TSP Benefits That Apply to Members of the Military Who Return to Federal Civilian Service

This fact sheet applies to you if you meet all of the following conditions:

– You separated from Federal civilian service to perform military service, or you were placed in nonpay status to perform military service;

– Your release from military service, discharge from hospitalization, or other similar event occurred on or after August 2, 1990; and

– You were subsequently reemployed in, or restored to, a position covered by FERS or CSRS pursuant to 38 United States Code (USC) chapter 43, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).[1]

The Uniformed Services Employment and Reemployment Rights Act of 1994 contains several provisions regarding the Thrift Savings Plan (TSP):

- FERS employees are eligible to receive retroactive Agency Automatic (1%) Contributions[2] and earnings for the period of nonpay status or separation associated with performing military service.
- FERS employees are eligible to receive retroactive Agency Matching Contributions[2] to their civilian TSP accounts if they contributed to their uniformed services accounts for the period of nonpay or separation to perform military service.
- FERS and CSRS employees may make up employee contributions to their civilian TSP accounts that they missed as a result of performing military service. FERS employees will receive Agency Matching Contributions.
- FERS employees who were not vested upon separation from civilian service, and who had Agency Automatic (1%) Contributions and attributable earnings removed from their TSP accounts, are entitled to have those funds restored to their accounts.
- Participants who separated from civilian service and received an automatic cashout of their accounts may return the funds (and, if applicable, reestablish a TSP loan that was closed as a taxable distribution).
- The repayment terms of any outstanding civilian TSP loan will be extended upon return to civilian employment.

This fact sheet explains each of these benefits. **For an explanation of how they relate to your specific situation or for other information, see your agency Human Resources office. Your agency (not the TSP) determines your eligibility for restoration rights under USERRA.**

Receiving Restored Agency Makeup Contributions

Agency Automatic (1%) Contributions. If you are covered by FERS, your agency must restore missed Agency Automatic (1%) Contributions for the period of separation or nonpay associated with your performance of military service. These contributions are based on the basic pay you would have received as a civilian (if you had not been separated or placed in

[1] 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.

[2] All agency contributions are deposited into the traditional balance of your TSP account.

nonpay status to perform military service). Check with your agency Human Resources office to ensure that these contributions are deposited into your TSP account for each eligible period of military service.

Agency Matching Contributions. In addition, you are entitled to restored Agency Matching Contributions for periods of military service if you have:

- contributed to your uniformed services TSP account from military basic pay, or
- elected to make up employee contributions when you returned from military service.

You should always consider contributing some portion of your uniformed services basic pay to your uniformed services TSP account when you enter civilian nonpay status to perform military service. This entitles you to receive restored Agency Matching Contributions (and earnings) when you return to civilian employment, **whether or not** you make up civilian employee contributions upon your return. (However, you are not entitled to receive Agency Matching Contributions on contributions that were deducted from uniformed services incentive, special, or bonus pay.)

Agency Matching Contributions are determined as follows: dollar for dollar on the first 3% of basic pay contributed and 50 cents per dollar on the next 2% of basic pay contributed. If you made both traditional and Roth contributions, the total percentage of pay you contributed will be used to calculate your Agency Matching Contributions. The maximum Agency Matching Contribution is an amount equal to 4% of civilian basic pay.

Example. The calculation for restored Agency Matching Contributions works as follows:

Amount you contributed to your uniformed services account from basic pay	$ 2,000
Amount you would have earned in civilian basic pay	$100,000

The amount you contributed to your uniformed services account equals 2% of the civilian basic pay you would have earned, and is entitled to be matched dollar for dollar.

Amount of Agency Matching Contributions you would have received	$ 2,000
Amount eligible to be restored to your civilian account	$ 2,000

In this example, if you had contributed $5,000 (equivalent to 5% of your civilian pay) from your uniformed services basic pay while performing military service, you would have been entitled to the fullest civilian amount of Agency Matching Contributions — 4%, or $4,000. Alternatively, if you had only contributed $2,000, you could still receive the full match if you were able to make up the missed contributions of $3,000 when you returned to civilian employment ($5,000 minus the $2,000 contributed in the example).

If you did not contribute an amount from uniformed services basic pay that would entitle you to the full amount of Agency Matching Contributions, and you could not afford to make up the additional employee contributions upon your return from military service, you would not receive the additional attributable Agency Matching Contributions.

In addition, you would not be **permitted** to make up additional employee contributions and receive the full match if the total amount you contributed to your uniformed services account from all elements of pay (basic pay; incentive pay; and special pay, including bonuses) exceeded the amount you could have contributed to your civilian TSP account — the elective deferral limit.

Example. Using the assumptions in the previous example, if you contributed $2,000 from uniformed services basic pay, and an additional $18,000 from special and bonus pay while deployed to a designated combat zone,[3] your $20,000 total contributions to the TSP would exceed the civilian TSP contribution limit of $17,000 in 2012. You would therefore not be permitted to make up **any** additional employee contributions to your civilian account. Moreover, although the **total amount** of your contributions to your uniformed services account is used to determine the amount of civilian contributions you may make up, only your contributions from uniformed services **basic pay** may be used to determine the Agency Matching Contributions to which you are entitled.

Making Up TSP Contributions

You may make up contributions to your civilian TSP account for the period of time you missed as a result of your military service, including catch-up contributions (if you are age 50 or older). You may use the TSP contribution

[3] Combat zone tax-exempt contributions that are made to a traditional balance are not subject to the Internal Revenue Code (IRC) elective deferral limit. These contributions, combined with your regular contributions from civilian pay, are subject to the IRC 415(c) limit ($50,000 in 2012).

election that was in effect before your entry into military service, or you may make retroactive contribution elections, including an election to terminate the contributions for this period.

