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deductions from basic pay for FERS coverage is seven percent of basic pay minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(b) The rate of employee deductions from basic pay for FERS coverage for a Member, law enforcement officer, firefighter, air traffic controller, Congressional employee, or employee under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees is seven and one-half percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(c) Employee deductions will be at the rate in paragraph (a) or (b) of this section as if social security deductions were being made even if social security deductions have ceased because of the amount of earnings during the year, or are not made for any other reason.

[52 FR 2057, Jan. 16, 1987, as amended at 52 FR 25197, July 6, 1987]

§ 841.504 Agency responsibilities.

(a) Each employing agency is required to contribute the total amount of the normal cost percentage for each category of its employees, determined under § 841.413 of this part, to the Fund.

(b) Each employing agency must withhold the appropriate amount of employee deductions from the basic pay paid each covered employee for each pay period. No employee deduction is due if an employee receives no basic pay for a pay period.

(c) An employing agency must record the appropriate amount of employee deductions on an individual retirement record maintained for each employee in the manner prescribed by OPM.

(d) When an employee separates, transfers to another agency or to a position serviced by another payroll office, or transfers to a postion in which he or she is not covered by FERS, the agency must close the employee's individual retirement record and forward it to OPM within the time standards prescribed by OPM.

(e) An agency must maintain payroll systems and records in such manner as to permit accurate and timely reporting to OPM, in the manner prescribed by OPM.

(f) An agency must report the employee deduction and agency contribution amounts for each pay period in the manner prescribed by OPM.

(g) An agency must make such other reports of the normal cost, employee deductions and Government contributions amounts as are prescribed and in the manner prescribed by OPM.

(h) An agency must remit in full the total amount of normal cost (which includes both employee deductions and Government contributions), so that payment is received by the Fund on the day of payment to the employee of the basic pay from which the employee deductions were made.

(i) Upon the death of an employee whose tour of duty is less than full time, the employing agency must certify to OPM—

(1) The number of hours that the employee was entitled to basic pay (whether in a duty or paid-leave status) in the 52-week work year immediately preceding the end of the last pay period in which the employee was in a pay status; and

(2) If the employee's tour of duty was part time (regularly scheduled), the number of hours of work in the employee's tour of duty.

[52 FR 2057, Jan. 16, 1987, and 52 FR 25196, July 6, 1987, as amended at 53 FR 16535, May 10, 1988]

§ 841.505 Correction of error.

(a) When it is determined that an agency has paid less than the correct total amount of the normal cost for any or all of its current or past employees, for any reason whatsoever, including but not limited to, coverage decisions, correction of the percentage applicable or of the amount of basic pay, or additional payment of basic pay, the agency must pay the total additional amount payable under 5 U.S.C. 8423 and subpart D of the this part to the Fund.

(b) The agency withholds the appropriate employee deduction from any payment of additional basic pay which is part of, or the result of, the corrective action.

(c) The payment to the Fund described in paragraph (a) of this section shall be made as soon as possible, but not later than provided by standards

established by OPM, regardless of whether or when the portion which should have been deducted from employee basic pay is recovered by the agency.

(d) Any portion of the payment to the Fund described in paragraph (a) of this section which should have been deducted, but was not, from employee basic pay constitutes an overpayment of pay, subject to collection by the agency from the employee, unless waived under applicable authority such as 5 U.S.C. 5584.

(e) Corrections and the related agency payments and employee deductions will be reported to OPM in the manner prescribed by OPM.

§ 841.506 Effect of part 772 of this chapter on FERS payments.

(a) *Agency notification to OPM.* (1) When it is determined that a FERS employee is to be given interim relief under 5 U.S.C. 7701(b)(2)(A), the employing agency must notify OPM of the effective date of the interim appointment under § 772.102 of this chapter. The notice must specify that the appointment is required by the *Whistleblower Protection Act of 1989.*

(2) When the MSPB initial decision cancelling the employee's separation becomes final, when the Board issues a final order cancelling the retiree's separation, or when the agency agrees to cancel the separation, the employing agency must notify OPM of the date the interim appointment ends and request the amount of the erroneous payment to be recovered under § 550.805(e) of this chapter from any back pay adjustment to which the employee may be entitled.

(b) *Employee deductions and normal cost percentage.* For the duration of the appointment, the agency will withhold the appropriate employee deduction and contribute the total amount of the normal cost percentage for the employee as prescribed by OPM. If and when a separation action is cancelled, the agency must make the corrections specified under § 841.507 of this subpart.

[57 FR 3714, Jan. 31, 1992, as amended at 58 FR 48273, Sept. 15, 1993]

§ 841.507 Correction of unjustified or unwarranted personnel action.

(a) When an ''appropriate authority'' determines that there has been an ''unjustified or unwarranted personnel action'' as these terms are defined in subpart H of part 550 of this title, the employing agency will pay the Fund the amount of the normal cost percentage of the basic pay included in back pay. The normal cost percentage owed the Fund is computed on the amount of gross basic pay without regard to deductions described in § 550.805(e) of this chapter for other amounts earned or erroneous payments received.

(b) The agency will withhold the appropriate employee deductions from the amount of basic pay included in gross back pay giving due regard to deductions described in § 550.805(e) of this chapter.

(c) The payment to the Fund described in paragraph (a) of this section shall be made within the time period established by OPM standards.

(d)(1) Any FERS benefits—lump-sum payments or annuity benefits—paid based on a separation that is later cancelled are considered erroneous payments that must be repaid to OPM. Agencies must deduct such payments from any back pay adjustment to which the employee may be entitled as required by 5 CFR 550.805(e).

(2) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8470(b). If there is no back pay, or the back pay is insufficient to recover the entire erroneous payment, the employee may request that OPM waive recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

[52 FR 2057, Jan. 16, 1987. Redesignated and amended at 57 FR 3714, Jan. 31, 1992; 58 FR 43493, Aug. 17, 1993]

§ 841.508 Effective date.

The employee deductions specified in § 841.503 are effective on the later of the first day of the first pay period beginning in 1987 or the first day an employee is covered by FERS.

[52 FR 2057, Jan. 16, 1987. Redesignated at 57 FR 3714, Jan. 31, 1992]