

injury described in certain Code provisions on or after the date that is 2 years after Dec. 9, 2022, see section 3(f) of Pub. L. 117-225, set out as a note under section 8336 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT; TRANSITION RULES

Amendment by Pub. L. 110-161 effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after Dec. 26, 2007, with transition rules and rights of election, see section 535(e) of Pub. L. 110-161, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual's separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-553 effective on the first day of the first applicable pay period that begins on Dec. 21, 2000, and applicable only to an individual who is employed as a member of the Supreme Court Police after Dec. 21, 2000, see section 1(a)(2) [title III, § 308(i), (j)] of Pub. L. 106-553, set out in a Supreme Court Police Retirement note under section 8331 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-261 effective 1 year after Oct. 17, 1998, and applicable only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of this title, after Oct. 17, 1998, see section 3154(m), (n) of Pub. L. 105-261, set out as a note under section 8331 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EXCEPTION TO AUTOMATIC SEPARATION OF MEMBERS OF CAPITOL POLICE

Pub. L. 101-428, §3(b)(1)(B), Oct. 15, 1990, 104 Stat. 929, provided that: "Nothing in section 8425(b) of title 5, United States Code, as amended by subparagraph (A), shall require the automatic separation of any member of the Capitol Police before the end of the 2-year period beginning on the date of enactment of this Act [Oct. 15, 1990]."

SUBCHAPTER III—THRIFT SAVINGS PLAN

§ 8431. Certain transfers to be treated as a separation

(a) For purposes of this subchapter, separation from Government employment includes a transfer from a position that is subject to one of the retirement systems described in subsection (b) to a position that is not subject to any of them.

(b) The retirement systems described in this subsection are—

(1) the retirement system under this chapter;

(2) the retirement system under subchapter III of chapter 83; and

(3) any other retirement system under which individuals may contribute to the Thrift Savings Fund through withholdings from pay.

(Added Pub. L. 106-168, title II, §203(a)(1), Dec. 12, 1999, 113 Stat. 1820.)

Editorial Notes

PRIOR PROVISIONS

A prior section 8431, added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 541; amended Pub. L. 101-509, title V, §529 [title I, §101(b)(6)(B)], Nov. 5, 1990, 104 Stat. 1427, 1440, provided a definition of "basic pay" for this subchapter, prior to repeal by Pub. L. 104-208, div. A, title I, §101(f) [title VI, §659 [title II, §§206(a)(2), 207]], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372, 3009-378, effective Sept. 30, 1996.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 106-168, title II, §203(c), Dec. 12, 1999, 113 Stat. 1820, provided that: "The amendments made by this section [enacting this section and amending section 8351 of this title] shall apply with respect to transfers occurring before, on, or after the date of the enactment of this Act [Dec. 12, 1999], except that, for purposes of applying such amendments with respect to any transfer occurring before such date of enactment, the date of such transfer shall be considered to be the date of the enactment of this Act. The Executive Director (within the meaning of section 8401(13) of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection."

§ 8432. Contributions

(a)(1) An employee or Member may contribute to the Thrift Savings Fund in any pay period, pursuant to an election under subsection (b), an amount not to exceed the maximum percentage of such employee's or Member's basic pay for such pay period allowable under paragraph (2). Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director.

(2) The maximum percentage allowable under this paragraph shall be determined in accordance with the following table:

In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	11
2002	12
2003	13
2004	14
2005	15
2006 or thereafter	100.

(3) Notwithstanding any limitation under this subsection, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.

(b)(1)(A)(i) The Executive Director shall prescribe regulations under which employees and Members may make contributions under subsection (a), to modify the amount to be contributed under such subsection, or to terminate such contributions.

(ii) An election to make contributions under this paragraph—

(I) may be made at any time;

(II) shall take effect on the earliest date after the election that is administratively feasible; and

(III) shall remain in effect until modified or terminated.

(B) The amount to be contributed pursuant to an election under subparagraph (A) shall be the percentage of basic pay or amount designated by the employee or Member.

