

BENEFACTS

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PROGRAMS AND ADVISORY
SERVICES DIRECTORATE



Spotlight: Excess Contribution into Thrift Savings Plan (TSP)



Contributing into the traditional (pre-tax) TSP can be a great way to save on tax up front. However, Federal employees should be careful not to contribute over the IRS annual deferral limit to avoid some tax consequences and hassles.

What is an excess contribution (or excess deferral) into Thrift Savings Plan (TSP)?

When you contribute more than the IRS annual elective deferral limit into one or more tax-deferred retirement plan, you have an excess contribution year. The IRS annual deferral limit includes combined employee contributions into the traditional (pre-tax) TSP and another tax-deferred retirement plan such as 401(k), 403(b), 408(k), or 501(c)(18) of the Internal Revenue Code (IRC). The annual limit may change and is set by IRS every year. For 2015, the annual limit is \$18,000.

How do I end up with an excess contribution into TSP?

Let's say that an employee was hired into the Federal Government after working for a private company. The employee is eligible to contribute into the traditional (pre-tax) TSP and elects to contribute an amount. The employee has also been contributing into a 401(k) plan at his or her prior company in the same year. At the end of the year, the employee realizes that his or her combined contribution to 401(k) and TSP exceeds the IRS annual deferral limit for the year.

What do I do when my combined contributions exceed the annual limit?

You may request a refund of any excess contributions/deferrals from one or more of the plans (including TSP) in which you participate. Each plan has the option of returning your excess contributions, plus associated earnings, by April 15th of the year following the year in which the contributions were made. Because tax rules are complex, you may want to consult a tax advisor.

To request a refund of excess TSP deferrals and associated earnings, you must submit the latest version of Form TSP-44, Request for Refund of Excess Employee Contributions. The latest Form TSP-44 will be attached to a [Factsheet: Annual Limit on Elective Deferrals](#), postmarked and mailed to the address provided on the form no later than **March 15th of the year after the excess deferrals were made**. The TSP will process the refund by April 15th.

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What are the tax consequences if I contributed more than the annual limit?

Excess contributions are treated as income in the year in which you made the contributions, whether or not they are refunded to you. The total amount of deferred income is reported by each employer in Box 12 on your IRS Form W-2. If you have made traditional (pre-tax) excess contributions, you must report the total amount of the excess on your individual income tax return as taxable wages for the year in which you made the excess contributions. TSP Roth excess contributions are also taxable wages for the year in which you made the excess contributions, but the amount you are required to report is already included as income in Box 1 of your Form W-2.

For more information, please refer to the latest TSP publication on [Annual Limit on Elective Deferrals](#)

Also, please visit www.tsp.gov or call TSP at 1-877-968-3778 (outside the U.S. and Canada, call 404-233-4400) with further questions.



Injury Compensation Coverage for Recreational Injuries



Summertime means an increase in the opportunity to engage in outdoor recreation activities – picnics, softball games, golf outings, and so forth. Some of those opportunities may even be associated with the job, in one way or another, and as a result of these activities, individuals may sustain an injury. The question therefore arises: are such recreational injuries to Department of Defense (DoD) civilians covered for the purposes of workers' compensation? The general answer is that there can be coverage under the Federal Employees' Compensation Act (FECA) for injuries resulting from DoD civilian employee participation in recreational functions, but coverage may also be denied, because there must be a showing, on a case-by-case basis, that either the employee is paid for participating or the recreational activity is required and prescribed as a part of the employee's training or assigned duties.

The decision whether or not an injury is covered under FECA is made solely by the U.S. Department of Labor (DOL); Title 5, Section 8145 of the U.S. Code. The Employees' Compensation Appeals Board (ECAB), the highest appellate authority for FECA claims, in the 2006 ECAB case of [Robert Hoskinson and the Bureau of Prisons](#), cited three general criteria for coverage of a recreational injury: "(1) They occur on the premises during a lunch or recreation period as a regular incident of the employment; or (2) The employer, by expressly or impliedly requiring participation or by making the activity part of the services of an employee, brings the activity within the orbit of the employment; or (3) The employer derives substantial direct benefit from the activity beyond the intangible value of improvement in employee health and morale that is common to all kinds of recreation and social life."

