

1.4.4. When the applicant is a member of one of the Reserve Components, one voting member shall be a member of a Reserve Component.

1.5. Assistant Secretary of the Air Force, Financial Management and Comptroller (SAF/FM) shall:

1.5.1. Accept, process, and provide initial recommendations on remission applications consistent with this instruction and AFMAN 65-116V1, *Defense Joint Military Pay System Active Component (DJMS-AC) FSO Procedures*, through the Air Force Financial Services Center (AFFSC) and Financial Services Offices (FSO);

1.5.2. Ensure this instruction is adequately distributed to field level FSOs;

1.5.3. Provide an SAFRB collateral (additional duty) board member, upon request by the board chair.

2. Application Procedures.

2.1. **Who May Apply.** Any person who incurred a debt on or after October 7, 2001 while serving on active duty in the Air Force may apply for remission of indebtedness to the United States Air Force. The debt must be established and any administrative procedures and appeals regarding the existence, validity, or amount of the debt must have been completed prior to application.

2.1.1. Generally, any indebtedness may be considered for remission including those listed in the DoDFMR, Vol 7A, Tables 50-1, etc.

2.1.2. Remission or cancellation of indebtedness is not available to Air National Guard or Air Force Reserve personnel when the debt is incurred while performing inactive duty training or active duty for training except as stated in Paragraph 2.1.3.

2.1.3. IAW DoDFMR, Vol 7A, Chapter 50, Paragraph 500302 B, any member of the Air National Guard (officer or enlisted member) who is charged with liability for government property that is lost, damaged, or destroyed on or after October 1, 1980 may have such liability remitted or cancelled, if not otherwise eligible for remission based upon a debt incurred while serving on active duty as a member of the Air Force.

2.1.4. IAW OSD (P&R) and OSD (C) memo dated January 19, 2007, Remission or Cancellation of Debt Incurred by Members of the U.S. Armed Forces Medically Evacuated from a Combat Zone, airmen who are medically evacuated from a combat zone due to a battle or non-battle injury or illness, who incurred a debt while within the theater, shall have that debt expeditiously remitted or cancelled, unless the debt was caused by the airman's misconduct. As indicated in paragraph 1.1.1, the terms remission and cancellation are synonymous. Remission of such debt is not automatic; those who want such debts remitted must apply as set forth in this instruction.

2.1.5. Applicant may apply for remission of debt(s) when also eligible for waiver under 10 U.S.C. §2774. However, when an applicant has previously applied for a waiver, the debt, as a matter of policy, will not ordinarily be remitted or cancelled. See paragraph 3.2.10. The process and policy for waivers can be found in DoD Directive 1340.22, *"Waiver of Debts Resulting from Erroneous Payments of Pay and Allowances,"* and DoD Instruction 1340.23, *"Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances,"* and AFMAN 65-116 V1.

2.2. Where To Apply.

2.2.1. An active duty member with an established debt to the Air Force, or a Reserve Component member who incurred a debt while serving on active duty, may request that the debt be remitted or cancelled on the basis of hardship, inequity, or both, through his or her servicing FSO.

2.2.2. Individuals honorably discharged or retired, including former members of the Reserve Component, who incurred a debt on or after October 7, 2001, while on active duty, may contact and work with the nearest FSO. If working with a FSO is not convenient, the member will contact the Air Force Financial Services Center, Remissions Branch, 2700 Doolittle Dr, Ellsworth AFB SD 57706.

2.2.3. Group remission applications or requests may be considered, if:

2.2.3.1. The applicable MAJCOM or HAF functional 2-letter office:

2.2.3.1.1. Determines that five or more individuals have incurred an established debt eligible for remission under the standards noted in paragraph 3;

2.2.3.1.2. Finds that the individuals identified incurred the debt under substantially similar circumstances and have an identical basis for remission;

2.2.3.1.3. Recommends that remission be granted.

2.2.3.2. A group remission application must be submitted by the applicable MAJCOM or HAF functional 2-letter office (for example, AF/A1 could submit a group remission application on behalf of a group of named individuals who were overpaid an aviation bonus). In addition to the facts and circumstances surrounding the debt and the justification for remission, the request must include each individual's name, Social Security Number, amount(s) of his or her respective debt(s), and date(s) of payment(s) or other event which created the indebtedness.

