

8434(d), 8435, 8437, or any other provision of law; and

(3) any other provisions which may be necessary to carry out this section.

(Added Pub. L. 111-31, div. B, title I, §103(a), June 22, 2009, 123 Stat. 1853.)

REFERENCES IN TEXT

Section 402A of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 402A of Title 26, Internal Revenue Code.

§ 8433. Benefits and election of benefits

(a) An employee or Member who separates from Government employment is entitled to the amount of the balance in the employee's or Member's account (except for the portion of such amount forfeited under section 8432(g) of this title, if any) as provided in this section.

(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

- (1) an annuity;
- (2) a single payment;
- (3) 2 or more substantially equal payments to be made not less frequently than annually; or
- (4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.

(d)(1) Subject to paragraph (2) and subsections (a) and (c) of section 8435 of this title, an employee or Member may change an election previously made under this subchapter.

(2) A former employee or Member may not change an election under this section on or after the date on which a payment is made in accordance with such election or, in the case of an election to receive an annuity, the date on which an annuity contract is purchased to provide for the annuity elected by the former employee or Member.

(e)(1) If an employee or Member (or former employee or Member) dies without having made an election under this section or after having elected an annuity under this section but before making an election under section 8434 of this title, an amount equal to the value of that individual's account (as of death) shall, subject to any decree, order, or agreement referred to in section 8435(c)(2) of this title be paid in a manner consistent with section 8424(d) of this title.

(2) Notwithstanding section 8424(d), if an employee, Member, former employee, or former Member dies and has designated as sole or partial beneficiary his or her spouse at the time of death, or, if an employee, Member, former employee, or former Member, dies with no designated beneficiary and is survived by a spouse, the spouse may maintain the portion of the employee's or Member's account to which the spouse is entitled in accordance with the following terms:

(A) Subject to the limitations of subparagraph (B), the spouse shall have the same withdrawal options under subsection (b) as the employee or Member were the employee or Member living.

(B) The spouse may not make withdrawals under subsection (g) or (h).

(C) The spouse may not make contributions or transfers to the account.

(D) The account shall be disbursed upon the death of the surviving spouse. A beneficiary or surviving spouse of a deceased spouse who has inherited an account is ineligible to maintain the inherited spousal account.

(3) The Executive Director shall prescribe regulations to carry out this subsection.

(f)(1) Notwithstanding subsection (b), if an employee or Member separates from Government employment, and such employee's or Member's nonforfeitable account balance is less than an amount that the Executive Director prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment, unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.

(2) Unless otherwise elected under this section, and subject to paragraph (1), benefits under this subchapter shall be paid as an annuity commencing for an employee, Member, former employee, or former Member on April 1 of the year following the latest of the year in which—

(A) the employee, Member, former employee, or former Member becomes 70½ years of age; or

(B) the employee, Member, former employee, or former Member separates from Government employment.

(g)(1) At any time before separation, an employee or Member may apply to the Board for permission to borrow from the employee's or Member's account an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member. Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to

other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance.

(2) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.

(3) A loan may not be made under this subsection to the extent that the loan would be treated as a taxable distribution under section 72(p) of the Internal Revenue Code of 1986.

(4) A loan may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.

(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

- (A) the employee or Member having attained age 59½; or
- (B) financial hardship.

(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member.

(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 544; amended Pub. L. 100-238, title I, §132, Jan. 8, 1988, 101 Stat. 1760; Pub. L. 101-335, §§5(a), 6(a)(2), July 17, 1990, 104 Stat. 321, 322; Pub. L. 102-484, div. D, title XLIV, §4437(a), Oct. 23, 1992, 106 Stat. 2724; Pub. L. 103-226, §9(b), (i)(3)-(7), Mar. 30, 1994, 108 Stat. 119, 121, 122; Pub. L. 103-353, §§4(b), 5(e)(4), Oct. 13, 1994, 108 Stat. 3172, 3174; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §659 [title II, §203(a)]], Sept. 30, 1996, 110 Stat. 3009-314, 3009-372, 3009-374; Pub. L. 106-65, div. A, title VI, §661(a)(4), Oct. 5, 1999, 113 Stat. 672; Pub. L. 108-469, §3(1), Dec. 21, 2004, 118 Stat. 3893; Pub. L. 111-31, div. B, title I, §109, June 22, 2009, 123 Stat. 1856.)

