

## PART F—PERIOD OF SERVICE FOR ANNUITIES

## Statutory Notes and Related Subsidiaries

## § 2081. Computation of length of service

## (a) In general

## (1) Crediting service as participant

For the purposes of this subchapter, the period of service of a participant shall be computed from the date on which the participant becomes a participant under this subchapter.

## (2) Exclusion of certain periods

In computing the period of service of a participant, all periods of separation from the Agency and so much of any leave of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under chapter 81 of title 5 and leaves of absence granted participants while performing active and honorable service in the Armed Forces.

## (3) Crediting certain periods of separation

A participant or former participant who returns to Government duty after a period of separation shall have included in the participant or former participant's period of service that part of the period of separation in which the participant or former participant was receiving benefits under chapter 81 of title 5.

## (b) Extra credit for periods served at unhealthful posts overseas

## (1) Classification of certain posts as unhealthful

The Director may from time to time establish a list of places outside the United States that, by reason of climatic or other extreme conditions, are to be classed as unhealthful posts. Such list shall be established in consultation with the Secretary of State.

## (2) Extra credit

Each year of duty at a post on the list established under paragraph (1), inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this subchapter for the purpose of retirement. In computing such service, any fractional month shall be treated as a full month.

## (3) Coordination with benefits under title 5

Extra credit for service at an unhealthful post may not be credited to a participant who is paid a differential under section 5925 or 5928 of title 5 for the same service.

(Pub. L. 88-643, title II, §251, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3228.)

## Editorial Notes

## PRIOR PROVISIONS

A prior section 251 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1050; Pub. L. 94-522, title II, §210, Oct. 17, 1976, 90 Stat. 2471; Pub. L. 99-169, title VII, §702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622, related to computation of length of service and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

## EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

## § 2082. Prior service credit

## (a) In general

A participant may, subject to the provisions of this section, include in the participant's period of service—

(1) civilian service in the Government before becoming a participant that would be creditable toward retirement under subchapter III of chapter 83 of title 5 (as determined under section 8332(b) of such title); and

(2) honorable active service in the Armed Forces before the date of the separation upon which eligibility for an annuity is based, or honorable active service in the Regular or Reserve Corps<sup>1</sup> of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.

## (b) Limitations

## (1) In general

Except as provided in paragraphs (2) and (3), the total service of any participant shall exclude—

(A) any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made,

(B) any period of service for which a refund of contributions has been made, or

(C) any period of service for which contributions were not transferred pursuant to subsection (c)(1);

unless the participant makes a deposit to the fund in an amount equal to the percentages of basic pay received for such service as specified in the table contained in section 8334(c) of title 5, together with interest computed in accordance with section 8334(e) of such title. The deposit may be made in one or more installments (including by allotment from pay), as determined by the Director.

## (2) Effect of retirement deductions not made

If a participant has not paid a deposit for civilian service performed before October 1, 1982, for which retirement deductions were not made, such participant's annuity shall be reduced by 10 percent of the deposit described in paragraph (1) remaining unpaid, unless the participant elects to eliminate the service involved for the purpose of the annuity computation.

## (3) Effect of refund of retirement contributions

A participant who received a refund of retirement contributions under this or any other retirement system for Government employees covering service for which the participant may be allowed credit under this subchapter may deposit the amount received, with interest computed under paragraph (1). Credit may not be allowed for the service covered by the re-

<sup>1</sup> See Change of Name note below.

fund until the deposit is made, except that a participant who—

(A) separated from Government service before March 31, 1991, and received a refund of the participant's retirement contributions covering a period of service ending before March 31, 1991;

(B) is entitled to an annuity under this subchapter (other than a disability annuity) which commences after December 1, 1992; and

(C) does not make the deposit required to receive credit for the service covered by the refund;

shall be entitled to an annuity actuarially reduced in accordance with section 8334(d)(2)(B) of title 5.

**(4) Entitlement under another system**

Credit toward retirement under the system shall not be allowed for any period of civilian service on the basis of which the participant is receiving (or will in the future be entitled to receive) an annuity under another retirement system for Government employees, unless the right to such annuity is waived and a deposit is made under paragraph (1) covering that period of service, or a transfer is made pursuant to subsection (c).

**(c) Transfer from other Government retirement systems**

**(1) In general**

If an employee who is under another retirement system for Government employees becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5) under such retirement system on behalf of the employee as well as such employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the employee's credit in the fund effective as of the date such employee becomes a participant in the system.

