

(2) Exceptions

The annuity of—

(A) a participant involuntarily separated from the Agency;

(B) a participant retiring under section 2051 of this title due to a disability; and

(C) a participant who serves 3 days or less in the month of retirement;

shall commence on the day after separation from the Agency or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(3) Other annuities

Any other annuity payable from the fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

(c) Termination of annuity

An annuity payable from the fund shall terminate—

(1) in the case of a retired participant, on the day death or any other terminating event provided by this subchapter occurs; or

(2) in the case of a former spouse or a survivor, on the last day of the month before death or any other terminating event occurs.

(d) Application for survivor annuities

The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Director may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to the individual's estate.

(e) Waiver of annuity

An individual entitled to an annuity from the fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Director. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

(f) Limitations**(1) Application before 115th anniversary**

No payment shall be made from the fund unless an application for benefits based on the service of the participant is received by the Director before the 115th anniversary of the participant's birth.

(2) Application within 30 years

Notwithstanding paragraph (1), after the death of a participant or retired participant, no benefit based on that participant's service may be paid from the fund unless an application for the benefit is received by the Director within 30 years after the death or other event which gives rise to eligibility for the benefit.

(g) Withholding of State income tax from annuities**(1) Agreements with States**

The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agree-

ment from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund¹ and disbursed to the States during the month following that calendar quarter.

(2) Limitation on multiple requests

An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests during any one calendar year.

(3) Change in State designation

Subject to paragraph (2), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Director.

(4) General provisions

This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements of the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Director shall be repaid by the State in accordance with regulations prescribed by the Director.

(5) "State" defined

For the purpose of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

(Pub. L. 88-643, title II, §263, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3235.)

PRIOR PROVISIONS

A prior section 263 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1052; Pub. L. 97-269, title VI, §609, Sept. 27, 1982, 96 Stat. 1153; Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622, related to attachment of moneys and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

§ 2094. Attachment of moneys**(a) Exemption from legal process**

Except as provided in subsections (b), (c), and (e) of this section, none of the moneys men-

¹ So in original. Probably should not be capitalized.

tioned in this subchapter shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) Payment to former spouses under court order or spousal agreement

In the case of any participant, former participant, or retired participant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(1) any right of the former spouse to any annuity under section 2032(a) of this title in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(2) any right of the former spouse of a participant or retired participant to a survivor annuity under section 2032(b) or 2032(c) of this title, and the amount of any such annuity; and

(3) any right of the former spouse of a former participant to any payment of a lump-sum credit under section 2071(b) of this title, and the amount of any such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this subchapter.

(c) Other payments under court orders

Payments under this subchapter that would otherwise be made to a participant, former participant, or retired participant based upon that participant's service shall be paid, in whole or in part, by the Director to another individual if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

(d) Prospective payments; bar to recovery

(1) Subsections (b) and (c) of this section apply only to payments made under this subchapter for periods beginning after the date of receipt by the Director of written notice of such decree, order, or agreement and such additional information and documentation as the Director may require.

(2) Any payment under subsection (b) or (c) of this section to an individual bars recovery by any other individual.

(e) Allotments

An individual entitled to an annuity from the fund may make allotments or assignments of amounts from such annuity for such purposes as the Director considers appropriate.

(Pub. L. 88-643, title II, §264, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3237; amended Pub. L. 103-178, title II, §202(a)(12), Dec. 3, 1993, 107 Stat. 2027.)

PRIOR PROVISIONS

A prior section 264 of Pub. L. 88-643, as added Pub. L. 94-522, title II, §212, Oct. 17, 1976, 90 Stat. 2471, related to recovery of payments and was set out as a note under section 403 of this title prior to the general

amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496. See section 2095 of this title.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103-178, §202(a)(12)(A), inserted “and” at end.

Subsec. (b)(3). Pub. L. 103-178, §202(a)(12)(B), substituted “, and the amount of any such payment;” for “and to any payment of a return of contributions under section 2054(a) of this title; and”.

Subsec. (b)(4). Pub. L. 103-178, §202(a)(12)(C), struck out par. (4) which read as follows: “any right of the former spouse of a participant or former participant to a lump-sum payment or additional annuity payable from a voluntary contribution account under section 2121 of this title;”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103-178, set out as a note under section 2001 of this title.

§ 2095. Recovery of payments

Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money payable pursuant to this subchapter on account of a certification or payment made by a former employee of the Agency in the discharge of the former employee's official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

(Pub. L. 88-643, title II, §265, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3237; amended Pub. L. 103-178, title II, §202(a)(13), Dec. 3, 1993, 107 Stat. 2027.)

AMENDMENTS

1993—Pub. L. 103-178 substituted “subchapter” for “chapter” in two places.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103-178, set out as a note under section 2001 of this title.

PART H—RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN AGENCY OR REEMPLOYED IN GOVERNMENT

§ 2111. Recall

(a) Authority to recall

The Director may, with the consent of a retired participant, recall that participant to service in the Agency whenever the Director determines that such recall is in the public interest.

(b) Pay of retired participant while serving

A retired participant recalled to duty in the Agency under subsection (a) of this section or reinstated or reappointed in accordance with section 2051(b)¹ of this title shall, while so serving, be entitled, in lieu of the retired participant's annuity, to the full basic pay of the grade in which the retired participant is serving. During such service, the retired participant shall

¹ So in original. Probably should be section “2051(c)”.