



PLAN QUALIFICATION UNDER INTERNAL REVENUE CODE

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PLAN QUALIFICATION UNDER INTERNAL REVENUE CODE

CTPF's Status as A Governmental Plan

The Fund, established by the State of Illinois, is a “governmental plan” within the meaning of the Internal Revenue Code (“IRC”) Section 414(d), which defines a governmental plan as “a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.” The Fund is a tax-qualified trust pursuant to IRC Section 401(a).

As a governmental plan, the Fund is exempt from meeting the requirements of certain sections of the IRC, or must meet certain standards in place prior to September 1, 1974 ("Pre-ERISA Standards"), when the Employee Retirement Income Security Act of 1974 (“ERISA”) became effective.

The relevant IRC sections from which the Fund is currently exempt are:

- IRC Section 401(a)(3) and (6) (minimum participation and coverage requirements);
- IRC Section 401(a)(4) (nondiscrimination rules) (Note: the pre-ERISA Standards apply);
- IRC Section 401(a)(10) and 416 (top heavy provisions);
- IRC Section 401(a)(11) and 417 (joint and survivor annuities);
- IRC Section 401(a)(13) (anti-alienation);
- IRC Section 401(a)(14) (benefit commencement);
- IRC Section 401(a)(15) (no retirement benefit reduction);
- IRC Section 401(a)(19) (withdrawal of employee contributions);
- IRC Section 401(a)(20) (qualified total distributions upon termination of plan);
- IRC Section 401(a)(26) (additional participation requirements);
- IRC Section 401(a)(29) (benefit limitations);

IRC Section 401(l) (permitted disparity in benefits);

IRC Section 410 (minimum participation standards);

IRC Section 411 (minimum vesting) (Note: the pre-ERISA \Standards rules apply);

IRC ~~§~~Section 412 (minimum funding standards);

IRC Section 416 (special rules for top-heavy plans); and

IRC Section 417 (definitions and special rules for purposes of minimum survivor annuity requirements);

[Source: IRC Section 414(d)]

IRC Sections Applying to CTPF

The following IRC Sections are applicable to CTPF as a governmental plan and impact CTPF's operational obligations.¹

Vesting and Forfeitures - - IRC Sections 401(a)(7) and [401\(a\)\(8\)](#)

- (A) A Member shall be 100% vested in his or her service retirement benefit upon attaining the normal retirement age of:
 - (i) For Tier 1 Members: age 62 with at least 5 Years of Service, age 60 with at least 20 Years of Service, or age 55 with at least 34 Years of Service.
 - (ii) For Tier 2 Members: age 67 with at least 10 Years of Service.
- (B) A Member shall be 100% vested in his or her accumulated contributions at all times.
- (C) In the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the Plan, the accrued benefits of the affected Members under the Plan shall be 100% vested and nonforfeitable to the extent funded and to the extent required by federal law.
- (D) In conformity with IRC Section 401(a)(8), any forfeitures of benefits by Members or former Members of the plan shall not be used to pay benefit increases. However, such forfeitures shall be used to reduce employer contributions.

Source: IRC Section 401(a)(7) and 401(a)(8) ([in effect September 1, 1974](#)); Revenue Ruling 66-11, 1966-1 C.B. 71.

¹ General structural and taxation requirements (such as the exclusive benefit rule and written plan document rule) are not addressed as they have been codified in the Illinois Pension Code and do not pose operational issues.

Required Minimum Distributions —IRC Section 401(a)(9)

- (A) General Rule. The Fund will make all distributions in accordance with a reasonable and good faith interpretation of the requirements of Section 401(a)(9) as may be applicable to a governmental plan.
- (B) Distributions to Member The term Member includes teachers, contributors, and all other participants who are covered by the Fund as recognized under 40 ILCS 5/17-106. Distributions to Members shall commence by April 1 of the calendar year following the later of the calendar year in which the Member (a) attains age 70½ or (b) retires.
- (C) Special Rule for Lump Sum Payments. Effective for any distributions required after December 31, 2014, if the Member dies before the date distributions begin or the date required under (b) above, any lump sum benefit owed under 40 ILCS 5/17-123 shall be fully distributed by December 31st of the fifth year following the calendar year of the Member's death.
- (D) Lost Payees. The Fund shall take reasonable actions to find all current and former Members and beneficiaries to whom additional benefits are due, but who have not been located after mailing to the last known address. The Fund shall follow the Member Due Diligence Search Rule [Rule # TBD]. If the Plan is not successful in making contact with a Lost Payee after taking the above steps, the Payee's benefit shall be forfeited. Any forfeited benefit shall be reinstated, without interest, if a Payee makes a claim by filing a benefit application.

Source: IRC Section 401(a)(9); Rev. Proc. 2018-52, Section 6.02(5)(d)(i); IRS Memorandum for Employee Plans ("EP") Examinations Employees, October 19, 2017; Treas. Reg. Section 1.401-7(a).

