

EMPLOYER Notice

Ohio Public Employees Retirement System • 277 East Town Street • Columbus, Ohio 43215

Note:

By implementing the staggered submission schedule shown here, OPERS can ensure all employer resolutions are reviewed and compliant by the due date of January 1, 2009.

IRS Ruling specifies pick-up plan documentation requirement

Who should read this notice

Finance directors, human resources directors, and other individuals who handle retirement contribution reporting for any public employer offering a pick-up plan.

Situation Overview

Recently, the Internal Revenue Service (IRS) issued a ruling (Revenue Ruling 2006-43) that requires employers to provide specific written documentation about pick-up plans, if offered.

The IRS ruling requires:

- The pick-up plan is established pursuant to a formal action by a person authorized to act on behalf of the employer. In most cases, decision by the employer's board will satisfy this requirement.
- That the action to adopt a pick-up plan be evidenced by a written document. This will most commonly be a board resolution.
- The document must explicitly state the *future* contributions following the implementation date of the pick-up plan. The plan cannot contain language that retroactively impacts contributions.
- The document must state that the picked-up contributions are not included as federally taxable wages.

As a result of this ruling, all employers that offer a pick-up plan must send their current, board of directors-approved, pick-up resolution document to OPERS for review of compliance with the IRS guidelines.

The process

The process for review is as follows:

- In conjunction with the schedule noted below, OPERS will be conducting a full audit of pick-up contribution resolutions.
- If any plan *is not* in compliance, OPERS will notify the appropriate employer entity to ensure the audit findings are known.
- Employers not in compliance will receive a brochure that outlines exact procedures to become compliant and includes a draft resolution for use.
- Any employer that wants to review the procedures prior to submitting their pick-up resolution may do so by viewing the information on the OPERS Web site under *Forms and Publications* in the *Employer* section. Additionally, detailed information is available in Section 4 of the *Employer Manual*.



1-888-400-0965
www.opers.org

More information on back

Using this process, all documents submitted by affected employer entities will be reviewed by the IRS ruling due date of January 1, 2009.

OPERS will also be auditing for reference to contribution rates in the pick-up resolutions. If your plan states specific contribution rates, the stated rates must be those currently in effect.

What you need to do

If you offer a pick-up plan, you must:

- Review your records to make sure your documents are worded to be compliant with the guidelines listed above.
- If your current resolution is not compliant, your board of directors/trustees must draft and pass a new resolution that complies with the guidelines.
- All employers must submit their compliant resolution document to OPERS for review by the following schedule:

<u>Employer Type</u>	<u>Resolution due by</u>
Townships	August 1, 2007
Villages	October 1, 2007
Libraries, universities, hospitals, Transit authorities, housing authorities	February 1, 2008
Cities and counties	March 1, 2008
All others	May 1, 2008

Why this is important

OPERS is required to ensure all employer pick-up plans are compliant with this ruling. With your help, we can ensure all employers' pick-up plans have been reviewed and revised (where necessary) by the Internal Revenue Service's due date of January 1, 2009.

Who to contact for more information

After you review this *Employer Notice*, contact your Employer Outreach representative with questions at 1-888-400-0965 or via the Internet at employeroutreach@opers.org.

This Employer Notice is written in plain language for use by public employers who are subject to coverage under the Ohio Public Employees Retirement System. It is not intended as a substitute for the federal or state law, namely the Ohio Revised Code, the Ohio Administrative Code, or the Internal Revenue Code, nor will its interpretation prevail should a conflict arise between it and the Ohio Revised Code, Ohio Administrative Code, or Internal Revenue Code. Rules governing the retirement system are subject to change periodically either by statute of the Ohio General Assembly, regulation of the Ohio Public Employees Retirement Board, or regulation of the Internal Revenue Code. If you have questions about this material, please contact our office or seek legal advice from your attorney.



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