

106-361, §2(b)(6), Oct. 27, 2000, 114 Stat. 1401; Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-233; Pub. L. 108-469, §1(d)(4), Dec. 21, 2004, 118 Stat. 3892.)

### Editorial Notes

#### CODIFICATION

Another section 8440a was renumbered section 8440b of this title.

#### AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-469 substituted “as” for “only during a period”.

2000—Subsec. (a)(2). Pub. L. 106-361 substituted “this chapter” for “chapter 84 of this title: *Provided, however*, That a justice or judge may make the first such election within 60 days of the effective date of this section”.

Subsec. (b)(2). Pub. L. 106-554 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The amount contributed by a justice or judge shall not exceed 5 percent of basic pay.”

1996—Subsec. (b)(7). Pub. L. 104-208 substituted “less than an amount that the Executive Director prescribes by regulation” for “\$3,500 or less” and struck out “unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)” before period at end.

1994—Subsec. (b)(5). Pub. L. 103-226, §9(e)(1), substituted “Section 8433(b)” for “Section 8433(d)”.

Subsec. (b)(6). Pub. L. 103-226, §9(i)(17), substituted “section 8351(b)(5)” for “section 8351(b)(7)”.

Subsec. (b)(7), (8). Pub. L. 103-226, §9(e)(2), added par. (7) and struck out former pars. (7) and (8) which read as follows:

“(7) Notwithstanding paragraph (5), if any justice or judge who elects to make contributions to the Thrift Savings Fund under subsection (a) resigns without having met the age and service requirements set forth in section 371(c) of title 28, and such justice’s or judge’s nonforfeitable account balance is \$3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

“(8) Notwithstanding paragraph (4), if any justice or judge retires under subsection (a) or (b) of section 371 or section 372(a) of title 28, and such justice’s or judge’s nonforfeitable account balance is \$3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).”

1992—Subsec. (b)(1). Pub. L. 102-378 substituted “this subchapter and subchapter VII” for “subchapters III and VII of chapter 84 of this title”.

1990—Subsec. (b)(6). Pub. L. 101-335, §3(b)(2), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: “Sums contributed under this section and earnings attributable to such sums may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.”

Subsec. (b)(7), (8). Pub. L. 101-335, §6(b)(2), added pars. (7) and (8). Former par. (7) redesignated (6).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-361 effective at the earliest practicable date after Sept. 30, 2000, as determined by the Executive Director in regulations, see section

2(c)(1) of Pub. L. 106-361, set out as a note under section 8432 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Sept. 30, 1996, and withdrawals and elections as provided under such amendment to be made at earliest practicable date as determined by Executive Director in regulations, see section 101(f) [title VI, §659 [title II, §207]] of Pub. L. 104-208, set out as a note under section 5545a of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-226 effective Mar. 10, 1995, see section 9(j) of Pub. L. 103-226, set out as a note under section 8351 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 3(b)(2) of Pub. L. 101-335 effective as of second election period described in section 8432(b) of this title beginning after July 17, 1990, or as of such earlier date as Executive Director may by regulation prescribe, see section 3(c) of Pub. L. 101-335, set out as a note under section 8351 of this title.

Amendment by section 6(b)(2) of Pub. L. 101-335 effective as of second election period described in section 8432(b) of this title beginning after July 17, 1990, or such earlier date as Executive Director may by regulation prescribe, and applicable with respect to separations occurring before, on, or after that effective date, see section 6(c) of Pub. L. 101-335, set out as a note under section 8351 of this title.

### § 8440b. Bankruptcy judges and magistrate judges

(a)(1) A bankruptcy judge or magistrate judge who is covered by section 377 of title 28 or section 2(c) of the Retirement and Survivors’ Annuities for Bankruptcy Judges and Magistrates Act of 1988 may elect to contribute an amount of such individual’s basic pay to the Thrift Savings Fund.

(2) An election may be made under paragraph (1) as provided under section 8432(b) for individuals subject to this chapter.

(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to bankruptcy judges and magistrate judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

(2) The amount contributed by a bankruptcy judge or magistrate judge for any pay period shall not exceed the maximum percentage of such bankruptcy judge’s or magistrate judge’s basic pay for such pay period allowable under section 8440f.

(3) No contributions shall be made under section 8432(c) of this title for the benefit of a bankruptcy judge or magistrate judge making contributions under subsection (a) of this section.

