



# Thrift Savings Plan BULLETIN

for Agency TSP Representatives

**Subject:** Thrift Savings Plan Participation of Individuals Who Return to Civilian Service or Pay Status Following Military Service

**Date:** April 3, 2002

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) allows certain employees who separate from civilian service to perform military service to make up missed Thrift Savings Plan (TSP) contributions if they return to civilian service under the provisions of USERRA. The law also authorizes employees who enter nonpay status to perform military service to make up TSP contributions after they return to civilian pay status. The law authorizing participation in the TSP by uniformed services members amends USERRA to require additional actions if the employee had contributed to the TSP while performing active military service.<sup>1</sup>

This bulletin discusses the actions that agencies must take to implement the TSP provisions of USERRA, as amended. It also transmits the Fact Sheet "[TSP Benefits That Apply to Members of the Military Who Return to Civilian Service](#)," which has been revised accordingly (Attachment 1).

## I. Eligibility

Upon return to civilian service or pay status, employees who meet all of the conditions described below are eligible to make up (and if FERS, receive) those TSP contributions that they could have made (or received) if they had remained in civilian service or pay status.

*(continued on next page)*

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<sup>1</sup> See TSP Bulletin 01-46, Uniformed Services Participation in the Thrift Savings Plan, dated November 30, 2001, for more information about such participation.

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**Inquiries:** Questions concerning this bulletin should be directed to the Federal Retirement Thrift Investment Board at **(202) 942-1460**.

**Chapter:** This bulletin may be filed in Chapter 3, Eligibility, or Chapter 6, Establishing and Maintaining Accounts.

**Supersedes:** This bulletin supersedes TSP Bulletins 99-5, Fact Sheet on Thrift Savings Plan Benefits Resulting From USERRA, dated February 26, 1999; 95-20, Interim Regulations and Fact Sheet on Thrift Savings Plan Benefits Resulting From USERRA, dated May 24, 1995; and 95-13, Implementation of Public Law 103-353, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), dated April 21, 1995.

- They were separated from civilian service or were placed in nonpay status to perform military service;
- Their release from military service, discharge from a hospital, or other similar event occurred on or after August 2, 1990; and
- They were reemployed in, or restored to, a position covered by FERS or CSRS pursuant to 38 U.S.C. Chapter 43.<sup>2</sup>

Consequently, when employees who meet these conditions return to civilian service or pay status, agencies must take the actions described below if the employees would have been eligible to participate in the TSP had they remained in civilian service or pay status.

## II. Agency Actions

- A. Give employees a copy of the attached Fact Sheet. Agencies may reproduce it locally or download it from the TSP Web site at [www.tsp.gov](http://www.tsp.gov).
- B. Give employees the opportunity to make a current TSP contribution election.

Upon reemployment **or** return to pay status, the agency must allow an eligible employee 60 days to make a TSP contribution election. If the employee elects to make contributions, the agency must make the election effective no later than the beginning of the first full pay period after it is received.

- C. Begin agency automatic (1%) contributions for eligible FERS employees immediately upon reemployment or return to pay status (and begin agency matching contributions for these employees when the employee contributions begin).
- D. Give employees the opportunity to make up missed employee contributions.
  1. Upon reemployment or return to pay status, the agency must also allow an eligible employee 60 days to determine if he or she wants to make up TSP contributions missed during the period of military service.
  2. To determine the amount of makeup contributions, the agency must use the employee's basic pay and TSP contribution election(s), as explained in paragraphs a and b below. In addition, if the employee had contributed to his or her uniformed services TSP account during the period of active military duty, the amount of makeup contributions computed must be reduced by the amount of the uniformed services contributions, as explained in paragraph c below.

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<sup>2</sup> FERS refers to the Federal Employees' Retirement System, the Foreign Service Pension System, and other equivalent Federal retirement systems. CSRS refers to the Civil Service Retirement System, including CSRS Offset, the Foreign Service Retirement and Disability System, and other equivalent Federal retirement systems.

- a. The employee's civilian basic pay is the basic pay that the employee would have earned had he or she remained continuously employed in the position held immediately before the separation (or placement in nonpay status).
- b. The TSP election is the election that the employee had on file when he or she separated or was placed in nonpay status.

The employee also may make a retroactive election to terminate TSP contributions, and retroactive elections to change (or begin) TSP contributions for any open season that occurred during the period of military service in which he or she would have otherwise been eligible to make a TSP contribution election. In addition, if an employee terminated TSP contributions within two months before entering military service, the employee is eligible to make a retroactive election to resume contributions for the first open season following the termination.

The effective date of a retroactive election to begin, resume, or change contributions would be the first full pay period of the election period of the relevant open season.