(2)(A) The Executive Director shall by regulation provide for an eligible individual to be automatically enrolled to make contributions under subsection (a) at the default percentage of basic pay.

(B) For purposes of this paragraph, the default percentage shall be equal to 3 percent or such other percentage, not less than 2 percent nor more than 5 percent, as the Board may prescribe.

(C) The regulations shall include provisions under which any individual who would otherwise be automatically enrolled in accordance with subparagraph (A) may—

(i) modify the percentage or amount to be contributed pursuant to automatic enrollment, effective not later than the first full pay period following receipt of the election by the appropriate processing entity; or

(ii) decline automatic enrollment altogether.

(D)(i) Except as provided in clause (ii), for purposes of this paragraph, the term “eligible individual” means any individual who, after any regulations under subparagraph (A) first take effect, is appointed, transferred, or reappointed to a position in which that individual becomes eligible to contribute to the Thrift Savings Fund.

(ii) (ii)¹ Except in the case of a full TSP member (as defined in section 8440e(a)), members of the uniformed services shall not be eligible individuals for purposes of this paragraph.

(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1), 8440c(a)(1), 8440d(a)(1), and 8440e(b)(1) shall be applied in a manner consistent with the purposes of this paragraph.

(F) Notwithstanding any other provision of this paragraph, if a full TSP member (as defined in section 8440e(a)) has declined automatic enrollment into the Thrift Savings Plan for a year, the full TSP member shall be automatically re-enrolled on January 1 of the succeeding year, with contributions under subsection (a) at the default percentage of basic pay.

(c)(1)(A) At the time prescribed by the Executive Director, but no later than 12 days after the end of the pay period that includes the first date on which an employee or Member may make contributions under subsection (a) (without regard to whether the employee or Member has elected to make such contributions during such pay period), and within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period), the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the basic pay of such employee or Member for such pay period.

(B) In the case of each employee or Member who is an employee or Member on January 1,

1987, and continues as an employee or Member without a break in service through April 1, 1987, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for that period of service.

(C) If an employee or Member—

(i) is an employee or Member on January 1, 1987;

(ii) separates from Government employment before April 1, 1987; and

(iii) before separation, completes the number of years of civilian service applicable to such employee or Member under subparagraph (A) or (B) of subsection (g)(2),

the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for service performed on or after January 1, 1987, and before the date of the separation.

(2)(A) In addition to contributions made under paragraph (1), the employing agency of an employee or Member who contributes to the Thrift Savings Fund under subsection (a) for any pay period shall make a contribution to the Thrift Savings Fund for the benefit of such employee or Member. The employing agency's contribution shall be made within such time as the Executive Director may prescribe, but no later than 12 days after the end of each such pay period.

(B) The amount contributed under subparagraph (A) by an employing agency with respect to a contribution of an employee or Member during any pay period shall be the amount equal to the sum of—

(i) such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such period; and

(ii) one-half of such portion of the amount of the employee's or Member's contribution as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.

(C) Notwithstanding subparagraph (B), the amount contributed under subparagraph (A) by an employing agency with respect to any contribution made by an employee or Member during any pay period which begins after the date on which such employee or Member makes an election under subsection (b)(4)² and before July 1, 1987, shall be the amount equal to the sum of—

(i) two times such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such pay period; and

(ii) such portion of the total amount of the employee's or Member's contributions as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.

(3)(A) There shall be contributed to the Thrift Savings Fund on behalf of each employee or Member described in subparagraph (B) the amount determined under subparagraph (C).

¹ So in original.

² See References in Text note below.

(B) An employee or Member referred to in subparagraph (A) is an employee or Member who—
 (i) is an employee or Member on January 1, 1987;

(ii) has creditable service described in section 8411(b)(2) of this title; and

(iii) has not received a refund of the amount of the retirement deductions made with respect to such service under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

(C) The amount referred to in subparagraph (A) in the case of an employee or Member is equal to the sum of—

(i) 1 percent of the total basic pay paid to such employee or Member for service described in section 8411(b)(2) of this title; and

(ii) interest on such amount computed with respect to such service in the manner provided in paragraphs (2) and (3) of section 8334(e) of this title.

