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paid, unless the annuity payment itself is cancelled.

(c) OPM will provide the State with the information necessary to properly process a request for State income tax withholding.

(d) If the State is paid withholding which is contrary to the terms of the annuitant's request, the State is liable to the annuitant for the amount improperly withheld, and subject to account verification from OPM, agrees to pay that amount to the annuitant on demand.

(e) In the case of a disputed amount in any of the reports described and authorized by this agreement, the Associate Director for Compensation of OPM will issue an accounting. If the State finds this accounting unacceptable, it may then and only then pursue such remedies as are otherwise available.

(f) If a State receives an overpayment of monies properly belonging to the Fund, OPM will offset the overpayment from a future payment due the State. If there are no further payments due the State, OPM will inform the State in writing of the amount due. Within 60 days of the date of receipt of that communication the State will make payment of the amount due.

§ 831.1906 Agreement modification and termination.

This agreement may be modified or terminated in the following manner:

(a) Either party may suggest a modification of non-regulatory provisions of the agreement in writing to the other party. The other party must accept or reject the modification within 60 calendar days of the date of the suggestion.

(b) The agreement may be terminated by either party on 60 calendar days written notice.

(c) OPM may modify this agreement unilaterally through the rule making process described in sections 553, 1103, 1105 of title 5, United States Code.

§ 831.1907 Authority to use the Federal Personnel Manual System.

OPM may provide such further rules, procedural instructions, and operational guidance as may be necessary and proper under this subpart and not inconsistent therewith, in the Federal Personnel Manual System.

Subpart T—Payment of Lump Sums

SOURCE: 50 FR 20081, May 13, 1985, unless otherwise noted.

§ 831.2001 Definitions.

Court order or decree means the order or decree of any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands or any Indian court, as defined section 8331(24) of title 5, United States Code.

Current spouse means a person who is married to the employee or Member at the time the application for refund is filed.

Duly appointed representative of the deceased employee's, separated employee's, retiree's, survivor's or Member's estate means an individual named in an order of a court having jurisdiction over the estate of the deceased which grants the individual the authority to receive, or the right to possess, the property of the deceased; and also means, where the law of the domicile of the deceased has provided for the administration of estates through alternative procedures which dispense with the need for a court order, an individual who demonstrates that he or she is entitled to receive, or possess, the property of the deceased under the terms of those alternative procedures.

Former spouse means a living person who was married for at least 9 months to an employee or Member who had performed at least 18 months of creditable service in a position covered by the retirement system.

Retirement system means the civil service retirement system as described in subchapter III of chapter 83 of title 5, United States Code.

[50 FR 20081, May 13, 1985, as amended at 57 FR 29784, July 7, 1992]

§ 831.2002 Eligibility for lump-sum payment upon filing an Application for Refund of Retirement Deductions (SF 2802).

Except as provided in §§ 831.2007 through 2009 or in section 3716 of title

31, United States Code, on administrative offset for government claims, a former employee or Member who has been separated from a covered position for at least 31 days at the time of filing an application for refund and who is ineligible for an annuity commencing within 31 days after the date of filing an application for refund is eligible for a refund for the total lump-sum credit to his or her credit in the Retirement Fund.

§831.2003 Eligibility for lump-sum payment upon death or retirement.

(a) If there is no survivor who is entitled to monthly survivor annuity benefits on the death of a former employee, Member, annuitant, or survivor annuitant, the total lump-sum credit to the former employee's or Member's credit in the Retirement Fund is payable, except as provided in section 3716 of title 31, United States Code, on administrative offset for government claims, to the person(s) entitled in the normal order of precedence described in section 8342(c) of title 5, United States Code. If a deceased employee, separated employee, retiree or Member provided in a valid designation of beneficiary that the lump sum proceeds shall be payable to the deceased's estate, or to the Executor, Administrator, or other representative of the deceased's estate, or if the proceeds would otherwise be properly payable to the duly appointed representative of the deceased's estate under the order of precedence specified in 5 U.S.C. 8342(c), payment of the proceeds to the duly appointed representative of the deceased's estate will bar recovery by any other person.

