

Replaces DM&S Supplement  
MP-3, Chapter 3, Section II and  
Section III

Department of Veterans Affairs  
Veterans Health Administration  
Washington, DC 20420

VHA DIRECTIVE 7631.1

October 28, 1999

**ELIMINATION OF FEDERAL TAX EXEMPTION FOR  
KEY EMPLOYEES OCCUPYING QUARTERS**

- 1. PURPOSE:** This Veterans Health Administration (VHA) Directive clarifies and changes existing Department of Veterans Affairs (VA) policy that required specific key employees to be assigned to quarters, if available, and live on the facility grounds.
- 2. SUMMARY OF CONTENTS:** This VHA directive supercedes existing VA policy that required specific key employees (a management representative, a clinical representative, and an engineering representative) to be assigned to quarters, if available, and live on the facility grounds. In compliance with Federal policy, this directive clarifies that occupancy of quarters is voluntary, except under certain conditions where the agency requires it to provide for needed services or protect VA property.
- 3. RELATED ISSUES:** VA Directive 7631, Quarters Management.
- 4. FOLLOW-UP RESPONSIBILITY:** The Chief Facilities Management Officer (18/181B), is responsible for the contents of this directive.
- 5. RESCISSIONS:** This directive rescinds VHA Manual M-1, Part I, Chapter 2, paragraph 2.07, Key Employees Required to Occupy Housekeeping Quarters, dated March 11, 1988.
- 6. RECERTIFICATION:** This directive is scheduled for recertification on or before the last working day of October 2004.

S/ by F. Murphy, M.D. for  
Thomas L. Garthwaite, M.D.  
Acting Under Secretary for Health

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## ELIMINATION OF FEDERAL TAX EXEMPTION FOR KEY EMPLOYEES OCCUPYING QUARTERS

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive clarifies and changes existing Department of Veterans Affairs (VA) policy that required specific key employees (a management representative, a clinical representative, and an engineering representative) to be assigned to quarters, if available, and live on the facility grounds. In compliance with Federal policy, this directive clarifies that occupancy of quarters is voluntary, except under certain conditions where the agency requires it to provide for needed services or protect VA property. This directive will be incorporated into a manual at a future date.

**2. BACKGROUND:** In the past, VHA had administratively determined that specified key employees be required to live in quarters, and the rental charges to these occupants were not regarded as part of the employee's gross salary for Federal tax purposes under current Internal Revenue Service (IRS) rulings. This presumption of necessity is no longer true. VA medical centers now have 24-hour security service, and 24-hour nurse and physician coverage provided through various means. Most VA medical centers have 24-hour engineering coverage to deal with plant and equipment emergencies. Accordingly, effective during this year's pay period 26 (effective January 1, 2000), VHA will eliminate the practice of designating key employees to live in quarters and claiming the Federal tax exemption. VHA employees will henceforth occupy quarters on a voluntary basis, except in limited cases where the agency requires it as a condition of employment, that is strictly based upon the need to provide services or to protect VA property. Only in these rare instances will the rental charge be exempt from the employee's gross salary for Federal tax purposes.

**3. POLICY:** It is VHA policy that no employee shall be required to occupy quarters unless suitable quarters are available, and the agency determines that necessary service cannot be rendered or property adequately protected otherwise.

a. Per General Counsel, three tests must be met before the value of lodging, furnished to an employee, can be excluded from the employee's gross income; the:

- (1) Lodging is furnished on the business premises of the employer,
- (2) Lodging is furnished for the convenience of the employer, and
- (3) Employee is required to accept such lodging as a condition of employment.

b. General Counsel's finding states that the term "condition of employment" contemplates that the employee be required to accept the lodging in order to properly perform the duties of employment. It will be so regarded when the lodging is furnished because the employee is required to be available for duty at all times or because the employee could not perform the required services unless the employee is furnished such lodging. Examples of possible required occupancy include a clinician who is needed to deal with after-hours medical emergencies due to no 24-hour on-site coverage, a policeman who is needed to protect VA property in the absence of 24-hour security service, or an engineer who is needed to resolve plant and equipment emergencies due to no 24-hour on-site coverage. In these rare instances where the three conditions are met, the employee will be certified as required to live in quarters and the rental charge will be exempt from the required employee's gross salary for Federal tax purposes. In no

case will the requirement to occupy quarters be approved as a means to augment an employee's compensation.

#### 4. ACTION

a. Currently specified key employees, who do not qualify for Federal tax exemption because their occupancy is not required, will have their payroll records amended to eliminate this exemption, during pay period 26 of 1999.

b. In the limited cases where required occupancy is proposed for currently exempted occupants, the Network Director will send a request for certification to the VHA Headquarters Housing Officer, Office of Facilities Management, Asset and Enterprise Development Service (181B). The request must include certification that there is a need for the position to live on station; i.e., no 24-hour medical coverage, no 24-hour security service, or no 24-hour plant coverage. The VHA Headquarters Housing Officer will request approval from the Under Secretary for Health, in the limited cases where required occupancy is appropriate. The VHA Headquarters Housing Officer will provide the approved certification of required occupancy to the affected employee, with copies to the Chief Financial Officer (17/173). Requests for certification of required occupancy, for currently exempted occupants, should be submitted within 30 days of the date of this directive, in order to assure continuity of employee payroll records.

c. Upon receipt of the certification of required occupancy, employees are responsible for providing copies of the certification to their local Human Resources Management (HRM) and Fiscal Offices, respectively. The Office responsible for maintaining the Official Personnel Folder (OPF) will include a copy of the certification of required occupancy filed on the left (temporary) side of the OPF until the employee leaves VA employment. The Office responsible for the affected employee's payroll records will use the certification as an indicator that Federal tax exemption is not to be eliminated.

d. Effective the date of this directive, any position requiring occupancy of quarters must be submitted with appropriate justification for required occupancy as described in paragraphs 3 and 4.b. to the VHA Headquarters Housing Officer, Office of Facilities Management, Asset and Enterprise Development Service (181B), through the appropriate Network Director. The VHA Headquarters Housing Officer (181B) will request necessary approvals, and provide the approved certification of required occupancy, for that position, to the requesting HRM Office and to the Chief Financial Officer (17/173). Upon receipt of the approved certification of required occupancy, the local HRM office will initiate action to include the following statement in the affected Position Description form (OF-8) or function statement: "This position is required to occupy government quarters, for the provision of necessary services or protection of property." Any employee hired to this position should be made aware that occupancy of quarters is required as a condition of employment.

**NOTE:** Questions may be referred to Office of Facilities Management, Asset and Enterprise Development Service (181B) at (202) 565-4307.

**5. REFERENCES**

- a. Title 5, United States Code Section 5911(e).
- b. Title 26, United States Code (Internal Revenue Code) Section 119(a).
- c. Office of Management and Budget Circular A-45.
- d. VA Directive 7631.