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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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IN REPLY REFER TO: B-193534

[Certificate of Existence Requirement for Retired Pay] ^{March 16, 1979}

The Honorable Strom Thurmond
United States Senate

DO NOT MAKE AVAILABLE TO PUBLIC READING

Dear Senator Thurmond:

This is in further reference to your letter of November 14, 1978, forwarding correspondence from Mr. Everette C. Evans, a retired officer of the United States Army. Mr. Evans who resides in West Germany is concerned that in order to receive his retired pay from the Army while residing in West Germany, he must execute a certificate of existence on a monthly basis. He notes that he receives benefits monthly from the Veterans' Administration without this requirement. He also notes that he receives tax refunds without this requirement. Correspondence enclosed with your letter shows that the Army regulations requiring the certificate are based on decisions of the Comptroller General.

Retired pay is payable during the lifetime of those persons who have qualified for retirement with pay. Traditionally, for the protection of the Government, certain safeguards have been required to insure that retired paychecks are not issued after the death of the beneficiary; such as, the furnishing of a certificate of existence prior to release of the checks, special instructions to the Post Office employees restricting delivery of the check envelopes, appropriate legends on the checks to give notice to endorsers that the checks are payable only during the lifetime of the payee and the furnishing of specific powers of attorney for periods not exceeding 12 months. The requirements have changed from time to time to keep abreast of changing circumstances.

In the past we have approved the discontinuance of annual reports of existence in cases where paychecks are drawn and delivered to the retired member at his home in the United States--his personal endorsement on the checks being considered sufficient evidence of his continued existence. We have not objected to delivery of checks drawn to retired members residing in foreign countries without obtaining evidence of existence where personal delivery is made by an employee of the United States, as where checks are mailed in care of an APO, FPO, Finance Officer, U.S. Consulate, Embassy, or military attache.

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Generally, changes in procedures designed for the protection of the Government have been approved by this Office following recommendations made by the Secretary of the Treasury, the Secretary of Defense, or the Secretaries of the military departments which are based on experience in administering the retired pay accounts.

The last occasion we had to consider the requirement of certificates of existence for members residing in foreign countries resulted in our decision, 44 Comp. Gen. 208, (1964), copy enclosed. That decision was issued as a result of a request from the Secretary of Defense concerning a change in the requirements, which would authorize the payment of retired pay 1 month in advance of receipt of the certificate of existence. In view of technological improvements which had been made at that time we posed no objection to the change in procedure.

AGC 60005 Since that request we have not received a request from the Department of Defense for a change in this procedure. Further, our procedures do not provide for a periodic review of such cases, rather we rely on the Department of Defense to put forth recommendations when changes appear feasible and evidence can be presented which shows that there is adequate protection for the Government.

With regard to the practice of the Veterans' Administration of mailing benefit checks to individuals residing in foreign countries, we invite your attention to 38 U.S.C. 3020 (1976). This provision places responsibility for protection of the Government in such cases, with the Administrator of Veterans Affairs. Payments made by the Internal Revenue Service are not recurring payments such as retired pay and thus the risks of loss to the Government are minimal as compared to monthly payments payable during the lifetime of an individual.

Concerning any changes in the procedures with regard to certificates of existence, on receipt of a request for change from the Secretary of Defense or a Secretary of a military department supported by evidence indicating that the Government will be adequately protected, we will consider any recommendations for changing the procedures.

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We regret the delay in responding to you and we trust this serves the purpose of your inquiry. The correspondence enclosed with your letter is returned as you requested.

Sincerely yours,

R. F. Kellum
Deputy Comptroller General
of the United States

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