

Office of Personnel Management
Retirement and Insurance Service



1920



1954



1959



1986

Benefits Administration Letter

Number: 95-110

Date: December 13, 1995

SUBJECT: Expedited FERS employee death benefits processing.

DISCUSSION The Unemployment Compensation Amendments of 1992 provided, among other things, spouses and former spouses the opportunity to directly roll over taxable lump sums into Individual Retirement Arrangements (IRA). If not rolled over, taxable lump sums paid directly to spouses and former spouses are subject to a mandatory 20 percent withholding for Federal income tax. The taxable lump sums spouses and former spouses are eligible to roll over are the Basic Employee Death Benefit (BEDB) and interest on: employee contributions, excess retirement deductions, and voluntary contributions.

CURRENT PROCESS We currently send surviving spouses and surviving former spouses of deceased Federal employees rollover election information and an election form after we compute their benefits. This takes 30 to 60 days after we receive the application and supporting documentation.

The election letter provides the taxable lump sum payments which can be rolled over. Tax and rollover information are also provided at this time. This procedure delays payments to the survivors who were in a position to make their decisions at the time they applied for death benefits. This process will continue to be available to surviving spouses who elect it or who do not complete the new election form at the time they apply for benefits.

EXPEDITED PROCESS To expedite the IRA rollover election process for those survivors who would like to make their rollover election at the time they apply for death benefits, we will allow the elections to be made at the time of application based on the information provided by the deceased employees' employing agency. This will permit us to authorize payment of any lump sum(s) more promptly. Surviving spouses will receive lump sum benefits at least 30 days earlier than those who elect the current process.

CAUTION The opportunity to make rollover decisions at the agency underscores your responsibility for sound retirement counselling and the submission of a complete application for the surviving spouses/former spouses or deceased

FERS employees. Be sure your counselors are familiar with Subchapter 70B of the *CSRS and FERS Handbook for Personnel and Payroll Offices* (formerly *FPM Supplement 830-1*). This chapter describes FERS spousal benefits for deceased employees.

Survivors who want to receive more detailed information from OPM specific to their cases should not use the expedited process.

DOCUMENTS Any surviving spouse who appears to be eligible to receive a lump sum as described on the *IRA Rollover Option Information* should use the attached *Death Benefit Payment Rollover Election Form* to roll over all or part of the lump sum, receive the lump sum directly, or request more detailed information after the benefits payable have been calculated at OPM.

HOW TO APPLY FOR A ROLLOVER As with all death benefit applications, the marriage certificate and death certificate must accompany the application. In all cases death certificates must specifically state the cause of death (e.g., natural causes, homicide, accident, etc.). If the survivor benefits are court awarded, the court order awarding the benefit must be supplied. Failure to provide these documents will cause a delay in payment of survivor benefits.

SENDING THE FERS DEATH BENEFIT APPLICATION Survivors should read both the *IRA Rollover Option Information for Benefits Payable to a Surviving Spouse or Surviving Former Spouse* and the *Special Tax Notice Regarding Rollovers*. These documents are attached and should be reproduced locally. They will also be included in the new *Application for Death Benefits* (SF 3104B) when it is revised. The *Special Tax Notice* . . . is also found in Chapter 40 of the *CSRS and FERS Handbook*.

After the surviving spouse or former spouse completes the election form and returns it to the personnel office, staple the form to the back of the death application. Continue processing the application under normal guidelines.

Sidney M. Conley
Assistant Director
for Retirement Programs

Attachments

**IRA Rollover Option Information
for Lump Sum Benefits Payable to a Surviving Spouse
or Surviving Former Spouse**

Certain lump sum death benefits payable to a surviving spouse or a former spouse (who is named under a court order that properly apportions benefits under FERS law) can be rolled over into an Individual Retirement Arrangement (IRA). Lump sums that can be rolled over are:

1. The taxable portion of the Basic Employee Death Benefit (BEDB), whether paid in a lump sum or in 36 installments. (All of the BEDB is taxable except the one-time \$5,000 death benefit exclusion applied to the BEDB when elected to be paid in one lump sum.)
2. Interest on: employee contributions, excess retirement deductions and/or voluntary contributions.