(D) The Secretary of the Treasury shall credit to the Thrift Savings Fund, out of any sums in the Treasury not otherwise appropriated, the amounts determined by the Director to be necessary to carry out this paragraph.

(d) Notwithstanding any other provision of this section, no contribution may be made under this section for any year to the extent that such contribution, when added to prior contributions for such year, exceeds any limitation under section 415 of the Internal Revenue Code of 1986. However, no contribution made under subsection (c)(3) shall be subject to, or taken into account, for purposes of the preceding sentence.

(e) The sums required to be contributed to the Thrift Savings Fund by an employing agency under subsection (c) for the benefit of an employee or Member shall be paid from the appropriation or fund available to such agency for payment of salaries of the employee's or Member's office or establishment. When an employee or Member in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee or Member.

(f) Amounts contributed by an employee or Member under subsection (a) and amounts contributed with respect to such employee or Member under subsection (c) shall be deposited in the Thrift Savings Fund to the credit of that employee's or Member's account in accordance with such procedures as the Secretary of the Treasury may, in consultation with the Executive Director, prescribe in regulations.

(g)(1) Except as otherwise provided in this subsection, all contributions made under this section shall be fully nonforfeitable when made.

(2) Contributions made for the benefit of an employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the employee separates from Government employment before completing—

(A) 2 years of civilian service in the case of an employee who, at the time of separation, is serving in—

(i) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)(7) of this title);

(ii) a position listed in section 5312, 5313, 5314, 5315, or 5316 of this title or a position placed in level IV or V of the Executive Schedule under section 5317 of this title; or

(iii) a position in the Executive branch which is excepted from the competitive service by the Office by reason of the confidential and policy-determining character of the position;

(B) 3 years of civilian service in the case of an employee who is not serving in a position described in subparagraph (A) at the time of separation; or

(C) 2 years of service in the case of a member of the uniformed services.

(3) Contributions made for the benefit of a Member or Congressional employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the Member or Congressional employee separates from Government employment before completing 2 years of civilian service.

(4) Nothing in paragraph (2) or (3) shall cause the forfeiture of any contributions made for the benefit of an employee, Member, or Congressional employee under subsection (c)(1), or any earnings attributable thereto, if such employee, Member, or Congressional employee is not separated from Government employment as of date of death.

(5) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee or Member under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the annuity of the employee or Member, or that of a survivor or beneficiary, is forfeited under subchapter II of chapter 83.

(h) No transfers or contributions may be made to the Thrift Savings Fund except as provided in this chapter or section 8351 of this title.

(i)(1) This subsection applies to any employee—

(A) to whom section 8432b applies; and

(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

(i) is eligible to make an election described in subsection (b)(1); or

(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).

(j)(1) For the purpose of this subsection—

(A) the term "eligible rollover distribution" has the meaning given such term by section

402(c)(4) of the Internal Revenue Code of 1986; and

(B) the term “qualified trust” has the meaning given such term by section 402(c)(8) of the Internal Revenue Code of 1986.

(2) An employee or Member may contribute to the Thrift Savings Fund an eligible rollover that a qualified trust could accept under the Internal Revenue Code of 1986. A contribution made under this subsection shall be made in the form described in section 401(a)(31) of the Internal Revenue Code of 1986. In the case of an eligible rollover distribution, the maximum amount transferred to the Thrift Savings Fund shall not exceed the amount which would otherwise have been included in the employee’s or Member’s gross income for Federal income tax purposes.

(3) The Executive Director shall prescribe regulations to carry out this subsection.

(k)(1) Only those employees of the Central Intelligence Agency participating in the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 50 U.S.C. 403-4 note)² and making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project.

(2) Contributions under this subsection are subject to subsection (d).

