

# MEMORANDUM #43, 2007

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
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## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: **UPDATE**  
Exclusion from Gross Income of Payments for Health Insurance Premiums

DATE: November 16, 2007

PERAC Memo #37/2007 discussed the **Pension Protection Act of 2006** (“PPA”), highlighting several sections of special interest to public retirement plans. Of particular interest is § 845 of the Act, which adds a new subsection to the Internal Revenue Code [26 USCA § 402(l)]. This provision allows eligible retired public safety officers to exclude from their gross income an amount up to \$3,000 that is deducted from a taxable retirement allowance for health insurance premiums or long term care insurance contracts.

As we noted in Memo # 37/2007, it was expected that the IRS would issue further instructions regarding this provision. The IRS recently issued some guidance regarding the 2006 1099R Forms. Attached is a Memorandum from PERAC’s Tax Counsel that is intended to assist Retirement Plans in handling the reporting of payments made to qualified insurance plans. Please review the attached Memorandum from Mary Beth Braitman, Esq. and Lisa Erb Harrison, Esq., Ice Miller, LLP.

We have received several questions about whether premiums paid to various “self insured” plans would be eligible for the exclusion. Initially the IRS said that payments to a self-insured plan would not be eligible for exclusion from gross income. The IRS has revisited this interpretation, and advised Congress that in anticipation of a technical corrections bill, the IRS will interpret “qualified health insurance” to include employer-provided coverage under both insurance or an employer’s self-funded plan. The IRS has not issued a formal announcement, but it appears that the change in position will allow eligible retirees to exclude premiums paid to “self-insured” plans. As further information becomes available, we will advise.

If you have questions, please contact PERAC’s General Counsel, Barbara Phillips, (617) 666-4446 Extension 902.

Attachment

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