



## ***Benefits Administration Letter***

Number 11 - 103

Date: February 25, 2011

### **Subject: Authority to Redeposit Refunds under the Federal Employees Retirement System (FERS)**

**Purpose:** The purpose of this Benefits Administration Letter (BAL) is to provide guidance on OPM's implementation of Section 1904 of the National Defense Authorization Act (NDAA) for Fiscal Year 2010, Public Law 111-84, enacted October 28, 2009, regarding FERS refund service. This BAL addresses the following:

- The provisions of section 1904 of the NDAA only apply to employees covered under FERS on or after October 28, 2009, and only affect annuity benefits based on a separation from FERS coverage on or after October 28, 2009.
- Employees covered by FERS on or after October 28, 2009, may repay (or redeposit) any FERS deductions previously refunded to them. They may also redeposit any CSRS deductions previously refunded to them that covered CSRS service that is credited under FERS rules.
- Payment of the FERS redeposit for FERS service covered by a refund of FERS deductions and CSRS service (that is credited under FERS rules) covered by a refund of CSRS deductions allows the refunded service to be creditable for determining an employee's retirement eligibility and for computing the amount of an employee's annuity.
- Payment **NOT** made of the FERS redeposit for FERS service covered by a refund of FERS deductions and CSRS service (that is credited under FERS rules) covered by a refund of CSRS deductions only allows the refunded service to be creditable for determining an employee's retirement eligibility but it is not creditable for computing the amount of an employee's annuity.
- Employees wanting to make a FERS redeposit may complete the current FERS Application to Make a Deposit, SF 3108. Employees must indicate on the application that the period of service was refunded and send the completed application through their agency for certification.
- Employees wanting to make a FERS redeposit for refunded service and a FERS deposit for non-covered service will be assigned two service credit account numbers and will receive two separate statements based on each service credit account calculation. (The two accounts will be set up based on one application – two applications are not necessary.)

## Background

Prior to enactment of the NDAA, FERS employees who separated from federal service and were paid a refund of their FERS retirement deductions permanently forfeited all retirement credit for the service covered by the refund. If the FERS refund included a refund of CSRS deductions covering CSRS service that became subject to FERS rules, employees permanently forfeited all retirement credit for that CSRS service as well. If that individual returned to work for the Government in a position covered under FERS, the employee could not repay (or redeposit) the refunded FERS and CSRS deductions. The service covered by the refunded deductions could not be used in determining when the employee would become eligible to retire and it could not be used in computing the amount of the employee's annuity.

(Employees who received a refund of CSRS deductions for service that would be credited under FERS rules before becoming subject to FERS could establish FERS credit for that refunded CSRS service upon returning to work under FERS by paying a FERS deposit for the service, generally equal to 1.3 percent of the basic pay received during that service, plus interest.)

## Section 1904 of NDAA – FERS Redeposits

Section 1904 of the NDAA now provides the authority for FERS employees who took a refund of their FERS deductions to make a redeposit of the amount refunded, plus interest. FERS employees who took a refund of CSRS deductions covering CSRS service that is credited under FERS rules may also make a redeposit for that service to re-establish full retirement credit for that service. The FERS redeposit for refunded CSRS service will be based on the appropriate percentage of the employee's basic pay that is required for credit under FERS as noted in the table below, plus interest. Interest for a FERS redeposit begins to accrue from the date the employee received the refund of the retirement deductions.

Redeposit for Refunded CSRS Service Subject to FERS Rules

Type of Service	Percentage of Basic Pay
Full-CSRS service	1.3%
CSRS Interim Service (FICA and CSRS coverage between January 1, 1984 and December 31, 1986)	1.3%
CSRS Offset Service (FICA and CSRS coverage after December 31, 1986)	Appropriate FERS deduction rate

The original FERS Act included provisions that allow FERS deposits for refunded CSRS service when an employee received a CSRS refund before becoming subject to FERS. Under those provisions, the refunded service was not creditable for any purpose unless

the deposit was paid, and the deposit equaled the appropriate percentage of basic pay (as described in the table above), plus interest. There were different rules regarding when interest commenced, but in most cases interest started to accrue as of the midpoint of the service period (rather than the date of the refund). With the passage of NDAA, the refunded CSRS service is creditable for retirement eligibility whether or not the FERS redeposit (or FERS deposit for refunded CSRS service) is paid. There are now two separate provisions that can be used to compute the amount an employee owes for the period of refunded CSRS service – the original FERS Act provisions and the NDAA FERS redeposit provisions. We will apply the calculation that is most advantageous to the employee. If an employee has already paid-in-full the deposit for refunded CSRS service, we will not recalculate the amount due under the FERS redeposit calculation. However, if the employee has not completed payments of the deposit for refunded CSRS service, we will recalculate the amount due under the FERS redeposit calculation to determine if that FERS redeposit amount is more advantageous to the employee.