REFERENCES IN TEXT

Sections 72(p) and 402(c)(8) of the Internal Revenue Code of 1986, referred to in subsecs. (c)(3) and (g)(3), are classified to sections 72(p) and 402(c)(8), respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

2009—Subsec. (e). Pub. L. 111-31 designated existing provisions as par. (1) and added pars. (2) and (3).

2004—Subsec. (d)(1). Pub. L. 108-469 substituted “paragraph (2)” for “paragraph (3)”.

1999—Subsecs. (g)(1), (h)(3). Pub. L. 106-65 struck out “under section 8432(a) of this title” after “by the employee or Member”.

1996—Subsec. (b). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(1)]], added subsec. (b) and struck out former subsec. (b) which read as follows: “Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect—

“(1) to receive an immediate annuity from the Thrift Savings Fund;

“(2) to defer the commencement of the payment of an annuity from the Thrift Savings Fund until such date as the employee or Member specifies, but not later than April 1 of the year following the year in which the employee or Member becomes 70½ years of age;

“(3) to withdraw the amount of the balance in the employee's or Member's account in the Thrift Savings Fund in one or more substantially equal payments to be made not less frequently than annually and to commence before April 1 of the year following the year in which the employee or Member becomes 70½ years of age; or

“(4) to transfer the amount of the balance in the employee's or Member's account to an eligible retirement plan as provided in subsection (c).”

Subsec. (c). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(1)]], added subsec. (c) and struck out former subsec. (c) which read as follows:

“(1) The Executive Director shall make each transfer elected under subsection (b)(4) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

“(2) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (1) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.”

Subsec. (d)(1). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(2)(A)]], substituted “(3)” for “(3)(A)” after “Subject to paragraph”.

Subsec. (d)(2). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(2)(C)]], struck out subpar. (A) designation before “A former employee” and struck out subpar. (B) which read as follows: “A modification of a date may not be made under paragraph (2) on or after the date on which an annuity contract is purchased to provide for the annuity involved, and may not specify a date for the commencement of an annuity earlier than 90 days after the date on which the modification is submitted to the Executive Director (or such period shorter than 90 days as the Executive Director may by regulation prescribe).”

Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(2)(B)]], redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “Subject to paragraph (3)(B) and section 8435(c) of this title, a former employee or Member who has made an election pursuant to subsection (b)(2) may modify the date specified in such election or in a previous modification under this paragraph.”

Subsec. (d)(3). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(2)(B)]], redesignated par. (3) as (2).

Subsec. (f)(1). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(3)]], substituted “less than an amount that the Executive Director prescribes by regulation” for “\$3,500 or less” and substituted a comma for “unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or”.

Subsec. (f)(2). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(4)]], in introductory provisions substituted “April 1” for “February 1”, in subpar. (A) substituted “70½” for “65” and inserted “or” after semicolon, redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: “occurs the tenth anniversary of the year in which the employee,

Member, former employee, or former Member became subject to this subchapter; or”.

Subsec. (g)(1). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(5)(A)]], struck out “after December 31, 1987, and” after “At any time”, and inserted at end “Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee’s or Member’s final account balance.”

Subsec. (g)(2) to (5). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(5)(B)]], redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: “An application under this subsection may be approved only for—

- “(A) the purchase of a primary residence;
- “(B) educational expenses;
- “(C) medical expenses; or
- “(D) financial hardship.”

Subsec. (h). Pub. L. 104-208, §101(f) [title VI, §659 [title II, §203(a)(6)]], added subsec. (h).

1994—Subsec. (b). Pub. L. 103-226, §9(b)(1), amended introductory provisions generally, substituting “Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect—” for “Subject to section 8435 of this title, any employee or Member who separates from Government employment entitled to an immediate annuity under subchapter II of this chapter, any employee or Member who separates from Government employment entitled to benefits under subchapter I of chapter 81 of this title, any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force, and any employee or Member who is entitled to receive disability benefits under subchapter V of this chapter is entitled and may elect—”.

Subsec. (b)(4). Pub. L. 103-226, §9(i)(3), substituted “subsection (c)” for “subsection (e)”.

Subsec. (c). Pub. L. 103-226, §9(b)(2), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to permissible elections by employees separating from Government who are entitled to a deferred annuity.

