



PERAC HITS THE ROAD

2026 BOARD ADMINISTRATOR TRAINING

To Refund or Not to Refund? (That is the Question You Will be Asked!)



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Introduction

- Refunding a member's accumulated deductions can have a wide-ranging impact on the member's future in a retirement system.
- Today we will undertake a detailed review the **Application for Withdrawal of Accumulated Total Deductions Form ("Refund Form")**.
 - There is also the Refund Form specifically for beneficiaries. We will not be discussing that form in detail, but it is very similar to the member's Refund Form.
- Will also discuss some frequently asked questions that member's have when seeking a refund of their accumulated deductions.

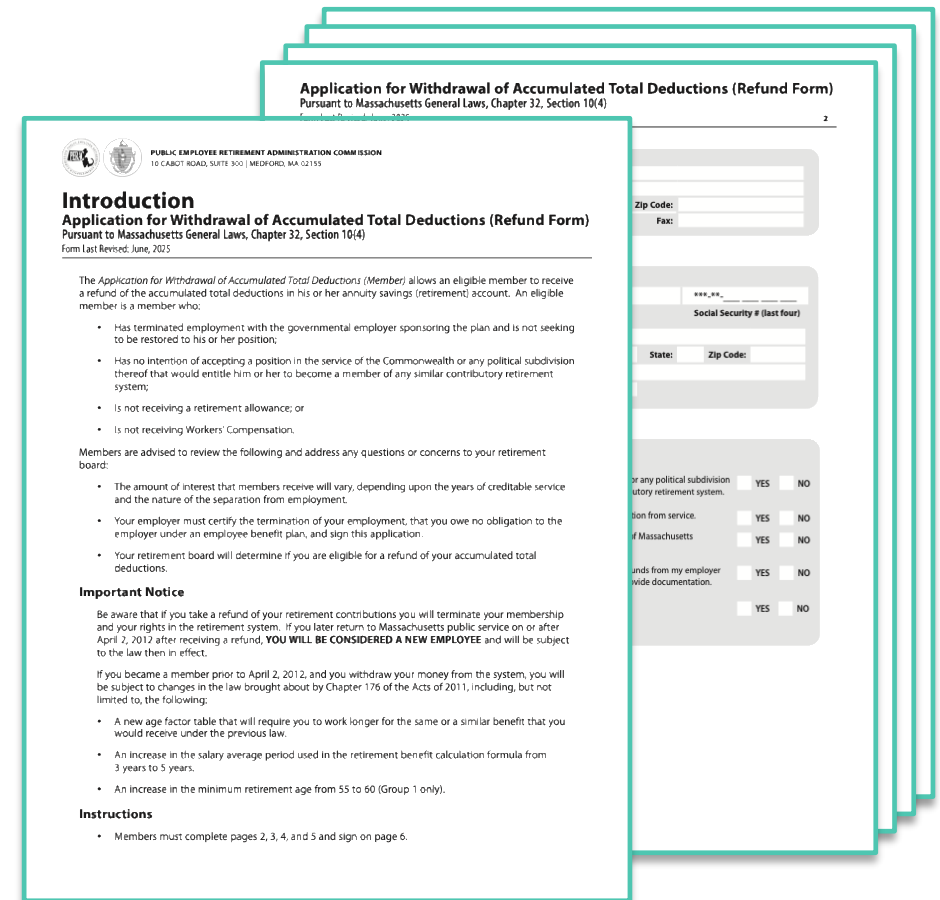


What is a Refund?

- Over the course of a member's career, they will contribute a portion of their salary to the retirement system, which constitutes their accumulated deductions.
- Sometimes a member will leave service before retirement.
- When a member leaves service, they have the option to either leave their accumulated deductions in the system or withdraw them.
- Additionally, if a member passes away and leaves an Option B beneficiary, the beneficiary receives a refund of the accumulated deductions left in the member's account.
- To receive a refund, a Refund Form must be submitted.



