

FORM 5 PACKET



FORM 5 – APPLICATION FOR RETIREMENT CONTRIBUTIONS REFUND

INSTRUCTIONAL LIST

TO EXPEDITE THE ACCURATE PAYMENT OF YOUR RETIREMENT REFUND, PLEASE FOLLOW ALL OF THE INSTRUCTIONS BELOW.

- The Form 5 must be completed in legible handwriting in black ink or typed.
- The Form 5 must have the Federal Income Tax Withholding section completed. If choosing direct rollover, attach the notification from your direct rollover company to the Form 5 when sending to the Retirement System. Rollovers can be paid more promptly if all rollover information accompanies the Form 5.
- The Form 5 must have your signature in the Member Certification section.
- The Form 5 must be properly notarized.
- The Form 5 must have the Employer Certification section completed by your former personnel/payroll office if you left employment within the last six months or if termination was by the employer. Refunds can be paid more promptly if the Employer Certification section has already been completed when the Form 5 is received by the Retirement System.

**NORTH CAROLINA GENERAL STATUTES PROHIBIT THE PAYMENT OF REFUNDS
ANY EARLIER THAN 60 DAYS FROM THE DATE OF TERMINATION.**

FORM 5 ATTACHED

APPLICATION FOR RETIREMENT CONTRIBUTIONS REFUND

Department of State Treasurer, Retirement Systems Division
325 North Salisbury Street, Raleigh, North Carolina 27603-1385

Check System:

- Teachers' and State Employees' Retirement System
- Local Governmental Employees' Retirement System

PLEASE PRINT LEGIBLY IN BLACK INK OR TYPE

- Consolidated Judicial Retirement System
- Legislative Retirement System

Name _____ S. S. # _____
(First) (M. I.) (Last)
 Retirement
 Address _____ Account # _____
 City _____ State _____ Zip _____ Day
 Phone # (_____) _____
 Employer _____ Date Last
(Department, Institution, City or County) Worked _____

NOTE: IF YOU LEFT EMPLOYMENT WITHIN SIX MONTHS OF THE APPLICATION DATE OR TERMINATION WAS BY THE EMPLOYER, DO NOT SEND THE APPLICATION TO THE RETIREMENT SYSTEM. WHEN YOU COMPLETE MEMBER INFORMATION AND HAVE IT CERTIFIED BY NOTARY PUBLIC, SEND THE APPLICATION TO YOUR EMPLOYER.

Have you received within the last 12 months or are you currently receiving short or long-term disability benefits under the provisions of the Disability Income Plan of North Carolina? Yes No

Federal Income Tax Withholding: (This section must be completed.)

- Indicate Your Preference:
- I elect to have my refund **paid to me**. I understand that the Retirement System is required by law to withhold twenty percent (20%) of the taxable portion for Federal income tax.
 - I elect a **direct rollover** of the taxable portion of my refund to an IRA or another employer plan. **I will attach a notification**, signed by an authorized plan representative, that the IRA or plan will accept my direct rollover and act as successor trustee. This notification will include the IRA or plan name, and my account number, if any. (Please advise your rollover company that our plan is a 401(a), defined benefit plan.)

North Carolina Income Tax Withholding: For residents of North Carolina, the Retirement System is required by law to withhold four percent (4%) of the remaining taxable portion after a \$4,000 exclusion, unless you have chosen a direct rollover above or are exempt from North Carolina income tax (see explanation on reverse side).

- (For non-residents of North Carolina only):**
- Indicate Your Preference: I do not want N. C. income tax withheld from my refund. I want N. C. income tax withheld from my refund.

MEMBER CERTIFICATION: I certify that: I have read, or had read to me, the information contained in this application, including the **Special Federal Tax Notice**; I am not now employed in a job requiring me to make contributions to the Retirement System, and if I become re-employed in such a job before I receive my refund, I will notify the Retirement System to cancel this application; I have indicated my preference for income tax withholding; I understand that I may change my preference for income tax withholding anytime up to 2 weeks prior to the scheduled refund date; I understand that my refund cannot be paid until this application has been completed, and all necessary information has been received; **I understand that upon receiving my refund, I lose all rights and benefits from the Retirement System and/or the Disability Income Plan, for both myself and my beneficiaries.**

Member's Signature _____ **Birthdate** _____ **Date** _____

NOTARY PUBLIC CERTIFICATION: State of _____ County of _____

I, _____, a Notary Public for said State and County, do hereby certify that _____ personally appeared before me this date and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the _____ day of _____, 20____. **(Notary Public Seal)**

Signature of Notary _____ My Commission expires _____

EMPLOYER CERTIFICATION: (This section **must be** completed by former personnel/payroll office only if member left employment within last six months prior to application date, or if termination was by the employer.)