**Example:**

An employee separated to perform military service on June 28, 2002, and is reemployed on May 8, 2004.<sup>3</sup> The employee makes a TSP contribution election following reemployment which is effective May 21, 2004.

If the employee had an election on file on June 27, 2002, that election must be used to determine the amount of makeup contributions for the period June 28, 2002, through May 20, 2004, unless the employee makes a retroactive election (or elections) to change the amount of his or her contributions effective the first full pay period in July 2002, in January 2003, in July 2003, and/or in January 2004. The employee may also make a retroactive election to terminate contributions effective the beginning of any pay period that occurred during the period he or she had been separated or in nonpay status.

- c. The amount of makeup employee contributions must be reduced by the total amount of employee contributions made to the uniformed services account. (This includes uniformed services contributions from basic pay, incentive pay, and special pay, including bonus pay.)

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<sup>3</sup> The examples in this bulletin are set in the future because uniformed services participation in the TSP did not begin until January 2002.

**Example:**

If the agency determines an employee would have contributed \$5,000 to his or her civilian TSP account during the period of military service, but the employee contributed \$2,000 to his or her uniformed services account, the employee may make up only \$3,000 to the civilian account.

3. Pursuant to the Federal Retirement Thrift Investment Board's error correction regulations at 5 C.F.R. § 1605.11(c), makeup employee contributions must be deducted from future pay, and a schedule must be established to have them deducted from a certain number of future paychecks. Although the makeup contributions are tax-deferred for the year in which they are actually made, they are subject to the Internal Revenue Service elective deferral limit for the year in which they would have been made had the employee remained in civilian service or pay status. 5 C.F.R. § 1605.11(c)(6).
- E. Make up missed agency contributions for eligible FERS employees.
1. Agency automatic (1%) contributions

A FERS employee is entitled to receive the agency automatic (1%) contributions that he or she would have received had the employee remained in civilian service or pay status. Consequently, agencies must make up missed agency automatic (1%) contributions when the employee returns to civilian service or pay status. The amount of each missed contribution must be reported on a separate current payment record (16-Record). The "as of" date on the record is the pay date that the contributions would otherwise have been made.
  2. Agency matching contributions
    - a. If the employee made contributions to his or her uniformed services account during the period of military service, the employee is "immediately" entitled to makeup agency matching contributions to the civilian account for the contributions that were deducted from the **basic pay** received while performing military service. (The employee may **not** receive makeup agency matching contributions on contributions that were deducted from incentive pay or special pay, including bonuses, which were received while performing military service.) If, however, the employee received uniformed services matching contributions, the makeup agency matching contributions must be reduced by the amount of the uniformed services matching contributions.<sup>4</sup>

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<sup>4</sup> As of the date of this bulletin, none of the service secretaries have authorized matching contributions.

These “immediate” makeup agency matching contributions must be reported on 16-Records, by the “as of” date, so that each record reflects the amount of agency matching contributions that would otherwise have been made. The first “as of” date should be the first pay date for which civilian contributions were missed.

- b. If the employee makes up missed employee contributions, the employee is also entitled to receive attributable agency matching contributions (unless the employee already received the maximum amount of agency matching contributions as a result of the uniformed services contributions from basic pay, as described above). Each makeup employee and attributable agency matching contribution must be reported on a separate 16-Record. The “as of” date on the record is the date the contributions would otherwise have been made.

If, however, the employee received “immediate” makeup agency matching contributions to the civilian account (as described above), the first “as of” date for the makeup employee and attributable agency matching contributions should be the first pay date following the pay date for the last “immediate” makeup agency matching contribution.

c. **Example:**

An agency determines that a FERS employee would have received \$100,000 of basic pay over 50 pay periods had he or she remained in civilian service or pay status. The employee contributed \$2,000 from basic pay to the uniformed services TSP account. If the employee had contributed \$2,000 to his or her civilian TSP account, the employee would have received attributable agency matching contributions of \$2,000 (dollar for dollar on the first three percent contributed; 50 cents per dollar on the next two percent contributed). Consequently, the employee is “immediately” eligible for missed agency matching contributions of \$2,000. However, if the employee’s civilian election for the period of military service is 5%, he or she may only make up \$3,000 to the civilian account.<sup>5</sup>

If the employee would have received \$80 of agency matching contributions for each missed pay period, the agency reports \$80 for 25 “as of” dates beginning with the first civilian pay period missed.

