S-60/ORP IMPLEMENTATION UPDATE #26 (7/10/18)

PROGRESS REPORT

On April 20, 2018 MTA met with representatives of the State Retirement Board (SRB) and the Department of Higher Education (DHE) to review implementation of Section 60.

Despite MTA continued requests for written information for members still in the Section 60 process, the only recent addition to the Section 60 website is that which concerns the distribution of TIAA Traditional assets within 120 days after the termination of state employment.

What follows is a summary of the main topics discussed on April 20th.[1]

1. Delay by the SRB in cashing checks, updating service cost and sending "bills"

The SRB reported that three staff members are now working on these problem areas. This is expected to address the backlog.

2. Paying those ORP assets still due after transfer of liquid assets

The DHE website now provides written information on how to pay off Section 60 obligations within 120 days after termination of state employment.

However, there is a complication.

It has come to MTA's attention that the DHE has defined "state employment" as any service rendered to the Commonwealth for pay, even if not covered by the MSERS or the ORP. This definition would mean that a member who retired from his/her full-time MSERS/ORP-covered position and is subsequently teaching a continuing ed course is deemed not to have terminated state employment and is therefore not entitled to

[1] For convenience, "EE" refers to "employee," and "ER" refers to employer." The term "EE-funded assets" refers to those ORP assets funded by required employee contributions plus net investment gains and interest, and "ER-funded assets" refers to the Commonwealth's contributions to the ORP account plus net investment gains and interest.

receive ORP assets remaining in the Traditional account. This, in turn means that there is no way to complete all Section 60 payments, which, in turn means that the SRB will not begin paying MSERS retirement benefits.

This problem did not occur, or was not identified, before April. MTA has objected to this definition of "state employment" for purposes of Section 60. MTA will advocate for an interpretation of "state employment" in line with our members' reasonable expectations.

Another problem that the DHE has identified has to do with those who no longer work for the state in any capacity but who left ORP assets in their Traditional accounts and who missed the 120-day deadline. The DHE and the SRB will have to spell out a procedure for using an alternative method of payment. MTA advocates a fix that will address the concerns of members who missed the deadline.

The DHE is considering recommending that at least some of those with Traditional assets initiate a TPA or SWAT in order to convert as large a portion of their Traditional assets to liquid assets in order to pay their service cost before they leave their state positions.

3. What happens to Traditional ORP assets after payment of the service cost?

In some cases members have paid, or would like to pay, all or part of the balance of their service cost while the amount needed for such payment is still in their Traditional account. When this happens, they would like to know that they are going to recoup not just the amount paid, but also the earnings on the amount paid when they liquidate their Traditional accounts.

The DHE is working on developing a "proxy" for allocating future net investment gains and interest on amounts paid toward the service cost where the equivalent amount remains in a Traditional account (or is being paid out in TPA/SWAT installments into a liquid account).

4. Payment of ER-funded assets and "excess" EE-funded assets from non-ORP sources

As has been pointed out previously, the total price of transferring from the ORP to the MSERS includes the EE-funded ORP assets equal to the Section 60 service cost, *and* EE-funded ORP assets in excess of the service cost *and* all ER-funded ORP assets.

The SRB currently does not accept non-ORP assets to pay the last two, i.e., the excess of EE-funded assets and ER-funded assets.

MTA has requested that members be allowed to use non-ORP assets to pay these amounts.

Use of non-ORP assets to pay the amount of *"excess" EE-funded assets* appears to be straightforward, in that the money goes into the member's MSERS Annuity Savings Account and can be identified as pre-tax or after-tax as needed.

However, for now, if a check from a non-ORP source arrives at the SRB for an amount larger than the amount of the bill, it will not be accepted.

Use of non-ORP assets to pay the amount of *ER-funded assets* is problematic in that these assets are not in individual MSERS accounts, but are commingled with other assets that are not paid by individual contributions. Also, there is at present no way to identify after-tax sources.

MTA will work with the SRB and the DHE to devise a procedure for paying these Section 60 costs with non-ORP assets, despite the challenges presented by modifying current practices and addressing the tax issues

5. Assistance

For information about your service or cost calculation, or about receiving a bill or paying a bill, or about uncashed checks, contact the State Retirement Board at orpinfo@tre.state.ma.us.

For information about the asset transfer process (including uncashed checks) or RMD's contact the Department of Higher Education at ORP@bhe.mass.edu.

If you are unable to get an answer, or are confused about an answer or where to direct a question, please contact the MTA at orp@massteacher.org.