(b) If an annuity is payable, the former employee, Member or the person entitled in the order of precedence described in section 8342(c) of title 5, United States Code, may be paid, except as provided in section 3716 of title 31, United States Code, administrative offset for government claims, lump-sum payment of—

(1) Retirement deductions withheld from the employee's or Member's pay after he or she became eligible for the maximum annuity, if the employee or Member does not elect to treat those deductions as voluntary contributions toward the purchase of an additional annuity; and

(2) Retirement deductions withheld from the employee's or Member's pay during his or her final period of service if the employee or Member was not subject to the retirement system for at least one of the last 2 years before final separation from service and if the service covered by the deductions is not used for title to annuity; and

(3) Except as provided in paragraph (d) of this section, partial redeposits of refunds previously paid; and

(4) Partial deposits for civilian service performed on and after October 1, 1982; and

(5) Partial deposits for post-1956 military service; and

(6) Annuity accrued and unpaid.

(c) A former employee, Member, or survivor who is eligible for an annuity may not be paid a lump-sum payment of—

(1) Partial or completed deposits for nondeduction civilian service performed before October 1, 1982, unless the service covered by the deposit is not creditable under the retirement system; or

(2) Completed deposits for nondeduction civilian service performed on and after October 1, 1982, unless the service covered by the deposit is not creditable under the retirement system; or

(3) Completed deposits for post-1956 military services, unless the service covered by the deposit is not creditable under the retirement system.

Payments of the partial or completed deposits mentioned in this paragraph are subject to 31 U.S.C. 3716 (administrative offset for government claims).

(d) A former employee or Member who is eligible for a nondisability annuity may not be paid a lump-sum payment of a partial redeposit for refunded deductions relating to a period of service that ended before October 1, 1990.

[50 FR 20081, May 13, 1985, as amended at 56 FR 6550, Feb. 19, 1991; 57 FR 29784, July 7, 1992]

§831.2004 Amount of lump-sums.

If applicable, the amount of a refund will include interest computed as described in §831.105(b).

§ 831.2005 Designation of beneficiary for lump-sum payment.

(a) The Designation of Beneficiary must be in writing, signed, and witnessed,and received in OPM before the death of the designator.

(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by this section, has any force or effect.

(c) A witness to a Designation of Beneficiary is ineligible to receive payment as a beneficiary.

(d) Any person, firm, corporation, or legal entity may be named as beneficiary.

(e) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary, and this right cannot be waived or restricted.

§ 831.2006 Designation of agent by next of kin.

When a deceased employee, Member, or annuitant has not named a beneficiary and one of the next of kin entitled makes a claim for lump-sum benefit, other next of kin entitled to share in the lump-sum benefit may designate the one who made the claim to act as their agent to receive their distributive shares.

§ 831.2007 Notification of current and/or former spouse before payment of lump sum.

(a) Payment of the lump-sum credit based on a refund application filed on or after May 7, 1985, may be made only if any current spouse and any former spouse (from whom the employee or Member was divorced after May 6, 1985) are notified of the former employee's or Member's application.

(b)(1) Notification of the former spouse will not be required if the marriage to the former spouse was of less than 9 months duration or if the employee has not completed a total of 18 months of creditable service covered under the retirement system.

(2) Applicants for payment of the lump-sum credit must certify on a form prescribed by OPM whether the applicant has a current or former spouse subject to the notification requirement.

(c) Proof of notification will consist of a signed and witnessed Statement by the current and/or former spouse on a form provided by OPM acknowledging that he or she has been informed of the former employee's or Member's application for refund and the consequences of the refund on the current or former spouse's possible annuity entitlement. This Statement must be presented to the employing agency or OPM when filing the Application for Refund of Retirement Deductions.

