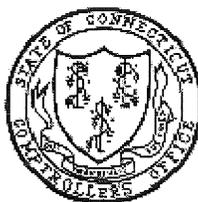


STATE EMPLOYEES  
RETIREMENT COMMISSION

MEDICAL EXAMINING BOARD  
For DISABILITY RETIREMENT



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**STATE OF CONNECTICUT**  
RETIREMENT SERVICES DIVISION  
OFFICE OF THE STATE COMPTROLLER

RETIREMENT SERVICES DIVISION MEMORANDUM NO. 2011-03

August 2, 2011

TO THE HEADS OF ALL STATE AGENCIES

ATTENTION: Personnel and Payroll Officers

SUBJECT: ADDITIONAL INFORMATION WITH REGARD TO STATE EMPLOYEES  
RETIREMENT SYSTEM (SERS) SECTION 415 MAXIMUM BENEFIT  
LIMITATIONS

**I. INTRODUCTION**

On February 22, 2011, the Retirement Services Division (Division) issued a Memorandum with regard to the benefit and compensation limits required by Internal Revenue Code ("IRC") Sections 415 and 401(a) (17). The purpose of this memorandum is to provide additional information concerning the Section 415 benefit limitations based upon the questions received by the Division.

**Important:** *The information included within is purposely general in nature. The State Employees Retirement System (SERS) and the Internal Revenue Code are complex and subject to change. The regulations issued by the IRS in 2007 to "clarify" benefit and compensation limitation issues were over 200 pages in length. If there is a conflict between the law and the information in this document, the law will supersede the information in this document. **This information is not legal advice or opinion.***

**II. COMMONLY ASKED QUESTIONS**

**1. What is purpose of Section 415?**

IRC Section 415 is a federal provision that limits the amount of annual retirement benefits an individual can receive from a qualified defined benefit pension plan such as SERS. The law was enacted to prevent employers from using tax-qualified defined benefit plans as tax shelters. The SERS retirement plan could lose its tax qualified status if it fails to comply with Section 415.

**2. What Is the Benefit Limit for 2011?**

The annual retirement benefits payable from SERS are subject to the dollar limit imposed by Section 415 (b). The 2011 annual benefit limit (based upon a calendar year) is \$195,000 for members aged 62 to 65 (governmental defined benefit plans are exempt from the private plan limit related to average compensation for the highest three consecutive years). The benefit limit is typically adjusted downward for retirements beginning before age 62 and upward for retirements beginning or after age 65. Please click here to be taken to the 2011 benefit limit table. The table is provided to illustrate the age-reduced

IRC Section 415 limit but employees should remember that their individual benefit limitation may be different from that shown on the chart depending on additional factors including but not limited to their option payment election.

### **3. I am hazardous duty - do I fall under the "Police and Fire Member" Category on the Chart?**

Special rules apply under Section 415(b) for certain "qualified police and firefighters." Many of the employees who are considered "hazardous duty" employees under SERS will not be considered "qualified police and firefighters" for purposes of the benefit limitation. Members cannot and should not confuse SERS' "hazardous duty" employment classifications with the IRS' definition of "qualified police and firefighters" for Section 415 limitation purposes.

Section 415 limits the definition of "qualified police and firefighters" to a select group of positions. No age reduction in the dollar limit is made for a member in a governmental plan such as SERS with at least 15 years of service in the plan as: (1) a full-time employee of a governmental police or fire department providing police protection, firefighting services, or emergency medical services, or (2) as a member of the U.S. Armed Forces.

These special rules normally do not apply to employees who may perform police or fire related duties but who are not specifically employed by a police or fire department. The rule applies based on the organization's *function* rather than the organization's name. The Division is working with the Office of Labor Relations in reviewing hazardous duty classifications to determine which positions may qualify as "qualified police and firefighters" under Section 415.

### **4. How Does the Division Determine if A Retirement Allowance Must Be Limited?**

At retirement, the highest annual benefit allowance payable for a member's lifetime alone or the "unmodified allowance" (straight life annuity benefit before any reduction due to an optional payment election) will be compared to the current year's Section 415(b) dollar limit to determine if it exceeds the current year's Section 415 dollar limit.

If the allowance does not exceed the limit, then no further action is required.

