

MACRS

CHAPTER 32 IN A NUTSHELL



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MACRS 2019 SPRING CONFERENCE

BOOK ONE: PRIMER

MACRS

Chapter 32: A Primer



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A Brief History of the Plan

- Chapter 658 of the Acts of 1945
- Effective date: January 1, 1946
- Created Chapter 32 as we know it.
- Much has changed since 1946, in the world and in the plan.
- Amendments began with Chapter 660 of the Acts of 1947 and have not stopped.

2

Why Have a Plan?

- Federal law requires that individuals contribute to a “qualified plan.”
- Massachusetts is one of only six states for which public employees do not participate in Social Security.
- Employees of the Commonwealth of Massachusetts and its political subdivisions who are eligible for membership in the applicable retirement system do not contribute to the federal Social Security system.

3

NOTES:

A Defined Contribution Plan

- Not Chapter 32
- Final account balance is the benefit.
- Employee owns the risk.
- No future liability for employer, could cancel at any time.
- Employee is in the driver's seat.
- Portability.

4

A Defined Benefit Plan

- Benefit provided by plan/law (formula).
- Employer has the risk.
- Employee and employer share cost.
- Future liability on employer.
- Once started, difficult to end.
- Benefits long-term employees.
- Portability limited.

5

NOTES:

A Qualified Plan

- Each of the 104 retirement systems in Massachusetts is a defined benefit plan.
- All are bound together under one law — Chapter 32 of the Massachusetts General Laws, our “plan document.”
- Each is also a “qualified plan” operating under Section 401(a) of the Internal Revenue Code.

6

A Qualified Plan Needs a Determination Letter

- Not really an issue in Chapter 32 until EGTTTRA in 2002.
- We didn't have rollovers into and out of the plan.
- After EGTTTRA, called upon to prove plan was qualified.
- IRS began a project regarding state plans like ours.

7

NOTES:

Determination Letters: 2008 and 2013

- After IRS instituted “Cycle C” we had to ask for our plans to be reviewed and deemed qualified by the IRS.
- Latest determination letters issued between August 12 and August 15, 2014.
- All bear an expiration date of January 31, 2019.
- However, **EXPIRATION DATES INCLUDED IN LETTERS ISSUED PRIOR TO JANUARY 4, 2016 ARE NO LONGER OPERATIVE!**

8

Rev. Proc. 2016-37

Section 13. Reliance on Determination Letters

- .01 Rev. Proc. 2016-6 provides that, effective as of January 4, 2016, determination letters issued to individually designed plans will no longer contain an expiration date.
- .02 Under this revenue procedure, expiration dates included in determination letters issued prior to January 4, 2016, are no longer operative.

9

NOTES:

Rev. Proc. 2016-37 (Continued)

Section 13. Reliance on Determination Letters

- 03. ...“However, a plan sponsor may continue to rely on a determination letter with respect to plan provisions that are not amended or affected by a change in law...”

10

The Employee's Part

- Service to the Commonwealth or a political subdivision.
- Employees pay a certain percentage to the retirement system each pay period. The amount depends upon the date of a person's membership in a system. This is called a “regular deduction.”

11

NOTES:

Annuity Savings Fund

- Members' accounts earn interest at a current rate of .1%. (PERAC Memorandum # 8 of 2019).
- Interest paid out depends upon length of service and character of separation from service.
- Account disbursal may be affected by child support obligations and amounts owed to employers
- Employers must sign off if Employee seek distribution.

12

Loss of Funds in Account or Allowance

- Money in account may be lost for certain bad behavior, most notably misappropriation of funds from employer.
- Right to a retirement allowance may be lost if a member is convicted of a crime related to his/her office or position.
- Changing landscape in pension forfeiture cases.

13

NOTES:

The Employer's Part

- Governmental unit in which the Employee works makes an annual “appropriation” based upon a funding schedule.
- Each year the annual appropriation for a system is allocated to each governmental unit based on the actual payroll for employees.
- Approximately 15 to 20 systems currently use the “actuarial basis” for funding instead of relying on the actual payroll.

