§ 839.822 Which employer is responsible for submitting the employee and employer retirement deductions and contributions and correcting my records if I had different employers?

Your current or most recent employer will be responsible for this purpose. Even if that employer was not involved in the retirement coverage error, it must issue corrected records for the entire period of the retirement coverage error.

Subpart I—Social Security Taxes

§ 839.901 When will my employer begin withholding Social Security taxes if I was erroneously in CSRS during my qualifying retirement coverage error and my corrected coverage will now require me to pay Social Security taxes?

(a) If you are in CSRS by mistake and belong in CSRS Offset, FERS, or Social Security-Only, your employer must begin withholding Social Security taxes by changing your retirement coverage to CSRS Offset. Your employer must begin this withholding as soon as possible after the error is discovered.

(b) Your employer will correct your retirement coverage back to the date the error first occurred once you are notified of the error and have an opportunity to make any elections that you are eligible to make.

§ 839.902 Will my CSRS retirement deductions be used to pay the Social Security taxes for the period of the qualifying retirement coverage error if I was erroneously placed in CSRS and did not pay Social Security taxes?

(a) If your qualifying retirement coverage error was not previously corrected, the amount erroneously withheld for CSRS retirement deductions will be:

(1) Used to pay your new retirement deduction amount; and

(2) Applied toward any Social Security taxes you owe for the time you were in the wrong retirement plan.

(b) You will get Social Security credit for all the time you were erroneously covered by CSRS. Your employer will send the Social Security Administration a record of your earnings for all the years you should have had Social Security coverage.

§ 839.903 What happens to the Social Security taxes I erroneously paid when my employer corrects my retirement coverage to CSRS?

(a) Except for the last 3 years, the money you erroneously paid into Social Security will remain to your credit in the Social Security fund. The Social Security Administration will include all but those last 3 years in determining your eligibility for, and the amount of, future benefits.

(b) The amount you paid into Social Security for the last 3 years will be used to help pay your CSRS retirement deductions.

Subpart J—Lost Earnings for Certain Make-up Contributions to the TSP

§ 839.1001 Does the FERCCA allow me to increase my TSP account if I was in CSRS during my qualifying retirement coverage error and my correct coverage will be FERS?

The Board's error correction regulations (5 CFR 1605 of chapter VI) generally allow you to increase your TSP account through a schedule of make-up contributions to replace the missed employee contributions. In addition, the FERCCA allows certain employees who have completed a schedule of make-up contributions, or who plan to schedule make-up contributions, to receive lost earnings on those contributions under certain circumstances. Employees are (and have been) entitled to lost earnings on the make-up agency contributions they receive as a result of the correction of an agency error.

§ 839.1002 Will OPM compute the lost earnings if my qualifying retirement coverage error was previously corrected and I made TSP make-up contributions?

If you made contributions to the TSP after your qualifying retirement coverage error was previously corrected, OPM will compute the lost earnings on your make-up contributions to the TSP under the following circumstances:

You were in:	And were previously corrected to:	And under these rules you elect:
CSRS	FERS	FERS.
CSRS Offset	FERS	
Social Security-Only.	FERS	No election required.
Social Security-Only.	CSRS	
Social Security-Only.	CSRS Offset	

§ 839.1003 How will OPM compute the amount of lost earnings?

(a) Lost earnings will generally be computed in accordance with the Board's lost earnings regulations (5 CFR 1606 of chapter VI). However, the FERCCA states that OPM may compute the lost earnings in an alternative manner if such a computation is not administratively feasible. The alternative manner will yield an amount that is as close as practicable to the amount computed under 5 CFR 1606 of chapter VI.

(b) Your employer is required to submit to OPM all information required to compute the amount of lost earnings.

§ 839.1004 Are lost earnings payable if I separated or if the employee died?

(a) Yes. If the TSP account is not withdrawn, the lost earnings are paid to the account.

(b) If there is no TSP account at the time the lost earnings are payable, you or your survivors will receive the payment directly.

Subpart K—Effect of Election

GENERAL PROVISIONS

§ 839.1101 How are my retirement benefits computed if I elect CSRS or CSRS Offset under this part?

Unless otherwise stated in this part, your retirement benefit is computed as if you were properly put in CSRS or CSRS Offset on the effective date of the error. All the eligibility and benefit computation rules for CSRS or CSRS Offset apply to your retirement benefit.

§ 839.1102 How are my retirement benefits computed if I elect FERS under this part?

OPM will compute your retirement benefit as if you were properly put in FERS on the effective date of the error. All the eligibility and benefit computation rules for FERS apply to your retirement benefit.

§ 839.1103 If my qualifying retirement coverage error started when I should have been placed under FERS automatically, but my agency put me in CSRS because I had some past service, will I get a CSRS component in my FERS annuity for the service before the error if I elect FERS?

No, employees who should have been automatically placed in FERS (generally because they did not have 5 years of past service under CSRS rules) do not have a CSRS component in their future FERS benefit. All service must be treated as FERS service in this circumstance.

RETIREES AND SURVIVORS

§ 839.1111 If I elect to change my retirement coverage under the FERCCA, can I change the election I originally made at retirement for survivor benefits?

(a) Yes, if you elect to change your retirement coverage under the FERCCA, you will have an opportunity to change the election you made for survivor benefits.

(b) If you elect less than the maximum survivor benefit, your spouse's consent is necessary in accordance with § 831.614 or § 842.603(a)(1) of this chapter, as applicable.

§ 839.1112 If I elect to change my retirement coverage under the FERCCA, can I retroactively revoke the waiver of military retired pay I made at retirement?

Yes, you may retroactively change your decision regarding waiver of your military retired pay.

§ 839.1113 If I elect to change my retirement coverage under the FERCCA, can I change my decision about making a deposit or redeposit for civilian or military service?

Yes, you or your survivor will have a new opportunity to decide whether to pay any deposits or redeposits.