

## Reemployment of Foreign Service Annuitants

The Office of Retirement of the Department of State administers the Foreign Service Retirement and Disability System (FSRDS) and the Foreign Service Pension System (FSPS).

This is to remind you that the law and regulations which govern reemployment of Foreign Service retirees in Civil Service positions are different than those which govern reemployment of Civil Service retirees in Civil Service positions. A Foreign Service retiree may have retired from the Foreign Service of the Department of State, the Agency for International Development (USAID), the U.S. Information Agency (USIA), the Department of Agriculture, the Department of Commerce or the Peace Corps. A Foreign Service annuitant will have retired with coverage under a retirement withholding code of 3, G, P or W.

### Effect of Reemployment on Foreign Service Annuity

- A) If the Foreign Service retiree is re-employed under a part-time, temporary (non-career) or intermittent (WAE) appointment, the employee is entitled to a full (unreduced) rate of pay, provided the sum of the annuity and salary received after retirement does not exceed a ceiling on total compensation (explained by the attached statement the Department provides all Foreign Service annuitants).
- B) If the Foreign Service retiree is re-employed under a full-time career appointment, payment of the annuity is suspended upon reemployment.

### Effect of Reemployment on Employee Salary

If the Foreign Service retiree has a former spouse who is in receipt of a share (determined by federal statute) of the retiree's annuity and this annuity is suspended due to the reemployment, the former spouse will continue to be paid the share of the benefit from the Foreign Service retirement fund. However, the Foreign Service law and regulations require that the retiree's salary, rather than annuity, be reduced by the amount of the payment to the former spouse. Such salary reduction is to be made by the federal agency and deposited to the Department of the Treasury to the credit of the FS Fund in accordance with 22 U.S.C. 4054 and 22 CFR 19.9-4. In these cases the reemployment should be promptly reported and coordinated with the offset of salary.

### Notification of Reemployment

In cases of reemployed Foreign Service retirees, please provide the following:

- A) Transmit copies of the SF-50, personnel actions, on reemployment appointments/terminations to the Office of Retirement (HR/RET, Room H-620, SA-1, Department of State, Washington, D.C. 20522-0108). Please note that each SF-50 concerning an appointment must include the following remarks:  
  
"Re-employed Foreign Service Annuitant. Retired under the Foreign Service Retirement System (FSRDS or FSPS) on (specify date). Salary at time of retirement was (specify salary). Receipt of annuity is subject to the limitations provided in Section 824 of the Foreign Service Act of 1980, as amended."
- B) Transmit a Quarterly Earnings Report (January 1 - March 31; April 1 - June 30; July 1 - September 30; October 1 - December 31) on all Foreign Service re-employed retirees to: Bureau of Resource Management, Office of Financial Services, ATTN.: Retirement Accounts Division (VAMP/F/DOFFS/TOP/RAID), Department of State, Washington, DC 20522-1506. This report will assist the Department to monitor their calendar reemployment earnings in accordance with Section 824 of the Foreign Service Act, as amended.

If you have any questions on the reemployment provisions or the personnel action notification process, please contact HR/RET, on telephone (202) 261-8960, fax (202) 261-8988. On any questions on the monitoring of annuity/salary, please contact the Retirement Accounts Division (RM/CFSC/RAD), by telephone (703) 875-7110, or fax (703) 875-7349.

### Attachment

1. FS Reemployed Annuitants' Quarterly Earnings Report Form
2. Summary Reemployment Provisions



## Summary of Provisions Governing Reemployment of Foreign Service Annuitants

**Q-1** What provisions govern the reemployment of FS annuitants?

**A-1** There are two basic provisions for adjusting benefits when a FS annuitant receiving retirement benefits under FSRDS or FSPS is reemployed. The first provision, suspension of annuity during reemployment, applies when the annuitant is hired in a full-time, career appointment on or after 1/1/87. The second provision, continuation of benefits subject to the salary/annuity limitation, applies when the annuitant has been continuously reemployed from a date prior to 1/1/87 or when the annuitant is reemployed in a part-time (less than full-time); temporary (less than career); or intermittent (WAE) basis.

