

EMPLOYER PLAN BACKGROUND

NDCC 15-39.1-09 covers membership in TFFR and the payment of retirement contributions. Beginning on July 1, 1983, the State of North Dakota granted TFFR employers the authority to pay member contributions to the Fund. The primary advantage of this arrangement is the deferment of income taxes for TFFR members.

Each employer, at its option, may pay all or a portion of the member contributions for all compensation earned after June 30, 1983. The payment of the member contributions may be made by the employer through a salary reduction or as a salary supplement. If member contributions are paid by the employer, they must be treated as tax-deferred member contributions in determining income tax treatment. If member contributions are paid by the employer, they shall not be included as gross income of the teacher, for tax purposes, until they are distributed or made available. The employer shall pay these member contributions from the same source of funds used in paying compensation to the teachers. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or as a salary supplement.

INTERNAL REVENUE SERVICE (IRS)

The IRS has authorized employer payment of member contributions to a retirement system, allowing these payments to be treated as tax-deferred member contributions when paid by the employer under certain conditions. Federal tax liability is realized when the member receives a retirement benefit or a refund. This authorization can be found in Section 414(h)(2) of the Internal Revenue Code (IRC).

Any specific questions concerning the tax status or Social Security status of member contributions should be directed to the IRS or Social Security Administration (SSA). Penalties levied by those agencies for improper reporting are the liability of the employer, not TFFR.

EMPLOYER PAYMENT PLAN REQUIREMENTS

Employer payment of member contributions to TFFR is allowed under the following conditions:

1. Participating employers must specify in writing the model they intend to follow.
2. Members must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the participating employer to the retirement fund.
3. All TFFR members reported by an employer must be covered by the model implemented by the participating employer. Members are not allowed the option to participate.
4. All TFFR members covered under such a plan must be treated equally. The administrators and teachers of a school district must follow the same model. Full and part-time teachers must follow the same model. There can be no variation of the adopted model for different groups of members in an employer unit.

5. Member contributions paid by the employer are to be based on the retirement salary reportable to the Fund as defined in this plan and outlined in the plan models.
6. Eligible salary, member, and employer contributions must be certified and reported by the business manager/disbursing official on monthly reports.
7. Participating employers must report the payment of member and employer contributions to the Fund in an approved format.
8. Special provisions apply to state agencies, state institutions, and other grandfathered employers.

Employers must file an Employer Payment Plan form with RIO. (See Forms section.) The Employer Payment Plan will remain in effect until a written notice of cancellation or a new form is filed.

An employer will be required to file a new Employer Payment Plan form:

- If the employer wishes to change the model or amount of member contributions picked up by the employer as a salary supplement.
- If the Legislature makes a change to the member contribution rate.
- If the TFFR Board of Trustees makes a change to the models.

The plan must be implemented at the beginning of a school year (July 1). The form should be mailed to the Fund's administrative office with the first monthly report following the implementation of the plan.

Employers that do not select a model will have member contributions treated as taxed contributions (No Model).

EMPLOYER PAYMENT PLAN MODELS (Effective July 1, 2014)

In this section, there are illustrations of the Employer Payment Plan models approved by the TFFR Board of Trustees for use by employers. The explanations below will assist employers in understanding the models.

Taxed Member Contributions

The member contributions are deducted from a member's pay **after** taxes have been calculated if the employer does not select a model/no model. These taxed member contributions do not affect the member's retirement salary and will not be taxable in retirement or if refunded.

Tax-Deferred Member Contributions

The member contributions are tax-deferred until retirement or withdrawal under Models 1, 2, 3, and 4. The employer can pay tax-deferred member contributions in one of two ways:

1. The employer elects to pay the member contributions through a salary reduction. Therefore, the contributions are deducted from the member's pay **before** income taxes are figured. These contributions do not affect the member's retirement salary, but result in a tax deferral for IRS/W-2 purposes.

or

2. The employer elects to pay the member contributions as a salary supplement and does not include the amount paid in the member's income to the IRS/W-2. These member contributions increase the member's retirement salary.

Employer Contributions

Contributions paid by the employer on the member's retirement salary and are not refundable to the member.

Changing Models

If changing employer payment models is being discussed during the negotiation process, TFFR encourages employers to contact the administrative office for a cost analysis. (See example of Cost Analysis for Changing Models.)

No MODEL (Model 0)**Employer Remittance of Taxed Member Contributions**

This example demonstrates how an employer should report member and employer contributions and retirement salary when no model has been adopted. Under No Model, the employer deducts the member contributions from member's pay after taxes have been withheld.

Example:

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00	
<u>Retirement Salary</u>	<u>\$20,000.00</u>	
Employer Contributions	\$2,550.00	(Retirement Salary of \$20,000 x 12.75% effective 7-01-14)
Taxed Member Contributions Withheld from Member's Pay and Remitted by the Employer	\$2,350.00	(Retirement Salary of \$20,000 x 11.75% effective 7-01-14)

Note: Under No Model, the income reported for federal and North Dakota state income tax purposes ***is not reduced*** by the amount of member contributions.

