

# 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
- 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)<sup>1</sup>

USERRA contains several provisions regarding the Thrift Savings Plan (TSP):

- FERS employees are eligible to receive retroactive Agency Automatic (1%) Contributions<sup>2</sup> 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<sup>2</sup> 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.**

## **Important Note for Members in the Blended Retirement System (BRS):**

Please pay close attention to the footnotes and other information related to BRS throughout this fact sheet. Because you receive Service Automatic (1%) Contributions and, potentially, Service Matching Contributions, calculations of your maximum retroactive agency contributions are different from those of non-BRS members.

<sup>1</sup> 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.

<sup>2</sup> All agency contributions are deposited into the traditional balance of your TSP account.



## Receiving Restored Agency 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.<sup>3</sup> These contributions are based on the basic pay you would have received as a civilian if you had not been separated or placed in 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,<sup>4</sup> or
- elected to make up employee contributions when you returned from military service.

**Agency Matching of Employee Contributions to a Uniformed Services Account.** If you contribute to your uniformed services TSP account while you're in civilian nonpay status to perform military service, then you are entitled 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.<sup>4</sup> (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.

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 instead 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 maximum civilian amount of Agency Matching Contributions: 4%, or \$4,000.<sup>4</sup>

**Agency Matching of Makeup Contributions.** If you did not contribute an amount from uniformed services basic pay that would entitle you to the full amount of Agency Matching Contributions, you may still be able to get the full match by making up contributions to your civilian TSP account. A limitation on how much you can make up, however, could also limit how much agency matching can be restored. This option and its limitation are discussed in the next section.

## 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 contributions toward the catch-up limit (if you are turning age 50 or older). You may use the TSP contribution 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.**

<sup>3</sup> BRS members, your restored Agency Automatic (1%) Contributions will be reduced by the amount of Service Automatic (1%) Contributions you received while performing military service.

<sup>4</sup> BRS members, your restored Agency Matching Contributions will be reduced by the amount of any Service Matching Contributions you received while performing military service.

**Determining how much you can make up.** 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<sup>5</sup> uniformed services basic, incentive, special, and bonus pay. Note that while contributions from tax-exempt pay do not count against the elective deferral limit on your uniformed services account, **they do count against the limit when determining how much you can make up in your civilian account.**

**Non-BRS Examples.** For each of the scenarios described here, assume that you went into nonpay status in your civilian job in order to perform military service. Had you not done so, you would have earned \$100,000 in civilian basic pay. You have a uniformed services TSP account and you are not a BRS participant.

*Scenario 1.* If you contributed \$10,000 to your uniformed services account, whether or not this amount included contributions of tax-deferred or tax-exempt pay, you would be permitted to make up only \$9,500 to your civilian account (because of the \$19,500 IRC elective deferral limit for 2020).

*Scenario 2.* 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, which is permitted since tax-exempt pay is not subject to the elective deferral limit, your \$20,000 total contributions to the TSP would exceed the 2020 civilian contribution limit of \$19,500. You would therefore not be permitted to make up **any** additional employee contributions to your civilian account.<sup>6</sup> Also, your agency would match, dollar-for-dollar, the \$2,000 in contributions you made from uniformed services basic pay. It would not match any of the \$18,000 you contributed from special and bonus pay.

**BRS Examples.** For these examples, assume your civilian salary is \$100,000 and you are a BRS participant who is eligible to receive Service Matching Contributions. Let's also say that your military basic pay during this period was

\$75,000. All of the contributions you make while in the military are from basic pay.

*Scenario 1.* You contribute \$2,000 of your basic pay to your uniformed services TSP account. That's roughly 2.67% of your pay, so, because you're a BRS member eligible for Service Matching Contributions, your service matches your contributions dollar for dollar. (Remember it's dollar for dollar on the first 3% and 50 cents per dollar on the next 2%.) When you return to your civilian job, you're allowed to make up \$17,500 in contributions to your civilian TSP account. If you do that, you will have contributed an amount greater than 5% of your civilian pay, so you'll be entitled to the full agency match. In this case that would be \$4,000 (dollar for dollar on the first 3% and 50 cents on the dollar for the next 2%). Subtracting the amount you received in Service Matching Contributions (\$2,000) leaves \$2,000 that your civilian agency must match.

*Scenario 2.* Everything is the same as in the first scenario, except that instead of contributing only \$2,000 of your basic pay, you contribute \$8,000. That's more than 10% of your military pay. Your service will match the first 3% dollar for dollar (\$2,250) and the next 2% at 50 cents on the dollar (\$750). Your total Service Matching Contribution is \$3,000. When you return to civilian service, you're well within the IRC limit and can do makeup contributions of up to \$11,500 (\$19,500 minus \$8,000). You've already received your maximum Service Matching Contribution, so will your agency match any of your makeup contributions? Yes. While in the military you could only receive matching on your first \$3,750 contributed because that was 5% of your \$75,000 salary. But now that you've returned, it's your \$100,000 civilian salary that matters, and the 5% limit is now \$5,000, which results in a match of \$4,000 (dollar for dollar on the first 3%; 50 cents on the dollar on the next 2%). Subtracting the \$3,000 you received in Service Matching Contributions leaves \$1,000 that your civilian agency must match. Again, you've been made whole by receiving the maximum match you could have had if no break in service had occurred.

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.

<sup>5</sup> 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 (\$57,000 in 2020).

<sup>6</sup> This only applies to how much you can make up; if the calendar year is not over, you may still make regular employee contributions.

**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. The lost earnings on your agency contributions will be 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.

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.