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MEMORANDUM

TO: All Retirement Systems

FROM: Joseph E. Connarton, Executive Director

RE: 2% Withholding

DATE: November 9, 1999

This memorandum is in response to recent inquiries regarding the methodology of withholding an additional 2% on regular compensation above a rate of $30,000 for those members that are subject to the $30,000 cap. In order that all necessary parties are given notification of this information, I ask that you forward this memorandum to all payroll personnel and vendors that are responsible for the process of withholding the additional 2%. It is important to note that the extra 2% withholding is determined not just by a payment during any pay period but rather the **annual rate of regular compensation** as defined by G.L. c. 32, s.1 for the contract year. I have listed several scenario's below which will give guidance in the application of the 2% withholding.

Who is subject to the additional 2%?

All members who entered the retirement system or reentered the retirement system after taking a refund on or after January 1, 1979 and whose rate of pay on any given pay period exceeds an annual rate of $30,000 are subject to the additional 2% withholding. The calculation of the additional 2% withholding is determined by the frequency of payroll periods. If an employee receives a weekly payment, all regular payments in excess of $576.92($30,000/52) would be subject to the additional 2% withholding. If an employee receives a monthly payment, all regular payments in excess of $2,500.00*($30,000/12) would be subject to the additional 2% withholding. If an employee receives a biweekly payment, all regular payments in excess of $1,153.85*($30,000/26) would be subject to the additional 2% withholding. Please note that the 2% withholding on salary rates in excess of $30,000 is in addition to the withholding rates of 7%, 8% and 9% which is to be taken from the member's entire payment of regular compensation.*

> *Example: An employee who is paid on a weekly basis and has an annual rate of compensation of $36,000 will receive a gross weekly payment of $692.30. The withholding of the 2% would be calculated by subtracting $576.92 from the $692.30 resulting in $115.38 subject to the additional 2%. The additional withholding would amount to $2.31(2% of $115.38).*

**This amount is exclusive of any other non-reoccurring payments of regular compensation. The 2% withholding calculation for pay periods, which include non-reoccurring payments of regular compensation, would require that a calculation be made to determine if the annual rate of compensation including all non-reoccurring payments of regular compensation is in excess of $30,000. Examples of these types of payments are included in this memorandum.*

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What if the employee does not earn $30,000 in regular compensation during the calendar year?

The withholding of the additional 2% bears no relationship to the amount of regular compensation that is earned in a calendar year. It is the rate of regular compensation at any given pay period that determines if a member is subject to the additional 2% withholding. There are no refunds if a member does not ultimately earn $30,000 in a given year since withholding is based upon rate of compensation for any given pay period.

Example: An employee who is hired on December 24th with an annual rate of regular compensation of $52,000 and receives his first weekly pay in the amount of $1,000 on December 31st would be subject to the additional 2% withholding. The amount of additional withholding would be calculated by subtracting $576.92 from the $1,000.00 resulting in $423.08 subject to the additional 2%. The additional withholding would amount to $8.46(2% of $423.08)

What happens with retroactive salary increases or back pay lump sums?

In instances when a retroactive salary increase or back pay lump sum has been granted, one must look at the original rates of regular compensation for the period that is covered, then add the increase to the specific periods covered to determine if the original rate of regular compensation plus the retroactive amount would result in a new annual rate of regular compensation in excess of $30,000. The 2% withholding would be taken for only the portion for periods where rate of regular compensation is in excess of $30,000.

Example: The employee is covered by a contract that covers a three year period from July 1, 1996 through June 30, 1999. The employee receives a retroactive payment in March of 2000 in the amount of $6,000 for the three-year period.

Contract period	*Original Rate of Compensation*	*Retroactive Payment*	*New Rate of Compensation*	*2%Withholding on retroactive pay*
7/1/96 to 6/30/97	$27,000	$1,500	$29,000	none
7/1/97 to 6/30/98	$29,000	$2,000	$31,000	$20 (2%of $1,000)
7/1/98 to 6/30/99	$31,000	$2,500	$33,000	$50 (2%of $2,500)

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How is withholding calculated for police officers and firefighters' holiday pay?

