



PER DIEM, TRAVEL AND TRANSPORTATION ALLOWANCE COMMITTEE

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PDTATAC/vap

28 October 2014

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UTD/CTD for MAP 165-14(I)/CAP 165-14(I) - Remove Husband and Wife

1. **SYNOPSIS:** Remove all references to 'husband and wife' to make the JTR gender non-specific.
2. The attached revision is forwarded for information purposes only. No coordination or comments are required.
3. This revision was initiated by Navy.
4. These changes are scheduled to appear in the JTR, dated 1 December 2014.
5. This determination is effective when printed in the JTR.

//approved//

JOEL T. RIDENOUR
Chief, Policy and Regulations Branch

Attachment:
Rev 1

Uniformed E-Mail Distribution:

MAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO PPC

Civilian E-Mail Distribution:

CAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO CBCA Judges

JTR REVISIONS

TOC Chapter 5:

5208 FACTORS AFFECTING HHG TRANSPORTATION

- * Combining Weight Allowances when ~~Husband and Wife Are Both Members~~Member Married
- A. to Member
- B. Improper Transportation
- C. Items of Extraordinary Value
- D. HHG and Mobile Home Allowances
- E. HHG Transportation before an Order Is Issued
- F. Time Limitation
- G. Alcoholic Beverage Transportation
- H. Firearm Transportation
- I. Impact of Order Effective Date
- J. Order Amended, Modified, Canceled, or Revoked

5336 POV SIZE LIMIT

- A. Vehicle Weight Limit
- B. Excess Vehicle Weight
- C. Excess Cost Collection
- D. Car Ferry Transportation
- *E Combining POV Weight Limitations when ~~Husband and Wife Are Members~~Member Married
to Member

5388 RESTRICTIONS

- A. Vehicle Size
- *B Combining POV Size Limitation when ~~Husband and Wife Are Members~~Member Married to
Member
- C. Other Excess Storage Costs

5654 FACTORS AFFECTING HHG TRANSPORTATION

- * Combining Weight Allowances when ~~Husband and Wife Are Both Employees~~Employee
- A. Married to Employee Couple
- B. Improper Transportation
- C. Items of Extraordinary Value
- D. Mobile Home Allowances
- E. HHG Transportation before an Order Is Issued
- F. Time Limitation
- G. Alcoholic Beverage Transportation

5208-A:

- *A. Combining Weight Allowances when ~~Husband and Wife Are Both Members~~Member Married to Member

1. * * * *
2. * * * *
3. * * * *

5336-E:

E. Combining POV Weight Limitations when ~~Husband and Wife Are Members~~Member Married to Member

1. The 20 measurement tons limitation may be combined to transport one larger POV at Gov't expense in lieu of transporting two POVs for an eligible member married to member couple during the transfer of both members, each under a PCS order.
2. Payment for transporting the vehicle may not exceed the total cost the Gov't would have incurred if each member had transported a vehicle of 20 measurement tons through the designated POV loading port/VPC.

5388-B:

*B. Combining POV Size Limitation when ~~Husband and Wife Are Members~~Member Married to Member

1. The size restriction in par. 5388-A may be ignored for storing one larger vehicle at Gov't expense in lieu of storing two POVs (one POV stored for each member) during an assignment when each member is authorized POV storage.
2. Payment for storing the vehicle may not exceed the Gov't's total cost if each member had stored a vehicle within the maximum standard size.

5404-B:

*B. Member Married to Member. ~~When both husband and wife are members, they~~A member married to member couple may combine their prescribed PCS HHG weight allowances to determine the maximum amount the Gov't may pay to move their mobile home when each member is:

1. Authorized a mobile home allowance, and
2. Authorized movement of a mobile home on a PCS order.

5452-C (Table 5G-3) footnote 1:

*1/ The ~~husband and wife~~member married to member couple may select the greater allowance. However, when one member moves incident to a PCS at one time and establishes a permanent household at the new PDS while the other member maintains a permanent household at the old PDS and, at a later date, the second member moves incident to a PCS and occupies the same residence as the first member ([B-191742, 1 August 1978](#) and [DOHA Case 96110801, 26 June 1997](#)):

5654-A:

*A. Combining Weight Allowances when ~~Husband and Wife Are Both Employees~~Employee Married to Employee Couple. See par. 5500-B.

5838-B1:

- *1. Except as in par. 5838-C, when a ~~husband and wife~~married couple are both Gov't employees in the same OCONUS locality, a renewal agreement is negotiated either with:

- a. Each separately (if this option is elected, the other employee may not be treated as a spouse and other dependents may not benefit twice); or
- b. One as head of the household and the other treated as a spouse.

