

PHILADELPHIA BOARD OF PENSIONS AND RETIREMENT

REGULATION NO. 2

SUBMISSION OF TAX INFORMATION

WHEREAS, The Board of Pensions and Retirement is empowered by Section 8-407 of the Home Rule Charter and Section 111.1 of the Municipal Retirement System Ordinance to make all necessary regulations to carry into effect the provisions of the Retirement System Ordinance; and

WHEREAS, The Ordinance of July 12, 1993 (Bill No. 589), amended both the Retirement System Ordinance and the Plan 1987 Ordinance to provide that recipients of disability retirement benefits who met certain requirements as to effective dates were required to provide the Board with their federal income tax returns for every year in which they received benefits or face termination of their benefit (see Sections 206.3(c) and 207.7 of the Retirement System Ordinance, as amended, and Sections 111.3(c) and 111A.6 of the Plan 1987 Ordinance, as amended); and

WHEREAS, The Board has determined it appropriate to adopt a regulation in order to establish a procedure for notification of noncompliance with this requirement and a mechanism for the terminations mandated by the Ordinances;

NOW THEREFORE, The Board of Pensions and Retirement hereby adopts this Regulation No. 2, relating to submission of tax information by recipients of disability retirement benefits.

2.1 Documentation Required. The various ordinance sections amended by Bill No. 589 require that members subject to the requirement must submit to the Board their “federal income tax returns.” This phrase means the complete package that the member files with the Internal Revenue Service, including the Form 1040, 1040A, or 1040EZ, and any accompanying schedules, W-2 Forms, 1099 Forms, and the like, including any amended or corrected filings. Copies of these forms may be either delivered in person (in which case the Board will provide a receipt) or sent by mail and addressed to the Executive Director, Board of Pensions & Retirement, 20th Floor, Two Penn Center Plaza, Philadelphia, PA 19102.

2.2 Deadline for Filing. The applicable tax returns, including all forms, schedules, and supporting documents required by Paragraph 2.1 above, must be received by the Board no later than May 1 of the calendar year following the calendar year in which falls the last day of the member's tax year for purposes of his federal tax return. For example, for the typical individual whose tax year is the calendar year, for income earned in calendar year 1996, the last day of his tax year is December 31, 1996; his federal tax return is due to be mailed by April 15, 1997; and copies must be received by the Board by May 1, 1997. The Board will send an initial request for the tax returns no earlier than the February 1 immediately preceding the May 1 deadline for any year.

2.3 Extensions. Where the member has obtained from the Internal Revenue Service an extension of the date to file his federal tax returns, a copy of documentation of that extension must be received by the Board by May 1 of the year following the calendar year in which falls the last day of the member's tax year for purposes of his federal tax return. The applicable tax returns must then be received by the Board within 15 days of the expiration of the filing extension.

2.4 Reminders. In the event that a member has not fully complied with this requirement by the May 1 deadline or any deadline imposed by Paragraph 2.3 above, at some point not less than 30 days after such deadline, the Executive Director of the Board, or his designee, shall send a reminder letter to the member. The reminder letter will notify the member that he must, within 30 days of the date of the letter, either fully comply with the requirement or submit a written appeal to the Executive Director challenging the application of the requirement to that member. The reminder letter shall state that within the 30 days, the member, or his/her authorized representative, may make an appointment to review the Board's file on this matter, during normal working hours. No additional reminders are required, but additional reminders may be sent, at the discretion of the Executive Director, or as the Board may direct.

2.5 Failure to Respond. If, after more than 30 days after being sent the reminder letter provided for in Paragraph 2.4 above or the last of any further reminder letters the Executive Director has chosen to send, the member has either failed to respond, or has notified the Board that he intends neither to provide the required forms nor to appeal, the member will be considered to have waived the appeal provided for in Bill No. 589, and the matter will be listed for the next practicable meeting of the Board for a vote on suspension of the member's benefit.

2.6 Appeals to the Board. The various ordinance sections amended by Bill No. 589 require that benefit payments shall not cease until after resolution of “an appeal to the Board.” The Board shall provide such appeals as follows. If, within 30 days after being sent the reminder letter provided for in Paragraph 2.4 above or the last of any further reminder letters the Executive Director has chosen to send, the member submits to the Board a written appeal stating why he or she should not have to comply with the requirement, the Executive Director, or his designee, will prepare a recommendation to the Board, and the Executive Director shall send a copy of the staff recommendation to the member with a cover letter stating that the member will have 10 days from the date of that letter to respond in writing. After 10 days, the matter will be listed for the next practicable meeting of the Board for a vote on the appeal. The appeal will be decided on the basis of documents provided by the member and the staff. If the Board rejects the appeal, the retirement benefit of the member shall be suspended for one year or until the Board determines that the member has complied with the requirement for the applicable period. Such suspension will be the final action of the Board. The Executive Director shall send the member a letter reporting such action and notifying the member of his or her right to appeal such action to the Court of Common Pleas.

2.7 Effect of Suspension. The various ordinance sections amended by Bill No. 589 require that a member who fails to provide the required forms “shall have his benefits terminated.” This means that if the retirement benefit of a member has been suspended under Paragraphs 2.5 or 2.6 above, then the member shall not be entitled to receive a retirement benefit for the year following the Board action. Any benefit the member is receiving at the time of any such determination shall immediately cease. Each one-year suspension shall be for failure to comply with the requirement for a particular tax year, and shall not prohibit the member from receiving a benefit in any other period. Moreover, at any time after the commencement of a suspension, upon the member providing full compliance for the tax year in question, the Board shall pay, in lump sum, the suspended benefit, less any offset, such as that required by application of the income offset provision.

Approved 12/19/95
Became effective midnight 2/2/96