(3) For purposes of subsection (c), basic pay of an employee of the Central Intelligence Agency participating in the pilot project referred to in paragraph (1) shall include bonus pay received by the employee as part of the pilot project.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 541; amended Pub. L. 99-509, title VI, §6001(a)(1), (2), Oct. 21, 1986, 100 Stat. 1929, 1930; Pub. L. 100-20, §1(b), Apr. 7, 1987, 101 Stat. 265; Pub. L. 100-238, title I, §§114, 115, 121, Jan. 8, 1988, 101 Stat. 1751, 1752; Pub. L. 103-353, §§4(c), 5(e)(3), Oct. 13, 1994, 108 Stat. 3172, 3174; Pub. L. 104-93, title III, §304(a), Jan. 6, 1996, 109 Stat. 965; Pub. L. 104-186, title II, §215(16), Aug. 20, 1996, 110 Stat. 1746; Pub. L. 104-316, title I, §103(g), Oct. 19, 1996, 110 Stat. 3829; Pub. L. 106-361, §§1(a), 2(a), (b)(1)-(3), Oct. 27, 2000, 114 Stat. 1400, 1401; Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-233; Pub. L. 107-304, §1(b)(1), Nov. 27, 2002, 116 Stat. 2363; Pub. L. 108-177, title IV, §405(b)(2), Dec. 13, 2003, 117 Stat. 2632; Pub. L. 108-469, §1(b), (c), (d)(2), Dec. 21, 2004, 118 Stat. 3891; Pub. L. 111-31, div. B, title I, §102, June 22, 2009, 123 Stat. 1853; Pub. L. 114-92, div. A, title VI, §632(b), (c), Nov. 25, 2015, 129 Stat. 847; Pub. L. 114-328, div. A, title VI, §632, Dec. 23, 2016, 130 Stat. 2162.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(3), (d), and (j), is classified generally to Title 26, Internal Revenue Code.

Subsection (b)(4), referred to in subsec. (c)(2)(C), was repealed by section 102(a) of Pub. L. 111-31. See 2009 Amendment note below.

Section 204 of the Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983 [Pub. L. 98-168], referred to in subsec. (c)(3)(B)(iii), is set out as a note under section 8331 of this title.

The Intelligence Authorization Act for Fiscal Year 2003, referred to in subsec. (k)(1), is Pub. L. 107-306, Nov. 27, 2002, 116 Stat. 2383. Section 402 of the Act was formerly set out as a note under section 403-4 of Title 50, War and National Defense, and was editorially reclassified as a note under section 3505 of Title 50.

AMENDMENTS

2016—Subsec. (g)(6). Pub. L. 114-328, §632, repealed Pub. L. 114-92, §632(c)(2). See 2015 Amendment note below.

2015—Subsec. (b)(2)(D)(ii). Pub. L. 114-92, §632(b)(1), substituted “(ii) Except in the case of a full TSP member (as defined in section 8440e(a)), members” for “Members”.

Subsec. (b)(2)(E). Pub. L. 114-92, §632(b)(2), substituted “8440e(b)(1)” for “8440e(a)(1)”.

Subsec. (b)(2)(F). Pub. L. 114-92, §632(b)(3), added subpar. (F).

Subsec. (g)(2)(C). Pub. L. 114-92, §632(c)(1), added subpar. (C).

Subsec. (g)(6). Pub. L. 114-92, §632(c)(2), which directed the amendment of subsec. (g) by adding at the end “(6) For purposes of this subsection, a member of the uniformed services shall be considered to have separated from Government employment if the member is discharged or released from service in the uniformed services.”, was repealed by Pub. L. 114-328, §632.

2009—Subsec. (b)(1)(B). Pub. L. 111-31, §102(b), which directed the amendment of par. (1) by “striking the parenthetical matter in subparagraph (B)” was executed by striking out “(or any election allowable by virtue of paragraph (4))” before “shall be the percentage”, but not striking out “(A)” after “subparagraph”, to reflect the probable intent of Congress.

Subsec. (b)(2) to (4). Pub. L. 111-31, §102(a), added par. (2) and struck out former pars. (2) to (4) which related to eligibility to make an election regarding contributions.