Subsec. (c)(1). Pub. L. 103-226, §9(b)(3), substituted “directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986)” for “or (c)(4) or required under subsection (d) directly to an eligible retirement plan or plans (as defined in section 402(a)(5)(E) of the Internal Revenue Code of 1954)”.

Subsec. (d). Pub. L. 103-353, §4(b)(1), inserted before period at end “, unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred”.

Pub. L. 103-226, §9(b)(2), redesignated subsec. (f) as (d) and struck out former subsec. (d) which read as follows: “Subject to section 8435 of this title, any employee or Member who separates from Government employment before becoming entitled to a deferred annuity under subchapter II of this chapter shall transfer the amount of the balance in the employee’s or Member’s account to an eligible retirement plan as provided in subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.”

Subsec. (d)(1). Pub. L. 103-226, §9(i)(4), substituted “(c) of section 8435” for “(d) of section 8435”.

Subsec. (d)(2). Pub. L. 103-226, §9(b)(4), (i)(5), substituted “section 8435(c)” for “section 8435(d)” and struck out “or (c)(2)” after “subsection (b)(2)”.

Subsec. (e). Pub. L. 103-226, §9(b)(2), (i)(6), redesignated subsec. (g) as (e) and substituted “section 8435(c)(2)” for “section 8435(d)(2)”. Former subsec. (e) redesignated (c).

Subsec. (f). Pub. L. 103-226, §9(b)(2), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (f)(1). Pub. L. 103-226, §9(b)(5)(A), (B), redesignated par. (2) as (1), substituted “Notwithstanding subsection (b), if an employee or Member separates from Government employment, and such employee’s or Member’s” for “Notwithstanding subsections (b) and (c), if an employee or Member separates from Government employment under circumstances making such employee or Member eligible to make an election under either of those subsections, and such employee’s or Member’s”, struck out “or (c), as applicable” before period at end, and struck out former par. (1) which read as follows: “Notwithstanding subsection (d), if an employee or Member separates from Government employment before becoming entitled to a deferred annuity under subchapter II, and such employee’s or Member’s nonforfeitable account balance is \$3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in subsection (e), or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.”

Subsec. (f)(2). Pub. L. 103-226, §9(b)(5)(A), (C), redesignated par. (3) as (2) and substituted “paragraph (1)” for “paragraphs (1) and (2)” before “, benefits under this chapter”. Former par. (2) redesignated (1).

Subsec. (f)(3). Pub. L. 103-226, §9(b)(5)(A), redesignated par. (3) as (2).

Subsec. (g). Pub. L. 103-226, §9(b)(2), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsec. (g)(5). Pub. L. 103-226, §9(i)(7), substituted “section 8435(e)” for “section 8435(f)”.

Subsec. (h). Pub. L. 103-226, §9(b)(2), redesignated subsec. (h) as (f).

Subsec. (h)(1), (2). Pub. L. 103-353, §4(b)(2), inserted before period at end “, or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred”.

Subsec. (i). Pub. L. 103-226, §9(b)(2), redesignated subsec. (i) as (g).

Subsec. (i)(4). Pub. L. 103-353, §5(e)(4), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1992—Subsec. (b). Pub. L. 102-484 inserted “any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force,” after “chapter 81 of this title.”

1990—Subsec. (f)(3)(A). Pub. L. 101-335, §5(a)(1), substituted “an annuity contract is purchased to provide for the annuity elected by the former employee or Member” for “an annuity elected by the former employee or Member commences”.

Subsec. (f)(3)(B). Pub. L. 101-335, §5(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “A modification of a date may not be made under paragraph (2) on or after such date and may not specify a date for the commencement of an annuity earlier than 1 month after the date on which the modification is submitted to the Executive Director.”

Subsec. (h). Pub. L. 101-335, §6(a)(2), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “Unless otherwise elected under this section, benefits under this subchapter shall be paid as an annuity commencing for an employee, Member, former employee, or former Member on February 1 of the year following the latest of the year in which—

“(1) the employee, Member, former employee, or former Member becomes 65 years of age;

“(2) occurs the tenth anniversary of the year in which the employee, Member, former employee, or former Member became subject to this subchapter; or

“(3) the employee, Member, former employee, or former Member separates from Government employment.”

