

**VOLUME 8, CHAPTER 4: “MANDATORY DEDUCTIONS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated **July 2008** is archived.

<b>PARA</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated to comply with current format guidance.	Update
All	Updated Chapter 4 by dividing it into 2 chapters, Chapter 4 titled, “Mandatory Deductions” and Chapter 11 titled, “Allotments and Voluntary Deductions”.	Update
0401	Updated information and restructured paragraphs.	Update
0402	Updated Order of Precedence.	Update
040201.B	Added Priority of Deductions versus Net Pay Exclusions.	Add
040301	Updated the mailing address and the basic information required on Individual Retirement Records.	Update
040303	Updated information on Department of Defense (DoD) Employees Covered by Retirement Systems for Nonappropriated Fund Instrumentalities.	Update
040304	Updated information on Uniformed Services University of the Health Sciences (USUHS) Faculty Retirement.	Update
0404	Updated information on the Federal Insurance Contributions Act (FICA) Tax.	Update
0405	Updated information on Federal Income Tax Withholding.	Update
040511	Deleted regulatory guidance concerning the Advance Earned Income Credit (Advance EIC).	Delete
0406	Updated information on State Income Tax Withholding.	Update
040601.I	Added information on the Military Spouses Residency Relief Act (MSRRA).	Add
0407	Updated information on City and Local Income and Employment Tax Withholding.	Update

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<b>PARA</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
0408-0410	Deleted from this chapter and moved sections to Chapter 11.	Delete
0411-0413	Deleted from this chapter and moved sections to Chapter 8.	Delete
0414-0417	Deleted from this chapter and moved sections to Chapter 11.	Delete
0418	Deleted from this chapter and moved section to Chapter 8.	Delete
Table 4-1	Updated Table 4-1 with current information.	Update
Table 4-2	Updated information on Table 4-2 and renamed the table.	Update
Table 4-3	Added a new Table 4-3.	Add
Table 4-4	Renumbered the old Table 4-3.	Update
Table 4-4	Deleted the previous version of Table 4-4 (Life Insurance Employee Cost), Table 4-5 (Life Insurance Enrollment and Status Codes) and Table 4-6 (Allotments of Pay) and moved them to Chapter 11.	Delete

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## CHAPTER 4

MANDATORY DEDUCTIONS

## 0401 GENERAL PROVISIONS

## \*040101. General

Mandatory deductions are required by law, regulation, or by court order and include Federal or state income tax, Old-Age, Survivors and Disability Insurance (OASDI), Medicare, and child support. Voluntary deductions are implemented at the employee's request and require a written authorization from the employee prior to withholding the deduction. Voluntary deductions include health and life insurance premiums, flexible spending account program contributions, and Thrift Savings Plan (TSP) contributions. See Chapter 11 of this volume for information on voluntary deductions and allotments.

## \*040102. Mandatory Deductions

Mandatory payroll deductions withheld from a Department of Defense (DoD) employee's pay shall:

- A. Contain sufficient information to properly establish the deduction;
- B. Be adequately documented and certified;
- C. Be paid to the appropriate recipient in the correct amount; and
- D. Be based on a specific provision of law or court order.

## \*040103. Deduction Authorizations

Deduction authorizations shall be retained in the civilian payroll office (PRO), with the Customer Service Representative (CSR) or retained at a designated storage site in accordance with General Records Schedule 2.

## 0402 ORDER OF PRECEDENCE

## \*040201. Deductions

The Office of Personnel Management (OPM) has issued policy guidance to standardize the order of precedence for processing mandatory and voluntary deductions when gross pay is not sufficient to permit all deductions. See OPM Memorandum PPM-2008-01, "Order of Precedence When Gross Pay Is Not Sufficient To Permit All Deductions" (OPM Memorandum") (July 30, 2008). The Memorandum establishes the order in which deductions must be withheld from a DoD employee's gross pay only when gross pay is not sufficient to permit all deductions.

A. When Gross Pay is not Sufficient. If a DoD employee's gross pay is not sufficient to permit all required deductions, then the order in which deductions will be processed is as follows:

1. Retirement Deductions;
  - a. Civil Service Retirement System (CSRS);
  - b. Federal Employees Retirement System (FERS);
  - c. Civil Service Retirement System - Offset (CSRS-Offset);
  - d. Title 32 National Guard; or
  - e. Nonappropriated Fund Instrumentality (NAFI) Employee Retirement Contributions.
2. OASDI (Social Security) taxes collected under the authority of the Federal Insurance Contribution Act (FICA);
3. Medicare Tax;
4. Federal Income Tax;
5. Health Insurance Premiums (may be pre-tax);
6. Basic Group Life Insurance Premiums;
  - a. Federal Employees Group Life Insurance (FEGLI);
  - b. State Life Insurance Premiums.
7. State Income Tax;
8. Local Income Tax;
9. Collection of Debts Owed to the United States;
  - a. Continuous Levy under the Federal Payment Levy Program (tax debt);
  - b. Salary Offsets.
10. Court Ordered Collection/Debt;
  - a. Child Support;

- b. Alimony;
  - c. Bankruptcy;
  - d. Commercial Garnishments.
11. Optional Benefits (see Chapter 11 of this volume);
- a. Health Care/Limited-Expense Health Care Flexible Spending Accounts (pre-tax benefit under FedFlex or cafeteria plan);
  - b. Dental (pre-tax);
  - c. Vision (pre-tax);
  - d. Health Savings Account (pre-tax);
  - e. Optional Life Insurance Premiums;
  - f. Long-Term Care Insurance Premiums;
  - g. Dependent Care Flexible Spending Accounts (pre-tax);
  - h. TSP;
    - (1) Loan Payments;
    - (2) Basic Contributions (pre-tax);
    - (3) Catch-up Contributions (pre-tax).
  - i. Other Optional Benefits.
12. Other Voluntary Deductions/Allotments.
- a. Military Service Deposits;
  - b. Professional Associations;
  - c. Union Dues;
  - d. Charities;
  - e. Bonds;

f. Personal Account Allotments (to savings or checking accounts);

g. Additional Voluntary Deductions (on first-come, first-served basis).

13. Internal Revenue Service (IRS) Paper Levies.

\* B. Priority of Deductions vs. Net Pay Exclusions. The order of precedence is used to determine which authorized deductions from the employee's pay will be applied first in the event that the gross pay is not sufficient to cover all deductions. This issue is separate from determining the net amount of an employee's pay subject to a particular deduction. Pay applied toward certain other deductions may be excluded in determining the net amount of pay for which a given deduction is made; however, that does not necessarily mean that any of the other deductions listed are applied first. For example:

1. Federal income tax deductions are deducted from the net amount of pay subject to Federal income taxes (taxable pay). An employee's deduction for TSP contributions is pre-tax, meaning the contribution is excluded from the net amount of taxable pay. However, the TSP deduction is lower in the order of precedence than Federal income taxes.

2. Court-ordered alimony payments are deducted from the net amount of pay subject to garnishment (garnishable pay). An employee's TSP deduction is excluded from the net amount of garnishable pay (5 Code of Federal Regulation (C.F.R.) 581.105(e)). However, the TSP deduction is lower in the order of precedence than the alimony garnishment.

\*040202. Available Pay

An employee's available gross pay shall be reduced by the amount of each deduction withheld in the specific order of precedence listed in paragraph 040201 of this chapter. After an authorized deduction is withheld, if an employee's remaining pay is not sufficient to allow for the deduction next in the order of precedence to be withheld in its entirety, the following applies:

A. Mandatory Deduction. If the deduction next in the order of precedence is a mandatory deduction, then use the remaining available pay to make a partial deduction. When this situation occurs, the employee's net pay will be zero.

B. Voluntary Deduction. If the deduction next in the order of precedence is a voluntary deduction, then do not make the next voluntary deduction or any other deductions thereafter. The employee's remaining available pay should be paid to the employee as net pay.

## 0403 RETIREMENT DEDUCTIONS

\*040301. CSRS, [CSRS-Offset](#) and FERS Administration and Recordkeeping

A. General. The [CSRS and FERS Handbook for Personnel and Payroll Offices](#) (“CSRS and FERS Handbook”) contains the instructions necessary for the PRO to report:

1. The withholding of mandatory deductions from employees enrolled in the [CSRS](#); and

2. The basic retirement benefits under FERS.

B. Coverage. For employees subject to retirement deductions, the [SF 50](#) (Notification of Personnel Action) will reflect the correct retirement system for each employee. See Table 4-1 of this chapter for pay subject to retirement deductions. For current deduction rates and employer contributions, refer to the OPM Website.

C. Responsibilities. The PRO must fulfill the general responsibilities relating to CSRS, CSRS-Offset and FERS retirement contributions as listed in the [CSRS and FERS Handbook at Chapter 1, section 1C3.1-D](#).

D. Communication with OPM. Forward records of separated employees to OPM Retirement Operations Center, Boyers, PA, as follows:

1. Office of Personnel Management  
CSRS Retirement Records  
P.O. Box 45  
Boyers, PA 16017

2. Office of Personnel Management  
FERS Retirement Records  
P.O. Box 200  
Boyers, PA 16017

E. Maintaining the Individual Retirement Record (IRR) SF 2806/3100

1. General. The PRO will maintain the [IRR for each employee subject to CSRS, CSRS-Offset or FERS](#) according to the [CSRS and FERS Handbook at Chapter 81, part 81A2](#). Because the IRR is used by OPM to adjudicate the retirement rights of separated employees or their survivors, it is important that each IRR be complete, correct, clear in every detail, and properly certified. Timely and accurate maintenance of each individual IRR will expedite closeout procedures when an employee is separated or transferred to the paying jurisdiction of another agency.

