

# MEMORANDUM #16, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Taxation of a Lump Sum Distribution under Section 9

DATE: March 22, 2011

As a result of a statement made by a participant at the IRS presentation held at the MACRS conference in the Fall, a certain amount of confusion has arisen regarding the taxability of a lump sum payment of amounts in a member's annuity account if his or her death occurs "as a result of, and while in the performance of his [or her] duties" pursuant to G.L. c. 32, § 9.

A payment to a named beneficiary of the amounts in a deceased member's annuity account has always been taxable. However, at the most recent Fall conference of MACRS, following a presentation by IRS representatives, some Retirement Boards were left with the impression that the return of a member's annuity account to a named beneficiary would not be taxable. Whatever may have actually been said at MACRS, a number of revenue rulings hold that the tax status of the payments do not change when paid to a survivor or beneficiary. The annuity portion of the allowance is based on the member's untaxed contributions and **is taxable**. Under the revenue rulings, the lump sum pay out of an annuity account to a named beneficiary retains that status.

The same logic would hold true for lump sum payments of an annuity account made under Section 100 of Chapter 32.

The Commission consulted with special tax counsel following the MACRS conference. After in depth research of various IRS rulings and the Internal Revenue Code, tax counsel responded on March 17, 2011 and concluded "we are unable to provide any basis for recommending that the payment of accumulated total contributions under Sections 9 or 100 of Chapter 32 be treated on a non-taxable basis under Code Section 104(1)(1), as such amounts are clearly determined by reference to the member's prior contributions."

For more information generally, please see PERA Memo #34/1992. If there are any further questions, please contact General Counsel Barbara Phillips at Extension 902.