Comparison of Division Methods
Exact Numerical Examples
Single Coverture vs. DCV

Rev 1.21

This document compares two different methods of dividing military retirement upon divorce. Although "smaller piece of bigger pie" is disparaged by some, the numbers show that a time/duty coverture fraction does a perfect job (down to the penny) of preserving the marital asset in the face of additional military duty after divorce. The marital asset is preserved in *constant year dollars*. This means as the years go by, the dollar amounts go up according to COLA or according to military pay chart raises. The examples below use 2005 year pay charts, so the numbers are 2005 dollars.

Most people assume a single coverture fraction is good enough ("Brown Method" in California and other names in other states). However, Brown cannot be used if military promotion enhancements after the divorce are not divisible.

Not dividing military promotion enhancements after divorce is the recommendation of the 2001 Senate Armed Services Committee report to Congress regarding UFSPA performance. Oklahoma has made this statutory law. Michigan has an appellate court decision that promotions or bonuses after divorce are not divisible. Florida appellate court reversed to support this position.

"If your attorney says, "Yes, but we always do it with a single coverture fraction" and resists your request, you have to make a decision. Either your attorney is lazy or unconfident arguing before a trial court, or they are assessing that you'd lose more money paying them than you would winning the court battle. Do the calculation. If a result in your favor is worth 10x the attorney's fees to make the argument, then insist your attorney 1) prepare an argument, 2) demonstrate to you that they know the details, and 3) present the argument to the court (or find a different attorney). I am willing to help you and your attorney without cost in pursuit of equitable outcomes.

[*Post NDAA 2017 update: Federal law mandates that DFAS include the rank or promotion coverture fraction in the definition of disposable retired pay.*]

Facts of the case study:
- At time of marriage, member had already done 5.3 months of duty before marriage. From 2015 pay chart, at time of marriage base pay at rank is $1823.40.
- At time of divorce, member had worked 187.9 months of duty. From 2015 pay chart, at time of divorce base pay at rank is $7353.60.
- Military retirement is 2.5% * base pay * years of duty.
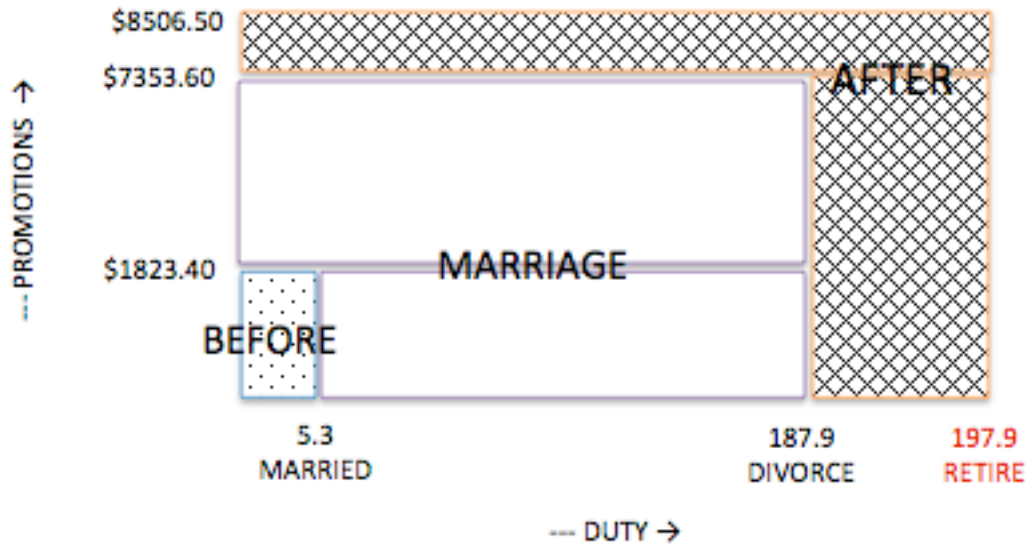
Three examples will be calculated using of each of two different division methods. Note the goal of either case it to produce the fraction or percentage number that DFAS requires.

Three examples will be:

1) Baseline, calculate the divisible marital asset.
2) Military member works 10 more months. Divisible marital asset should not go up or down.
3) Military member works 10 more months AND is promoted. Divisible marital asset should not go up or down.

BROWN EXAMPLE 1 – baseline comparison

(187.9 -5.3) / 187.9 = 97.17935%
97.17935% * (2.5% * $7353.60 * 187.9/12) = $2797.42 divisible marital asset

BROWN EXAMPLE 2 – military member works 10 more months after marriage. Divisible asset must not go up or down.

(187.9 – 5.3) / 197.9 = 92.26882%
92.26882% * (2.5% * $7353.60 * 197.9/12) = $2797.43 divisible marital asset.

Yes, it is the same, so Brown is suitable to use when military member does more duty after divorce.

BROWN EXAMPLE 3 – military member works 10 more months after marriage <u>and</u> is promoted after marriage. Divisible asset must not go up or go down.

(187.9 – 5.3) / 197.9 = 92.26882%
92.26882% * (2.5% * $8506.60 * 197.9/12) = $3250.76 divisible marital asset.

This method and percentage is faulty and inequitable because the divisible asset changes. Assuming a 50% assignment from the military member to the spouse, this is a $453.33 error every month! $5451.96 per year. *Brown is NOT suitable for use if the military member is promoted after divorce.* In this example, Brown causes $5451.96 per year of damages for the rest of life. The promotion enhancement was divided and the "smaller percentage of bigger pie" has nothing to do with promotion enhancements.

DCV EXAMPLE 1 – baseline comparison

(187.9 * 7353.6 – 5.3 * 1823.40) / (187.9 * 7353.6) = 99.30059%
99.30059% * (2.5% * $7353.60 * 187.9/12) = $2858.49 divisible marital asset

Notice spouse gets more than Brown method, because early solo years of military member were at lower rank. *DCV is more equitable to both, giving more to <u>either</u> person at the right time!* DCV would come out the same as Brown Example 1 if there were no duty before marriage.

DCV EXAMPLE 2 – military member works 10 more months after marriage. Divisible asset must not go up or down.

(187.9 * 7353.6 – 5.3 * 1823.40) / (197.9 * 7353.6) = 94.28288%
94.28288% * (2.5% * $7353.60 * 197.9/12) = $2858.49 divisible marital asset

Yes, divisible asset is the same, so DCV is suitable to use when military member does more duty after divorce.

DCV EXAMPLE 3 – military member works 10 more months after marriage <u>and</u> is promoted after marriage. Divisible asset must not go up or go down.

(187.9 * 7353.6 – 5.3 * 1823.40) / (197.9 * 8506.50) = 81.50456%
81.50456%* (2.5% * $8506.50 * 197.9/12) = $2858.49 divisible marital asset

Yes, divisible asset is the same, so DCV is suitable to use when military member does more duty after divorce and is promoted after divorce.

Questions? More information is available at
http://www.intrepidcreativity.com/articles/division-promotion-enhancement/

Or, contact me via the above web site.

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