14

Funding the Systems

- The funds of each System are overseen by a Retirement Board.
- The Retirement Boards assure that its funds are professionally managed and invested in various asset classes to meet the goals of the Boards.
- Management of funds governed by provisions of Chapter 32 and regulations promulgated by PERAC.

15

NOTES:

To Sum Up, Retirement Systems Are Funded By:

- Contributions of the members of the Systems
and
- Appropriations from the governmental units whose employees make up the membership
and
- Earnings on the investments of the Systems' funds.

16

But What About Unfunded Liability?

- Until 1988 Retirement Boards could not put money away to fund for future retirement benefits.
- Therefore, the Retirement Systems have an unfunded liability that must be reduced to zero by means of a funding schedule.
- As noted in Slide 14, payments are made to the System by the governmental entities whose employees are members of the Retirement System.

17

NOTES:

Retirement Board Composition *(In General)*

- 1st City auditor/town accountant/similar duties
- 2nd Municipal authority designee
- 3rd elected from members in service or retirees
- 4th elected from members in service or retirees
- 5th chosen by “the other four” (no employee, official, etc...)

18

PERAC

- The Commonwealth agency which oversees the 104 public pension systems in Massachusetts.
- Charged with the “efficient administration of the public pension system...”
- Seven Commissioners
- 51 agency staff

19

NOTES:

The Seven PERAC Commissioners

- A Chairman is chosen by the following six members:

THE GOVERNOR APPOINTS:

- His designee
- A representative of a public safety union
- An investment professional

THE AUDITOR APPOINTS:

- Her designee
- President of the AFL/CIO or his designee
- A representative of the Massachusetts Municipal Association

20

Agency Staff

- 51 individuals, including the Executive Director, Deputy Executive Director, General Counsel, Actuary, and employees comprising the Actuarial, Administration, Audit, Communications, Compliance & Investments, Disability, Fraud Prevention, Information Systems and Legal Units.
- Contact any of us via the PERAC website or by phone.

21

NOTES:

Appeals

- Contributory Retirement Appeal Board (“CRAB”)
 - Those aggrieved by decisions of a retirement board or PERAC appeal to CRAB.
- Division of Administrative Law Appeals (“DALA”)
 - Conducts hearings for CRAB.
- District Court
 - Certain matters must be appealed here.

22

Possible Retirement Allowances

(Depending On a Variety of Factors)

- Superannuation (age + years of service)
- Termination
- Accidental Disability Retirement
- Ordinary Disability Retirement

23

NOTES:

Retirement Allowances of Limited Applicability

- “20/50” benefit (Correction officers only)
- Troopers (State Retirement Board only)
- Judges (State Retirement Board only)
- RetirementPlus (Teachers’ Retirement Board only)
- Teachers’ Alternate Retirement Program (“TARP”) (Boston Retirement Board only)
- Various miscellaneous noncontributory pensions

24

How Does a Superannuation Retirement Allowance Work?

- Superannuation retirement allowances are provided for under G.L. c. 32, Section 5.
- Your retirement allowance will be calculated based upon your group classification, salary **average**, years of creditable service & age.
- In addition, the **date** you entered service will play key role in determining when you will be entitled to a retirement allowance and what the amount will be.

25

NOTES:

A Note About Group Classification

- There are four different groups. (Group 3 involves only State Police and will be omitted.)
 - Group 1
 - Group 2
 - Group 4
- Your retirement board classifies you in one Group or another on the basis of the position you hold.

26

In Essence, Two Plans

- The rights of people who become members as of April 2, 2012 and thereafter are different than the rights of people in a retirement system on or before April 1, 2012.
- The following slides explain the differences in calculating a superannuation retirement allowance for those who were members on or before April 1, 2012 and those who joined a system as of April 2, 2012 and thereafter.

