

941 CMR: STATE BOARD OF RETIREMENT

941 CMR 3.00: ROLLOVER DISTRIBUTIONS AND PAYMENT FOR PURCHASE OF CREDITABLE SERVICE

Section

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3.01: Purpose

The purpose of 941 CMR 3.00 is to enable the State Retirement System and its members to comply with and take advantage of certain changes in the federal Internal Revenue Code of 1986, as amended, as set forth in the Economic Growth and Tax Relief Reconciliation Act of 2001.

3.02: Definitions

The following definitions apply to 941 CMR 3.00:

The Board: the State Board of Retirement.

The Code: the federal Internal Revenue Code of 1986, as amended.

3.03: Rollovers from the Plan

The following definitions apply to 941 CMR 3.03:

Direct Rollover: a payment by the Board to the Eligible Retirement Plan specified by the Distributee in a manner satisfying Code Section 401(a)(31).

Distributee: any employee or former employee, as well as the employee's or former employee's surviving spouse (as defined by federal law), or to a spouse or former spouse who is an alternate payee (as defined by Code Section 414(p)), who is entitled to an Eligible Rollover Distribution from the Board. Effective January 1, 2007, a Distributee also includes a non-spousal beneficiary who is a designated beneficiary under Code Section 401(a)(9)(E) and is entitled to an Eligible Rollover Distribution from the Board, but only with respect to an Eligible Retirement Plan that is an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b) (other than an endowment contract), or a Roth IRA, established for the purpose of receiving the distribution and the account or annuity will be treated as an inherited account or annuity.

Eligible Retirement Plan: any of the following programs that accepts the Distributee's Eligible Rollover Distribution:

- (a) an individual retirement account under Code Section 408(a);
- (b) an individual retirement annuity under Code Section 408(b), other than an endowment contract;
- (c) a qualified plan under Code Sections 401(a) or 403(a);
- (d) an eligible deferred compensation plan under Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state, so long as the plan agrees to separately account for amounts rolled into the plan;
- (e) an annuity contract under Code Section 403(b); and
- (f) for distributions on or after January 1, 2008, a Roth IRA.

Eligible Rollover Distribution: Any distribution under M.G.L. c. 32 of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

3.03: continued

(a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

(b) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; or

(c) the portion of any distribution that is not includible in gross income. However, effective for distributions on or after January 1, 2002, a portion of a distribution will not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only

1. to a traditional individual retirement account or individual retirement annuity, or to a qualified trust which is a defined contribution plan that will separately account for the taxable and non-taxable portions of the distribution; or

2. effective on or after January 1, 2007, to a qualified trust which is a defined benefit plan or a 403(b) tax-sheltered annuity that will separately account for the taxable and non-taxable portions of the distribution; or

3. effective on or after January 1, 2008, to a Roth IRA.

(2) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

3.04: Payment for Purchase of Creditable Service

On and after January 1, 2002, a member authorized by law to purchase creditable service may make payment for the purchase of such service to the Board in or in a combination of:

(a) a lump sum purchase including an eligible rollover distribution as defined by Code Section 402(c)(4), other than the portion of such distribution that is not included in gross income;

(b) installment payments over a period not exceeding five years; and

(c) a trustee-to-trustee transfer of assets from a Code Section 403(b) annuity or a Code Section 457 plan. Any combination of forms of payment or trustee-to-trustee transfer of assets shall be subject to the limitations of applicable law, and such conditions, proofs, or acceptances as the Board or its designee may from time to time deem appropriate.

REGULATORY AUTHORITY

941 CMR 3.00: M.G.L. c. 32, § 20(5)(b) and c. 30A, § 3.