§ 8422. Deductions from pay; contributions for other service; deposits

(a) (1) The employing agency shall deduct and withhold from basic pay of each employee and Member a percentage of basic pay determined in accordance with paragraph (2).

(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

(A) the applicable percentage under paragraph (3), minus

(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

(3) The applicable percentage under this paragraph for civilian service shall be as follows:

<table>
<thead>
<tr>
<th>Employee Type</th>
<th>Percentage</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7.5</td>
<td>After December 31, 2000.</td>
</tr>
<tr>
<td>Law enforcement officer, firefighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller</td>
<td>7.5</td>
<td>After December 31, 2002.</td>
</tr>
</tbody>
</table>

7.75

7.9

7.5
(b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter, or under subchapter IV or V of this chapter, based on the service of the employee or Member.

(c) The amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Secretary of the Treasury may prescribe. Deposits made by an employee, Member, or survivor also shall be credited to the Fund.

(d) (1) Under such regulations as the Office may prescribe, amounts deducted under subsection (a) shall be entered on individual retirement records.

(2) Deposit may not be required for days of unused sick leave credited under paragraph (1) or (2) of section 8415 (l).

(e) (1) (A) Except as provided in subparagraph (B), and subject to paragraph (6), each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office shall issue, to the agency by which the employee is employed, or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, an amount equal to 3 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based on estimates of such basic pay provided to the Office under paragraph (4).

(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.

(2) Any deposit made under paragraph (1) more than two years after the later of—

(A) January 1, 1987; or
(B) the date on which the employee or Member making the deposit first becomes an employee or Member following the period of military service for which such deposit is due, shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334 (e).

(3) Any payment received by an agency, the Secretary of the Senate, or the Chief Administrative Officer of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.

(5) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.

(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(f) (1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year’s duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader. This paragraph shall be subject to paragraph (4).

(2) Any deposit made under paragraph (1) more than 2 years after the later of—

(A) October 1, 1993, or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334 (e).

(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.

(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(g) A Member who has served in a position in the executive branch for which the rate of basic pay was reduced for the duration of the service of the Member to remove the impediment to the appointment of the Member imposed by article I, section 6, clause 2 of the Constitution, or the survivor of such a Member, may deposit to the credit of the Fund an amount equal to the difference between the amount
deducted from the basic pay of the Member during that period of service and the amount that would have been deducted if the rate of basic pay which would otherwise have been in effect during that period had been in effect, plus interest computed under section 8334 (e).

(h) No deposit may be made with respect to service credited under section 8411 (b)(6).

(i) (1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334 (e) and regulations prescribed by the Office. The option under the third sentence of section 8334 (e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.

Footnotes
1 See References in Text note below.


References in Text
Section 3101(a) of the Internal Revenue Code of 1986, referred to in subsec. (a)(2)(B), is classified to section 3101 (a) of Title 26, Internal Revenue Code.


The Peace Corps Act, referred to in subsec. (f)(1), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. Sections 5(c) and 6(1) of the
Act are classified to sections 2504 (c) and 2505 (1), respectively, of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

Amendments


Subsec. (c). Pub. L. 111–84, § 1904(b)(2), inserted at end “Deposits made by an employee, Member, or survivor also shall be credited to the Fund.”

Subsec. (d)(2). Pub. L. 111–84, § 1901(b), substituted “paragraph (1) or (2) of section 8415 (l)” for “section 8415 (k)”.


Pub. L. 108–92 substituted “8415(k)” for “8415(i)”.

2002—Subsec. (d). Pub. L. 107–135 designated existing provisions as par. (1) and added par. (2).


Subsec. (i). Pub. L. 106–346, § 101(a) [title V, § 505(b)(2)], added par. (6). Pub. L. 106–346, § 101(a) [title V, § 505(b)(1)], added par. (3) and struck out former par. (1), which set out tables of applicable percentages for employee, Congressional employee, Member, law enforcement officer, firefighter, member of the Capitol Police, air traffic controller, and nuclear materials courier.

Subsec. (e)(6). Pub. L. 106–346, § 101(a) [title V, § 505(b)(2)], inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “January 1, 2001, through December 31, 2002, shall be 3.5 percent.”

Subsec. (f)(4). Pub. L. 106–346, § 101(a) [title V, § 505(b)(3)], inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “January 1, 2001, through December 31, 2002, shall be 3.5 percent.”


1997—Subsec. (a)(3). Pub. L. 105–33, § 7001(b)(1)(A), added par. (3) and struck out former par. (2) which read as follows: “The applicable percentage under this subsection for any pay period shall be—

“(A) in the case of an employee (other than a law enforcement officer, firefighter, air traffic controller, or Congressional employee) a percentage equal to—

“(i) 7 percent, minus—

“(ii) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance); and

“(B) in the case of a Member, law enforcement officer, firefighter, air traffic controller, or Congressional employee, a percentage equal to—

“(i) 71/2 percent, minus—

“(ii) the same percentage as would apply in the case of an employee under subparagraph (A)(ii).”