I certify that the above-named former employee is not now employed, nor is under contract for employment in a job that requires membership in the Retirement System, and that the records indicate the following:

Last date for which employee was paid: _____ Effective date of resignation, if different: _____

Was employment terminated by the employer? Yes No

Provide payroll information: Last payroll on which member appeared or will appear _____
(Date)

	Salary	Retirement Contribution
Amount paid during calendar year of termination through _____	\$ _____	\$ _____
Additional amount to be paid (include vacation, overtime, etc.) <small>(Month)</small>	\$ _____	\$ _____
Final Totals	\$ _____	\$ _____

Employer's Signature _____ Date _____ Fax # (_____) _____

Payroll information contact person _____ Phone # (_____) _____ (_____) _____

FACTS YOU SHOULD KNOW WHEN APPLYING FOR A REFUND

STATE LAW PROVIDES:

- Your refund may be paid not earlier than 60 days from date of termination of service. Payments are made approximately 60 days from termination, **provided** all payroll information is received from your former employer promptly.
- If you have less than 5 years of membership service, interest credited to your account after July 1, 1981 will not be paid to you, **unless** your employment was terminated by your employer
- If you have 5 or more years of service credit in the Retirement System, you may be eligible for a monthly benefit upon attaining the qualifying age (qualifying age varies among systems). Refer to the employee handbook for your system.
- If you withdraw your contributions, you forfeit all rights to any benefits provided by the Retirement System and/or the Disability Income Plan.
- You may not withdraw your contributions if you are receiving short-term disability benefits. If you are receiving long-term benefits, contact the Retirement System for further information.
- If you withdraw contributions and later return to covered employment, you must enter the Retirement System as a new member. You cannot return the withdrawn contributions at re-employment, but present law permits the restoration of a withdrawn account after meeting a service requirement that varies among systems. Refer to the employee retirement handbook for your system.

If you apply for a refund, receipt of application will be acknowledged in writing by the Retirement System and you will be advised of the date on which payment will likely be made. If this letter is returned to the Retirement System by the Post Office, processing of your refund will cease until your correct address is provided.

INCOME TAX WITHHOLDING FROM A REFUND

General. Federal and North Carolina income tax laws require the withholding of Federal and, in most cases, North Carolina income tax from the taxable portion of the refund of accumulated contributions unless the refund is directly rolled over to a traditional IRA or another employer plan that accepts your direct rollover. If you choose a direct rollover, please advise your rollover plan administrator that our plan is a 401(a), defined benefit plan under the Internal Revenue Code. Your election for income tax withholding or for a direct rollover may be changed anytime up to 2 weeks prior to the scheduled refund date.

Taxable Portion of Refund. All interest accrued and paid on your contributions is taxable. All contributions made after the date (see below) your employer tax sheltered your contributions are taxable.

Teachers' and State Employees' Retirement System	July 1, 1982
Consolidated Judicial Retirement System	August 1, 1983
Local Governmental Employees' Retirement System	Various - See your employer
Legislative Retirement System	November 1, 1986

Federal Income Tax Withholding. See pages 3 and 4.

North Carolina Income Tax Withholding. Your refund is exempt from North Carolina income tax provided you had five (5) or more years of creditable service in the Retirement System as of August 12, 1989. If you are not exempt from North Carolina income tax, the amount of your refund subject to North Carolina income tax is the amount reportable for Federal income tax purposes less a four thousand dollar (\$4,000) exclusion. After the \$4,000 exclusion, North Carolina tax laws require the withholding of four percent (4%) of the remaining taxable portion if you are a North Carolina resident. If the taxable amount is less than \$4,000, no North Carolina income tax will be withheld. If you are not a resident of North Carolina, you may elect whether to have North Carolina income tax withheld.

You can defer North Carolina income tax on the taxable portion of the refund by rolling over the taxable portion of the refund to an individual retirement arrangement (IRA) or to another qualified retirement plan.

