



Section 21: Employer Pick-Up

Introduction

Chapter 783 of the Laws of 1988 requires the System and its participating employers to treat required employee contributions in accordance with Section 414(h) of the Internal Revenue Code.

Effective July 1, 1989, the salaries of those who joined NYSTRS on or after July 27, 1976 (i.e., Tier 3 – 6 members) will be reduced for federal income tax purposes by the amount of their mandated retirement contribution. Tier 3 – 6 members' retirement contributions are not includable in the member's gross income for federal income tax purposes until they are distributed or made available to the member, which is usually at retirement or upon withdrawal from the System. The member's salary prior to the reduction should be reported to the System and will be used in all benefit determinations. We want to emphasize **there is no additional cost to employers** as a result of this legislation. However, as the employer, it is your responsibility to inform the Tier 3 – 6 members of the tax effect this legislation has on their income.

Guidelines

Under Section 414(h) of the Internal Revenue Code, the employer theoretically "picks up" the Tier 3 – 6 mandatory employee contribution by reducing the employee's wages by that amount for federal income tax purposes. In actuality, the employee continues to pay the mandatory contribution but the amount of income reported for federal tax purposes is reduced by the required employee contributions. For other purposes (i.e., FICA reporting, NYS income tax reporting and NYSTRS reporting), the former method of reporting remains unchanged.

To summarize the above information:

- Participation **is not available** to Tier 1 and Tier 2 members.
- Participation **is required** for all Tier 3 – 6 members.
- All Tier 3 – 6 required contributions **will reduce** the member's gross income for federal income tax purposes; however, when those contributions are distributed as a refund or a benefit, they will then be subject to federal taxation.
- The Tier 3 – 6 required contributions **will not reduce** the salary reportable for NYS income tax, FICA and NYSTRS purposes.

Employer Responsibility

Effective July 1, 1989, employers are responsible for implementing the requirements of Chapter 783 of the Laws of 1988.