

(6) The provisions of section 8351(b)(7)¹ of this title shall apply with respect to a judge who has elected to contribute to the Thrift Savings Fund under this section.

(Added Pub. L. 102-82, §5(a)(1), Aug. 6, 1991, 105 Stat. 376, §8440c; renumbered §8440d, Pub. L. 102-198, §7(c)(4)(A), Dec. 9, 1991, 105 Stat. 1625, as amended by Pub. L. 102-378, §5(d)(1), Oct. 2, 1992, 106 Stat. 1358; amended Pub. L. 103-226, §9(h), Mar. 30, 1994, 108 Stat. 121; Pub. L. 105-368, title V, §512(b)(1)(A), (2)(A), Nov. 11, 1998, 112 Stat. 3342; Pub. L. 106-361, §2(b)(6), Oct. 27, 2000, 114 Stat. 1401; Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A-233; Pub. L. 108-469, §1(d)(7), Dec. 21, 2004, 118 Stat. 3892.)

Editorial Notes

REFERENCES IN TEXT

Section 8351(b)(7) of this title, referred to in subsec. (b)(6), was redesignated section 8351(b)(5) of this title by Pub. L. 103-226, §9(a)(3), Mar. 30, 1994, 108 Stat. 119.

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”.

Subsec. (b)(2). Pub. L. 106-554 amended first sentence generally. Prior to amendment, first sentence read as follows: “The amount contributed by a judge may not exceed 5 percent of the amount of the judge’s basic pay.”

1998—Pub. L. 105-368, §512(b)(2)(A), substituted “Judges of the United States Court of Appeals for Veterans Claims” for “Judges of the United States Court of Veterans Appeals” in section catchline.

Subsecs. (a)(1), (b)(5). Pub. L. 105-368, §512(b)(1)(A), substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1994—Subsec. (b)(5). Pub. L. 103-226 substituted “Section 8433(b) of this title applies” for “A transfer shall be made as provided in section 8433(d) of this title”.

1992—Pub. L. 102-378 amended Pub. L. 102-198. See 1991 Amendment note below.

1991—Pub. L. 102-198, as amended by Pub. L. 102-378, renumbered section 8440c of this title as this section.

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 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of Title 38, Veterans’ Benefits.

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 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Dec. 9, 1991, see section 9(b)(2) of Pub. L. 102-378, set out as a note under section 6303 of this title.

¹ See References in Text note below.

FIRST ELECTION

Section 5(b) of Pub. L. 102-82, as amended by Pub. L. 102-198, §7(c)(4)(C), Dec. 9, 1991, 105 Stat. 1625, provided that: “A judge of the United States Court of Veterans Appeals on the date of the enactment of this Act [Aug. 6, 1991] may make an election under section 8440d(a) of title 5, United States Code, within 60 days after the date of the enactment of this Act.”

§ 8440e. Members of the uniformed services

(a) For purposes of this section—

(1) the term “basic pay” means basic pay payable under section 204 of title 37;

(2) the term “full TSP member” means a member described in subsection (e)(1);

(3) the term “member” has the meaning given the term in section 211 of title 37; and

(4) the term “Secretary concerned” has the meaning given the term in section 101 of title 37.

(b)(1) Any member eligible to participate in the Thrift Savings Plan by virtue of section 211(b) of title 37 may contribute to the Thrift Savings Fund.

(2)(A) Except as provided in subparagraph (B), an election to contribute to the Thrift Savings Fund under this section may be made as provided under section 8432(b).

(B)(i) Notwithstanding subparagraph (A), any individual who is a member as of the effective date that applies with respect to such individual under section 663 of the National Defense Authorization Act for Fiscal Year 2000 may make the first such election during the 60-day period beginning on such effective date.

(ii) An election made under this subparagraph shall take effect on the first day of the first applicable pay period beginning after the close of the 60-day period referred to in clause (i).

(c) Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII shall apply with respect to members making contributions to the Thrift Savings Fund, and such members shall, for purposes of this subchapter and subchapter VII, be considered employees within the meaning of section 8401(11).

(d)(1)(A) The amount contributed by a member described in section 211(a)(1) of title 37 for any pay period out of basic pay may not exceed the maximum percentage of such member’s basic pay for such pay period allowable under section 8440f.

(B) The amount contributed by a member described in section 211(a)(2) of title 37 for any pay period out of any compensation received under section 206 of title 37 may not exceed the maximum percentage of such member’s compensation for such pay period (received under such section 206) allowable under section 8440f.