In the 2005 case of [Luis Velez and the Department of the Army](#), Mr. Velez was injured at noon, on a workday, while playing softball on the grounds of his employing agency, Tobyhanna Army Depot. In this case, the evidence showed that activity was not one which the employee was compelled to attend.

Participation in the noontime softball game was neither part of the employee's job nor was it an activity for which he would be evaluated. It was a voluntary activity. The Appeals Board concluded that, if attendance at an event is completely voluntary and there is no direct, substantial benefit to the employer, this outweighs the employer's sponsorship of the event when determining whether an activity occurred in the course of employment.

In the 2000 case of [Hampton Holt and the Department of Labor](#), ECAB determined that Mr. Holt's injury at an agency picnic was compensable because the employing establishment provided leadership, the facility and encouragement to attend and participate in the activities of the picnic, the employing establishment indicated that some equipment was provided for, and granted administrative leave for the participants of the picnic as the picnic was held during work hours. Those factors, taken together, meant that his injury was covered under FECA. One big difference in this case was the granting of administrative leave by the employer.

So you may have coverage for workers' compensation for recreational injuries. However, the coverage depends on several factors, including the location of the recreational injury, the degree and level of sponsorship by the agency, and the substantial direct benefit gained by the agency above that of morale and good health.



Benefits Perspective: Moving or Going to Work for a Different Federal Agency



The Federal Employees Health Benefits (FEHB) Program is one of the most valuable benefits of Federal employment, but coverage is *not* automatic. In most scenarios, a federal employee has 60 days to enroll; however, it is to his or her advantage to make an election as soon as possible in order to be covered in case of an accident or illness. Keep in mind that there is no retroactive coverage of an employee's expenses prior to the effective date of his or her enrollment. The employee's policy will begin coverage on the effective date and will cover expenses that occur on or after the date of coverage, even for conditions occurring before the date of a pre-existing condition.

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When an employee is enrolled in a HMO plan and moves or becomes employed outside the HMO's service area, or living or working outside his or her service area, the employee can change health benefits plans. An employee can also change health benefits plans if an enrolled individual or family member moves outside the service area. The employee must notify his or her employing office of the move in order to change enrollment by providing a Qualifying Life Event (QLE Event Code: 1I) on the FEHB enrollment form.

An employee enrolled in a nationwide FEHB plan will have coverage even if he or she moves outside the United States. The employee may enroll or change enrollment when transferring from a duty post within the United States to a duty post outside the United States or the reverse. An employee has 31 days before

departure from the former place of duty and 60 days after arriving to a new place of duty to enroll or change enrollment. The Employees who require assistance should contact their new employing office.

The employee must submit a completed Standard Form [SF 2809](#) (Health Benefits Election Form) and/or use the employing agency's automated system (Employee Benefits Information System, Electronic Human Resources System, etc.) to change from the old plan to the new plan that provides coverage in the new employment area. An employee's enrollment and coverage continues without change when the employee transfers to another agency/payroll office without a break in service of more than three days. The employee's new employing office should promptly take action to transfer the existing enrollment.

Military Deposit (BAL 13-103)



A Military Service Deposit is the process used for buying back prior active duty service time. If you have served in the military and now hold a civilian position, your military service time may apply towards your civil service retirement.

One major source of conflict has been the process for completing Military Service Deposits for separating Federal employees, most notably those who separate for retirement. In the past, the Office of Personnel Management (OPM), provided flexibility in situations where the

employees maintained a balance on their Military Deposit at separation. Work-arounds were provided to ensure that final payment was completed before OPM's final adjudication. However, OPM subsequently ended this practice except in cases where an administrative error prevented the retiree from completing the Military Service Deposit prior to separation. If a retiree wishes to make the Deposit after separation, and OPM determines that an agency error occurred, a letter is sent to the agency. The letter details the administrative error, while also advising the agency to compute and accept the Military Service Deposit. The guidance was provided in [Benefits Administration Letter \(BAL\) 13-103](#)

It is incumbent upon the Human Resource Specialist to ensure that the service being purchased is fully creditable for inclusion in the annuity payments. [Chapter 22](#) of the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) Handbook provides additional guidance on the types of service that can be credited, while [Chapter 23](#) details the process for completing service credit deposits.