2. Required Information. Certain information is required to be posted on the IRR for all employees. There are additional requirements for law enforcement officers,

firefighters, foreign nationals, customs officers, and employees who have any periods of active duty service. All data should be obtained from the SF 50 and posted to the IRR as it occurs. The *OPM Operating Manual, The Guide to Personnel Data Standards*, contains the standard abbreviations and remarks required for completing the IRR. Examples of how to post the service history are located in the CSRS/FERS Handbook at Chapter 81, section 81A2.2-2. IRRs should be reviewed to ensure that the service history is complete and that accurate dates and types of appointments are reflected for each period of service.

a. Sick Leave. When an employee dies, retires, converts to FERS with a CSRS annuity component, has an uncommon tour of duty or applies for disability retirement, the amount of unused sick leave must be recorded on the IRR. Prior to December 2, 1994, OPM regulations at 5 C.F.R. 630.502(b) provided that an employee was entitled to a recredit of sick leave if the employee was reemployed in another Federal position within 3 years after being separated. However, on December 2, 1994, OPM regulations removed the 3-year break-in-service time limitation for recrediting sick leave. Sick leave may now be recredited to former employees who are reemployed on or after December 2, 1994, without regard to the date of the employee's previous separation. Sick leave may not be recredited to employees who were reemployed in the Federal service before December 2, 1994, and who previously forfeited sick leave under the former rules. For additional information, see examples in the *CSRS and FERS Handbook at Chapter 81, subchapter 81A2.3-1*.

b. Health Benefits Data. IRRs sent to OPM for regular retirement, disability retirement, or deceased employees must be annotated with the status of health benefits. Examples are shown in the *CSRS and FERS Handbook at Chapter 81, subchapter 81B*.

c. Federal Employees' Group Life Insurance (FEGLI). FEGLI must be shown on the IRR as specified in the *CSRS and FERS Handbook*. Additional information is located in *The Federal Employees Group Life Insurance Program Handbook*.

3. Closing Out the IRR. Information on the closing out, certification and forwarding to OPM of an IRR upon an employee's separation can be found in the *CSRS and FERS Handbook at Chapter 81, section 81A2.2-4*.

a. Employee Death. Upon receiving notification of an employee's death, the PRO is responsible for sending the IRR to OPM within 5 days of the date the final pay is computed. The deceased employee's records and associated applications are to be received by OPM within 30 days of the date of death. For information on retirement deductions and matching agency contributions in final pay, see *CSRS and FERS Handbook at Chapter 80*.

b. Separation and Application for Refund of Retirement. A refund is the lump-sum payment to a former employee, or an employee who is no longer covered by CSRS or FERS, of the amount of his or her retirement contributions. An individual seeking a refund must meet certain eligibility requirements. The PRO is responsible for sending the employee's IRR to OPM with the employee's refund application (SF 2802/SF 3106). See *CSRS and FERS Handbook at Chapter 32*, subchapter 32A (CSRS) and 32B (FERS). A refund payment may include any of the following:

(1) Retirement contributions deducted from basic pay, including CSRS-Offset contributions for employees covered under CSRS-Offset, or FERS basic annuity deductions from pay;

(2) Deposits and/or redeposits;

(3) Military service credit deposits;

(4) Voluntary contributions; or

(5) Interest payable under law.

c. Disability Retirement Separations. Disability cases require different close out procedures due to the approval or denial of the application submitted by the employee for disability retirement. Agencies must execute both a preliminary and final IRR. Information and examples on closing out an IRR for disability retirement once an application is received from the employee are located in the CSRS and FERS Handbook at Chapter 81, subchapter 81A.2.3-2.

d. Nondisability Retirement Separations. When a separation occurs for reasons other than a disability retirement, the PRO must close out, certify, and forward the IRR to the address annotated in 040301.D of this chapter. Information and examples on the process required to close out an IRR are located in the CSRS and FERS Handbook at Chapter 81, section 81A2.3-1.

e. Service Credit Deposits for Post-1956 Military Service. Procedures for preparing an IRR for deposits of creditable post-1956 military service are discussed in the CSRS and FERS Handbook at Chapter 23. For additional information, see Chapter 11 of this volume.

#### F. Storing, Safeguarding and Disposing of the IRR

1. IRRs not maintained in a mechanized manner must be stored in a lockable metal file cabinet or in a secured facility with limited access provided only to employees whose official duties require access. Manually maintained IRRs must be electronically stored after being manually posted, and must be stored separately from the record itself, in accordance with the OPM requirements. See 73 Fed. Reg. 15013-15017 (March 20, 2008).

2. Records of a claim for retirement, life insurance, health benefits, and tax withholdings are maintained permanently in paper and/or electronic imaged format. Medical records used to determine suitability are maintained for 18 months. Requests for review of health benefits claims should be maintained for up to 3 years.

3. Manual records should be disposed of by shredding or burning; magnetic tapes and all discs should be erased.

G. Register of Separations and Transfers (SF 2807/SF 3103)

1. Register of Separations and Transfers (SF 2807 (CSRS) and SF 3103 (FERS)), serve to authenticate the IRR for transmittal to other PROs and to OPM. Together with other fiscal and accounting data available to OPM, the SF 2807/SF 3103 is an essential document controlling retirement monies. For information on how to prepare and maintain the SF 2807/3103, see the CSRS and FERS Handbook at Chapter 81, part 81A3.

2. More than one IRR may be submitted with each SF 2807/3103. However, the transmittal of completed retirement records should not be delayed while other IRRs are being prepared for forwarding to OPM.

H. Adjustments and Corrections. Adjustments and Corrections to the IRR should be made on the retirement record if the error is detected before the record is submitted to OPM. If the error is detected after the record is sent to OPM, then prepare an SF 2806-1 or SF 3101. See CSRS and FERS Handbook at Chapter 81, part 81A2.3-3.

1. Current Employees

a. Overdeduction. If an overdeduction was made for retirement from the pay of a current employee, then make an adjustment during the next payroll cycle. Decrease the current retirement deductions from the employee's current pay period earnings, and make a corresponding adjustment in the employer's contributions.

b. Underdeduction. If an underdeduction occurred, or if deductions were not made for a period when an employee was covered by CSRS/FERS, then that employee must be afforded due process rights before being requested to repay the overpayment. If deductions were made for a nonappropriated fund (NAF) retirement plan when deductions are required for CSRS/FERS, then adjust the NAF retirement deductions and contributions and the Social Security deductions and contributions in the next pay period. These amounts should then be offset against the amounts that should have been submitted for CSRS/FERS to determine the net amount that must be withheld from the employee's current period pay.

2. Separated Employeesa. Overdeduction

(1) When excess retirement amounts have been deducted from a former employee's pay, and the IRR SF 2806/3100 has not yet been forwarded to OPM, then the amount is to be corrected in the current calendar year, and the correct accumulated deductions posted on the SF 2806/3100 prior to forwarding to OPM.

(2) If an overdeduction for retirement is found after the IRR SF 2806/3100 was sent to OPM, then either a SF 2806-1 (Notice of Correction of Individual Retirement Record for CSRS Employees) or an SF 3101 (Notice of Correction of Individual Retirement Record for FERS Employees) must be prepared and submitted to OPM.

(3) If an overdeduction from a former employee's pay results in excess employer contributions for retirement, then the amount of the excess will be deducted from the next pay period's submission of the [Retirement and Insurance Transfer System \(RITS\) file](#).

b. Underdeduction

(1) When an insufficient amount for retirement has been deducted from a former employee's pay, and the SF 2806/3100 has not yet been submitted to OPM, note the amount of the deficiency on the SF 2806/3100. If the [SF 2806/3100](#) has been submitted, then another SF 2806/3100 must be prepared and annotated "Supplemental" in the upper left margin.

(2) When an underdeduction from a former employee's pay results in insufficient employer retirement benefits contributions, the insufficient amount will normally be included in the [RITS file](#) for the next pay period.

3. Transferred Employees

a. Overdeduction

(1) When excess retirement amounts have been deducted from a transferred employee's pay, and the SF 2806/3100 has not been forwarded, the amount is to be corrected in the current calendar year and the correct total accumulative deductions posted on the SF 2806/3100 prior to forwarding.

(2) If the overdeduction for retirement is found after the SF 2806 was forwarded to another PRO within the Department, then an SF 2806-1 must be prepared and submitted to the gaining PRO.

(3) When an overdeduction from a transferred employee's pay results in excess employer retirement contributions, deduct the amount of excess employer contributions from the [RITS file](#) for the next pay period.

b. Underdeduction. When an insufficient retirement amount has been deducted from a former employee's pay and the [SF 2806](#) has not yet been forwarded to another PRO within the same Component, note the amount of underdeductions on the SF 2806. Prepare and forward a supplemental SF 2806 to the gaining PRO, if the SF 2806 has previously been submitted.

c. Service History Corrections. Correct the "Service History" portion of the SF 2806 if the error is detected before the record is sent to another PRO within the same Component. If the error is detected after the record is submitted, then prepare and submit an SF 2806-1 to the gaining PRO.