**(2) Consent of employee**

Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered before becoming a participant in the system.

**(3) Additional contributions; refunds**

A participant whose contributions are transferred pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 8334(c) of title 5 for contributions to the fund.

**(d) Transfer to other Government retirement systems**

**(1) In general**

If a participant in the system becomes an employee under another Government retire-

ment system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5) to the fund on the participant's behalf as well as the participant's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the participant's credit in the fund of such other retirement system effective as of the date on which the participant becomes eligible to participate in such other retirement system.

**(2) Consent of employee**

Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered before the participant's becoming eligible for participation in that other system.

**(e) Prior military service credit**

**(1) Application to obtain credit**

If a deposit required to obtain credit for prior military service described in subsection (a)(2) was not made to another Government retirement fund and transferred under subsection (c)(1), the participant may obtain credit for such military service, subject to the provisions of this subsection and subsections (f) through (h), by applying for it to the Director before retirement or separation from the Agency.

**(2) Employment starting before, on, or after October 1, 1982**

Except as provided in paragraph (3)—

(A) the service of a participant who first became a Federal employee before October 1, 1982, shall include credit for each period of military service performed before the date of separation on which entitlement to an annuity under this subchapter is based, subject to subsection (f); and

(B) the service of a participant who first becomes a Federal employee on or after October 1, 1982, shall include credit for—

(i) each period of military service performed before January 1, 1957, and

(ii) each period of military service performed after December 31, 1956, and before the separation on which entitlement to an annuity under this subchapter is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in subsection (h).

**(3) Effect of receipt of military retired pay**

In the case of a participant who is entitled to retired pay based on a period of military service, the participant's service may not include credit for such period of military service unless the retired pay is paid—

(A) on account of a service-connected disability—

(i) incurred in combat with an enemy of the United States; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in section 1101 of title 38); or

(B) under chapter 67<sup>2</sup> of title 10.

**(4) Survivor annuity**

Notwithstanding paragraph (3), the survivor annuity of a survivor of a participant—

(A) who was awarded retired pay based on any period of military service, and

(B) whose death occurs before separation from the Agency,

shall be computed in accordance with section 8332(c)(3) of title 5.

**(f) Effect of entitlement to social security benefits**

**(1) In general**

Notwithstanding any other provision of this section (except paragraph (3) of this subsection) or section 2083 of this title, any military service (other than military service covered by military leave with pay from a civilian position) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to such participant or to the participant's spouse, former spouse, previous spouse, or child is based, if such participant, spouse, former spouse, previous spouse, or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors' insurance benefits under section 402 of title 42, based on such participant's wages and self-employment income. If the military service is not excluded under the preceding sentence, but upon attaining age 62, the participant or spouse, former spouse, or previous spouse becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service on which the annuity is based shall be redetermined, effective as of the first day of the month in which the participant or spouse, former spouse, or previous spouse attains age 62, so as to exclude such service.

**(2) Limitation**

The provisions of paragraph (1) relating to credit for military service do not apply to—

(A) any period of military service of a participant with respect to which the participant has made a deposit with interest, if any, under subsection (h); or

(B) the military service of any participant described in subsection (e)(2)(B).

**(3) Effect of entitlement before September 8, 1982**

(A) The annuity recomputation required by paragraph (1) shall not apply to any participant who was entitled to an annuity under this subchapter on or before September 8, 1982, or who is entitled to a deferred annuity based on separation from the Agency occurring on or before such date. Instead of an annuity recomputation, the annuity of such participant shall be reduced at age 62 by an amount equal to a fraction of the participant's old-age or survivors' insurance benefits under section 402 of title 42. The reduction shall be determined

by multiplying the participant's monthly Social Security benefit by a fraction, the numerator of which is the participant's total military wages and deemed additional wages (within the meaning of section 429 of title 42) that were subject to Social Security deductions and the denominator of which is the total of all the participant's wages, including military wages, and all self-employment income that were subject to Social Security deductions before the calendar year in which the determination month occurs.

(B) The reduction determined in accordance with subparagraph (A) shall not be greater than the reduction that would be required under paragraph (1) if such paragraph applied to the participant. The new formula shall be applicable to any annuity payment payable after October 1, 1982, including annuity payments to participants who had previously reached age 62 and whose annuities had already been recomputed.

(C) For purposes of this paragraph, the term "determination month" means—

(i) the first month for which the participant is entitled to old-age or survivors' insurance benefits (or would be entitled to such benefits upon application therefor); or

(ii) October 1982, in the case of any participant entitled to such benefits for that month.