As the Nation's largest employer, the Federal Government strives to be a leader in the promotion of wellness programs and progressive workforce policies. Section 4207 of the Patient Protection and Affordable Care Act (ACA) requires employers to provide nursing mothers with 1) reasonable break time to express milk for one year after her child's birth each time such employee has need to express breast milk; and 2) a private space, other than a bathroom, that is shielded from view and free from intrusion of others, to express breast milk.

Supportive breastfeeding policies and practices in the workplace can positively impact an agency's mission. When an employee returns from maternity leave, she wants to be a productive employee and a good mother. The American Academy of Pediatrics recommends that babies exclusively receive their mother's milk for the first six months, and continue breastfeeding for at least a year or more. Breastfed babies are

healthier, and have fewer infections and illness. Mothers who breastfeed also experience significant health benefits, including lower risk of breast cancer.

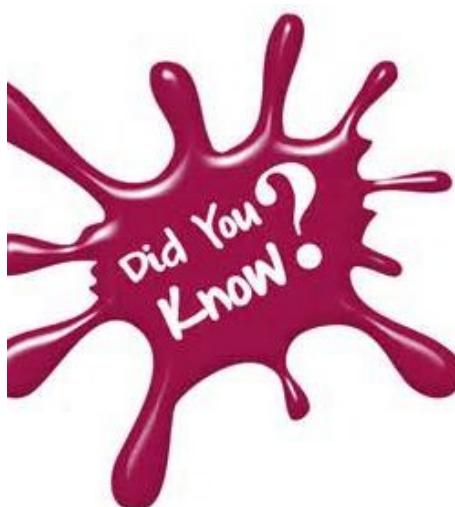
Providing a lactation support program involves little investment of time and resources because the needs of breastfeeding employees are simple. These four components can make a world of difference:

- A private place for employees to be able to express milk in privacy during the work period.
- A flexible schedule to express milk two or three times a day (primarily using allotted breaks).
- Education on benefits and services offered to support nursing mothers in the workplace.
- Supervisors and staff that support nursing mothers to the fullest extent possible.



All agencies are encouraged to institute breastfeeding-friendly policies within the workplace and seek ways to provide practical support. More information on this topic is available in the [OPM Guide for Establishing a Federal Nursing Mother's Program](#)

Did You Know



In general, an employee cannot receive credit for any military service in his or her FERS retirement computation, if he or she is receiving military retired pay, unless it was awarded:

- Due to a service-connected disability either incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in the line of duty during a period of war, or
 - Under the provisions of Chapter 1223, Title 10, U.S.C. (pertaining to retirement from a reserve component of the Armed Forces).

Reference: [Military Retired Pay](#)



Q1) My son was diagnosed with a mental disability before age 18, received Social Security (SS) benefits under Supplemental Security Income (SSI), and remained hospitalized until he passed away at age 32. May I file a death benefit for my son under the Federal Employee's Group Life Insurance, option C-family coverage?

A1) Yes. The Office of Federal Employees' Group Life Insurance (OFEGLI) claims office will accept the designation of a SSI status from Social Security benefit for a person approved before age 18 incapable of self-support and pay a claim. The Social Security office considers a child under age 18 as "disabled" if the child has:

- a medically determined physical or mental impairment;
- severe functional limitations; and
- a deficiency that is expected to result in death; or has lasted or expected to last for a continuous period of 12 months or longer.

Based on evidence, OFEGLI determines whether the deceased child was incapable of self-support due to a mental or physical disability that existed before the child was age 22. In this case, the claim is supported with the SSI benefit awarded before age 18 to the son on your (the parent's) behalf.