If an allowance exceeds the limit, the member's estimated benefit will be adjusted accordingly using a program developed by SERS actuaries. This program will incorporate the applicable variables mentioned throughout this memorandum including but not limited to the type of payment election option chosen by the member (other than a qualified joint and survivor annuity) and the age of the member at retirement. A further adjustment will be made to exclude the portion of the benefit funded with after-tax dollars, if any. The Section 415 annual benefit does not include the benefit attributable to after-tax employee contributions subject to certain requirements.

Benefits will subsequently be tested on an annual basis to ensure continued compliance with Section 415 limitations.

### **5. Are Disability Retirements Subject to the Section 415 Limitations?**

No age reduction in the dollar limit is made for a distribution from a governmental plan on account of the member's becoming disabled by reason of personal injuries or sickness, or as a result of the member's death. In the event of the death of a member the survivor's allowance payable due to the pre-retirement

death of a member is also not reduced if death occurred before the member attained age 62 or completed 10 years of service.

*Example: Donna is 38 years old when she receives a disability retirement benefit of \$47,000 per year which exceeds the \$41,934 reduced Section 415 limit for someone that age. However, because Donna is receiving a disability retirement benefit, she is treated as if she is age 62 and the age 62 limit of \$195,000 is applied so she does not reach the Section 415 limit.*

## **6. Do Cost of Living Adjustments (COLAS) Affect the Limitation?**

Yes. SERS will have to test paid retirement benefits annually to confirm that benefits have remained under the Section 415 benefit limit for that year. Because the maximum Section 415 limit only increases in \$5,000 increments (and may not increase every year) COLA increases under SERS may not necessarily "track" within the Section 415 limit and a member's ability to receive a full COLA may be limited under Section 415.

*Example: Assume Enid's pension is \$175,000 in 2007 which is under the limit for that year. The IRC §415 benefit limit is \$185,000 in 2008, \$195,000 in 2009, \$195,000 in 2010 and \$195,000 in 2011. Assume that the SERS COLA increase is 3% in each of those years. Enid's pension will be \$180,250 in 2008 and be under the limit. Enid's pension will also be under the limit for 2009 and 2010. However, it is estimated Enid's pension will be \$196,964 in 2011 and thus she will be over the Section 415 limit of \$195,000 for that year.*

## **7. How Do Optional Payment Election Forms Impact the Measurement of the IRC Section 415 Maximum Benefits?**

The Sec. 415 annual benefit is defined as (1) single life annuity; or (2) qualified joint and survivor annuity (QJSA) of between 50% and 100% provided one names a spouse as the survivor annuitant. Any form of benefit other than the qualified joint and survivor option (referred to as a QJSA) must be converted to a straight life annuity for testing purposes. For a governmental plan, the conversion factors for other forms of benefit are: (i) an interest rate equal to the greater of the plan's interest rate or 5%; and (ii) the applicable IRS mortality table.

*Example: Tony is 58 years old. He is married and his wife is 54 years old. His pension is estimated at \$150,000 for 2010 if he chooses a straight life annuity payment election (SERS Option D). The limit for his age in 2010 is \$144,963 so he exceeds the limit if he chooses Option D. However, Tony elects a 50% joint and survivor payment option with his spouse as the contingent annuitant (SERS Option A) which effectively brings his retirement benefit down to \$139,275 per year. The \$139,275 amount is what is used to determine whether Section 415 limit applies and since it is less than \$144,963 it is below the limit.*

*Assume Tony instead takes Option C - 10 year certain as his payment option election naming his daughter as the contingent annuitant. This triggers the use of a complicated formula to determine whether Section 415 limit applies. The limit is determined as the as the greater of the annual amount of the straight life annuity payable to the member or the annual amount of the straight life annuity with a 10-year certain feature computing using a 5 percent interest assumption and the applicable mortality table described in Treasury tables for the annuity starting date. This latter amount is equal to the product of the annual payments under this optional form of benefit and the factor that provides for actuarial equivalence between a straight life annuity and a 10-year certain annuity for the survivor computed using a 5 percent interest rate and the applicable mortality table. In Tony's case his straight life pension is estimated at \$150,000 and his 10 year certain benefit is estimated at \$147,510 per year. As both are over the Section 415 limit no additional calculations need to be done as his benefit will be limited to \$144,963.*

### **8. Does my length of service with the State (or vesting service) Impact the Measurement of the IRC Section 415 Maximum Benefits?**

Yes. If an employee has been a member in the plan for less than ten years, then the dollar limit is reduced by multiplying the dollar limit by the member's number of years of participation (but not less than 1) divided by 10. Years of participation for this purpose are essentially the employee's years of benefit service (computed to fractional parts of a year, if applicable). Years of vesting service could be used for this purpose as well.