The FERS redeposit provisions in section 1904 of the NDAA only apply to employees covered under FERS on or after October 28, 2009, and only affect annuities that are based on separations on or after October 28, 2009. The survivors of FERS employees who die on or after October 28, 2009, may also make a FERS redeposit for refunded service. Survivors will be advised of the effect of making the deposit on their survivor annuities and have the option of not making the deposit, paying by check, or by having the deposit withheld from the Basic Employee Death Benefit (BEDB).

If the FERS redeposit is made, the refunded FERS service is creditable in determining eligibility for retirement and survivor benefits, and can be used to compute the amount of the retirement and survivor annuity benefits including the FERS annuity supplement/supplementary amount. Redeposits (including interest) paid in full will be credited to the Civil Service Retirement and Disability Fund and will be part of the employee's lump sum credit. If the FERS redeposit is not made, the refunded service is creditable in determining eligibility for retirement and survivor benefits, but it cannot be used to compute the amount of the retirement and survivor annuity benefits.

Reemployed annuitants working under FERS on or after October 28, 2009, may pay a redeposit for refunded service not credited in their original retirement, but the redeposit will not have an effect on the original retirement. The redeposit would only affect credit for the refunded service if the reemployed annuitant works long enough to qualify for and receive a redetermined annuity that is based on a separation from reemployment on or after October 28, 2009. (A redetermined annuity is a new annuity that replaces the original annuity)

A paid in full military deposit that is refunded to an employee, as part of a refund will be included in the FERS redeposit computation. The refunded military service is not creditable under FERS unless the *full* redeposit is paid. (OPM cannot calculate a separate redeposit based solely on the military refund.) If the redeposit is not paid, the military service is not creditable for any purpose (not for retirement eligibility and not for annuity

computation) because the law requires the military service be paid for before it can be creditable under FERS.

If OPM refunded a partially paid military deposit, the part of the refund representing the partially paid military deposit will not be included in the FERS redeposit calculation. If the employee wants to pay for the military service, the employee will have to apply to the agency to pay the deposit in full.

Please note that the NDAA did not change the way non-covered civilian service (that is, Federal civilian service not subject to FERS or CSRS retirement deductions) is credited under FERS. Generally, FERS deposits may only be paid for non-covered service performed before 1989 (see Attachment 1, General FERS Service Credit Rules) and FERS deposits must be paid in full before that non-covered service can be credited under FERS. If the FERS deposit for non-covered service is not paid, the non-covered service is neither creditable for determining retirement eligibility nor for determining the amount of annuity benefit.

## **Guidance**

We are amending guidance in BAL 10-101 issued January 12, 2010, (<http://www.opm.gov/retire/pubs/bals/2010/10-101.pdf>) that stated that OPM will issue new regulations and revised forms prior to accepting FERS redeposit applications. Effective immediately, we are accepting the current FERS Application to Make a Deposit, SF 3108, from employees wanting to make a FERS redeposit. Employees must indicate on the application that the period of service was refunded and send the completed application through your agency for certification.

Please do not submit a payment with the application. OPM's financial policy requires all payments be sent to OPM's Funds Management office. If a payment is sent to OPM before the service credit account is established, Funds Management will not be able to identify where to apply the payment. As soon as the Service Credit office processes the application, a bill and instructions for making payments will be sent to the employee.

Mail the completed FERS application (SF 3108) to Office of Personnel Management, Retirement Operations Center, PO Box 45, Boyers, PA 16025, or fax it to 724-794-1351.

## *Interest*

Interest is based on the same basic rules applicable to CSRS as described in 5 U.S.C. 8334 and 5 CFR 831.105. Interest will accrue annually on the outstanding portion of any amount that may be redeposited and is compounded annually, until the portion is deposited. The interest is computed from the date the refund was paid through December 31 of the year before the one in which the redeposit is paid in full.

Interest is charged at a variable rate determined annually by the Department of the Treasury. The variable rate for any year equals the overall average yield to the fund from retirement security during the preceding fiscal year.

