



# Memorandum

#2004-6

**DATE:** April 2004

**TO:** Authorized Agents & Personnel/Payroll Officers

**SUBJECT: GROUP RETIREMENT PLAN  
REPORTABLE SALARY & MEMBERSHIP ELIGIBILITY**

**ELIGIBLE WAGES AND SALARY:**

(Reference-North Dakota Century Code Chapter 54-52-01(20))

The definition of eligible wages and salary was changed August 1, 1995 to:

"Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

Retirement contributions that are delinquent or reported erroneously have the following consequences:

**Long Term Adjustments (90 days and greater)**

(Reference-North Dakota Century Code Chapter 54-52-06)

**Delinquent Contributions**

**1. Actives and Retirees**

- ◆ NDPERS will collect the full amount of the delinquent contributions, plus interest.
- ◆ NDPERS will adjust all records:
  - Correct Final Average Salary calculation;
  - Add any additional service credit, if necessary;
  - Post all the additional retirement contributions to the member account balance and employer contributions.

**2. Closed Accounts**

- ◆ NDPERS will not collect delinquent contributions and no adjustments will be made.

Erroneous Paid Contributions1. **Actives and Retirees**

- ◆ NDPERS will refund the full amount of the erroneous contributions, without interest.
- ◆ NDPERS will adjust all records:
  - Correct the Final Average Salary calculation;
  - Subtract any service credit, if necessary ;
  - Subtract all erroneous retirement contributions from the member account balance and employer contributions.

2. **Closed Accounts**

- ◆ NDPERS will not refund the erroneous paid contributions and no adjustments will be made.

Short Term Adjustments (90 days or less)

(Reference-North Dakota Century Code Chapter 54-52-06)

Delinquent Contributions1. **Actives and Retirees**

- ◆ NDPERS will collect the full amount of the delinquent contributions, without interest.
- ◆ NDPERS will adjust member records.

2. **Closed Accounts**

- ◆ NDPERS will not collect delinquent contributions and no adjustments will be made.

Erroneous Paid Contributions1. **Actives and Retirees**

- ◆ NDPERS will refund the full amount of the erroneous contributions, without interest.
- ◆ NDPERS will adjust member records.

2. **Closed Accounts**

- ◆ NDPERS will not refund the erroneous paid contributions and no adjustments will be made.

Incorrect Tax Reporting of Contributions

## 1. Contributions Reported Incorrectly - Current Tax Year only

- ◆ NDPERS will correct member records for actives, retirees and closed accounts for contributions received in the current tax year to be consistent with employer tax reporting.
- ◆ NDPERS will issue corrected 1099R forms on closed accounts.

## 2. Contributions Reported Incorrectly - Multiple Tax Years

- ◆ NDPERS will correct member records for actives, retirees and closed accounts for contributions received in the current tax year to be consistent with employer tax reporting.
- ◆ NDPERS will issue corrected 1099R forms on closed accounts to reflect corrections made to the current tax year.
- ◆ NDPERS will require the employer to make corrections to the employee's tax records for years preceding the current tax year to be consistent with PERS reporting.
- ◆ NDPERS will not issue corrected 1099R forms for previous years.
- ◆ NDPERS may negotiate with an employer in special situation.

If you suspect that you may have either missed reporting eligible retirement contributions or have reported erroneous salaries, please contact NDPERS immediately. We request that you address your situation in writing and it will be reviewed.

**MANDATORY PARTICIPATION REQUIREMENTS:**

(Reference-North Dakota Century Code Chapter 54-52)

Occasionally NDPERS receives calls from employers asking for clarification about the Mandatory Participation Requirements for employees in the NDPERS Group Retirement Plan. As a reminder the following are the mandatory participation requirements:

Anyone hired by a participating employer who works at least 20 hours per week for 20 or more weeks of the year; is at least 18 years of age; and holds a position that is regularly funded and not of limited duration must participate. Employees meeting these requirements must participate unless they waive participation in writing when their employer initially joined NDPERS. Appointed state officials initially appointed on or after July 1, 1979 must be participating members.

Employees meeting the mandatory participation requirements must be enrolled the first month of eligible employment, even when hired subject to a probationary period.

Elected officials of participating counties and elected state officials must, at their individual election, either enroll in NDPERS within the first six months of their term or waive participation. If no election is made within the first six months, they can not join until they begin a new term. If they elect to participate, their retirement contributions would be handled in the same way as the participating employer's permanent employees.

All other elected or appointed officials of participating governmental units who meet the mandatory participation requirements must be enrolled.

Please be sure to periodically review your employee listing to make sure that they still meet these mandatory participation requirements.