

Rules and Regulations

Federal Register

Vol. 71, No. 5

Monday, January 9, 2006

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

In-Service Hardship Withdrawals From the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Temporary rule.

SUMMARY: This document contains temporary regulations that lift certain restrictions on financial hardship in-service withdrawals from Federal employees' and uniformed service members' Thrift Savings Plan (TSP) accounts. These temporary regulations are intended to assist TSP participants affected by Hurricanes Katrina, Rita, and Wilma.

EFFECTIVE DATE: These regulations are effective January 1, 2006, through March 31, 2006.

FOR FURTHER INFORMATION CONTACT: Office of Benefits Services, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005, 202-942-1460.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The TSP is managed by five part-time Presidentially-appointed Board members and an Executive Director. FERSA gives the Executive Director authority to prescribe regulations

permitting participants to make limited withdrawals from their TSP accounts before they are separated from Government employment. 5 U.S.C. 8433(h)(4). This temporary regulation is based upon that authority and the provisions of 5 U.S.C. 553(d)(1) and (3).

The TSP's permanent regulations prohibit participants from requesting a financial hardship in-service withdrawal from their accounts if they have received another financial hardship withdrawal within the last six months. In addition, a participant who obtains a financial hardship in-service withdrawal may not contribute to the TSP for a period of six months after the withdrawal is processed.

On October 13, 2005, the TSP published a temporary regulation, 70 FR 59621, deleting these restrictions if the financial need resulted from Hurricane Katrina. The temporary regulation was effective through December 31, 2005. Congress and the Internal Revenue Service have since expanded the tax relief available to hurricane victims to Hurricanes Rita and Wilma. This temporary regulation extends the effective date of the temporary change to TSP regulations from December 31, 2005, to March 31, 2006, and extends its effect to victims of Hurricanes Katrina, Rita, and Wilma.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

List of Subjects in 5 CFR Part 1650

Employee benefit plans, Government employees, Pensions, Retirement.

Gary A. Amelio,

Executive Director, Federal Retirement Thrift Investment Board.

■ For the reasons set forth in the preamble, the Board temporarily amends 5 CFR chapter VI as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 1. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

■ 2. Amend section 1650.33 by adding a new paragraph (c) to read as follows:

§ 1650.33 Contributing to the TSP after an in-service withdrawal.

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this section, a participant who obtains a financial hardship in-service withdrawal based upon a financial need caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and who is not, at the time of the second hardship withdrawal, making contributions because of a previous financial hardship withdrawal will not have his/her contribution suspension period further extended. The participant may submit a new TSP contribution election to resume contributions any time after expiration of the original six-month contribution suspension period.

■ 3. Amend section 1650.42 by adding a new paragraph (c) to read as follows:

§ 1650.42 How to obtain a financial hardship withdrawal.

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this section, the TSP will accept at any time a financial hardship withdrawal request that is based upon a financial need caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma. The participant must certify on the application that the financial need is related to a hardship caused by one of the hurricanes: Katrina, Rita, or Wilma.

[FR Doc. 06-120 Filed 1-6-06; 8:45 am]

BILLING CODE 6760-01-P