Part 1: The Application for Withdrawal of Accumulated Total Deductions Form ("Refund Form")





Section A: Preliminary Statements

- A set of questions addressing the member's eligibility to apply for a refund.
- Answers to some of the questions could mean that the member is not eligible to receive a refund, or that increased counseling must be provided to the member.
- Some of these questions will be asked to both the board and the employer.



Transfer or Return to a Different System

- **Statement 1:** “It is my intention to accept a position in the service of the Commonwealth or any political subdivision thereof which would entitle me to become a member of any similar contributory retirement system.”
 - A member will not be eligible for a refund if they are merely moving between two positions, even if the positions are between different retirement systems.



Example #1

- Tybalt is a school custodian for the Town of Capulet, and a member of the Capulet Retirement System.
- He accepts a job at the Elsinore School in the Elsinore Retirement System that begins on September 1st.
- Tybalt's last day with the Capulet School System is May 30th.
- During the summer, Tybalt submits an application for a refund of his accumulated deductions.
- Tybalt is not eligible for a refund because he **intends** to start a position in the Elsinore Retirement System.



Seeking Reinstatement

- **Statement 2:** “I have filed or intend to file a grievance or legal action regarding my separation from service.”
 - If the member has or is intending to file a suit that may result in their reinstatement in the future, they are still eligible for a refund of their accumulated deductions.
 - However, a Yes answer to this question signals the retirement board that extra counseling is needed for this member.
 - Should the member be reinstated because of the grievance, they will need to redeposit their refunded accumulated deductions, plus interest, in order to receive credit for that service.



Workers' Compensation

- **Statement 3:** "I am receiving Workers' Compensation Benefits pursuant to the provisions of Massachusetts General Laws, Chapter 152."
 - A member cannot receive a refund while they have a claim pending for Workers' Compensation or if they are currently receiving Workers' Compensation for Total Incapacity.
 - This is because members who are awarded Workers' Compensation for total incapacity under G.L. c. 152, § 34 are entitled to creditable service during their leave pursuant to G.L. c. 32, § 14.
 - Since they are accruing service, they are still members in service and so cannot receive a refund.



Example #2

- Polonius is a member of the Stratford Retirement System.
- He injures himself in a work-related accident.
- He applies for Workers' Compensation and receives benefits for total incapacity under G.L. c. 152, § 34.
- While out on Workers' Compensation, his position is terminated.
- Polonius subsequently applies for a refund.
- Polonius is on total incapacity and does not qualify for a refund because he is still receiving creditable service under G.L. c. 32, § 14, and thus is still a member-in-service.



Example #3

- Claudius is a member of the Stratford Retirement System.
- He too injures himself in a work-related accident.
- He applies for Workers' Compensation and receives benefits for partial incapacity under G.L. c. 152, § 35.
- While out on Workers' Compensation, his position is terminated.
- Claudius applies for a refund.
- Because Claudius is out on partial incapacity and is now terminated, he is eligible for a refund because he was not receiving creditable service and is no longer a member-in-service.



Forfeiture (1)

- **Statement 4:** “I have been officially investigated for or charged with misappropriation of funds from my employer or convicted of any crime related to my office or position.”
- M.G.L. c. 32, § 15 has a few reasons that a pension might be forfeited:
 - Section 15(1): member is charged with the misappropriation of funds or property.
 - Does not require a conviction but does require that the retirement board hold a hearing.
 - Could result in the member forfeiting all rights to a retirement allowance or a return of their accumulated deductions in the amount found to be misappropriated.



Forfeiture (2)

- Section 15(3): After final **conviction** of an offense involving the funds or property of a governmental unit or system.
 - Not entitled to a retirement allowance or a return of accumulated deductions until full restitution for misappropriation has been made.
- Section 15(3A): After final conviction of specific, named offenses.
 - Not entitled to a retirement allowance or a return of accumulated deductions.
- Section 15(4): After final conviction of a criminal offense involving violation of the laws applicable to his office or position.
 - No longer entitled to retirement allowance.
 - Can receive a return of accumulated deductions, but the rate of regular interest is zero.



