

Federal Retirement Thrift Investment Board

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made up in accordance with the rules specified in §1605.20(c).

(2) *Missed employer contributions.* Missed agency automatic (1%) contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E.

(i) If an employee makes up missed employee contributions, attributable agency matching contributions must be made accordingly.

(ii) The employing agency must submit lost earnings records for missed employer contributions pursuant to 5 CFR part 1606. Lost earnings may be calculated using the rates of return based on the contribution allocation(s) on file for the participant during the period of military service or using the rates of return for the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to §1605.11(c).

(b) [Reserved]

PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS

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AUTHORITY: 5 U.S.C. 8432a, 8474(b)(3), and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106-265, 114 Stat. 770.

SOURCE: 56 FR 606, Jan. 7, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 1606.1 Purpose.

The purpose of this part 1606 is to implement section 2 of the Thrift Savings Plan Technical Amendments Act of 1990 (TSPTAA), Public Law 101-335, enacted July 17, 1990. The TSPTAA amended chapter 84 of title 5, United States Code by inserting section 8432a, authorizing the Executive Director to prescribe regulations pursuant to which employing agencies shall be required to pay to the Thrift Savings Fund amounts representing lost earnings caused by employing agency errors relating to the Thrift Savings Plan (TSP) described in subchapter III of chapter 84.

§ 1606.2 Definitions.

As used in this part:

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

“As of” date means the date on which TSP contributions or other transactions should have been made.

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440e.

Employer contributions means agency automatic (1%) contributions under 5

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U.S.C. 8432(c)(1) or 8432(c)(3) and agency matching contributions under 5 U.S.C. 8432(c)(2).

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

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act, Public Law 106–265, 114 Stat. 770.

Late contributions means employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP because the payment record on which they were submitted contained errors; and attributable agency matching contributions and agency automatic (1%) contributions that were not timely reported.

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove money from a participant's TSP account previously submitted in error.

Pay date means the date established by an employing agency for payment of its employees.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

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.

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§ 1606.3 General rule.

Except as otherwise provided, employing agencies shall pay to the Thrift Savings Fund any amount, computed by the TSP recordkeeper in a manner consistent with this part 1606, that is required to restore to the TSP account of the participant or participants involved earnings lost as a result of an employing agency error. Where lost earnings are required, the employing agency must, in accordance with this part 1606 and any instructions provided by the Board or the TSP recordkeeper, submit to the TSP recordkeeper all information and certification that is required to enable the TSP recordkeeper to compute the amount of lost earnings payable by the employing agency, and to charge that amount to the appropriate employing agency.

§ 1606.4 Applicability.

(a) *In general.* Except as otherwise provided, the provisions of this part 1606 apply in any case where, due to employing agency error, the Thrift Savings Fund has not invested or had the use of money that would have been invested in the Thrift Savings Fund had the employing agency error not occurred, or where the money would have been invested in a different investment fund had the error not occurred.