Limitation on Maximum Benefit Payable — IRC Sections 401(a)(16) & 415

- (A) Basic 415 Limitations. CTPF shall comply with the applicable contribution and benefit limitations of IRC Section 415, as it may be amended. Notwithstanding any other law, the limitation with respect to a person who first became a Member prior to January 1, 1990, shall not be less than the accrued benefit of the Member (determined without regard to any amendment of Article 17 adopted after October 14, 1987).
- (B) Notwithstanding any provision herein to the contrary, any benefit under the Pension Code that exceeds the applicable limits under IRC Section 415, shall be payable from an excess benefit fund established under 40 ILCS 5/1-116(c) and in accordance with federal law.
- (C) Limitation Year. For the purposes of IRC Section 415, the limitation year shall be the limitation for the calendar year in which the Fund's Fiscal Year (July 1 to June 30) ends.

- (D) Participation in Other Qualified Plans. Aggregation of Limits. The 415(b) limit with respect to any Member who at any time has been a Member in any other defined benefit plan as defined in IRC Section 414(j) maintained by the Member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the Member has been a Member were payable from one (1) plan.
- (E) The 415(c) limit with respect to any Member who at any time has been a Member in any other defined contribution plan as defined in IRC Section 414(i) maintained by the Member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the Member has been a Member were payable from one (1) plan.
- (F) Basic 415(b) Limit.
- (i) Before January 1, 1995, a Member may not receive an annual benefit that exceeds the limits specified in IRC Section 415(b), subject to the applicable adjustments of that section. On or after January 1, 1995, a Member may not receive an annual benefit that exceeds the dollar amount specified in IRC Section 415(b)(1)(A), subject to the applicable adjustments in IRC Section 415(b) and subject to any additional limits that may be specified in Article 17. In no event shall a Member's annual benefit from the Fund in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to IRC Section 415(d) and the regulations thereunder (\$225,000 for 2019).
 - (ii) Definition of Annual Benefit. For purposes of IRC Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC Section 415(n)) and to rollover contributions (as defined in IRC Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations
- (G) Benefits Not Taken Into Account for 415(b) Limit. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
- (i) Any ancillary benefit (usually temporary, not annual and monthly) which is not directly related to retirement income benefits;
 - (ii) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
 - (iii) Any other benefit not required under IRC Section 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of IRC Section 415(b)(1).

- (H) **Other Adjustments in 415(b) Limitation.** In the event the Member's retirement benefits become payable before age 62, the limit prescribed by this section shall be equal to the lesser of (i) the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the two hundred and twenty-five thousand dollar (\$225,000) annual limit (as adjusted under IRC Section 415(d) and, if required, under subsection (g) for years of participation less than ten (10), with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as defined in the plan (expressing the Member's age based on completed calendar months as of the annuity starting date), and (ii) the two hundred twenty-five thousand dollar (\$225,000) annual limit (as adjusted under IRC Section 415(d) and, if required, under subsection (g) for years of participation less than ten (10), multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two (62), both determined without applying the limitations of this section.
- (I) **Less than Ten (10) Years of Participation or Service Adjustment for 415(b) Limitations.** The maximum retirement benefits payable to any Member who has completed less than ten (10) years of participation shall be the amount determined under subsection (d), as adjusted under subsection (e) and/or (f), multiplied by a fraction, the numerator of which is the number of the Member's years of participation and the denominator of which is ten (10). The limit under subsection (i) (concerning the \$10,000 limit) shall be similarly reduced for any Member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (J) **Ten Thousand Dollar (\$10,000) Limit.** Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such Member under this plan and under all other qualified defined benefit pension plans to which the Member's employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year and the employer has not any time maintained a qualified defined contribution plan in which the Member participated.
- (K) If any benefit payable by the Fund exceeds the applicable benefit limits, the excess shall be payable only from an excess benefit fund established under Illinois Pension Code Section 1-116 consistent with applicable federal law.

- (L) Effect of COLA without a Lump Sum Component on 415(b) Testing. For purposes of applying the 415(b) limit to a Member with no lump sum benefit, the following will apply:
- (i) a Member's applicable 415(b) limit shall be applied to the Member's annual benefit in the Member's first limitation year without regard to any automatic cost of living adjustments;
 - (ii) thereafter, in any subsequent limitation year, a Member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
 - (iii) any benefit under the Pension Code that exceeds the applicable limits under IRC Section 415 shall be payable from an excess benefit fund established under 40 ILCS 5/1-116(c) and in accordance with federal law.
- (M) IRC Section 415(c) limitations on contributions and other additions. 415(c) limitations on contributions will only apply to CTPF if the Member has after-tax Member contributions or service purchase after-tax amounts or other annual additions. All such annual additions, with respect to a Member, may not exceed the lesser of \$40,000 (as adjusted pursuant to IRC Section 415(d); \$56,000 for 2019) or 100% of the Member's compensation.
- (i) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, post-tax Member contributions to a defined benefit plan (except for purposes of service purchases, if tested under the modified limit of IRC Section 415(b)), and forfeitures credited to a Member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to the Fund.
 - (ii) Compensation. For purposes of applying IRC Section 415(c), and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that Member contributions picked up under IRC Section 414(h) shall not be treated as compensation.
 - (iii) Compensation shall mean wages within the meaning of IRC Section 3401(a) for purposes of income tax withholding at the source.

