



[BILLING CODE 6760-01-P]

**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

**5 CFR Part 1653**

**Tax Withholding on Court Ordered Payments**

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Direct final rule.

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**SUMMARY:** This rule deletes regulatory language that provides for the Federal income tax withholding rates on court ordered payments from the Thrift Savings Plan.

**DATES:** This rule is effective without further action on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless significant adverse comment is received by [INSERT DATE 25 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If significant adverse comment is received, the FRTIB will publish a timely withdrawal of the rule in the Federal Register.

**ADDRESSES:** You may submit comments using one of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- Mail: Office of General Counsel, Attn: Megan G.

Grumbine, Federal Retirement Thrift Investment Board,

77 K Street, N.E., Suite 1000, Washington, D.C. 20002.

- Hand Delivery/Courier: The address for sending comments by hand delivery or courier is the same as that for submitting comments by mail.

- Facsimile: Comments may be submitted by facsimile at (202) 942-1676.

The most helpful comments explain the reason for any recommended change and include data, information, and the authority that supports the recommended change.

**FOR FURTHER INFORMATION CONTACT:** Laurissa Stokes at (202) 942-1645.

**SUPPLEMENTARY INFORMATION:** The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Currently, paragraph (e) of 5 CFR 1635.5 specifies the person to whom a court ordered payment from the TSP may be

made and, in addition, specifies the Federal income tax withholding rates on such payments. This rule deletes the language that specifies the Federal income tax withholding rates on court ordered TSP payments.

The Federal income tax withholding rates on all TSP payments are dictated by the Internal Revenue Code. As such, any FRTIB regulatory language that expresses the withholding rates are, at best, duplicative of the Internal Revenue Code. The Federal income tax withholding rates required by the Internal Revenue Code are more appropriately communicated to participants and beneficiaries via the TSP website or via forms and publications provided directly to them.

#### **Type of Rulemaking**

In a direct final rulemaking, an agency publishes a direct final rule in the Federal Register along with a statement that the rule will become effective unless the agency receives significant adverse comment within a specified period. The FRTIB is using a direct final rule for this rulemaking because it expects this regulation to be noncontroversial. The FRTIB will withdraw the rule if it receives significant adverse comment. Comments that are not adverse may be considered for modifications to part 1653 at a future date. If no significant adverse comment is

received, the rule will become effective without additional action.

**Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered by the FRTIB.

**Paperwork Reduction Act**

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

**Unfunded Mandates Reform Act of 1995**

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement

under section 1532 is not required.

**Submission to Congress and the General Accounting Office**

Pursuant to 5 U.S.C. 810(a) (1) (A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the Federal Register. This rule is not a major rule as defined at 5 U.S.C. 814(2).

**List of Subjects in 5 CFR Part 1653**

Alimony, Child support, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the Agency amends 5 CFR chapter VI as follows:

**PART 1653-COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS**

1. The authority citation for part 1653 continues to read as follows:

AUTHORITY: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e),

8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

2. Amend § 1653.5 by revising paragraph (e) to read as follows:

**§ 1653.5 Payment.**

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(e) Payment will be made only to the person or persons specified in the court order. However, if the court order specifies a third-party mailing address for the payment, the TSP will mail to the address specified any portion of the payment that is not transferred to a traditional IRA, Roth IRA, or eligible employer plan.

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