§ 8440e. Members of the uniformed services

(a) For purposes of this section—

(1) the term “member” has the meaning given such term by section 211 of title 37; and

(2) the term “basic pay” means basic pay payable under section 204 of title 37.

(b) (1) Any member eligible to participate in the Thrift Savings Plan by virtue of section 211 (b) of title 37 may contribute to the Thrift Savings Fund.

(2) (A) Except as provided in subparagraph (B), an election to contribute to the Thrift Savings Fund under this section may be made as provided under section 8432 (b).

(B) (i) Notwithstanding subparagraph (A), any individual who is a member as of the effective date that applies with respect to such individual under section 663 of the National Defense Authorization Act for Fiscal Year 2000 may make the first such election during the 60-day period beginning on such effective date.

(ii) An election made under this subparagraph shall take effect on the first day of the first applicable pay period beginning after the close of the 60-day period referred to in clause (i).

(c) Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII shall apply with respect to members making contributions to the Thrift Savings Fund, and such members shall, for purposes of this subchapter and subchapter VII, be considered employees within the meaning of section 8401 (11).

(d) (1) (A) The amount contributed by a member described in section 211 (a)(1) of title 37 for any pay period out of basic pay may not exceed the maximum percentage of such member’s basic pay for such pay period allowable under section 8440f.

(B) The amount contributed by a member described in section 211 (a)(2) of title 37 for any pay period out of any compensation received under section 206 of title 37 may not exceed the maximum percentage of such member’s compensation for such pay period (received under such section 206) allowable under section 8440f.

(2) A member making contributions to the Thrift Savings Fund out of basic pay, or out of compensation under section 206 of title 37, may also contribute (by direct transfer to the Fund) any part of any special or incentive pay that such member receives under chapter 5 of title 37.

(3) Nothing in this section or section 211 of title 37 shall be considered to waive any dollar limitation under the Internal Revenue Code of 1986 which otherwise applies with respect to the Thrift Savings Fund.

(e) Except as provided in section 211 (d) of title 37, no contribution under section 8432 (c) of this title may be made for the benefit of a member making contributions to the Thrift Savings Fund under this section.
References in Text

Section 663 of the National Defense Authorization Act for Fiscal Year 2000, referred to in subsec. (b)(2)(B)(i), is section 663 of Pub. L. 106–65, as amended, which is set out as an Effective Date note below.

The Internal Revenue Code of 1986, referred to in subsec. (d)(3), is classified generally to Title 26, Internal Revenue Code.

Amendments

2004—Subsec. (b)(2)(A). Pub. L. 108–469 substituted “as provided under section 8432 (b)” for “only during a period provided under section 8432 (b), subject to the same conditions as prescribed under paragraph (2) (A)–(D) thereof”.

2000—Subsec. (b)(2)(B)(i). Pub. L. 106–398 substituted “as of the effective date that applies with respect to such individual under section 663 of the National Defense Authorization Act for Fiscal Year 2000” for “as of the effective date described in paragraph (1) of section 663(a) of the National Defense Authorization Act for Fiscal Year 2000 (or, if applicable, paragraph (2) thereof)”.

Subsec. (d)(1)(A). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 138(a)(6)(A)], substituted “the maximum percentage of such member’s basic pay for such pay period allowable under section 8440f.” for “5 percent of such member’s basic pay for such pay period.”

Subsec. (d)(1)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 138(a)(6)(B)], substituted “the maximum percentage of such member’s compensation for such pay period (received under such section 206) allowable under section 8440f.” for “5 percent of such compensation, payable to such member for such pay period.”

Effective Date


“(a) In General.—Except as provided in subsection (b), the amendments made by this subtitle [subtitle F (§§ 661–663) of title VI of div. A of Pub. L. 106–65, enacting this section and section 211 of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 8351, 8432b, 8433, 8439, and 8473 of this title and section 211 of Title 37] shall take effect 180 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

“(b) Postponement Authority.—(1) The Secretary of Defense may postpone by up to 180 days after the date that would otherwise apply under subsection (a)—

“(A) the date as of which the amendments made by this subtitle shall take effect; or

“(B) the date as of which section 211 (a)(2) of title 37, United States Code (as added by this subtitle) shall take effect.

“(2) Postponement authority under this subsection may be exercised only to the extent that the failure to do so would prevent the Federal Retirement Thrift Investment Board from being able to provide timely and accurate services to investors or would place an excessive burden on the administrative capacity of the Board to accommodate participants in the Thrift Savings Plan, as determined by the Secretary of Defense after consultation with the Executive Director (appointed by the Board).

“(3) Paragraph (1) includes the authority to postpone the effective date of the amendments made by this subtitle (apart from section 211 (a)(2) of title 37, United States Code), and the effective date of such section 211 (a)(2), by different lengths of time.

“(4) The Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate of any determination made under this subsection.”

Regulations