However, for limitation years after April 1, 1998, Compensation shall also include amounts that would otherwise be included in compensation but for an election under IRC Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years after April 1, 2001, 415 Compensation shall

also include any elective amounts that are not includible in the gross income of the Member by reason of IRC Section 132(f)(4).

- (a) Compensation shall also include compensation paid by the later of 2 ½ months after a Member's severance from employment or the end of the limitation year that includes the date of the Member's severance from employment if the payment is regular compensation for services during the Member's regular working hours, compensation for service outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the Member while the Member continued in employment with the employer (As used in this Section a Member has experienced a "severance from employment" when such Member is no longer an employee of an Employer maintaining the Plan).
- (b) Any payments not described in paragraphs (ii) and (iii) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of IRC Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

An employee who is in qualified military service (within the meaning of IRC Section 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

- (c) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

- (N) If the annual additions for any Member for a plan year exceed the limitation under IRC Section 415(c), the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).
- (O) A Member's compensation for purposes of subsection (l) shall not exceed the annual limit under IRC Section 401(a)(17) which applies for that year.
- (P) The actuary shall provide the adjusted limitations required by this section. The Fund staff shall review IRS Notices each January to confirm any change to the indexed annual limitation. Appendix A to this Rule sets forth the historical annual limitations.
- (Q) Service Purchases Under IRC Section 415(n). If a Member makes one or more contributions to purchase permissive service credit under the Fund, then the requirements of IRC Section 415(n) will be treated as met only if:
 - (i) the requirements of IRC Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC Section 415(b); or
 - (ii) the requirements of IRC Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of IRC Section 415(c).

Due to the complexity of the service purchase rules under IRC Section 415, if a Member's Final Average Salary at the time the Member seeks to purchase permissive service credit exceeds \$150,000, Fund staff should consult tax counsel to ensure the IRC Section 415 limits are not exceeded.

For purposes of applying this section, the Fund will not fail to meet the reduced limit under IRC Section 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under IRC Section 415(c)(1)(B) solely by reason of this section.

For purposes of this section the term "permissive service credit" means service credit"

- (1) recognized by the plan pursuant to Section 17-134 of the Pension Code for purposes of calculating a Member's benefit under the plan;
- (2) which such Member has not received for teaching service within the meaning of Section 17-106 of the Pension Code; and
- (3) which such Member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit. Such term may include service credit for periods for which there is no performance of service, and may include service credited in

order to provide an increased benefit for service credit which a Member is receiving under the plan.

The plan will fail to meet the requirements of this section if:

- (1) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph; or
- (2) any nonqualified service credit is taken into account under this paragraph before the Member has at least five years of participation under the plan.

For purposes of the above paragraph, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to—

- (1) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in IRC Section 415(k)(3));
- (2) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (i)) of an education organization described in IRC Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
- (3) service as an employee of an association of employees who are described in clause (i); or
- (4) military service (other than qualified military service under IRC Section 414(u)) recognized by the plan.

In the case of service described in clause (i), (ii), or (iii), such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same service under more than one plan.

In the case of a trustee-to-trustee transfer, to which IRC Section 403(b)(13)(A) or IRC Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer:

- (1) the 5-year limitation described above will not apply in determining whether the transfer is for the purchase of permissive service credit; and
- (2) the distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.

- (R) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other provision to the contrary, CTPF may modify a request by a Member to make a contribution to the Fund if the amount of the contribution would exceed the limits provided in IRC § 415 by using the following methods:
- (i) If the law requires a lump sum payment for the purchase of service credit, the Fund may establish a periodic payment plan for the Member to avoid a contribution in excess of the limits under IRC § 415(c) or (n).
 - (ii) If payment pursuant to subparagraph (i) shall not avoid a contribution in excess of the limits imposed by IRC Section 415(c) or 415(n), the Fund may either reduce the Member's contribution to an amount within the limits of those sections or refuse the Member's contribution.
- (S) Repayment of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the Fund shall not be taken into account for purposes of IRC Section 415, in accordance with applicable Treasury Regulations.
- (T) Effect of Direct Rollover of 415(b) Limit. If the Fund accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under IRC Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under IRC Section 417(e) shall be included in the annual benefit for purposes of the limit under IRC Section 415(b).

