

## TITLE 37 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

### CHAPTER 7 - ALLOWANCES

#### § 405. Travel and transportation allowances: per diem while on duty outside the continental United States

(a) **Per Diem Authorized.**— Without regard to the monetary limitation of this title, the Secretary concerned may pay a per diem to a member of the uniformed services who is on duty outside of the continental United States, whether or not the member is in a travel status. The Secretary may pay the per diem in advance of the accrual of the per diem.

(b) **Determination of Per Diem.**— In determining the per diem to be paid under this section, the Secretary concerned shall consider all elements of the cost of living to members of the uniformed services under the Secretary's jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

(c) **Treatment of Housing Cost and Allowance.**— Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(d) **Unusual or Extraordinary Expenses.**—

(1) The Secretary concerned may reimburse a member of the uniformed services on duty as described in subsection (a) or (e) for an unusual or extraordinary expense incurred by the member incident to such duty that—

(A) is directly related to the conditions or location of the duty or the location of the member's dependents;

(B) is of a nature or a magnitude not normally incurred by members of the uniformed services on duty inside the continental United States; and

(C) is not included in the per diem determined under subsection (b) as payable to the member under subsection (a) or (e).

(2) Any reimbursement provided to a member under paragraph (1) is in addition to a per diem payable to that member under subsection (a) or (e).

(e) **Payment of Allowance Based on Overseas Location of Dependents.**— In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraordinary expense incurred by the dependents if the Secretary determines that such payment or reimbursement is in the best interest of the member or the member's dependents and in the best interest of the United States.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 89-718, § 57, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 91-486, Oct. 22, 1970, 84 Stat. 1085; Pub. L. 96-107, title VIII, § 807(a), Nov. 9, 1979, 93 Stat. 813; Pub. L. 98-525, title VI, § 602(e), Oct. 19, 1984, 98 Stat. 2536; Pub. L. 99-145, title XIII, § 1303(b)(8), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101-189, div. A, title VI, § 622(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 103-160, div. A, title VI, § 622(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 105-85, div. A, title VI, § 603(c)(2), Nov. 18, 1997, 111 Stat. 1781; Pub. L. 105-261, div. A, title VI, § 603(b), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106-398, § 1 [[div. A], title VI, § 641(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-160; Pub. L. 108-375, div. A, title VI, § 605(a), (b)(1), (2), Oct. 28, 2004, 118 Stat. 1945; Pub. L. 109-163, div. A, title VI, § 612, Jan. 6, 2006, 119 Stat. 3291.)

## Historical and Revision Notes

Revised section	Source (U.S. Code)	Source (Statutes at Large)
405	37:253(b).	Oct. 12, 1949, ch. 681, § 303(b), 63 Stat. 814.

The words “Secretaries concerned” are substituted for the words “Secretaries of the uniformed services” to conform to other subsections of the source statute. The words “outside the United States, or in Hawaii or Alaska” are substituted for the words “outside the continental United States or in Alaska” to conform to the definition of United States in section 101(1) of this revised title and to retain the coverage of the source statute.

### Amendments

2006—Subsec. (d). Pub. L. 109–163, § 612(b)(1), substituted “Unusual or Extraordinary” for “Nonrecurring” in heading.

Subsec. (d)(1). Pub. L. 109–163, § 612(b)(1), (3)(A), in introductory provisions, inserted “or (e)” after “subsection (a)” and substituted “an unusual or extraordinary” for “a nonrecurring”.

Subsec. (d)(1)(A). Pub. L. 109–163, § 612(b)(3)(B), inserted “or the location of the member’s dependents” before semicolon.

Subsec. (d)(1)(C), (2). Pub. L. 109–163, § 612(b)(2), inserted “or (e)” after “subsection (a)”.

Subsec. (e). Pub. L. 109–163, § 612(a), added subsec. (e).

2004—Pub. L. 108–375, § 605(b)(2), amended section catchline generally, substituting “continental United States” for “United States or in Hawaii or Alaska”.

Subsec. (a). Pub. L. 108–375, § 605(b)(1), substituted “outside of the continental United States” for “outside of the United States or in Hawaii or Alaska”.

Subsec. (d). Pub. L. 108–375, § 605(a), added subsec. (d).

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section authorized payment of a per diem to members of the uniformed services on duty outside of the United States or in Hawaii or Alaska and specified what elements were to be considered in determining the per diem allowance.

1998—Subsec. (c). Pub. L. 105–261 struck out subsec. (c) which authorized the Secretary concerned to make a lump-sum payment for nonrecurring expenses to certain members of the uniformed services authorized to receive per diem allowances under subsec. (a).

1997—Subsecs. (b) to (d). Pub. L. 105–85 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “A station housing allowance may be prescribed under this section for a member who is on duty outside of the United States without regard to costs other than housing costs and may consist of the difference between basic allowance for quarters and applicable housing cost. A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska. A station housing allowance prescribed under this section may be paid in advance.”

1993—Subsec. (d). Pub. L. 103–160 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).”

1989—Subsec. (d). Pub. L. 101–189 added subsec. (d).

1985—Pub. L. 99–145 inserted “the” after “outside” in section catchline.

1984—Subsec. (a). Pub. L. 98–525, § 602(e)(1), designated first two sentences of existing section as subsec. (a).

Subsec. (b). Pub. L. 98–525, § 602(e)(2), (3), designated third and fourth sentences of existing section as subsec. (b), in such third sentence as so designated inserted “for a member who is on duty outside of the United States” after “under this section”, and inserted after such third sentence: “A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.”

Subsec. (c). Pub. L. 98–525, § 602(e)(4), designated last sentence of existing section as subsec. (c).

1979—Pub. L. 96–107 inserted provisions relating to advance payment of station housing allowances.

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscsprint.html>).*

1970—Pub. L. 91–486 inserted provision authorizing a station housing allowance.

1966—Pub. L. 89–718 substituted “the” for “a” after “including”.

#### **Effective Date of 1997 Amendment**

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### **Effective Date of 1993 Amendment**

Section 622(b) of Pub. L. 103–160 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to nonrecurring expenses and currency fluctuation gains described in section 405 (d) [now 405(c)] of title 37, United States Code, that are incurred by members of the uniformed services on or after October 1, 1993.”

#### **Effective Date of 1989 Amendment**

Section 622(b) of Pub. L. 101–189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to expenses incurred after August 31, 1990.”

#### **Effective Date of 1984 Amendment**

Amendment by Pub. L. 98–525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98–525, as amended, set out as a note under section 403 of this title.

#### **Effective Date of 1979 Amendment**

Section 807(b) of Pub. L. 96–107 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1979.”