2.2.3.3. Group remission applications are staffed in accordance with HAF staffing procedures. No specified form is required. At a minimum, coordination with SAF/FM and an appropriate legal review (SAF/GC) must be accomplished on any group remission request before consideration by SAFRB.

2.3. **Submission Process.** The application must demonstrate that collection of the debt is unjust, inequitable and/or would create undue hardship. The standards used to determine hardship, inequity or injustice are found in paragraph 3. The applicant bears the burden to prove that remission of the debt is in the best interest of the United States. The following supporting documents or information may also be required.

2.3.1. Documentation of monthly expenses for hardship claims. Submitted documentation must be dated within the last 60 days of the accepted remission package. Outdated or incomplete receipts will result in the AFFSC returning the remission claim to the FSO for proper documentation.

2.3.2. Documents required by AFMAN 65-116V1, Table 73.1.

2.3.3. A narrative statement explaining the circumstances surrounding the debt or its collection and how these circumstances demonstrate the debt is unjust, inequitable, or

that its collection creates an undue hardship that greatly affects the welfare of the debtor, his or her family members, or both.

2.3.4. Wounded warriors should explain when the debt is due to pay and allowance continuation overpayments, e.g. fully fit for duty determination was received late, or delay of commander (or attending physician) in coordinating the fully fit for duty determination caused the entitlements to continue past the proper end date of (month, year). If neither statement fits the situation, describe what actually occurred.

2.3.5. Wounded warriors should indicate that notification by (name and position) was the first time he/she was aware of the debt, if that is the situation. If not, describe what actually occurred. **Note:** the procedures described in paragraphs 2.3.4 and 2.3.5. are **ONLY** for wounded warriors whose debt occurred while in the combat area or after being evacuated from the combat area due to a wound, injury, or illness that was incurred in the line of duty.

2.3.6. Commander endorsement.

2.3.7. Any other evidence to support the application.

3. Evaluation Standards. A debt will be remitted or canceled upon a finding that the debt creates an injustice, an inequitable situation, or that its collection would result in undue hardship and that remission is in the best interest of the United States. The following principles will be considered in any remission determination.

3.1. There is a presumption that the established debt is valid.

3.2. The following types of indebtedness will not ordinarily be remitted or canceled.

3.2.1. When an applicant's pay is not reduced promptly in connection with forfeiture of pay imposed by a court-martial sentence or under Article 15 of the Uniform Code of Military Justice (UCMJ).

3.2.2. When an applicant is held liable for damage or loss of property to another government agency or Service.

3.2.3. When debts are due to loss of public funds obtained or converted to the applicant's use through fraud, larceny, embezzlement, or other unlawful means.

3.2.4. When debts are due to fines or forfeitures imposed by court-martial sentence or non-judicial punishment under Article 15 of the UCMJ.

3.2.5. When the applicant has received less than an Honorable Discharge at the time of separation, *i.e.*, discharged with an entry level separation, under honorable conditions (general) discharge, under other than honorable conditions discharge, bad conduct discharge, dishonorable discharge, or dismissal.

3.2.6. When the debt is based upon taxes owed.

3.2.7. When the debt is incurred as a result of recoupment of Voluntary Separation Pay, Separation Bonus, or Advance Pay.

