

Reservist Differential FAQ's for DoD Employees

1. Q: What is a reservist differential?

A: A reservist differential under the 5 U.S.C. 5538, is a payment equal to the amount by which an employee's projected civilian basic pay for a specified pay period exceeds the employee's actual military pay and allowances allocable to that pay period, and is paid to eligible Federal civilian employees who are members of the Reserve or National Guard called or ordered to active duty under certain provisions of law.

2. Q: How do I know if I am eligible for this payment?

A: If you are absent from a DoD civilian position in order to perform active duty in the uniformed services, and your activation orders identify one of the following as your call or order to active duty:

- 1.10 USC 331
- 2.10 USC 332
- 3.10 USC 333
- 4.10 USC 688
- 5.10 USC 12301(a)
- 6.10 USC 12302
- 7.10 USC 12304
- 8.10 USC 12305
- 9.10 USC 12406

3. Q: What if my activation orders do not specify the call or order to active duty authority code?

A: You will need to go back to your reserve unit and ask for amended orders that clearly state the call or order to active duty. This will be the only way your civilian servicing HRO will be able to determine whether you are eligible for a reservist differential.

4. Q: If I am eligible for this payment will I receive a differential payment each pay period I am deployed?

A: No. You will only receive a differential payment for pay periods in which the actual military pay and allowances you received (as defined in Appendix D of the OPM

guidance) is less than the projected civilian pay you would have received for that same period if not for the call or order to active duty.

5. Q: Will my civilian LES have a remark so I will know if I have received a differential payment?

A: For now, the civilian LES will display “RSV/STF DIFF” in the Current Earnings block.

6. Q. Will the use of paid civilian leave impact my differential payment?

A. Yes. You will not receive a differential payment for any period in which you use paid civilian leave of any kind (military leave, annual leave, etc.). When you use paid civilian leave, you are considered to be in a civilian pay status.

7. Q. Do I have to use all of my paid civilian leave before I can start receiving a differential payment?

A. No. You are eligible for a reservist differential beginning the first day of active duty as long as all other eligibility requirements are met. You can choose to use your paid civilian leave as you deem necessary.

8. Q. What documentation must I provide to my supervisor and/or human resources office (HRO)?

A. You must provide a copy of your military orders. It is not necessary to submit a copy of your military Leave and Earnings Statement (LES) each month to your HRO as DFAS will be providing military pay data, however you should retain a copy of your military LES(s) each month as you may be asked to submit a copy during the reconciliation process for verification purposes. You should also be retaining copies of your civilian LES(s) for the same period of time in the event of a reconciliation.

9. Q. Is there a minimum deployment period required before I am eligible to receive a reservist differential?

A. No. You are eligible for a reservist differential beginning the first day of active duty as long as all other eligibility requirements are met.

10. Q: Which parts of my military pay and civilian pay are being compared to make a reservist differential determination?

A: Civilian basic pay, for the purposes of this provision, is defined as the gross amount of the base rate of pay set by law or administrative action without additional pay

of any kind except additional payments as defined in Appendix C of the OPM guidance. Computation of a reservist differential comparison requires projecting the civilian basic pay that would otherwise have been payable if not for the call or order to active duty. Appendix D of the OPM guidance provides a definition of military pay and allowances for the purposes of this provision, as well as provides a table of all pays and allowances that should be included in the computation.

11. Q: Will I receive a differential payment during the intervening period, allowable under USERRA law, following the completion of my active duty before returning to my civilian job after returning from active duty?

A: No. The Consolidated Appropriations Act of 2010 (Public Law 111-117, December 16, 2009) clarified that reservist differential is not payable for periods following completion of active duty. For pay periods prior to December 16, 2009, OPM and DoD will have to provide further guidance on the obligation, if any, to pay reservist differential after the date of active duty is completed. To date, no additional guidance on this has been issued; therefore no payment can be made.