#### 4. Retroactive Payments

a. Report CSRS/FERS deductions withheld from a retroactive salary payment for a separated employee by preparing a supplemental [SF 2806/3100](#), and forwarding it to OPM using an [SF 2807/3103](#).

b. For a current employee include CSRS/FERS deductions withheld from a retroactive salary payment in the current year salary deduction on the [SF 2806/3100](#) being maintained for the employee.

c. Report CSRS/FERS deductions withheld from a retroactive salary payment for an employee transferred to another PRO within the same Component by preparing a supplemental SF 2806/3100. Send the SF 2806 to the gaining PRO using an SF 2807. Send the SF 3100 to OPM using an SF 3103.

#### I. Availability of Retirement Funds for Loans, Garnishments, and Indebtedness

1. Loans and Garnishments. See CSRS and FERS Handbook, Chapter 5. An employee cannot borrow from the retirement fund or use money credited to his or her account as security for a loan or for any other purpose. Additionally, an employee's retirement account is not subject to any execution of levies, attachments, garnishments, or other legal processes except as follows:

a. The OPM will comply with a garnishment or attachment order issued to enforce child support or alimony obligation.

b. The OPM will comply with the assignment of retirement benefits in a state court order, decree, or community property settlement agreement in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

2. Indebtedness. The PRO may apply to OPM to recover a debt owed to the United States by administrative offset against money due and payable to a separated employee from his or her CSRS or FERS benefits. See Chapter 8 of this volume for recovering debts from retirement funds. Debt recovery procedures apply only when the former employee has been provided due process rights specified in Chapter 8 of this volume. See also CSRS and FERS Handbook at Chapters 4 and 5.

J. Submission of Deductions and Contributions. Employee deductions and employer contributions for CSRS and FERS shall be reported separately to OPM each pay period. PROs reporting to OPM via the RITS shall report deductions and contributions using procedures described in Chapter 9 of this volume. Employer contributions shall be charged to the appropriation(s) from which the employee's salary is paid. See CSRS and FERS Handbook at Chapter 80.

\*040302. State Retirement Programs for National Guard Technicians

A. General. Effective January 1, 1969, pursuant to Public Law (P.L.) 90 486, all National Guard Technicians appointed in a position not excluded from coverage are considered Federal employees who are automatically covered by CSRS or FERS. However, technicians that were employed on December 31, 1968, had the option of irrevocably electing to remain covered by a state retirement system. The DoD negotiated agreements with states for Federal employees' contributions to a state or state-sponsored contributory retirement program. For further information, see CSRS and FERS Handbook at Chapter 12. The DoD will accept and process agreements from each state requesting a withholding agreement covering technicians of the National Guard for a state-sponsored retirement program.

B. Responsibilities

1. The Under Secretary of Defense (Comptroller) will establish policy and procedures regarding state retirement programs for National Guard technicians and shall update agreements with authorized state officials for the Secretary of Defense. This authority may be redelegated.

2. The Secretary of the Army and the Secretary of the Air Force will coordinate and implement the provisions of this chapter, and designate the National Guard Bureau as the responsible agent for maintaining existing agreements with states and for coordinating administrative actions. This includes updating state withholding agreements.

C. Procedures

1. P. L. 90-486, section 6 required technicians who elected to continue coverage under a state retirement plan to make such an election by January 1, 1969. If a technician filed a valid election to remain covered by an employee retirement system sponsored by a state, then the U.S. Government must pay the amount of the employer's contribution and withhold the employee's designated share for deposit to the state program that became due for the period beginning on or after January 1, 1969.

2. The Federal share of payments, including employer's taxes imposed by 26 United States Code (U.S.C.) 3111, may not exceed the amount that the employing agency otherwise would contribute on behalf of the technician to the Civil Service Retirement and Disability Fund under 5 U.S.C. 8334.

3. A person covered under a state-sponsored program will not earn credits toward retirement or receive an annuity under 5 U.S.C. 8331-8345.

4. A person who retires under a state retirement program shall not be eligible for any rights, benefits, or privileges to which retired civilian employees of the U.S. Government may be entitled.

5. Agreements with states shall comply with the standards contained in subparagraph 040302.D.

D. Standards for Contribution Agreements with State Retirement Programs for National Guard Technicians. Each agreement between the Secretary of Defense and a Governor, or other authorized state official for employer and employee contributions to a state retirement program for National Guard technicians shall be completed within 120 days of receipt of a state request, provided that:

1. The program is limited to technicians of the National Guard;
2. Each agreement is consistent with P. L. 90-486, section 6 and contains a clause that subjects the agreement to any statutory amendments occurring after the effective date of the agreement;
3. State law provides for payment of employee contributions to a state-sponsored employee retirement system by withholding sums from the employee's compensation and making payment to the official designated to receive sums withheld;
4. The agreement complies with the requirements of state law that specify who is eligible for such state-sponsored retirement programs;
5. The commencement date for contributions is specified;
6. Contribution procedures, filing requirements, and payment instructions conform, when practicable, to the usual fiscal practices of the Department; and
7. The agreement does not impose requirements on the Department that are more burdensome than those requirements imposed on departments, agencies, or subdivisions of the state concerned. The agreement shall continue in full force and effect until amended, modified, or terminated by appropriate authority, except to the extent that an agreement may be inconsistent with P. L. 90-486, section 6.

\*040303. DoD Employees Covered By Retirement Systems for Nonappropriated Fund Instrumentalities

A. General. Nonappropriated fund (NAF) employees are Federal employees within DoD. However, NAF employees are not subject to many of the personnel laws administered by OPM for appropriated fund (APF) employees. The status of NAF employees is explained at 5 U.S.C. 2105(c). NAF employee retirement benefits are not subject to the same requirements as that of civil service positions. Each NAF employer administers its own retirement program pursuant to Department of Defense Instruction 1400.25, Volume 1408. When a NAF employee moves to an APF position, unless specifically provided by law, NAF service is not creditable for civil service benefits. Likewise, service in an APF position is not creditable for NAF benefits. Laws and regulations providing service credit and portability of benefits for employees who move between NAF and APF positions are discussed in this section and in the reference guide entitled, "Portability of Benefits for Moves Between Civil Service and Nonappropriated Fund

Employment Systems” published by the DoD Civilian Personnel Management Service (CPMS). See also 5 C.F.R. Part 847 and 5 C.F.R. Part 1620, subpart D.

B. DoD Components that offer NAF Retirement Plans. The following DoD Components offer NAF retirement plans for eligible DoD NAF employees:

1. Department of the Army;
2. Department of the Air Force;
3. U. S. Marine Corps;
4. Bureau of Naval Personnel;
5. Navy Exchange Service Command;
6. Army and Air Force Exchange Service; and
7. Coast Guard.

C. History of Public Laws Relating to Portability of Retirement Benefits for NAF Employees

1. The Nonappropriated Fund Instrumentalities (NAFI) Employee’s Retirement Credit Act of 1986, P. L. 99-638. The law was the first to permit CSRS credit for former NAF service. The law required that NAF service be provided in certain morale, welfare, and recreation (MWR) positions after June 18, 1952, and before January 1, 1966. Covered employees were primarily Army NAF employees in recreation, youth activities, or arts and crafts positions who were not covered by a NAF retirement system.

2. The Portability of Benefits for NAF Employees Act of 1990, P. L. 101-508, section 7202. The law provides pay and benefit portability for employees who move between NAF and APF positions. The law covers moves between DoD NAF and DoD APF positions made on or after January 1, 1987. An employee who moves with a break-in-service of no more than 3 days between such positions may be eligible for pay, leave, reduction-in-force, and retirement benefit protection. An employee who moves between positions may remain in his or her civil service or NAF retirement plan, if vested.

3. Fiscal Year 1996 National Defense Authorization Act, P. L. 104-106, section 1043. The law further expanded portability, primarily in the area of retirement coverage. Retirement election provisions were expanded to cover moves to APF positions outside of DoD and to cover moves on or after August 10, 1996, with a break-in-service of not more than one year. Employees must be vested in the losing employment system’s retirement plan in order to elect to retain coverage. The law provided eligible FERS or NAF employees the opportunity to combine FERS and NAF service credit retroactively if the move occurred on or after January 1, 1966, but before August 10, 1996, with an election deadline of August 11, 1997.

However, waivers of this deadline are authorized for employees who did not receive notice and counseling from their Human Resources Office (HRO).

4. Fiscal Year 2002 National Defense Authorization Act, P. L. 107-107, sections 1131 and 1132. The law further expanded the retirement election opportunity making it easier for employees who have performed service with a DoD or Coast Guard NAFI to continue retirement coverage after moving between NAF and APF positions. Section 1131 permits employees moving between NAF and APF positions on or after December 28, 2001, to continue coverage in the retirement plan under which they were covered immediately before the move, even if they were not vested in that retirement plan. Employees must move between retirement covered positions with a break of not more than one year. Additionally, section 1132 permits employees in the CSRS and FERS to use prior NAF service to qualify for an immediate retirement on or after December 28, 2001. Credit for NAF service under section 1132 will not result in higher CSRS or FERS annuity benefits.

