

ARTICLE 4. RETIREE FLEXIBLE SPENDING PROGRAM

Rule 1. Definitions

31 IAC 4-1-1 "Eligible retiree" defined

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 1. As used in this article, "eligible retiree" means an individual who:

- (1) has at least ten (10) years of creditable service with a state agency;
- (2) retires after June 30, 2000; and

(3) has accrued but unused and uncompensated sick, vacation, or personal leave on the employee's retirement date.

(State Personnel Department; 31 IAC 4-1-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)

31 IAC 4-1-2 "Retire" defined

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 2. As used in this article, "retire" means terminate state employment at a time when the eligible retiree is entitled to begin receiving pension benefits from a public pension plan as a consequence of the retiree's state service. *(State Personnel Department; 31 IAC 4-1-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

31 IAC 4-1-3 "State agency" defined

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 3. As used in this article, "state agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include:

- (1) a state educational institution (as defined in IC 20-12-0.5-1 *[IC 20-12 was repealed by P.L.2-2007, SECTION 390, effective July 1, 2007.]*);
- (2) a state elected official's office; and
- (3) the legislative and judicial branches of state government.

(State Personnel Department; 31 IAC 4-1-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)

Rule 2. Applicability

31 IAC 4-2-1 Applicability

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 1. (a) This article applies to an eligible retiree who retired from a state agency that:

- (1) participates in the taxsaver cafeteria benefits plan, which is administered by the state personnel department; and
- (2) offers the medical insurance plans procured by the state personnel department.

(b) A state agency that does not offer the taxsaver cafeteria benefits plan and the state personnel department's medical insurance offerings must amend the plan documents that establish its benefit plan to implement the provisions of IC 5-10-12. *(State Personnel Department; 31 IAC 4-2-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

Rule 3. Deposits (Voided)

(Voided by P.L.229-2011, SECTION 284, effective July 1, 2011.)

Rule 4. Leave Valuation

31 IAC 4-4-1 Leave valuation

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 1. Subject to section 2 of this rule, for the purpose of the retiree flexible spending program, the value of accrued but unused and uncompensated sick, vacation, or personal leave is determined as follows:

STEP ONE: Divide the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the retirement date, by seventy-five (75).

STEP TWO: Multiply the quotient determined in STEP ONE by the number of hours of sick, vacation, and personal leave that the retiree had accrued but which were unused and uncompensated at the time of separation.

STEP THREE: Multiply the product of STEP TWO by the following:

(A) Twenty percent (20%), for a retiree with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service.

(B) Thirty-five percent (35%), for a retiree with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service.

(C) Fifty percent (50%), for a retiree with at least twenty (20) years of creditable service.

(State Personnel Department; 31 IAC 4-4-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)

31 IAC 4-4-2 Maximum amount

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 2. In no event is the eligible retiree entitled to more than an aggregate of five thousand dollars (\$5,000) under this retiree flexible spending program. *(State Personnel Department; 31 IAC 4-4-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

Rule 5. Election of Benefits (Voided)

(Voided by P.L.229-2011, SECTION 284, effective July 1, 2011.)

Rule 6. Benefit Termination (Voided)

(Voided by P.L.229-2011, SECTION 284, effective July 1, 2011.)

Rule 7. Limitations

31 IAC 4-7-1 Limitations

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 1. (a) This rule is not intended to create any additional rights to compensation for accrued but unused vacation, sick, or personal leave beyond those rights expressly granted in this article. Except as otherwise provided in this article, a state employee is not entitled to compensation at separation for unused sick or personal leave and payment for accrued but unused vacation continues to be limited to two hundred twenty-five (225) hours in accordance with 31 IAC 1-9-3(f) or 31 IAC 2-11-3(f).

(b) Except as otherwise provided in 31 IAC 4-8, the retired employee's elections, with respect to flexible spending account dollars, are irrevocable. Money the employee elects to allocate to the employee's early retiree medical insurance premiums, dependent care assistance account, or medical reimbursement account that is not expended for the designated purpose within the plan year is forfeited by the retiree to the state. *(State Personnel Department; 31 IAC 4-7-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul*

1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)

Rule 8. Deceased Employees

31 IAC 4-8-1 Death before retirement

Authority: IC 4-15-2.2-19; IC 5-10-12-4

Affected: IC 4-15-2.2-39; IC 5-10-12

Sec. 1. If an employee dies while employed by a state agency:

(1) the beneficiary designated by the employee under the state's group term life insurance policy; or

(2) if the employee does not have a beneficiary designated under the state's group term life insurance policy, then the employee's estate;

shall be paid an amount that would have been deposited under this article if the employee had retired effective the day the employee died. *(State Personnel Department; 31 IAC 4-8-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

31 IAC 4-8-2 Death after retirement but before plan year (Voided)

Sec. 2. *(Voided by P.L.229-2011, SECTION 284, effective July 1, 2011.)*

31 IAC 4-8-3 Death during plan year (Voided)

Sec. 3. *(Voided by P.L.229-2011, SECTION 284, effective July 1, 2011.)*

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