

**Title 5 - Administrative Personnel**

**Chapter VI - Federal Retirement Thrift Investment Board**

**Part 1653 - Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts**

**Subpart A - Retirement Benefits Court Orders**

**§ 1653.4 Calculating entitlements.**

- (a) For purposes of computing the amount of a payee's entitlement under this section, a participant's TSP account balance will include any loan balance outstanding as of the date used for calculating the payee's entitlement, unless the court order provides otherwise.
- (b) If the court order awards a percentage or fraction of an account as of a specific date, the payee's entitlement will be calculated based on the account balance as of that date. If the date specified in the order is not a business day, the TSP will use the participant's account balance as of the last preceding business day.
- (c) If the court order awards a percentage or fraction of an account but does not contain a specific date as of which to apply that percentage or fraction, the TSP will use the effective date of the order.
- (d) If the court order awards a specific dollar amount, the payee's entitlement will be the lesser of:
  - (1) The dollar amount stated in the court order; or
  - (2) The vested account balance on the date of disbursement.
- (e) If a court order describes a payee's entitlement in terms of a fixed dollar amount and a percentage or fraction of the account, the TSP will pay the fixed dollar amount, even if the percentage or fraction, when applied to the account balance, would yield a different result.
- (f) The payee's entitlement will be credited with TSP investment earnings as described:
  - (1) The entitlement calculated under this section will not be credited with TSP investment earnings unless the court order specifically provides otherwise.
  - (2) If earnings are awarded and a rate is specified, the rate must be expressed as an annual percentage rate or as a *per diem* dollar amount added to the payee's entitlement.
  - (3) If earnings are awarded and the rate is not specified, the Agency will calculate the amount to be awarded by:
    - (i) Determining the payee's award amount (e.g., the percentage or fraction of the participant's account);
    - (ii) Determining, based on the participant's investment allocation as of the date used to calculate the entitlement, the number and composition of shares that the payee's award amount would have purchased as of the date used to calculate the entitlement.

- (iii) Multiplying the price per share as of the payment date by the number and composition of shares calculated in paragraph (f)(3)(ii) of this section.
- (g) The TSP will estimate the amount of a payee's entitlement when it prepares the court order decision letter and will recalculate the entitlement at the time of payment. The recalculation may differ from the initial estimation because:
  - (1) The estimation of the payee's entitlement includes both vested and nonvested amounts in the participant's account. If, at the time of payment, the nonvested portion of the account has not become vested, the recalculated entitlement will apply only to the participant's vested account balance;
  - (2) After the estimate of the payee's entitlement is prepared, the TSP may process account transactions that have an effective date on or before the date used to compute the payee's entitlement. Those transactions will be included when the payee's entitlement is recalculated at the time of payment; and
  - (3) The amount available for payment from the account may be reduced due to changes in share price (i.e., investment losses).

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