2004—Subsec. (b)(1)(A). Pub. L. 108-469, §1(b), designated existing provisions as cl. (i), substituted “may” for “shall be afforded a reasonable period every 6 months to elect to”, struck out second sentence which read “An election to make such contributions shall remain in effect until modified or terminated.”, and added cl. (ii).

Subsec. (b)(2)(A), (C). Pub. L. 108-469, §1(d)(2)(A), (B), substituted “until the date” for “until the second period”.

Subsec. (b)(2)(D). Pub. L. 108-469, §1(d)(2)(C), substituted “as provided” for “other than during a period afforded”.

Subsec. (b)(4)(C). Pub. L. 108-469, §1(c), designated existing provisions as cl. (i) and added cl. (ii).

2003—Subsec. (k). Pub. L. 108-177 added subsec. (k).

2002—Subsec. (a)(3). Pub. L. 107-304 added par. (3).

2000—Subsec. (a). Pub. L. 106-554 designated existing provisions as par. (1), substituted “the maximum percentage of such employee’s or Member’s basic pay for such pay period allowable under paragraph (2).” for “10 percent of such individual’s basic pay for such period.”, and added par. (2).

Pub. L. 106-361, §2(b)(1), substituted “(b)” for “(b)(1)” and “Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director” for “Contributions made under this subsection during any 6-month period for which an election period is provided under subsection (b)(1) shall be made each pay period during such 6-month period pursuant to a program of regular contributions provided in regulations prescribed by the Executive Director”.

Subsec. (b)(1)(B). Pub. L. 106-361, §2(b)(2), inserted “(or any election allowable by virtue of paragraph (4))” after “subparagraph (A)”.

Subsec. (b)(3). Pub. L. 106-361, §2(b)(3), substituted “An” for “Notwithstanding paragraph (2)(A), an”.

Subsec. (b)(4). Pub. L. 106-361, §2(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

“(A) Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director. The Executive Director shall prescribe an election period for such purpose which shall commence on April 1, 1987. An election by such an employee or Member during that election period shall be effective on the first day of the employee's or Member's first pay period which begins after the date on which the employee or Member makes that election.

“(B) Notwithstanding subsection (a), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided under subparagraph (A) is the amount equal to 15 percent of such individual's basic pay for such pay period.”

Subsec. (j). Pub. L. 106-361, §1(a), added subsec. (j).

1996—Subsec. (e). Pub. L. 104-186 substituted “Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts” for “Clerk of the House of Representatives, the Clerk may pay from the contingent fund”.

Subsec. (f). Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General of the United States”.

Subsec. (g)(5). Pub. L. 104-93 added par. (5).

1994—Subsec. (d). Pub. L. 103-353, §5(e)(3), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (i). Pub. L. 103-353, §4(c), added subsec. (i).

1988—Subsec. (c)(1)(A). Pub. L. 100-238, §121(a), substituted “At the time prescribed by the Executive Director, but no later than 12 days after the end of” for “At the end of” and “within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period)” for “at the end of each succeeding pay period”.

Subsec. (c)(2)(A). Pub. L. 100-238, §121(b), substituted “within such time as the Executive Director may prescribe, but no later than 12 days after the end of each such pay period” for “at the end of such pay period”.

Subsec. (d). Pub. L. 100-238, §114, inserted at end “However, no contribution made under subsection (c)(3) shall be subject to, or taken into account, for purposes of the preceding sentence.”

Subsec. (g)(1). Pub. L. 100-238, §115(1), substituted “Except as otherwise provided in this subsection” for “Except as provided in paragraphs (2) and (3)”.

Subsec. (g)(4). Pub. L. 100-238, §115(2), added par. (4).

1987—Subsec. (b)(4)(A). Pub. L. 100-20 substituted “Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director” for “Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, continues as an employee or Member without a break in service through April 1, 1987, and has creditable service described in section 8411(b)(2) of this title may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director”.

