and a civilian account for an individual, a separate withdrawal request must be made for each account.

(b) Spousal rights. The spouse of a service member participant has the same TSP spousal rights as the spouse of a civilian participant covered under the Federal Employees’ Retirement System; those spousal rights in the context of a withdrawal (and the process by which a service member may obtain an exception to them) are explained at 5 CFR part 1650.

(c) Combat zone contributions. If a service member account contains combat zone contributions, the withdrawal will be distributed pro rata from all sources. If a participant requests the TSP to transfer all, or a portion, of a withdrawal to a traditional IRA or eligible employer plan, the share of the withdrawal attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.

(d) Separation. The definition of separation from service at §1604.2 applies when determining a service member’s eligibility for a withdrawal.

[66 FR 50713, Oct. 4, 2001, as amended at 70 FR 32209, June 1, 2005]

§1604.9 Court orders and legal processes.

A TSP account can be divided in an action for divorce, annulment, or legal separation, and is subject to legal process relating to child support, alimony, or child abuse. The TSP will make a payment from a service member’s account under such orders or processes as described at 5 CFR part 1653, with the following exceptions:

(a) Separate accounts. To qualify for enforcement against the TSP, a court order or legal process must expressly relate to the TSP. Therefore, if the TSP maintains a service member account and a civilian account for an individual, a qualifying court order or legal process must expressly state from which account payment is to be made.

(b) Combat zone contributions. If a service member account contains combat zone contributions, the payment will be made pro rata from all sources.

(c) Trustee-to-trustee transfers. The current or former spouse of a TSP participant can request the TSP to transfer a court-ordered payment to a traditional IRA or eligible employer plan. If the payee requests the TSP to transfer all or a portion of the court-ordered payment to an IRA or plan, the share of the payment attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.

(d) Transfer to a TSP account. If the TSP maintains an account for a court order payee who is the current or former spouse of the participant, the payee can request the TSP to transfer the death benefit payment to his or her TSP account; the share attributable to combat zone contributions (if any) cannot be transferred into a civilian account.

[66 FR 50713, Oct. 4, 2001, as amended at 70 FR 32209, June 1, 2005]
§ 1604.10 Loans.

A service member may be eligible for a TSP loan as described at 5 CFR part 1655, with the following exceptions:

(a) Separate accounts. If the TSP maintains a service member account and a civilian account for an individual:

(1) A separate loan application must be made for each account;

(2) A participant may have no more than two loans outstanding from each account at any time; one loan from each account may be a loan for the purchase of a primary residence;

(3) The Internal Revenue Code maximum loan amount test, which is described in 5 CFR part 1655, will be applied using the combined balances in both TSP accounts.

(b) Spousal rights. Before a loan agreement is approved for a service member account, the participant’s spouse must consent to the loan by signing the loan agreement. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(c) Combat zone contributions. The portion of a loan that is attributable to combat zone contributions (if any) will be determined when the loan is declared a taxable distribution, and that portion will not be reported as taxable income to the participant as a result of the declaration.


PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A—General

§ 1605.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

‘‘As of’’ date means the date on which a TSP contribution or other transaction entailing acquisition of investment fund shares should have taken place. Employing agencies use this date on payment records to report makeup or late contributions or late loan payments.

Attributable pay date ordinarily means the pay date of an erroneous contribution for which a negative adjustment is being made or, in the case of the uniformed services, the pay date of a contribution that is being recharacterized from tax-deferred to tax-exempt, or vice versa. However, if the erroneous contribution was a makeup or late contribution, the attributable pay date is the ‘‘as of’’ date of the erroneous makeup or late contribution.

Breakage means the loss incurred or the gain realized on makeup or late contributions.