

**§ 842.306**

**5 CFR Ch. I (1–1–08 Edition)**

had been subject to FERS deductions under that section, plus interest.

(6) *Forms of deposit.* A deposit under this section must be made as a single lump sum within 180 days of being notified of the deposit amount.

(7) *Processing deposit applications and payments.* (i) The department or agency where the service described in §842.304(e) was performed must process the deposit applications and payments under this section. If the department or agency where the service was performed no longer exists, the Department of State must process the deposit applications and payments under this section.

(ii) Whenever requested, the Department of State must assist the department or agency responsible for processing deposit applications under this section determine whether the application meets the requirements of §842.304(e).

(iii) Upon receiving a deposit application under this section, the department or agency must determine whether the application meets the requirements of §842.304(e); compute the deposit, including interest; and advise the applicant of the total amount of deposit due.

(iv) The department or agency must establish a deposit account showing the total amount due.

(v) When it receives an individual's payment for the service, the department or agency must remit the payment to OPM immediately for deposit to the Civil Service Retirement and Disability Fund in accordance with instructions issued by OPM.

(vi) Once a deposit has been paid in full or otherwise closed out, the department or agency must submit the documentation pertaining to the deposit to OPM in accordance with instructions issued by OPM.

(8) *Government contributions.* (i) The department or agency where service described in §842.304(e) was performed must pay Government contributions for each period of service covered by a deposit under this section.

(ii) The amount of contributions under this section equals the amount of Government contributions which would have been required for the service under section 8423 of title 5, United

States Code, if the service had been covered under chapter 84 of title 5, United States Code, plus interest.

(iii) The department or agency must remit the amount of Government contributions under this section to OPM at the same time it remits the employee deposit for this service to OPM in accordance with instructions issued by OPM.

(9) *Interest.* Interest must be computed as described under paragraphs (2) and (3) of 5 U.S.C. 8334(e). Interest must be computed for each distinct period of service from the midpoint of each distinct period of service. The interest accrues annually on the outstanding deposit and is compounded annually, until the deposit is paid.

(10) *Effect of deposit.* An individual completing a deposit under this section will receive retirement credit for the service covered by the deposit when OPM receives certification that the deposit has been paid in full, and the deposit payment and agency contributions are remitted to the Civil Service Retirement and Disability Fund.

(11) *Appeal rights.* When the department or agency processing an application for deposit under this section determines that the individual is not eligible to make a deposit for a period of service, it must provide the individual with a written decision explaining the reason for the decision and explaining the individual's right to appeal the decision to the Merit Systems Protection Board.

[52 FR 18193, May 14, 1987, as amended at 56 FR 55597, Oct. 29, 1991; 56 FR 65419, Dec. 17, 1991; 70 FR 50953, Aug. 29, 2005]

**§ 842.306 Military service.**

(a) Except as provided in paragraph (b), and unless otherwise provided under title III of the Federal Employees' Retirement System Act of 1986, an employee's or Member's military service is creditable if it was performed—

(1) Before January 1, 1957; or

(2) After December 31, 1956, subject to payment, before separation from service, of the deposit required by §842.307.

(b) Credit for a period of military service is not allowed if the employee or Member is receiving military retired pay for such period awarded for reasons other than—

(1) Service-connected disability incurred in combat with an enemy of the United States;

(2) Service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war (within the meaning of chapter 11 of title 38, United States Code); or

(3) Retirement under chapter 67 of title 10, United States Code.

(c) When adjudicating annuity claims, OPM will accept determinations made by the agency that authorized military retired pay concerning—

(1) The effective date of a waiver of military retired pay;

(2) Whether an individual's military retired pay was awarded for any of the reasons mentioned under paragraph (b) of this section; and

(3) Whether a period of military service forms the basis for military retired pay.

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, the computation of a survivor's annuity includes credit for any military service allowable under paragraph (a) of this section.

(2) If the separated employee (as defined in §843.102 of this chapter) was awarded military retired pay, died after the date of separation from civilian service, and did not waive military retired pay effective before the date of death, military service upon which the military retired pay was based is not creditable.

(3) If the survivor of a deceased employee who had been awarded military retired pay files, in a form prescribed by OPM, an election not to have a period of military service included in the computation of survivor benefits, that period of military service is not included in the computation of survivor benefits.

#### § 842.307 Deposits for military service.

(a) *Eligibility to make a deposit.* (1) An employee or Member subject to FERS may make a deposit for any distinct period of military service by filing an application in a form prescribed by OPM.

(2) An application to make a deposit is filed with the appropriate office in the employing agency, or, for Members

and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

(3) An employee's or Member's deposit for military service must be completed before separation from service. If a deceased employee or Member was, at the time of death, eligible to make a deposit, the employee's or Member's survivor may make the deposit in one lump sum to the former employing agency, the Secretary of the Senate or the Clerk of the House of Representatives, before OPM completes adjudication of the survivor annuity application. A person who was eligible to make a deposit for military service but failed to complete the deposit within the time limits provided in this paragraph, may complete the deposit in a lump sum within the time limit set by OPM when it rules that an administrative error has been made.

(b) *Amount of deposit.* (1) The amount of a deposit for military service equals 3 percent of the basic pay for the service under 37 U.S.C. 207, or an estimate of the basic pay (see paragraph (c)(1)(iii) of this section), plus interest, unless interest is not required under paragraph (b)(4) of this section.

(2) Interest is charged at a rate as determined by the Secretary of the Treasury for each calendar year that equals the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under 5 U.S.C. 8348(c), (d), and (e).

(3) The computation of interest is on the basis of 30 days to the month. Interest is computed for the actual calendar time involved in each case; but whenever applicable, the rule of average applies.

(4) Interest is computed from the mid-point of each full period of service included in the computation. The interest accrues annual on the outstanding portion beginning on the second anniversary of the employee's or Member's beginning date of coverage under FERS, and is compounded annually, until the portion is deposited. Interest is charged to the date of deposit. No interest will be charged if the deposit is completed before the end of the