

## Federal Retirement Thrift Investment Board

## § 1604.5

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

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

[66 FR 50713, Oct. 4, 2001, as amended at 70 FR 32209, June 1, 2005]

### § 1604.3 Contribution elections.

A service member may make contribution elections as described in 5 CFR part 1600. A service member may elect to contribute sums to the TSP from basic pay, incentive pay, and special pay (including bonuses). However, the service member must elect to contribute to the TSP from basic pay in order to contribute to the TSP from incentive pay and special pay (including bonuses). A service member may elect to contribute from special pay or incentive pay (including bonuses) in anticipation of receiving such pay (that is, he or she does not have to be receiving the special pay or incentive pay when the contribution election is made); those elections will take effect when the service member receives the special or incentive pay.

[70 FR 32209, June 1, 2005]

### § 1604.4 Contributions.

(a) *Employee contributions.* Subject to the regulations at 5 CFR part 1600 and the following limitations, a service member may make regular contributions to the TSP from basic pay. If the service member makes regular contributions, he or she also may contribute all or a portion of incentive pay and special pay (including bonuses) to the TSP. The maximum TSP regular employee contribution (including contributions from pay earned in a combat zone) which a service member may make for 2005 is 10 percent of basic pay. After 2005 the percentage of basic pay limit will not apply and the maximum contribution will be limited only by the provisions of the Internal Revenue Code (26 U.S.C.).

(b) *Matching contributions.* When matching contributions are authorized for a service member, that service member's regular contributions will be

matched dollar-for-dollar on the first three percent of basic pay contributed to the TSP, and 50 cents on the dollar on the next two percent of basic pay contributed. Matching contributions only apply to regular contributions.

(c) *Deduction and transmittal of contributions.* A service member's employing agency will deduct regular contributions from the service member's basic pay each pay period based on his or her contribution election and will transmit the contributions to the TSP. If a service member also elects to make periodic contributions to the TSP, the employing agency must deduct (and transmit to the TSP) these contributions from the service member's incentive pay or special pay (including bonuses), as applicable.

[66 FR 50713, Oct. 4, 2001, as amended at 68 FR 35497, June 13, 2003; 70 FR 32209, June 1, 2005]

### § 1604.5 Separate service member and civilian accounts.

(a) *Separate accounts.* Service member accounts are maintained separately from civilian accounts. Therefore, service members making both civilian and uniformed services TSP contributions will have two TSP accounts. For those participants, the accounts are treated separately except in the following circumstances:

(1) If a participant contributes to a service member account and a civilian account, the contributions to both accounts together cannot exceed the Internal Revenue Code (26 U.S.C.) contribution limits.

(2) A member of the uniformed services may obtain a loan from his or her account, as described at §1604.10, and the loan will be disbursed from the uniformed services account. If the TSP maintains a service member account and a civilian account for an individual, the TSP will calculate the Internal Revenue Code maximum loan amount using both account balances, as described in §1604.10(a)(3).

(b) *Transfers between TSP accounts.* Service member and civilian TSP account balances may be combined through a transfer (thus producing one account), and the transferred funds will be treated as employee contributions and otherwise invested as described at 5 CFR part 1600. Transfers under this

## § 1604.6

## 5 CFR Ch. VI (1–1–07 Edition)

section are subject to the following rules:

(1) An account balance can be transferred once the TSP is informed (by the participant's employing agency) that the participant has separated from either civilian or uniformed services employment.

(2) Combat zone contributions may not be transferred from a uniformed services TSP account to a civilian TSP account.

(3) Transferred funds will be allocated among the TSP Funds according to the contribution allocation in effect for the account into which the funds are transferred.

(4) A service member must obtain the consent of his or her spouse before transferring a uniformed services TSP account balance into a civilian account that is subject to Civil Service Retirement System spousal rights. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(5) Before the transfer can be accomplished, any outstanding loans from the account to be transferred must be closed as described in 5 CFR part 1655.

[66 FR 50713, Oct. 4, 2001, as amended at 70 FR 32209, June 1, 2005]

### § 1604.6 Error correction.

(a) *General rule.* A service member's employing agency must correct the service member's account if, as the result of employing agency error, a service member does not receive the TSP contributions to which he or she is entitled. Except as provided in paragraph (b) of this section, those corrections must be made in accordance with 5 CFR part 1605.

(b) *Missed bonus contributions.* This paragraph (b) applies when an employing agency fails to implement a contribution election that was properly submitted by a service member requesting that a TSP contribution be deducted from bonus pay. Within 30 days of receiving the employing agency's acknowledgment of the error, a service member may establish a schedule of makeup contributions with his or her employing agency to replace the missed contribution through future payroll deductions. These makeup contributions can be made in addition to

any TSP contributions that the service member is otherwise entitled to make.

(1) The schedule of makeup contributions may not exceed four times the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution. For example, a service member who earns \$29,000 yearly in basic pay and who missed a \$2,500 bonus contribution to the TSP can establish a schedule of makeup contributions with a maximum duration of 8 months. This is because it takes the service member 2 months to earn \$2,500 in basic pay (at \$2,416.67 per month).

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions. The ceiling may not, however, be less than twice the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution.

### § 1604.7 Withdrawals.

A service member may withdraw all or a portion of his or her account under the rules in 5 CFR part 1650, with the following exceptions:

(a) *Separate accounts.* If the TSP maintains a service member account and a civilian account for an individual, a separate withdrawal request must be made for each account.

(b) *Spousal rights.* The spouse of a service member participant has the same TSP spousal rights as the spouse of a civilian participant covered under the Federal Employees' Retirement System; those spousal rights in the context of a withdrawal (and the process by which a service member may obtain an exception to them) are explained at 5 CFR part 1650.

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the withdrawal will be distributed *pro rata* from all sources. If a participant requests the TSP to transfer all, or a portion, of a withdrawal to a traditional IRA or eligible employer plan, the share of the withdrawal attributable to combat zone contributions (if any) can be transferred only if the IRA or plan accepts such funds.