The One-Time TSP Transfer/Withdrawal

By Tricia Mulcare, Director, Homrich-Berg

Federal judges typically have a Thrift Savings Plan (TSP) account for pre-tax retirement savings. However, few older than 59½ take advantage of the one-time withdrawal opportunity and transfer it (or "roll it over") into an Individual Retirement Account (IRA) to increase the number of investment options. TSP accounts can be invested only in five broad funds: Common Stock Fund (C), Fixed Income Fund (F), Government Securities Fund (G), International Fund (I) and Small Cap Stock Fund (S). IRAs, on the other hand, can typically be invested into a broader, more diverse set of investments including individual stocks, index funds, and mutual funds. Further, these broader investment options may result in lower investment fees.

Participants need to be aware that in-service withdrawals are subject to a mandatory 20 percent federal withholding tax and possibly state tax as well. Withholding can be avoided if you meet the age

Continue to page 36

TSP Transfer/Withdrawal continued from page 35

requirement (59½) and choose a direct transfer of funds, rather than a rollover. A direct transfer of funds occurs when you instruct the TSP to send all or a part of your balance directly to an IRA, whereas a rollover sends the money directly to you. Retirement Benefits for Bankruptcy Judges and Magistrate Judges. Washington: Office of Judges Programs, May 2000.pdf If you want to roll over either a portion of or your entire TSP (into an IRA or other eligible retirement account), you must use other funds, such as a personal checking or savings account, to cover the necessary taxes due. (Participants have 60 days from the date that the distribution check is received to redeposit the funds into an IRA or other eligible retirement account.) The 20 percent tax withholding will appear on page two of Form 1040 as a credit against taxes due for the year. Judges may transfer or roll over all or part of an age-based in-service withdrawal to an IRA. No additional in-service withdrawals can be made in the future. Beginning at the latter of retirement or age 70½, participants must begin taking required minimum distributions from their retirement accounts. An age-based in-service withdrawal does not prevent a judge from continuing to contribute to the TSP while in active service.

Many of us have a TSP (Thrift Savings Plan) account, but did you know you can take a one-time withdrawal and roll it over into an IRA with more investment options (not limited to the TSP funds)?

Example: At an age past 59½ and before retirement or age 65, one of our judges transferred the entire TSP into a pre-existing IRA account managed by an investment firm. While the TSP investments had done well, the performance of the IRA since has benefitted from expanded investment options.

Upon retirement, under the Judicial Retirement System (JRS), the Administrative Office is required to recoup from the judge's JRS annuity the principal amount of matching contributions that were made to that judge's TSP account by the Government. For judges covered under the Federal Employees Retirement System (FERS), the government contributes up to five percent of salary to the TSP on behalf of the judge, one percent automatically and up to four percent as matching contributions. If a judge elects JRS, the judge's JRS annuity will be reduced by an amount representing all government contributions to the judge's TSP account during his or her service as a full-time judge. Judges can elect to defer receipt of the TSP account until the later of either retirement or April of the year after the judge turns age 70½. It is important to note that the transfer or rollover of a TSP account is considered a distribution for purposes of recovering the matching contributions from the JRS annuity. Therefore, if a judge makes a qualified in-service withdrawal and transfers the funds directly into a private IRA, that is considered a distribution from the TSP account and, upon retirement, the judge would receive the reduced JRS annuity immediately. Typically the government contributions are recovered by reducing the JRS annuity over a 12-month period. In cases where this offset would reduce the monthly annuity by over 50 percent, the government contributions would be recovered over 24 months. The offset does not include earnings attributable to the government's contributions.

Section 8440b(b)(7) references recoupment if the recipient were to die while withdrawing from the TSP account: "In the case of a bankruptcy judge or magistrate judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under Section 377 of Title 28, that annuity shall be offset by an amount equal to the amount of the distribution which represents the Government's contribution to that person's Thrift Savings Account . . . ." Assistant General Counsel Susan Kattan further adds, "Since the JRS annuity stops at the judge's death, a judge who never receives a TSP distribution cannot be said to "later" receive a JRS annuity, and there are no annuity payments against which an offset can be made."

Each judge should consult with his/her tax specialist and/or financial advisor to determine whether a one-time withdrawal from the TSP into an IRA is appropriate. This discussion may raise additional issues for you. If so, direct them to Carol Sefren and Dan Jackson of the Judges Compensation and Retirement Services Division of the AO.