



Office of the New York State Comptroller
New York State and Local Retirement System
Employees' Retirement System
Police and Fire Retirement System
110 State Street, Albany, New York 12244-0001

Phone: 1-866-805-0990
Fax: 518-474-8357
Email: RTEmpSer@osc.state.ny.us
Web: www.osc.state.ny.us/retire

Mary Ellen Kutey, Director, Member & Employer Services Bureau

March 28, 2012

Dear Employer,

On March 16, 2012, Chapter 18 was signed into law creating Tier 6. This legislation makes numerous changes to both the Employees' Retirement System (ERS) and the Police and Fire Retirement System (PFRS). This letter is intended to provide you with guidance as you register and begin reporting Tier 6 members.

Registering Tier 6 Members

New members who join either ERS or PFRS on or after **April 1, 2012** will be in Tier 6. In addition to the information you normally provide when registering a new member, you must now provide the employee's annual wage. Tier 6 established varying contribution rates based on annual compensation. We will need this information to determine the appropriate contribution rate for your Tier 6 members. We are currently revising the membership applications and fax registration form to include formulas to help you determine the annual wage to report.

Tier 6 Registration Numbers

- ERS Tier 6 registration numbers will begin with 6xxxxxx-x.
- PFRS Tier 6 registration numbers will begin with 0B6xxxx-x.

Member Contributions

From April 1, 2012 through March 31, 2013, Tier 6 members will contribute 3 percent of their gross salary, except for Uniformed Court Officers and Peace Officers employed by the Unified Court System (UCPO) who will contribute 4 percent. Beginning April 1, 2013, a Tier 6 member's contribution rate will depend on his or her annual wage, including UCPOs.

Annual Wage	Contribution Rate
\$45,000 or less	3%
\$45,000.01 to \$55,000	3.5%
\$55,000.01 to \$75,000	4.5%
\$75,000.01 to \$100,000	5.75%
More than \$100,000	6%

We will review your employees' wage annually to ensure your employees' contribution rates are correct and advise you of any changes.

Tier 6 members contribute for their entire careers with some exceptions:

- Members in plans that limit the amount of service credit a member can accrue will contribute only until they reach that limit.
- PFRS members covered by a collective bargaining agreement offering a non-contributory plan that was in effect on January 9, 2010 and is still in effect on the date of membership may not contribute.

New Employees Who Are Already Members

In the future, if you hire an employee who is already a Tier 6 member, you must complete and submit a new membership application. The application provides us with the employee's annual wage — information necessary to determine the correct contribution rate for the employee. You can submit the membership information to us by phone (518-474-3081) or fax (518-486-4382). Regardless of which you choose, please mail the hard copy applications to us so we can complete our processing.

If you do not submit a new membership application and subsequently report the member on your monthly report, we will be unable to process the transaction until we receive a new membership application and the annual wage to determine the contribution rate. This will result in mandatory arrears for the member.

If the employee is a member of another tier, you must submit a new membership application. The application will provide us with updated employment and member information.

Pensionable Salary Limit

A Tier 6 member's pensionable salary may not exceed the salary of the Governor of the State of New York, which is set by law and is currently \$179,000. If the governor's salary changes, the pensionable salary limit would change accordingly.

If a member reaches the pensionable salary limit, you should not deduct contributions from any salary paid in excess of the limit.

Since members will continue to earn service credit for time worked after reaching the limit, you must continue to report all salary paid and days worked, in addition to any loan or arrears payments. Any salary you report that exceeds this limit will not be included in your salary base for billing purposes or in a final average salary calculation.

Overtime Limits

ERS

Tier 6 includes a cap on the amount of overtime pay reportable during the State's fiscal year (April 1 through March 31). The cap for fiscal year 2013 (April 1, 2012 through March 31, 2013) is \$15,000. The overtime cap will increase each fiscal year. The increase will be based on the Consumer Price Index on December 31 of the previous year.

You should report overtime payments up to the fiscal year cap. Once an ERS member's overtime earnings have reached the cap, you should no longer report any additional overtime payments for that member for the remainder of that fiscal year. In addition, you should not collect contributions on any overtime payments above the cap.

Only overtime payments above the cap should not be reported. You must still report non-overtime salary, days worked and any loan or arrears payments for Tier 6 ERS members who reach the overtime cap. For example, an ERS member who has reached the overtime cap earns \$700 in a

monthly reporting period —\$200 in overtime plus \$500 in non-overtime salary. You should report \$500 and you should take contributions only on the \$500.

If you report overtime payments above the overtime cap, you will be required to do adjustments and request a refund of member contributions. If you do not make these adjustments, you will be billed on the additional wages.

PFRS

Overtime pay in excess of 15 percent of a member's regular annual wages is not reportable and contributions should not be collected on any overtime payments above the 15 percent cap. You must still report non-overtime salary, days worked and any loan or arrears payments for Tier 6 PFRS members who exceed the cap.

If you report overtime payments above the 15 percent, you will be required to do adjustments and request a refund of member contributions. If you do not make these adjustments, you will be billed on the additional wages.

Definition of Overtime for ERS and PFRS Members

In order for compensation to be classified as "overtime" it must meet both of the following requirements (See Retirement and Social Security Law Sections 501(24), 601(1) and 1203):

- Compensation must have been paid under a law or policy under which employees are **paid at a rate greater than their standard rate**, and
- Compensation must have been **paid for additional hours worked beyond those required**.

For example:

1. Overtime paid at time and a half, double time, or greater;
2. Recall overtime;
3. Holiday premium pay for holidays worked;
4. Pre-shift briefing pay.

Payments **not** considered overtime:

1. Stand-by pay;
2. Inconvenience pay;
3. Location pay;
4. Straight pay for holidays.

For the most up-to-date information about Tier 6 and other retirement-related topics, please visit our website at www.osc.state.ny.us/retire. You can also download forms and publications you or your employees may need.

If you have questions about this letter, please contact our Call Center toll-free at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.

Sincerely,

Mary Ellen Kutey
Director,
Member & Employer Services