3.2.8. When the amount is \$150 or less and the request is based on hardship only.

3.2.9. When three years or more have passed from the date an applicant was notified of a debt.

3.2.10. When an applicant has previously received a final determination for the same debt under 10 U.S.C. § 2774.

3.3. General factors to consider in remission deliberations.

3.3.1. The Air Force policy or practice in the area of indebtedness;

3.3.2. An applicant's awareness of and experience with the applicable policy and procedures;

3.3.3. The applicant's role in the accrual of the debt (e.g. was the debt incurred due to the applicant's action or inaction, did the applicant know of the debt, should he or she have known of the debt, and what was done or should have been done to mitigate the debt);

3.3.4. Documentation of support by either the applicant's supervisor or first sergeant.

3.4. Factors pertaining to equity and/or injustice (these are not exclusive):

3.4.1. Good faith on the part of the applicant and candor in the application;

3.4.2. Member's reasonable detrimental reliance on erroneous information provided by the Air Force;

3.4.3. Member inquired of a proper authority and was told that the payment was correct;

3.4.4. Evidence that applicant did not know, or could not have known, of the error; and

3.4.5. The nature and circumstances surrounding any government error, its efforts to inform those impacted, and its responsiveness.

3.5. Factors pertaining to hardship (these are not exclusive):

3.5.1. An applicant's monthly income and expenses (provided by applicant);

3.5.2. Additional income or assets (for example, spouse's salary, savings accounts, bonds, and applicant's off-duty employment) (provided by applicant);

3.5.3. Description of applicant's other financial obligations;

3.5.4. The applicant's DoD or IRS qualified dependents (number and age of family members, special needs, living apart from family members because of military orders, etc.);

3.5.5. Any substantial financial obligations regarding extended family, or others to whom the applicant may be obligated;

3.5.6. Impact on applicant's standard of living (justified by the applicant) (Expenses caused by living standards that exceed income or by mishandling of funds are **not** a basis for a hardship);

3.5.7. Impact on applicant's ability to meet his/her other reasonable obligations;

3.5.8. Living in a high cost area; and

3.5.9. The cause of the stated hardship and applicant's efforts to mitigate.

4. Application Processing.

4.1. The FSO reviews the application, determines whether the applicant has previously applied for a waiver of the debt, ensures the application is complete and all required documentation is present, and provides a recommendation based upon the evaluation standards above. The FSO forwards the complete remission application package to AFFSC after it has been reviewed and signed by the comptroller or superintendent. When the applicant submits documentation to support a claim of hardship, the Financial Services Officer or designee will determine whether the amounts provided by the applicant are reasonable for the applicant's locale and explain any concerns with the amounts reported. If the Financial Services Officer or designee has concerns about the reasonableness of the amounts reported, he or she will indicate whether the applicant was advised to consider amounts that appeared excessively high or low and indicate whether the applicant was asked to submit supporting documentation to validate the unusual amounts claimed. Additionally, the Financial Services Officer or designee will indicate his or her opinion whether hardship is an appropriate consideration in the member's application.

4.1.1. Comptroller or superintendent signature is not further delegable.

4.2. AFFSC reviews the application package (to include the FSO recommendation), ensures all required documentation is present and provides a recommendation. All information considered by the AFFSC in their review and advisory will be placed in the application package to be forwarded to the SAFRB. This includes any correspondence with applicant, as well as with the FSO, a copy of the Case Management System case, and AFFSC recommendations.

4.3. SAFRB (*see paragraph 1.4*) reviews the application package and issues a final decision or forwards a recommendation to the Director, AFRBA for final action as required by paragraphs 4.4.2.1.1., 4.4.2.1.2., 4.4.2.1.3. and 4.4.2.1.4. SAFRB may return any case to the AFFSC, without action, if it is determined that more information is needed for a board decision.

4.4. SAFRB shall review the application package.

4.4.1. Deliberation.

4.4.1.1. SAFRB proceedings are not open to the public and SAFRB does not permit personal appearances by or on behalf of the applicant. SAFRB considers only written material.

4.4.1.2. SAFRB decides cases based on the evidence in the record submitted by the applicant, any additional information that is part of the applicant's official military record, applicant responses, and recommendations provided through FSO and AFFSC review. However, the board may call for additional evidence or advisory opinions as determined by the board chair. If the chair makes a determination any supplemental information that is not a part of the applicant's official Air Force record or any advisory opinion is appropriate and relevant for board consideration, this advisory opinion and or supplemental information will be provided by SAFRB to the applicant and he or she is provided 30 calendar days to comment. The advisory opinion and or supplemental information, and applicant's comments, if provided, are routed through

the servicing FSO and AFFSC, in the event that the servicing FSO or AFFSC wish to amend their original recommendations.