*Example: Patrick is 62 years old. He has been a member in the plan for six years and terminates in 2010. His benefit, payable as a single life annuity, would be limited to \$117,000 (60 percent of \$195,000).*

### **9. How is my Tier I, Plan B reduction treated for purposes of Section 415 limitation purposes?**

Tier I, Plan B members who are covered by Social Security are subject to what has been commonly but inaccurately called the Plan B ("social security") reduction when they reach the age at which they may collect "full" social security benefits - however this really is not a reduction. The benefit formula for Tier I, Plan B members actually provides for an additional, temporary benefit until the retired member reaches "full" social security retirement age or until he or she receives a social security disability benefit, whichever occurs first. For example, a Tier I, Plan B member born in 1947 retires at the age of 60. Her retirement allowance will include this additional temporary benefit until she reaches the age of 65 - her full retirement age. This additional benefit is considered to be a social security supplement for purposes of Section 415 limitations. If a member receives this temporary additional benefit, it will be counted for purposes of applying the Section 415 limit.

*EXAMPLE: Nancy, a Tier I, Plan B member retires at the age of 62. She will receive her retirement benefit plus a social security supplement from age 62 to age 65, her "full" social security retirement age. She has taken a straight life annuity and her calculated benefit is \$196,000 broken down as follows: \$194,200 retirement benefit and \$1,800 social security supplement (\$150 per month). Upon reaching age 65 her "Plan B reduction" will be \$150 per month bringing her allowance down to \$194,200 plus whatever COLAs she received throughout this time. The entire allowance of \$196,000 is used in determining whether the IRC 415(b) dollar limitations apply to Nancy's benefit at the time of retirement.*

### **10. Are payments from other State defined benefit retirement plans or deferred compensation plans used in determining my benefit for Section 415 limitation purposes?**

They could be. The State of CT administers three retirement plans: SERS, the Teachers Retirement System (TRS) and the Alternate Retirement Program (ARP). SERS and TRS are defined benefit plans. ARP is a defined contribution plan. The State also established a Section 403(b) retirement savings program (this is not a retirement plan per se) for certain eligible employees and a Deferred Compensation Section 457 Plan (the "457 Plan") for all of its employees. Each of these plans is a defined contribution plan.

The rules of Section 415 apply differently to defined benefit and defined contribution plans. Section 415 limits the amount of contributions that may be made to a defined contribution plan in a year, and limits the amount of benefits that may be paid from a defined benefit plan in a year. For that reason, the Section 415 limits are applied by grouping together similar plans.

Generally if you are, or, if you have ever been, covered under more than one qualified defined benefit plan maintained by the State of CT, the sum of your annual benefits from all such plans may not exceed

the maximum permissible amount under Section 415. For example, if you were eligible to receive a benefit from both SERS and TRS the two would have to be combined to determine if the Section 415 limit is being exceeded.

Post retirement income from ARP, the Section 403(b) Plan and the 457 Plan is not included with the SERS annual benefit with regard to Section 415 limit.

**11. Other governmental employers seem to have plans that allow for "replacement" of the annual benefit allowance amount that exceeds the Section 415(b) limit with wages. Does anything similar currently exist for State employees?**

You are referring to what "qualified excess benefit arrangements" (QEBA). In broad brush terms, these types of plans allow for "replacement" of the annual benefit allowance amount that exceeds the Section 415(b) limit with wages. At this time, the State of Connecticut does not offer any such arrangement. The Office of the State Comptroller is currently reviewing the issue of creating such arrangements that would prove both beneficial to employees whose benefits exceed the Section 415(b) benefit limit and be cost-neutral to the State. If established, these arrangements will be separate from the SERS retirement fund and will be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limit established by section 415.

**III. CONCLUSION**

Any questions you have concerning the information provided herein may be addressed to Colin Newman, Assistant Division Director, or Helen Kemp, Division Counsel and Assistant Division Director, at 860-702-3482 or 860-702-3534 respectively; individual employees who feel that they may be affected by these limits may contact the Retirement Counseling Unit at 860-702-3490 for further information.

Very truly yours,

STATE EMPLOYEES RETIREMENT COMMISSION  
KEVIN LEMBO, SECRETARY EX OFFICIO

BY:

Jeanne A. Kopek, Acting Director  
Retirement Services Division

JAK/HK

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