12. Q. If I believe the differential amount I am receiving is incorrect, who should I contact?

A. Please contact your servicing civilian HRO.

Reservist Differential FAQ's for DoD Employees

1. Q: What is a reservist differential?

A: A reservist differential under the 5 U.S.C. 5538, is a payment equal to the amount by which an employee's projected civilian basic pay for a specified pay period exceeds the employee's actual military pay and allowances allocable to that pay period, and is paid to eligible Federal civilian employees who are members of the Reserve or National Guard called or ordered to active duty under certain provisions of law.

2. Q: How do I know if I am eligible for this payment?

A: If you are absent from a DoD civilian position in order to perform active duty in the uniformed services, and your activation orders identify one of the following as your call or order to active duty:

- 1.10 USC 331
- 2.10 USC 332
- 3.10 USC 333
- 4.10 USC 688
- 5.10 USC 12301(a)
- 6.10 USC 12302
- 7.10 USC 12304
- 8.10 USC 12305
- 9.10 USC 12406

3. Q: What if my activation orders do not specify the call or order to active duty authority code?

A: You will need to go back to your reserve unit and ask for amended orders that clearly state the call or order to active duty. This will be the only way your civilian servicing HRO will be able to determine whether you are eligible for a reservist differential.

4. Q: If I am eligible for this payment will I receive a differential payment each pay period I am deployed?

A: No. You will only receive a differential payment for pay periods in which the actual military pay and allowances you received (as defined in Appendix D of the OPM

guidance) is less than the projected civilian pay you would have received for that same period if not for the call or order to active duty.

5. Q: Will my civilian LES have a remark so I will know if I have received a differential payment?

A: For now, the civilian LES will display “RSV/STF DIFF” in the Current Earnings block.

6. Q: Will the use of paid civilian leave impact my differential payment?

A: Yes. You will not receive a differential payment for any period in which you use paid civilian leave of any kind (military leave, annual leave, etc.). When you use paid civilian leave, you are considered to be in a civilian pay status.

7. Q: Do I have to use all of my paid civilian leave before I can start receiving a differential payment?

A: No. You are eligible for a reservist differential beginning the first day of active duty as long as all other eligibility requirements are met. You can choose to use your paid civilian leave as you deem necessary.

8. Q: What documentation must I provide to my supervisor and/or human resources office (HRO)?

A: You must provide a copy of your military orders. It is not necessary to submit a copy of your military Leave and Earnings Statement (LES) each month to your HRO as DFAS will be providing military pay data, however you should retain a copy of your military LES(s) each month as you may be asked to submit a copy during the reconciliation process for verification purposes. You should also be retaining copies of your civilian LES(s) for the same period of time in the event of a reconciliation.

9. Q: Is there a minimum deployment period required before I am eligible to receive a reservist differential?

A: No. You are eligible for a reservist differential beginning the first day of active duty as long as all other eligibility requirements are met.

10. Q: Which parts of my military pay and civilian pay are being compared to make a reservist differential determination?

A: Civilian basic pay, for the purposes of this provision, is defined as the gross amount of the base rate of pay set by law or administrative action without additional pay

of any kind except additional payments as defined in Appendix C of the OPM guidance. Computation of a reservist differential comparison requires projecting the civilian basic pay that would otherwise have been payable if not for the call or order to active duty. Appendix D of the OPM guidance provides a definition of military pay and allowances for the purposes of this provision, as well as provides a table of all pays and allowances that should be included in the computation.

11. Q: Will I receive a differential payment during the intervening period, allowable under USERRA law, following the completion of my active duty before returning to my civilian job after returning from active duty?

A: No. The Consolidated Appropriations Act of 2010 (Public Law 111-117, December 16, 2009) clarified that reservist differential is not payable for periods following completion of active duty. For pay periods prior to December 16, 2009, OPM and DoD will have to provide further guidance on the obligation, if any, to pay reservist differential after the date of active duty is completed. To date, no additional guidance on this has been issued; therefore no payment can be made.

12. Q. If I believe the differential amount I am receiving is incorrect, who should I contact?

A. Please contact your servicing civilian HRO.