If not rolled over, any portion of the above payment paid directly to a surviving spouse or former spouse is subject to a mandatory Federal tax withholding of 20 percent.

You have the opportunity to direct the payment, or a portion of the payment, to the trustee of an IRA as a direct rollover. Direct rollovers are excluded from the mandatory 20 percent Federal tax withholding.

If you elect to roll over a portion of the total taxable lump sum payable to you, you must elect to roll over at least \$500. OPM will not roll over a partial amount of less than \$500. If your total taxable amount is less than \$500, you can only elect to roll over "all."

If your total taxable lump sum is less than \$200, OPM will not withhold any amount for Federal income tax on the payment. Although we will not roll over amounts of less than \$200 to an IRA, you can personally deposit any taxable lump sum into an IRA as a direct rollover within 60 days after you receive it. The lump sum is taxable in the year it is received unless it is deposited into an IRA.

If you choose not to have the taxable portion of your payment paid as a direct rollover, you may still defer Federal income tax by rolling over part or all of the taxable portion yourself within 60 days after you receive the payment. You may then apply for a refund of the Federal tax withheld when you file your tax return according to your tax liability. OPM cannot refund the 20 percent once it has been withheld.

Additional Information for Recipients of the Basic Employee Death Benefit Who Elect Payment in Monthly Installments

All of the Basic Employee Death Benefit (BEDB), when paid in installments, is taxable. If you elect to roll over part of each monthly installment into an IRA, the monthly amount rolled over must be equal to at least \$500. You may change your election regarding this rollover at any time in the future while still receiving BEDB installments by writing to us at the time you want to change your election.

Your election will take effect with the monthly benefit payable at the time the request is received. You cannot receive a partial payment of the lump sum now and receive the remainder in installments. While receiving BEDB monthly installments, you can elect to:

- stop payments to an IRA,
- begin payments to an IRA,
- change the amount rolled over to the IRA,
- change the financial institution that will administer your direct rollover payments, and
- stop installment payments and receive the remainder as a lump sum.

Additional Information Concerning Distribution of Funds

If you are a surviving spouse, you may choose to have an eligible rollover distribution paid in a direct rollover to an IRA or paid to you. If you have the payment paid to you, you can keep it or roll it over yourself to an IRA, but you cannot roll it over to an employer retirement plan.

If you are a surviving former spouse named in a court order that awards survivor benefits under the Federal Employees' Retirement System, you can have the payment paid as a direct rollover to an IRA or another employer retirement plan that accepts rollovers or paid to you. If you have it paid to you, you can keep it or roll it over yourself to an IRA or to another employer retirement plan that accepts rollovers.

Tax Information

Please refer to the attached *Special Tax Notice Regarding Rollovers* concerning the effect of Federal income tax on taxable lump sums. If you have further questions specifically about the taxability of these benefits, you should contact a qualified tax advisor or the Internal Revenue Service. This is the only income tax information available from OPM on rollovers.

Please note that if you receive a taxable monthly benefit in addition to a lump sum death benefit payment (such as a monthly survivor annuity or monthly benefit for a surviving child), the monthly survivor annuity payments are treated separately for tax purposes. The monthly survivor benefit cannot be rolled over to an IRA, and 20 percent Federal tax is not withheld. You will receive a tax election form separately for Federal income tax withholding from your monthly survivor annuity payments. You may elect not to have Federal tax withheld from your monthly annuity payment by writing to: US Office of Personnel Management, FERS Division Room 4429, 1900 E Street NW, Washington DC 20415-4429.

Death Benefit Payment Rollover Election Form

for Completion by the Surviving Spouse
or by a Former Spouse named under a Court Order

Name of Surviving Spouse

Complete one of the following options and sign the form.

Option 1.

+ Pay all taxable lump sum benefits directly to me, less 20 percent for Federal income tax withholding. I understand that
.- to defer income tax I have the option to roll over all or part of the taxable portion within 60 days after receipt.