Example #4

- Caliban was a clerk for the City of Stratford and a member of the Stratford Retirement System.
- Caliban falsified city records in his capacity with the City and was charged and convicted.
- He later requests a refund of his accumulated deductions.
- Caliban can receive a refund of his accumulated deductions. However, he will receive no interest on these deductions.



Leaves of Absence

- **Statement 5:** "I am currently on a leave of absence."
 - Leaves of absence do not equal "not employed."
 - During a leave of absence, the member is still a member-in-service.



Example #5

- Gertrude works at Elsinore City Hall and is a member of the Elsinore Retirement System. She is expecting her first child.
- After her child's birth, Gertrude takes three months of unpaid leave under FMLA.
- During this time, Gertrude requests a refund of her accumulated deductions.
- Gertrude is on a leave of absence and so she does not qualify for a refund because she is still a member-in-service.



Section B: Effects of a Refund (1)

- Section B informs members of the consequence of taking a refund, which include:
 - Termination of retirement system membership;
 - Surrender of all rights and privileges that membership granted;
 - No retirement allowance to which the member may have been entitled;
 - Surrender of rights a beneficiary may have had in the member's retirement account;



Section B: Effects of a Refund (2)

- Section B informs members of the consequence of taking a refund, which include *(continued)*:
 - You will lose your date of entry into the system, even if you later return and repay the refund;
 - Required repayment of any previously refunded deductions if they want creditable service for the period of withdrawal; and
 - Informing Mass DOR in case there is any child support obligations.



Section C: Show Me the Money (1)

Part 1: The Taxman Cometh

- The member is required to certify that they agree with several statements, including:
 - Refunds for service after 1988 will be taxed.
 - They read the *IRS Special Tax Notice* (must be provided to them).
 - They understand being paid directly will require a 20% withholding.
 - The return of accumulated deductions may be subject to further tax penalties if the member is under age 59.5.
- Section C separates the treatment of the taxable and non-taxable portions of the accumulated deductions, but the options for each are very similar.



Section C: Show Me the Money (2)

Part 2: Where Should the Money Go?

- Direct Rollover
 - Member will need to designate an eligible plan listed on the Refund Form for the rollover.
 - Eligible plans differ between member, spouse, and non-spouse beneficiaries.
- Eligible Rollover Plans
 - Member or Beneficiary Spouse
 - 401(a), 401(k), 403(b), 457(b), IRA, Roth IRA, Simple IRA
 - Non-Spouse Beneficiary
 - Inherited IRA only



Section C: Show Me the Money (3)

Part 2: Where Should the Money Go?

- Paid Directly to the Member
 - 20% of the refund will be held for federal tax and remitted to the IRS.
 - Might be more down the road depending on tax bracket.
- Partial Direct Rollover and Partial Direct Payment
 - The member indicates a percentage of accumulated balance to rollover into an eligible plan.
 - The remaining balance will then be paid directly to the member, with 20% being withheld for federal tax purposes.



Section D: Department Head

- The questions from Part 1 of the form return here for the Employer to certify that the member is:
 - Not going to another position with a similar contributory retirement system;
 - Not seeking to be restored to their position;
 - Not receiving Workers' Compensation; and
 - Not being investigated for or charged with misappropriation of funds or convicted of any crime related to their office or position.



Section D: The New Question

- In addition to the four prior questions, this section of the Refund Form has an additional one:
 - “Does the above employee owe any money to the employer under an employee benefit plan, including a cafeteria plan established pursuant to 26 U.S.C. Section 125? (If YES, please provide documentation).”
- Under G.L. c. 32, § 11(1)(d), if a member owes money under one of the listed plans, a retirement board cannot refund the accumulated deductions until the outstanding balance is paid.



Section E: The Retirement Board's Portion

- Member is eligible for a refund based on one of the following:
 - The member is leaving service in the retirement system and does not intend to take a position in the service of the Commonwealth, and they do not intend to seek or to be restored in the position they left.
 - See questions 1-4 in the prior sections.
 - The member is a dual member and has a lesser amount in the annuity of this system and intends to withdraw these funds in accordance with law.
 - More on this later!
- Funds must be refunded to the member **within 60 days** of their submitted application.



