

Received Date

Application for Refund of Excess Contributions

RS 5195

(Rev. 06/21)

Please type or print clearly in blue or black ink

NYSLRS ID

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Social Security Number [last 4 digits]

XXX-XX-

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Retirement System [check one]

Employees' Retirement System (ERS)
 Police and Fire' Retirement System (PFRS)

Before filing this application please read the enclosed Tax information.

To the Comptroller of the State of New York:

I apply for the refund of any excess contributions to my credit in the Annuity Savings Fund. I understand that such refund will result in a reduction in the annuity to which I would otherwise be entitled at the time of retirement. I also understand that all or part of this refund may constitute income for Federal tax purposes for the year in which paid, and that if so, the Retirement System will report the amount to the Internal Revenue Service. I understand that my refund will be taxed in accordance with the Internal Revenue Service (IRS) rules for payments from a qualified plan that begin before I retire from the System ("before the annuity start date") per IRS Publication 575 (see "Partly Taxable Payments" in that publication), which means that I will be taxed now on a larger portion of my refund than just the interest. A portion of my after-tax contributions will be returned later as a nontaxable part of my future pension payments. I also understand that voluntary contributions may be withdrawn only once in any twelve month period. NOTE: If you are now making voluntary contributions and wish to discontinue making them, a separate form (RS 5378) must be filed.

This may be obtained from your payroll office.

Information About You		
Name: (First, Middle Initial, Last)	Date of Birth:	Employer:
Address: (Including Street, City, State and Zip Code)	Home Telephone Number: (Including area code)	
	Work Telephone Number: (Including area code)	

CHECK ONE BOX ONLY:

I wish to receive the FULL amount of my excess contributions.

I wish to receive a PARTIAL refund of _____ (Indicate percent or specific dollar amount) of my excess contributions.

I wish to receive all my excess contributions not reportable for income tax purposes. (Contributions made prior to January 1, 1987)

I wish to apply my excess contributions to pay off my service purchase and/or loan(s) balance. (Any additional excess contributions will **remain** in my account).

I wish to apply my excess contributions to pay off my service purchase and/or loan(s) balance and **receive** the remaining excess contributions.

Domestic Relations Order: (DRO)

Will a current or pending Domestic Relations Order (DRO) or other legal document restrict any of your NYSLRS payment?

Yes No

The federal Internal Revenue Code contains a provision for a penalty tax of 10% on taxable distributions from a qualified plan prior to the age of 59 ½ that are not rolled over into another qualified plan or an IRA. The 10% penalty tax will not apply to you if you are between the ages of 55 and 59 1/2, and are applying for retirement, and if you take your refund at the time of retirement. In order for us to properly process your application, please check one of the boxes below.

I wish to receive my refund of excess contributions now. I am not applying for retirement at this time.

I wish to receive my refund of excess contributions at the time of my retirement. My effective date of retirement is _____.

(mm/dd/yyyy)

PLEASE NOTE: THIS FORM MUST BE RECEIVED BY THE RETIREMENT SYSTEM PRIOR TO YOUR EFFECTIVE DATE OF RETIREMENT.

IMPORTANT – You must complete other side



U.S. Citizen Status:

For United States Tax Withholding and Reporting Purposes: (please check one),

I am currently a: US Citizen Resident Alien Non-resident Alien

If you are a U.S. Citizen or Resident Alien:

This form will be used as a substitute IRS Form W-9. Under penalty or perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am writing for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from back withholdings; or (b) I have not been notified by the Internal Revenue Service (IRS) I am subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the IRS has notified me I am no longer subject to backup withholding (**You must cross out item 2 if you have been notified by the IRS you are currently subject to backup withholding because you failed to report all interest or dividends on your tax return**).
3. I am a U.S. Citizen/Resident Alien (defined in the instructions); and
4. FATCA code(s) are not applicable due to NYSLRS exemption from FATCA reporting.

IRS Forms W-9 instructions are available on the website, www.irs.gov/pub/irs-pdf/fw9.pdf.

If you are a Non-resident Alien:

You must complete and submit IRS Form W-8BEN along with your application. IRS Form W-8BEN and instructions are available at the IRS website, www.irs.gov/pub/irs-pdf/fw8ben.pdf and www.irs.gov/pub/irs-pdf/iw8ben.pdf. Applications received without Form W-8BEN will BE SUBJECT TO 30% WITHHOLDING.

Payment Election:

TAXABLE FUNDS (Check the appropriate payment box)

NO ROLLOVER:
I elect to have the **taxable** amount paid directly to me. I have read and understand the attached Tax Notice and understand that federal income tax will be withheld as required by law.

