



## County Employees' Retirement Fund

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# Clerk Bulletin

November 2009

## Definition of Compensation

The definition of "compensation" under 16 CSR 50-2.010(1)(K), is:

"(K) Compensation means, for all periods on or after January 1, 2000, all salary and other compensation paid by an employer to an employee for personal services rendered as an employee as shown on the employee's Form W-2, plus amounts paid by an employer but excluded from W-2 compensation by reason of *Internal Revenue Code* sections 125, 402 (g)(3), 414(h)(2), or 457, but not including travel and mileage reimbursement, and not including compensation in excess of the limit imposed by section 401(a)(17) of the Code. Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit. In the case of a participant who left the employer to join a uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994), and returns to the employ of an employer before his or her reemployment rights under the statute expire, compensation, with respect to the plan years in which the participant was in uniformed service, shall mean the compensation the participant would have earned had he remained in the employ of the employer. The board has the discretionary authority to make a reasonable estimate of this amount. For periods before January 1, 2000, compensation shall be determined under the terms of the prior plan;

Therefore, compensation includes any money paid to an employee and reported on the employee's Form W-2. A uniform allowance that is run through payroll and included on the W-2 is considered, and is required to be reported as salary for the purposes of determining contributions payments. Also, include all compensation on payroll reports and salary verification forms, as well as certified payroll records that are submitted to CERF.

## Contributions Made To the Plan

In the past we were made aware of a few counties who were still withholding CERF contributions (i.e. 2%, 4%, 6%, .7%, 457 Plan) as AFTER-TAX payroll deductions rather than PRE-TAX payroll deductions. Subsequently, we sent out Clerk Bulletins reminding all of the counties once again that CERF contributions are not taxable for Federal and Missouri income taxes and should, therefore, be excluded from taxable wages. The non-taxability of CERF contributions became effective **January 1, 2000**. Recently, we were informed that another county has not been withholding contributions from pre-tax dollars. **Please ensure that your payroll software is withholding CERF contributions from pre-tax pay instead of after-tax pay.** As payroll reports and contributions are uploaded in our database they are coded as pre-tax contributions. When an employee terminates employment and is due a refund of contributions, CERF is required to withhold taxes and report the full refund as taxable (unless the employee has requested a rollover from CERF). If you are withholding contributions from after-tax pay, this will result in double taxation to your employee. Each county is responsible for the proper tax treatment of these payroll deductions as well as subsequent corrections for incorrect tax treatment. (**Note: Buybacks of service are not treated as contributions and are the only county withholdings for CERF that can be withheld from after-tax pay.**)

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## **Refund of Contributions**

No refund is due to any employee who terminates vested. A vested participant cannot receive a refund of contributions in lieu of a retirement benefit.

## **Additional 4% Contributions**

A Clerk Bulletin regarding the additional 4% contributions payable for 2010 was faxed on Monday, November 2, 2009 to everyone. We wish to extend a big "Thank You" to everyone who has returned their election. If you have not returned your election, please remember to return the Clerk Bulletin by December 1, 2009.

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