Option 2.

+ I want (enter "all" or a dollar amount at or above \$500) _____ of the taxable lump sum benefit made payable to
.- the account shown below with no tax withholding on the amount rolled over. If I elected a partial rollover, I understand that any balance made payable to me will be subject to a 20 percent tax withholding and that I can roll any part of it over to a qualified account within 60 days to defer income tax. If you check this block, your financial institution must complete the certification at the bottom of this page.

+ Send my payment directly to my account.
.-

+ Send the payment to me, made payable to my account.
.- I will deliver it to the account.

Option 3.

+ I do not want to make an election at this time. I want OPM to send me the complete rollover election package if I am
.- eligible to receive a taxable lump sum of over \$200. I understand if I am eligible for a rollover election, my application will not be processed until after I receive and return the election forms.

Provide your certification: By my signature below, I certify that I have read and understand the information in the accompanying *Rollover Option Information* and *Special Tax Notice Regarding Rollovers*.

Signature

Social Security Number

Date

Certification by Financial Institution or Retirement Plan

This part must be completed by your financial institution or retirement plan if all or part of the taxable portion of your lump sum is made payable to an IRA.

Name and Address of Financial Institution

IRA Account Number

Routing Number & Check Digit (if payment should be transferred electronically & if an account number is available):

Certification: As a representative of the financial institution named above, I confirm the identity of the person named on this notice and the account number. I certify that the financial institution agrees to receive the funds and deposit them in an IRA as defined in the Internal Revenue Code.

Signature of Certifying Representative

Typed or printed name of certifying representative

Daytime telephone number including area code

Date

Please see the reverse side of this form for Privacy Act information.

Privacy Act Statement

Solicitation of this information is authorized by the Unemployment Compensation Amendments of 1992 (Public Law 102-318). The information you furnish will be used to properly tax your benefits. The information may be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs, with national, state, local or other charitable or social security administrative agencies in order to determine benefits under their programs, to obtain information necessary for determination or continuation of benefits under this program or to report income for tax purposes. It may also be shared and verified, as noted above, with law enforcement agencies when they are investigating a violation or potential violation of the civil or criminal law. Furnishing information is voluntary, but failure to do so may result in having Federal income tax withheld from your benefit and may result in a rollover-eligible payment being made directly to you.

Special Tax Notice Regarding Rollovers

This notice contains important Federal income tax and other information the surviving spouse or surviving former spouse (whom named under a court order that properly apportions benefits under FERS law) will need before he/she decides how to receive any lump sum payment from the Federal Employees' Retirement System (FERS). To be of service to our customers, the Office of Personnel Management has worked with the Internal Revenue Service (IRS) to present a general explanation of how Public Law 102-318 affects those who receive FERS benefits. However, the IRS remains the authority on tax matters and questions. Requests for additional or clarifying information should be directed to them. The Official tax publications which govern how benefits are taxed are referenced at the end of this notice. OPM does not stock IRS publications. We cannot provide official information nor can we advise individuals on tax matters. The following discussion applies to the taxable portion of a lump sum payment.

Summary

A taxable payment from the Office of Personnel Management (OPM) that is eligible for "rollover" can be paid in one of two ways. You can have all or any part of your payment either 1) paid in a "direct rollover" or 2) paid to you. A rollover is a payment of the taxable portion of your FERS benefit to your individual retirement arrangement (IRA) or to another employer retirement plan. This choice will affect the tax you owe.

If you choose a direct rollover of the taxable portion:

- Your payment will not be taxable income in the year it is paid, and no income tax will be withheld.
- Your payment will be made directly to your IRA (or, if you are a former spouse and choose, to another employer retirement plan that accepts your rollover).
- Your payment will be taxable income later when you take it out of the IRA (or, for a former spouse, the employer retirement plan).

