



Hot Tip for October

The military committee is often asked about direct-pay orders for military pension division. What are the rules? Here they are, according to committee vice-chair Marshal Willick of Las Vegas, Nevada:

The so-called "ten year" limitation on direct payment of pension division from DFAS (Defense Finance and Accounting Service) in Cleveland is much misunderstood. A court order that divides military retired pay as property may only require payment from the military pay center to the former spouse if the parties were married for at least ten years during which the member performed at least ten years of creditable military service. This is often called the "20/10/10" rule, for "years of service needed to reach retirement/years of marriage of the parties/years of overlap between service and marriage." If the marriage overlapped military service by less than ten years, the right still exists, but the spouse has to obtain the monthly payments from the retired member rather than directly from the military pay center. The 20/10/10 rule is not a limitation upon the subject matter jurisdiction of the state courts; rather, it is a limitation of enforcement through garnishment.

There are a couple of work-arounds. If the former spouse's interest is small, the present value of that interest could be determined and offset against other marital property or cash to be paid off. If the interest is larger, a former spouse could seek a stipulation to secure that interest attempt to get an irrevocable alimony obligation in the same amount.