

Fall River  
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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 831 and 841

RIN 3206-AH62

#### State Income Tax Withholding and Allotments

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing regulations to permit expansion of the State income tax withholding and the voluntary allotment program under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). These regulations would simplify the current State income tax withholding program, continue the currently-authorized programs established by regulation, and allow OPM to add additional allotment programs for the convenience of annuitants.

**DATES:** Comments must be received on or before August 23, 1999.

**ADDRESSES:** Send comments to Mary E. Wilson, Chief, Retirement Policy Division; Retirement and Insurance Service; Office of Personnel Management; PO Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street NW., Washington, DC. Comments may also be submitted by electronic mail to [combox@opm.gov](mailto:combox@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Rochester, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** We propose to amend Title 5, Code of Federal Regulations, to allow for expansion of our voluntary allotment program. In the past, technological constraints in OPM's automated systems limited the range of allotments offered to annuitants and survivors. Recent improvements in OPM's automated systems now make a broader range of allotments possible. In the future, additional allotments will be considered for inclusion in the program. Key considerations will be needed improvements in banking technology that will assure that allotments are processed and appropriate information

provided to the allottees concerning the amount to be credited in each individual case, as well as the allottees' acceptance of responsibility for timely crediting of the allotment to the appropriate account on its records. OPM in its sole discretion, will determine if such allotments will be processed, pursuant to our statutory authority to make such determinations.

There will be an immediate expansion in our program of State income tax withholding and full implementation of our pilot U.S. Savings Bonds allotment program. Participation in these programs will be entirely voluntary.

As we have already stated, these regulations will also allow us to expand our voluntary allotment program to other areas such as allotments to checking and savings accounts. Other types of allotments are also under consideration; however, our ability to make some allotment programs available to annuitants and survivors will be dependent upon advancements in banking technology within the small, independent banking communities. Changes have already been proposed by the National Automated Clearing House Association (NACHA) to require the banking community to accept and pass on addendum information necessary to credit allotments to the proper accounts. As these changes become effective and more financial institutions are able to handle allotment transactions, we will determine which programs we consider appropriate for addition to the allotments program.

#### 1. State Income Tax Withholding

Sections 8345(k) and 8469 of title 5, United States Code, require OPM to provide State income tax withholding from Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) annuities. The statutes provide that the withholding will be made in accordance with an agreement between the State and OPM and require certain conditions in that agreement, including that the withholding be limited to annuitants who voluntarily request such withholding in writing, that the amounts withheld be retained in the Fund and disbursed to the States quarterly, and other administrative items concerning the frequency and timing of State tax changes that an annuitant may request. The current implementing regulations, contained in subpart S of part 831 (CSRS) and subpart J of part 841 (FERS) of Title 5, Code of Federal Regulations, require annuitants who want State income tax withholding to contact the State. The State prepares a list of taxpayers and

amounts to be withheld and submits that list monthly to OPM via magnetic tape.

The expanded State income tax withholding program will streamline the current withholding process by allowing our annuitants to communicate directly with OPM (instead of the individual States). Annuitants will be able to initiate or change State income tax withholding by writing or calling OPM. Current participants' State income tax withholdings from annuity will continue without interruption. OPM has already notified annuitants of the availability of the expanded program.

Under the expanded program, States that wish to receive annuitant tax withholdings will no longer have to obtain election forms from annuitants and maintain their accounts. States need only execute an agreement with OPM. OPM will then assume administrative responsibility for the State income tax withholding program and permit annuitants to initiate or change their withholding by specifying a specific dollar amount.

#### 2. Voluntary Allotments

Sections 8345(h) and 8465(b) of title 5, United States Code, authorize an individual entitled to benefits from the Fund to make allotments from an annuity for such purposes as OPM considers appropriate. Under subpart O of part 831 of Title 5, Code of Federal Regulations, we issued regulations limiting the availability of allotments under this authority to payments to large national organizations existing primarily for the purpose of representing employees or annuitants. Using new technology, we are prepared to offer an expanded allotment program without eliminating the program applicable to current participants. The current program will be continued for participating organizations for 3 years from the date of publication of final regulations in order to give the organizations in the current program time to make the adjustments necessary to utilize the expanded program proposed by these regulations.

The Savings Bond allotment program offers annuitants, for the first time, the opportunity to purchase U.S. Savings Bonds in a manner similar to the payroll-savings plan available to employees, except that the full purchase price of the bond must be paid each month. Series EE bonds are currently available in denominations of \$100, \$200, and \$500. We have also added Series I bonds in denominations of \$50, \$75, \$100, \$500, \$1,000, or \$5,000. Other options may be added as they become available.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only provides information about the increased responsibility OPM will assume in providing certain allotment services to annuitants, survivors and former spouses.

