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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

10,891
ALC 00038

FILE: B-195443 DATE: July 27, 1979

MATTER OF: Department of the Treasury - Allotments for Series EE Savings Bonds

DIGEST: Incident to introduction of Series EE Savings Bonds to replace Series E Bonds being purchased by payroll allotment, Treasury proposes to substitute Series EE Bonds based on a "negative-response" method, whereby the Series EE Bonds will be substituted unless the employee terminates his allotment. Since the Series EE Bonds are a continuation without major substantive change of the Series E Bonds, the negative-response method of conversion is a proper means of continuing the employee's voluntary allotment under the Payroll Savings Plan. The proposal is approved.

On January 10, 1979, the Secretary of the Treasury announced the introduction of new Series EE and HH U.S. Savings Bonds to replace the current Series E and H Bonds. During the period from January 2 through June 30, 1980, payroll sales of Series E Bonds for Federal employees will be converted to the new Series EE Bonds. The Treasurer of the United States, by letter of July 16, 1979, has asked that this Office consider the legal sufficiency of the Department's proposal to use a "negative-response" method of automatic conversion whereby an employee who is currently being issued Series E Bonds under the Payroll Savings Plan will instead be issued Series EE Bonds unless the employee takes affirmative action to terminate the allotment. The Payroll Savings Plan is administered under Executive Order 9135, April 16, 1972.

To accomplish the conversion to Series EE Bonds, Treasury proposes to require that each individual employee be notified of the upcoming changes by means of a message to appear on or as an attachment to his Leave and Earnings Statement for at least four consecutive pay periods prior to the conversion date. During the same period a well-planned publicity campaign will be conducted to inform all Americans of the features of the new EE Bonds. We assume that Federal agencies will be advised that absent a Leave and Earnings Statement alternative methods should be used to inform employees of the change, and that

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supplemental notification procedures may be used to the extent deemed necessary. Any employee who is dissatisfied with the terms of the conversion may cancel his participation in the Payroll Savings Plan or may adjust his allotment. The Treasurer states that the Series EE Bonds are substantially similar to the Series E Bonds, with the interest rate and interest curve identical. She summarizes the main differences between the two series as follows:

> "Series EE Bonds will sell for 50 percent face value, compared to 75 percent for Series E Bonds.
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> "The minimum denomination of Series EE Bonds will be $50. The current $25 E Bond will be eliminated.
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> "Due to the increased discount purchase price the EE Bond will mature in 11 years, compared to five years for the current E Bond.
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> "The retention period for Series EE Bonds will be increased to six months from the current two months for E Bonds."

Under the proposed conversion, Bond inscriptions on the Series EE Bonds would remain identical to those on the Series E Bonds the employee had been receiving, allotment amounts would remain the same or be decreased and, except in the case of employees now purchasing $25 Series E Bonds, employees would receive Series EE Bonds of the same purchase price or less. Also, the interest rate and interest curve will remain the same. With respect to those employees now purchasing $25 Series E Bonds, the Treasurer explains:

> "* * * A $25 Series E Bond is currently purchased for $18.75. However, the minimum denomination Series EE Bond will be $50, selling for $25. Although in this case the purchase price of a Bond would be increased by $6.25, the allotment amount per pay period will never be increased."

On June 28, 1979, the Department of the Treasury published in the Federal Register proposed regulations governing Savings Bonds, Series EE and HH. The Department intends the new

Bonds to be a continuation of the old Bonds, without major substantive changes. As stated at 44 Fed. Reg. 37826 (1979):

> "It is the intention and expectation of the Department of the Treasury that these new series of savings bonds will be treated similarly to the other series of savings bonds * * *. In other words, as mentioned, the new bonds are a continuation, without major substantive change, of the old bonds. The changes that are proposed to be made generally affect the ways in which owners may facilitate transactions involving bonds, rather than with the substantive property rights."

The Treasurer believes that the notice period of at least 2 months will give sufficient opportunity to any employee who is not satisfied with the terms of the conversion to cancel or adjust his allotment by submitting a new authorization for Standard Form 1192. The Treasurer requests our approval of the conversion plan on the basis of the foregoing information.

As precedent for the use of a negative-response system where an allotment is continued under different terms, the Treasurer refers to 5 C.F.R. § 890.301(k) which provides that when one option of a particular health benefits plan is discontinued, enrolled employees who do not change plans will be considered enrolled in the remaining option of the plan. While the Health Benefits Registration Form executed by an employee to enroll or change enrollment in a health benefit plan differs from the Standard Form 1192 executed by employees for purchase of U.S. Savings Bonds in that the latter is specific as to the dollar amount to be alloted each pay period and as to the Bond denomination and series, we believe that it is proper to treat substitution of Series EE Bonds for Series E Bonds in a similar manner.

By his execution of a Standard Form 1192 for the Series E Bond, the employee has expressed his desire to participate in the Payroll Savings Plan. Since the Series E Bonds will no longer be issued, the employee's participation will be terminated unless his allotment is converted to the Series EE Bond. Because the Series EE Bond is a continuation without major substantive change of the Series E Bonds, we believe that the negative-response method of conversion proposed by the

Department of Treasury is proper insofar as proper steps are taken to notify the employees of the conversion plan. Cf. 42 Comp. Gen. 663 (1963)

There will undoubtedly be some cases in which employees do not receive notice in time to permit them to cancel their allotment because of dissatisfaction with the terms of the Series EE Bonds. Therefore, we believe that for a reasonable temporary period employees should be permitted to redeem Series EE Bonds at any time after the 2-month retention period required for Series E Bonds and prior to expiration of the 6-month redemption period for Series EE Bonds.

The proposal of the Department of Treasury for automatic conversion of payroll allotments from Series E Bonds to Series EE Bonds is approved in accordance with the foregoing.

Deputy Comptroller General
of the United States