[Source: IRC Section 401(a)(16); IRC Section 414; IRC Section 415; IRC Section 417(e); IRS Notice 2008-85 or any subsequent IRS guidance implementing IRC Section 417(e)(3)(B); 40 ILCS 5/1-116]

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Maximum Salary Limits — IRC Sections 401(a)(17)

- (A) Effective July 1, 1996, the Annual Salary of a Member which exceeds \$200,000 (as adjusted for cost-of-living increases in accordance with IRC Section 401(a)(17)(B); \$275,000 for 2019) may not be taken into account in determining benefits or contributions due for any plan year; the annual limitations for years after 1996 are available in Fund records. The term “Salary” has the same meaning as it does for the purposes of determining benefits. See Title III: Benefits, Sec. 1. “Annual Salary” means the Salary earned in the Fiscal Year.
- (B) In the case of a Member who first began participating in the Fund or with a Reciprocal System before July 1, 1996, the dollar limitation determined under (a)

above does not apply to the extent that the Annual Salary that may be taken into account would be reduced below the Annual Salary that was allowed to be taken into account under Article 17 or under Article 1 or Article 20 of the Illinois Pension Code as those Articles were in effect on July 1, 1993.

- (C) The Fund staff shall review IRS Notices each January to confirm any change to the indexed annual limitation in (a) above. Appendix B to this Rule sets forth the historical annual limitations described in (a) above.

[Source: IRC Section 401(a)(17); 40 ILCS 5/1-117]

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Amend the June 15, 2017 Rule which provided:

Nonperiodic Distribution; Rollover. (see 40 ILCS 5/1-106(b))

CTPF may, and to the extent required by federal law shall, at the request of any person entitled to receive a refund, lump sum benefit, or other nonperiodic distribution from CTPF, pay the distribution directly to any entity that (1) is designated in writing by the person, (2) is qualified under federal law to accept an eligible rollover distribution from a qualified plan, and (3) has agreed to accept the distribution.

and substitute:

Rollover Rules – IRC Section 401(a)(31)

The Fund recognizes the terms of Illinois Pension Code Section 1-106(b) (40 ILCS 5/1-106(b)) in accordance with IRC Section 401(a)(31), as amended. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

- (A) Eligible Rollover Distribution. An Eligible Rollover Distribution is any distribution of all or any portion of the balance in the Fund to the credit of the distributee, including a refund, or lump sum benefit, except that an eligible rollover distribution does not include:
 - (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;
 - (ii) any distribution to the extent such distribution is a required minimum distribution under IRC Section 401(a)(9);

- (iii) the portion of any distribution that is not includible in gross income; provided, however that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income, but such portion may be transferred only:
 - (a) to an individual retirement account or annuity described in IRC Section 408(a) or (b) or to a qualified defined contribution plan described in IRC Section 401(a) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or
 - (b) on or after January 1, 2007, to a qualified defined benefit plan described in IRC Section 401(a) or to an annuity contract described in IRC Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is not so includible; or
 - (c) on or after January 1, 2008, to a Roth IRA described in IRC Section 408A; and
- (iv) any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of IRC Section 415 or any distribution that is reasonably expected to total less than \$200 during the year.

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p).

(B) Eligible Retirement Plan. An Eligible Retirement Plan is any of the following that accepts the distributee's Eligible Rollover Distribution:

- (i) An individual retirement account ("IRA") described in IRC Section 408(a);
- (ii) an individual retirement annuity described in IRC Section 408(b);
- (iii) an annuity plan described in IRC Section 403(a);
- (iv) a qualified trust described in IRC Section 401(a);

- (v) effective January 1, 2002, an annuity contract described in IRC Section 403(b) ("403(b) plan");
 - (vi) effective January 1, 2002, a plan eligible under IRC Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into such plan from this Fund;
 - (vii) effective January 1, 2008, a Roth IRA described in IRC Section 408A; or
 - (viii) effective December 19, 2015, a SIMPLE IRA described in IRC Section 408(p).
- (C) Distributee. A distributee means a Member, a surviving spouse, or a former spouse who is an alternative payee under an Illinois Qualified Domestic Relations Order ("QILDRO"), as defined in 40 ILCS 5/1-119. For plan years beginning on or after January 1, 2010, a distributee further includes a non-spouse designated beneficiary who is a designated beneficiary as defined by IRC Section 401(a)(9)(E). However, a non-spouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an inherited individual retirement account or annuity.
- (D) Direct rollover. A direct rollover is a payment by the Fund to the eligible retirement plan specified by the distributee.
- (E) Qualified Illinois Domestic Relations Orders. If benefits are payable pursuant to a QILDRO that satisfies the requirements of a "domestic relations order", as defined in IRC Section 414(p), then the applicable requirements of IRC Section 414(p) shall be followed by the Fund.

[Source: §IRC Section 401(a)(31); IRC Section 401(a)(13); Treas. Reg. § 1.401(a)-13(g); 40 ILCS 5/1-106]

Actuarial Assumptions -- §IRC Section 401(a)(25)

- (A) Benefits, including the amount or level of any optional form of benefit, shall be calculated using the actuarial assumptions authorized from time to time by the Board on the advice of the Actuary and shall not be subject to the discretion of any employer.
- (B) The Actuary shall provide all actuarial assumptions necessary to calculate benefits under the Plan. Appendix C to this Rule sets forth the actuarial assumptions as of _____, 2019.