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<sup>5</sup> If the employee contributed more from his or her **basic pay** to the uniformed services account than 5% of the basic pay he or she would have received as a civilian employee, the employee is “immediately” entitled to 100% of the agency matching contributions that he or she would have received as a civilian employee (unless he or she received matching contributions as a uniformed services member). In the above example, if the employee contributed \$6,000 from his or her basic pay to the uniformed services account, the employee is entitled to \$4,000 of makeup agency matching contributions (and he or she is not entitled to make up any employee contributions to the civilian account).

If the employee then elects to make up missed employee contributions, the first makeup employee and attributable agency matching contributions should be reported for the “as of” date of the twenty-sixth missed pay period.

- d. See [Attachment 2](#) to this bulletin for the steps agencies should take to determine “immediate” makeup agency matching contributions after a FERS employee returns to civilian service or pay status.
- F. Submit lost earnings records for makeup agency contributions after the contributions have been reported.
1. For purposes of determining lost earnings, a FERS employee may elect:
    - the funds specified by his or her contribution allocation(s) in effect at the time the contributions would have otherwise been made, **or**
    - the Government Securities Investment (G) Fund.

Consequently, FERS employees must make this additional election regarding their agency makeup contributions when they return to civilian service or pay status. An employee cannot mix these options, that is, an employee cannot elect “funds specified by the contribution allocation” for a portion of the agency makeup contributions and “G Fund” for another portion of the agency makeup contributions.
  2. Agencies must submit lost earnings records, as explained in TSP Bulletin 01-35, Processing Lost Earnings Records, dated August 15, 2001. Also, as explained in that bulletin, if an employee elects to have the lost earnings determined according to the “funds specified by the contribution allocation,” the lost earnings records must be accompanied by Form TSP-2-E. (Generally, lost earnings records are accompanied by Form TSP-2-E.) If an employee elects to have the lost earnings determined by using the G Fund rates of return, the lost earnings records must be accompanied by Form TSP-2-EG.
- G. Establish the TSP service computation date (TSP-SCD) upon the reemployment of a FERS employee and include this date on the Employee Data Record (06-Record) that must be submitted to the TSP record keeper. The TSP-SCD must include the period of military service.<sup>6</sup>
- H. Submit Form TSP-5-R, Request to Restore Forfeiture, to the TSP record keeper, if applicable.<sup>7</sup>

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<sup>6</sup> See TSP Bulletin 97-30, dated August 19, 1997, for more information about vesting and the TSP-SCD.

If the agency automatic (1%) contributions and attributable earnings had been forfeited from the TSP account of a FERS employee when he or she separated to perform military service, the employee is entitled to have these funds restored upon reemployment (if the eligibility conditions described in Section I are met). If such a forfeiture occurred, the employee must notify his or her agency, and the agency must then submit Form TSP-5-R to the TSP record keeper.

### **III. Additional Opportunities**

#### **A. Resuming TSP loan payments**

As explained in TSP Bulletin 02-6, dated April 3, 2002, if an employee who has a TSP loan is placed in nonpay status to perform military service and the TSP is appropriately notified, loan payments will be suspended for the period of military service. (If an employee is placed in nonpay status for any other reason, loan payments may be suspended only up to one year.) However, interest will continue to accrue during the period of military service. In addition, the time period for repaying the loan is extended by the period of military service.

When the employee returns to civilian pay status, the agency must resume his or her loan payments and the employee or the agency must notify the TSP record keeper of the beginning and ending dates of military service. To accomplish such notification, the employee may submit a copy of DD Form 214, Certification of Release or Discharge From Active Duty, or the agency may submit Form TSP-41, Notification to TSP of Nonpay Status, reflecting the dates of the military service.<sup>8</sup>

#### **B. Reversing a taxable distribution**

Employees who had TSP loans that were closed as taxable distributions because they separated to perform military service may be eligible to have the taxable distributions reversed after they return to civilian service. Page 3 of the attached Fact Sheet explains this eligibility and describes the actions employees must take to have taxable distributions reversed.

#### **C. Returning withdrawals**

Employees who received automatic cashouts of their TSP account because they separated to perform military service may return to the TSP the full amount of the payment. (An employee who voluntarily withdrew his or her civilian account may not return the withdrawal.) See Page 3 of the attached

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<sup>7</sup> See TSP Bulletin 95-18, dated May 18, 1995, for more information about Form TSP-5-R.

<sup>8</sup> See TSP Bulletin 02-6 for more information about the effect of nonpay status on TSP participation and the actions that must be taken when employees enter nonpay status to perform military service.

Fact Sheet which also explains this eligibility and describes the actions employees must take to return these withdrawals to the TSP.



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Attachments: Fact Sheet "TSP Benefits That Apply to Members of the Military Who Return to Federal Civilian Service"

Determining "Immediate" Makeup Agency Matching Contributions