(d) If the current and/or former spouse refuses to acknowledge the notification or the employee or Member is otherwise unable to obtain the acknowledgement, the employee or Member must submit—

(1) Affidavits signed by two individuals who witnessed the employee's or Member's attempt to personally notify the current or former spouse. The witnesses must attest that they were in the presence of the employee or Member and the current or former spouse when the employee or Member gave or attempted to give the notification form to the current or former spouse and that the employee's or Member's purpose should have been clear to the current or former spouse; or

(2) The current mailing address of the current or former spouse. OPM will attempt to notify (by certified mail—return receipt requested) the current or former spouse at the address provided by the employee or Member. Except as provided in paragraph (e) of this section, the lump-sum credit will not be paid until at least 20 days after OPM receives the signed return receipt.

(e) If an OPM notice sent under paragraph (d)(2) of this section is returned and OPM has no reason to believe that the current or former spouse does not live at the address to which the notice was sent, OPM will re-mail the notice by first class mail and wait at least 20 days after the notice has been re-mailed before paying the refund.

[50 FR 20081, May 13, 1985, as amended at 51 FR 31936, Sept. 8, 1986; 55 FR 9106, Mar. 12, 1990; 55 FR 29340, July 19, 1990]

§831.2008 Waiver of spouse and/or former spouse notification requirement.

The current and/or former spouse notification requirement will be waived upon a showing that the current and/or former spouse's whereabouts cannot be determined. A request for waiver on this basis must be accompanied by—

(a) A judicial or administrative determination that the current and/or former spouse's whereabouts cannot be determined; or

(b) Affidavits by the former employee or Member and two other persons at least one of whom is not related to the former employee or Member attesting to the inability to locate the current and/or former spouse and stating the efforts made to locate the current and/or former spouse.

§831.2009 Lump sum payments which include contributions made to a retirement system for employees of a nonappropriated fund instrumentality.

A lump sum payment will include employee contributions and interest as provided under subpart G of part 847 of this chapter.

[61 FR 41720, Aug. 9, 1996]

§831.2010 Transfers between retirement systems.

Transfers of employees' contributions between the Civil Service Retirement and Disability Fund and other retirement systems for Federal or District of Columbia employees when made in accordance with Federal statute for the purpose of transferring retirement service credit to the other retirement system are not subject to the notice requirements or court order provisions of this subpart.

[51 FR 31937, Sept. 8, 1986]

§831.2011 Effect of part 772 of this chapter on CSRS lump-sum payments.

(a) An interim appointment under §772.102 of this chapter does not affect the lump-sum payment of retirement contributions made to a separated employee unless it becomes effective within 31 days of the employee's separation from the service. An interim appointment effective within 31 days of the employee's separation makes the employee ineligible for the lump-sum payment. Payments made in error will be collected under subpart M of part 831 of this chapter.

(b) When an employee's separation is cancelled after the MSPB initial decision becomes final, when the Board issues a final order cancelling the employee's separation, or when the agency and the employee agree to cancel the separation, the agency must notify OPM and request the amount of the erroneous lump-sum payment.

(c) At the time the employee's separation is cancelled, the agency must deduct the amount of the lump-sum payment from any back pay to which the employee is entitled as required by 5 CFR 550.805(e).

(d) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8346(b). If there is no back pay or the back pay is insufficient to recover the erroneous payment, the employee may request that OPM waive the recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

[57 FR 3713, Jan. 31, 1992]

Subpart U—Deposits for Military Service

SOURCE: 48 FR 38788, Aug. 26, 1983, unless otherwise noted.

§831.2101 Purpose.

This subpart prescribes the procedures to be followed when an employee or Member (or survivor of an employee or Member) wishes to make a deposit for service, and when a former employee or Member who retires or separates from civilian service with title to annuity after September 8, 1982, but before October 1, 1983 (or survivor of such employee or Member), wishes to make a deposit for service.

§831.2102 Scope.

This subpart applies to all agencies with employees occupying positions subject to subchapter III of chapter 83 of title 5, United States Code, the United States Senate, and the United States House of Representatives.