D. Elections to Continue Retirement Coverage After a Qualifying Move from a NAF Position. In accordance with 5 C.F.R. 847.202, NAF employees must meet the requirements of a qualifying move in order to be eligible to retain NAF retirement coverage after moving to a civil position covered by CSRS or FERS. “Qualifying move” for specified time periods is defined as follows:

1. Qualifying Move Between January 1, 1987, and August 9, 1996. A qualifying move occurring between January 1, 1987, and August 9, 1996, that would allow a NAF employee the opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

- a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage;
- b. Employee must have been a vested participant in the NAF retirement system prior to the move to the civil service;
- c. Employee must have moved from an NAF to a CSRS or FERS covered position within DoD or the U.S. Coast Guard; and
- d. Employee must be appointed to a CSRS or FERS covered position no later than 4 days after separation from retirement covered NAF employment.

2. Qualifying Move between August 10, 1996, and December 28, 2001. A qualifying move occurring on or after August 10, 1996, and before December 28, 2001, that would allow a NAF employee an opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

- a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage;

b. Employee must have been a vested participant in the NAF retirement system prior to the move to a CSRS or FERS covered position;

c. Employee must have moved from a NAF to a civil service position subject to CSRS or FERS coverage; and

d. Employee must be appointed to a CSRS or FERS covered position no later than 1 year after separation from retirement covered NAF employment.

3. Qualifying Move after December 28, 2001. A qualifying move occurring on or after December 28, 2001, that would allow a NAF employee an opportunity to elect to continue retirement coverage under a NAF retirement system must meet all the following criteria:

a. Employee must not have had a prior opportunity to elect to continue NAF retirement system coverage;

b. Employee must have moved from a NAF to a civil service position subject to CSRS or FERS coverage; and

c. Employee must be appointed to a CSRS or FERS covered position no later than 1 year after separation from retirement covered NAF employment.

E. Procedures for Electing NAF Retirement System Coverage after a Qualifying Move

1. Employees who elect to retain coverage under a NAF retirement system will have their SF 50 annotated as "5-Other" for the retirement code. The SF 50 will state that the employee has elected to retain coverage under a NAF retirement system.

2. Employees who elect to remain covered by a NAF retirement plan are excluded from coverage under CSRS or FERS during that and all subsequent periods of employment, including periods of service as a reemployed annuitant.

3. Employee retirement deductions, employer contributions, employee contributions to applicable 401(k) plans, and loan repayments will be made biweekly and submitted to the appropriate NAF employee benefit system. FICA shall be withheld and reported in accordance with current guidance from the Department of the Treasury.

4. Employees who elect to retain coverage under a NAF retirement system are eligible to contribute to the applicable NAF 401(k) plan, but are not eligible to participate in TSP.

5. Employees who elect to retain NAF retirement coverage will continue to be covered by the NAF retirement plan in effect at the time of election.

\*040304. Uniformed Services University of the Health Sciences (USUHS) Faculty Retirement

A. The USUHS has established a policy on granting of retirement benefits for faculty and staff who are covered by the Administratively Determined (AD) pay plan. See 10 U.S.C. 2113 and USUHS Instruction 1418, "Civilian Faculty Benefits Plan". All full-time civilian faculty members of the USUHS appointed to an AD position with an appointment of more than 1 year may elect coverage under one the following plan options:

1. Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF). This is a tax-deferred retirement plan that offers both fixed and variable annuity distributions, and employees may enroll in any of the 10 available funds. Amounts collected should be remitted to TIAA-CREF, 8500 Andrew Carnegie Blvd, Charlotte, NC 28626. Any off-line collections will be deposited into and disbursed from deposit fund – X6875 and remitted to this same address. Additional information on TIAA-CREF may be found at TIAA-CREF - Retirement planning for those in the academic, medical, cultural & research fields.

2. Fidelity Investments. This is a tax-deferred investment program through which the employee may enroll in any of 120 available funds. Amounts collected should be sent to Fidelity Retirement Service, P. O. Box 770002, Cincinnati, OH 45277-0089. Additional information on Fidelity Investments may be found at www.fidelity.com.

B. A total of 15 percent of the employee's total salary will be contributed to one of the above selected retirement programs. The employer (USUHS) will contribute 10 percent and the employee will contribute a mandatory 5 percent through payroll deduction.

C. Part-time AD employees, visiting employees who carry a J-1 visa, faculty whose titles have the prefix "Visiting" and Postdoctoral Fellows are not eligible to participate in TIAA-CREF or Fidelity.

#### 0404 FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) TAX

\*040401. Authority

The Federal Insurance Contributions Act (FICA) provides for a Federal system of Old-Age, Survivors, and Disability Insurance (OASDI) and hospital insurance. See Title 26 U.S.C., Subtitle C, Chapter 21. The OASDI program is financed by the Social Security tax, and the Hospital Insurance program is financed by the Medicare tax. Wages for covered employment are taxable regardless of the worker's age or whether the worker is receiving Social Security or Medicare benefits. Employers must match the taxes withheld from employee wages. The term FICA applies to the combined amount of the deductions withheld for both Social Security and Medicare. However, each of the taxes is reported separately. For purposes of this guidance, taxes withheld under FICA will be referred to separately as Social Security tax and Medicare tax. The guidance applies to both Social Security and Medicare withholding. For additional information, see the Social Security Handbook.

A. Coverage. Civilian Federal employees are generally subject to both Social Security and Medicare tax withholding, but some employees are subject to Medicare tax withholding only. Prior to 1984, most Federal civilian employment was exempt from Social Security coverage. However, for civilian employees hired on or after January 1, 1984, most services are covered by Social Security. Whether an employee is covered under Social Security is based on the type of appointment and is determined by the HRO and reflected on the SF 50. Federal employees became subject to Medicare withholding the first pay period in calendar year 1983. See Social Security Handbook at § 940. Social Security and/or Medicare taxes are withheld on the same wages, but only Social Security taxes have a wage base limit (i.e. the maximum wage amount subject to Social Security tax for the year). The deductions are shown separately on the IRS Form W-2 (Wage and Tax Statement). The Department is considered one employer for purposes of determining the maximum wages subject to Social Security and/or Medicare withholding. Employees who are exempt from the Social Security and/or Medicare withholding are:

1. Noncitizens employed outside the United States, the U.S. Virgin Islands, and Puerto Rico;
2. Interns, (except medical and dental interns and residents), student nurses, and other student employees of Federal hospitals (26 U.S.C. 3121(b)(6));
3. Employees hired temporarily to handle fires, storms, earthquakes, floods, and other similar emergencies and disasters (26 U.S.C. 3121(b)(6));
4. If a civilian chaplain wants to be covered under Social Security and/or Medicare, then he or she must apply as a self-employed person. If the order under which the chaplain belongs has elected its members to be covered by Social Security and/or Medicare, then the chaplain may also be covered by Social Security and/or Medicare;
5. Employees of instrumentalities of the U.S. Government that are specifically exempt from Social Security and/or Medicare by law (26 U.S.C. 3112); and
6. Title 32 National Guard technicians in Massachusetts and Nevada who elected to remain in the State Employees Retirement System.

B. Transfers Between DoD Components. Beginning January 1, 1984, based on FICA, OPM directed that all newly hired Federal employees be subject to Social Security and Medicare withholding, as well as retirement deductions. If an employee transfers between DoD Components, then the gaining PRO must count those Social Security and/or Medicare taxes already deducted by the losing PRO in order not to exceed the maximum Social Security and/or Medicare tax liability due for that payroll year. When an employee transfers, include Social Security and/or Medicare year-to-date wages, and Social Security and/or Medicare year-to-date taxes on the SF 1150 (Standard Form 1150 or Record of Leave Data).

## 040402. Compensation Subject to Social Security and/or Medicare

A. Current Earnings and Allowances. For employees covered under FICA, compensation subject to Federal income tax (without regard to exemption status) is generally subject to Social Security and Medicare deductions (see Table 4-1). Employees covered under CSRS are subject only to Medicare withholding. The basis for Social Security and/or Medicare tax deductions is the employee's gross pay for each pay period.

B. Back Pay Awards. Employee and employer portions of Social Security and/or Medicare taxes computed for back pay awards **must** be calculated at the rate in effect at the time the payment of back pay is made.

## 040403. Tax Amounts

Social Security and Medicare taxes have different tax rate percentages, and Social Security is also subject to a wage base limitation. Therefore, Social Security and/or Medicare taxes **must be computed and reported separately.**

A. Employee Deductions. For each pay period, deduct the applicable Social Security and/or Medicare tax from the gross pay of each employee covered by Social Security and/or Medicare. With regard to the Social Security wage base limit, when the employee's earnings reach the applicable maximum limitation **in a taxable year, discontinue the deductions for Social Security for the remainder of that tax year.** Refer to [IRS Publication 15 \("IRS Circular E"\)](#) (Employer's Tax Guide) for the yearly update. Maximum limitations for prior years are listed in Table 4-2 and Table 4-3 of this chapter.

B. Employer's Social Security and/or Medicare Tax. The U.S. Government must pay an employer's contribution equal to the same **tax** rate used for employees.