Taxable Salary Reported for Federal and ND State Income Tax Purposes	\$20,000.00
Taxable Salary Reported to Social Security	\$20,000.00

MODEL 1

Employer Remittance of ALL the Member Contributions as a Salary Reduction

This example demonstrates how an employer should report member and employer contributions and retirement salary as a salary reduction.

Example:

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00
<u>Retirement Salary</u>	<u>\$20,000.00</u>
Employer Contributions	\$ 2,550.00 (Retirement Salary of \$20,000 x 12.75% effective 7-01-14)
Tax-Deferred Member Contributions Withheld from Member's Pay and Remitted by the Employer as a Salary Reduction	\$ 2,350.00 (Retirement Salary of \$20,000 x 11.75% effective 7-01-14)
Note: Under Model 1, the income reported for federal and North Dakota state income tax purposes <i>is reduced</i> by the amount of tax-deferred member contributions as a salary reduction.	
Taxable Salary Reported for Federal and ND State Income Tax Purposes	\$17,650.00 (Contract Salary of \$20,000 less \$2,350 Tax-Deferred Member Contributions)
Taxable Salary Reported to Social Security	\$20,000.00

MODEL 2 (ALL)**Employer Payment of ALL the Member Contributions
as a Salary Supplement**

This example demonstrates how an employer should report member and employer contributions and retirement salary when paying **all** of the member contributions as a salary supplement.

Example: Employer agrees to pay **all** (11.75%) of the member contributions as a salary supplement. An amount equal to 11.75% of the retirement salary will be included as retirement salary. All of the member contributions will be tax-deferred; no contributions will be taxed.

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00
<u>Retirement Salary</u>	<u>\$22,662.89</u> (Contract Salary of \$20,000/ 1.0 - .1175)
Employer Contributions	\$ 2,889.52 (Retirement Salary of \$22,662.89 x 12.75 effective 7-01-14)
Tax-Deferred Member Contributions Paid by the Employer as a Salary Supplement	\$ 2,662.89 (Retirement Salary of \$22,662.89 x 11.75% effective 7-01-14)

Note: Under Model 2, the income reported for federal and North Dakota state income tax purposes **is not reduced** by the amount of tax-deferred member contributions paid by the employer as a salary supplement.

Taxable Salary Reported for Federal and North Dakota State Income Tax Purposes	\$20,000.00
Taxable Salary Reported to Social Security	\$20,000.00

MODEL 2 (Partial)

Employer Payment of A PERCENTAGE OF Member Contributions as a Salary Supplement

This example demonstrates how an employer should report member and employer contributions, and retirement salary when paying a percentage of the member contributions (1% to 11.75%) using a combination of a salary reduction and a salary supplement.

Example: Employer agrees to pay member contributions of 7.75%, as a salary supplement. An amount equal to 7.75% of the retirement salary will be included as retirement salary. The remaining 4.00% of member contributions will be deducted from the member's pay. All member contributions will be tax-deferred.

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00	
<u>Retirement Salary</u>	<u>\$21,680.22</u>	(Contract Salary of \$20,000/ 1.0 - .0775)
Employer Contributions	\$ 2,764.23	(Retirement Salary of \$21,680.22 x 12.75% effective 7-01-14)
Tax-Deferred Member Contributions Paid by the Employer as a Salary Supplement	\$ 1,680.22	(Retirement Salary of \$21,680.22 x 7.75%)
Tax-deferred Member Contributions Withheld from Member's Pay and Remitted by the Employer as a Salary Reduction	\$ 867.21	(Retirement Salary of \$21,680.22 x 4%)
Taxable Salary Reported for Federal and North Dakota State Income Tax Purposes	\$19,132.79	(Contract Salary of \$20,000 less \$867.21 Tax-deferred Member Contributions withheld from member's pay)
Taxable Salary Reported to Social Security	\$20,000.00	

Note: Under Model 2, the income reported for federal and North Dakota state income tax purposes **is reduced** by the amount of tax-deferred member contributions paid by the employee as a salary reduction.

MODEL 3 (Partial)**Employer Payment of a FIXED DOLLAR AMOUNT OF Member Contributions
as a Salary Supplement**

Effective July 1, 2003, Model 3 is no longer available. Employers currently using this model may continue as a closed group. This example demonstrates how an employer should report member and employer contributions and retirement salary when paying a fixed dollar amount of the member contributions using a combination of a salary reduction and a salary supplement.

Note: The fixed dollar amount of member contributions picked up by the employer cannot be more than 11.75% of the lowest full time member's retirement salary (approx. 13.3% of contract salary).

Example: Employer agrees to pay \$1,000 of member contributions as a salary supplement. \$1,000 will be included as retirement salary. The remaining member contributions will be deducted from the member's pay. All member contributions will be tax-deferred.