Source: IRC Section 401(a)(25)

Pension Pick-up of Member Contributions-- Section 414(h)(2)

[RESERVED]

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(Miscellaneous Rules)

Exclusion of Eligible Employee

In order for the Fund to maintain its tax-favorable status as a qualified 401(a) retirement plan, the Fund must follow the requirement to administer the Fund in accordance with its terms. Upon CTPF's discovery that a Member is entitled to a benefit accrual from the Fund, the Member shall receive the benefit accrual even if Contributions were not received by CTPF. If the Employer failed to contribute to the CTPF for a Member, the Employer shall be obligated to pay the Member's contribution obligations.

Source: Treas. Reg. Section 1.401-1; Rev. Proc. 2018-52, Section 1.03, 2018-42 IRB 611, 09/28/2018

Purchase of Optional Service

Purchasing Service Credits by Plan-to-Plan Transfer or with Rollover Contributions

- (A) Plan-to-Plan Transfer into the Fund. For the sole purpose of purchasing service and service credits under the Plan, the Fund will accept funds from any of the following eligible transfer plans:
 - (i) A plan which is qualified under IRC Section 401(a);
 - (ii) An annuity contract under IRC Section 403(b); and
 - (iii) An eligible deferred compensation plan under IRC Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which are transferred to this Plan by the Member within sixty (60) days following receipt, or are transferred to this Plan directly by the trust, annuity contract or annuity plan or governmental plan.
- (B) Rollover Contributions. For the sole purpose of purchasing service and service credits under the Plan, the Fund will accept rollover contributions that are "eligible rollover distributions" as described in IRC Section 402(c), Section 408,

and the Treasury Regulations thereunder, as applicable; provided, however, that after-tax and Roth rollover contributions will not be accepted.

- (C) Application for Rollover. The Member shall make timely written application to the Fund, submitting whatever information deemed necessary and sufficient by the Board of Trustees in their sole discretion to establish compliance with the requirements of this Rule. APPENDIX F
- (D) Verification of Eligible Rollover Distribution. The Fund shall take one or more of the following steps to reasonably conclude that a potential rollover is a valid eligible rollover distribution:
 - (i) Review of statements or other documentation from the distributing plan's administrator, as forwarded by, or at the behest of, the Member purchasing the service;
 - (ii) Reviewing the check issued by the plan that is the source of the rollover;
 - (iii) Obtaining a certification made by the Member; or
 - (iv) If the distributing plan is a non-governmental plan, reviewing the Form 5500, which may be located at www.efast.dol.gov and confirming that the plan represents that it is qualified (Question 8a does not include code "3C"). (Note: governmental plans do not file Form 5500.)
- (E) Indirect Rollovers. If the rollover comes from a Member who has received a distribution from a tax-qualified plan, the Fund may waive the 60-day rollover requirement, as permitted under Rev. Proc. 2016-47, by accepting a Member's written certification that is substantially similar in all material respects to Appendix E.
- (F) Invalid Rollover Contribution. If the Fund later determines that the contribution was an invalid rollover contribution, the Fund shall distribute the amount of the invalid rollover contribution, plus interest thereon at the Fund's assumed rate of return compounded annually to the Member within a reasonable time after such determination.

Source: 40 ILCS 5/17-114, 40 ILCS 5/17-134.1, IRC Section 415(n); see Rev. Ruling 2014-09

No In-Service Distributions

"In service" distributions are prohibited. To be eligible for a retirement pension, or a disability retirement pension, or a refund of contributions, the Member must have left the employment of an Employer. There must be a *bona fide* termination that completely severed the employment relationship without any agreement to be rehired. The Fund may review the facts and circumstances in determining whether there was a *bona fide* termination.

Source: Treas. Reg. § 1.401-1(a)(2)(i); Rev. Rul. 74-254, 1974-1 C. B. 94; 40 ILCS 5/17-115; 40 ILCS 5/17-125; 40 ILCS 5/17-117

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Required IRS Withholding

General. The CTPF must follow the Internal Revenue Service (“IRS”) rules for federal income tax withholding on benefit distributions. The amount of the required withholding and withholding options vary and depend upon the type of payment, (e.g., monthly pension or lump sum death benefit), and, in the case of monthly pensions, the amount of the payment.