Section E: Calculations

- The interest the member receives on their annuity account:
 - If the member has less than 10 years of creditable service and voluntarily withdraws from service, the interest is 3%.
 - If the member has more than 10 years of creditable service, full regular interest.
 - If the member was involuntarily terminated with less than 10 years of creditable service, full regular interest.
- The Board shows the dates, amounts, and location that the funds were withdrawn and to whom they were refunded.



Part 2: Frequently Asked Questions



What Does it Mean When I Take a Refund?

- In all refunds except one limited exception, a member ceases being a member of a Massachusetts retirement system.
- This means they have waived any rights and privileges to a retirement benefit in the present and future.
- It also means that none of their beneficiaries have any rights to retirement benefits in the present or future.



A Rare Exception Does Exist!

- A dual member can receive a refund from one system and remain a member of the second system.
- Section 47 of Chapter 133 of the Acts of 1992 allows a member who was a member of more than one retirement system concurrently to seek a refund from the system in which he contributed the lesser amount when they terminate service with said system, even while maintaining service in the other system.
 - See PERA Memo #21 of 1992.



What is a Dual Member and Should They Withdraw Their Funds?

- **Dual Member** = members who were not vested in two retirement systems prior to January 1, 2010, and have concurrently served in both systems for more than 60 days within their last five years of service.
- Retirement allowances for dual members are calculated as if the member is retiring solely from each system.
- Generally, it is not beneficial to withdraw the funds of the lesser system because as a dual member they will be entitled to a retirement benefit from both systems (even if not vested in one system).
- This is not true if the member expects to remain in service with the remaining system for more than five years after separating from the second system.



What Happens If I Return to Service After Taking a Refund?

- The “entry date” now becomes the date the member returned to service. This affects the rate of contribution and other benefits.
 - See PERAC Memo #18 of 2012.
- A member who returns to service after taking a refund of their deductions will not be entitled to any prior creditable service unless they redeposit their previously withdrawn deductions plus interest.
- The amount of the interest is determined by whether the member returned to the same governmental entity and whether they returned to service within two years of leaving.



Example #6

- Gertrude worked at Elsinore Public Library and was a member of the Elsinore Retirement System.
- She worked at the library from 1983 until 1992. As she started work in 1983, her contribution rate was at 7% + 2%.
- In 1992, Gertrude left service and received a refund of her accumulated deductions.
- In 2000, Gertrude returned to work at the Elsinore Public Library and again became a member of the Elsinore Retirement System.
- Since Gertrude refunded her prior service, her contribution rate is now 9% plus 2%.



What is the Interest Charged When Redepositing My Refunded Contributions?

- The amount of interest and the interest rate charged is determined by a series of factors:
 - Did the member leave the same system that they were reinstated into?
 - If yes, did the member return within two years of leaving?
 - Did the member repay into the annuity savings the amount equal to the accumulated regular deductions, or enter into a repayment plan within one year of re-entering service?



Interest Charged Under G.L. c. 32, § 3(6)(c)

- If a member returns to service in the **same** governmental unit they were formerly employed, and the return was **within 2 years** of the separation of service, then the **buyback interest rate** is used.
- The interest charged only goes to the **date of reemployment**.



Interest Charged Under G.L. c. 32, § 3(6)(d)

- If a member returns to service in the **same** governmental unit they were formerly employed, and the return was **more than 2 years** after the separation of service, then the **buyback interest rate** is used.
- Unlike with someone returning within two years under Section 3(6)(c), the interest charged is to the date that the accumulated deductions are **repaid**.