C. Official Social Security and Medicare Tax Tables. Tax tables are published in [IRS Circular E](#).

## 040404. Voucher Entry

For each pay period, enter the employees' deductions and the employer's contributions for Social Security and/or Medicare taxes on the appropriate line of the [DD Form 592](#) (Payroll for Personal Services Certification and Summary). The employer's portion is charged to the same appropriation(s) as the employee's salary.

## 040405. Adjustments

Adjustments due to errors and cancellation of paychecks are outlined in section 0808 of [Volume 8, Chapter 8](#).

\*040406. Panama Social Security System

All non-U.S. citizens employed by the Panama Canal Commission after September 30, 1979, were covered by the Panama Social Security System (Social Security Provisions of the Agreement in Implementation of Article III of the Panama Canal Treaty). The employee's withholding was 7.25 percent of salary, and the employer's contribution was 12.45 percent of salary. Non-U.S. citizens covered by CSRS prior to October 1, 1979, and who were employed by the Panama Canal Company or Canal Zone Government and were covered by CSRS, continued to be covered under CSRS until termination. Note: The Panama Canal Treaty of September 7, 1977, relinquished United States control over the Canal and transferred authority to the Panama Canal Authority on December 31, 1999. The guidance contained in this paragraph is retained strictly for historical purposes. For additional information, see 22 U.S.C., chapter 51.

0405 FEDERAL INCOME TAX WITHHOLDING

040501. General

A. Withholding Authority for Federal Income Tax. The Internal Revenue Code at 26 U.S.C. 3402 requires each Federal agency to withhold Federal income taxes from wages paid to employees. The current IRS Circular E summarizes the employer's responsibilities and contains rates and tables prescribed by the Treasury Department. Title 26, U.S.C., section 3306 provides that services performed in the employ of the United States are exempt from the tax imposed under the Federal Unemployment Tax Act (FUTA).

B. Employer's Identification Number (EIN). An EIN is assigned by the appropriate District Director of the IRS to identify the tax accounts of employers. Only one identification number per PRO is authorized for use in reporting all Federal and Social Security and/or Medicare taxes. The PRO must collect Federal and Social Security and/or Medicare taxes from employee wages, then report all taxes using IRS Form 941 (Employer's Quarterly Federal Tax Return). The current IRS Circular E should be used for guidance to withhold and report Federal income tax and Social Security and/or Medicare.

C. Method of Withholding. The two most common methods for withholding tax provided by the IRS are the percentage method and the wage-bracket method. Refer to IRS Circular E for information on these two methods.

040502. IRS Form W-4

Use IRS Form W-4 (Employee's Withholding Allowance Certificate) to support statutory deductions for Federal income taxes from each employee stating the number of exemptions claimed or extra withholding authorized. IRS Forms W-4 may be obtained from the nearest HRO or CSR. An employee is also allowed to process tax changes through an automated computer program, such as myPay, by using a personal identification code.

A. Withholding Allowances. At the start of employment, an employee must complete an IRS Form W-4 and any additional forms required for withholding state or local taxes.

The [employee's marital status](#) and number of allowances claimed provide the basis to compute Federal income tax withholding (FITW). If an employee fails to submit an IRS Form W-4, [then you must](#) assume the employee is single and has zero withholding allowances. Once filed, an IRS Form W-4 remains in effect until the employee [amends it or files a new withholding certificate](#).

1. Permissible allowances are described on the IRS Form W-4. Determining the accuracy of the number of allowances claimed is not the responsibility of the PRO.

2. The number of allowances claimed on the IRS Form W-4 may be different from the number of exemptions claimed on the employee's tax return. Employees may use the worksheet on the IRS Form W-4 to determine if they qualify for claiming extra allowances.

B. Additional Withholding. Additional withholding allowances [may be claimed](#), as computed using the table on IRS Form W-4. An employee who wants to increase the amount of tax withheld may reduce the number of exemptions to which [the employee is](#) entitled. If an increase in Federal tax withheld is desired, then an employee may also specify [a fixed](#) dollar amount to be withheld in addition to the amount of withholding based on filing status and withholding allowances claimed on form W-4. The amount of withholding remains in effect until changed by the employee.

C. Reporting Certain IRS Forms W-4 to the IRS

1. Employers may be directed in a written notice from IRS to send certain IRS Forms W-4 to the IRS for review. If the PRO receives a written notice, then the PRO will contact the CSR to obtain a copy of the requested Form W-4. The PRO will follow the guidance in the written notice for submitting the Form W-4 to the IRS.

2. If the IRS determines that an employee does not have enough withholding, then the IRS may send the PRO a letter commonly called a "lock-in-letter." The lock-in-letter will specify the maximum number of withholding allowances permitted for the employee. The PRO must furnish a copy of this letter to the employee within 10 business days of receipt of the letter. The PRO will begin the withholding based on the date specified in the letter.

040503. Allowance Status Change

If an employee submits a new IRS Form W-4, then change the withholding effective the next pay period. [No retroactive adjustment is permitted](#) if an employee claims the IRS Form W-4 on file is erroneous and submits a corrected one.

040504. Compensation Subject to Income Tax

See Table 4-1 for taxability on specific types of compensations.

\*040505. Withholding Allowances

A. Exemption from Withholding. An employer is not required to deduct and withhold any Federal income tax from wages paid to an employee who has certified to the employer (as prescribed by IRS) that the employee incurred no income tax liability for the preceding year and that the employee expects no liability for the current year. The employee uses the IRS Form W-4 to make this certification. The employee must file an IRS Form W-4 each year by February 15 to claim exemption from withholding. If the employee fails to file the W-4 claiming exemption from withholding by February 15, then withhold tax as if the employee is single with zero withholding allowances. If the employee provides a new Form W-4 claiming exemption from withholding on February 16 or later, then you may apply it to future wages but do not refund any taxes already withheld.

B. Retained Copies of Form 941 and Related Reports. As forms are superseded or become obsolete, remove them from the active file and place in an inactive file. Treasury Department forms (e.g., IRS Forms 941 or W-4) do not have to be sent to the IRS District Director. However, if requested, the PRO must show that the information is on file as a supporting record.

040506. Tax Tables and Tax Periods

Refer to [IRS Circular E](#) for the current tax tables or applicable payroll system tax package.

\*040507. Adjustments in Tax Withheld

A. Underwithheld Taxes. If the PRO does not withhold income, social security, or Medicare taxes, or if less than the correct amount is withheld from the employee's wages, then the adjustment to the employee's pay may be made in a later pay period of the same calendar year. The underpayment must be paid to the IRS by the employer. Underwithheld income tax should be recovered from the employee on or before the last day of the calendar year that the tax was due. Make no adjustment if the error occurred in a prior calendar year or the employee is no longer on the payroll.

B. Refunding Taxes Incorrectly Withheld. If more than the correct amount of income, social security, or Medicare tax is withheld from employee's wages, then the excess amount must be refunded to the employee before the end of the 3-year statute of limitations that applies to tax refunds. For example, if there was excess social security taxes withheld from an employee's pay in calendar year 2009, the excess social security taxes withheld could be refunded to the employee through April 15, 2012.

\*040508. Tax Payments - Payment of Withheld Tax

A. Tax Collection. All Federal Income, Social Security, and Medicare taxes collected by the PRO will be directly remitted to IRS through the Electronic Federal Tax Payment System (EFTPS). EFTPS is a service offered by Treasury which allows an agency to

electronically file and make payments for IRS Form 941 taxes each quarter. EFTPS should be used except in the case of off-line payments that may be deposited in account --X6875.

B. Accounting. The PRO making the tax collection is responsible for preparing and issuing the IRS Form W-2 to the employee.

C. Disbursement. The disbursing office will disburse all taxes withheld based on the information provided by the PRO and the frequency of the payroll involved. The taxes are remitted for amounts withheld from wages for Federal income taxes, Social Security and/or Medicare, and employer's contributions for Social Security and/or Medicare via the EFTPS.

\*040509. Resident and Nonresident Aliens

A. Withholding Tax. Wages paid to both resident and nonresident aliens for services performed in the United States are subject to the withholding of Federal income tax. The same regulations, procedures, and rates that govern U.S. citizens apply to resident and nonresident aliens. Generally, resident aliens are taxed in the same manner as U.S. citizens. However, for nonresident aliens, employers may be instructed to withhold an additional amount from a nonresident alien's wages. See IRS Circular E for any additional withholding adjustments.

B. Withholding Allowances and Exemptions. Resident aliens may claim the full number of withholding allowances to which they would be entitled if they were U.S. citizens. Generally, nonresident aliens may claim one withholding allowance on Form W-4. Nonresident aliens who are residents of Canada, Mexico or South Korea, or a student/business apprentice from India, or a U.S. National may be able to claim additional withholding allowances. See IRS Publication 519 (U.S. Tax Guide for Aliens) for additional information. In general, Federal income taxes on the wages of nonresident alien employees must be withheld. However, see IRS Publication 515 (Withholding of Tax on Nonresident Aliens and Foreign Entities) for exemptions to wage withholding.

C. Payment of Taxes and Tax Return. Federal income and Social Security/Medicare taxes withheld for resident and nonresident aliens covered in this chapter will be included with the total tax deposit payment and reported on the IRS Form 941.