### Lists of Subjects in 5 CFR Parts 831 and 841

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management,  
**Janice R. LaChance,**  
*Director.*

Accordingly, under 5 U.S.C. 8347, 8461, and as discussed in the preamble, OPM proposes to amend Title 5, Code of Federal Regulations Parts 831 and 841, as follows:

### PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

**Authority:** 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508; 104 Stat. 1388–328.

### §§ 831.1501, 831.1511 and 831.1521 (Subpart O) [Removed and reserved]

2. Subpart O of consisting of §§ 831.1501, 831.1511, and 831.1521, of part 831 is removed and reserved.

### §§ 831.1901–831.1907 (Subpart S) [Removed and reserved]

3. Subpart S, consisting of §§ 831.1901 through 831.1907, of part 831 is removed and reserved.

### PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

4. The authority citation for part 841 is revised to read as follows:

**Authority:** 5 U.S.C. 8461; § 841.108 also issued under 5 U.S.C. 552a; subpart D also issued under 5 U.S.C. 8423; § 841.504 also issued under 5 U.S.C. 8422; § 841.506 also issued under 5 U.S.C. 7701(b)(2); § 841.507 also issued under section 505 of Pub. L. 99–335; § 841.508 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8345(k), 8345(h), 8465(b), and 8469.

5. Subpart J of part 841 is revised to read as follows:

#### Subpart J—Voluntary Allotments for State Income Tax Withholding and for Other Purposes

Sec.  
 841.1001 Purpose and scope.  
 841.1002 Definitions.  
 841.1003 State income tax withholding.  
 841.1004 Other voluntary allotments.  
 841.1005 Limitations.

#### Subpart J—Voluntary Allotments for State Income Tax Withholding and for Other Purposes

##### § 841.1001 Purpose and scope.

This subpart consolidates regulations pertaining to the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) on—

(a) The State income tax withholding program required under sections 8345(k) and 8469 of title 5, United States Code; and

(b) The program that OPM uses to honor annuitant requests for such other voluntary allotments as OPM may decide to allow from annuity payments under CSRS and FERS pursuant to sections 8345(h) and 8465(b) of title 5, United States Code.

##### § 841.1002 Definitions.

In this subpart—  
*Allotment* means a specified amount an annuitant voluntarily authorizes to be paid to an allottee.

*Allottee* means the institution, organization or individual to which the allotment is paid. Annuitant means an individual who is a retiree, a former spouse, or a survivor.

*Annuity payment* means the net monthly annuity payment due an annuitant after all authorized deductions (such as those for health benefits, Federal income tax, overpayment of annuity, indebtedness to the Government) have been made.

*Former spouse* means an individual who is receiving recurring payments under CSRS or FERS based on a court order under part 838 of this chapter.

*Retiree* means a former employee or Member who is receiving recurring payments under CSRS or FERS based on his or her service as an employee.

*Survivor* means a widow, widower, child, former spouse, or person with an insurable interest who is receiving recurring payments under CSRS or FERS based on the death of an employee, Member, or retiree.

##### § 841.1003 State income tax withholding.

(a) *Agreements with States.* OPM will maintain a program under which an annuitant may voluntarily request State income tax withholding for a State with which OPM has an agreement for withholding State income taxes from CSRS and FERS annuities.

(b) Agreements between OPM and a State will establish each party's responsibilities in the process of withholding for State income taxes from CSRS and FERS annuities.

(c) Agreements for State income tax withholding may be modified or terminated—

(1) By OPM or the State in accordance with the terms of the agreement; or

(2) By OPM in accordance with appropriate rulemaking procedures pursuant to title 5 of the United States Code.

##### § 841.1004 Other voluntary allotments.

(a) *General.* An annuitant may make an allotment from annuity payments for any purpose OPM deems appropriate.

(b) *Effective dates.* A request for an allotment is effective when processed by OPM. OPM will process each request no later than the 1st day of the second month following the month in which it is received, but incurs no liability or indebtedness to the annuitant or allottee by its failure to do so.

(c) *Disputes.* A dispute regarding any authorized allotment properly paid by OPM is a matter between the annuitant and the allottee.

##### § 841.1005 Limitations.

(a) The total amount of any allotments may not exceed the annuity payment due.

(b) Allotments—State income tax withholdings excepted— are paid only on the regularly designated paydays of the annuitant.

(c) Payment of an allotment will be discontinued when annuity payments are terminated or suspended by OPM. OPM is not responsible for any interest or penalties incurred when allotments are discontinued due to the termination or suspension of annuity payments.

(d)(1) If annuity payments are made beyond the date the annuitant's entitlement to annuity ceases, the

annuitant must repay any allotments paid after the date annuity payments should have ceased.

