

Federal Retirement Thrift Investment Board

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governmental agency determination must contain a finding or a recitation of such exceptional circumstances regarding the spouse as would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed and include circumstances such as when a court order:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her Thrift Savings Plan account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A withdrawal election by a separated participant or an in-service withdrawal request by a participant in the Federal service received within one year of an approved exception will be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

(c) The requirements for establishing an exception for a withdrawal by a separated participant or an in-service withdrawal by a participant in the Federal service and the 90-day period of validity of an approved exception also apply to exceptions for loans under 5 CFR 1655.18.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

PART 1651—DEATH BENEFITS

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AUTHORITY: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

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§ 1651.1 Definitions.

Terms used in this part shall have the following meanings:

Beneficiary means the person or legal entity who is entitled to receive a death benefit from a deceased participant's TSP account;

Board means the Federal Retirement Thrift Investment Board;

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

Death benefit means all or a share of the deceased participant's TSP account at the time of payment;

Domicile means the participant's place of residence for purposes of state income tax liability;

Eligible retirement plan means an individual retirement account described in I.R.C. section 408(a) (26 U.S.C. 408(a)); an individual retirement annuity described in I.R.C. section 408(b) (26 U.S.C. 408(b)) (other than an endowment contract); a qualified trust; an annuity plan described in I.R.C. section 403(a) (26 U.S.C. 403(a)); an annuity contract described in I.R.C. section 403(b) (26 U.S.C. 403(b)); and an eligible deferred compensation plan described in I.R.C. section 457(b) (26 U.S.C. 457(b)) which is maintained by an eligible employer described in I.R.C. section 457(e)(1)(A) (26 U.S.C. 457(e)(1)(A)).

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

Investment fund means the C Fund, the F Fund, the G Fund, or any other TSP investment fund created subsequent to December 27, 1986;

Order of precedence means the order in which a death benefit will be paid, as specified in 5 U.S.C. 8424(d);

Participant means any person with an account in the Thrift Savings Fund;

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Thrift Savings Fund means the Fund described in 5 U.S.C. 8437;

Thrift Savings Plan or *TSP* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986, codified in pertinent part at 5 U.S.C. 8431 *et seq.*;

TSP record keeper means the entity that is engaged by the Board to perform record keeping service for the Thrift Savings Plan. As of June 13, 1997, the TSP record keeper is the National Finance Center, United States Department of Agriculture, whose mailing address is National Finance Center, TSP Service Office, P.O. Box 61135, New Orleans, Louisiana 70161-1135;

Withdrawal election means a request for the payment of a participant's vested account balance filed under 5 CFR 1650, subpart B.

[62 FR 32429, June 13, 1997, as amended at 64 FR 31062, June 9, 1999; 67 FR 49527, July 30, 2002]

§ 1651.2 Entitlement to benefits.

(a) *Death benefit payments made before the participant has completed a withdrawal election.* If a participant dies before completing a withdrawal election, the account will be paid to the individual or individuals surviving the participant in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant on a properly completed and filed Form TSP-3, Designation of Beneficiary, in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

(3) If none of the above in paragraphs (a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If none of the above in paragraphs (a)(1) through (a)(3) of this section, to the parents of the participant or the surviving one of them in accordance with § 1651.7;

(5) If none of the above in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or admin-

istrator of the estate of the participant in accordance with § 1651.8;

(6) If none of the above in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who are entitled under the laws of the state of the participant's domicile at the date of the participant's death in accordance with § 1651.9.

(b) *Death benefit payments made after the participant has completed a withdrawal election.* (1) The death benefit will be paid in accordance with the order of precedence as set forth in paragraph (a) of this section if the Board learns that the participant has died after having completed an election to withdraw his or her TSP account balance in the form of a single payment or monthly payments (whether or not the participant has requested that all or part of such payments be transferred to an eligible retirement plan), but the account balance has not yet been paid out in accordance with such election.

(2) The death benefit will be paid as a single payment to the joint life annuitant if the Board learns that the participant has died after having completed an election to withdraw his or her TSP account balance in the form of a joint life annuity, but the annuity has not yet been purchased.

(3) The death benefit will be paid pro rata as a single payment to the beneficiary(ies) designated on Form TSP-11-B, Beneficiary Designation for a TSP Annuity, if both the participant and the joint annuitant die after the participant has completed an election to withdraw his or her TSP account balance in the form of a joint life annuity that includes a cash refund, but before the annuity has been purchased.

(4) The death benefit will be paid in accordance with the order of precedence as set forth in paragraph (a) of this section, if the Board learns that—

(i) Both the participant and the joint annuitant have died after the participant has completed an election to withdraw his or her TSP account balance in the form of a joint life annuity that does not include a cash refund, but the annuity has not yet been purchased; or

(ii) Both the beneficiary(ies) named under a cash refund election and the