

MASSACHUSETTS
Public Employee Retirement Administration Commission
5 Middlesex Avenue, 3rd Floor
Somerville, MA 02145
(617) 666-4446
Fax: (617) 628-4002
www.state.ma.us/PERAC

MEMORANDUM

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Definition of Earned Income for G.L. c. 32, § 91A

DATE: December 30, 1998

We have received inquiries as to the definition of the term “earned income” as it is used in G.L. c. 32, § 91A. This definition is to be used in determining whether a disability retiree is over-earning pursuant to that section.

EARNED INCOME

The term “earned income,” as used in G.L. c. 32, § 91A, is not defined in G.L. c. 32. Black’s Law Dictionary, Revised Fourth Edition, defines earned income as “imply[ing] some labor, management or supervision in production thereof, not income derived from ownership of property.” It is the Commission’s position that, for the purposes of G.L. c. 32, if an individual operates a business for profit, individually or through an agent, that individual does not have the option of classifying such income as dividends as opposed to wages. Profits derived from the operation of a business through some labor, management or supervision of production of such profits are earned income, regardless of how a retiree categorized such income for income tax or other purposes.

We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.