



DEFENSE FINANCE AND ACCOUNTING SERVICE

8899 east 56th street
Indianapolis, in 46249-0201

Name
Address

Dear name:

This is in reference to your waiver request and file number MSXXXXXXXX. You applied for waiver consideration of a \$X,XXX.XX indebtedness established on your pay account due to recoupment of the unearned portion of an Army National Guard (ANG) Reenlistment Bonus established on November 2, 2009. The amount of bonus recoupment established on your military pay account totals \$X,XXX.XX, and this is the amount we will consider for waiver. After careful consideration, and for the reasons stated below, your waiver request is determined to be outside the five year statute of limitations allowed for waiver consideration.

You enlisted in the reenlisted in the Utah Army National Guard on December 7, 2006, and received a reenlistment bonus in the amount of \$XX,XXXX.XX, for a six year commitment (72 months). You were paid \$XX,XXX.XX on April 11, 2007. You were given credit for serving given credit for serving 33 months of your contract commitment. The recoupment is based on the 39 months unserved portion of your reenlistment written agreement as you were transferred into the United States Army Reserve Control Group on September 23, 2009, and did not fulfill your contractual obligation with the Army National Guard. We have verified the amounts on the debt computation equal the amount being requested for waiver.

Application for waiver of erroneous payment, under Title 32, United States Code, Section 716, must be received within five years after the date on which the debt was established. A review of the record shows your debt was established on November 2, 2009, and that you were sent a debt notification letter from the Defense Finance and Accounting Service (DFAS) on April 20, 2011. Therefore, waiver consideration cannot be given, as you did not request waiver until January 25, 2017.

Although we have no authority to consider the unearned portion of an Army National Guard Reenlistment Bonus for waiver because it does not constitute an erroneous payment, our decision does not preclude the member from seeking other available remedies. We note under 37 U.S.C. 303a, the secretary concerned, in this case the Secretary of the Army, has the discretion to determine if the member's repayment of the unearned portion of an reenlistment bonus is appropriate based on whether repayment would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests to the United States. You may wish to pursue this remedy with the U.S. Army.

You may request that the Defense Office of Hearings and Appeals (DOHA) reconsider our decision. Reconsideration requests must be made in writing, and as noted in DoDI 1340.23, paragraph E8.2, our office must receive the request within 30 days of the date of this letter. We

may extend this period for up to an additional 30 days for good cause shown if the written request for an extension of time is received within the original 30 days. A request for reconsideration must be sent to our office at the following address: DFAS-IN, 8899 East 56th Street, Department 3300 (Waivers/Remissions), Indianapolis, IN 46249-3300, or emailed to dfas.indianapolis-in.jfe.mbx.remission-waiver-indy@mail.mil, or faxed to DSN 699-8654, Commercial (317) 212-8654. No request for reconsideration may be accepted after this time has expired.

Your signed request must conform to DoDI 1340.23, paragraph E8.3, contain your name, file number, and your current address. It must also identify the specific errors or omission of facts in the original waiver decision and explain the reasons why the decision should be reversed or modified. Any additional evidence not included in the original waiver, but addressed in the appeal, must be provided. The complete DoDI 1340.23 may be found on-line at <http://www.dtic.mil/whs/directives/corres/pdf/134023p.pdf>. You should be aware that collection of your debt may not be suspended while the DOHA is considering your request. Our point of contact is the undersigned at (866) 912-6488 or e-mail at dfas.indianapolis-in.jfe.mbx.remission-waiver-indy@mail.mil.

Sincerely,

Signature Authority
Chief, Remissions and Waivers Branch
Debt and Claims Management