

# ARTICLE 15. INDIANA STATE TEACHERS' RETIREMENT FUND MODEL PLAN AMENDMENT

## Rule 1. Compliance with Code Section 401(a)(31) for eligible rollover distributions

### 35 IAC 15-1-1 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 2-3.5-3-5; IC 5-10-5.5; IC 5-10.2-2-14; IC 5-10.2-3-10; IC 5-10.3; IC 5-10.4-4-12; IC 5-10.5; IC 33-38-6-24; IC 33-39-7-24; IC 36-8-8-17

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) "Direct rollover" means a payment by a fund to the eligible retirement plan specified by the distributee.

(d) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse. Effective January 1, 2009, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity (or, effective January 1, 2008, a Roth IRA) established for the purpose of receiving the distribution, and the account or annuity must be treated as an inherited individual retirement account or annuity.

(e) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution from a fund:

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

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

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

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

(5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;

(6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system; or

(7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(f) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee [sic] from a fund, 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 (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more;

(2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;

(3) the portion of any distribution that is not includible in gross income; and

(4) any other distribution that is reasonably expected to total less than two hundred dollars (\$200) during the year.

(5) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:

(A) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

(B) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

(C) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

(6) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse or to a spouse.

(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 15-1-1; adopted Dec 16, 2009: 20100106-IR-550090990ONA; adopted Apr 29, 2011: 20110511-IR-550110274ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 3-3-1) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 15-1-1) by P.L.23-2011, SECTION 22, effective July 1, 2011.

**35 IAC 15-1-2 Compliance with Code Section 401(a)(31) for eligible rollover distributions**

Authority: IC 5-10.5-4-2

Affected: IC 5-10.2-2-14; IC 5-10.2-3-10; IC 5-10.5

Sec. 2. For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution from a fund paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 15-1-3; adopted Apr 26, 2013: 20130508-IR-035130167ONA*)

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