Reference: [CFR 870.803 - Child incapable of self-support](#)

Q2) Having maintained my Federal Employees' Group Life Insurance for my

entire Government career under Basic and electing 3 times option B on January 30, 2011, will I be able to convert my entire coverage to a private sector plan when I retire this December 31, 2015 using form SF-2819 and agency certification SF-2821?

A2) No. Unfortunately you cannot convert coverage because the optional insurance was held less than 5 years at the time of retirement.

Employees making an election for any FEGLI coverage must maintain coverage for 5 years from the effective date of election, or first eligible opportunity to convert coverage when separating from service or continue coverage into retirement. Each election of FEGLI coverage, when made separately, must be maintained for 5 years from the effective date of coverage to be eligible for conversion rights.

Reference: [5 U.S. Code § 8706](#)

Q3) I currently have Basic life insurance only and want to increase my Federal Employees' Group Life Insurance (FEGLI) by electing option B for 3 times my salary. Can I do this even if I don't have open season availability or qualifying life event, and have not separated more than 180 days from a Federal job and returned to Federal service?

A3) Yes. You may do so by completing Standard Form 2822, Request for Life Insurance, but only if you are in a position that allows coverage and it has been at least one year since the effective date of your most recent waiver or cancellation of life insurance coverage. You may file the request with your human resources office.

You will have to pay for the physical exam, your physician must send the completed SF 2822 to the Office of Federal Employees' Group Life Insurance (OFEGLI), and OFEGLI must receive the form within 60 days of the date of the medical examination. If OFEGLI approves coverage, they will notify your human resources office.

Your human resources office will automatically enroll you in Basic insurance (if you do not have Basic already). You will have 60 days from the approval date to elect Option A and/or Option B or increase your Option B multiples (up to a total of five times your annual rate of basic pay rounded up to the next even \$1,000). You cannot elect Family Option-C based on this request because Option-C covers dependents only.

Basic coverage becomes effective on the first day you enter on duty in pay status on or after OFEGLI's approval, provided you enter on duty in pay status within 60 days after OFEGLI's approval. If you do not enter on duty in pay status within 60 days after OFEGLI's approval, the approval is revoked automatically.

Reference: [5 C.F.R. 870-506 - Optional insurance: Cancelling a waiver](#)

Estate Planning

The purpose of estate planning is to document specifically where and to whom your assets will be distributed upon passing. This involves deciding who the beneficiaries will be, what each person will receive, or even if someone will be eliminated from any proceeds.

Normally, an unbiased Trustee such as an attorney will be designated to implement the plan upon your passing.

An estate includes information regarding owned assets for example; investments, real estate, cash retirement accounts, life insurance, personal possessions, interest in a business, and other valuables. Any outstanding debts should be subtracted from the assets to determine the overall net worth of the estate.

Federal Government benefits that should be listed within the estate plan include: the applicable retirement plan, either Civil Service



Retirement System (CSRS) or Federal Employees Retirement System (FERS) survivor benefits, Federal Employees' Group Life Insurance (FEGLI), Thrift Savings Plan, and designated beneficiary forms for these benefits as well as any Unpaid Compensation entitled benefits.

It is important to understand that having a Will or Estate plan does not override designations of beneficiaries documented on Federal Government benefits. All benefits provided to survivors of a Federal employee or retiree will be distributed based on the most recent designated beneficiary ([SF 1152](#)) form on file with the employing

agency or the Office of Personnel Management.

Additional resources may include contacting your servicing agency Employee Assistance Programs (EAP), [Legal-Aid](#), or the [Internal Revenue Service](#) for tax implications and a reputable Estate Planning Attorney.

The National Defense Authorization Act (NDAA) is a central piece of legislation for the Department of Defense (DoD). It is a broad defense spending bill that appropriates funds, establishes policy, and addresses matters pertaining to national defense each Fiscal Year (FY).

