

Title 27: Personnel

Part 210: PERS, Regulations for Retirement Plans Administered by the Board of Trustees

Chapter 50: Direct Rollover of Plan Distributions

100 Purpose

The purpose of this regulation is to clarify the types of plans to which eligible distributions from the defined benefit plans administered by PERS may be rolled over in a direct transfer of funds to another eligible plan.

101 Definition of “Eligible retirement plan”

Effective for all distributions made after December 31, 1992, the following definition of “eligible retirement plan” shall apply for purposes of a direct rollover. An “eligible retirement plan” shall mean any plan as defined in Section 402(f)(2)(B) of the Internal Revenue Code (Code) including a qualified retirement plan under IRC 401(a) or 403(a), or an IRA under 408(a) and 408(b). Effective January 1, 2002, “eligible retirement plan” shall also include an annuity contract described in section 403(b) of the Code and an eligible plan under 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into such plan from this plan. Effective January 1, 2008, “eligible retirement plan” may also include a Roth IRA as described in Internal Revenue Code Section 408A.

102 Eligible Rollover Distributions

For purposes of the direct rollover provisions in the defined benefit plans administered by PERS, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the member or his or her surviving spouse. A distribution of all or any portion of the balance to the credit of a deceased member payable to a non-spouse beneficiary is also qualified as an eligible rollover distribution. However, a non-spouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an “inherited” individual retirement account or annuity.

103 Distributions not qualified for rollover

An eligible rollover distribution does not include the following: (a) any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan; (b) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and the member’s designated beneficiary, or for a specified period of ten (10) years or more; and (c) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a) (9).

104 After-tax contributions eligible for rollover

For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code, or on or after January 1, 2007, to a qualified defined benefit plan described in Internal Revenue Code Section 401(a) or to an annuity contract described in Internal Revenue Code Section 403(b) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(History: Adopted January 1, 2002; reformatted August 1, 2007; amended July 1, 2008; amended effective January 19, 2009; clarified February 24, 2009)