(2) A member making contributions to the Thrift Savings Fund out of basic pay, or out of compensation under section 206 of title 37, may also contribute (by direct transfer to the Fund) any part of any special or incentive pay that such member receives under chapter 5 of title 37.

(3) Nothing in this section or section 211 of title 37 shall be considered to waive any dollar limitation under the Internal Revenue Code of 1986 which otherwise applies with respect to the Thrift Savings Fund.

(e) MODERNIZED RETIREMENT SYSTEM.—

(1) TSP CONTRIBUTIONS.—Notwithstanding any other provision of law, the Secretary concerned shall make contributions to the Thrift Savings Fund, in accordance with section 8432 (except to the extent the requirements under such section are modified by this subsection), for the benefit of a member—

(A) who first enters a uniformed service on or after January 1, 2018; or

(B) who—

(i) first entered a uniformed service before January 1, 2018;

(ii) has completed fewer than 12 years of service in the uniformed services as of December 31, 2017; and

(iii) makes the election described in section 1409(b)(4)(B) or 12729(f)(2) of title 10 to receive Thrift Savings Plan contributions under this subsection in exchange for the reduced multipliers described in section 1409(b)(4)(A) or 12739(f)(1) of title 10, as applicable, for purposes of calculating the retired pay of the member.

(2) MAXIMUM AMOUNT.—The amount contributed under this subsection by the Secretary concerned for the benefit of a full TSP member for any pay period shall not be more than 5 percent of the member's basic pay for such pay period. Any such contribution under this subsection, though in accordance with section 8432 as provided in paragraph (1), is instead of, and not in addition to, amounts contributable under section 8432 as provided in section 8432(c).

(3) TIMING AND DURATION OF CONTRIBUTIONS.—

(A) AUTOMATIC CONTRIBUTIONS.—The Secretary concerned shall make a contribution described in section 8432(c)(1) under this subsection for the benefit of a member described in paragraph (1) for any pay period during the period that—

(i) begins—

(I) on or after the day that is 60 days after the date the member first enters a uniformed service, in the case of a member described in paragraph (1)(A); or

(II) on or after the date the member makes the election described in paragraph (1)(B), in the case of a member making such an election; and

(ii) ends on the day such member completes 26 years of service as a member of the uniformed services.

(B) MATCHING CONTRIBUTIONS.—The Secretary concerned shall make a contribution described in section 8432(c)(2) under this subsection for the benefit of a member described in paragraph (1) for any pay period during the period that—

(i) begins—

(I) on or after the day that is 2 years and 1 day after the date the member first enters a uniformed service, in the case of a member described in paragraph (1)(A); or

(II) on or after the date the member makes the election described in paragraph (1)(B), in the case of a member making such an election; and

(ii) ends on the day such member completes 26 years of service as a member of the uniformed services.

(4) PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.—Section 8435 shall apply to a full TSP member in the same manner as such section is applied to an employee or Member under such section.

(Added Pub. L. 106-65, div. A, title VI, §661(a)(2)(A), Oct. 5, 1999, 113 Stat. 670; amended Pub. L. 106-398, §1 [[div. A], title VI, §661(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-167; Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A-233; Pub. L. 108-469, §1(d)(8), Dec. 21, 2004, 118 Stat. 3892; Pub. L. 114-92, div. A, title VI, §632(a), Nov. 25, 2015, 129 Stat. 845.)

Editorial Notes

REFERENCES IN TEXT

Section 663 of the National Defense Authorization Act for Fiscal Year 2000, referred to in subsec. (b)(2)(B)(i), is section 663 of Pub. L. 106-65, which is set out as an Effective Date note below.

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

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-92, §632(a)(1), added pars. (1) to (4) and struck out former pars. (1) and (2) which defined “member” and “basic pay”, respectively.

Subsec. (e). Pub. L. 114-92, §632(a)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Except as provided in section 211(d) of title 37, no contribution under section 8432(c) of this title may be made for the benefit of a member making contributions to the Thrift Savings Fund under this section.”

2004—Subsec. (b)(2)(A). Pub. L. 108-469 substituted “as provided under section 8432(b)” for “only during a period provided under section 8432(b), subject to the same conditions as prescribed under paragraph (2) (A)–(D) thereof”.

2000—Subsec. (b)(2)(B)(i). Pub. L. 106-398 substituted “as of the effective date that applies with respect to such individual under section 663 of the National Defense Authorization Act for Fiscal Year 2000” for “as of the effective date described in paragraph (1) of section 663(a) of the National Defense Authorization Act for Fiscal Year 2000 (or, if applicable, paragraph (2) thereof)”.