ROLLOVER: (Minimum transfer of \$500.00 if rolling to more than one institution.)
I elect to have the **taxable** amount of the payment transferred directly to an IRA, Roth IRA or other eligible retirement plan(s) as follows: Any remainder should be issued directly to me, minus any applicable federal withholdings.

(The enclosed trustee transfer form must be completed by both you and your trustee.)

Institution: _____ Acct. #: _____ \$ Amt. and/or %: _____

Institution: _____ Acct. #: _____ \$ Amt. and/or %: _____

Institution: _____ Acct. #: _____ \$ Amt. and/or %: _____

NON- TAXABLE FUNDS

- Non-taxable amounts will be paid directly to you, **or**
- If you wish to do a direct rollover of these funds, please contact our office for the appropriate application.

Note: All taxable funds must be rolled over if you want to rollover non-taxable funds.

30 Day Review Waiver:

Because you are either receiving or rolling over money to a financial institution, you are entitled by law to a 30 day review period prior to NYSLRS processing the payment, which means this payment will not be processed until 30 days from the receipt of this application.

If you do not waive the 30 day review, you are acknowledging that you will receive your check greater than 30 days from the receipt of this application.

I understand that under applicable law and regulations, I have the right to review this notice for 30 days. By checking this box I am choosing to waive such right.

“The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.”

I certify that the information on my application is true and complete to the best of my knowledge. I further certify that I am aware that any false statement I knowingly make or permit to be made on this or any record of the Retirement System constitutes a crime punishable by potential incarceration and other sanctions.

Signature: _____ Date: _____

Social Security Disclosure Requirement

In accordance with the Federal Privacy Act of 1974, you are hereby advised that disclosure of your Social Security account number is mandatory pursuant to Sections 11, 34, 311 and 334 of the Retirement and Social Security Law. The number will be used in identifying retirement records and in the administration of the Retirement System.

Personal Privacy Protection Law

The Retirement System is required by law to maintain records to determine eligibility for and calculate benefits. Failure to provide information may interfere with the timely payment of benefits. The System may be required to provide certain information to participating employers. The official responsible for record maintenance is the Director of Member and Employer Services, NYS and Local Retirement System, Albany, NY 12244; call toll-free at 1-866-805-0990 or 518-474-7736 in the Albany Area.

For Payments Not From a Designated Roth Account

YOUR ROLLOVER OPTIONS

You are receiving this notice because all or a portion of the withdrawal/excess payment you are receiving from the New York State and Local Retirement System (System), a governmental defined benefit plan, is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

Rules that apply to most withdrawal/excess payments from the System are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

You will be taxed on a withdrawal/excess payment from the System if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception to the 10% additional income tax applies).

Where may I roll over the withdrawal/excess payment?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

How do I do a rollover of the withdrawal/excess payment?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day (indirect) rollover.

If you do a direct rollover, the System will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do a 60-day (indirect) rollover, the System will make the payment directly to you. You may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the System is required to withhold 20% of the payment for federal income taxes (up to the amount of cash received). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

How much of my withdrawal/excess payment may I roll over?

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. The System will tell you what portion of the payment is eligible for rollover.

If I don't do a rollover of my withdrawal/excess payment, will I have to pay the 10% additional income tax on early distributions?

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for a payment from the System (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to a withdrawal/excess payment from the System if:

- Payment is made after you separate from service if you will be at least age 55 in the year of the separation
- Payment is made from a governmental defined benefit pension plan after you separate from service if you are a qualified public safety employee* and you are at least age 50 in the year of the separation
- Payment is made under a domestic relations order (DRO)
- Payment is made under the circumstances in the following list (except where the exception is specific to an IRA)

*A qualified public safety employee is any employee of a State (or political subdivision of a State) who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of the State (or political subdivision of the State).

If I do a rollover to an IRA of my withdrawal/excess payment, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless one of the exceptions listed below applies:

- Payments made at least annually in equal or close to equal amounts over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary); for an IRA, without regard to whether you have had a separation from service.
- Payments made due to disability
- Payments after your death
- Corrective distributions of contributions
- Payments made directly to the government to satisfy a federal tax levy
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days
- There are additional exceptions for (1) payments from an IRA for qualified higher education expenses, (2) payments from an IRA up to \$10,000 used in a qualified first-time home purchase, and (3) payments from an IRA for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

There are a few differences in the exceptions that apply for early distributions from the System and exceptions that apply for payments from an IRA. For payments from an IRA

- There is no exception for payments after separation from service that are made after age 55 (or age 50 for qualified public safety employees).
- The exception for domestic relations orders (DROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).

Will I owe State income taxes?

