



**Billing Code: 5001-06**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 78**

**[Docket ID: DOD-2019-OS-0012]**

**RIN 0790-AK19**

**Voluntary State Tax Withholding From Retired Pay**

**AGENCY:** Office of the Under Secretary of Defense (Comptroller), DoD.

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule removes DoD's regulation on the voluntary state income tax withholding from the monthly retired or retainer pay of any member or former member of the uniformed Services. That regulation is unnecessary because it restates current law; sets forth internal policy and procedures; and conveys to the public administrative and procedural information that does not require rulemaking. Accordingly, DoD will remove this part and publish a document in the Federal Register informing the States and current and former members of that administrative information, such as where to submit requests for income withholding.

**DATES:** This rule is effective [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further action, unless adverse comment is received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comment is received, DoD will publish a timely withdrawal of the rule in the Federal Register.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Suite 08D09, Attn: Mailbox 24, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Kellie Allison at 703-614-0410.

**SUPPLEMENTARY INFORMATION:** DoD has determined this rulemaking meets the criteria for a direct final rule because the removal of 32 CFR part 78, last amended on July 18, 2006 (71 FR 40657), does not change in any way the procedures for the voluntary withholding of State tax from the monthly retired or retainer pay of any member or former member of the uniformed Services, and therefore DoD expects no opposition to it. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains why the direct final rule is inappropriate or unacceptable. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Congress authorized the Department in 10 U.S.C. 1045 to establish this program. This part restates that law and otherwise contains internal instruction. DoD internal procedures for the

voluntary withholding of this state tax are contained in DoD's Financial Management Regulation (FMR), Volume 7B, Chapter 26, available at [http://comptroller.defense.gov/Portals/45/documents/fmr/current/07b/07b\\_26.pdf](http://comptroller.defense.gov/Portals/45/documents/fmr/current/07b/07b_26.pdf) (most recently updated in July 2018). Any administrative-type information pertinent to the public, such as where a tax payer should file a request to have pay withheld or how a state can procedurally enter into a withholding agreement with the Department, can be found in a notice document published in the Federal Register today, as well as in the FMR at the Web site above.

This rule is not significant under Executive Order (EO) 12866, "Regulatory Planning and Review." Therefore, the requirements of EO 13771, "Reducing Regulation and Controlling Regulatory Costs," do not apply.

#### **List of Subjects in 32 CFR Part 78**

Income taxes, Intergovernmental relations, Military personnel, Pensions.

#### **PART 78—[REMOVED]**

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 78 is removed.

Dated: October 3, 2019.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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