\*040510. Lump-Sum Leave Payment Refunds

A. General. When a separated employee who received a lump-sum payment for annual leave is reemployed in Federal service prior to the end of the period covered by the lump-sum payment, the employee must refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period. See 5 U.S.C. 6306. Refer to Chapter 8, Section 0808 of this volume regarding procedures on corrections of overpayments and underpayments.

B. Preparing a Statement Regarding Refunded Lump Sum Leave Payments. When the entire amount of the refunded lump-sum leave payment has been collected from the

reemployed individual, prepare a statement (a sample format is shown in Figure 4-1) to be distributed as follows:

1. Send the original to the employee, with one copy for each taxing authority for which tax has been withheld from the employee's pay.
2. Send one signed copy to the IRS, the state (if applicable), the city or county (if applicable), and any other authorized taxing authority.

\*040511. Advance Earned Income Credit (EIC)

The Education Jobs and Medicaid Assistance Act of 2010 (*P. L. 111-226*) signed into law on August 10, 2010, repealed the Advance EIC. After December 31, 2010, workers may not receive Advance EIC in their paychecks.

0406 STATE INCOME TAX WITHHOLDING

\*040601. General

*Title 5, U.S.C. Section 5517* provides for the withholding of state and territorial income taxes from the compensation of Federal employees if an agreement has been entered into between the Secretary of the Treasury and the proper official of the state or territory. Agreements exist between the Secretary of the Treasury and many of the states for withholding income tax from the compensation of Federal employees whose regular place of employment is within the state. See *TFM, Volume 1, Part Three, Chapter 5000, Appendix 2* for additional information. If an agreement has not been reached between a state and the Secretary of Treasury, then the employee may elect to have discretionary withholding for a state.

A. *Wages Subject to State Withholding*. Wages and salaries subject to Federal income tax withholding are generally subject to state withholding. Cost-of-living allowances paid to employees in Hawaii are included as taxable income. Severance pay paid in accordance with *5 U.S.C. 5595* is included; however, state income tax should not be withheld from severance pay paid to the survivor of a deceased employee.

B. *Withholding Requirements*. When a state statute provides for the collection of a tax by an employer, DoD employees are subject to the tax whose regular place of Federal employment is within the state (if the state has entered into an agreement). Generally, the "official duty station" is designated for Federal employees where they report regularly to perform their services. For employees whose duties are performed at a place other than their "official duty station," the regular place of Federal employment is the place where the employees actually and normally perform their duties.

C. *Withholding Certificate*. DoD employees must complete a state tax withholding certificate as a basis for proper withholding. The certificate shall specify if the employee is subject to the tax as well as the employee's place of residence, regular place of employment, exemptions, and allowances. This certificate remains in effect until the employee

submits a new certificate. If an employee does not furnish a withholding certificate for a designated state, then the maximum amount applicable to the employee's annual compensation will be withheld.

D. Determination of Exemptions. The number of exemptions claimed may be based on the state withholding certificate or as shown on IRS Form W-4 depending on individual state regulations or on the agreements with the Secretary of the Treasury.

1. The PRO will withhold amounts based on personal exemptions and either:

a. The state withholding tax tables; or

b. Percentage or formula methods in accordance with the proper withholding agreement.

2. Generally, the tax withheld, after subtracting proper exemptions and allowances, should not be less than:

a. The amount set in the state withholding table; or

b. The amount determined by the percentage or formula method prescribed.

3. The PRO may use the employee's IRS Form W-4 to determine state withholding in place of state forms if:

- a. The withholding agreement authorizes it; and
- b. The state and Federal exemptions allowed are the same.

4. Employees must file a state employee withholding exemption certificate if:

a. Exemptions under state law are not the same as under Federal law; or

b. The state requires the use of a separate form.

E. Reciprocal Agreements. The state requirements for withholding income tax may be modified by reciprocal agreements between states. The effect of reciprocal agreements generally is to relieve the nonresident employees of their tax liability to the state in which they are employed. Reciprocal agreements also relieve the employer of the duty to withhold such taxes. To comply with Treasury-state withholding agreements, agencies must conform to the withholding provisions of reciprocal agreements. If the employee is subject to withholding in more than one state, then use separate deduction codes to identify tax remittance for each state.

1. Employees normally are subject to withholding for the state in which their duty station is located. The duty station is shown on the employee's SF 50. The duty station also governs withholding for employees in continual travel status. For an employee whose duties are performed at a place other than the official duty station, the place where the employee regularly performs his or her duties is considered the regular place of employment for state tax withholding purposes.

2. Reciprocal agreements between states may affect automatic withholding according to the duty station. In all disputed cases, the PRO will:

- a. Withhold the tax; and
- b. Advise the employee to negotiate the tax liability directly with the proper taxing authority.

F. Nonresident Employees

1. Some states permit nonresident employees to certify their compensation is not subject to that state's income tax. When the agreement or state law contains such a provision, the employee's signed statement is accepted as justification to discontinue withholding of state income tax, and the statement is filed with the employee's IRS Form W-4.

2. Nonresident employees, who under the state income tax law are required to allocate at least three-fourths of their compensation to the state, shall be subject to withholding on their entire compensation. Nonresident employees, who under the state income tax law are required to allocate less than three-fourths of their compensation to the state, may elect to:

- a. Have state income tax withheld on their entire compensation; or
- b. Have no state income tax withheld on their compensation  
(31 C.F.R. 215.10(a)).

G. State Income Tax Discretionary Deductions

1. When a state provides for discretionary allotment withholdings, PROs will withhold state taxes only for those employees who have a legal obligation to pay and who elect such withholding. This applies whether or not the Department of the Treasury has a withholding agreement with the state.

- a. Employees must request the allotment on a proper withholding certificate.
- b. Employee tenure does not affect the allotment.

2. Employees located in foreign areas must assume the responsibility for determining the need for state and local taxes. However, before submitting a request, an employee must be advised to:

a. To obtain assistance from the employing activity legal staff available to him or her; or

b. To contact the appropriate state or local income tax office as to the applicability of withholding taxes while on an overseas assignment. Preferably, this should be done prior to an employee's departure from the continental United States (CONUS). If the employee determines a withholding liability applies, then PROs will honor the request.

3. The PRO must comply with the agreement, regulations, and instructions of the state concerned.

a. The PRO will base the allotment amount on either:

(1) The amount (in whole dollars) set by an employee;  
or

(2) The withholding certificate filed by an employee and the state with-holding tables or formulas.

b. The PRO will pay withheld state income taxes to each state concerned as prescribed for that state.

H. State Exemption Certificates. Employees are subject to mandatory withholding under Treasury-state withholding agreements; however, an employee may claim exemption from withholding under certain conditions. PROs shall:

1. Require the use of state-furnished tax exemption certificates, if available.

2. Give the designated official of the taxing state the following information (on request) about employees claiming exemption:

a. Name;

b. SSN; and

c. The basis for the claimed exemption.

\* I. Military Spouses Residency Relief Act (MSRRA)

1. Public Law 111-97, enacted November 11, 2009, allows for an employee who is a spouse of a military service member to claim an exemption from state withholding on wages because:

a. The employee's spouse is a member of the Armed Forces assigned to duty in the state of the employee's employment in compliance with military orders;

b. The employee is present in the state of employment solely to be with the employee's military spouse; and

c. The employee maintains a residence or domicile in another state.

2. Under the MSRRA, the employee must establish that the employee has a residence or domicile in a state other than the state of employment. An employee who is a military spouse is still liable for income taxes imposed by his or her state of legal residence or domicile. Once an employee establishes that the employee has a residence or domicile in a state other than the employee's state of employment, the employee may claim exemption from state tax in the state of employment.

\*040602. Procedures

The PRO will send copies of IRS Forms W-2 to states that have negotiated agreements with the Secretary of the Treasury with respect to employees who are subject to mandatory state withholding, or who may elect withholding under a state law (TFM, paragraph 3-5070.10).

A. Accounting for Withheld Taxes

1. Employee Pay Records. The PRO will record the amounts withheld each pay period on an employee's pay record when a special payment occurs; otherwise the system will automatically update an employee's records.

2. Deposit Accounts. The PRO will:

a. List the total of withheld state taxes as "State Taxes" under Payroll Summary on DD Form 592.

b. Deposit the total in deposit fund account --X6275, Withheld State Income Taxes. (This account will be credited regardless of the employing activity of the employee; however, taxes deposited in the deposit fund account of the U. S. Army Corps of Engineers civil function will be credited to 96X6070).

3. Error Corrections. The PRO should correct a clerical error made in the prior pay period to the current calendar year if the employee is still on the payroll. If the error

resulted in the underdeduction of taxes, then follow due process procedures to collect the taxes paid on behalf of the employee. If the error resulted in the overdeduction of withheld taxes, then refund the amount of the overdeduction to the employee on the next regular payroll cycle. The PRO will not make any adjustment if:

- a. The employee is no longer on the payroll; or
- b. The error was in a prior calendar year.

4. Paying Out Withheld Taxes

a. Frequency. PROs will comply with the state's current tax law, whether payment is required biweekly, monthly, or quarterly. PROs will not make payments more often than required under state tax law.

b. Payment Identification. The disbursing officer will issue checks on the basis of approved voucher prepared by the PRO. The PRO must prepare required tax payment documents.