If you choose to have the taxable portion of your benefit paid to you:

- You will receive only 80% of the payment, because OPM is required to withhold 20% of the payment and send it to the Internal Revenue Service as income tax withholding to be credited against your taxes.
- Your payment will be taxed in the year it is paid unless you roll it over. You may be able to use special tax rules that could reduce the tax you owe.
- You can roll over the payment by paying it to your IRA (or, for a former spouse, to another employer retirement plan that accepts your rollover) within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of the IRA (or employer retirement plan).
- If you want to roll over 100% of the payment to an IRA (or an employer retirement plan), you must find other money to replace the 20% that was withheld. We cannot refund the 20% once it has been withheld. If you roll over only the 80% you receive, you will be taxed on the 20% that was withheld and that is not rolled over.

If you are a surviving spouse, you may choose to have an eligible rollover distribution paid in a direct rollover to an IRA or have it paid to you. If you have the payment paid to you, you can keep it or roll it over into an IRA yourself, but you cannot roll it over into an employer retirement plan. If you can receive a rollover-eligible benefit because of an order issued by a court, usually in connection with a divorce or legal separation, you can have the payment paid as a direct rollover, to an IRA or to another employer retirement plan that accepts rollovers, or you can have the payment paid to you. If you have it paid to you, you can keep it or roll it over yourself. If you are a beneficiary other than a surviving spouse or a surviving former spouse listed in a court order, you cannot choose a direct rollover, and you cannot roll over the payment yourself.

More Information

I. Payments that can and cannot be rolled over.

Certain payment from OPM are "eligible rollover distributions." This means they can be rolled over to an IRA or to another employer retirement plan that accepts rollovers. In general, only the "taxable portion" of your payment is an eligible rollover distribution. The following types of payments cannot be rolled over:

Non-taxable Payments. In general, the non-taxable portion of your payment is not an eligible rollover distribution. If the employee made "after-tax" employee contributions, these contributions will be non-taxable when they are paid to you, and the cannot be rolled over. (After-tax employee contributions generally are contributions made from pay that was already taxed.)

Payments Spread Over Long Periods. You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for

- your lifetime (or your life expectancy), or
- your lifetime and your beneficiary's lifetime (or life expectancies), or
- a period of ten years or more.

Required Minimum Payments. Beginning in the year you reach age 70½, a certain portion of your payment cannot be rolled over because it is a "required minimum payment" that must be paid to you. You must compute and exclude this amount from direct rollover if you will be age 70½ or older when the payment is made.

II. Direct Rollover

You can choose a direct rollover of all or any portion of your payment that is an "eligible rollover distribution." In a direct rollover the eligible rollover distribution is paid directly from OPM to an IRA (or another employer retirement plan that accepts rollover or is sent to you in a check made payable to the IRA or other retirement plan. If you choose a direct rollover, you are not taxed on a payment until you later take it out of the IRA (or the employer retirement plan). OPM will not pay a direct rollover or withhold tax on taxable payments under \$200, but recipients themselves may roll over such payments tax free within 60 days after receipt. The minimum direct rollover amount is \$500 if you designate part of your payment as a direct rollover with the remainder payable to you. OPM will pay a direct rollover to only one IRA or retirement plan at any one time.

Direct Rollover to an IRA. You can open an IRA to receive the direct rollover. (The term "IRA," as used in this notice, includes individual retirement accounts and individual retirement annuities.) If you choose to have your payment made direct to an IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to an IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish an IRA to receive the payment. However, in choosing an IRA, you may wish to consider whether the IRA you choose will allow you to move all or part of your payment to another IRA at a later date, without penalties or other limitations. See IRS Publication 590, *Individual Retirement Arrangements*, for more information on IRAs (including limits on how often you can roll over between IRAs).

Direct Rollover to an Employer Retirement Plan. If you are a former spouse named in a Court Order and are employed by an employer that has a retirement plan and you want a direct rollover to that plan, ask the administrator of that plan whether it will accept your rollover. An employer retirement plan is not legally required to accept a rollover. If your employer's retirement plan does not accept a rollover, you can choose a direct rollover to an IRA.

Direct Rollover of a Series of Payments. If you receive eligible rollover distributions that are paid in a series for less than 1 year, your choice to make or not make a direct rollover for payment will apply to all later payments in the series unless you change your election. You are free to change your election for any later payment in the series by contacting OPM.

