



## **Section 17: Refunds**

### **Introduction**

Members of the System may be eligible to receive a refund of some or all of their contributions and accumulated interest. Eligibility is dependent on the individual's circumstances and is more fully explained in the balance of this section.

Since a portion of most refunds will result in some tax liability, members should be encouraged to consult with their tax adviser to evaluate the tax impact before applying for a refund.

### **Special Service Refunds**

Prior to the enactment of the Non-Contributory Retirement Plan in 1968 and the Career Plan in 1970, many Tier 1 members elected to deposit an additional percentage of their salaries to be eligible for retirement at age 55. These additional payments were known as special service contributions and will be refunded along with accumulated interest at the member's request. Members may request an estimate of their available refund from the System and then complete form ***Withdrawal of Special Service Contributions (RET-60)***, if they wish to withdraw these funds. Questions should be directed to our Special Service Refund Unit at (800) 348-7298, Ext. 6020.

### **Withdrawal from Membership**

Tier 1 and 2 members may withdraw their contributions, if any, and cease membership if they are not teaching or are teaching part-time and their contract with a participating employer has ended. Tier 3 – 6 members may generally withdraw only if they have less than 10 years of service credit except as described below.

Under Chapter 553 of the Laws of 2011, Tier 3 – 6 members with 10 or more years of service credit can withdraw if all of the following conditions apply:

- They have permanently ceased teaching in all NYS public schools participating with NYSTRS.
- They elect to withdraw from NYSTRS membership for the purpose of obtaining credit for the teaching service in a public retirement system in another state.
- The retirement system in the other state certifies that they are an active member with at least five years of service credit in that system at the time of the withdrawal request from NYSTRS, and attests that the NYS service credit may be used in whole or in part to obtain retirement credit in that system.

A member who withdraws and subsequently rejoins the System will do so under the laws and tier in effect at that time but may elect to reinstate to a former membership date (see **Section 1: Membership**).

Employers may be directed by NYSTRS to refund employee contributions not yet received by the System as a result of a withdrawal from membership.



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Withdrawal from membership is accomplished by filing an **Application for Withdrawal from Membership (REF-7A)** form. Questions on this subject should be directed to our Refund Unit at (800) 348-7298, Ext. 6090.

#### Withdrawal at Retirement

Tier 1 and 2 members are able to receive a refund of their total annuity savings fund (ASF) once they have filed for retirement. As with all voluntary refunds, members are urged to consider the tax implications before a refund is requested. This type of refund may be requested no earlier than the date the member files their retirement application and no later than the day before the effective date of retirement.

A member may file for this type of refund by checking the box on the *Application for Retirement* or by completing a **Distribution Election (REF-30)** form. Questions on total withdrawals should be directed to (800) 348-7298, Ext. 6090.

#### Tax Information

The Retirement System may occasionally direct employers to refund the 3% contributions not yet collected by the System to Tier 3 and 4 members who are no longer required to contribute. This request will arise in the following situations:

1. A Tier 3 or 4 member withdraws from System membership.
2. A member transfers an earlier tier of membership from another retirement system to our System.
3. The employer makes an erroneous deduction.

Refunds of \$200 or more resulting from withdrawing a membership from the System are subject to mandatory 20% tax withholding. If the member is under age 59½, they should also be made aware that the refund is subject to a 10% penalty for early withdrawal. The penalty may not be withheld from the refund. This type of refund is also eligible to be rolled over by the member to an IRA or qualified plan. Rollover forms may be accessed on the **Membership Withdrawal Forms** page of our website. Any questions the member may have regarding rollover should be directed to the System.

Tier 3 and 4 corrective refunds resulting from a member transferring an earlier tier of membership from another System, or the employer having taken erroneous deductions, are subject to 10% tax withholding. These types of refunds are not subject to the 10% penalty and are not eligible for rollover. Since tax regulations differ, the System will advise you of the reason for the refund and indicate the type of withholding required.

All refunds are reportable as taxable income for federal income tax purposes in the year the refund is made. The refund is, however, exempt from New York state income tax and Social Security tax.

Once the refund is made, the member should be told the payment is taxable and advised of the amount withheld, if any. In addition, IRS form 1099-R must be provided to the member indicating the gross amount of the refund in box #1 and box #2a, and the withholding, if any, in box #4.



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- If the refund is due to a withdrawal of membership and the member is under age 59½ when the distribution is made, box #7 must be completed using distribution code 1. Use of this code indicates the refund was a premature distribution and subject to the 10% penalty. If the member is 59½ or older when this type of distribution is made, box #7 must be completed using distribution code 7. For both age groups, the total distribution box in box 2b should be checked.
- If the refund is due to a change in tier level or erroneous deduction, box #7 must be completed using distribution code 8, regardless of the age of the member.

Copy A of the 1099-R should be sent to the Internal Revenue Service. Copies B and C should be sent to the member and Copy D should be retained for your records. Since these types of payments are exempt from New York state tax, the state copies of the 1099-R should not be issued.

Questions regarding the tax information contained in this section should be directed to our Finance Office at (800) 348-7298, Ext. 6120.

The following is sample language an employer may use to create its own election form that employees should complete in order to receive a corrective refund.

<p><b>WITHHOLDING ELECTION FOR REFUND OF CONTRIBUTIONS</b></p> <p>Name:</p> <p>Social Security Number:</p> <p>Please refund any required contributions not previously forwarded to the Retirement System.</p> <p style="text-align: center;"><b>IMPORTANT TAX INFORMATION</b></p> <p>Under existing law, this refund is subject to federal income tax withholding unless you elect not to have withholding. Withholding applies to the total refund. Although you may elect not to have federal income tax withheld, you are liable for payment of federal income tax on the refund. You also may be subject to tax penalties under the estimated tax payment rules if your payments of estimated tax and withholding are not adequate. If your membership in the Teachers' Retirement System has terminated, there is an additional 10% penalty on the refund if you are less than age 59½ when the distribution is made. There is no provision for having the penalty withheld from your refund.</p> <p>___ I <b>do not</b> want federal income tax withheld from my refund check.</p> <p>___ Withhold federal income tax from my refund check at the rate of 10% in accordance with Internal Revenue Service regulations.</p> <p>Signature:</p> <p>Date:</p>
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