

§ 1650.42

completed age-based withdrawal request, Form TSP-75 or TSP-U-75, or use the TSP Web site to initiate a request. A participant's ability to complete an age-based withdrawal on the Web will depend on his or her retirement system coverage, marital status, and whether or not part or all of the withdrawal will be transferred to an eligible employer plan or traditional IRA.

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship in-service withdrawal, a participant must submit to the TSP Service Office a properly completed financial hardship withdrawal form, Form TSP-76 or Form TSP-U-76, or use the TSP Web site to initiate a request. A participant's ability to complete a financial hardship withdrawal on the Web will depend on his or her retirement system coverage and marital status.

(b) There is no limit on the number of financial hardship withdrawals a participant can make; however, the TSP will not accept a financial hardship withdrawal request for a period of six months after a financial hardship disbursement is made.

§ 1650.43 Taxes related to in-service withdrawals.

(a) When an in-service withdrawal is paid directly from the TSP to a participant, the money is taxable income in the year in which the payment is made (except contributions from pay subject to the combat zone tax exclusion). However, a participant does not pay taxes on an age-based withdrawal that the TSP transfers directly or the participant rolls over to a traditional IRA or an eligible employer plan until the money is withdrawn.

(b) An age-based in-service withdrawal from the TSP is an eligible rollover distribution, and a participant may request the TSP to transfer all or a portion of an age-based in-service withdrawal to a traditional IRA or an eligible employer plan, consistent with § 1650.25. If the withdrawal is not transferred, it is subject to mandatory 20 percent withholding. The participant may increase the amount of withholding by submitting IRS Form W-4P, Withholding Certificate for Pension or

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Annuity Payments, to the TSP with the withdrawal request.

(c) A financial hardship in-service withdrawal from the TSP is not an eligible rollover distribution, and a participant therefore may not request the TSP to transfer a financial hardship in-service withdrawal to a traditional IRA or an eligible employer plan. A financial hardship in-service withdrawal is subject to 10 percent withholding. The withholding is not mandatory; the participant may either avoid the withholding or increase the amount of withholding by submitting IRS Form W-4P, Withholding Certificate for Pension or Annuity Payments, to the TSP with the withdrawal request.

Subpart F [Reserved]

Subpart G—Spousal Rights

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

(a) The spousal rights described in this section apply to full post-employment withdrawals when the married participant's vested TSP account balance exceeds \$3,500, and to partial post-employment withdrawals without regard to the amount of the participant's account balance.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal, unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal request is processed by the TSP. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a full post-employment withdrawal. The participant may make a different withdrawal election only if his or her spouse waives the right to this annuity.

(1) To show that the spouse has waived the right to this annuity, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary, unless the TSP granted the participant an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

(2) Because a partial post-employment withdrawal will diminish the amount in the account which is available for a joint and survivor annuity, a spouse's consent is required before a partial withdrawal will be approved, regardless of the amount to be withdrawn.

(3) Both a spouse's waiver of a joint and survivor annuity and a spouse's consent to a partial withdrawal must be properly notarized.

(4) The spouse's waiver or consent is irrevocable for that withdrawal once the TSP record keeper has received it.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

§ 1650.62 Spousal rights applicable to in-service withdrawals.

(a) The spousal rights described in this section apply to all in-service withdrawals and do not depend on the amount of the participant's vested account balance or the amount requested for withdrawal.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal, unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP. If the TSP granted the participant an exception to the notice requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class

mail to the spouse at the most recent address provided by the participant.

(c) A participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse before obtaining an in-service withdrawal, unless the participant was granted an exception under this subpart to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP. To show the spouse's consent, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception to the notification requirement based on unknown whereabouts must be submitted to the Executive Director on Form TSP-16 or Form TSP-U-16, Exception to Spousal Requirements, accompanied by one of the following:

(1) A court order stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination, signed by the appropriate department or division head, which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons, which meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known