



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

**RECEIPT STAMP**

# Application for Refund of Excess Contributions RS 5195

(Rev. 7/04)

**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 I also understand that voluntary contributions may be withdrawn only once in any twelve month period.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.

<b>CHECK ONE BOX ONLY</b>
<input type="checkbox"/> I wish to receive the FULL amount of my excess contributions.
<input type="checkbox"/> I wish to receive a PARTIAL refund of     % (indicate percentage only) of my excess contributions.
<input type="checkbox"/> I wish to receive \$                   of my excess contributions (specify dollar amount). If this is more than the total of excess contributions, only total excess contributions can be refunded.
<input type="checkbox"/> I wish to receive all of my excess contributions not reportable for income tax purposes. (Contributions made prior to January 1, 1987)
<input type="checkbox"/> I wish to apply my excess contributions to pay off my <div style="display: flex; justify-content: space-around; margin: 5px 0;"> <span><input type="checkbox"/> Loan(s)</span> <span><input type="checkbox"/> Arrears</span> </div> balance. Any additional excess contributions will remain in my account.
<input type="checkbox"/> I wish to apply my excess contributions to pay off my <div style="display: flex; justify-content: space-around; margin: 5px 0;"> <span><input type="checkbox"/> Loan(s)</span> <span><input type="checkbox"/> Arrears</span> </div> balance and receive the remaining excess contributions.

Print Name		
Address (No. & Street)		
City	State	Zip Code + 4
Telephone (Home)	(Business)	
Employer		
Registration Number		
Social Security Number		
Date of Birth		

**Payment Election**

Please indicate your choice of **only one** of the following payment options:

- I have read the information regarding Federal tax withholding and rollovers of the distribution payable to me. I elect to receive the entire distribution rather than rolling over all or part of the taxable portion of such distribution to a qualified plan or individual retirement account. I understand that Federal law requires that twenty percent of the taxable portion of such distribution will be withheld for taxes pursuant to the Internal Revenue Code and applicable regulations. **I further understand that under applicable law and regulations, I have the right to review the notice for 30 days prior to making this election, and hereby waive such right.**
- I have read the information regarding Federal tax withholding and rollovers of the distribution payable to me. I elect to receive the entire distribution rather than rolling over all or part of the taxable portion of such distribution to a qualified plan or individual retirement account. I understand that Federal law requires that twenty percent of the taxable portion of such distribution will be withheld from the payment, pursuant to the Internal Revenue Code and applicable regulations. I further understand that I have the right to review this notice for 30 days prior to the processing of my refund and that during this period no payment will be made.
- I have read the information regarding Federal tax withholding and rollovers of the distribution payable to me. I elect to rollover the taxable portion of such distribution to a qualified plan or individual retirement account. The Direct Trustee-to-Trustee section must be completed by my new Trustee/Custodian.

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 1/2 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 of my retirement.  
My effective date of retirement is \_\_\_\_\_ Mo. / Day / Yr.

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

**You MUST SIGN in ink. This form MUST BE NOTARIZED or it cannot be processed.**

\_\_\_\_\_  
Signature \_\_\_\_\_  
Date

**Acknowledgement To Be Completed by a Notary Public.**

State of \_\_\_\_\_ County of \_\_\_\_\_ ss:  
 on this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC (Please sign and affix stamp)

## SPECIAL TAX NOTICE REGARDING EXCESS REFUNDS FROM THE RETIREMENT SYSTEM

This notice contains important information you will need before you decide how to receive your excess refund from the New York State and Local Retirement Systems.

### SUMMARY

A payment from the Retirement System that is eligible for "rollover" consists of a taxable portion and a non-taxable portion. The taxable portion can be taken in one of two ways. You may have all or any portion of your taxable payment either 1) PAID IN A 'DIRECT ROLLOVER' or 2) PAID TO YOU. A rollover is a payment of the taxable portion of your excess refund to your individual retirement arrangement (IRA) or to another qualified employer plan. This choice will affect the tax you owe.