Capital gains treatment, if any, is the same as under federal law.

Penalty for Failure to Have North Carolina Income Tax Withheld. You may incur penalties under the estimated tax rules, if your withholding and estimated tax payments are not sufficient. Further information with regard to penalties for failure to properly pay your income tax can be obtained by contacting the North Carolina Department of Revenue.

Withholding Statements. The amount of the refund reportable for Federal and North Carolina income tax purposes is disclosed on the stub of the refund check. At year-end and before January 31 of the year following the year of refund, we will provide you with a Form 1099-R (Total Distribution From Profit Sharing, Retirement Plan and Individual Retirement Arrangements) showing the amount taxable; the amount taxable as a capital gain, if any; the amount reportable as ordinary income; the tax withheld; and the amount of taxed contributions.

SPECIAL FEDERAL TAX NOTICE REGARDING RETIREMENT SYSTEM REFUNDS

This notice contains important information you will need before you decide how to receive your benefits from your Retirement System.

SUMMARY

A payment from the Retirement System that is eligible for rollover can be taken in two ways. You can have *all or any portion* of your payment either 1) **PAID IN A DIRECT ROLLOVER** or 2) **PAID TO YOU**. A rollover is a payment of your accumulated contributions to a traditional IRA or to another employer plan. A “traditional IRA” does not include a Roth IRA, SIMPLE IRA, or Education IRA. This choice will affect the tax you owe.

If you choose a **DIRECT ROLLOVER**:

- Your payment will not be taxed in the current year and no income tax will be withheld.
- Your payment will be made directly to your traditional IRA, or if you choose, to another employer plan that accepts your rollover.
- Your payment will be taxed later when you take it out of the traditional IRA or the qualified employer plan.

If you choose to have your accumulated contributions **PAID TO YOU**:

- The Retirement System is required to withhold 20% of the taxable portion and send it to the IRS as income tax withholding.
- Your payment will be taxed in the current year unless you roll it over. You may be able to use special tax rules that could reduce the tax you owe. However, if you receive the payment before age 59½, you also may have to pay an additional 10% tax.
- You can roll over the payment to your traditional IRA or to another qualified employer plan that accepts your rollover within 60 days of receiving the payment. The amount rolled over will not be taxed until you take it out of the traditional IRA or the qualified employer plan.
- Within this 60-day period, if you want to roll over 100% of the payment to a traditional IRA or another qualified employer plan, *you must find other money to replace the amount that was withheld*. If you roll over only the portion that you receive, you will be taxed on the amount that was withheld and not rolled over.

MORE INFORMATION

PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

General. Payments from the Retirement System may be “eligible rollover distributions.” This means that they can be rolled over to a traditional IRA or to another employer plan that accepts rollovers. Payments from a plan **cannot** be rolled over to a Roth IRA, a SIMPLE IRA, or an Education IRA.

The following types of payments cannot be rolled over:

Non-taxable Payments. In general, only the taxable portion of your payment can be rolled over. If you have made “after-tax” employee contributions to the Retirement System, these contributions will be non-taxable when they are paid to you, and they cannot be rolled over. (After-tax employee contributions generally are contributions you made from your own pay that were already taxed.)

Payments Spread Over Long Periods. You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for:

- your lifetime (or your life expectancy), or
- your lifetime and your beneficiary’s lifetime (or joint life expectancies), or
- a period of ten years or more.

Required Minimum Payments. Beginning in the year you reach age 70½, a certain portion of your payment cannot be rolled over because it is a “required minimum payment” that must be paid to you.

DIRECT ROLLOVER

General. You can choose a direct rollover of all or any portion of your payment that is an eligible rollover distribution, as described above. In a direct rollover, the eligible distribution is paid directly from the Retirement System to a traditional IRA or another employer plan that accepts rollovers. If you choose a direct rollover you are not taxed on a payment until you later take it out of the traditional IRA or the employer plan.

Direct Rollover to an IRA. You can open a traditional IRA to receive the direct rollover. (The term “IRA,” as used in this notice, includes individual retirement accounts and individual retirement annuities.) If you choose to have your payment made directly to a traditional IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. However, in choosing an IRA, you may wish to consider whether the IRA you choose will allow you to move all or a part of your payment to another IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on traditional IRAs (including limits on how often you can roll over between IRAs).

