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Deferred Compensation Policy

Effective: July 1, 2004
Last Updated: November 1, 2006

Executive Summary

Commonwealth employees have the option of deferring a portion of their income on a pre-tax basis into an eligible deferred compensation plan held in trust, up to certain limits, for the exclusive benefit of the employees and their beneficiaries. Generally, the employee can defer compensation up to a limit set on an annual basis by the IRS. The Commonwealth publishes these IRS defined limits in a Comptroller Fiscal Year Tax Memo annually. The Department of the State Treasurer's Office manages the Deferred Compensation Plan.

Considerations

This policy applies to all Commonwealth employees in all Branches and Departments.

Policy

Contribution Limits

The IRS defines limits for elective contributions to Section 457 plans. There are potentially three (3) limits that apply in determining the maximum amount contributable to a 457(b) plan.

Annual Contribution Limit	**Maximum contribution limits are set annually by the IRS. In 2007 and thereafter, maximum limits will increase by annual cost-of-living adjustments of $500 increments. Please refer to CTR Fiscal Year Memos for current limits.**
457(b) 3 Yr NRA Catch-up Provision Note: Catch-up can only be elected during the three years (consecutive) prior to, but not including, the year the participant attains Normal Retirement Age	Maximum Catch-up contribution limits are set annually by the IRS. In 2007 and thereafter, maximum limits will increase by annual cost-of-living adjustments of $1,000 increments. Please refer to CTR Fiscal Year Memos for current limits.
Age 50+ Catch-up Provision Note: If at least age 50 and currently participates in a governmental 457(b) plan, employee is eligible to contribute an additional amount over the regular limit. However, contributions are not allowed to BOTH the 457(b) 3 Yr NRA catch-up provision and the Age 50 + catch-up provision during the same year.	Maximum Age 50+ Catch-up contribution limits are set annually by the IRS. In 2007 and thereafter, maximum limits will increase by annual cost-of-living adjustments of $500 increments. Please refer to CTR Fiscal Year Memos for current limits.

The amounts contributed to the deferred compensation plan on the employee's behalf are not included in the employee's income for the purposes of federal and state income tax withholding, but these amounts are subject to Medicare taxes.

Sick, Vacation, and Back Pay Deferrals

A Participant who retires may elect to defer accumulated sick pay in accordance with M.G.L. c. 29 if the requirements of this section are met. Only a person who is retiring can defer accumulated sick pay. In addition, a retiring participant may also defer accumulated vacation pay and/or back pay. A Participant who separates from service may elect to defer accumulated vacation pay and/or back pay if the requirements of this section are met.

The amounts may be deferred for any calendar month only if:

1. The amount would have been available for use or would have been paid to the employee if employment had not terminated,
2. The amount is paid within two and a half (2 ½) months following Separation from Service, and
3. An agreement providing for the deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available.

Back pay is pay received in a tax year(s) for actual or deemed employment in an earlier tax year(s). Back pay includes delayed wage payments as well as retroactive pay increases. Damages for personal injury, interest, penalties, and legal fees included with back pay awards, are not wages.

Deferred Compensation Deductions

Deferred Compensation Deductions:

- Are administered by the Department of the State Treasurer;
- Are offered to all Commonwealth employees;
- Are available through a designated provider;
- Are deducted in every bi-weekly pay period;
- Are available on a voluntary pre-tax basis; and
- Must be discontinued upon retirement/termination/death.

Deferred Compensation contributions cannot be deducted from

Deferred Compensation contributions cannot be deducted from:

- Bonus
- Merit Pay
- Non-taxed employee reimbursements

The employee must complete and submit to his/her department's payroll clerk a deferred compensation application form provided by an approved Treasury deferred compensation vendor.

Information Sources

Legal Authority

- 26 USC § 457: Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations
- IRS Publication 571: Tax-sheltered Annuity Programs for Employees of Public Schools and Certain Tax-Exempt Organizations"
- IRS Publication 575: Pension and Annuity Income.
- IRS Publication 553: Highlights of Tax Changes.
- M.G.L. c. 7A §§ 3, 7, 8
- M.G.L. c. 29, § 64B

Contacts

- CTR Solution Desk