

MACRS

SETTING THE RECORD STRAIGHT: SOME POPULAR MISCONCEPTIONS ABOUT PUBLIC PENSIONS



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[Abridged Version]

Popular Misconceptions About Public Pensions In Massachusetts

- Public employees do not contribute to their pensions.*
- I will not be subject to the WEP if I don't get a retirement allowance from a Chapter 32 system.
- I cannot name my minor child as my Option D beneficiary.
- The retirement system will only be liable for a pension for my life plus a few years.
- The amount in my paycheck is the same thing as my regular compensation.

*Abridged presentation only

Misconception: Public Employees Do Not Contribute to Their Pensions

In Massachusetts contribution rates depend on date of employment:

- 5% if service began on or after January 1, 1946 but prior to January 1, 1975
- 7% if service began on or after January 1, 1975 but prior to January 1, 1984
- 8% if service began on or after January 1, 1984 but prior to July 1, 1996
- 9% if service began on or after July 1, 1996

More About Employee Contribution Rates in Massachusetts

- State Troopers pay 12%
- Teachers pay 11% (RetirementPlus)
- Everyone (except RetirementPlus participants) hired on or after 1/1/79 and whose rate of pay on any given pay period exceeds an annual rate of \$30,000 are subject to an additional 2% withholding on all amounts over \$30,000.
See **PERAC Memo # 43/1999.**

Chapter 176 of the Acts of 2011

Section 39 of Chapter 176:

- Reiterated contribution rates for State Troopers and teachers.
- Member on or after April 2, 2012 who is in Group 1: Contribution rate plummets to 6% after 30 years of service.
- Member on or after April 2, 2012 who is in RetirementPlus: Contribution rate plummets to 8% after 30 years of service.

NASRA: National Association of State Retirement Administrators

- ***NASRA Issue Brief: Employee Contributions***
Published January 2014
- Since 2009, plans in 36 states (including Puerto Rico) have increased required employee contribution rates.
- Some states which previously did not require some employees to make pension contributions have now added required contributions for newly hired employees, existing workers, or both.

NASRA Issue Brief (Cont'd)

- Some states' contribution rates vary based on the pension plan's actuarial condition.
- Some states increased employee contributions for all workers - current and future.
- Several state courts have ruled that you cannot change the contribution rate of current employees.

Evading the Social Security Offset

- **Misconception:** Only those receiving a retirement allowance from a Chapter 32 system will have their Social Security payments reduced.
- **Fact:** Once you are eligible to receive an allowance from a Chapter 32 retirement system (age + years) even a return of your annuity account will trigger the offset.

Windfall Elimination Provision

- The Windfall Elimination Provision (“WEP”) may apply if:
 - You reached 62 after 1985; or
 - You first *became eligible* for a monthly pension based on work where you did not pay Social Security taxes after 1985, even if you are still working.

Treatment Depends On Timing

- If you withdraw your contributions and interest after you are eligible to receive such a pension, SSA treats the withdrawal as a lump-sum pension and your Social Security benefit is subject to the WEP.

Option D

- The “Member Survivor Allowance”
- Provides beneficiary with the allowance the member would have received under Option C had they not tragically died but instead retired on the date of their death. If under age 55 [or age 60] at death, the age of the deceased will be “bumped up” to 55 [or age 60] to calculate the allowance.
- Beneficiary age “bumped up” an equal amount.

Survivor Allowance, Everlasting

- Option D, the section which provides for a lifetime benefit to a beneficiary in the event of the member's non-service connected death prior to retirement, permits you to select one of the following as your beneficiary: "Spouse, former spouse who has not remarried, child, father, mother, sister or brother."
 - **Misconception:** I may not name my *minor* child as my Option D beneficiary.

A Minor Child May Be Named

- A minor child may be named as a member's Option D beneficiary **BUT** payments will be made to a legal guardian until the child is 18. After he reaches 18, payments are made directly to him and will continue for the rest of his life.
 - **Example:** Patrick is only 12 years old when his father dies. His father designated Patrick as his Option D beneficiary. Patrick's legal guardian will accept payment on Patrick's behalf until he is 18.
 - Patrick lives to be 100. He will be paid directly from the retirement system from age 18 to 100.

Length Of Pension Liability

- In recent years, the 150th Anniversary of the United States Civil War was commemorated.
- The Civil War formally ended in 1865. Robert E. Lee surrendered to Ulysses S. Grant on April 9, 1865.
- One person, Irene Triplett, is still receiving benefits as a “disabled child” on the basis of her father’s service in the Civil War [as of 9/19/2014].
- This intergenerational liability is also possible under Chapter 32.

Chapter 32 Provisions Regarding Disabled Children

- Section 7
- Section 9
- Section 12B
- Section 100*

*applicable only if surviving spouse dies

And What About Children Who Are Not Disabled?

- Tony Randall, born February 26, 1920.
- Married Heather Harlan, November 17, 1995, when he was 75 and she was 25.
- Heather Harlan born in 1970.
- Two children were born of the marriage:
 - Daughter Julia, born 1997
 - Son Jefferson, born 1998

Whatever I'm Being Paid Goes Into My Pension, Right?

- Definition of Regular Compensation as now appearing in M.G.L. c. 32, Section 1, “during any period subsequent to June 30, 2009, shall be compensation received exclusively as wages by an employee for **services** performed in the course of employment for his employer.”
(Emphasis Supplied)

Regular Compensation

- Chapter 21 of the Acts of 2009
- *O'Brien v. CRAB & Another*, 76 Mass. App. Ct. 901 (2010)
- PERAC regulations promulgated in May of 2010
- PERAC Memorandum #33 of 2011

A Payment Is Regular Compensation If....

- It is payment for services provided to the employer by the employee.
- It is received exclusively as wages by an employee for services provided for the employer.
- And it is NOT excluded as regular compensation by either the statute or the regulations.

Included In Regular Compensation Via Regulation

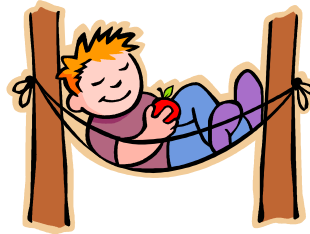
- Pre-determined, non-discretionary, available to all similar members.
- Payments due to the character of work.
- Payments due to length of service.
- Payments due to the time at which the work takes place.
- Payments for educational incentives.
- Payments for required licensing or training.

What Is Not Included In Regular Compensation

- Overtime or bonuses
- In-kind payments or payments in kind
- 1-time lump sum payments
- Payments for early retirement incentives

Are These Includable?

- “Nap time” stipend



- “Natural disaster” stipend



RECAP

- You do contribute, quite significantly, to your pension.
- You will be subject to Social Security's WEP if you get a return of your accumulated deductions after you became eligible for a retirement allowance.
- A minor child may be named as an Option D beneficiary, with a guardian accepting payment on his/her behalf until the child reaches his/her majority.

RECAP (Cont'd)

- A retirement system may be paying out a benefit well after your death, because Chapter 32 provides for intergenerational benefits.
- The amount in your paycheck may or may not reflect what will be payable to you as a percentage of your retirement allowance.