The withholding rules apply to all benefits funded by employer and pre-tax employee contributions, including ‘picked-up’ contributions. If the benefit was funded in whole or in part by after-tax employee contributions (not pension pick-up), the amount subject to withholding should be calculated by the Revised Simplified Method assuming the pension commencement date is prior to age 75. If after age 75, Fund staff should contact the Fund’s auditor or tax counsel for special instructions. See Rule #####

Those receiving a distribution who are either a U.S. citizen or a green card holder, must provide the Fund with a U. S. home street address. For purposes of this Rule, the U.S. includes its territories; examples are: Puerto Rico, Guam, and the U.S. Virgin Islands. According to IRS rules, a P.O. Box is insufficient. Unless the Fund has a U.S. home street address, the Fund shall treat the recipient as if he or she were living outside the United States. In such a case, Fund staff shall apply the Default Rate stated in this Rule. See IRS Publication 575. A model letter will be provided.

Initial Notice of IRS Withholding Election

Prior to benefit commencement, including any lump sum payment (for example, refunds or death benefits), the Fund must provide the retiree or other recipient (collectively, the “recipient”) a notice explaining withholding options and a copy of IRS Form W-4P.

Annual Election of Withholding

Staff shall send an annual withholding notice and Form W-4P to all pension recipients that inform them of the right to change their withholdings. This notice should be sent each [September]. Any withholding rate change should be effective no later than the January 1, May 1, July 1, or October 1 following the date the Fund receives the updated W-4P, provided it is received at least 30 days before the date.

Annual Update of Withholding Tables

Each December Staff shall review the annual updates to the withholding tables in IRS Publication 15 (Circular E); Staff shall base withholdings upon the annual IRS tables and adjust withholdings accordingly, taking into account the number of applicable allowances (formerly known as exemptions). See following Rule #####.

Withholding on Monthly Pension Payments – General Rule

For monthly pension payments, the Fund shall withhold the amounts as required under the recipient's Form W-4P. The recipient may request any amount of withholdings (including zero) on Form W-4P.

If a recipient does not submit a valid Form W-4P, the Fund shall withhold by treating the recipient as married with three (3) withholding allowances (the "Default Rate").

Under the 2019 IRS tables, monthly pensions below \$2,033 do not require withholding unless otherwise directed by the taxpayer by his or her Form W-4P. See IRS Publication 15 (Circular E).

Limited Exceptions to General IRS Withholding Rule for Monthly Pensions

The withholding rule is different for recipients of monthly pensions who are U.S. citizens or green card holders living outside of the United States. These recipients are subject to a **mandatory** minimum withholding determined as if they are married claiming three allowances. The same threshold and withholding rates as described in **Withholding on Monthly Pension Payments – General Rule** apply here; however, the recipient may increase, but not decrease, his or her withholdings.

Special rules also apply for nonresident aliens ("NRA"). A NRA is subject to a **mandatory** 30% withholding rate. The recipient may increase, but not decrease, his or her withholdings. The recipient may qualify for a lower withholding rate if the Fund is provided a Form W-8BEN. If the recipient is a nonresident alien, Fund staff shall contact the Fund's auditor or tax counsel for special instructions. See [Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#), and the [Instructions for Form 1042-S](#). Fund staff shall refer to [NRA Withholding](#) and Pensions, Annuities, and Alimony (Income Code 15) in Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Withholding on Lump Sum Distributions – General Rule

A minimum 20% withholding rate based upon the taxable amount shall apply for all lump sum distributions that qualify as "eligible rollover distribution" unless:

- (A) the recipient requests additional withholding in a W-4P provided by the Fund;
- (B) the payment recipient is a NRA (in such cases, see Rule ##### - Limited Exceptions to General IRS Withholding Rule for Monthly Pensions; or
- (C) The recipient elected to have the distribution paid in a direct rollover to an eligible retirement plan, including an IRA.

Note: Non-resident aliens and U.S. citizens (or green card holders) living outside the U.S. have the same rights as other recipients to make a direct rollover to an eligible retirement plan, including an IRA. See Rule #####.

See IRS Publication 575, IRS Publication 15 (Circular E); General Instructions for Certain Informational Returns (2019); Treas. Reg. § 1.1441-1(b)(3)(iii)(C); IRS Publication 519, U.S. Tax Guide for Aliens (2018); IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities (2019). Note: See Administrative Rule ##### for definition of eligible rollover distribution (while most distributions are eligible rollover distributions, a common exemption is a "required minimum distribution").

Withholding on Lump Sum Payments that are not Eligible Rollover Distributions

The withholding rate is 10% for a non-periodic distribution (for example, a lump sum refund) that is not an eligible rollover distribution. Under IRS Form W-4P, the recipient may increase, but not decrease, his or her withholdings; however, the recipient can request no withholdings. Prior to any distribution, the Fund shall provide the recipient a notice explaining withholding options and a copy of IRS Form W-4P. If the recipient is a nonresident alien, follow Rule ##### - Limited Exceptions to General IRS Withholding Rule for Monthly Pensions and contact the Fund's auditor or tax counsel for special instructions, including the withholding percentages.