**Q-2** What constitutes reemployment on a part-time, intermittent, or temporary basis?

**A-2** An appointment is considered part-time when the regular tour of duty is less than a full-time appointment of 40 hours per week. An intermittent, or WAE (when actually employed) appointment is an appointment without a regularly tour of duty. A temporary appointment is understood for this purpose as any appointment which (1) is less than permanent or career in nature and which (2) (a) imposes a time limitation, or (b) excludes the individual from retirement coverage under a Federal retirement system. In general, the appointment must be limited to one year or less, but some temporary appointments may exceed one year and still qualify as temporary for this purpose.

**Q-3** What is the "cap" on the salary/annuity earnings?

**A-3** The salary/annuity limitation or "cap" on earnings is the higher of (a) the salary at the time of retirement, or the (b) full-time salary of the position in which reemployed. Please note the salary at the time of retirement is not adjusted for inflation, but the full-time salary of the position in which reemployed will change when an employee receives pay increases.

**Q-4** What type of earnings are considered in determining whether the salary/annuity limitation is reached?

**A-4** With regard to payment of annuity, any annuity that is received or (scheduled for receipt) within a particular calendar year is considered income for purposes of the salary annuity limitation. The lump-sum payment under the alternative form of annuity (AFA) is not however considered income for purposes of the salary/annuity limitation.

With regard to salary, any post-retirement income which is part of basic pay, which is received or (scheduled for receipt) within a given calendar year is considered income for purposes of the salary annuity/limitation. Lump-sum payments of annual leave, salary differentials, etc., are not considered income for this purpose. Payments which are normally payable on a given date are considered income even if the check was lost or otherwise not negotiated during the particular calendar year.

It is also useful to note that the determining factor is whether the income was received during a particular period. The date the income was earned does not affect the salary annuity limitation.

**Q-5** Do payments to former spouses, either by statute or court order, constitute the retired annuitant's income?

**A-5** Yes, any payment to a former spouse that reduces the amount of annuity payable to the retired annuitant, or any deduction from the gross amount of annuity (for alimony, child support, etc.) is considered income of the annuitant.

Reductions in the basic annuity, which are factored in computing the gross annuity payable to a retired employee, are not considered income of the annuitant. For example, if the annuity were reduced by a factor of 10% to provide a survivor benefit, the amount of the reduction would not be considered in the annuitant's income. Likewise, if the annuity is reduced for an unpaid deposit, the rate of annuity after reduction for the unpaid deposit is the amount used in determining post-retirement income.

**Q-6** Over what period is the salary/annuity limitation applied?

**A-6** The salary/annuity limitation begins to take effect when the employee retires; therefore, income received prior to the commencing date of the annuity is not considered in the salary/annuity limitation. The law provides that the salary/annuity limitation is determined on a calendar year basis; the salary annuity/limitation is not prorated during the first calendar year of retirement.

**Q-7** Does service under a personal service contract qualify as employment for purposes of Section 824 of the FSA, as amended?

**A-7** No. Individuals who are hired after retirement under a personal services contract are not considered Federal employees; therefore, the annuity of such an annuitant is not adjusted. If an appointment is effected through the contract and the individual is considered a (Federal) employee by the employing agency, the person is treated as an employee for purposes of Section 824 of the FSA.

**Q-8** Where may I obtain further information about reemployment of FS annuitants?

**A-8** Information about policies that govern the impact of reemployment upon the annuity may be obtained from HR/RET, Room H-620, SA-1, (202) 261-8960. Information about the adjustments made or income received in any particular case should be directed to RM/CFSC/RAD, P.O. Box 150008, Charleston, SC 29415-5008, (843) 308-5552.