4.4.1.3. The applicant bears the burden to prove that remission of the debt is in the best interest of the United States, and that collection of the debt would result in an injustice, an inequitable situation, or hardship.

4.4.1.3.1. If the applicant disputes the underlying debt, the applicant must first present the dispute to the FSO or the applicable agency for action/review. If the applicant continues to dispute the validity of the underlying debt, the applicant's assertions as well as any response, reasoning, or explanation by the FSO or the applicable agency shall be included in the application submitted to the SAFRB.

4.4.2. Decision.

4.4.2.1. SAFRB shall act through a majority vote of a panel's members. It may decide to deny a request for remission, or approve it in whole or in part. Any decision on remission shall not be impacted by amounts already paid by the applicant (for example, the board may remit the entire debt amount, to include portions already collected). The board's decision or recommendation shall be recorded on a vote sheet that reflects the vote of each panel member. All decisions of the SAFRB or applicable approving authority shall be issued in the form of a written memorandum, detailing the findings, conclusions, rationale, and recommendations and/or actions of the board, and signed by the board Chair or applicable approving authority. A dissenting member may submit an opinion. Decisions of the SAFRB shall be final, unless approval by the Director, AFRBA is required. Where such approval is required, SAFRB decisions shall be preliminary and constitute recommendations to the Director. In such cases, the SAFRB shall refer the record of proceedings, including their recommendations, to the Director. The following circumstances require final action by the AFRBA Director:

4.4.2.1.1. When an application is not unanimously agreed to by the board;

4.4.2.1.2. Individual remission cases where the applicant's cumulative debt to be remitted exceeds \$50,000;

4.4.2.1.3. Group remission applications received and processed in accordance with Paragraph 2.2.3., where any individual applicant's cumulative debt to be remitted exceeds \$50,000; or

4.4.2.1.4. Any matter identified as being of high sensitivity or having the potential for significant Congressional or public interest. SAF/MRB will report such cases to SAF/MR, in writing, in advance of any decisions to allow SAF/MR or the SAF to withdraw delegated authority prior to final action on the matter.

4.4.3. **Other Recommendations.** SAFRB may identify DoD or Air Force policies, instructions, guidance or practices that are leading, or likely to lead, to unsound business decisions, unfair results, waste of government funds or public criticism. The board will forward such observations directly to the Director, AFRBA, for subsequent forwarding and consideration by the appropriate offices of the Secretariat and/or Air Staff for review

and evaluation. Such observations will not be included in the memorandum of decision or in the record of proceedings.

4.5. **Record of Proceedings.** The record of proceedings shall be prepared by SAFRB staff and include: (1) the full application package submitted by AFFSC; (2) any supplemental evidence, advisory opinions, and corresponding responses from the applicant; (3) the written findings, conclusions, rationale, and recommendations and/or actions of the board and/or the Director, AFRBA, including any dissenting opinions; and (4) any other information necessary to show a true and complete history of the proceedings.

4.6. Applications for remission of indebtedness shall not be sent to the Air Force Board for the Correction of Military Records (AFBCMR) prior to requesting remission and exhausting the administrative rights within this instruction.

5. Publication. Remission decisions will be posted on the Air Force Electronic Reading Room (<http://boards.law.af.mil/>) per 5 U.S.C. § 552(a) (2). Public posting of remission decisions should be in accordance with AFI 33-332, *Air Force Privacy Program*, and AFMAN 33-302, *Freedom of Information Act Program*.

6. Appeal. Within 30 days of receiving written notification of a decision on remission, the applicant may appeal by sending a written request to their servicing FSO. If new or additional information is available, the applicant should submit it with the appeal. A narrative addressing the decision being appealed and explaining why remission should be granted should also be included. Appeals shall be processed as follows:

6.1. The applicant's servicing FSO verifies the accuracy of the applicant's submission and provides a recommendation to AFFSC concerning whether overturning the previous decision is justified. The FSO forwards the applicant's submission and its recommendation to AFFSC.