Limited Exceptions to General IRS Withholding Rule for Lump Sum Distributions

The withholding rule is different for recipients of lump sum distributions who are U.S. citizens or green card holders living outside of the United States. Such individuals are subject to a **mandatory** minimum withholding of 20% if the distribution was an eligible rollover distributions. If the distribution does not qualify as eligible rollover distribution (for example, a required minimum distribution), the **mandatory** minimum withholding of 10% applies. The recipient may increase, but not decrease, his or her withholdings required under this Rule.

A lump sum distribution to nonresident aliens is subject to a **mandatory** 30% withholding rate. The recipient may increase, but not decrease, his or her withholdings. Follow Rule ##### - Limited Exceptions to General IRS Withholding Rule for Monthly Pensions regarding processing.

Recoupment of Overpaid IRS Withholdings and other Withholding Corrections for Current Year

If a withholding error, including any overpayment, is discovered for the current year, i.e. , prior to the filing of the annual Form 945, staff should correct the error when it files a Form 945 for that tax year. Note, if required by the Form 945's filing instructions, staff may need to file Form 945-A. By correcting the current year, the Fund is adjusting its annual withholding reporting. Under these circumstances, it may recoup overpayments of that year's withholdings relating to benefits that the Member was not entitled to receive (for example, payments after a Member's death). If, however, the Member was entitled to the benefits related to the over-withholding, then the Fund must reimburse the Member before requesting a refund or a credit toward next year's Form 945.

Corrections for Over-reported or Under-reported Withholdings for Prior Years Resulting from "Administrative Errors"

If a withholding reporting error is discovered in the subsequent year, staff should file Form 945-X to correct the error on a previously filed Form 945 under the limited circumstances described herein. Form 945-X specifically authorizes corrections of "mathematical" and "transposition" errors if the total taxes actually collected from the Member or other recipient were incorrectly reported in Form 945. Overpayments of withholdings for a prior tax year resulting from a Member's death are not recoverable. But, see possible exemption in Rule #####.

If staff discovers a withholding reporting error, it should immediately review the instructions for Form 945-X to ensure a timely filing. For example, if withholding was under-reported, Form 945-X should be

filed and payments should be made by January 31 following the tax year's reporting period. Doing so will generally prevent any penalties or interest charges. Staff shall consult the instructions for IRS Form 945-X or may contact the Fund's auditor or tax counsel.

A correction of an under-reporting requires that Form 945-X be filed within 3 years of the date Form 945 was filed. A correction of an over-reporting requires that Form 945-X be filed within 3 years of the date Form 945 was filed or 2 years from the date the Fund paid the tax reported on Form 945, whichever is later.

For purposes of determining the limitations period, Form 945 is considered filed on April 15 of the succeeding calendar year if filed before that date. Thus, if the Form 945 was filed, for example, on January 22, 2019, the Fund has until April 15, 2022 to file Form 945-X and seek a refund. If the overpayment occurred beyond the limitations period and Form 945-X cannot be filed, the Staff should nonetheless pursue recoupment against the recipient of the overpayments in accordance with the Fund's Overpayment Recovery Policy.

A separate Form 945-X must be filed for each corrected year. If correcting both an under-reporting and over-reporting staff shall file one Form 945-X, unless the Fund is seeking a refund or an abatement (in which case a separate Form 945-X must be filed. Department of Treasury regulations require a detailed explanation of the grounds and facts to support each annual correction.

Limited Exception Relating to Missing Members

If the Fund determines that a payment was sent to a Member (or other benefit recipient) who cannot be located, and the check has neither been cashed nor received, staff should file a refund claim under Form 945-X for the related withholding. Staff should generally follow the instructions stated Rule ##### regarding other withholding corrections; and staff must specifically state that the payment was "administrative error," explain the basis of the claim and cite Internal Revenue Manual, Section 21.7.2.4.6.3.1 (10-01-2015) in its narrative.

Taxability of Distributions to Retirees/Withholdings -- IRC §Section 72

The Fund shall issue IRS Form 1099-R to each payment recipient by January 31 of the following calendar year of the tax year being reported. For example, a copy of the Form 1099-R must be sent to recipients by January 31, 2019 for the 2018 calendar year. In addition, a copy of each Form 1099-R that is sent to a recipient must be sent to the IRS by March 31st (if filing electronically). Because CTPF files more than 250 information returns, CTPF must file electronically.

- (A) The Revised Simplified Method shall be used for reporting the taxable component of periodic distributions as set forth in IRS Publication 575.
- (B) The reported taxable amount of any refund shall be determined by reducing the gross distribution by the Member's post-tax contributions.
- (C) Withholdings for monthly pension payments shall be made as indicated in the recipient's Form W-4P. Until the CTPF is provided a valid Form W-4P,

withholdings shall be made as if the recipient is married claiming three withholding allowances.

A minimum 20% federal withholding rate based upon the taxable amount shall apply for all ~~refunds~~ lump sum distributions unless

- (A) the recipient requests additional withholdings in a form provided by the Fund; or
- (B) the payment recipient is a Non-Resident Alien, at which time the federal withholding rate will be 30% unless the recipient provides CTPF with a completed IRS Form W-8BEN demonstrating an exemption.

