

inactive duty for which pay is authorized by competent authority which is performed prior to the first day of the calendar quarter next succeeding the calendar quarter in which this Act becomes effective.”

ADDITIONAL CLERICAL SERVICE CREDITABLE UNDER THIS CHAPTER

Pub. L. 85-861, §15, Sept. 2, 1958, 72 Stat. 1558, provided that:

“(a) Notwithstanding section 1332(b)(6) [now 12732(b)(7)] of title 10, United States Code, a person is entitled to count his service as an Army field clerk or as a field clerk, Quartermaster Corps, as active service in determining his entitlement to retired pay under chapter 67 [now 1223] of title 10, United States Code, and in computing his retired pay under that chapter.

“(b) notwithstanding section 1332(b)(6) [now 12732(b)(7)] of title 10, United States Code, a warrant officer is entitled to count classified service as an Army headquarters clerk or as a clerk of the Army Quartermaster Corps that he performed under any law in effect before August 29, 1916, as active service in determining his entitlement to retired pay under chapter 67 [now 1223] of title 10, United States Code, and in computing his retired pay under that chapter.”

**§ 12733. Computation of retired pay: computation of years of service**

For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

- (1) The person's days of active service.
- (2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.
- (3) One day for each point credited to the person under clause (B), (C), or (D) of section 12732(a)(2) of this title, but not more than—
  - (A) 60 days in any one year of service before the year of service that includes September 23, 1996;
  - (B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes October 30, 2000;
  - (C) 90 days in the year of service that includes October 30, 2000, and in any subsequent year of service before the year of service that includes October 30, 2007; and
  - (D) 130 days in the year of service that includes October 30, 2007, and in any subsequent year of service.
- (4) One day for each point credited to the person under subparagraph (E) of section 12732(a)(2) of this title.
- (5) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

(Aug. 10, 1956, ch. 1041, 70A Stat. 103, §1333; Pub. L. 85-861, §33(a)(10), Sept. 2, 1958, 72 Stat. 1565; renumbered §12733 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat.

2998, 3002; Pub. L. 104-201, div. A, title V, §§531(a), 543(b)(2), Sept. 23, 1996, 110 Stat. 2517, 2522; Pub. L. 105-85, div. A, title X, §1073(a)(67), (c)(4), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106-65, div. A, title V, §578(h)(2), Oct. 5, 1999, 113 Stat. 628; Pub. L. 106-398, §1 [[div. A], title VI, §652], Oct. 30, 2000, 114 Stat. 1654, 1654A-163; Pub. L. 107-107, div. A, title X, §1048(c)(16), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 110-181, div. A, title VI, §648, Jan. 28, 2008, 122 Stat. 161.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1333 .....	10:1036b (less 1st 91 words, and less 1st proviso). 10:1036e(c) (as applicable to determination of retired pay). 10:1036e(d) (as applicable to determination of retired pay). 34:440j (less 1st 91 words, and less 1st proviso). 34:440m(c) (as applicable to determination of retired pay). 34:440m(d) (as applicable to determination of retired pay).	June 29, 1948, ch. 708, §§303 (less 1st 91 words, and less 1st proviso), 306 (c) and (d), as applicable to determination of retired pay), 62 Stat. 1088-1090; Sept. 7, 1949, ch. 547, §3, 63 Stat. 693.

The revised section consolidates provisions of 10:1036b and 1036e, and 34:440j and 440m, relating to the years of service that may be counted in determining retired pay for persons entitled to that pay under this chapter.

Clause (1) is substituted for 10:1036b(i). In clause (3), the words “and proportionately for each fraction of a year” are inserted to make clear that parts of years must be counted. 10:1036e(d) and 34:440m(d) are omitted as covered by sections 101(22) and 101(24) of this title.

1958 ACT

The change is necessary so that active service and service described in section 1332(a)(2)(A)(ii) that was performed on or before July 1, 1949, may be counted in computing retired pay, as provided by the source law, section 303(i) of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1088) and in accordance with the opinion of the Judge Advocate General of the Army (JAGA 1956/1908, Feb. 13, 1956).

AMENDMENTS

2008—Par. (3)(B) to (D). Pub. L. 110-181 struck out “and” at end of subpar. (B), substituted “before the year of service that includes October 30, 2007; and” for period at end of subpar. (C), and added subpar. (D).