5. Balancing State Wage and Tax Information. The PRO will balance the amounts reported on the IRS Form W-2 or magnetic tape to each state with year-to-date control totals for state taxes withheld and state taxable wages. These amounts must be balanced before IRS Forms W-2 are distributed to employees and forwarded to the states.

6. Collection of Delinquent Taxes. Title 5, C.F.R. Part 582 authorizes the collection of a tax levy from a state or local government. The Defense Finance and Accounting Service-Cleveland Site (DFAS-CL/L) has been designated as the agent to accept legal process for DoD civilian employees for state or local tax levies. All state income tax liens will be sent to: Defense Finance and Accounting Service Cleveland Site, Office of General Counsel, Attention: Code L, P.O. Box 998002, Cleveland, Ohio 44199-8002.

7. Notice to Employees. The DoD Components shall advise their employees that information returns will be sent to state and other taxing authorities of the employee's state of employment (and, in some cases, residence) where such authorities have requested the information; however, only information properly releasable under the Privacy Act or the applicable notice of routine use shall be released.

B. Recordkeeping

1. The PROs must retain the following records of state tax deductions:
  - a. EIN assigned by the state;
  - b. Amounts and dates of all payments and wages subject to state tax withholding;

- c. Names, addresses, and SSNs of employees; and
  - d. Dates and amounts of tax deposits made.
2. The CSR will retain the following:
    - a. The employee's state withholding allowance certificate which will be kept until superseded or canceled; and
    - b. Dates of employment.
- C. Annual Form W-2 Reporting. Refer to Chapter 9 of this volume for procedures.
- D. Official State and Territory Codes and Abbreviations. The official abbreviations and state codes for all the states of the United States (including D.C.) and U.S. possessions and territories are listed in Table 4-4 of this Chapter. No other abbreviations or codes are allowed to be used.

040603. Guam or the Commonwealth of Northern Mariana Islands Federal Income Taxes

The total amount of Federal income taxes withheld from employee salaries creditable to Guam or the Commonwealth of Northern Mariana Islands shall be certified and submitted each calendar quarter to the IRS. The certifications must include the employer identification number, the quarter covered by the certifications, and the dollar amount withheld. The submission may contain one certification, but amounts attributable to Guam and the Commonwealth of Northern Mariana Islands shall be reported separately. Refer to [TFM, Part 3, section 4090](#) for additional information.

#### 0407 CITY AND LOCAL INCOME AND EMPLOYMENT TAX WITHHOLDING

040701. Withholding Authority

[Title 5, U.S.C., section 5520](#) authorizes withholding of city, county or employment tax from compensation of Federal employees who are subject to tax and whose regular place of Federal employment is within the city or county which has entered into a proper agreement with the Secretary of the Treasury. Withholding is also required if the employee is a resident of the city or county. Each DoD employee shall complete a withholding certificate for city or local taxes as a basis for proper withholding. An out-of-state employee's consent to have city or local taxes withheld is also required when applicable.

A. Treasury Agreements. An agreement must be reached between the Secretary of the Treasury and the applicable city, county, or local taxing authority before withholding is required ([TFM, Part Three, Chapter 5000, Appendix 3](#)). The agreement provides for mandatory withholding of income or employment tax from the compensation of Federal

employees whose regular place of employment is within the city or county or who are residents of the city or county. Generally, this is based on where employees report for work. In the case of employees who perform their services other than where they report, the regular place of employment is where the employee regularly performs his or her services.

B. Wages Subject to City and County Withholding. PROs shall apply policies and follow procedures as prescribed for each state in determination of employee wages subject to mandatory city and county withholding.

1. Basic Wages. All wages and salaries subject to Federal income tax withholding are normally subject to city and county withholding. Severance pay paid to an employee is generally included; however, severance pay paid to the survivor of a deceased employee is excluded.

2. Mandatory Withholding

a. The PRO shall withhold tax from wages of Federal employees who reside in cities or counties that have entered into withholding agreements.

b. The PRO will withhold tax from the wages of Federal employees whose regular place of Federal employment is within a city or county where they are subject to tax. If employees reside in a state other than the state in which the city or county is located, then they are exempt from mandatory withholding.

c. The Federal employee's regular place of employment usually is the employee's official duty station that is shown on the SF 50. If an employee actually performs service at a location other than the official duty station, that alternate location will be considered the regular place of employment.

d. Many local ordinances tax only wages for services performed within the city or county; in most cases, this applies only to nonresident employees. Employees eligible to exclude part of their annual income under such provisions must submit a withholding certificate that specifies the amount or percentage. The PRO shall then reduce withholding accordingly. If the employee does not file a certificate, then the PRO shall withhold tax based on the employee's total compensation. PROs shall not make an adjustment in withholding if employees perform less than 25 percent of their services outside the city or county.

C. Withholding Certificates

1. Employees must submit withholding certificates. They must provide the CSR with all the information needed to properly deduct city or county income taxes. If employees do not furnish a certificate, then the PRO shall withhold tax at the highest level that applies to their annual wages; however, the PRO will not withhold any tax from wages of out-of-state employees until they submit a form consenting to withholding.

2. Employing activities may use a withholding or exemption certificate furnished by a city or county only if it contains all required information. If the form does not contain all needed information, then employing activities may use FMS Form 7311 (Employee Withholding Certificate for Local Taxes).

3. The CSR may furnish copies of completed withholding forms to the city or county upon request. See TFM, Volume I, Part Three, Chapter 5000, section 5040.50.

D. Discretionary Withholding of City or Local Tax

1. Nonresident Employees. An employee who does not reside in the state in which the city or county (place of employment) is located is exempt from mandatory withholding; however, the PRO may withhold tax with the employee's consent. The employee must submit a withholding certificate.

2. Allotment for Discretionary Deduction. Employees have the option of making discretionary allotments for the payroll deduction of taxes of their city or county of residence if they are employed outside that location. The fact that taxes are withheld for the city or county of employment does not affect the employee's discretionary allotment.

a. An employee may make a discretionary allotment for withholding even though the city or county does not have a withholding agreement.

b. The PRO shall set the allotment amount on the city or county withholding method or deduct a whole dollar amount set by the employee. The employee must submit a proper withholding certificate.

3. Accounting for Discretionary Withholding. The PRO shall account for discretionary tax deductions as prescribed for mandatory withholdings.

4. Amount of Withholding. The PRO shall withhold tax based on:

a. The proper city or county tax withholding rate set in the city or county instructions;

b. The prescribed percentage or formula method; or

c. Computation of a set amount to be deducted from the employee's pay each pay period.

5. Minimum Withholding. The PRO shall deduct an amount, at a minimum, nearly equal to the tax required by the city or county.

## 040702. Procedures

The PRO shall record amounts withheld each pay period in the employee's pay record when a special payment occurs; otherwise, the system will automatically update an employee's record.

A. Deposits. The PRO shall make a one-line entry on the DD Form 592 as follows:

1. Enter "Withheld City (or County) Income Tax" below state or territorial tax and the total amount withheld each pay period.

2. Credit the withheld tax to deposit fund account --X6275 for city and county tax.

B. Correcting Errors. PROs shall apply the same instructions applicable to the withholding of state taxes. Refer to subparagraph 040602.A.3 of this chapter for procedures.

C. Paying Out Withheld Taxes. PROs shall apply instructions for state tax.

D. Annual Form W-2 Reporting. Refer to Chapter 9 of this volume, for reporting procedures.

## 040703. Recordkeeping

A. PROs shall keep all records of city or county income tax deductions. Records should include the:

1. EIN assigned by the city or county;

2. Amounts and dates of all wages subject to city or county tax withholding;

3. Names, addresses, and SSN of employees;

4. Dates and amounts of city or county tax paid; and

5. Copies of all returns filed.

B. The employing activity shall retain withholding authorization certificates for city tax deductions for each employee until superseded or canceled.

\*Figure 4-1: Lump-Sum Annual Leave Repayment (Sample Format)

REPAYMENT OF LUMP-SUM ANNUAL LEAVE		Date
To:	From:	
<p>Under the provisions of the Lump-Sum Payment Act (December 21, 1944), the following statement is furnished for submission with your <b>Federal</b> and state income tax returns for calendar year</p> <p style="text-align: center;">Name and Number of Employee</p> <p>refunded during the calendar year _____ the sum of \$_____, representing refund of Lump-Sum Annual Leave payment under the provisions of the Lump-Sum Payment Act. The Form W-2 (Wage and Tax Statement) for calendar year _____ has not been decreased by this amount.</p>		
Duty Station	<b>Federal</b> Employer's Identification Number	
	State Identification Number	
Typed Name, Title and Telephone	Signature	
<p>Copy Forwarded To:</p> <p>Internal Revenue Service</p> <p>State of</p> <p>City or County of</p>		

\*Table 4-1: Mandatory Deductions Withheld From Civilian Pay for CSRS and FERS Employees

