Earnings Loss Benefit - Determination of Variable “B”: Amounts from Prescribed Sources

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Purpose

This policy provides the listing of the various amounts from prescribed sources (Variable “B”) as well as how employment earnings, self-employment earnings, and investment income are determined and considered when calculating the amount of earnings loss (EL) benefit payable. (See policies, EL Benefit – Calculation and EL Benefit - Determination of the Monthly Imputed Income and Variable “A” [90% of Monthly Imputed Income])

Policy

General

1. In the case of a Veteran, variable “B” is the sum total of all of the amounts payable to the Veteran for a month from prescribed sources.
2. In the case of a survivor, variable “B” is the total sum of all the amounts payable to a survivor for a month - in respect of the Canadian Armed Forces member or Veteran - from prescribed sources.
3. In all cases, an “amount payable from prescribed sources” for a month is represented as “*APS*”.
4. Veterans, survivors and orphans are entitled to receive an EL benefit which is equal to 90% of the Veteran’s monthly imputed income as determined by VAC, less the sum of the monthly APS that is payable as a result of the Veteran’s employment, retirement, death or disability.

5. This policy has been updated to reflect changes to the *Veterans Well-being Act* (VWA) and *Veterans Well-being Regulations* (VWR) that came into effect on October 1st, 2016 (i.e. increase to the greater of 90% of the indexed monthly military salary or the military salary of the senior private in the standard pay group; removal of indexation cap of 2%). EL benefits payable for months prior to that date should be processed in accordance with the previous policy dated October 1st, 2012.

Disability Pension Benefits - Change Effective October 1, 2012

6. Effective October 1, 2012 disability pension benefits payable under the *Pension Act* are no longer deducted from EL and Canadian Forces Income Support benefits. This change is effective on a go forward basis only.
7. Disability pension benefits payable under the *Pension Act* may still be a deduction for calculations that predate October 1, 2012.

Veterans' Deductions

8. The following percentages of *the APS* listed in section 22 of the *Veterans Well-being Regulations* (VWR) are to be considered when determining the amount of EL payable to a Veteran:
    a. 100% of the *APS* (b) through (g) listed in section 22 of the *Veterans Well-being Regulations*;
    b. 100% of employment earnings payable while the Veteran is not participating in a rehabilitation plan or vocational assistance plan developed by the Minister; and,
    c. 50% of employment earnings payable while the Veteran is participating in a rehabilitation plan or vocational assistance plan developed by the Minister so long as:
        i. the sum total of the earnings loss payable for a month, plus the monthly *APS* (b) through (g) listed in section 22 of the *Veterans Well-being Regulations*; plus the total amount of employment earnings for a month, does not exceed the Veteran's monthly imputed income;

            Note: For the purpose of calculating the amount of the employment earnings offset for any Veteran, the "Veteran's monthly imputed income" will be determined in accordance with the *Veterans Well-being Regulations* as they read immediately before October 1, 2016 where it results in a greater monthly imputed income amount.
        ii. any employment earnings that cannot be offset at 50% using the formula in (i) will be offset at 100%.

Employment Earnings

9. Employment earnings are income amounts a Veteran earns as salary, wages, commissions, bonuses, tips, gratuities and honoraria in the employment of another person or business. Employment earnings will always include the income reported in box 14 of the Veteran's T4 slips.
10. Employment earnings are based on gross employment earnings, before deductions such as taxes, Canada Pension Plan, Employment Insurance, etc. In addition, expenses related to employment should not be considered for the purposes of calculating the net monthly EL benefit payable.

Self-Employment Earnings

11. Self-employment earnings are income amounts a Veteran earns in a calendar year earned by labour or resembles income earned by labour:
    a. on one's own behalf;

b. as an independent worker or contractor;
c. engaged in a business activity on his/her own behalf;
d. engaged in the operation of a business as a partnership, co-adventure or corporation;
e. any earnings determined to be earnings from self-employment by the Canada Revenue Agency (CRA).

12. A fair self-employment earnings rate should normally be based on the information provided by the Veteran in the form “Determination of Self-Employment Earnings - Earnings Loss Benefit VAC 760e”.
13. Self-employment earnings may be converted to a gross annual amount; a monthly rate may then be established by dividing the gross annual amount by twelve.

Investment Income

14. Investment income, including but not limited to returns from stocks, bonds, mutual funds, rental properties, etc. should not be considered when determining the amount of earnings loss payable, unless it has been determined by the CRA that such income qualifies as being earnings from employment or self-employment.

Retroactive Benefits

15. Benefit offsetting of the APS listed in sections 22 and 23 of the *Veterans Well-being Regulations* shall be retroactive for the period that EL benefits were also payable.

Lump Sum Amounts Resulting from Legal Liability

16. Any lump sum amount payable from a prescribed source listed in sections 22 and 23 of the *Veterans Well-being Regulations* shall be converted to a monthly payment using generally accepted actuarial principles, and this amount will be included as a benefit offset.

Overpayments

17. In the event of overpayments, please refer to policy, EL Benefit and Retirement Income Security Benefits – Overpayments: Recovery, Remission and Write Off. Veterans should be informed of this decision in writing, and provided with review rights. If the Veteran can provide substantiated data to support his or her employment or self-employment earnings, the decision could be overturned.

Resolve Doubt in Favour of Client

18. Should the decision maker be unable to determine with certainty whether a reported income is employment earnings, self-employment earnings, or investment income, the calculation of the EL benefit will be done in such a way as to provide the Veteran with the higher monthly EL benefit before taxes.

References

Veterans Well-being Act - Sections 19 and 23

Veterans Well-being Regulations, Sections 22, 22.1, 23

Budget Implementation Act, *2016 Vol. 1*, Section 98

EL Benefit – Calculation

EL Benefit and Retirment Income Security Benefit – Overpayments: Recovery, Remission and Write Off