Interest Charged Under G.L. c. 32, § 3(8)(b)

- Any former member of any former contributory retirement system may redeposit their previously refunded accumulated deductions plus **buyback interest**.
- If the member does not either pay the lump sum or enter into a payment agreement within one year of re-entering service, the **actuarial assumed interest rate** is charged rather than buyback interest rate.
 - See PERAC Memo #23 of 2012.
- **Caveat:** If a member enters into an installment plan under the buyback interest rate and defaults, then the retirement board must prospectively charge the member the full actuarial assumed interest on the outstanding balance as of the date the member defaults.



DiBaro v. State Ret. Bd. & PERAC, CR-23-0279 **(DALA Aug. 26, 2024) (1)**

- Ms. DiBaro was a member-in-service of the State Retirement System (“SRS”) during multiple periods from 1992-2001.
- In December 2001, she received a refund of her accumulated deductions and terminated membership.
- Ms. DiBaro returned to service from June 2005 to January 2014 but did not initiate a redeposit of her withdrawn deductions.
- She left service in January 2014, left her deductions on account, and then returned again in April 2017.
- In January 2018, she entered into a five-year installment plan to redeposit her previously refunded deductions plus buyback interest.



DiBaro v. State Ret. Bd. & PERAC, CR-23-0279 **(DALA Aug. 26, 2024) (2)**

- In March 2023, the SRS discovered they should have charged her actuarial assumed interest and PERAC concurred with that opinion.
- Ms. DiBaro was an active member on February 16, 2012, and so Memo #23/2012 instructed that she had until April 2, 2013 to redeposit her previously refunded deductions using buyback interest.
- However, Ms. DiBaro did not enter into an installment agreement until after she again became a member-in-service of the SRS in April 2017.
- DALA determined that the plain language of Section 3(8)(b) meant that it was upon the first reentry into active service, and that a member is not relieved of the consequence of a higher interest rate each time they again return to active service.
- As the buyback at issue was not initiated prior to April 2, 2013 and Ms. DiBaro was an active member as of February 16, 2012, her buyback should have been calculated using the actuarial assumed interest rate.



If I Take a Refund and Later Return to Service, Am I Able to Retire? (1)

- Taking a refund will preclude an individual from all forms of retirement – disability, termination, or superannuation.
- G.L. c. 32, § 3(8)(b) governs the ability of members to receive a retirement allowance after leaving active service and subsequently returning.
 - Members who re-enter active service are not eligible to receive a superannuation retirement allowance, an ordinary disability retirement allowance, or a termination retirement allowance until they have been in active service for at least two consecutive years.
 - **Note:** that this does not restrict accidental disability retirement for an injury occurring within 2 years. **HOWEVER...**



If I Take a Refund and Later Return to Service, Am I Able to Retire? (2)

- G.L. c. 32, § 3(6)(c) governs the ability of members to receive a disability retirement allowance who reenter service “of the governmental unit in which he was formerly employed” and have previously received a refund of their deductions.
- No member shall be eligible for any disability benefit until such member makes a repayment of accumulated deductions plus buyback interest, to said respective retirement system.
 - Could be actuarial assumed interest – see PERAC Memo #23 of 2012.



The Cautionary Tale of *Sorrentino v. State Bd. of Ret.*, CR-19-0118 (CRAB Aug. 30, 2024)

- Mr. Sorrentino worked in state service from January 1980 through 1990. He withdrew his accumulated deductions after leaving service.
- Mr. Sorrentino returned to state service from 1997 through 1998, just shy of a year, when he left service again. He completed a redeposit of his previously refunded deductions.
- In 2018, Mr. Sorrentino applied for superannuation retirement.
- CRAB upheld the retirement board's rejection of his superannuation retirement application because he had not been in active service for at least two years after reentering service.



Conclusion

- Refunding a member's accumulated deductions can greatly affect their future in a Chapter 32 retirement system and so counseling a member of their rights is vital.
- We have updated our Member and Beneficiary Refund Forms so please use those moving forward!
 - See PERAC Memo #19 of 2025.
- Please also ensure that you directly provide the *IRS Special Tax Notice* to each member and beneficiary who receives a refund.
- If you have any questions, we can be reached at:
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