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00	
<u>Retirement Salary</u>	<u>\$21,000.00</u>	(Contract Salary of \$20,000 + \$1,000)
Employer Contributions	\$ 2,677.50	(Retirement Salary of \$21,000 x 12.75%)
Tax-Deferred Member Contributions Paid by the Employer as a Salary Supplement	\$ 1,000.00	(Pick up amount)
Tax-Deferred Member Contributions Withheld from Member's Pay and Remitted by the Employer as a Salary Reduction	\$ 1,467.50	(Retirement Salary of \$21,000 x 11.75% - \$1000)
Taxable Salary Reported for Federal and North Dakota State Income Tax Purposes	\$18,532.50	(Contract Salary of \$20,000 less \$1,467.50 Tax-Deferred Member Contributions withheld from member's pay)
Taxable Salary Reported to Social Security	\$20,000.00	

Note: Under Model 3, the income reported for federal and North Dakota state income tax purposes **is reduced** by the amount of tax-deferred member contributions paid by the employee as a salary reduction.

EMPLOYER PAYMENT PLAN

MODEL 4 – State Agencies and Institutions

The State agrees to pay 4% of the member contribution as a salary supplement; remaining 7.75% of the member contribution is deducted as a salary reduction.

This example demonstrates how state agencies and institutions should report salaries and member and employer contributions when a combination of a salary reduction and a salary supplement is used.

Example:

Contract/Additional TFFR Salary Earned by the Member	\$20,000.00	
<u>Retirement Salary</u>	<u>\$20,000.00</u>	
Employer Contributions	\$ 2,550.00	(Retirement Salary of \$20,000 x 12.75% effective 7-01-14)
Tax-Deferred Member Contributions Paid by the Employer as a Salary Supplement	\$ 800.00	(Retirement Salary of \$20,000 x 4%)
Tax-Deferred Member Contributions Withheld from Member's Pay and Remitted by the Employer as a Salary Reduction	\$ 1,550.00	(Retirement Salary of \$20,000 x 7.75%)
Note: Under Model 4, the income reported for federal and North Dakota state income tax purposes <i>is reduced</i> by the amount of tax-deferred member contributions paid by the employee as a salary reduction.		
Taxable Salary Reported for Federal and North Dakota State Income Tax Purposes	\$18,450.00	(Contract Salary of \$20,000 less \$1,550 Tax-Deferred Member Contributions withheld from member's pay)
Taxable Salary Reported to Social Security	\$20,000.00	

EMPLOYER PAYMENT PLAN

**TFFR Employer Payment Plan Model Comparison
Employer Contribution 12.75% and Member Contribution 11.75% (Effective 7-1-2014)**

Row	Description	No Model	Model 1	Model 2 Full	Model 2 Partial %	Model 3 Partial \$
A	Member Contribution Paid by Employer	0	0	11.75%	7.75%	\$1,000.00
B	Contract/Additional Salary	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
C	Retirement Salary Reported to TFFR	\$20,000.00	\$20,000.00	\$22,662.89	\$21,680.22	\$21,000.00
		B	B	B/(1-A)	B/(1-A)	B+A
D	Employer Contributions (C x 12.75%)	\$2,550.00	\$2,550.00	\$2,889.52	\$2,764.23	\$2,677.50
E	Tax Deferred Member Contributions Paid by Employer	\$0.00	\$0.00	\$2,662.89	\$1,680.22	\$1,000.00
		A x C	A x C	A x C	A x C	A
F	Tax Deferred Member Contributions Paid by Member	\$0.00	\$2,350.00	\$0.00	\$867.21	\$1467.50
		A x C	C x 11.75% - E	C x 11.75% - E	C x 11.75% - E	C x 11.75% - E
G	Taxed Member Contributions Paid by Member (C x 11.75%) - (E+F)	\$2,350.00	\$0.00	\$0.00	\$0.00	\$0.00
H	Total Member Contributions (E + F + G)	\$2,350.00	\$2,350.00	\$2,662.89	\$2,547.43	\$2,467.50
I	Member's Take Home Pay (Before Taxes) (B - F - G)	\$17,650.00	\$17,650.00	\$20,000.00	\$19,132.79	\$18,532.50
J	Reportable Income for Federal Taxes (B - F)	\$20,000.00	\$17,650.00	\$20,000.00	\$19,132.79	\$18,532.50
K	Wages Reported to FICA (B)	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00

No Model: Member/employee contribution is paid by employee and remitted by employer as taxed dollars.

Model 1: Member/employee contribution is paid by employee through a salary reduction and remitted by employer as tax deferred dollars.

Model 2 All: Member/employee contribution is paid by employer as a salary supplement and remitted to TFFR as tax deferred dollars.

Model 2 Partial % and Model 3 Partial \$: A portion of the member/employee contribution is paid by employer as a salary supplement and remitted to TFFR as tax deferred dollars. The remaining employee contribution is paid by employee and remitted by employer as tax deferred dollars.