27

NOTES:

Group 1 - Before and After (Section 5)

BEFORE	AFTER
<ul style="list-style-type: none"> May retire at age 55 or older with at least 10 years of service Age 55 factor: 1.5 	<ul style="list-style-type: none"> May retire at age 60 or older with at least 10 years of service Age 60 factor: 1.45

28

Group 2 - Before and After (Section 5)

BEFORE	AFTER
<ul style="list-style-type: none"> May retire at age 55 or older with at least 10 years of creditable service Age 55 factor: 2.0 	<ul style="list-style-type: none"> May retire at age 55 or older with at least 10 years of creditable service The difference? Altered age factors Age 55 factor: 1.45



29

NOTES:

Group 4 - Before and After (Section 5)

BEFORE	AFTER
<ul style="list-style-type: none"> May retire at age 55 or older with service sufficient to avoid the triggering of Section 13 Age 55 factor: 2.5 	<ul style="list-style-type: none"> May retire at age 55 or older with service sufficient to avoid the triggering of Section 13 The difference? Slightly altered age factors. Age 55 factor: 2.2

30

Section 5 Age Factor Recap

BEFORE	AFTER
<ul style="list-style-type: none"> Group 1: <ul style="list-style-type: none"> Age 55 Age Factor 1.5 Group 2: <ul style="list-style-type: none"> Age 55 Age Factor 2.0 Group 4: <ul style="list-style-type: none"> Age 55 Age Factor 2.5 	<ul style="list-style-type: none"> Group 1: <ul style="list-style-type: none"> Age 60 Age Factor 1.45 Group 2: <ul style="list-style-type: none"> Age 55 Age Factor 1.45 Group 4: <ul style="list-style-type: none"> Age 55 Age Factor 2.2

31

NOTES:

From a 3-Year Average to a 5-Year Average

MEMBERS BEFORE	MEMBERS AFTER
<ul style="list-style-type: none">▪ Average of three highest years used in calculation	<ul style="list-style-type: none">▪ Average of five highest years used in calculation

32

Creditable Service Sources (In a Nutshell)

- Present employment
- Transfers of time from one retirement system to another
- Redeposit of prior membership time
- Buy back of prior non-membership time
- Veterans' service

33

NOTES:

Transfers

- If you go directly from employment in one retirement system to employment in another, your retirement account should transfer with you to the second system.
- There are special rules for someone who has been a dual member of two different retirement systems on or after January 1, 2010.

34

Redeposits

- Member in service has 12 years of service.
- Leaves employment, and withdraws funds from retirement system.
- Returns 7 years later.
- Has 1 year from the date of re-entry or re-instatement to buyback refunded time using buyback interest.
- If more than a year lapses, must make the buyback using actuarial assumed interest.

35

NOTES:

Buybacks of Earlier, Non-Membership Time

- Sometimes permissible, but not always.
- Conditions spelled out in Chapter 32, Section 3(5) or Section 4(2)(c) must be met.
- The section under which the buyback is being made will determine what interest rate will be used in making the purchase.

36

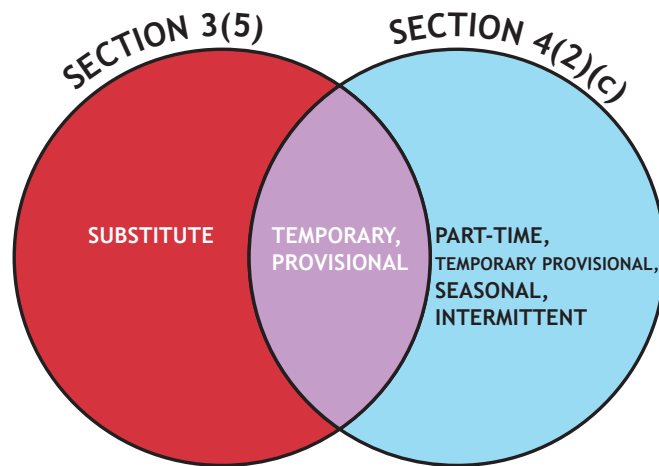
Categories of This Eligible Time

Section 3(5)	Section 4(2)(c)
<ul style="list-style-type: none"> ▪ temporary ▪ provisional ▪ substitute 	<ul style="list-style-type: none"> ▪ part-time, ▪ provisional, ▪ temporary, ▪ temporary provisional, ▪ seasonal or ▪ intermittent

37

NOTES:

Venn Diagram of Interplay Between Sections 3(5) and 4(2)(c)



38

How Much Time Needs To Be Purchased?