Subsec. (d)(1)(A). Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(6)(A)], substituted “the maximum percentage of such member's basic pay for such pay period allowable under section 8440f.” for “5 percent of such member's basic pay for such pay period.”

Subsec. (d)(1)(B). Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(6)(B)], substituted “the maximum percentage of such member's compensation for such pay period (received under such section 206) allowable under section 8440f.” for “5 percent of such compensation, payable to such member for such pay period.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114-92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as a note under section 8432 of this title.

EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, §663, Oct. 5, 1999, 113 Stat. 673, as amended by Pub. L. 106-398, §1 [[div. A],

title VI, §661(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–167, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle [subtitle F (§§ 661–663) of title VI of div. A of Pub. L. 106–65, enacting this section and section 211 of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 8351, 8432b, 8433, 8439, and 8473 of this title and section 211 of Title 37] shall take effect 180 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

“(b) POSTPONEMENT AUTHORITY.—(1) The Secretary of Defense may postpone by up to 180 days after the date that would otherwise apply under subsection (a)—

“(A) the date as of which the amendments made by this subtitle shall take effect; or

“(B) the date as of which section 211(a)(2) of title 37, United States Code (as added by this subtitle) shall take effect.

“(2) Postponement authority under this subsection may be exercised only to the extent that the failure to do so would prevent the Federal Retirement Thrift Investment Board from being able to provide timely and accurate services to investors or would place an excessive burden on the administrative capacity of the Board to accommodate participants in the Thrift Savings Plan, as determined by the Secretary of Defense after consultation with the Executive Director (appointed by the Board).

“(3) Paragraph (1) includes the authority to postpone the effective date of the amendments made by this subtitle (apart from section 211(a)(2) of title 37, United States Code), and the effective date of such section 211(a)(2), by different lengths of time.

“(4) The Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Government Reform [now Committee on Oversight and Accountability] of the House of Representatives, and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate of any determination made under this subsection.”

REGULATIONS

Pub. L. 106–65, div. A, title VI, §661(b), Oct. 5, 1999, 113 Stat. 672, as amended by Pub. L. 106–398, §1 [div. A], title VI, §661(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–167, provided that: “Not later than the 180th day after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Executive Director (appointed by the Federal Retirement Thrift Investment Board) shall issue regulations to implement the amendments made by this subtitle [subtitle F (§§ 661–663) of title VI of div. A of Pub. L. 106–65, enacting this section and section 211 of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 8351, 8432b, 8433, 8439, and 8473 of this title and section 211 of Title 37].”

§ 8440f. Maximum percentage allowable for certain participants

(a) The maximum percentage allowable under this section 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	6
2002	7
2003	8
2004	9
2005	10
2006 or thereafter	100.

(b) Notwithstanding any limitation under this section, 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.

(Added Pub. L. 106–554, §1(a)(4) [div. B, title I, §138(a)(7)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A–234; amended Pub. L. 107–304, §1(b)(2), Nov. 27, 2002, 116 Stat. 2363.)

Editorial Notes

REFERENCES IN TEXT

Section 414(v) of the Internal Revenue Code of 1986, referred to in subsec. (b), is classified to section 414(v) of Title 26, Internal Revenue Code.

AMENDMENTS

2002—Pub. L. 107–304 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

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.

SUBCHAPTER IV—SURVIVOR ANNUITIES

§ 8441. Definitions

For the purpose of this subchapter—

(1) the term “widow” means the surviving wife of an employee, Member, or annuitant, or of a former employee or Member, who—

(A) was married to him for at least 9 months immediately before his death; or

(B) is the mother of issue by that marriage;

(2) the term “widower” means the surviving husband of an employee, Member, or annuitant, or of a former employee or Member, who—

(A) was married to her for at least 9 months immediately before her death; or

(B) is the father of issue by that marriage;

(3) the term “dependent”, in the case of any child, means that the employee, Member, or annuitant involved was, at the time of death of the employee, Member, or annuitant either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe; and

(4) the term “child” means—

(A) an unmarried dependent child under 18 years of age, including (i) an adopted child, (ii) a stepchild but only if the stepchild lived with the employee, Member, or annuitant in a regular parent-child relationship, (iii) a recognized natural child, and (iv) a child who lived with and for whom a petition of adoption was filed by an employee, Member, or annuitant and who is adopted by the widow or widower of the employee, Member, or annuitant after the death of such employee, Member, or annuitant;

(B) such unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or