	FED. TAX	SOCIAL SECURITY	MEDI - CARE	STATE	CITY/ LOCAL	RET	TSP
1. Premium pay: Sunday, Holiday and Overtime;	YES	YES	YES	YES	YES	NO	NO
Standby Duty, Availability Pay, and Administratively Uncontrollable Overtime	YES	YES	YES	YES	YES	YES	YES
2. Basic Pay	YES	YES	YES	YES	YES	YES	YES
3. Differentials include Night, Hazardous, Post (nonforeign & foreign), Staffing, Supervisory	YES	YES	YES	YES	YES	NO	NO
4. Other Differentials: Shift, Environmental, and Tropical	YES	YES	YES	YES	YES	YES	YES
5. Lump-Sum Leave	YES	YES	YES	YES	YES	NO	NO
6. Severance Pay	YES	YES	YES	YES	YES	NO	NO
7. Awards	YES	YES	YES	YES	YES	NO	NO
8. Allowances include Living Quarters, Temporary Quarters Subsistence, Post, Foreign Transfer, Home Service Transfer, Separate Maintenance, Official Residence, Representation, Cuba Benefit	NO	NO	NO	NO	NO	NO	NO
9. Other Allowances:							
a. Nonforeign Cost of Living	NO	NO	NO	*	*	NO	NO
b. <a href="#">Physicians Comparability</a>	YES	YES	YES	YES	YES	YES	YES
c. Remote Site	YES	YES	YES	*	*	NO	NO
d. Danger Pay	YES	YES	YES	YES	YES	NO	NO
10. <a href="#">Recruitment, Relocation, and Retention Incentives</a>	YES	YES*	YES	YES	YES	NO	NO
11. Separation Incentive Pay	YES	YES	YES	YES	YES	NO	NO

Varies by state and city/local taxing authority. [See also Volume 8, Chapter 3 for additional guidance.](#)

\*Table 4-2: 1963 through 1993 Percentage Rates of FICA: Social Security Tax and Medicare Tax Deductions and Total Maximum Tax

<u>CALENDAR YEAR</u>	<u>MAXIMUM GROSS PAY</u> (applies to both Social Security and Medicare taxes except where noted)	<u>SOCIAL SECURITY</u>	<u>MEDICARE</u>	-	<u>TOTAL TAX RATE APPLIED TO MAXIMUM GROSS PAY*</u> (Refers to combined Medicare and Social Security Tax Rates through 1993)	<u>MAXIMUM TAX PAYABLE</u> (Refers to combined Medicare and Social Security tax through 1993)*
1963-1965	\$4,800	3.625%	0.00%		3.625%	\$174.00
1966	6,600	3.85%	0.35%		4.20%	277.20
1967	6,600	3.90%	0.50%		4.40%	290.40
1968	7,800	3.80%	0.60%		4.40%	343.20
1969-1970	7,800	4.20%	0.60%		4.80%	374.40
1971	7,800	4.60%	0.60%		5.20%	405.60
1972	9,000	4.60%	0.60%		5.20%	468.00
1973	10,800	4.85%	1.00%		5.85%	631.80
1974	13,200	4.95%	0.90%		5.85%	772.20
1975	14,100	4.95%	0.90%		5.85%	824.85
1976	15,300	4.95%	0.90%		5.85%	895.05
1977	16,500	4.95%	0.90%		5.85%	965.25
1978	17,700	5.05%	1.00%		6.05%	1,070.85
1979	22,900	5.08%	1.05%		6.13%	1,403.77
1980	25,900	5.08%	1.05%		6.13%	1,587.67
1981	29,700	5.35%	1.30%		6.65%	1,975.05
1982	32,400	5.40%	1.30%		6.70%	2,170.80
1983	35,700	5.40%	1.30%		6.70%	2,391.90
1984	37,800	5.70%	1.30%	**	6.70%	2,532.60
1985	39,600	5.70%	1.35%		7.05%	2,791.80
1986	42,000	5.70%	1.45%		7.15%	3,003.00
1987	43,800	5.70%	1.45%		7.15%	3,131.70
1988	45,000	6.06%	1.45%		7.51%	3,379.50
1989	48,000	6.06%	1.45%		7.51%	3,604.80
1990	51,300	6.20%	1.45%		7.65%	3,924.45
1991	53,400	6.20%	0.00%	***	6.20%	3,310.80
***	125,000	0.00%	1.45%		1.45%	1,812.50
1992	55,500	6.20%	0.00%	***	6.20%	3,441.00
	130,200	0.00%	1.45%		1.45%	1,887.90
1993	57,600	6.20%	0.00%	***	6.20%	3,571.20
	135,000	0.00%	1.45%		1.45%	1,957.50

\*Table 4-3: 1994 to 2011 Percentage Rates of FICA: Social Security Tax and Total Maximum Tax

<u>CALENDAR YEAR</u>	<u>MAXIMUM GROSS PAY (applies to Social Security tax only after 1994)</u>	<u>SOCIAL SECURITY</u>	<u>MEDICARE ****</u>	<u>MAXIMUM TAX PAYABLE (Refers Social Security tax only after 1994)*</u>
1994	60,600	6.20%		3,757.20
1995	61,200	6.20%		3,794.40
1996	62,700	6.20%		3,887.40
1997	65,400	6.20%		4,054.80
1998	68,400	6.20%		4,240.80
1999	72,600	6.20%		4,501.20
2000	76,200	6.20%		4,724.40
2001	80,400	6.20%		4,984.80
2002	84,900	6.20%		5,263.00
2003	87,000	6.20%		5,394.00
2004	87,900	6.20%		5,449.80
2005	90,000	6.20%		5,580.00
2006	94,200	6.20%		5,840.40
2007	97,500	6.20%		6,045.00
2008	102,000	6.20%		6,324.00
2009-2010	106,800	6.20%		6,621.60
2011*****	106,800	4.20%		4,485.60

\*The OASDI program sets the limits on the amount of earnings subject to be taxed in any given year. Beginning in 1994, the limitation on maximum gross wages subject to Medicare tax was removed. Therefore, from 1963 to 1993, the "Maximum Tax Payable" column in Table 4-2 refers to the maximum amount of tax payable for both Social Security tax and Medicare tax. Beginning with 1994, the "Maximum Tax Payable" column refers only to the maximum amount of Social Security tax payable. Similarly, the "Total Tax Rate Applied to Maximum Gross Pay" is a sum total of the Medicare tax rate and the Social Security Tax rate until 1993.

\*\*Beginning in 1984 the Social Security/Medicare rate was combined for a total of 7% and employees were given a .3% credit applied to the portion.

\*\*\*From 1991 through 1993, the maximum gross wages subject to FICA tax were separated for Social Security and Medicare tax purposes. For 1991 through 1993, the maximum gross taxable wages subject to Social Security tax is listed on the chart first followed by the maximum amount of taxable wages for Medicare in the row below.

\*\*\*\* From 1994 to 2011, the Medicare tax is 1.45% with no limit on the maximum amount of taxable wages for Medicare.

\*\*\*\*\*For 2011, the employee's portion of the Social Security tax is 4.2%. The employer's portion of the Social Security tax in 2011 remains at 6.2% for the employee's first \$106,800 of taxable earnings. In addition to the Social Security tax, an employee is subject to a Medicare tax of 1.45%, with no limit on the maximum amount of taxable wages for Medicare. The employer must pay a Medicare tax of 1.45% and the combined Medicare tax for 2011 remains at 2.9% on all employee earnings.

Table 4-4: State Abbreviations and Numeric Codes

<u>STATE</u>	<u>ABBREVIATION</u>	<u>CODE</u>
Alabama	AL	01
Alaska	AK	02
Arizona	AZ	04
Arkansas	AR	05
California	CA	06
Colorado	CO	08
Connecticut	CT	09
Delaware	DE	10
District of Columbia	DC	11
Florida	FL	12
Georgia	GA	13
Hawaii	HI	15
Idaho	ID	16
Illinois	IL	17
Indiana	IN	18
Iowa	IA	19
Kansas	KS	20
Kentucky	KY	21
Louisiana	LA	22
Maine	ME	23
Maryland	MD	24
Massachusetts	MA	25
Michigan	MI	26
Minnesota	MN	27
Mississippi	MS	28
Missouri	MO	29
Montana	MT	30
Nebraska	NE	31
Nevada	NV	32
New Hampshire	NH	33
New Jersey	NJ	34
New Mexico	NM	35
New York	NY	36
North Carolina	NC	37
North Dakota	ND	38
Ohio	OH	39
Oklahoma	OK	40
Oregon	OR	41

Table 4-4: State Abbreviations and Numeric Codes (Continued)

<u>STATE</u>	<u>ABBREVIATION</u>	<u>CODE</u>
Pennsylvania	PA	42
Rhode Island	RI	44
South Carolina	SC	45
South Dakota	SD	46
Tennessee	TN	47
Texas	TX	48
Utah	UT	49
Vermont	VT	50
Virginia	VA	51
Washington	WA	53
West Virginia	WV	54
Wisconsin	WI	55
Wyoming	WY	56

AREAS OUTSIDE THE U.S.

<u>POSSESSION OR TERRITORY</u>	<u>CODE</u>
American Samoa	60
Defense Complex Panama	61
Canton and Enderbury Islands	62
Guam	66
Johnston Atoll	67
Midway Islands	71
Puerto Rico	72
Ryuku Islands, Southern	73
Swan Islands	74
Trust Territories of Pacific Islands	75
U.S. Miscellaneous Caribbean Islands	76
U.S. Miscellaneous Pacific Islands	77
Virgin Islands	78
Wake Island	79