1986—Subsec. (b)(4). Pub. L. 99-509, §6001(a)(1), designated existing provisions as subpar. (A), inserted “continues as an employee or Member without a break in service through April 1, 1987,” substituted “April 1, 1987” for “January 1, 1987”, substituted “the date on which the employee or Member makes that election” for “the last day of that election period”, and added subpar. (B).

Subsec. (c)(1). Pub. L. 99-509, §6001(a)(2)(A), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(2)(C). Pub. L. 99-509, §6001(a)(2)(B), added subpar. (C).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title VI, §632, Dec. 23, 2016, 130 Stat. 2162, provided that, effective Dec. 23, 2016, paragraph (2) of section 632(c) of Pub. L. 114-92 (amending this section) is repealed, and the amendment proposed to be made by that paragraph shall not be made or go into effect.

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Pub. L. 114-92, div. A, title VI, §635, Nov. 25, 2015, 129 Stat. 851, provided that:

“(a) EFFECTIVE DATE.—The amendments made by this part [part I (§§631-635) of subtitle D of title VI of Pub. L. 114-92, enacting section 1415 of Title 10, Armed Forces, and section 356 of Title 37, Pay and Allowances of the Uniformed Services, and amending this section and sections 8432b, 8438, and 8440e of this title, sections 1401, 1401a, 1409, 1410, 1413a, 1414, 1463, and 12739 of Title 10, section 3045 of Title 33, Navigation and Navigable Waters, sections 211 and 354 of Title 37, section 5304 of Title 38, Veterans' Benefits, and section 212 of Title 42, The Public Health and Welfare] shall take effect on January 1, 2018.

“(b) IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretaries concerned, the Director of the Office of Personnel Management, and the Federal Retirement Thrift Investment Board shall each and jointly take appropriate actions to ensure the full and effective implementation of the amendments made by this part in order to ensure that members of the uniformed services will be able to participate in the modernized retirement plan provided by this part commencing on the date specified in subsection (a).

“(2) IMPLEMENTATION PLAN.—Not later than March 1, 2016, the Secretaries concerned shall submit to the appropriate committees of Congress a report containing a plan to ensure the full and effective commencement and operational implementation of the amendments made by this part in accordance with paragraph (1).

“(c) ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.—The report required by subsection (b) shall contain a draft of such legislation as may be necessary to make any additional technical and conforming changes to titles 10 and 37, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by this part.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services, the Committee on Energy and Commerce, the Committee on Natural Resources, the Committee on Oversight and Government Reform [now Committee on Oversight and Accountability], and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(B) the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate.

“(2) The term ‘Secretary concerned’ has the meaning given that term in section 101 of title 37, United States Code.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-304 effective as of the earliest practicable date determined by the Executive Director in regulations, see section 1(c) of Pub. L. 107-304, set out as a note under section 8351 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-361, §1(b), Oct. 27, 2000, 114 Stat. 1400, provided that: “The amendment made by this section [amending this section] shall take effect at the earliest practicable date after September 30, 2000, as determined by the Executive Director in regulations.” [Final regulations implementing the amendments became effective May 2, 2001. See 66 F.R. 22088.]

Pub. L. 106-361, §2(c)(1), Oct. 27, 2000, 114 Stat. 1401, provided that: “The amendments made by this section [amending this section and sections 8439, 8440a, and 8440d of this title] shall take effect at the earliest practicable date after September 30, 2000, as determined by the Executive Director in regulations.” [Final regulations implementing the amendments became effective May 2, 2001. See 66 F.R. 22088.]

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-93, title III, §304(b), Jan. 6, 1996, 109 Stat. 965, provided that: “The amendment made by subsection (a) [amending this section] shall apply to offenses upon which the requisite annuity forfeitures are based occurring on or after the date of the enactment of this Act [Jan. 6, 1996].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 4(c) of Pub. L. 103-353 effective Oct. 13, 1994, and applicable to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of Title 38, Veterans’ Benefits, occurs on or after Aug. 2, 1990, with special rules for applying amendment to employees restored or reemployed before effective date, see section 4(e), (f) of Pub. L. 103-353, set out as an Effective Date note under section 8432b of this title.

