

(d) If a FERS employee dies (or died) after January 7, 1988, without meeting the applicable service requirements set forth in §1603.3, the agency automatic (1%) contributions and attributable earnings in his or her individual account are deemed vested and shall not be forfeited. If a FERS employee died on or before January 7, 1988, without meeting those service requirements, his or her agency automatic (1%) contributions and attributable earnings are forfeited to the Thrift Savings Plan.

[52 FR 29835, Aug. 12, 1987, as amended at 62 FR 33969, June 23, 1997]

### § 1603.3 Service requirements.

(a) Except as provided under paragraph (b) of this section, FERS employees will be vested in their agency automatic (1%) contributions and attributable earnings upon separating from Government only if, as of their separation date, they have completed three years of service.

(b) FERS employees will be vested in their agency automatic (1%) contributions and attributable earnings upon separating from Government service if, as of their separation date, they have completed two years of service and they are serving in one of the following positions:

(1) A position in the Senior Executive Service as a non-career appointee (as defined in 5 U.S.C. 3132(a)(7));

(2) Positions listed in 5 U.S.C. 5312, 5313, 5314, 5315 or 5316;

(3) A position placed in level IV or level V of the Executive Schedule, pursuant to 5 U.S.C. 5317;

(4) A position in the Executive Branch which is excepted from the competitive service by the Office of Personnel Management because of the confidential and policy-determining character of the position; or

(5) A Member of Congress or a Congressional employee.

[52 FR 29835, Aug. 12, 1987, as amended at 60 FR 24535, May 9, 1995; 62 FR 33969, June 23, 1997]

## PART 1604—UNIFORMED SERVICES ACCOUNTS

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AUTHORITY: 5 U.S.C. 8474(b)(5) and (c)(1); sec. 661(b), Pub. L. 106-65, 113 Stat. 512, 672 (5 U.S.C. 8440e).

SOURCE: 66 FR 50713, Oct. 4, 2001, unless otherwise noted.

### § 1604.1 Applicability.

This part describes the special features of TSP participation applicable to members of the uniformed services. Uniformed services members are also covered by the other regulations of 5 CFR chapter VI to the extent they do not conflict with the regulations of this part.

### § 1604.2 Definitions.

As used in this part:

*Basic pay* means basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. 206.

*Bonus contributions* means contributions made by participants from a bonus as defined in 37 U.S.C. chapter 5.

*Civilian account* means the TSP account to which contributions have been made by or on behalf of a civilian employee.

*Civilian employee* means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plans.

*Combat zone compensation* means compensation received for active service during a month in which a member of the uniformed services serves in a combat zone.

*Combat zone contributions* means employee contributions that are made

from compensation subject to the Federal income tax exclusion at 26 U.S.C. 112 for combat zone compensation.

*Eligible retirement plan* means a plan defined at 26 U.S.C. 402(c)(8). Generally, an eligible retirement plan is an individual retirement account (IRA) or an individual retirement annuity (other than an endowment contract); a qualified pension, profit sharing, or stock bonus plan; an annuity plan described in 26 U.S.C. 403(a); an annuity contract described in 26 U.S.C. 403(b); or an eligible deferred compensation plan described in 26 U.S.C. 457(b). The IRA or other eligible retirement plan to which a payment from the TSP can be transferred must be a trust established inside the United States (i.e., the 50 states and the District of Columbia).

*Employee contributions* means contributions made by participants from basic pay, incentive pay, and special pay (including bonuses).

*Employing agency* means the organization that employs an individual who is eligible to contribute to the TSP and that has authority to make compensation decisions for that employee.

*Federal civilian retirement system* means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

*Periodic contributions* means employee contributions made from recurring incentive pay and special pay (including bonuses) as defined in 37 U.S.C. chapter 5.

*Ready Reserve* means those members of the uniformed services described at 10 U.S.C. 10142.

*Regular contributions* means employee contributions made from basic pay.

*Separation from service* means discharge of a member from active duty or the Ready Reserve or transfer of a member to inactive status or to a retired list pursuant to any provision of title 10, U.S.C. The discharge or transfer may not be followed, before the end of the 31-day period beginning on the day following the effective date of the discharge, by resumption of active duty, an appointment to a civilian position covered by the Federal Employees' Retirement System, the Civil

Service Retirement System, or an equivalent retirement system, or continued service in or affiliation with the Ready Reserve. Reserve component members serving on full-time active duty who terminate their active duty status and subsequently participate in the drilling reserve are said to continue in the Ready Reserve. Active component members who are released from active duty and subsequently participate in the drilling reserve are said to affiliate with the Ready Reserve.

*Service member* means a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

*Service member account* means the account to which contributions have been made by or on behalf of a member of the uniformed services.

*Special and incentive pay* means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

*TSP record keeper* means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

*Uniformed services* means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

### § 1604.3 Contribution elections.

A service member may make contribution elections as described in 5 CFR part 1600, with the following exceptions:

(a) *Initial uniformed services open season.* A service member may make a contribution election during an initial uniformed services TSP open season beginning October 9, 2001, and ending January 31, 2002. Contributions based on an election made on or before December 31, 2001, will be deducted from pay the first full pay period of January 2002; elections made in January 2002 will be effective during the first full pay period after the election is received.

(b) *New service members.* An individual who is appointed as a service member may make a TSP contribution election