If you choose a DIRECT ROLLOVER:

- ◆ Your refund will not be taxed in the current year and no income tax will be withheld.
- ◆ Your refund will be made directly to your IRA or, if you choose, to another employer plan that accepts your rollover.
- ◆ Your refund will be taxed later when you take it out of the IRA or the employer plan.

If you choose to have your Retirement System withdrawal PAID TO YOU:

- ◆ You will receive only 80% of the taxable portion of the refund because the Retirement System is required to withhold 20% of the taxable portion of the refund and send it to the IRS as income tax withholding to be credited against your taxes.
- ◆ Your payment will be taxed in the current year unless you roll it over. You may be able to use special tax rules that could reduce the tax you owe. However, if you receive the refund before age 59 1/2, you also may have to pay an additional 10% tax.
- ◆ You can roll over the taxable portion of your refund to your IRA or to another employer plan that accepts your rollover within 60 days of receiving the refund. The amount rolled over will not be taxed until you take it out of the IRA or the other employer plan.
- ◆ If you want to roll over 100% of the taxable portion of the refund to an IRA or another employer plan, you must find other money to replace the 20% that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and is not rolled over.

### MORE INFORMATION

#### 1. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

Payments from the Retirement System may be "eligible rollover distributions." This means that they can be rolled over to an IRA or to another employer plan that accepts rollovers. The Retirement System will tell you what portion of your payment is an eligible rollover distribution. The following types of payments cannot be rolled over:

*Non-taxable payments.* In general only the "taxable portion" of your payment is an eligible rollover distribution. If you have made "after tax" employee contributions to the Retirement System, these contributions will be non-taxable when they are paid to you and they cannot be rolled over. (After-tax employee contributions generally are contributions you made from your own pay that were already taxed.)

#### 2. DIRECT ROLLOVER

You can choose a direct rollover of all or any portion of your payment that is an "eligible rollover distribution" as described above, as long as it equals \$200 or more. In a direct rollover, the eligible rollover distribution is paid directly from the retirement system to an IRA or another employer plan that accepts rollovers. If you choose a direct rollover, you are not taxed on a payment until you later take it out of the IRA or the employer plan.

*Direct Rollover to an IRA.* You can open an IRA to receive the direct rollover. (The term "IRA", as used in this notice, includes individual retirement accounts and individual retirement annuities.) If you choose to have your payment made directly to an IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to an IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish an IRA to receive the payment. However, in choosing an IRA you may wish to consider whether the IRA you choose will allow you to move all or a part of your payment to another IRA at a later date without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements for more information on IRA's (including limits on how often you can roll over between IRAs).

*Direct Rollover to a Plan.* If you are employed by a new employer that has a plan and you want a direct rollover to that plan, ask the administrator of that plan whether it will accept your rollover. If your new employer's plan does not accept a rollover, you can choose a direct rollover to an IRA.

### 3. PAYMENT PAID TO YOU

If you have the payment made to you, it is subject to 20% income tax withholding. The payment is taxed in the year you receive it unless, within 60 days, you roll it over to an IRA or another plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

#### **INCOME TAX WITHHOLDING:**

Mandatory Withholding. If any portion of the payment to you is an eligible rollover distribution of \$200 or more, the Retirement System is required by law to withhold 20% of that amount. This amount is sent to the IRS as income tax withholding. For example, if your eligible rollover distribution is \$10,000, only \$8,000 will be paid to you because the Retirement System must withhold \$2,000 as income tax. However, when you prepare your income tax return for the year, you will report the full \$10,000 as a payment from the Retirement System. You will report the \$2,000 as tax withheld and it will be credited against any income tax you owe for the year.