(4)(A) Section 8433(b) of this title applies to a bankruptcy judge or magistrate judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an immediate annuity under section 377 of title 28 (including a disability annuity under subsection (d) of such section) or section 2(c) of the Retirement and Survivors’ Annuities for Bankruptcy Judges and Magistrates Act of 1988.

(B) Section 8433(b) of this title applies to any bankruptcy judge or magistrate judge who elects to make contributions to the Thrift Sav-

ings Fund under subsection (a) of this section and who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under section 377 of title 28 or section 2(c) of the Retirement and Survivors Annuities for Bankruptcy Judges and Magistrates Act of 1988.

(C) Section 8433(b) of this title applies to any bankruptcy judge or magistrate judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988.

(5) With respect to bankruptcy judges and magistrate judges to whom this section applies, any of the actions described under paragraph (4)(A), (B), or (C) shall be considered a separation from service for purposes of this subchapter and subchapter VII.

(6) For purposes of this section, the terms "retirement" and "retire" include removal from office under section 377(d) of title 28 on the sole ground of mental or physical disability.

(7) In the case of a bankruptcy judge or magistrate judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 377 of title 28, that annuity shall be offset by an amount equal to the amount of the distribution which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

(8) Notwithstanding paragraph (4), if any bankruptcy judge or magistrate judge retires under circumstances making such bankruptcy judge or magistrate judge eligible to make an election under subsection (b) of section 8433, and such bankruptcy judge's or magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.

(Added Pub. L. 100-659, §7(a), Nov. 15, 1988, 102 Stat. 3919, §8440a; renumbered §8440b and amended Pub. L. 101-335, §§3(b)(3), 6(b)(3), 9(a), July 17, 1990, 104 Stat. 320, 324, 326; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103-226, §9(f), Mar. 30, 1994, 108 Stat. 120; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §659 [title II, §205(b)]]], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372, 3009-377; Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-233; Pub. L. 108-469, §§1(d)(5), 3(2), Dec. 21, 2004, 118 Stat. 3892, 3893.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, referred to in subssecs. (a)(1) and (b)(4), is section 2(c) of Pub. L. 100-659, which is set out as a note under section 377 of Title 28, Judiciary and Judicial Procedure.

#### CODIFICATION

Another section 8440b was renumbered section 8440c of this title.

#### AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-469, §1(d)(5), substituted "as" for "only during a period".

Subsec. (b)(2). Pub. L. 108-469, §3(2)(A), substituted "bankruptcy judge's or magistrate judge's" for "bankruptcy judge's or magistrate's".

Subsec. (b)(4)(B). Pub. L. 108-469, §3(2)(B), substituted "bankruptcy judge or magistrate judge" for "bankruptcy judge or magistrate".

Subsec. (b)(8). Pub. L. 108-469, §3(2)(B), substituted "bankruptcy judge or magistrate judge" for "bankruptcy judge or magistrate" in two places.

2000—Subsec. (b)(2). Pub. L. 106-554 substituted "the maximum percentage of such bankruptcy judge's or magistrate's basic pay for such pay period allowable under section 8440f." for "5 percent of basic pay for such pay period."

1996—Subsec. (b)(7). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §205(b)(1)]]], inserted "of the distribution" after "equal to the amount" in first sentence.

Subsec. (b)(8). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §205(b)(2)(A)]]], substituted "less than an amount that the Executive Director prescribes by regulation" for "\$3,500 or less".

Pub. L. 104-208, §101(f) [title VI, §659 [title II, §205(b)(2)(B)]]], which directed that par. (8) be amended by striking out "unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)", was executed by striking out "unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under such subsection (b)" before period at end, to reflect the probable intent of Congress.

1994—Subsec. (b)(4)(B). Pub. L. 103-226, §9(f)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "Section 8433(c) of this title applies to any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988; except that the period described in paragraph (3) of section 8433(c) commences on or after the date on which payment of the bankruptcy judge's or magistrate's annuity under section 377 of title 28 commences."

Subsec. (b)(4)(C). Pub. L. 103-226, §9(f)(2), substituted "Section 8433(b)" for "Section 8433(d)".

Subsec. (b)(5). Pub. L. 103-226, §9(f)(3), substituted "any of the actions described under paragraph (4)(A), (B), or (C) shall be considered" for "retirement under section 377 of title 28 is".

Subsec. (b)(8). Pub. L. 103-226, §9(f)(5)(B), which directed striking out "and (c), as applicable", was executed by striking out "or (c), as applicable" before period at end to reflect the probable intent of Congress.