**(g) Deposits paid by survivors**

For the purpose of survivor annuities, deposits authorized by subsections (b) and (h) may also be made by the survivor of a participant.

**(h) Deposits for periods of military service**

(1)(A) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this subchapter is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37 to the participant for each period of military service after December 1956; except, the amount to be paid for military service performed beginning on January 1, 1999, through December 31, 2000, shall be as follows:

|                            |  |
|----------------------------|--|
| 7.25 percent of basic pay. | January 1, 1999, to December 31, 1999. |
| 7.4 percent of basic pay.  | January 1, 2000, to December 31, 2000. |

(B) The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).

(2) Any deposit made under paragraph (1) more than two years after the later of—

(A) October 1, 1983, or

(B) the date on which the participant making the deposit first becomes an employee of the Federal Government,

shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest

<sup>2</sup> See References in Text note below.

in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e) of title 5.

(3) Any payment received by the Director under this subsection shall be deposited in the Treasury of the United States to the credit of the fund.

(4) The provisions of section 2031(l) of this title shall apply with respect to such information as the Director determines to be necessary for the administration of this subsection in the same manner that such section applies concerning information described in that section.

(Pub. L. 88-643, title II, §252, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3229; amended Pub. L. 105-33, title VII, §7001(c)(3), Aug. 5, 1997, 111 Stat. 659; Pub. L. 106-346, §101(a) [title V, §505(c)(2)], Oct. 23, 2000, 114 Stat. 1356, 1356A-53; Pub. L. 116-92, div. E, title LXII, §6202(a)(2)(A)(ii), (c), Dec. 20, 2019, 133 Stat. 2185, 2186.)

### Editorial Notes

#### REFERENCES IN TEXT

Chapter 67 of title 10, referred to in subsec. (e)(3)(B), was transferred to part II of subtitle E of Title 10, Armed Forces, renumbered as chapter 1223, and amended generally by Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998. A new chapter 67 (§1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103-337.

#### PRIOR PROVISIONS

A prior section 252 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1050; Pub. L. 91-626, §§5, 6, Dec. 31, 1970, 84 Stat. 1872; Pub. L. 94-522, title II, §211, Oct. 17, 1976, 90 Stat. 2471; Ex. Ord. No. 12443, §§9-11, 15, Sept. 27, 1983, 48 F.R. 44753, 44755; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to prior service credit and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

#### AMENDMENTS

2019—Subsec. (b)(3)(A). Pub. L. 116-92, §6202(c), substituted “March 31, 1991” for “October 1, 1990” in two places.

Subsec. (h)(4). Pub. L. 116-92, §6202(a)(2)(A)(ii), substituted “2031(l)” for “2031(k)”.

2000—Subsec. (h)(1)(A). Pub. L. 106-346, in introductory provisions, substituted “December 31, 2000” for “December 31, 2002” and in table struck out item at end relating to payment of 7.5 percent of basic pay for service period January 1, 2001, to December 31, 2002.

1997—Subsec. (h)(1). Pub. L. 105-33 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Each participant who has performed military service before the date of separation on which entitlement to an annuity under this subchapter is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37 to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).”

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

Reference to Reserve Corps of the Public Health Service deemed to be a reference to the Ready Reserve

Corps, see section 204(c)(3) of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-92 effective as if enacted on Oct. 28, 2009, and applicable to computations or participants, respectively, as of such date, see section 6202(e) of Pub. L. 116-92, set out as a note under section 2031 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, §505(i)] of Pub. L. 106-346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105-33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

### § 2083. Credit for service while on military leave

#### (a) General rule

A participant who, during the period of any war or of any national emergency as proclaimed by the President or declared by the Congress, leaves the participant's position in the Agency to enter military service shall not be considered, for purposes of this subchapter, as separated from the participant's position in the Agency by reason of such military service, unless the participant applies for and receives a refund of contributions under this subchapter. Such a participant may not be considered as retaining such position in the Agency after December 31, 1956, or upon the expiration of five years of such military service, whichever is later.

#### (b) Waiver of contributions

Except to the extent provided under section 2082(e) or 2082(h) of this title, contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active service in the Armed Forces.

(Pub. L. 88-643, title II, §253, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3234.)

### Editorial Notes

#### PRIOR PROVISIONS

A prior section 253 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1052; Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622, related to credit for service while on military leave and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.