Redeposit of Withdrawn Funds	Buyback of Prior Non-Membership Service
<ul style="list-style-type: none"> Entire amount must be repaid, together with interest. Lump sum or installment payments not to exceed five years. Payment plan may exceed five years "with the approval of the board." 	<ul style="list-style-type: none"> May be purchased in accord with the Board's regulations. Less than all non-membership time may be purchased. If less than all non-membership time is to be purchased, the member must purchase the most recent time first.

840 CMR 15.02 (1) & (2)

39

NOTES:

Inactive Members Buying Back Service

- *Zavaglia v. Gloucester Retirement Board*, CR-09-459 (2015)
(a final decision of CRAB)
- Purchases of service may usually be made only by active members of a retirement system.
- The ability of an inactive member to buy back service is extremely limited.
- Exceptions to this general rule include: Sections 3(4), 3(4A), 4(1)(q), 4(1)(r).
- The biggest exception: Section 3(6)(d).
- Other sections of limited applicability are in a grey area.

40

Purchase Of Up To 4 Years: Veterans

- Purchase of up to 4 years of prior military service
 - a) 10 % of regular compensation when the member most recently established membership in the system
 - b) 5 to 1 ratio for national guard and active reserve time MUST qualify as a veteran
 - c) active duty leave time cannot be counted towards buyback
 - d) member has 180 days from notice to begin purchase process
 - e) active duty for training for the Nat. Guard and Reserves is excluded
 - f) requirement of 10 years of service before buyback was removed by Chapter 468 of the Acts of 2002
 - g) must be a member in service

41

NOTES:

Termination Retirement Allowance G.L. c. 32, Section 10(2)

- Member prior to April 2, 2012
- 20 or more years of service
- Fails of reappointment, his office or position is abolished, removed or discharged from position without moral turpitude on his part.

42

Group 1 - Before and After (Section 10 Retirement)

BEFORE	AFTER
<ul style="list-style-type: none"> ▪ May retire at any age with 20 years of service or more 	<ul style="list-style-type: none"> ▪ May retire with 10 years or more of service age 60 or above

43

NOTES:

Group 2 - Before and After (Section 10 Retirement)

BEFORE	AFTER
<ul style="list-style-type: none"> May retire at any age with 20 years of service or more 	<ul style="list-style-type: none"> May retire with 10 years or more of service age 55 or above

44

Group 4 - Before and After (Section 10 Retirement)

BEFORE	AFTER
<ul style="list-style-type: none"> May retire at any age with 20 years of service or more 	<ul style="list-style-type: none"> May retire with 10 years or more of service age 50 or above

45

NOTES:

Two Types of Disability Benefits

Accidental	Ordinary
<ul style="list-style-type: none"> Provides 72% of annual rate of regular compensation as of certain date Free of federal taxation No service requirements Direct causation to injury on the job 	<ul style="list-style-type: none"> Calculation based on age and years of service, but age bumped up if under age 55 or 60, depending upon date of membership Subject to federal taxation Minimum service requirements Disability not connected to job

46

Criteria for a Retirement Board Award of Ordinary Disability Retirement

- Assuming the minimum service requirements have been met:
 - Member in service*;
 - Mentally or physically unable to perform the essential duties of his or her job;
 - Such inability is likely to be permanent.

47

NOTES:

Criteria for a Retirement Board Award of Accidental Disability Retirement

1. Member in service* mentally or physically unable to perform the essential duties of his or her job;
2. Such inability is likely to be permanent.
3. Member's inability was brought about as a result of, and while in the performance of, his or her duties at some specific time and place.

48

A Word About Involuntary Retirement Applications

- Section 16(1) permits an employer to file an involuntary retirement.
- The involuntary retirements available are superannuation, accidental and ordinary.
- The underlying criteria of each retirement must still be met.

49

NOTES:

Finally

- Our public pension plan in Massachusetts is statutory, and all retirement allowances are calculated in accordance with Chapter 32 of the Massachusetts General Laws.

COMMONWEALTH OF MASSACHUSETTS

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