Subsec. (e)(1)(A). Pub. L. 105–33, § 7001(b)(1)(B)(i), inserted “and subject to paragraph (6),” after “Except as provided in subparagraph (B),”.


Subsec. (f)(1). Pub. L. 105–33, § 7001(b)(1)(C)(i), inserted at end “This paragraph shall be subject to paragraph (4).”


Subsec. (e)(1)(A), (3). Pub. L. 104–186 substituted “Chief Administrative Officer” for “Clerk”.


Subsec. (e)(1). Pub. L. 103–353, § 5(d)(1), designated existing provisions as subpar. (A) and substituted “Except as provided in subparagraph (B), each employee” for “Each employee” and added subpar. (B).

Subsec. (e)(2)(B). Pub. L. 103–353, § 5(d)(2), inserted before comma at end “following the period of military service for which such deposit is due”.


Effective Date of 2009 Amendment

Amendment by section 1901(b) of Pub. L. 111–84 applicable with respect to any annuity, entitlement to which is based on a death or other separation from service occurring on or after Oct. 28, 2009, see section 1901(c) of Pub. L. 111–84, set out as a note under section 8415 of this title.

Effective Date of 2007 Amendment; Transition Rules

Amendment by Pub. L. 110–161 effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after Dec. 26, 2007, with transition rules and rights of election, see section 535(e) of Pub. L. 110–161, set out as a note under section 3307 of this title.

Effective Date of 2003 Amendments

Amendment by Pub. L. 108–176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual’s separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108–176, set out as a note under section 8401 of this title.

Amendment by Pub. L. 108–92 applicable with respect to any annuity entitlement which is based on a separation from service occurring on or after Oct. 3, 2003, see section 2 of Pub. L. 108–92, set out as a note under section 8415 of this title.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–135 effective 60 days after Jan. 23, 2002, and applicable to individuals who separate from service on or after that effective date, see section 122(c) of Pub. L. 107–135, set out as a note under section 8415 of this title.

Effective Date of 2001 Amendment

Amendment by Pub. L. 107–107 applicable only to separations from service as an employee of the United States on or after Dec. 28, 2001, see section 1132(c) of Pub. L. 107–107, set out as a note under section 8332 of this title.

Effective Date of 2000 Amendments

Amendment by Pub. L. 106–553 effective on the first day of the first applicable pay period that begins on Dec. 21, 2000, and applicable only to an individual who is employed as a member of the Supreme Court Police after Dec. 21, 2000, see section 1 (a)(2) [title III, § 308(i), (j)] of Pub. L. 106–553, set out in a Supreme Court Police Retirement note under section 8331 of this title.

Amendment by Pub. L. 106–346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101 (a) [title V, § 505(i)] of Pub. L. 106–346, set out as a note under section 8334 of this title.

Effective Date of 1998 Amendment

Amendment by Pub. L. 105–261 effective at the beginning of the first pay period that begins after Oct. 17, 1998, and applicable only to an individual who is employed as a nuclear materials courier, as defined by section 8331 (27) or 8401 (33) of this title, after Oct. 17, 1998, see section 3154(m), (n) of Pub. L. 105–261, set out as a note under section 8331 of this title.
Effective Date of 1997 Amendments
Amendment by Pub. L. 105–61 applicable to any annuity commencing before, on, or after Oct. 10, 1997, and effective with regard to any payment made after the first month following Oct. 10, 1997, see section 516(b) of Pub. L. 105–61, set out as a note under section 8334 of this title.

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of Title 38, Veterans’ Benefits.

Effective Date of 1993 Amendment
Amendment by Pub. L. 103–82 effective Oct. 1, 1993, and applicable with respect to any individual entitled to an annuity on the basis of a separation from service occurring before, on, or after Oct. 1, 1993, subject to rule relating to annuities based on earlier separations, see sections 371(c) and 392 of Pub. L. 103–82, set out as notes under section 8332 of this title and section 4951 of Title 42, The Public Health and Welfare, respectively.

No Reduction in Agency Contributions
Pub. L. 105–261, div. C, title XXXI, § 3154(i)(2), Oct. 17, 1998, 112 Stat. 2256, provided that: “Contributions under subsections (a) and (b) of section 8423 of title 5, United States Code, shall not be reduced as a result of that portion of the amendment made by paragraph (1) [amending this section] requiring employee deductions at a rate in excess of 7.5 percent for the period beginning on January 1, 1999, and ending on December 31, 2002.”

Section 7001(b)(2) of Pub. L. 105–33 provided that: “Contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) [amending this section] of this subsection.”