Tier 2 Public Safety & Firefighter Enhancements

Pick-Ups: Questions & Answers

Enhancements to Tier 2 Public Safety & Firefighter retirement benefits will take effect beginning July 1, 2020. They apply to new and current employees in the Tier 2 Public Safety & Firefighter Retirement system for benefits earned on or after July 1, 2020.

Due to the cost of the plan enhancements, contributions to the Tier 2 Public Safety & Firefighter Hybrid plan will be made by the employer (14%) and the employee (2.27%) for a total of 16.27%.

However, an employer may "pick-up" the employee's portion of the retirement contribution and treat it as an employer contribution under IRS Code Section 414(h)(2).

These changes do not open a new window for employees who have worked beyond a year to change their selections between the Hybrid Option and 401(k) Option. The choice that is made during the first year remains irrevocable.

Helpful Links About Employer "Pick-Ups"

» IRS Guidance on Employer "Pick-Up" Contributions to Benefit Plans

» Revenue Ruling 2006-43

» Section 414(h)(2) of IRS Code

» Senate Bill 129 (2019)

» Senate Bill 56 (2020)

IRS Guidance

The IRS provides guidance regarding Employer "Pick-Up" Contributions to Benefit Plans. The following are some key points from the IRS guidance:

What is a "pick-up"?

» An employer may elect to pay the employee contributions on behalf of the employee. If an employer decides to pay the employee contributions on behalf of the employee, it is considered a "pick-up".

How does an employer "pick-up" the contributions?

1. Formal action must be taken. If an employer wishes to take formal action so the employee does not pay contributions beginning with the new rates on July 1, 2020, the action must be completed by July 1. If an employer does not wish to "pick-up" employee contributions by July 1, they may do so at a later date, but may only "pick-up" prospective contributions.

2. The formal action must be noted through contemporaneous documentation (e.g. resolution, minutes, etc.).

a. The formal documentation must show that the "pick-up" is not offered as a cash or deferred election.

b. It must be mandatory for all employees in the select group affected.

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3. An employer must complete and submit the URS "Employer Election To Pick-Up Member Contributions: Tier 2 Public Safety and Firefighter" form.

What are the tax considerations?
Employee contributions to a defined benefit plan are treated as after-tax contributions, which are subject to income tax and social security and Medicare tax (FICA) purposes.

» If an employer "picks-up" the employee contributions and certain tests are met, then the employee contributions are considered employer contributions and excludable from gross income. The IRS looks for a couple of tests to be met to meet this consideration:

› The employer specifies that the contributions, although designated as employee contributions are being paid by the employer. For this purpose, the employer must take formal action to show that the contributions on behalf of a specific class of employees will be paid by the employer.

› There is no cash or deferred election right with respect to designated employee contributions.

» As long as the "pick-up" is not part of a salary reduction arrangement, it may be excluded from FICA taxes. The "pick-up" must be a salary supplement.

» See IRS: Employer "Pick-Up" Contributions to Benefit Plans for additional information.

Webinar: Understanding Pick Ups

Join us for a webinar at **10 a.m., Wednesday, April 15, 2020**, about the Tier 2 Public Safety & Firefighters' Employer Pickup Elections.
If you're unable to join us, the recorded webinar will be available in the Employer Knowledge Corner within two days following the live presentation.

Other Information

What does this mean for employees who have chosen the 401(k) Option?
» 1st Substitute Senate Bill 56 (2020), "Public Safety and Firefighter Tier II Retirement Enhancements" states that an employer who elects to "pick-up" contributions for members who have selected the Hybrid Option must also make an additional non-elective contribution to members who have selected the 401(k) Option equal to the "pick-up" amount.

Do you have a sample resolution?
» The state's formal action as an employer is one example. H.C.R. 9 – "Concurrent Resolution Authorizing State Pick Up of Public Safety and Firefighter Employee Retirement Contributions" is from the 2020 legislative General Session.

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