

# Rules and Regulations

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1603

#### Vesting

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Interim rule with request for comment.

**SUMMARY:** This interim amendment implements section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA) which clarifies that certain military service will now be counted for vesting purposes under the Thrift Savings Plan (TSP).

**DATES:** This interim amendment is effective August 2, 1990. Comments must be received by June 30, 1995.

**ADDRESSES:** Comments may be sent to: James B. Petrick, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:** James B. Petrick, (202) 942-1664.

**SUPPLEMENTARY INFORMATION:** Part 1603 establishes the rules for vesting of TSP basic (1%) contributions. Under those rules, persons who separate from Federal service with less than three years of civilian service (or in some cases, two years of civilian service) forfeit their basic contributions and attributable earnings. If employees have the requisite service when they separate, the contributions and attributable earnings are not forfeited.

Section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law 103-353 (October 14, 1994), added section 8432b to title 5 of the United States Code. Section 8432b contains provisions dealing specifically with participation in the TSP by Federal employees returning from covered military service. Among those provisions is 5 U.S.C.

8432b(h)(1)(B), which requires that persons who separate from Federal service to perform military service and who thereafter exercise restoration or reemployment rights be credited with service for the period of their absence for TSP vesting purposes. Because only civilian service was previously creditable for TSP vesting purposes, it is necessary to amend the definition of service credible for vesting under part 1603 to include military service credible under USERRA. It is also necessary to change all other references to "civilian service" to refer only to "service." In addition, the new definition of "year of service" eliminates any reference to the Federal Personnel Manual, which no longer exists.

#### Regulatory Flexibility Act

I certify that this amendment will not have a significant economic impact on a substantial number of small entities. It will affect only a small number of Federal employees who separate from employment to perform military service and who are later reemployed.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

#### Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. It is necessary for these regulations to be effective as of August 2, 1990, which is the day on which employees may receive credit for military service under Public Law 103-353 and subpart H of part 1620 for vesting purposes.

#### List of Subjects in 5 CFR Part 1603

Employee benefit plans, Government employees, Retirement, Pension.

Dated: May 2, 1995.

**Roger W. Mehle,**

*Executive Director, Federal Retirement Thrift Investment Board.*

For the reasons set out in the preamble, 5 CFR part 1603 is amended as follows:

## PART 1603—VESTING

1. The authority citation for part 1603 is revised to read as follows:

**Authority:** 5 U.S.C. 8432(g), 8432b(h)(1), 8474(b)(5), and 8474(c)(1).

2. Section 1603.1 is amended by removing the definitions of "civilian service" and "year of civilian service" and adding the definitions of "service" and "year of service" to read as follows:

### § 1603.1 Definitions.

\* \* \* \* \*

*Service* for purposes of TSP vesting means: (1) Any non-military service which is creditable under either 5 U.S.C. 8411 or subchapter III of chapter 83 of title 5, U.S.C., determined without regard to any time limitations, any deposit or redeposit requirements contained in those statutory provisions after performing the service involved, or any requirement that the individual give notice in writing to the official by whom that individual is paid of that individual's desire to become subject to the retirement system established by either chapter 83 or chapter 84 of title 5, United States Code; or (2) Any military service creditable under the provisions of 5 U.S.C. 8432b(h)(1) and the regulations issued at subpart H of part 1620 of this chapter.

\* \* \* \* \*

*Year of service* means one full calendar year of service.

3. Section 1603.3 is amended in paragraph (a) by revising the phrase "three years of civilian service" to read "three years of service"; and in paragraph (b) by revising the phrase "two years of civilian service" to read "two years of service".

[FR Doc. 95-11235 Filed 5-8-95; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 354

[Docket No. 95-021-1]

#### Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

**AGENCY:** Animal and Plant Health Inspection Service, USDA.