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Annuity means the gross monthly annuity rate payable before any authorized deductions (such as those for health benefits and life insurance premiums).

Qualifying court order means a court order acceptable for processing as defined in §838.103 of this chapter or a qualifying court order as defined in §838.1003 of this chapter.

Waiver means an annuitant's written request to forfeit a specified amount of annuity as described in this subpart.

[52 FR 2058, Jan. 16, 1987, as amended at 57 FR 33598, July 29, 1992]

§841.803 Waiver of annuity.

(a) An annuitant may decline to accept all or any part of the amount of his or her annuity by a waiver signed and filed with the Office of Personnel Management (OPM).

(b) A waiver is effective the first day of the month following the month in which it is received in OPM, unless a later effective date is specified by the annuitant.

(c) A waiver remains in effect until revoked or changed by the annuitant in writing, except as provided in paragraph (f) of this section. The effective date of a revocation or change will be the first day of the month following the month in which the request to revoke or change is received in OPM, unless a later date is specified by the annuitant.

(d) The amount of annuity that is waived is forfeited during the period the waiver is in effect and cannot be recovered.

(e) An annuity which has a waiver in effect will not be increased by cost-of-living adjustments (COLA) authorized under 5 U.S.C. 8462. Upon cancellation of a waiver, the rate of annuity will be increased by any COLA authorized during the period a waiver was in effect.

(f) Upon the death of an annuitant with a waiver in effect, any survivor annuity payable will be authorized at the full rate of annuity as though the waiver had not been in effect, unless the survivor annuitant executes a waiver.

§841.804 Waivers and court orders.

The effect of a qualifying court order on a waiver is controlled by §838.111(c) of this chapter.

[52 FR 2058, Jan. 16, 1987, as amended at 57 FR 33598, July 29, 1992]

Subpart I—[Reserved]

Subpart J—State Income Tax Withholding

SOURCE: 52 FR 5432, Feb. 23, 1987, unless otherwise noted.

§841.1001 Purpose.

This subpart regulates state income tax withholding from payments of basic benefits under the Federal Employees Retirement System (FERS).

§841.1002 Definitions.

For the purpose of this subchapter:

Agreement means the Federal-State agreement contained in this subpart.

Annuitant means an employee or Member retired, or a spouse, widow, or widower receiving survivor benefits, under chapter 84 of title 5, United States Code.

Effective date means, with respect to a request or revocation, that the request or revocation will be reflected in payments authorized after that date, and before the next request or revocation is implemented.

Fund means the Civil Service Retirement and Disability Fund as established and described in section 8348 of title 5, United States Code.

Income tax and *State income tax* mean any form of tax for which, under a State statute, (a) collection is provided, either in imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and (b) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of the State.

Net recurring payment means the amount of annuity or survivors benefits (not recurring interim payments made while a claim is pending adjudication) payable to the annuitant on a monthly basis less the amounts currently being deducted for health benefits, Medicare, life insurance, Federal income tax, overpayment of annuity, indebtedness to the Government, voluntary allotments, waivers, or being paid to a third party or a court officer in compliance with a court order or decree.

Net withholding means the amount of State income tax deductions withheld during the previous calendar quarter as a result of requests which designated the State as payee, less similar deductions taken from prior payments which are cancelled in the previous calendar quarter.

Proper State Official means a State officer authorized to bind the State contractually in matters relating to tax administration.

Received means, in respect to the magnetic tape containing requests and revocations, received at the special mailing address established by OPM for income tax requests, or, for those items not so received, received at the OPM data processing center charged with processing requests.

Requests means, in regard to a request for tax withholdings, a change in the amount withheld, or revocation of a prior request, a written submission from an annuitant in a format acceptable to the State which provides the annuitant's name, FERS claim number, Social Security identification number, address, the amount to be withheld and the State to which payment is to be made, which is signed by the annuitant or, in the case of incompetence, his or her representative payee.

State means a State, the District of Columbia, or any territory or possession of the United States.

§ 841.1003 Federal-State agreements.

OPM will enter into an agreement with any State within 120 days of an application for agreement from the proper State official. The terms of the standard agreement will be §§ 841.1004 through 841.1007 of this subpart. OPM and the State may agree to additional terms and provisions, insofar as those additional terms and provisions do not contradict or otherwise limit the terms of the standard agreement.

§ 841.1004 OPM responsibilities.

OPM will, in performance of this agreement:

(a) Process the magnetic tape containing State tax transactions against the annuity roll once a month at the time monthly recurring payments are prepared for the United States Treasury Department. Errors that are identified will not be processed into the file, and will be identified and returned to the State for resolution via the monthly error report. Collections of State income tax will continue in effect until the State requesting the initial action supplies either a valid revocation or change. The magnetic tape must be received 35 days prior to the date of the check in which the transactions are to be effective. For example, withholding transactions for the July 1 check must be received 5 days prior to June 1. If the magnetic tape submitted by the State cannot be read, OPM will notify the State of this fact, and if a satisfactory replacement can be supplied in time for monthly processing, it will be processed.

(b) Deduct from the regular, recurring annuity payments of an annuitant the amount he or she has so requested to be withheld, provided that:

(1) The amount of the request is an even dollar amount, not less than Five Dollars nor more than the net recurring amount. The State may set any even dollar amount above Five Dollars as a minimum withholding amount.

(2) The annuitant has not designated more than one other State for withholding purposes within the calendar year. The State can set any limit on the number of changes an annuitant may make in the amount to be withheld.

(c) Retain the amounts withheld in the Fund until payment is due.

(d) Pay the net withholding to the State on the last day of the first month following each calendar quarter.

(e) Make the following reports:

(1) A monthly report which will include all the State tax withholdings,