

- An updated version and further explanation of slide 26 is offered below.

## HAVEN Act: Application

### Retirement-related Examples

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Retired after serving 25 years (not chapter 61) and is eligible to receive \$2,500 per month Retired Pay (taxable and paid by DOD under Title 10) but is separately entitled to receive \$1,113.86 per month VA Disability Compensation (nontaxable and paid by VA under Title 38) based upon a 60% service-connected disability rating and having no dependents

- ~~Rather than~~ **Although** waiving Retired Pay to receive VA Disability Compensation, **this retiree** qualifies to receive both **original** payments **amounts** in full concurrently through eligibility for Concurrent Retirement and Disability Pay (CRDP) (taxable and paid by DOD under Title 10 based upon various criteria including a VA disability rating of at least 50%)
  - Cannot exclude \$1,386.14 Retired Pay from CMI
  - Can exclude \$1,113.86 VA Disability Compensation from CMI
  - Can exclude \$1,113.86 CRDP from CMI

### Example Explained:

1. The servicemember—let's call him or her Sam—retires after 25 years of active duty service. Sam retires under a regular (non-disability) retirement provision of Title 10.
2. In retirement, Sam is entitled to be paid \$2,500 per month in Retired Pay under Title 10.
  - a. Retired Pay is taxable income. It is paid by DOD through its Defense Finance and Accounting Service (DFAS).
3. After retirement, Sam struggles with an ongoing health issue that is related to an injury incurred while serving on active duty.
4. Sam applies to receive Disability Compensation from the VA under Title 38.

5. The VA evaluates Sam's ongoing health issue and assigns a 60% disability rating, signifying how much Sam's overall health and ability to function are decreased due to the ongoing health issue, which is labeled as a "disability."
  - a. The definition of "disability" here is **not** the same as [the one used by the Social Security Administration](#). Here, a person need not be unable to engage in substantial gainful activity. Instead, "disability" generally refers to a decrease in overall health and ability to function. The decrease is expressed as a percentage, referred to as the "disability rating." A higher percentage indicates a more significant decrease in overall health and ability to function. That is, the disability rating indicates severity, with a 100% disability rating indicating the highest severity.
  - b. The VA disability rating determines the amount of VA Disability Compensation to which a veteran is entitled. Whether the veteran has certain "dependents" can also affect the amount.
  - c. The VA Disability Compensation rate tables are available [online](#), showing the monthly amount to be paid under Title 38 based upon disability rating and, if applicable, dependents. For example, a veteran who has no dependents and who has a 60% VA service-connected disability rating is currently entitled to receive \$1,113.86 per month. The rate tables are generally updated around December each year.
6. Based upon Sam's 60% VA disability rating and Sam having no dependents, Sam is entitled to receive \$1,113.86 per month in VA Disability Compensation under Title 38.
  - a. VA Disability Compensation is nontaxable income. It is paid by the VA.
7. To receive VA Disability Compensation, Sam must waive Retired Pay dollar for dollar. Thus, Sam must waive \$1,113.86 in monthly Retired Pay to receive the full amount of awarded VA Disability Compensation. This waiver reduces Sam's Retired Pay to \$1,386.14 each month ( $\$2,500 - \$1,113.86 = \$1,386.14$ ).
8. DFAS automatically considers whether Sam is eligible for [Concurrent Retirement and Disability Pay](#) (CRDP), which can be paid to certain military retirees who have a VA disability rating of at least 50%, among other criteria. DFAS determines that Sam is eligible for CRDP, and DOD pays CRDP under Title 10 in the same amount that Sam waived to receive VA Disability Compensation. That is, Sam still receives a total of \$2,500 per month under Title 10—\$1,386.14 in Retired Pay and \$1,113.86 in CRDP.
9. Sam's income from all sources is now \$3,613.86—\$1,386.14 in Retired Pay (Title 10), \$1,113.86 in VA Disability Compensation (Title 38), and \$1,113.86 in CRDP (Title 10).
10. In bankruptcy, Sam cannot exclude from CMI the \$1,386.14 per month in Retired Pay. Although it is paid under Title 10, it is not paid "in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services." Sam can exclude from CMI the \$1,113.86 per month in VA Disability Compensation because it is paid under Title 38 in connection with a disability. Sam can also exclude from CMI the \$1,113.86 per month in CRDP because it is paid under Title 10 in connection with a disability.