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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Thrift Savings Plan Participation for Certain Employees of the District of Columbia Financial Responsibility and Management Authority

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board is publishing interim regulations to implement sections 102 (e) and (f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Act), as amended. Under this Act, a newly hired employee of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) can elect FERS retirement coverage; and certain persons who separate from Federal employment and who are employed by the Authority may elect to participate in the Federal retirement system in which they last participated before separating from Federal service. These regulations address participation in the Thrift Savings Plan (TSP) by eligible employees of the Authority who elect Federal retirement coverage. These regulations do not apply to eligibility to participate in retirement programs administered by the Office of Personnel Management (OPM).

DATES: This interim rule is effective October 25, 1996. Comments must be received on or before December 24, 1996.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Forrest, (202) 942-1662.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board (Board) administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986, Pub. L. 99-335, 100 Stat. 514 (1986), which has been codified, as amended, largely at 5 U.S.C. 8401-8479 (1994). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code.

The District of Columbia Financial Responsibility and Management Assistance Act of 1995 (1995 Act), Pub. L. 104-8, section 101, 109 Stat. 97, 100, established the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) as an entity within the Government of the District of Columbia. Under the 1995 Act, a person who separated from Federal employment and who became employed by the Authority within two months could elect to participate in the Federal retirement system in which he or she last participated before separating from Federal service. On January 29, 1996, the Board published an interim rule, with request for comments in the Federal Register (61 FR 2872), which governed TSP participation by eligible employees of the Authority who elected retirement coverage under the Federal Employees' Retirement System (FERS) or the Civil Service Retirement System (CSRS). The Board received no comment on that interim rule.

On April 26, 1996, the 1995 Act was amended by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Omnibus Act), Pub. L. 104-134, section 153, 110 Stat. 1321, *reprinted in* 1996 U.S.C.C.A.N. (110 Stat. 1321) 221-224. Under the 1995 Act, as amended, a newly hired employee of the Authority can elect FERS retirement coverage; and an employee who leaves Federal service to work for the Authority can elect continued Federal retirement coverage, but only if the election is made before the employee separates from Federal service and if employment with the Authority commences within three days after separating from Federal service.

The Board is amending its interim rule so that it applies to any employee

of the Authority who is covered by FERS or CSRS, whether the employee elected Federal retirement coverage under the 1995 Act or under the 1995 Act as amended by the Omnibus Act.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only a small number of employees of a single agency of the Government of the District of Columbia.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553 (b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. Elections made under these regulations will affect some qualifying employees' participation in the TSP retroactive to their entry on duty with the Authority. The intent of the legislation is to allow eligible employees to participate in the TSP as soon as practicable. A delay in the effective date of these regulations would be contrary to the intent of the legislation and to the public interest because it would delay the election opportunity for eligible employees of the Authority.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA), as amended by the Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121, title II, 110 Stat. 847, 857-875 (5 U.S.C. 801(a)(1)(A)), the Board 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 prior to the publication of this rule in today's Federal Register. This rule is not a major rule as defined in section 804(2) of the APA as amended (5 U.S.C. 804(2)).

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, section 201, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

List of Subjects in 5 CFR Part 1620

District of Columbia, Employment benefit plans, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,
Executive Director.

For the reasons set out in the preamble, 5 CFR Chapter VI is amended as set forth below:

PART 1620—CONTINUATION OF ELIGIBILITY

1. The authority citation for part 1620 is revised to read as follows:

Authority: 5 U.S.C. 8474 and 8432b; Pub. L. 99-591, 100 Stat. 3341; Pub. L. 100-238, 101 Stat. 1744; Pub. L. 100-659, 102 Stat. 3910; Pub. L. 101-508, 104 Stat. 1388; Pub. L. 104-106, 110 Stat. 186; Pub. L. 104-134, 110 Stat. 1321.

2. Section 1620.110 is revised to read as follows:

§ 1620.110 Scope.

The District of Columbia Financial Responsibility and Management Assistance Authority (Authority) was established by the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Pub. L. 104-8, 109 Stat. 97, which was amended by the Omnibus Consolidated Rescissions and Appropriations Act of 1996, section 153, Pub. L. 104-134, 110 Stat. 1321. Although the Authority is an agency of the District of Columbia Government, certain of its employees may elect Federal Employees' Retirement System (FERS) or Civil Service Retirement System (CSRS) coverage. This subpart governs participation in the Thrift Savings Plan (TSP) by employees of the Authority who elect to be covered by FERS or CSRS.

3. Section 1620.111 is amended by revising the definition of *Basic pay* to read as follows:

§ 1620.111 Definitions.

* * * * *

Basic pay means basic pay as defined in 5 U.S.C. 8331(3), and it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

* * * * *

4. Section 1620.112 is revised to read as follows:

§ 1620.112 Eligibility requirements.

To be eligible to participate in the TSP, an employee of the Authority must be covered by FERS or CSRS pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended.

5. Section 1620.114 is revised to read as follows:

§ 1620.114 Employee contributions.

(a) An employee of the Authority who is separated from Federal service for less than 31 full calendar days before commencing employment with the Authority and who is covered by FERS or CSRS will be eligible to contribute to the TSP as though he or she had transferred to the Authority from the losing Federal agency, *i.e.*, as though the employee did not have a TSP separation as defined by the TSP.

(b) An employee of the Authority who is separated from Federal service for 31 or more full calendar days before commencing employment with the Authority and who is covered by FERS or CSRS will be eligible to contribute to the TSP as follows:

(1) If the employee was previously eligible to participate in the TSP, the employee will be eligible to contribute to the TSP in the first open season (as determined in accordance with paragraph (d) of this section) beginning after the date the employee commences employment with the Authority.

(2) If the employee was not previously eligible to participate in the TSP, the employee will be eligible to contribute to the TSP in the second open season (as determined in accordance with paragraph (d) of this section) beginning after the date the employee commences employment with the Authority.

(c) An employee of the Authority with no period of prior Federal service who elects to be covered by FERS will be eligible to contribute to the TSP in the second open season (as determined in accordance with paragraph (d) of this section) beginning after the effective date of the FERS coverage.

(d) If an employee of the Authority who is described in paragraphs (b) and (c) of this section is employed by the Authority during an open season but before the election period (the last calendar month of the open season), that open season will be considered the employee's first open season.

(e) TSP employee contributions from employees of the Authority are subject to the limits described at 5 CFR part 1600, subpart C.

6. Section 1620.118 is revised to read as follows:

§ 1620.118 Failure to participate or delay in participation.

If an employee of the Authority who elects to be covered by FERS or CSRS fails to participate or is delayed in participating in the TSP because of a delay in the implementation of the Act, the employee may request that retroactive corrective action be taken in accordance with 5 CFR part 1605, as though the delay were attributable to employing agency error. Lost earnings shall be payable pursuant to 5 CFR part 1606 due to delay described in this section, as though the delay were attributable to employing agency error.

[FR Doc. 96-27548 Filed 10-24-96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 932 and 944

[Docket No. FV96-932-3FIR]

Olives Grown in California and Imported Olives; Establishment of Limited-Use Olive Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule authorizing the use of smaller-sized olives in the production of limited-use styles for olives grown in California. This final rule allows more olives into market channels and is consistent with current market demand for olives. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this final rule also changes the olive import regulation so that it conforms with the requirements established under the California olive marketing order.

EFFECTIVE DATE: November 25, 1996.