

## ARTICLE 10. ROLLOVERS AND TRUSTEE-TO-TRUSTEE TRANSFERS

### Rule 1. Rollovers and Trustee-to-Trustee Transfers

#### 35 IAC 10-1-1 Definitions

Authority: IC 2-3.5-3-4; IC 5-10.3-3-8; IC 5-10.3-11-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5; IC 5-10-5.5; IC 5-10.3; IC 33-39-7; IC 36-8

Sec. 1. (a) The definitions in this section apply throughout this article.

(b) "Board of trustees" means the board of trustees of the public employees' retirement fund.

(c) "Code" means the Internal Revenue Code of 1986, 26 U.S.C. 1 et seq., and all amendments related thereto.

(d) "Direct rollover" means a payment from an eligible retirement plan specified by the member to the fund.

(e) "EGTRRA" means the Economic Growth and Tax Relief Reconciliation Act of 2001, P.L.107-16, and all applicable regulations and amendments related thereto.

(f) "Eligible retirement plan" means:

(1) an individual retirement account described in Section 408(a) of the Code;

(2) an individual retirement annuity described in Section 408(b) of the Code;

(3) an annuity plan described in Section 403(a) of the Code;

(4) a qualified trust described in Section 401(a) of the Code;

(5) an eligible deferred compensation plan under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (so long as the plan agrees to separately account for amounts rolled into the plan); or

(6) an annuity contract under Section 403(b) of the Code;

that accepts the distributee's eligible rollover distribution.

(g) "Eligible rollover distribution" means any distribution of all or any taxable portion of the benefit to the credit of a member or a member's spouse, except that an eligible rollover distribution does not include the following:

(1) Any distribution that is one (1) of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member and the member's designated beneficiary.

(2) Any distribution that is one (1) of a series of substantially equal periodic payments for a specified period of ten (10) years or more.

(3) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.

(4) The portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an eligible rollover distribution for purposes of a rollover to either:

(A) a traditional individual retirement account or individual retirement annuity; or

(B) a qualified trust that is part of a plan that is a defined contribution plan that will separately account for the taxable and nontaxable portions of the distribution, in a direct trustee-to-trustee transfer.

(5) Any distribution that is made upon hardship by the member.

(h) "Fund" or "funds" means the legislators' retirement system, public employees' retirement fund, state excise police, gaming agent, gaming control officer and conservation enforcement officers' retirement plan, judges' retirement fund, prosecuting attorneys retirement fund, and the 1977 fund.

(i) "IRS" means the Internal Revenue Service. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 10-1-1; filed Jul 14, 2004, 9:35 a.m.: 27 IR 3870; adopted Nov 9, 2007: 20071205-IR-035070818ONA*)

#### 35 IAC 10-1-2 Rollover for purchase of service

Authority: IC 2-3.5-3-4; IC 5-10.3-3-8; IC 5-10.3-11-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5; IC 5-10-5.5; IC 5-10.3; IC 33-39-7; IC 36-8

Sec. 2. The fund may accept any portion of an eligible rollover distribution in payment of all or a portion of a member's purchase of service credit authorized under the fund's statutes. The fund may accept an eligible rollover distribution paid directly to the system in a direct rollover. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 10-1-2; filed Jul 14, 2004, 9:35 a.m.: 27 IR 3870; adopted Nov 9, 2007: 20071205-IR-035070818ONA*)

**35 IAC 10-1-3 Trustee-to-trustee transfer**

Authority: IC 2-3.5-3-4; IC 5-10.3-3-8; IC 5-10.3-11-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5; IC 5-10-5.5; IC 5-10.3; IC 33-39-7; IC 36-8

Sec. 3. The fund may accept a direct trustee-to-trustee transfer from a deferred compensation plan under Code Section 457(b) or a tax-sheltered annuity under Code Section 403(b) for the purchase of permissive service credit, as defined in Code Section 415(n)(3)(A), or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3). (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 10-1-3; filed Jul 14, 2004, 9:35 a.m.; 27 IR 3870; adopted Nov 9, 2007: 20071205-IR-035070818ONA*)

**35 IAC 10-1-4 Direct rollovers to Roth IRAs**

Authority: IC 2-3.5-3-4; IC 5-10.3-3-8; IC 5-10.3-11-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5; IC 5-10-5.5; IC 5-10.3; IC 33-39-7; IC 36-8

Sec. 4. For distributions made after December 31, 2007, the fund shall allow a member to elect a direct rollover of eligible rollover distributions to a Roth IRA, subject to the rules that apply to rollovers from a traditional IRA to a Roth IRA. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 10-1-4; adopted Nov 9, 2007: 20071205-IR-035070818ONA*)

**35 IAC 10-1-5 Rollovers by nonspouse beneficiaries**

Authority: IC 2-3.5-3-4; IC 5-10.3-3-8; IC 5-10.3-11-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5; IC 5-10-5.5; IC 5-10.3; IC 33-39-7; IC 36-8

Sec. 5. For distributions made after December 31, 2007, the fund shall provide a nonspouse beneficiary who is eligible to receive a distribution from the fund with the option to roll over the eligible rollover distribution amounts via a trustee-to-trustee transfer to an individual retirement account under Code Section 408(a) or individual annuity under Code Section 408(b), which will be treated as an inherited IRA. (*Board of Trustees of the Public Employees' Retirement Fund; 35 IAC 10-1-5; adopted Nov 9, 2007: 20071205-IR-035070818ONA*)

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