Pub. L. 103-226, §9(f)(5)(A), substituted "Notwithstanding paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b)" for "Notwithstanding subparagraphs (A) and (B) of paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b) or (c)".

Pub. L. 103-226, §9(f)(4), redesignated par. (9) as (8) and struck out former par. (8) which read as follows: "Notwithstanding paragraph (4)(C), if any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an immediate annuity, or

an annuity upon attaining age 65, under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, and such bankruptcy judge's or magistrate's nonforfeitable account balance is \$3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e)."

Subsec. (b)(9). Pub. L. 103-226, §9(f)(4), redesignated par. (9) as (8).

1990—Pub. L. 101-335, §9(a), renumbered section 8440a of this title as this section.

Subsec. (b)(7). Pub. L. 101-335, §3(b)(3), redesignated par. (8) as (7) and struck out former par. (7) which read as follows: "Sums contributed pursuant to this section by bankruptcy judges or magistrates, as well as all previous contributions to the Thrift Savings Fund by those bankruptcy judges and magistrates, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title."

Subsec. (b)(8), (9). Pub. L. 101-335, §6(b)(3), added pars. (8) and (9). Former par. (8) redesignated (7).

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

Words "magistrate judge", "magistrate judges", and "magistrate judge's" substituted for "magistrate", "magistrates", and "magistrate's", respectively, in section catchline and in subssecs. (a)(1) and (b)(1)-(3), (4)(A), (C), (5), (7), and (8), pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Sept. 30, 1996, and withdrawals and elections as provided under such amendment to be made at earliest practicable date as determined by Executive Director in regulations, see section 101(f) [title VI, §659 [title II, §207]] of Pub. L. 104-208, set out as a note under section 5545a of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-226 effective Mar. 10, 1995, see section 9(j) of Pub. L. 103-226, set out as a note under section 8351 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 3(b)(3) of Pub. L. 101-335 effective as of second election period described in section 8432(b) of this title beginning after July 17, 1990, or as of such earlier date as Executive Director may by regulation prescribe, see section 3(c) of Pub. L. 101-335, set out as a note under section 8351 of this title.

Amendment by section 6(b)(3) of Pub. L. 101-335 effective as of second election period described in section 8432(b) of this title beginning after July 17, 1990, or such earlier date as Executive Director may by regulation prescribe, and applicable with respect to separations occurring before, on, or after that effective date, see section 6(c) of Pub. L. 101-335, set out as a note under section 8351 of this title.

#### EFFECTIVE DATE

Section effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrate judges who retire on or after Nov. 15, 1988, with exception for judges and magistrate judges retiring on or after July 31, 1987, see section 9 of Pub. L. 100-659, as amended, set out as a note under section 377 of Title 28, Judiciary and Judicial Procedure.

### § 8440c. Court of Federal Claims judges

(a)(1) A judge of the United States Court of Federal Claims who is covered by section 178 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

(2) An election may be made under paragraph (1) as provided under section 8432(b) for individuals subject to this chapter.

(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to Court of Federal Claims judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

(2) The amount contributed by a Court of Federal Claims judge for any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period allowable under section 8440f.

(3) No contributions shall be made under section 8432(c) of this title for the benefit of a Court of Federal Claims judge making contributions under subsection (a) of this section.

(4)(A) Section 8433(b) of this title applies to a Court of Federal Claims judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an annuity under section 178 of title 28 (including a disability annuity under subsection (c) of such section).

(B) Section 8433(b) of this title applies to any Court of Federal Claims judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an annuity under section 178 of title 28.

(5) With respect to Court of Federal Claims judges to whom this section applies, any of the actions described in paragraph (4)(A) or (B) shall be considered a separation from service for purposes of this subchapter and subchapter VII.

(6) For purposes of this section, the terms "retirement" and "retire" include removal from office under section 178(c) of title 28 on the sole ground of mental or physical disability.

(7) In the case of a Court of Federal Claims judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 178 of title 28, such annuity shall be offset by an amount equal to the amount of the distribution which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

(8) Notwithstanding paragraph (4), if any Court of Federal Claims judge retires under circumstances making such judge eligible to make an election under section 8433(b), and such judge's nonforfeitable account balance is less than an amount that the Executive Director prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.

(Added Pub. L. 101-650, title III, §306(d)(1), Dec. 1, 1990, 104 Stat. 5110, §8440b; renumbered §8440c