(2) If annuity payments are made after the annuitant's death, OPM will recover from—

- (i) His or her estate; or,
- (ii) In an appropriate case, from any survivor benefits payable based on the annuitant's service; or
- (iii) If there is neither an estate nor a survivor annuity payable, from the allottee.

(f) Allotments, except allotments to large organizations under agreements established prior to the effective date of these regulations, may only be made to a valid electronic-funds-transfer address established under part 210 of title 31, Code of Federal Regulations.

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 432

[Docket Number EE-TP-98-550]

#### Energy Conservation Program: Test Procedures for Distribution Transformers

**AGENCY:** Office of Energy Efficiency and Renewable Energy, DOE.

**ACTION:** Notice of availability of documents and limited reopening of the record and opportunity for public comment.

**SUMMARY:** The Department of Energy previously published a Notice of Proposed Rulemaking to adopt test procedures for measuring the energy efficiency of distribution transformers under the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6317(a). Since the time that Notice appeared, the Department has received documents and comments containing new information concerning National Electrical Manufacturers Association (NEMA) TP 2, the sampling plan, and transformers to be covered by the rulemaking. In addition, DOE has concerns regarding the definition of a basic model. The Department is reopening the record of its rulemaking to provide an opportunity for additional public comment on the validity of this new information and its implications regarding the proposed test procedures and the policy options now under consideration by the Department.

**DATES:** The Department will accept comments, data, and information

regarding the proposed rule and this reopening notice no later than July 23, 1999.

**ADDRESSES:** Please submit 10 copies (no faxes) to: Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, "Energy Conservation Program: Test Procedures for Distribution Transformers, Docket No. EE-RM-S-97-700", EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121. In addition, the Department requests that an electronic copy (3<sup>1/2</sup>" diskette) of the comments on WordPerfect™ 6.1 be provided.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department of Energy will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Copies of the National Electrical Manufacturers Association Standard TP 2-1998, "Guide for Determining Energy Efficiencies for Distribution Transformers" (NEMA TP 2), the National Institute of Standards and Technology Technical Note 1427, "An Analysis of Efficiency Testing under the Energy Policy and Conservation Act: A Case Study with Application to Distribution Transformers" (NIST TN 1427), and other correspondence related to this rulemaking are available for public inspection and copying at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-43, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0121, (202) 586-7425, email: Kathi.Epping@ee.doe.gov, or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-9507, email: Edward.Levy@hq.doe.gov

**SUPPLEMENTARY INFORMATION:** Pursuant to section 346(a) of the Energy Policy and Conservation Act, as amended (EPCA), 42 U.S.C. 6317(a), the

Department of Energy (DOE or the Department) proposed in a Notice of Proposed Rulemaking ("NOPR" or "Notice") to adopt a new regulation, 10 CFR Part 432. 63 FR 63360 (November 12, 1998). The regulation (the "proposed rule") would include test procedures for measuring the energy efficiency of distribution transformers; several definitions regarding the test procedure, including the definition of a distribution transformer and the definition of a basic model; and a sampling plan for minimizing test burden. DOE held a public hearing on January 6, 1999, and received 9 written comments on the proposed rule. After reviewing the hearing transcript and comments, DOE concluded that a number of significant issues had been raised that required additional analysis. These issues include: (1) the adequacy of stakeholder opportunity to review NEMA TP 2; (2) the suitability of NEMA TP 2 to be adopted as the DOE test procedure; (3) transformers covered under the definition of "distribution transformer"; (4) the appropriateness of proposed sampling plans for demonstrating compliance; and (5) the suitability of the definition of "basic model" for the purpose of grouping transformers to limit test burden.

#### 1. Availability of Documents

In the Notice, DOE stated it was proposing incorporation by reference either ANSI/IEEE standards C57.12.90 and C57.12.91 or NEMA standard TP 2. In the Notice, the Department stated its concern over whether TP 2 had undergone broad-based scrutiny, and DOE stated that, in order to accept TP 2, DOE would need sufficient evidence that all users and stakeholders have had an opportunity to review TP 2. In comments on the proposed rule, some stakeholders expressed concern that they had not been given the opportunity to Review NEMA TP 2. (ERMCO, No. 13 at 1; Dynapower, No. 17 at 1; and Howard Industries, No. 18 at 2.)<sup>1</sup> Because the DOE wants to ensure that all stakeholders have an opportunity to review TP 2, the Department has sent copies of NEMA TP 2 to the parties on its Distribution Transformer Stakeholder mailing list. In addition, the National Institute of Standards and Technology (NIST) issued Technical Note 1427 entitled "An Analysis of Efficiency Testing under the Energy Policy and Conservation Act: A Case Study with

<sup>1</sup> Comments are identified by company name, followed by comment number in the docket at page number. For example, "ERMCO, No. 13 at 1" means comment number 13, submitted by ERMCO, at page 1. Also note that comment number "11 DD" refers to the hearing transcript.