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§ 842.307 Deposits for military service.

(a) *Eligibility to make a deposit.* (1) An employee or Member subject to FERS may make a deposit for any distinct period of military service by filing an application in a form prescribed by OPM.

(2) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(3) An employee's or Member's deposit for military service must be completed before separation from service. If a deceased employee or Member was, at the time of death, eligible to make a deposit, the employee's or Member's survivor may make the deposit in one lump sum to the former employing agency, the Secretary of the Senate or the Clerk of the House of Representatives, before OPM completes adjudication of the survivor annuity application. A person who was eligible to make a deposit for military service but failed to complete the deposit within the time limits provided in this paragraph, may complete the deposit in a lump sum within the time limit set by OPM when it rules that an administrative error has been made.

(b) *Amount of deposit.* (1) The amount of a deposit for military service equals 3 percent of the basic pay for the service under 37 U.S.C. 207, or an estimate of the basic pay (see paragraph (c)(1)(iii) of this section), plus interest, unless interest is not required under paragraph (b)(4) of this section.

(2) Interest is charged at a rate as determined by the Secretary of the Treasury for each calendar year that equals the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under 5 U.S.C. 8348(c), (d), and (e).

(3) The computation of interest is on the basis of 30 days to the month. Interest is computed for the actual calendar time involved in each case; but whenever applicable, the rule of average applies.

(4) Interest is computed from the mid-point of each full period of service included in the computation. The interest accrues annual on the outstanding portion beginning on the second anniversary of the employee's or Member's beginning date of coverage under FERS, and is compounded annually, until the portion is deposited. Interest is charged to the date of deposit. No interest will be charged if the deposit is completed before the end of the year after interest begins. For example, if an employee becomes subject to FERS on March 1, 1988, interest begins to accrue on March 1, 1990; however, no interest would be included in the deposit due if the deposit is completed by February 28, 1991.

(c) *Processing deposit applications and payments.* (1) The agency, Clerk of the House of Representatives, or Secretary of the Senate will have the employee or Member—

(i) Complete an application to make deposit;

(ii) Provided a copy of his or her DD Form 214 or its equivalent to verify the period(s) of service; and

(iii) Provide copies of all official military pay documents, as identified in instructions issued by OPM, which show the exact basic pay he or she received for full period of service; or, if such evidence is not available, obtain a statement of estimated earnings from the appropriate branch of the military service and submit the statement.

(2) Upon receipt of the application, the DD Form 214, and either the evidence of exact basic pay or the statement of estimated earnings, the agency, Clerk of the House of Representatives, or Secretary of the Senate will establish a deposit account showing—

(i) The total amount due, including interest, if any;

(ii) A payment schedule (unless deposit is made in a lump sum); and

(iii) The date and amount of each payment.

(3) Deposits may be made in a single lump sum or in installments. The agency, Clerk of the House of Representatives, and Secretary of the Senate are not required to accept installment payments in amounts less than $50.

(4) Payments received by the employing agency, the Clerk of the House of Representatives, or the Secretary of the Senate will be remitted to OPM for deposit to the Fund in accordance with

payroll office instructions issued by OPM.

(d) *Distinct periods of service.* A deposit is not considered to have been made for any distinct period of service unless the total amount due for the period is paid in full. A ''distinct period'' for this purpose is the total years, months, and days from the date of entry on active duty (or from January 1, 1957, if later) to the date of final discharge for enlisted military personnel, or to the date of final release from active duty for officers and reservists. A ''distinct period'' also includes consecutive periods of service where there is no break in service, but does not include any lost time.

§ 842.308 Refunds of deductions and service credit deposits made before becoming subject to FERS.

(a) An employee or Member who, while currently employed, is eligible under 5 U.S.C. 8342(a) for a refund of deductions or deposits (relating to civilian service performed before becoming subject to FERS and totaling less than 5 years, not counting service after 1983 that was covered simultaneously by both CSRS and social security) that were previously made for a period of service performed before becoming subject to FERS is eligible for a refund, upon proper application in a form prescribed by OPM. The amount of this refund is the difference between—

(1) The amount of deductions and deposits to his or her credit for such service, plus any interest computed in accordance with 5 U.S.C. 8331(8): and

(2) The amount of the deposit required for such service under § 842.305.

(b) A former employee or Member who is eligible under 5 U.S.C. 8342(a) for a refund of deductions or deposits covering civilian service of the types described in paragraph (a) of this section is eligible for a refund, upon proper application in a form prescribed by OPM. The individual may irrevocably elect a refund, with resepct to this service, of either—

(1) The amount provided under paragraph (a) of this section; or

(2) The full amount of deductions and deposits to his or her credit for such service, plus any interest computed in accordance with 5 U.S.C. 8331(8). If the full amount of deductions and deposits is elected by the former employee or Member, no future deposit for the service may be made.

(c) An employee or Member, who, before becoming subject to FERS, made a deposit for military service is eligible upon proper application in a form prescribed by OPM, while currently employed, for a refund of the amount deposited, excluding interest, to the extent that this amount exceeds the amount of the deposit required for such service under § 842.307.

(d) A former employee or Member who, before becoming subject to FERS, made a deposit for military service is eligible for a refund, upon proper application in a form prescribed by OPM. The former employee or Member may irrevocably elect to receive either—

(1) The amount provided under paragraph (c) of this section; or

(2) The full amount deposited and remaining to the individual's credit. If the full amount of the deposit is elected, no future deposit for the service may be made.

(e) If the current employing agency holds all necessary records pertaining to the amounts in question under paragraph (a) or (c) of this section, the current employing agency will pay the refund in accordance with OPM instructions. Otherwise, OPM will pay the refund.

§ 842.309 Contract service.

Contract service with the United States will only be included in the computation of, or used to establish title to, an annuity under chapter 84 of title 5, United States Code, if—

(a) The employing agency exercised an explicit statutory authority to appoint an individual into the civil service by contract; or

(b) The head of the agency which was party to the contract, based on a timely-filed application, in accordance with section 110 of Public Law 100–238, and the regulations promulgated by OPM pursuant to that statute, certifies that the agency intended that an individual be considered as having been appointed to a position in which (s)he would have been subject to subchapter III of chapter 83 of title 5, United States Code,