III. Payment Paid to You

If you have the payment made to you, it is subject to 20% Federal income tax withholding. The payment is taxed in the year you receive it unless, within 60 days after receiving it, you roll it over to an IRA or another plan that

accepts rollovers. If you do not roll it over, special tax rules apply.

Mandatory Federal Income Tax Withholding. If any portion of the payment to you is an eligible rollover distribution, OPM is required by law to withhold 20% of that amount. This amount is sent to the IRS as income tax withholding. For example, if your eligible rollover distribution is \$10,000, only \$8,000 will be paid to you because OPM must withhold \$2,000 as income tax. However, when you prepare your income tax return for the year, you will report the full \$10,000 as payment from OPM. You will report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year.

Sixty-Day Rollover Option. If you have an eligible rollover distribution paid to you, you can still decide to roll over all or part of it to an IRA (or another employer retirement plan that accepts rollovers). If you decide to roll it over, you must make the rollover within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the IRA (or the employer retirement plan).

You can roll over up to 100% of the eligible rollover distribution, including an amount equal to the 20% that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the IRA or the employer retirement plan to replace the 20% that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld.

Example: Your eligible rollover distribution is \$10,000, and you choose to have it paid to you. You will receive \$8,000, and \$2,000 will be sent to the IRS as income tax withholding. Within 60 days after receiving the \$8,000, you may roll over the entire \$10,000 to an IRA or employer retirement plan. To do this, you roll over the \$8,000 you received from OPM, and you will have to find \$2,000 from other sources (your savings, a loan, etc.). In this case, the entire \$10,000 is not taxed until you take it out of the IRA or employer retirement plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of the \$2,000 withheld.

If, on the other hand, you roll over only \$8,000, the \$2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return, you may get a refund of part of the \$2,000 withheld. (However, any tax refund is likely to be large if you roll over the entire \$10,000.)

Special Tax Treatment

If your eligible rollover distribution is not rolled over, it will be taxed in the year you receive it. However, if it qualifies as a "lump-sum distribution," it may be eligible for special tax treatment. A lump-sum distribution is a payment, within 1 year, of the deceased's entire balance under CSRS or FERS that is payable to you. The special tax treatment for lump-sum distributions is described below.

Five-Year Averaging. If the deceased was at least age 59½, you may be able to make a one-time election to figure the tax on the payment by using "5-year averaging." Five-year averaging often reduces the tax you owe because it treats the payment much as if it were paid over 5 years.

Ten-Year Averaging if the Deceased was Born Before January 1, 1936. If you receive a lump-sum distribution and the deceased was born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using "10-year averaging" (using 1986 tax rates) instead of 5-year averaging (using current tax rates). Like the 5-year averaging rules, 10-year averaging often reduces the tax you owe.

Capital Gain Treatment if the Deceased was Born Before January 1, 1936. In addition, if you receive a lump-sum distribution and the deceased was born before January 1, 1936, you may elect to have the part of your payment that is attributable to the deceased's pre-1974 participation under CSRS or FERS (if any) taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump-sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump-sum distributions that you receive in that same year. If you have previously rolled over a payment from OPM, you cannot use this special tax treatment for later payments from the IRA. Also, if you roll over only a portion of your payment to an IRA, this special tax treatment is not available for the rest of the payment. Additional restrictions are described in IRS Form 4972, which has more information on lump-sum distributions and how you elect the special tax treatment.

How to Obtain Additional Information

This notice summarizes only the Federal (not State or local) tax rules that might apply to your payment. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with a professional tax advisor before you take a payment of your benefits from OPM. Also, you can find more specific information on the tax treatment of payments from qualified retirement plans in IRA Publication 575, *Pension and Annuity Income*, IRS Publication 590, *Individual Retirement Arrangements*, and IRS Publication 721, *Tax Guide to U.S. Civil Service Retirement Benefits*. These publications are available from your local IRS office or by calling 1-800-TAX-FORMS.