

**United States
Office of
Personnel Management
The Federal Government's Human Resources Agency**



Benefits Administration Letter

Number: 07-201

Date: June 20, 2007

Subject: Pre-tax treatment of FEHB and FLTCIP premiums for Retired Public Safety Officers under section 845 of the Pension Protection Act of 2006

A recently passed law, The Pension Protection Act of 2006 (PPA), now allows pre-tax payment of premiums for both the Federal Employees Health Benefits (FEHB) Program and the Federal Long Term Care Insurance Program (FLTCIP) for a small subset of Federal annuitants.

Although most Executive Branch Federal employees participating in the FEHB Program are eligible to have FEHB premiums withheld from pay prior to being taxed, under Internal Revenue rules, this pre-tax "premium conversion" benefit is generally not available to Federal annuitants.

Section 845 of the PPA added a provision to the Internal Revenue Code, effective January 1, 2007. New Internal Revenue Code section 402(l) allows a limited premium conversion tax advantage for certain annuitants who are retired public safety officers. They can now exclude from their gross income distributions from eligible retirement plans that are directly used to pay qualified health insurance premiums and/or long term care insurance premiums. The annual maximum exclusion is \$3,000.

The Office of Personnel Management (OPM) has determined that the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) are eligible retirement plans under section 845 of the PPA. Retired public safety officers are deemed to have made a premium conversion election for this purpose. As a result, retired public safety officers whose CSRS or FERS annuity payments include a direct premium payment to a health insurance carrier or long term care insurance carrier may self-identify eligibility for, and self-report, the tax exclusion to the Internal Revenue Service. IRS Publication 721 *Tax Guide to U.S. Civil Service Retirement Benefits* at contains additional information on this tax advantage.

If you have any questions regarding this issue, please contact a representative at the individual's retirement information system.

Sincerely,

Robert F. Danbeck
Associate Director
for Human Resources Products and Services

- The information you receive must clearly state that you have the right to have 30 days to make a decision.

Contact the TSP or OPM if you have any questions about this information.

Choosing the right option. Table 1 may help you decide which distribution option to choose. Carefully compare the effects of each option.

Table 1. Comparison of Payment to You Versus Direct Rollover

Affected Item	Result of a Payment to You	Result of a Direct Rollover
Withholding	The payer must withhold 20% of the taxable part.	There is no withholding.
Additional tax	If you are under age 59½, a 10% additional tax may apply to the taxable part (including an amount equal to the tax withheld) that is not rolled over.	There is no 10% additional tax. See <i>Tax on early distributions</i> , earlier.
When to report as income	Any taxable part (including the taxable part of any amount withheld) not rolled over is income to you in the year paid.	Any taxable part is not income to you until later distributed to you from the new plan or IRA.

Distributions Used To Pay Insurance Premiums for Public Safety Officers

If you are an eligible retired public safety officer (law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew), you can elect to exclude from income distributions made after 2006 from an eligible retirement plan that are used to pay the premiums for accident or health insurance or long-term care insurance. The premiums can be for coverage for you, your spouse, or dependents. The distribution must be made directly from the plan to the insurance provider. You can exclude from income the smaller of the amount of the insurance premiums or \$3,000. You can only make this election for amounts that would otherwise be included in your income. The amount excluded from your income cannot be used to claim a medical expense deduction.

For this purpose, an eligible retirement plan is a governmental plan that is:

- A qualified trust,
- A section 403(a) plan,
- A section 403(b) annuity, or
- A section 457(b) plan.

Publication 721 (2006)

The CSRS and FERS are considered eligible retirement plans.

How To Report Benefits

If you received annuity benefits that are not fully taxed, report the total received for the year on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17b. Also, include on that line the total of any other pension plan payments (even if fully taxable, such as those from a TSP) that you received during the year in addition to the annuity. Report the taxable amount of these total benefits on line 16b (Form 1040), line 12b (Form 1040A), or line 17b (Form 1040NR). If you use Form 4972, Tax Lump-Sum Distributions, however, to report the tax on a distribution, do not include that amount on lines 16a and 16b; lines 12a and 12b; or lines 17a or 17b; follow the Form 4972 instructions.

If you received only fully taxable payments from your retirement, the TSP, or other pension plan, report on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b, the total received for the year (except for a distribution reported on Form 4972); no entry is required on line 16a (Form 1040), line 12a (Form 1040A), or line 17b (Form 1040NR).

Part III

Rules for Disability Retirement and Credit for the Elderly or the Disabled

This part of the publication is for federal employees and retirees who receive disability benefits under the CSRS or FERS, or other federal programs. It also explains the tax credit available to certain taxpayers because of age and disability.

Disability Annuity

If you retired on disability, the disability annuity you receive from the CSRS or FERS is taxable as wages until you reach minimum retirement age. Beginning on the day after you reach minimum retirement age, your payments are treated as a retirement annuity and you can begin to recover the cost of your annuity under the rules discussed in Part II.

If you find that you could have started your recovery an earlier year for which you have already filed a return, you can still start your recovery of contributions in that earlier year. To do so, file an amended return for that year and each succeeding year for which you have already filed a return. Generally, an amended return for any year must be filed within 3 years after the due date for filing your original return for that year.

Minimum retirement age. This is the age at which you first could receive an annuity were you not disabled. This generally is based on your age and length of service.