5838-B2:

*2. The couple must elect either par. 5838-B1 or 5838-B1b in a writing signed by both ~~husband and wifespouses.~~

TOC Chapter 8:

8004 RATE PAYABLE

- A. General
- B. ~~Both Husband and Wife Are Members~~ Member Married to Member Couple
- C. Member Assigned to a Ship or Afloat Staff
- D. Accessions
- E. Member in a Leave Status
- F. Member Processing for Separation or Retirement

8004-B:

*B. ~~Both Husband and Wife Are Members~~ Member Married to Member Couple

*1. When ~~both husband and wife are members~~ a member is married to another member, each is authorized CONUS COLA.

*2. This authority exists whether or not the ~~husband and wife~~ member married to member couple maintain a joint residence or separate residences.

3. A spouse, who also is a member on active duty, may **NOT** be a dependent for CONUS COLA purposes.

4. When a member married to member couple maintains a joint residence and a dependent other than the member spouse is involved, CONUS COLA is paid to one spouse at the 'with dependent' rate and to the other at the without dependent rate.

TOC Chapter 9:

9210 *STATION ALLOWANCES WHEN ~~BOTH HUSBAND AND WIFE ARE MEMBERS~~ **MEMBER MARRIED TO MEMBER COUPLE**

- A. When Separate Households Are Maintained
- B. COLA when a Joint Household Is Maintained

9210:

*9210 STATION ALLOWANCES WHEN ~~BOTH HUSBAND AND WIFE ARE MEMBERS~~ **MEMBER MARRIED TO MEMBER COUPLE**

*A. When Separate Households are Maintained. When ~~both husband and wife are members and a member married to member couple maintain~~ separate households ~~are maintained~~ at/in the vicinity of their OCONUS PDS or PDSs, each is individually authorized station allowances as a member with- or without-dependents, as applicable, based on whether the member concerned has a dependent at or in the vicinity of the OCONUS PDS.

B. * * * *

TOC Chapter 10:

*10202 BAH/OHA WHEN ~~BOTH HUSBAND AND WIFE ARE MEMBERS~~ MEMBER MARRIED TO MEMBER AND SEPARATE HOUSEHOLDS ARE MAINTAINED

10308 QTRS DESIGNATED AS INADEQUATE

- A. Housing Allowance Authority
- B. Effect of Subleasing Inadequate Qtrs
- C. Rental Charge for Inadequate (Sub-standard) Qtrs
- D. Effective Date of BAH and Rental Charge
- E. Computation of BAH and Rental Charge
- F. Inadequate Qtrs Re-designated Adequate

*G ~~Husband and Wife~~ Member Married to Member Couple Each Authorized BAH

10202:

*10202 BAH/OHA WHEN ~~BOTH HUSBAND AND WIFE ARE MEMBERS~~ MEMBER MARRIED TO MEMBER AND SEPARATE HOUSEHOLDS ARE MAINTAINED

*When ~~both husband and wife are members and a member married to member couple maintain~~ separate households ~~are maintained~~ at or in the vicinity of their PDS or PDSs, each is individually authorized BAH/OHA. Only one member may receive BAH/OHA at the with-dependent rate. *In no case may a spouse who also is a member in receipt of basic pay be a dependent for allowance purposes in this Part (37 USC §421).*

10308-G:

*G. ~~Husband and Wife~~ Member Married to Member Couple Each Authorized BAH. When a ~~husband and wife are both members who member married to member couple~~ jointly occupy inadequate family Qtrs on a rental basis, use Table 10C-1 to determine their respective BAH rates. The rental charge for the Qtrs must be the assigned inadequate family type Qtrs' fair rental value, but must never exceed 75% of the with dependents BAH rate which would be payable to a member of the same grade and rank as the member under whose eligibility the Qtrs are assigned. The BAH paid to the respective members does not affect the rent amount charged, even if a member is receiving BAH at the with dependents rate. BAH is collected IAW Service procedures. For inter-Service marriages, the rental charge is collected IAW the procedures of the Service furnishing the Qtrs.