Amendment by section 5(e)(3) of Pub. L. 103-353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103-353, set out as an Effective Date note under section 4301 of Title 38.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title VI, §6001(f), Oct. 21, 1986, 100 Stat. 1931, provided that: “This section [amending this section and section 8472 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 8351 of this title], other than subsection (d) [set out below], and the amendments made by this section shall take effect on January 1, 1987.”

REGULATIONS

Pub. L. 99-509, title VI, §6001(d), Oct. 21, 1986, 100 Stat. 1931, provided that: “The Executive Director of the Federal Retirement Thrift Investment Board may prescribe regulations to carry out subsections (a), (b), and (c) [amending this section, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 8351 of this title] and the amendments made by this section shall take effect on January 1, 1987.”

SAVINGS PROVISIONS

Pub. L. 106-361, §2(c)(2), Oct. 27, 2000, 114 Stat. 1401, provided that: “Notwithstanding any other provision of this section [amending this section and sections 8439, 8440a, and 8440d of this title and enacting provisions set out as a note under this section], until the amendments made by this section take effect [see Effective Date of 2000 Amendment note above], title 5, United States Code, shall be applied as if this section had not been enacted.”

ELIGIBILITY OF CERTAIN INDIVIDUALS TO PARTICIPATE IN THRIFT SAVINGS PLAN

Pub. L. 100-238, title I, §125, Jan. 8, 1988, 101 Stat. 1756, as amended by Pub. L. 107-347, title II, §209(g)(3), Dec.

17, 2002, 116 Stat. 2932; Pub. L. 110-234, title VII, §7101(b)(6), May 22, 2008, 122 Stat. 1214; Pub. L. 110-246, §4(a), title VII, §7101(b)(6), June 18, 2008, 122 Stat. 1664, 1975, provided that:

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Executive Director’ means the Executive Director under section 8474 of title 5, United States Code; and

“(2) the term ‘Thrift Savings Plan’ refers to the program under subchapter III of chapter 84 of title 5, United States Code.

“(b) REGULATIONS.—

“(1) IN GENERAL.—The Executive Director shall prescribe regulations relating to participation in the Thrift Savings Plan by an individual described in subsection (c).

“(2) SPECIFIC MATTERS TO BE INCLUDED.—Under the regulations—

“(A) in computing a percentage of basic pay to determine an amount to be contributed to the Thrift Savings Fund, the rate of basic pay to be used shall be the same as that used in computing any amount which the individual involved is otherwise required, as a condition for participating in the Civil Service Retirement System or the Federal Employees’ Retirement System (as the case may be), to contribute to the Civil Service Retirement and Disability Fund; and

“(B) an employing authority which would not otherwise make contributions to the Thrift Savings Fund shall be allowed, with respect to any individual under subsection (c) who is serving under such authority, and at the sole discretion of such authority, to make any contributions on behalf of such individual which would be permitted or required under the provisions of section 8432(c) of title 5, United States Code, if such authority were the individual’s employing agency under such provisions.

“(c) APPLICABILITY.—This section applies with respect to—

“(1) any individual participating in the Civil Service Retirement System or the Federal Employees’ Retirement System as—

“(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

“(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code;

“(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103); or

“(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and

“(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

“(d) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the regulations prescribed under this section shall become effective in accordance with the provisions of such regulations.

“(2) EXCEPTION.—The regulations prescribed under this section shall, with respect to individuals under subsection (c)(1)(C), be effective as of January 1, 1987.”

CONTRIBUTIONS TO THRIFT SAVINGS FUND

Pub. L. 99-509, title VI, §6001(a)(3), Oct. 21, 1986, 100 Stat. 1930, directed that contributions made to Thrift Savings Fund under 5 U.S.C. 8432(c)(1)(B), (C) and (3) be made as soon as practicable during the 15-day period which began on Apr. 1, 1987.