The table below provides those rates:

Years	Percentage Rates	Years	Percentage Rates
2011	2.75%	1997	6.875%
2010	3.125%	1996	6.875%
2009	3.875%	1995	7%
2008	4.75%	1994	6.25%
2007	4.875%	1993	7.125%
2006	4.125%	1992	8.125%
2005	4.375%	1991	8.625%
2004	3.875%	1990	8.75%
2003	5%	1989	9.125%
2002	5.5%	1988	8.375%
2001	6.375%	1987	9%
2000	5.875%	1986	11.125%
1999	5.75%	1985	13%
1998	6.75 %	1948-1984	3%
		Before 1948	4%

Survivors of employees who died while still employed may also make this redeposit if the survivor is eligible for a survivor annuity. OPM will compute the redeposit amount during the survivor annuity process and give the survivor an opportunity to pay it. The unpaid refunded FERS service will be used to determine eligibility for a survivor annuity but the FERS redeposit must be paid to receive credit for the service in the survivor annuity computation.

#### *Payments*

The redeposit may be made in one or more installments (minimum payment of \$50) but must be completed before final processing of the retirement or survivor benefit annuity. If the redeposit is not paid in full, we will refund any partially paid redeposit and credit will not be given for the period of FERS refunded service in the annuity computation. **The NDAA does not allow credit for refunded service with an actuarial reduction.**

Once a redeposit is made, employees may not withdraw the redeposit unless they become eligible for and obtain a refund of all their FERS retirement deductions or they retire and are eligible to choose an alternative annuity and lump sum payment of their retirement deductions.

If a complete redeposit is not made before retirement, OPM will compute the amount owed and send a letter with the election to make a lump sum payment for the balance. The payment must be made within 30 days of receiving notification of the amount due and before final processing of the retirement benefits. If the annuitant or survivor elects not to pay in full, OPM will refund the partial payment when the retirement or survivor annuity is finalized.

General FERS Service Credit eligibility rules for paying a civilian deposit/redeposit can be found in Attachment 1.

Currently, our Service Credit System is set up to compute five different categories of service in the following order of precedence.

1. FERS Service
  - a. Deposits for non-covered service
  - b. Redeposits for FERS refunded service
2. Post 10/01/1982 CSRS Redeposit Service
3. Pre 10/01/1982 CSRS Redeposit Service
4. Post 10/01/1982 CSRS Deposit Service
5. Pre 10/01/1982 CSRS Deposit Service

For FERS service, our system can only calculate one type of service credit payment at a time – either a deposit for non-covered service or a redeposit for refunded service. If an employee wishes to pay both a FERS deposit and a FERS redeposit, we will need to establish two service credit accounts so that the amounts due can be computed for the deposit and redeposit separately. We will assign two service credit accounts using the single application received. Two applications are not necessary. The employee will receive two separate statements based on each service credit account calculation. Two separate checks must be sent showing each account number on the check to properly apply the payment to the correct account.

William Zielinski  
Associate Director  
Retirement Services

Attachment 1:

### **General FERS Service Credit Rules**

*You **can** pay a civilian deposit/redeposit for:*

- Any period of creditable service performed before 1989 during which retirement deductions were not withheld from your pay
- Any period of civilian service during which CSRS deductions were withheld from your pay and were then refunded to you based on an application you filed before you became covered by FERS, if the service will not be credited under CSRS rules.
- Certain periods of civilian service performed under other retirement systems for Federal employees (that is, other than CSRS or FERS)
- Any period of Peace Corps or VISTA volunteer service (excluding training time) regardless of when the service was performed provided that it was followed by a period of creditable FERS covered service
- If you were employed under FERS on or after October 28, 2009, you can pay a civilian redeposit for any period of service under FERS for which you received a refund of your retirement deductions

*You **cannot** pay a civilian deposit/redeposit for:*

- Any period of service under FERS for which you received a refund of your retirement deductions based on an application you filed after you had been covered by FERS, if you were not employed under FERS on or after October 28, 2009
- Temporary or intermittent service, which you performed after 1988, unless a deposit is allowed by a special provision of law. Temporary service means an appointment, which is limited to one year or less. Intermittent service means an appointment with no scheduled tour of duty
- Any other service which is not creditable under FERS
- Periods of leave without pay (If you perform honorable active duty military service during a period of leave without pay from a Federal civilian position, you may pay a military deposit to your employing agency for that military service before you separate from Federal civilian service. See your agency's Human Resource or Benefits staff for more information on how periods of military service performed during leave without pay from Federal civilian service is credited under FERS.)
- Time covered by a lump sum leave payment