The NDAA for FY 2016 has been passed by both the Senate and the House of Representatives, but with amendments that Congress must agree upon or change before sending it to the President for signature. Selected sections of the (**draft**) legislation are highlighted in the chart below.



| Selected Sections From NDAA FY16 | |
|--|---|
| Section Number and Title | Impact |
| Section 631: Thrift Savings Plan (TSP) participation for members of the uniformed services. | <p>Provides an agency automatic 1% and matching contributions of up to 5% of basic pay to members of the uniform service who either:</p> <ul style="list-style-type: none">• First enter the uniformed service on or after January 1, 2018; or• Make an election described in section 1409(b)(4)(B) or 12739(f) of title 10. <p>The agency automatic 1% is contingent upon serving at least 60 days after first entering into the uniformed service and ends after serving 20 years. Matching contributions requires service members to serve at least two years and one day after first entering the uniform service. Matching contributions end after 20 years of service.</p> |
| Section 1101: Required probationary period for new employees of the Department of Defense. | Amends Section 1599e, Chapter 81 of Title 10, United States Code. It expands the probationary period for DoD employees appointed to a permanent position within the competitive service or career appointees within the Senior Executive Service (5 U.S.C. 3132(a)(4)) to two years. |
| Section 1102: Delay of periodic step increase for civilian employees of the Department of Defense based upon unacceptable performance. | Allows the DoD to exclude the service period during which an employee is rated as unacceptable from the time needed for a within-grade step increase (WIGI). It applies to any period of service performed after the NDAA FY16 is signed into law. |
| Section 1103: Procedures for reduction in force of Department of Defense civilian personnel. | Amends section 1597 of Title 10, United States Code. It instructs the DoD to base reduction-in-force (RIF) procedures on performance for civilian positions in the competitive service or expected service. |

Together these sections (631, 1101-1103), **if passed**, will influence how the Human Resource community conducts its work and the civilian workforce itself. Section 631 would impact Federal civilians being called to active duty as part of the Uniformed Service by offering another avenue to receive agency matching contributions for TSP contributions made while deployed. Sections 1101 through 1103 would place more emphasis on performance. In addition, section 1102 would affect Federal benefits influenced by basic pay such as Federal Employees' Group Life Insurance (FEGLI) and TSP.

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There are several sections within NDAA FY16 that have the potential of impacting DoD civilians and the DoD HR community. For more information on NDAA FY16, please go to www.govtrack.us or www.congress.gov and search H.R. 1735.

Healthy Retirement Package

A healthy retirement package is a complete and accurate package that does not have to be developed for missing, inaccurate, or discrepant information. The Benefits Administration Letter (BAL) 12-203 was implemented by the Office of Personnel Management (OPM) to provide guidance and assist agencies with submitting "healthy" retirement application packages to OPM for adjudication.



The BAL 12-203 details form by form what is required to be considered a healthy case and depict problem areas with each form:

Retirement Application: SF 2801 and SF 3107 – These forms must be the original form, complete, and signed by the applicant in ink and dated. Photocopies may be accepted if all of the criteria listed in BAL 12-103 are met. In addition, all questions must be answered, all applicable boxes checked and all areas requiring initials must be initialed.

Certified Summary of Service: SF 2801-1 and SF 3107-1 – All creditable civilian and military service must be included. Military service should indicate whether or not a military deposit has been paid in full. Service not covered by retirement contributions, part-time tours of duty and/or hours worked, intermittent and/or when actually employed and any excess leave-without-pay must be documented.

Spousal Consent Form: SF 2801-2 and SF 3107-2 – A spousal consent form must be submitted when a married applicant elects less than full survivor benefits. The form must be notarized and spousal consent must match the annuitant's election on the SF 2801 (Section F) or the SF 3107 (Section D). Photocopies are only accepted in accordance with BAL 12-103

References:

Please see [BAL 12-203](#) for more detailed guidance on the forms above and for additional forms. If you would like more information or have general comments please contact us at dodhra.mcalex.dcpas.mbx.benefits-contacts@mail.mil.