App A1, Dependent (Uniformed Members Only), item 12:

*12. Whether or not an individual is considered to be a member's spouse for the purpose of allowances authorized in these regulations when a "common law marriage" is involved is addressed in several GSBCA and Comptroller General decisions. Some quotes from those decisions are as follows:

GSBCA quotes "Issues of marital status are determined by state law and the relationship of spouse exists if common law marriage is recognized by the law of the state in which the parties entered into such a marriage"; and,

"Issues of marital status are determined by state law, James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#). Some states recognize common law marriage -- "[a] marriage that takes legal effect, without license or ceremony, when a couple live together ~~as husband and wife...~~, intend to be married, and hold themselves out to others as a married couple." Black's Law Dictionary 986 (7th ed. 1999)"; and,

As we recognized in James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#) the burden of proof is on the claimant to establish the common law marriage. State law determines issues of marital status, and the relationship of spouse exists if common law marriage is recognized under the law of the state in which the parties entered into such a marriage. The following Comptroller General decisions address specific circumstances: [B-260688, 23 October 1995](#); [B-247541, 19 June 1992](#); [B-212900, 15 November 1983](#); [B-191316, 27 September 1978](#); [B-191316, 6 April 1978](#); [B-186179, 30 June 1976](#).

The validity of a common law marriage is determined by the law of the place in which it was contracted, and if valid there, it will be valid elsewhere, in the absence of contravention of positive law, or consideration of policy to the contrary. [B-186179, 30 June 1976](#); [B-191316, 27 September 1978](#).

The burden of proof is on the claimant to establish the common law marriage. [GSBCA 15207-RELO, 19 May 2000](#); [GSBCA 14122 RELO, 16 March 1998](#).

~~Common Law Marriage is defined as a marriage not solemnized by religious or civil ceremony as defined in pertinent state law. Some states recognize common law marriage -- "[a] marriage that takes legal effect, without license or ceremony, when a couple live together as husband and wife, intend to be married, and hold themselves out to others as a married couple." (DoDFMR, Vol. 7B, Glossary)~~

For dependency determinations, Service PoCs are listed in JTR, par. 10104-G3.

Pertinent GSBCA decisions

[GSBCA 15947-RELO, 31 March 2003](#)
[GSBCA 15382-RELO, 20 December 2000](#)
[GSBCA 15207-RELO, 19 May 2000](#)
[GSBCA 14673-RELO, 9 December 1998](#)
[GSBCA 14122-RELO, 16 March 1998](#)

App A1, Dependent/Immediate Family (Civilian Employees Only), Note 5:

****NOTE 5: Whether or not an individual is considered to be an employee's spouse for the purpose of allowances authorized in these regulations when a "common law marriage" is involved is addressed in several GSBCA and Comptroller General decisions. Some quotes from those decisions are as follows:***

GSBCA quotes "Issues of marital status are determined by state law and the relationship of spouse exists if common law marriage is recognized by the law of the state in which the parties entered into such a marriage"; and,

"Issues of marital status are determined by state law, James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#). Some states recognize common law marriage -- "[a] marriage that takes legal effect, without license or ceremony, when a couple live together ~~as husband and wife...~~, intend to be married, and hold themselves out to others as a married couple." Black's Law Dictionary 986 (7th ed. 1999)"; and,

As we recognized in James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#) the burden of proof is on the claimant to establish the common law marriage. State law determines issues of marital status, and the relationship of spouse exists if common law marriage is recognized under the law of the state in which the

parties entered into such a marriage. The following Comptroller General decisions address specific circumstances: [B-260688, 23 October 1995](#); [B-247541, 19 June 1992](#); [B-212900, 15 November 1983](#); [B-191316, 27 September 1978](#); [B-191316, 6 April 1978](#); [B-186179, 30 June 1976](#).

The validity of a common law marriage is determined by the law of the place in which it was contracted, and if valid there, it will be valid elsewhere, in the absence of contravention of positive law, or consideration of policy to the contrary. [B-186179, 30 June 1976](#); [B-191316, 27 September 1978](#).

The burden of proof is on the claimant to establish the common law marriage. [GSBCA 15207-RELO, 19 May 2000](#); [GSBCA 14122 RELO, 16 March 1998](#).

Once the employee has submitted evidence in support of the common law marriage, it should be submitted to the appropriate agency legal counsel for assistance in determining whether or not the putative spouse qualifies as a spouse under the specific state and/or Federal law PDTATAC does not adjudicate these cases.

Pertinent GSBCA decisions

[GSBCA 15947-RELO, 31 March 2003](#)

[GSBCA 15382-RELO, 20 December 2000](#)

[GSBCA 15207-RELO, 19 May 2000](#)

[GSBCA 14673-RELO, 9 December 1998](#)

[GSBCA 14122-RELO, 16 March 1998](#)