Direct Rollover to a Plan. If you are employed by a new employer that has a plan, and you want a direct rollover to that plan, ask the administrator of that plan whether it will accept your rollover. If your new employer’s plan does not accept a rollover, you can choose a direct rollover to a traditional IRA.

PAYMENT PAID TO YOU

If you have your refund paid to you, it is subject to 20% Federal income tax withholding on the taxable portion. The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a traditional IRA or another plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

Federal Income Tax Withholding

Mandatory Withholding. If any portion of the payment to you is an eligible rollover distribution, the Retirement System is required by law to withhold 20% of that amount. This amount is sent to the IRS as income tax withholding. For example, if your eligible rollover distribution is \$10,000, the Retirement System must withhold \$2,000 as income tax. However, when you prepare your income tax return for the year, you will report the full \$10,000 as a payment from the Retirement System. You will report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year.

Sixty-Day Rollover Option. If you have your refund paid to you, you can still decide to roll over all of the taxable portion or part of it to a traditional IRA or another employer plan that accepts rollovers. If you decide to roll over, you must make the rollover within 60 days after you receive that payment. The portion of your payment that is rolled over will not be taxed until you take it out of the traditional IRA or the employer plan.

You can roll over up to 100% of the eligible rollover distribution, including an amount equal to the portion that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the traditional IRA or the employer plan to replace the amount that was withheld. On the other hand, if you roll over only the portion that you receive, you will be taxed on the amount that was withheld.

For example, if your eligible rollover distribution is \$10,000, and it is only taxable for Federal income tax, and you choose to have it paid to you, you will receive \$8,000, and \$2,000 will be sent to the IRS as income tax withholding. Within 60 days after receiving the \$8,000, you may roll over the entire \$10,000 to a traditional IRA or employer plan. To do this, you roll over the \$8,000 you received from the Retirement System, and you will have to find \$2,000 from other sources (your savings, a loan, etc.). In this case, the entire \$10,000 is not taxed until you take it out of the IRA or employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of the \$2,000 withheld.

If, on the other hand, you roll over only \$8,000, the \$2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return you may get a refund of part of the \$2,000 withheld.

Additional 10% Tax If You Are Under Age 59½. If you receive a refund before you reach age 59½ and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the refund. The additional 10% tax does **not** apply to your payment **if** it is (1) paid to you because you separate from service with your employer during or after the year you reach age 55, (2) paid because you retire due to disability, (3) paid to you as equal (or almost equal) payments over your life or life expectancy (or your and your beneficiary's lives or life expectancies), or (4) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% tax.

Special Tax Treatment. If your eligible rollover distribution is not rolled over, it will be taxed in the year you receive it. However, if it qualifies as a "lump sum distribution," it may be eligible for special tax treatment. A lump sum distribution is a payment, within one year, of your entire balance under the Retirement System that is payable to you because you have reached age 59½ or because you have separated from service with your employer. For a payment to qualify as a lump sum distribution, you must have been a participant in the Retirement System for at least 5 years. The special tax treatment for lump sum distributions is described below.

Ten-Year Averaging If You Were Born Before January 1, 1936. If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using "10-year averaging" (using 1986 tax rates). 10-year averaging often reduces the tax you owe.

Capital Gain Treatment If You Were Born Before January 1, 1936. In addition, if you receive a lump sum distribution and you were born before January 1, 1936, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Retirement System (if any) taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. If you have previously rolled over a payment, you cannot use this special tax treatment for later payments. If you roll over your payment to a traditional IRA, you will not be able to use this special tax treatment for later payments from the IRA. Also, if you roll over only a portion of your payment to a traditional IRA, this special tax treatment is not available for the rest of the payment. Additional restrictions are described in IRS Form 4972, which has more information on lump sum distributions and how you elect the special tax treatment.

HOW TO OBTAIN ADDITIONAL INFORMATION

This Special Federal Tax Notice summarizes only the federal (not state or local) tax rules that might apply to your refund. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with a professional tax advisor before you apply for your refund from the Retirement System. Also, you can find more specific information on the tax treatment of payments from qualified retirement plans in IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements. These publications are available from your local IRS office, on the IRS's Internet Web Site at www.irs.ustreas.gov, or by calling 1-800-TAX-FORMS.