1988—Subsec. (i)(3). Pub. L. 100-238 amended par. (3) generally. Prior to amendment, par. (3) read as follows:

“Loans under this subsection shall be subject to such conditions as the Board may prescribe consistent with section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)). The conditions shall be included in regulations issued by the Executive Director.”

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-65 effective 180 days after Oct. 30, 2000, unless postponed, see section 663 of Pub. L. 106-65, as amended, set out as an Effective Date note under section 8440e of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Sept. 30, 1996, and withdrawals and elections as provided under such amendment to be made at earliest practicable date as determined by Executive Director in regulations, see section 101(f) [title VI, § 659 [title II, § 207]] of Pub. L. 104-208, set out as a note under section 5545a of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by section 4(b) of Pub. L. 103-353 effective Oct. 13, 1994, and applicable to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of Title 38, Veterans' Benefits, occurs on or after Aug. 2, 1990, with special rules for applying amendment to employees restored or reemployed before effective date, see section 4(e), (f) of Pub. L. 103-353, set out as an Effective Date note under section 8432b of this title.

Amendment by section 5(e)(4) of 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.

Amendment by Pub. L. 103-226 effective Mar. 10, 1995, see section 9(j) of Pub. L. 103-226, set out as a note under section 8351 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-484 applicable with respect to separations occurring after Dec. 31, 1993, or such earlier date as Executive Director (appointed under section 8474 of this title) may by regulation prescribe, see section 4437(d) of Pub. L. 102-484, set out as a note under section 8351 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-335, §5(d), July 17, 1990, 104 Stat. 322, provided that: “The amendments made by this section [amending this section and sections 8434, and 8435 of this title] shall be effective as of April 1, 1987.”

Amendment by section 6(a)(2) of Pub. L. 101-335 effective as of second election period described in section 8432(b) of this title beginning after July 17, 1990, or such earlier date as Executive Director may by regulation prescribe, and applicable with respect to separations occurring before, on, or after that effective date, see section 6(c) of Pub. L. 101-335, set out as a note under section 8351 of this title.

REGULATIONS

Pub. L. 101-335, §6(b)(4), July 17, 1990, 104 Stat. 324, provided that: “The Executive Director (as appointed under section 8474(a) of title 5, United States Code) shall prescribe regulations under which the purposes of the amendments made by this section [amending this section and sections 8351, 8401, 8435, 8440a, and 8440b of this title] shall be carried out with respect to any individuals participating in the Thrift Savings Plan who would not otherwise be affected by this section.”

INVALIDITY OF CERTAIN PRIOR ELECTIONS

Pub. L. 104-208, div. A, title I, §101(f) [title VI, § 659 [title II, § 203(b)]], Sept. 30, 1996, 110 Stat. 3009-314,

3009-376, provided that: “Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this title [Sept. 30, 1996]), with respect to an annuity which has not commenced before the implementation date of this title as provided by regulation by the Executive Director in accordance with section 207 of this title [5 U.S.C. 5545a note], shall be invalid.”

§ 8434. Annuities: methods of payment; election; purchase

(a)(1) The Board shall prescribe methods of payment of annuities under this subchapter.

(2) The methods of payment prescribed under paragraph (1) shall include, but not be limited to—

(A) a method which provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

(B) a method which provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and

(E) a method which provides for the payment of a monthly annuity—

(i) to the annuitant for the joint lives of the annuitant and an individual who is designated by the annuitant under regulations prescribed by the Executive Director and (I) is a former spouse of the annuitant, or (II) has an insurable interest in the annuitant; and

(ii) to the one of them who survives the other of them for the life of the survivor.

(b) Subject to section 8435(b) of this title, under such regulations as the Executive Director shall prescribe, an employee, Member, former employee, or former Member who elects under section 8433 of this title to receive an annuity under this subchapter shall elect, on or before the date on which an annuity contract is purchased to provide for that annuity, one of the methods of payment prescribed under subsection (a).

(c) Notwithstanding the elimination of a method of payment by the Board, an employee, Member, former employee, or former Member may elect the eliminated method if the elimination of such method becomes effective less than 5 years before the date on which that individual's annuity commences.

(d)(1) Not earlier than 90 days (or such shorter period as the Executive Director may by regulation prescribe) before an annuity is to commence under this subchapter, the Executive Director shall expend the balance in the annu-