



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

IN REPLY
REFER TO:

B-182153

OFFICE OF GENERAL COUNSEL

MAY 22 1978

Sergeant Major

USA, Retired

Dallas, Texas 75216

Dear Sergeant

Reference is made to your letter of April 14, 1978, with enclosures, seeking our views as to the proper meaning of paragraphs 6-36 and 6-37 of Army Regulation 145-2, change 4, March 1973, pertaining to the compensation of Junior Reserve Officers' Training Corps (JROTC) instructors who are retired members of one of the military services.

You say that you are presently employed as an instructor in the Junior Reserve Officers Training Program in the Dallas Independent School District. You indicate that you do not fully understand what is being said or meant by this regulation and what effect it has on income tax liability when deductions from instructors' wages are involved.

An official decision is not being rendered at your request; however, the following comments and references may be of assistance to you.

Paragraph 6-36, entitled "Monetary Allowances", relates to the method by which such compensation shall be computed for the purpose of determining the amount that the Department of the Army shall reimburse a school for salary expenses incurred by it for JROTC program purposes as required by 10 U. S. C. 2031(d)(1). Paragraph 6-37 contains instructions relating to income tax treatment of the amounts received by JROTC instructors and administrators who are retired members.

In decision 55 Comp. Gen. 44 (1975), copy enclosed, we considered, in part, the subject of your inquiry. We held therein that the "additional amount" to which a retired member employed as a JROTC instructor becomes entitled for purposes of 10 U. S. C. 2031(d)(1), is the difference between his military retired or retainer pay and the active duty pay and allowances to which he would be entitled if called or ordered to active duty at that location. However, such additional amount is not deemed to be either retired pay or active duty pay.

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Regarding income tax withholding we indicated in that decision that no part of the compensation received by such personnel would be treated as an allowance not subject to withholding tax. It is noted that income tax matters are not within the jurisdiction of the General Accounting Office, but are subject to the rules of the Internal Revenue Service, Treasury Department. However, the treatment of the compensation of retired members serving in JROTC positions for income tax purposes is consistent with our holding that such compensation is not military pay or allowances.

Paragraph 6-37, entitled "Deductions from instructors' wages" merely recognizes that since the compensation received by the instructor as an "additional amount" is not actually military retired pay or active duty pay and allowances, it is subject to "the same deductions as all other wages in which an employer-employee relationship exists."

We trust this information will serve the purpose of your inquiry.

Sincerely yours,

Edwin J. Monsma

Edwin J. Monsma
Assistant General Counsel

Enclosure