



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

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JAN 9 1979

Mr. Edwin A. Inglehart
5225 Lexington Avenue #39
Los Angeles, California 90029

Dear Mr. Inglehart:

This is in response to your inquiry concerning the reestablishment of disability retirement pay relative to your service with the United States Army for the years 1943 through 1946. The matter was the subject of previous letters to you from our Claims Division.

Whether or not you may be entitled to disability compensation from the Veterans' Administration (VA) is a matter within the authority of that agency and is a matter over which we have no jurisdiction. As indicated to you in previous correspondence from the VA, the amount of disability severance pay received by a member of the Armed Forces shall be deducted from any compensation for the same disability to which the former member becomes entitled under any law administered by the VA. In an effort to apprise you of your rights and benefits and to assist the VA in its determination of whether or not you are now entitled to VA benefits, the following information is provided.

Although your pay records formerly held by the Army have been destroyed pursuant to a law relating to disposal of records, your personnel file has been retained in the National Personnel Records Center (Military Personnel Records), St. Louis, Missouri. From these records and the papers forwarded by you it has been determined that your service in the Armed Forces of the United States consisted of:

- U.S. Navy - from January 13, 1926, to December 9, 1931.
- U.S. Army - from January 30, 1943, to March 26, 1946.

Your honorable discharge as a first lieutenant on March 26, 1946, was by reason of physical disability (later rated by the VA to be 10 percent). On April 11, 1946, you were certified to the Administrator of Veterans Affairs for retirement pay in the amount of \$172.50 per month under the provisions of section 5 of the act of April 3, 1939, ch. 35, 53 Stat. 555, 557.

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In a letter dated April 25, 1950, from the Army you were informed of the options available to you under Public Law 351, 81st Congress (the Career Compensation Act of 1949, ch. 681, Title IV, 63 Stat. 302, 816-825). The letter informed you that you could elect to continue to receive disability retired pay which at that time amounted to \$198.38 per month or receive lump-sum severance pay in the amount of \$5,771.34. If you elected to receive the severance pay all further payments of disability retired pay would be terminated. A form was enclosed with that letter which you were instructed to sign and return indicating your election. That form, signed by you and dated June 5, 1950, in which you elected to receive the lump-sum severance pay, was returned to the Army.

By letter dated July 12, 1950, from the Army, you were advised that the election to receive severance pay was effective as of October 1, 1949, and that all retired pay received since October 1, 1949, would be deducted from the lump-sum severance pay. Since you had received \$1,785.42 during the 9-month period from October 1, 1949, to June 30, 1950, that amount would be deducted and you would actually receive \$3,985.92 as a lump-sum payment instead of \$5,771.34 as originally stated. However, the amount classified as severance pay would still have been \$5,771.34. A new election form was sent to you should you have desired to resubmit your election. A copy of the new election form is not included in the file but the file does contain a cover letter from you dated July 24, 1950, which stated that you were enclosing the election form resubmitting your election to receive severance pay in lieu of retired pay.

The final entries in the personnel file on this matter are two form letters dated August 4, 1950, on the letterhead of the Department of the Army, Office of the Adjutant General, Washington, D.C., one addressed to the Washington Finance Office, Department of the Army, and one addressed to you which confirm your election to receive the lump-sum severance pay. The file does not show the voucher number or date upon which the lump-sum payment was made. Presumably, this information was in your pay records which the Army has reported as having been destroyed. However, the fact that you received no further disability retirement payments after that date raises a presumption that such sum was paid. We also note that in a letter dated April 13, 1976, to the Army Finance Center, requesting reinstatement of your retired pay, you

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acknowledged having accepted a lump-sum payment which disqualified you for retired pay in 1949 or 1950, and you inquired as to the possibility of repaying it. Therefore, although your pay records have been destroyed, from the other available documents it strongly appears that you were paid \$5,771.34 in severance pay which is subject to deduction from VA compensation. 10 U.S.C. 1212(c) (1976).

It is hoped that this additional information will assist you in clarifying any benefits to which you may be entitled from the VA. To further assist you, we are enclosing copies of the documents found in your personnel file, and your April 13, 1976 letter, from which the information regarding the disability severance pay was obtained. A copy of this letter is also being sent to the Army Finance and Accounting Center and the Veterans Administration Regional Office, Los Angeles, California.

Sincerely yours,

Edwin J. Monsma

Edwin J. Monsma
Assistant General Counsel

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