To make up missed TSP contributions, you must submit a written request to your agency within 60 days of the date of your reemployment in, or restoration to, civilian service.

Determining how much you can make up. The maximum amount you may make up, as previously explained, is based on the annual TSP limits for civilian employees. If you contributed to your uniformed services TSP account during this period of military service, the amount of employee contributions that you may make up in your civilian account must be reduced by the amount of the employee contributions you made to your uniformed services account (this includes contributions deducted from tax-deferred or tax-exempt uniformed services basic, incentive, special, and bonus pays). In the prior example, your total contributions while in military service exceeded the civilian limit, so you would not be able to make up any contributions.

Example. If you contributed $10,000 to your uniformed services account (this amount includes tax-deferred and tax-exempt contributions you may have made), you would be permitted to make up only $7,000 to your civilian account (up to the $17,000 Internal Revenue Code (IRC) elective deferral limit).

If you choose to make up employee contributions, your agency will help you set up a payment schedule that will be deducted from your future basic paychecks. Your payment schedule may be suspended if you are subsequently placed on active duty. Your agency will resume this payment schedule upon your return to civilian pay status. You can always stop your makeup contributions, but your decision to stop them is irrevocable.

Deducting and investing your makeup employee contributions. All makeup employee contributions must be deducted from future pay. You may not write a check to your agency to make up the contributions missed. Makeup employee contributions deducted from your pay in a current calendar year are subject to the IRC annual limit in effect for the year to which the makeup contributions are attributable. They do not count against the limit on your current year contributions; however, you receive the tax-deferred benefit in the year(s) they are made.

Your makeup employee contributions will be invested according to your contribution allocation in effect at the time the contributions are posted to your account (just as your current contributions are invested).

Receiving lost earnings. You are entitled to lost earnings (also known as breakage) on your makeup agency contributions. You are not entitled to lost earnings on your makeup employee contributions. You may elect to have the lost earnings on your agency contributions determined by using the rates of return for the fund(s) specified by your contribution allocation in effect at the time the contributions **would have been** made had you remained in civilian service or pay status, or by using the rates of return for the Government Securities Investment (G) Fund. You cannot elect a combination of these two methods.

You must make this election with your agency before it reports your restored agency contributions because the reporting mechanism used by your agency informs the TSP how to determine lost earnings. The net amount of lost earnings and the associated agency contributions will be invested according to your contribution allocation in effect at the time they are posted to your account (just as your current contributions are invested).

Getting Forfeited Agency Automatic (1%) Contributions Restored

If the Agency Automatic (1%) Contributions and attributable earnings in your TSP account were removed (forfeited) because you did not meet the TSP vesting requirement when you separated to perform military service, you are entitled to have these funds restored to your TSP account.

Restoration process. You must notify your agency that the Agency Automatic (1%) Contributions and attributable earnings were removed from your account. You can tell if a forfeiture was processed by checking your TSP participant statements. Your agency must take the actions required by the TSP to request that the funds be restored to your account. The TSP will then restore these funds to your account.

Returning Money Withdrawn From the TSP

If you separated from civilian service to perform military service, and your TSP account was automatically cashed out because your account balance was less than $200, you may return to the TSP an amount equal to the full amount of the cashout payment. (You may not return only part of this amount.) You will not receive lost earnings on this amount. The right to return your TSP cashout will expire if you do not provide notice to the TSP within **90 days** of the date of your reemployment in, or restoration to, civilian service.

You must provide the TSP a copy of your SF-50, Notification of Personnel Action, or a letter from your agency indicating your reemployment under 38 USC chapter 43 (USERRA). The TSP will then notify you of the amount you must return. You must provide this amount to the TSP as a single payment. You may **not** return a voluntary withdrawal.

Resuming TSP Loan Payments

If you had a TSP loan for which payments were suspended because you entered nonpay status to perform military service, your agency must submit Form TSP-41, Notification to TSP of Nonpay Status, indicating your return to civilian service or pay status. As an alternative, you may submit a copy of your Form SF-50, Notification of Personnel Action, a copy of your DD Form 214 documenting the period of your military service, or a letter from your agency containing your name, date of birth, and Social Security number, the date of your return to pay status, and the signature and title of the agency representative providing the information. The TSP will then reamortize your loan (which will include interest accrued during the period of your military service). You and your agency will receive notification of the reamortization. Loan payments may be increased. The maximum time frame for repayment of your loan will be extended by your period of military service.

Reversing a Taxable Distribution

If you had a TSP loan that was closed as a taxable distribution because you separated or were placed in nonpay status to perform military service (and the TSP was not notified), you may be eligible to have the taxable distribution reversed after you return to civilian service or pay status. If you also received an automatic cashout of your TSP account when you separated, you must return the cashout (as explained above) to be eligible for a reversal of the taxable distribution of your loan. However, if you voluntarily withdrew your TSP account when you separated, you are not eligible to have the taxable distribution of your loan reversed.

To reverse the taxable distribution, you may either repay the full amount of the taxable distribution, or you may reinstate a loan payment schedule if the reinstatement is permitted within the established limits of the loan program. The maximum time frame for repayment of your loan will be extended by your period of military service.

You must notify the TSP within 90 days of the date of your return to civilian service or pay status. You must provide the TSP with a copy of your SF-50, Notification of Personnel Action, or a letter from your agency verifying that your reemployment or return to pay status was made under 38 USC chapter 43 (USERRA), and a copy of your DD Form 214 documenting the period of your military service. The TSP will then contact you regarding the repayment or reinstatement of your loan and the additional action(s) that must be taken.