Tax Treatment of Thrift Savings Plan Payments to Nonresident Aliens and Their Beneficiaries

Except as noted below for uniformed services accounts, this notice summarizes tax rules that apply to Thrift Savings Plan (TSP) payments made to nonresident aliens and beneficiaries of nonresident aliens.

A **nonresident alien** is an individual who is neither a U.S. citizen nor a resident of the United States.[1] A **resident alien** is an individual who is or was a lawful permanent resident of the United States during any part of a calendar year. An alien may also be considered a U.S. resident if the individual meets the Internal Revenue Service (IRS) "substantial presence" test for a calendar year.[2] For information on residency status and the tests for residency, you may obtain IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*, or IRS Publication 519, *U.S. Tax Guide for Aliens.*

We are required by law to provide you with this notice; however, because tax rules are complex, you may wish to consult a tax advisor before you make any decision that might be affected by them.

For purposes of this notice, the following additional definitions may be helpful:

- A **participant** is a Federal employee or a member of the uniformed services (or a former Federal employee or member of the uniformed services) who has an account in the TSP.
- A **beneficiary** is a person entitled to the TSP account of a deceased participant.
- A **current or former spouse** is an individual who is (or was) a spouse of a participant and who receives a payment under a qualifying order.
- **Taxable income** means an amount of money received from the TSP by a participant or beneficiary which is subject to U.S. income tax.
- **Tax withholding** is money that is withheld from a TSP distribution and paid to the IRS as a credit towards U.S. income tax.
- An **eligible rollover distribution**[3] is a distribution from the TSP to a participant, or to a participant's spouse or former spouse, which is **not** (1) a monthly payment that is calculated based on life expectancy, (2) a monthly payment made over a period of at least 10 years, (3) an IRS required minimum distribution, or (4) a financial hardship withdrawal.
- A **traditional IRA** is an individual retirement account described in § 408(a) of the Internal Revenue Code (I.R.C.) or an individual retirement annuity described in I.R.C. § 408(b). (It does not include a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account (formerly known as an education IRA).)
- An **eligible employer plan** includes a plan qualified under I.R.C. § 401(a), including a § 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; an I.R.C. § 403(a) annuity plan; an I.R.C. § 403(b) tax-sheltered annuity; and an eligible I.R.C. § 457(b) plan maintained by a governmental employer.
- A **transfer** occurs when you instruct the TSP to send all or part of a payment directly to a traditional IRA or an eligible employer plan, instead of issuing it directly to you.
- A **rollover** occurs when the TSP makes a distribution to you (which includes the amount of the check you receive plus the amount withheld) and you deposit any part of that distribution into a traditional IRA or eligible employer plan within 60 days of the date you receive it.

Special Note for the Rollover or Transfer of Uniformed Services Accounts

Tax-exempt balances (i.e., contributions from combat zone pay) may be transferred or rolled over into

[1] The "United States" includes the 50 states and the District of Columbia.

[2] This is commonly referred to as the "green card" test.

[3] Any payments that are not eligible rollover distributions are either "periodic" or "non-periodic" payments for tax withholding purposes. If you make a financial hardship in-service withdrawal, take minimum distribution payments, or take monthly payments that will last 10 years or more or that will be computed according to the IRS life expectancy table, see the TSP tax notice "Important Tax Information About Payments From Your TSP Account" for detailed information.

a traditional IRA or transferred into certain eligible employer plans, but only if the IRA or plan accepts tax-exempt balances. Although an eligible rollover distribution will be distributed to you based on the proportion of taxable and tax-exempt balances in your account, if you choose to transfer a portion of the distribution the taxable balance will be transferred to your IRA or plan first. Tax-exempt money will be transferred only if the taxable portion of your distribution does not satisfy the percentage that you elect to transfer to your IRA or plan. Any tax-exempt money in your withdrawal that cannot be transferred will be paid directly to you (or to your checking or savings account, if you so elect).

You may only transfer (not roll over) a tax-exempt balance to an eligible employer plan. The only types of eligible employer plans that can accept a transfer of tax-exempt balances from the TSP are plans qualified under I.R.C. § 401(a) and I.R.C. § 403(a) annuity plans; however, a plan is not legally required to accept such a transfer.

You cannot first transfer or roll over a tax-exempt balance into a traditional IRA and later transfer or roll over that amount into an employer plan. If you transfer or roll over a tax-exempt balance into a traditional IRA, it is your responsibility to keep track of the amount of these contributions and report that amount to the IRS on the appropriate form so that the nontaxable amount of any future distribution(s) can be determined.

Tax-exempt balances in a uniformed services TSP account may not be transferred into a civilian TSP account.

Tax Treatment of TSP Payments

The tax treatment of TSP payments is explained in the following questions and answers.

1. Do I owe U.S. taxes on a payment from the TSP?

A payment made by the TSP is taxable income for U.S. Federal income tax purposes in the year in which the payment is made. The Federal income tax treatment of payments from the TSP depends on two factors: the residency status of the participant when he or she was employed as a Federal employee and the residency status of the participant or beneficiary when he or she receives the payment(s) from the TSP. The Internal Revenue Code governs your tax liability and withholding responsibilities.

In general, the following rules apply:

- A **resident alien participant** will be liable for U.S. income tax.
- A **nonresident alien participant** who worked for the U.S. Government in the United States may be liable for U.S. income tax. See IRS Publication 721, *U.S. Guide to Civil Service Benefits.*
- A **nonresident alien participant** who never worked for the U.S. Government in the United States will not be liable for U.S. income tax.
- A **U.S. citizen beneficiary** of a resident or nonresident alien participant will be liable for U.S. income tax.
- A **resident alien beneficiary** of a U.S. citizen participant or resident or nonresident alien participant will be liable for U.S. income tax.
- A **nonresident alien beneficiary** of a U.S. citizen participant or a resident alien participant will be liable for U.S. income tax.
- A **nonresident alien beneficiary** of a nonresident alien participant will not be liable for U.S. income tax if the participant never worked for the U.S. Government in the United States.
- An **Individual Taxpayer Identification Number (ITIN)** is required when a payee is not eligible to obtain a Social Security number (SSN). To obtain an ITIN, the payee must complete IRS Form W-7, Application For IRS Individual Taxpayer Identification Number, and submit the form with certain documentation to the IRS.

2. Will the TSP withhold U.S. taxes from my payments?

This depends on whether the payment you receive is subject to U.S. income tax. If the money you receive is subject to U.S. income tax, then it is subject to withholding. In general, the only persons who do not owe U.S. taxes are nonresident alien participants and nonresident alien beneficiaries of nonresident alien participants. The TSP will not withhold any U.S. taxes if you fit into either category and you submit the certification described below. However, if you do not submit the certification to the TSP, the TSP must withhold 30% of your payment for Federal income taxes.