

ARTICLE 18. ROLLOVERS, SERVICE PURCHASES, AND ENHANCED RETIREMENT SAVINGS OPPORTUNITIES

Rule 1. General Provisions

35 IAC 18-1-1 Definitions

Authority: IC 2-3.5-3-4; IC 5-10-5.5-3; IC 5-10.5-4-2; IC 33-38-6-23; IC 33-39-7-11; IC 36-8-8-5

Affected: IC 2-3.5-5; IC 5-10-5.5; IC 5-10.2-3-10; IC 5-10.3; IC 5-10.4; IC 5-10.5; IC 33-38-6; IC 33-38-7; IC 33-38-8; IC 36-8-8

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

(b) "Board of trustees" means the board of trustees of the Indiana public retirement system (INPRS).

(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 a fund.

(e) "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.

(f) "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 which is part of a plan which 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.

(g) "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, 1977 police officers' and firefighters' pension and disability fund, the prosecuting attorneys' retirement fund, the teachers' retirement fund, and funds funded through the pension relief fund. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 18-1-1; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3880; readopted Jul 8, 2009: 20090715-IR-550090499ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 6-1-1) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 18-1-1) by P.L.23-2011, SECTION 22, effective July 1, 2011.

35 IAC 18-1-2 Rollover for purchase of service

Authority: IC 5-10.5-4-2

Affected: IC 2-3.5-5-12; IC 5-10-5.5-7.5; IC 5-10.2-3-10; IC 5-10.3; IC 5-10.4; IC 5-10.5; IC 33-38-6; IC 33-38-7; IC 33-38-8; IC 36-8-8

Sec. 2. A 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. A fund may accept an eligible rollover distribution paid directly to the system in a direct rollover and which is authorized under the fund's statutes. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 18-1-2; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3881; readopted Jul 8, 2009: 20090715-IR-550090499ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 6-1-2) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 18-1-2) by P.L.23-2011, SECTION 22, effective July 1, 2011.

35 IAC 18-1-3 Trustee-to-trustee transfer

Authority: IC 5-10.5-4-2

Affected: IC 10-5.5-7.5; IC 5-10.2-3-10; IC 5-10.3; IC 5-10.4; IC 5-10.5; IC 33-38-7; IC 33-38-8; IC 36-8-8

Sec. 3. A 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) and which is authorized under the fund's statutes, or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3) and which is authorized under the fund's statutes. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 18-1-3; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3881; readopted Jul 8, 2009: 20090715-IR-550090499ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 6-1-3) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 18-1-3) by P.L.23-2011, SECTION 22, effective July 1, 2011.

35 IAC 18-1-4 Trustee-to-trustee transfer

Authority: IC 5-10.5-4-2

Affected: IC 5-10.5-7.5; IC 5-10.2-3-1.2; IC 5-10.2-3-10; IC 5-10.3; IC 5-10.4; IC 5-10.5

Sec. 4. (a) For purposes of accepting a rollover for the reason of purchasing service under IC 5-10.2-3-1.2(c)(4) or to be deposited into a rollover account described in IC 5-10.2-3-10, a member who is otherwise qualified to purchase service credit or rollover money into a rollover account must do so while the member is in active service.

(b) A retiring member, who was under contract or in an employment relationship to earn one (1) year of service credit during the year in which the application to purchase service credit is made, who makes application for the purchase of service credit contemporaneously with the member's application for retirement not more than thirty (30) days following the cessation of covered service is deemed to have met the active service requirement. The funds need not have been received by INPRS within the thirty (30) day time period to meet the requirements of this rule. For example, Kelly ended service as a teacher on May 15. On May 20, Kelly attends a TRF retirement counseling session and learns that she can apply for a trustee to trustee rollover to purchase additional service credit from her 403(b) account sponsored by her school corporation. Kelly may complete the rollover to purchase additional service so long as the application for the rollover is done within thirty (30) days of May 15 and at the same time she files for retirement.

(c) A retiring member who was in a covered employment position who makes application to rollover funds into a rollover account not more than thirty (30) days following covered service and contemporaneously with the member's application for retirement is deemed to have met the active service requirement. The funds need not have been received by INPRS within the thirty (30) day time period to meet the requirements of this rule. For example: Floyd is a PERF covered snow plow driver for a municipality who ends employment on January 1. Floyd may apply to roll his 457 deferred compensation account into a PERF rollover account so long as he applies to do this within thirty (30) days of employment termination and he makes his rollover account retirement option selections on his retirement application.

(d) A member who makes application for retirement, is no longer in a PERF or TRF covered position but did not separate from employment with the member's employer formerly sponsoring the TRF or PERF participation, who makes application to rollover funds into a rollover account not more than thirty (30) days following cessation of such employment and contemporaneously with the member's application for retirement is deemed to have met the active service requirement. The funds

need not have been received by PERF within the thirty (30) day time period to meet the requirements of this rule. Sally worked for a state university in a PERF covered position for fifteen (15) years. Sally was promoted into a non-PERF covered position, continued to work for the university for another ten (10) years, and contributed to a 403(b) plan. Sally, now sixty-five (65) years of age, terminates her employment with the university on August 1. Sally may rollover her 403(b) funds into a PERF rollover account so long as she applies to do this within thirty (30) days of employment termination and she makes her rollover account retirement option selections at the time she files for retirement. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 18-1-4; adopted Jun 20, 2014; 20140820-IR-035140335ONA)*

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