The withholding of the additional 2% for police officers and firefighters holiday payments is determined similar to the previous question. You must add the base rate of regular compensation plus all other payments that are regular compensation in order to determine if the total rate of regular compensation for a contract period exceeds $30,000.

Example: Police officer A who has a base pay of $28,000 and receives 10 holiday payments in the amount of $107.69 for each day of holiday pay in the contract year would have a total rate of regular compensation of $29,076.90. This employee would receive payment in non-holiday weeks of $538.46 and on holiday weeks would receive payments of $646.15. This individual would not be subject to the extra 2% withholding even though during 10 weeks when holiday pay is included the pay is in excess of $576.92 because the rate of compensation including holiday pay is never in excess of $30,000.

Example: Police officer B who has a base pay of $29,500 receives 10 holiday payments in the amount of $113.46 in the contract year would have a total rate of regular compensation of $30,634.60. This employee would receive payment in non-holiday weeks of $567.31 and on holiday weeks would receive payments of $680.77. This individual would be subject to the extra 2% withholding. The amount to be withheld during the contract year for the extra 2% would be determined by the expected annual rate of regular compensation $30,634.60 which would result in $634.60 being subject to the extra 2%. In this instance you will multiply the $634.60 by 2% for a total of $12.69 additional. This amount should be withheld on the last pay period of the contract year.

Example: Police officer C who has a base pay of $32,000($615.38 per week) and receives 10 holiday payments in the amount of $123.08 in the contract year would have a total rate of regular compensation of $33,230.80. Since we know that this employee is always receiving more than $576.92 each pay period, you would just calculate the additional 2% on all amounts in excess of the $576.92

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How is withholding calculated for irregular payments such as longevity?

When an irregular payment such as a once a year payment for longevity is made, you must look at the contract year base rate of regular compensation and add in all other amounts of regular compensation to determine if the total rate of pay exceeds $30,000. Any rate in excess of $30,000 would be subject to the 2% withholding.

> *Example: Employee A has a base pay of $28,000 and receives a one-time longevity pay of $1,500. In the week he receives the longevity pay, a payment would be made for $538.46 plus $1,500.00 longevity for a total payment of $2,038.46. This individual would not be subject to the extra 2% withholding even though during the week when longevity pay is included the pay is in excess of $576.92 because the rate of compensation including longevity is never in excess of $30,000.*

What happens if an employee is temporarily elevated to a position that is at a higher rate of regular compensation than the member's normal rate of regular compensation?

An employee whose rate of regular compensation in their regular position is less than $30,000 is temporarily promoted to a position that has a rate of regular compensation that is in excess of $30,000 is subject to the additional 2% withholding for all periods when the rate is in excess of $30,000.

> *Example: A member has a position that has a rate of regular compensation of $29,000 and is temporarily promoted for a four week period to a position that has a rate of regular compensation of $32,000($615.38 weekly). The amount of additional withholding would be calculated by subtracting $576.92 from the $615.38 resulting in $38.46 subject to the additional 2%. The additional withholding would amount to $0.77(2% of $38.46) each week the employee holds the temporary position.*

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Can a refund be issued for withholding more than the correct amount with regard to the additional 2%?

If a member has had deductions withheld that were not in accordance with the instructions stated above, the amount withheld in error must be returned to the member. In order to avoid IRS penalties, amounts over withheld in the current year should be returned to the member by reducing current year deductions by the amount withheld in error. Amounts from previous years must be returned directly to the member.

Must I bill a member who has had less deductions taken than is required, with regard to the additional 2% withholding?

Yes, you must require that all members whose retirement deductions were under-withheld pay, without interest, any amounts that should have been withheld.

How is the 2% withholding calculated for part time employees?

The rate of compensation for a member whose regular hours are less than full time would have a rate of compensation that is equivalent to the full time rate of compensation for that position times the percent of full time hours that the member is regularly employed.

Example: A member has a position that has regularly scheduled hours of employment of 40 hours per week and the full time rate of compensation is $40,000. The member is regularly employed on a 30 hour per week basis. The rate of compensation would be determined by multiplying the full time rate of compensation by the percent of full time hours (30/40= 75%) which the member is regularly employed. The rate of compensation for this member would be $30,000 and therefor would not require the additional 2% deduction.

If you have any questions regarding this memorandum, please do not hesitate to contact this office.