

Update

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TEACHER RETIREMENT SYSTEM OF TEXAS

Unreported compensation or service

TRS reminds all reporting entities that it is extremely important that the employer correctly withhold TRS contributions on and report all TRS-eligible compensation in a timely manner. Except as provided by law, credit for unreported compensation or service cannot be established after the date a member's first retirement annuity payment or active member death benefit payment has been issued. All eligible compensation and service should be reported when earned. Exceptions that allow credit after retirement or an active member death for unreported compensation are limited to performance pay as defined by Section 822.201(b)(4) of the Texas Government Code, and awards for certain programs as defined by Section 822.201(b)(9). Failure of an employer to timely report eligible compensation and service can have serious financial consequences for TRS members or their beneficiaries.

Complying with new 403(b) product registration requirements

TRS has received many inquiries from districts asking what they must do to comply with the changes, effective January 1, 2008, to the state law regarding registration of 403(b) products. TRS is providing the following information to assist districts in complying with the new requirements.

Beginning January 1, 2008, new salary reduction agreements may be started only for products registered by certified companies, as shown on the TRS 403(b) Active Products List. The TRS list includes the name of the certified company, the name of the product, and a product number. Districts may use the TRS 403(b) Active Products List to confirm that a product selected by an employee is registered with TRS.

Salary reduction agreements begun between June 1, 2002 and December 31, 2007 may continue in effect even if the specific product is not on the TRS 403(b) Active Products List so long as the company receiving contributions under the salary reduction agreement remains on the TRS List of 403(b) Certified Companies. If a company's name is not on the TRS List of 403(b) Certified Companies, it may be because a previous certification has expired or a previous certification was withdrawn or revoked. TRS compiles information concerning changes to company certification status on the "Recent Changes to List of 403(b) Certified Companies."

Note that contracts begun prior to June 1, 2002 between a company offering a 403(b) product and an employee continue to be grandfathered. For these contracts, an employer may not find the company's name on the TRS list of certified companies and may not find the product on the TRS list of registered products. If an employer has a question about whether the contract is pre-June 1, 2002, and therefore grandfathered, the company or employee may demonstrate, in a manner acceptable to the employer, that the contract is grandfathered and eligible to receive contributions through a salary reduction agreement.

Please refer to the TRS Web site, www.trs.state.tx.us, to view the various lists mentioned in this article and for other information regarding 403(b) certification and product registration. Should you have questions, please contact the TRS 403(b) staff at the toll-free number (866) 616-4032.

Certification of termination and final deposit

TRS requires that the employer certify the termination of employment and final deposit of a member who has applied for retirement or refund of contributions. TRS also requires employer certification of the final deposit of a deceased member. A TRS reporting entity has no authority to delay an employee's TRS benefits by withholding the "Notice of Final Deposit Before Retirement" (TRS 7), "Notice of Final Deposit and Request for Refund" (TRS 6), "Notice of Final Deposit of Deceased Member" (TRS 8), or any other document or record TRS may require.

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In some instances, an employee may owe the employer money at the time of termination. Money owed by an employee to an employer is a matter to be resolved between those parties. An employer's refusal to sign or submit a TRS document may give TRS an inaccurate picture of the employment status of a TRS member. Deliberate refusal to provide the required information is inconsistent with an employer's responsibilities under state law and impedes TRS' ability to properly administer employee benefits. Employers have no authority to withhold TRS documents in an effort to collect monies owed by the employee.