This notice does not describe any State or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If my withdrawal/excess payment includes after-tax contributions

After-tax contributions included in a withdrawal payment are not taxed. Voluntary annuity savings refunds (excess contributions) will be taxed based on the percentage of your after-tax contributions in relation to the actuarial value of your total benefit. Special rules apply when you do a rollover, as described below.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day (indirect) rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the System and at the same time the rest is paid to you, the portion directly rolled over consists first of the amounts that would be taxable if not rolled over. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions. In this case, if you directly roll over \$10,000 to an IRA that is not a Roth IRA, no amount is taxable because the \$2,000 amount not directly rolled over is treated as being after-tax contributions. If you do a direct rollover of the entire amount paid from the System to two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the portion rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over \$10,000 to an IRA that is not a Roth IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the System, your withdrawal/excess payment may be offset by the balance due on the loan, typically when your employment ends. The loan offset amount is treated as a distribution to you at the time of the offset and will be taxed (including the 10% additional income tax on early distributions, unless an exception applies) unless you do a 60-day rollover in the amount of the loan offset to an IRA or employer plan.

If you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If you roll over your withdrawal/excess payment to a Roth IRA

If you roll over a withdrawal/excess payment from the System to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. In general, the 10% additional income tax on early distributions will not apply. However, if you take the amount rolled over out of the Roth IRA within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional income tax will apply (unless an exception applies).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

You cannot roll over a distribution to a designated Roth account in another employer's plan.

Payments under a domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the System under a domestic relations order (DRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the DRO will not be subject to the 10% additional income tax on early distributions.

If you are a nonresident alien

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the System is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other special rules

If your payments for the year are less than \$200, the System is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day (indirect) rollover.

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, *Armed Forces' Tax Guide*.

FOR MORE INFORMATION

You may wish to consult with a professional tax advisor, before taking a payment from the System. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*; and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.

Received Date

Application for Direct Trustee to Trustee Transfer Taxable

RS 5500

Please type or print clearly
in blue or black ink

NYSLRS ID

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Social Security Number [last 4 digits]

XXX-XX-

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Retirement System [check one] (Rev. 11/18)

Employees' Retirement System (ERS)

Police and Fire' Retirement System (PFRS)

Please select the type of application you submitted:

Withdrawal Application (RS 5014) Application for Refund of Excess Contributions (RS 5195)

Payment Authorization: (To be completed by benefit recipient)

I, _____ hereby request to the Comptroller of the State of New York as trustee for the New York State and Local Retirement System, a qualified plan under Section 401(a) of the Internal Revenue Code, transfer my payment as specified on my application to my account with _____.

(Trustee Name)

Signature: _____ Date: _____

*** Election for Federal Withholding on Roth IRA:**

If you **do not** want the Retirement System to withhold any Federal income tax from your payment, sign and date this election. I do not want to have Federal income tax withheld from my payment.

Signature: _____ Date: _____

Trustee Information: (The following to be completed by a representative of your financial institution)

_____ has established an account with us;
(Name)

_____ will accept the direct rollover for _____
(Trustee Name) *(Name)*

in the plan identified below.

Taxable Amount:

Account Number: _____

Type of plan (check one)

1. Individual Retirement Account - 408(a) or Individual Retirement Annuity – 408(b)
2. Roth IRA – 408(A)(e) * See Election for Federal Withholding on Roth IRA* box above
3. 403(a) Annuity Plan
4. 403(b) Tax Sheltered Annuity
5. Qualified Defined Benefit or Contribution Plan 401(a) or 401(k)
6. Governmental Deferred Compensation Plan - 457



Please make the check payable to:	
Name: _____	

Mail check to:	
Name: _____	Telephone: (Including area code) _____
Address: (Including Street, City, State and Zip Code) _____	

Name: _____	
Trustee/Custodian Signature: _____	Date: _____
Print Name: _____	

Return this entire document to: New York State and Local Retirement System
110 State Street
Albany, NY 12244-0001

Social Security Disclosure Requirement

In accordance with the Federal Privacy Act of 1974, you are hereby advised that disclosure of your Social Security account number is mandatory pursuant to Sections 11, 34, 311 and 334 of the Retirement and Social Security Law. The number will be used in identifying retirement records and in the administration of the Retirement System.

Personal Privacy Protection Law

The Retirement System is required by law to maintain records to determine eligibility for and calculate benefits. Failure to provide information may interfere with the timely payment of benefits. The System may be required to provide certain information to participating employers. The official responsible for record maintenance is the Director of Member and Employer Services, NYS and Local Retirement System, Albany, NY 12244; call toll-free at 1-866-805-0990 or 518-474-7736 in the Albany Area.