Source: IRS Publication 575, IRS Publication 15 (Circular E); General Instructions for Certain Informational Returns (2019); Treas. Reg. § 1.1441-1(b)(3)(iii)(C); IRS Publication 519, *U.S. Tax Guide for Aliens* (2018); IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities* (2019); AR III.D/xxx 6-17-17.

Fund as Employer

Social Security Contributions Are Not Required from CTPF Members

Neither CTPF nor its employees are required to make Social Security contributions on earnings for employment with the CTPF provided the employee is a Member of CTPF. This exclusion applies to part-time hourly employees, but only if they are also Members of CTPF due to other employment with the same employer (CTPF). If a part-time hourly employee of CTPF is a Member of CTPF due to employment with a different employer (e.g. a public school), CTPF and the employee must contribute to Social Security on the CTPF part-time hourly earnings.

Source: 42 U.S.C. Section 410(a)(7); IRC Section 3121(b)(7)(F); 26 CFR 31.3121(b)(7)-2; IRS Federal State Reference Guide, Publication 963, (Rev.11-2014), pp. 1-3 to 1-6, 5-1, 6-7 (see examples for individuals employed in more than one position), and generally.

Social Security Contributions Are Required for Employees Who Are Not Members of CTPF

CTPF and any employee who is not a Member of CTPF (e.g. hourly employees) must contribute to Social Security on the non-Member's earnings.

Source: 40 ILCS 5/17-106 (hourly employees excluded from CTPF coverage); 42 U.S.C. Section 410(a)(7); IRC Section 3121(b)(7)(F); 26 CFR 31.3121(b)(7)-2; IRS Federal State Reference Guide, Publication 963, (Rev.11-2014), pp. 1-3 to 1-6, 5-1.

Social Security Contributions by Retirees Working for CTPF

Social Security contributions are not required from CTPF or from CTPF employees who have retired from CTPF and who are either (1) currently receiving retirement benefits from CTPF or (2) have reached Normal Retirement Age as defined in Administrative Rule ##### - Vesting and Forfeitures - IRC Sections 401(a)(7) and 401(a)(8).

Source: 26 C.F.R. Section 31.3121(b)(7)-2(d)(4)(ii); IRS Federal State Reference Guide, Publication 963, (Rev.11-2014), p. 6-9.

Social Security Notification Requirements for CTPF Employees

In accordance with the Social Security Protection Act of 2004, CTPF shall provide a copy of Form SSA-1945, *Statement Concerning Your Employment in a Job Not Covered by Social Security*, to all eligible employees upon employment with CTPF on or after January 1, 2005. Form SSA-1945 notifies employees that they are not covered by Social Security, but are covered by a public retirement system (CTPF). The notice provides an explanation of the effect a pension based on earnings not covered by Social Security can have on an employee's Social Security benefit, such as a reduction due to the Government Pension Offset (GPO) Provision or the Windfall Elimination Provision (WEP). CTPF will obtain the employee's signature on Form SSA-1945 and retain a signed copy for its records as a pension paying agency.

Source: Form SSA-1945; <https://www.ssa.gov/slge/>.

Medicare Contributions Are Owed for All CTPF Employees Hired after March 31, 1986

CTPF employees hired, including those rehired, by CTPF after March 31, 1986, are subject to Medicare taxes.

Source: IRS Federal State Reference Guide, Publication 963, (Rev.11-2014). p. 4-1.

Medicare Contributions Are Not Owed for Certain CTPF Employees Who Were Hired Prior to April 1, 1986

Under limited circumstances, the otherwise mandatory Medicare contributions are not owed on behalf of a CTPF employee hired before April 1, 1986, if all of the following conditions are met: (1) The employee is a CTPF Member; (2) the employee was performing regular and substantial services for remuneration for CTPF before April 1, 1986; (3) the employee was a bona fide CTPF employee on March 31, 1986; and (4) the employment relationship with CTPF has been continuous since March 31, 1986.

Source: IRC Section 3121; Revenue Rulings 86-88, 88-36 and 2003-46.

Unemployment Insurance Taxes

The CTPF is exempt from taxation under the Federal Unemployment Tax Act (FUTA). The CTPF is subject to the Illinois Unemployment Insurance Act ("UI Act"). Pursuant to the UI Act,

the CTPF has elected to self-insure. Accordingly, the Fund shall reimburse the Illinois Department of Unemployment Security for all benefits paid to CTPF's former employees within 30 days from the mailing date of the statement issued by IDES, or such other time as set by IDES or Illinois law.

The Fund, through the Executive Director, or the Executive Director's designee, shall have the discretion to apply to the Director of IDES for a revision of any statement within 20 days and to seek review as provided under 820 ILCS 405/1404B and 405/1508.

Source: 820 ILCS 405/211.1(B); 820 ILCS 405/1404B & 405/1508.