6.2. AFFSC reviews the submission and provides a recommendation to AFRBA. AFFSC forwards the applicant's submission, the FSO recommendation, and the AFFSC recommendation to AFRBA for appellate review.

6.3. AFRBA reviews the package for completeness and provides the appeal request, AFFSC and FSO recommendations, and the original record or proceeding to the proper appellate authority, for final action.

6.3.1. Where the final decision was issued directly by the SAFRB, the appellate authority shall be the Director, AFRBA.

6.3.2. Where the final decision was issued directly by the Director, AFRBA, the appellate authority shall be the Principal Deputy Assistant Secretary for Manpower and Reserve Affairs (SAF/MR (PDAS)).

6.3.3. In a case where the delegated remissions authority has been withdrawn to the SAF/MR or SAF, any decision made by SAF/MR or SAF as applicable, is final.

6.4. Where an applicant bypasses this appeal procedure by filing an application to the AFBCMR before this appeal procedure is exhausted, the AFBCMR application will be returned to the applicant.

7. Notice of all Decisions. SAFRB staff will ensure the applicant is informed in writing of the decision on the application or appeal, the rationale for the decision, and appeal rights/procedures, if applicable. SAFRB notice of decisions will be routed through AFFSC, which will, in turn, forward the decision memorandum to the FSO for applicant notification.

8. Exceptions to Policy. Requests for exceptions to policy for this instruction will be routed to SAF/MR for consideration.

DANIEL B. GINSBERG
Assistant Secretary
Manpower and Reserve Affairs

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

Section 552 of Title 5, United States Code

Section 2774 of Title 10, United States Code

Section 9837 of Title 10, United States Code

DoDD 1340.22, *Waiver of Debts Resulting from Erroneous Payments of Pay and Allowances*, January 8, 2005

DoDI 1340.23, *Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances*, February 14, 2006

DoD 7000.14-R, *Financial Management Regulation*, Volume 7A, Chapter 50, Paragraph 5003, February 2012

AFPD36-26, *Total Force Development*, 27 September 2011

AFPD36-30, *Military Entitlements*, 2 August 1993

AFMAN33-302, *Freedom of Information Act Program*, 21 October 2010

AFMAN65-116 V1, *Defense Joint Military Pay System Active Component (DJMS-AC) FSO Procedures*, 1 April 2007, Incorporating Through Change 5, 22 May 2012

AFI33-332, *Air Force Privacy Program*, 16 May 2011

Adopted Form

AF Form 847, Recommendation for Change of Publication

Abbreviations and Acronyms

AF/A1—Deputy Chief of Staff Manpower and Personnel and Services

AFI—Air Force Instruction

AFPD—Air Force Policy Directive

AFMAN—Air Force Manual

AFRBA—Air Force Review Boards Agency

AFBCMR—Air Force Board for Correction of Military Records

AFFSC—Air Force Financial Services Center

DJMPS—AC- Defense Joint Military Pay System Active Component

DoD—Department of Defense

DODFMR—Department of Defense Financial Management Regulation

FSO—Financial Services Office

GS—General Schedule

HAF—Headquarters United States Air Force

IRS—United States Internal Revenue Service

MAJCOM—Major Command

OPR—Office of Primary Responsibility

RDS—Air Force Records Disposition Schedule

SAF—Secretary of the Air Force

SAF/FM—Assistant Secretary of the Air Force for Financial Management and Comptroller

SAF/GC—Air Force General Counsel

SAF/MR—Assistant Secretary of the Air Force for Manpower and Reserve Affairs

SAF/MR PDAS—Principal Deputy Assistant Secretary for Manpower and Reserve Affairs

SAF/MRB—Director, Air Force Review Boards Agency

SAFRB—Secretary of the Air Force Remissions Board

UCMJ—Uniform Code of Military Justice