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(1) Award a portion of a refund of employee contributions to a former spouse; or

(2) If the requirements of §§838.431 and 838.505 are met, bar payment of a refund of employee contributions.

(b) This subpart prescribes—

(1) The circumstances that must occur before refunds of employee contributions are available to satisfy a court order acceptable for processing; and

(2) The procedures that a former spouse must follow when applying for a portion of a refund of employee contributions based on a court order under section 8345(j) or section 8467 of title 5, United States Code.

(c)(1) Subpart E of this part contains the rules that a court order directed at a refund of employee contributions must satisfy to be a court order acceptable for processing.

(2) Subpart F of this part contains definitions that OPM uses to determine the effect on a refund of employee contributions of a court order acceptable for processing.

Availability of Funds

§838.411 Amounts subject to court orders.

(a)(1) Refunds of employee contributions are subject to court orders acceptable for processing only if all of the conditions necessary for payment of the refund of employee contributions to the separated employee have been met, including, but not limited to—

(i) Separation from a covered position in the Federal service;

(ii) Application for payment of the refund of employee contributions by the separated employee; and

(iii) Immediate entitlement to a refund of employee contributions.

(2) Money held by an employing agency or OPM that may be payable at some future date is not available for payment under court orders directed at refunds of employee contributions.

(b) Payment under a court order may not exceed the amount of the refund of employee contributions.

Application and Processing Procedures

§838.421 Application requirements.

(a) A former spouse (personally or through a representative) must apply in writing to be eligible for a court-awarded portion of a refund of employee contributions. No special form is required.

(b) The application letter must be accompanied by—

(1) A certified copy of the court order acceptable for processing that is directed at a refund of employee contributions.

(2) A certification from the former spouse or the former spouse's representative that the court order is currently in force and has not been amended, superseded, or set aside;

(3) Information sufficient for OPM to identify the employee or separated employee, such as his or her full name, date of birth, and social security number;

(4) The current mailing address of the former spouse; and

(5) If the employee or separated employee has not applied for a refund of employee contributions, the current mailing address of the employee or separated employee.

§838.422 Timeliness of application.

(a) Except as provided in §838.431 and paragraph (b) of this section, a court order acceptable for processing that is directed at a refund of employee contributions is not effective unless OPM receives the documentation required by §838.421 not later than—

(1) The last day of the second month before payment of the refund; or

(2) Twenty days after OPM receives the Statement required by §831.2007(c) or §843.208(b) of this chapter if the former spouse has indicated on that Statement that such a court order exists.

(b) If OPM receives a copy of a court order acceptable for processing that is directed at a refund of employee contributions but not all of the documentation required by §838.421, OPM will notify the former spouse that OPM must receive the missing items within 15 days after the date of the notice or