Sixty-Day Rollover Option. If you have an eligible rollover distribution paid to you, you can still decide to roll over all or part of it to an IRA or another employer plan that accepts rollovers. If you decide to roll over, you must make the rollover within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the IRA or the employer plan. You can roll over up to 100% of the eligible rollover distribution including an amount equal to the 20% that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the IRA or the other employer plan to replace the 20% that was withheld. On the other hand, if you roll over only the 80% that you received, you will be taxed on the 20% that was withheld.

Example: Your eligible rollover distribution is \$10,000 and you choose to have it paid to you. You will receive \$8,000 and \$2,000 will be sent to the IRS as income withholding. Within 60 days after receiving the \$8,000, you may roll over the entire \$10,000 to an IRA or employer plan. To do this you roll over the \$8,000 you received from the Retirement System and you will have to find \$2,000 from other sources (your savings, a loan, etc.). In this case the entire \$10,000 is not taxed until you take it out of the IRA or employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of the \$2,000 withheld.

If, on the other hand, you roll over the \$8,000, the \$2,000 you did not rollover is taxed in the year it was withheld. When you file your income tax return you may get a refund of part of the \$2,000 withheld. (However, any refund is likely to be larger if you roll over the entire \$10,000).

Additional 10% Tax If You Are Under Age 59 1/2. If you receive a payment before the age of 59 1/2 and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The additional 10% tax does not apply to your payment if it is (1) paid to you because you separate from service with your employer during or after the year you reach age 59 1/2, (2) paid because you retire due to disability, or (3) used to pay certain medical expenses. See IRS Form 5329 for more information on the additional 10% tax.

#### **HOW TO OBTAIN ADDITIONAL INFORMATION**

This notice summarizes only the Federal (not State or local) tax rules that might apply to your payment. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with a professional tax advisor before you take a payment of your withdrawal from the Retirement System. Also, you can find more specific information on the tax treatment of payments from qualified retirement plans in IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements. These publications are available from your local IRS office, the IRS's Internet website at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORMS.

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#### **PERSONAL PRIVACY PROTECTION LAW**

In accordance with the Personal Privacy Law you are hereby advised that pursuant to the Retirement and Social Security Law, the Retirement System is required to maintain records. The records are necessary to determine eligibility for and to calculate benefits. Failure to provide information may result in the failure to pay benefits. The System may provide certain information to participating employers. The official responsible for maintaining these records is the Director of Member Services, New York State and Local Retirement Systems, Albany, NY 12244; Telephone Number (518) 474-4608.

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#### **SOCIAL SECURITY DISCLOSURE REQUIREMENT**

In accordance with the Federal Privacy Act of 1974, you are hereby advised that disclosure of the 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.

This section must be completed if you want the Retirement System to transfer your tax-deferred funds.

**DIRECT TRUSTEE-TO-TRUSTEE TRANSFER**

**MEMBER IDENTIFICATION**

I, \_\_\_\_\_ hereby request that the Comptroller of the State of New York as trustee of the New York State and Local Retirement Systems transfer the taxable portion of the non-periodic distribution I have applied for to my account with \_\_\_\_\_, the trustee for my IRA or other qualified retirement plan.

\_\_\_\_\_  
Signature Date

Social Security Number \_\_\_\_\_ Registration # \_\_\_\_\_

**TRUSTEE/CUSTODIAN INFORMATION**

\_\_\_\_\_ has established an account with us and we request the transfer proceeds as noted above to be sent to us.

The account number for this individual is \_\_\_\_\_.

Please make the check payable to:

\_\_\_\_\_ as \_\_\_\_\_ Trustee for the \_\_\_\_\_ IRA  
\_\_\_\_\_ Custodian \_\_\_\_\_ Qualified Plan  
of \_\_\_\_\_.

\_\_\_\_\_  
Trustee/Custodian Signature Date ( ) Phone

Trustee/Custodian Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Return this entire document to:

**New York State and Local Retirement Systems  
110 State Street  
Albany, New York 12244  
Attention: Excess Unit**

Only the original of this form will be processed. Copies or facsimiles which do not contain original signatures are not acceptable.