

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: IRS Determination Letter Packet – Definition of “Participant”

DATE: October 25, 2013

A question has arisen in regard to the definition of the word “participant”. Specifically, several retirement board administrators noticed a discrepancy between the number entered by our tax counsel, Ice Miller, on page 4 of Form 5300 in response to question 4e and the number of members in the boards’ own records. The administrators noticed their number of participants to be slightly higher than the amount on the form, prompting them to call PERAC and ask if inactive members were included in that total. PERAC, in turn, asked Ice Miller.

Ice Miller advises that the current Instructions to IRS Form 5300, Line 4e, which were not included in your packet, state in relevant part as follows:

A participant means:

1. The total number of employees participating in the plan;
2. Retirees ***and other former employees who have a nonforfeitable right to benefits under the plan;*** and,
3. The ***beneficiary of a deceased employee who is receiving or will in the future receive benefits under the plan.*** (Emphasis added.)

Ice Miller further advises that, when entering the number of participants on Form 5300, they used the total of the number of "active" participants and "retired" participants, as reported for each local employer in the 2012 Annual Report posted on www.mass.gov/PERAC website. The 2012 Annual Report does not include figures for the number of non-retiree inactive participants who still have a nonforfeitable benefit under the plan, or beneficiaries of deceased employees who are receiving or are entitled to receive benefits. Therefore, to the extent there are such individuals, they should be added to the total participant count as reported on Form 5300.

In light of the foregoing, please hand-write the correct total number of participants (including any non-retiree inactives and beneficiaries entitled to benefits) on page 4 of the form in box 4e



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before sending the package back to Ice Miller, who will make the corrections on page 4 of the final copy of the Form 5300 that they will submit to the IRS.

If you have already submitted your forms to Ice Miller, please e-mail either Judith Corrigan at jacorrigan@per.state.ma.us or Patrick Charles at pmcharles@per.state.ma.us so we can work together to get the corrected number to Ice Miller.

We trust the foregoing will be of some assistance to you. If you have any further questions, please contact Judith Corrigan or Patrick Charles as noted above.