INAPPLICABILITY OF LIMITATION ON NUMBER OF ELECTIONS WITHIN A SIX-MONTH PERIOD

Pub. L. 99-509, title VI, § 6001(c), Oct. 21, 1986, 100 Stat. 1931, provided that the requirement that contributions be made for a 6-month period after an election, as provided in 5 U.S.C. 8432(a), did not apply to contributions made pursuant to an election made during the period provided in former 5 U.S.C. 8432(b)(4) or section 206(b) of Pub. L. 99-335, formerly set out as a note under section 8351 of this title; that the first election period prescribed under 5 U.S.C. 8432(b)(1) commence on July 1, 1987; and that each employee or Member who made such an election could make an election under 5 U.S.C. 8432(b)(1) during the election period that began on July 1, 1987.

PLAN FOR DELAYED CONTRIBUTIONS TO THRIFT SAVINGS FUND

Pub. L. 99-335, title III, § 312, June 6, 1986, 100 Stat. 608, directed Executive Director of Federal Retirement Thrift Investment Board to transmit to Congress, not later than Jan. 1, 1988, a plan to afford Federal employees and Members of Congress who make less than maximum amount of authorized contributions to Thrift Savings Fund in any period an opportunity to contribute to such Fund, in a later period, the excess of such amount over the amount contributed during such period, with plan to include such recommendations for legislation as Executive Director considered appropriate.

§ 8432a. Payment of lost earnings

(a)(1) The Executive Director shall prescribe regulations under which an employing agency shall be required to pay to the Thrift Savings Fund amounts representing lost earnings resulting from errors (including errors of omission) made by such agency in carrying out this subchapter, subject to paragraph (2).

(2) If the error involves an employing agency's failure to deduct from basic pay contributions (in whole or in part) on behalf of an individual in accordance with section 8432(a), the regulations shall not provide for the payment of any lost earnings which would be attributable to—

(A) the contributions that the agency failed to deduct from basic pay in accordance with section 8432(a); or

(B) any related contributions under section 8432(c)(2) that the employing agency is not required (by statute or otherwise) to make up.

(b) The regulations—

(1) shall include—

(A) procedures for computing lost earnings; and

(B) procedures under which amounts paid to the Thrift Savings Fund under this section shall be credited to appropriate accounts;

(2) may provide for exceptions from the requirements of this section to the extent that correction of an error is not administratively feasible;

(3) may require an employing agency to reimburse the Thrift Savings Fund for costs incurred by the Thrift Savings Fund in implementing corrections of employing agency errors under this section; and

(4) may include such other provisions as the Executive Director determines appropriate to carry out this section.

(c) Any amounts required to be paid by an employing agency under this section shall be paid

from the appropriation or fund available to the employing agency for payment of salaries of the participant's office or establishment. If a participant in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the amount required to be paid to correct errors relating to the Thrift Savings Fund that otherwise would be paid from the appropriation or fund used to pay the participant.

(Added Pub. L. 101-335, § 2(a)(1), July 17, 1990, 104 Stat. 319; amended Pub. L. 104-186, title II, § 215(17), Aug. 20, 1996, 110 Stat. 1746.)

Editorial Notes

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-186 substituted “Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts” for “Clerk of the House of Representatives, the Clerk may pay from the contingent fund”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 101-335, § 2(b), July 17, 1990, 104 Stat. 320, provided that: “The amendments made by this section [enacting this section] shall apply with respect to lost earnings attributable to errors made before, on, or after the date of enactment of this Act [July 17, 1990].”

§ 8432b. Contributions of persons who perform military service

(a) This section applies to any employee who—

(1) separates or enters leave-without-pay status in order to perform military service; and

(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

(2) The maximum amount which an employee may contribute under this subsection is equal to—

(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

(B) any contributions under section 8432(a) or 8440e actually made by such employee over the period described in subparagraph (A).

(3) Contributions under this subsection—

(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

(C) shall be in addition to any contributions then actually being made under section 8432(a).