



## TAX NOTICE REGARDING WITHDRAWAL OF CONTRIBUTIONS

This notice explains how you can continue to defer federal income tax on your accumulated contributions and contains important information necessary to decide how to take your accumulated contributions.

The Required Contributions Fund consists primarily of Tier 3 through 6 members' contributions to the System plus interest earned on those monies. All or a portion of a withdrawal representing contributions made on or after July 1, 1989 plus interest on all contributions is **the taxable amount** and subject to federal income tax, unless rolled over. Any portion of a withdrawal representing contributions made prior to July 1, 1989 and any amounts previously taxed is **the after-tax contribution amount** which is non-taxable.

The Annuity Savings Fund consists of contributions and/or payments to the System by Tier 1 and 2 members and the interest earned on those monies. Only the interest portion of this fund is **the taxable amount**. The portion representing contributions and previously taxed interest is **the after-tax contribution amount** which is non-taxable.

### Choices You May Make for the Taxable Portion of Your Refund

All or a portion of the **taxable** portion of the refund may be taken in either of two ways. Your choice will affect the tax you owe.

If you choose a **DIRECT ROLLOVER** to a traditional IRA (where the taxable amount is over \$200), the taxable portion which is rolled over will not be taxed in the current year and no income tax will be withheld. It will be sent directly, as you choose, to an "eligible" employer plan that accepts your rollover or to your traditional IRA. (A Roth IRA, SIMPLE IRA or a Coverdell Education Savings Account (formerly known as an educational IRA) is not a traditional IRA.) It will only be taxed later, when you take it out of the employer plan or IRA. Distributions from the employer plan or IRA, however, may be subject to different restrictions and tax consequences than those that apply to payments from the System. Distributions from the employer plan or IRA may be subject to New York State tax.

If you choose a **ROLLOVER TO A ROTH IRA** (where the amount is over \$200) the taxable portion which is rolled over will be taxed in the current year. The amounts rolled over into a Roth IRA are subject to special rules regarding taxation at the time of distribution.

A **DIRECT ROLLOVER** to a Roth IRA is included in income at the time of the rollover and may be subject to income tax withholding. However, the 10 percent additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within five years, counting from January 1 of the year of the rollover).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA, that are qualified distributions, will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability) and after you have had a Roth IRA for at least five years. In applying this five-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10 percent additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

If you choose a **DIRECT PAYMENT**, you will receive only 80% of the taxable portion paid to you because 20% of the taxable portion must be sent to the IRS as income tax withholding. Your payment will be taxable income in the year of payment unless you roll it over yourself. The taxable portion is not subject to an additional 10% federal tax, unless withdrawal is prior to age 55 and is specifically exempt from New York State income tax. (If you were born before January 1, 1936, your payment may be subject to special tax treatment; please consult IRS Form 4972.) You may roll over the taxable portion to a traditional IRA (or to an "eligible employer plan that will accept your rollover) within 60 days of receipt. The amount rolled over will not be taxed until you take it out of the IRA or employer plan. However, if you wish to roll over 100% of the taxable portion of your payment, you must find other money to replace the 20% that was withheld. If you roll over only the 80% you received, you will be taxed on the 20% that was withheld and not rolled over.

### **Choices You May Make for the After-Tax Contribution Amount of Your Refund**

The after-tax contribution amount may be taken in two ways. You may have all or any portion of the non-taxable amount paid either in a **DIRECT ROLLOVER** to a Traditional IRA, a Roth IRA, a 401(a) defined contribution or benefit plan or a 403(b) tax-sheltered annuity, or in a **DIRECT PAYMENT** to you. (If paid directly to you, you may roll over the after-tax contribution amount to a traditional or a Roth IRA within 60 days of receipt.)

Note that if you want to roll over the after-tax contribution amount to a 401(a) defined contribution or benefit plan or a 403(b) tax-sheltered annuity, the plan must be willing to accept it and provide separate accounting for the amount rolled over. If you receive the after-tax contribution amount directly from the System, you cannot later roll it over to a defined contribution or benefit plan or a 403(b) tax-sheltered annuity. If you roll over the after-tax portion to a traditional IRA, you are responsible for keeping track of and reporting the after-tax contribution amount to the IRS on the applicable forms. This will enable the after-tax contribution amount in any future distributions from the traditional IRA to be determined. Once you roll over the after-tax contribution amount to a traditional IRA, it CANNOT later be rolled over to an employer plan.

### **Other Information**

Any loan balance outstanding is deducted from the gross amount of the withdrawal. The amount of the offset will be treated as a direct payment of the loan balance to you at the time of offset. The 20% withholding will be based on the entire taxable amount paid to you, including the loan offset. The taxable portion of the offset will be taxable income unless you roll over an amount equal to the taxable portion into a traditional IRA (or "eligible" employer plan) within 60 days of the date of the offset. Because the taxable portion of the offset is taxable income, the taxable amount resulting from a withdrawal may in some cases exceed the amount refunded to you.

In January of each year, the System will mail IRS form 1099R to all members who had a total refund of contributions in the previous calendar year.

An "eligible" plan that can accept a rollover of the taxable portion includes a qualified plan under section 401(a) of the Internal Revenue Code, such as a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan and money purchase plan; a section 403(a) annuity plan; a section 403(b) tax-sheltered annuity; and an eligible section 457(b) plan maintained by a governmental employer. An "eligible" plan is not legally required to accept a rollover. Before you decide to roll over your payment to another employer plan, you should find out whether the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. You should also find out what documents must be completed before the plan will accept a rollover. Even if a plan accepts rollovers, it may not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to a traditional IRA or split your rollover amount between the employer plan in which you will participate and a traditional IRA. If a plan accepts your rollover, the plan may restrict subsequent distributions of the rollover amount or may require your spouse's consent for any subsequent distribution. A subsequent distribution from the plan that accepts your rollover may also be subject to different tax treatment than distributions from the System. Check with the administrator of the plan that is to receive your rollover prior to making the rollover.

If you are unsure how to invest your refund, you may wish to temporarily establish a traditional IRA to receive the payment. However, when choosing a traditional IRA, you should make sure the traditional IRA will allow you to later move all or part of your payment to another traditional IRA without penalties or other limitations.

For specific information, contact the System by mail, by e-mail or by calling (800) 348-7298, Ext. 6090 or (518) 447-2900, Ext. 6090.

The rules described above are complex. You may want to consult a professional tax advisor before you take a payment. For more specific information on the tax treatment of payments, consult IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements; these are available from your local IRS office, on the IRS's Web site at [www.irs.gov](http://www.irs.gov), or by calling (800) TAX-FORMS.