2001—Par. (3)(B). Pub. L. 107-107, §1048(c)(16)(A), substituted “October 30, 2000” for “the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

Par. (3)(C). Pub. L. 107-107, §1048(c)(16)(B), substituted “October 30, 2000,” for “the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

2000—Par. (3). Pub. L. 106-398 substituted “but not more than—” and subpars. (A) to (C) for “but not more than 60 days in any one year of service before the year of service that includes September 23, 1996, and not more than 75 days in any subsequent year of service.”

1999—Pars. (4), (5). Pub. L. 106-65 added par. (4) and redesignated former par. (4) as (5).

1997—Par. (3). Pub. L. 105-85, §1073(c)(4), made technical correction to directory language of Pub. L. 104-201, §531(a). See 1996 Amendment note below.

Pub. L. 105-85, §1073(a)(67), inserted a comma after “(B)” and substituted “that includes September 23, 1996,” for “in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs”.

1996—Par. (3). Pub. L. 104-201, §543(b)(2), substituted “(C), or (D)” for “or (C)”.

Pub. L. 104-201, §531(a), as amended by Pub. L. 105-85, §1073(c)(4), inserted before period at end “of service before the year of service in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs and not more than 75 days in any subsequent year of service”.

1994—Pub. L. 103-337 renumbered section 1333 of this title as this section, substituted “Computation of retired pay: computation of years of service” for “Computation of years of service in computing retired pay” as section catchline, and amended text generally, changing style and references to other sections.

1958—Pub. L. 85-861 added cls. (1) and (2), struck out former cl. (1) which permitted the addition of the days of service credited under section 1332(a)(2)(A) of this title, and redesignated former cls. (2) and (3) as (3) and (4), respectively.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104-201, as enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

### § 12734. Time not creditable toward years of service

(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1334; Pub. L. 87-651, title I, §108, Sept. 7, 1962, 76 Stat. 509; renumbered §12734 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

#### HISTORICAL AND REVISION NOTES 1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1334(a) .....	10:1036c (last sentence, as applicable to inactive status). 10:1036g (last 41 words of 2d sentence). 34:440k (last sentence, as applicable to inactive status). 34:440o (last 41 words of 2d sentence). 50:931(b) (less 1st 16 words).	June 29, 1948, ch. 708, §§304 (last sentence), 308 (last 41 words of 2d sentence), 62 Stat. 1088, 1090. July 9, 1952, ch. 608, §211(b) (less 1st 16 words), 66 Stat. 485.
1334(b) .....	10:1036c (last sentence, less applicability to inactive status). 34:440k (last sentence, less applicability to inactive status).	

Subsection (a) is substituted for 10:1036c (1st 17 words of last sentence, as applicable to inactive status), 10:1036g (last 41 words of 2d sentence), 34:440k (last 17

words of last sentence, as applicable to inactive status), and 34:440o (last 41 words of 2d sentence). 10:1036c (proviso of last sentence, as applicable to inactive status) and 34:440k (proviso of last sentence, as applicable to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) are omitted as surplusage.

In subsection (b), 10:1036c (proviso of last sentence, less applicability to inactive status) and 34:440k (proviso of last sentence, less applicability to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) are omitted as surplusage.

#### 1962 ACT

The change conforms section 1334(b) of title 10 to the source law, the last sentence of section 304 of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1089). Section 305 makes the change retroactive to August 10, 1956, the date of repeal of the source law by the original military codification act of that date.

#### AMENDMENTS

1994—Pub. L. 103-337 renumbered section 1334 of this title as this section and amended text generally, changing one section reference.

1962—Subsec. (b). Pub. L. 87-651 substituted “retirement (without pay) for failure to conform to standards and qualifications prescribed under section 1001 of this title may not be credited in a computation” for “retirement or transfer to the Retired Reserve may not be credited in any computation.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 305 of Pub. L. 87-651 provided that: “Section 108 of this Act [amending this section] is effective as of August 10, 1956, for all purposes. Section 304 of this Act is effective as of February 6, 1959.”

### § 12735. Inactive status list

(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1335; renumbered §12735 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)