ARTICLE 17. ANNUAL COMPENSATION LIMITS

Rule 1. General Provisions

35 IAC 17-1-1 Definitions

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-1.5; IC 5-10.4; IC 5-10.5

Sec. 1. (a) The definitions in this section apply throughout this article.

(b) "Code" means the Internal Revenue Code of 1986, 26 U.S.C. 1 et seq., and all amendments related thereto.

(c) "EGTRRA" means Economic Growth and Tax Relief Reconciliation Act of 2001, P.L. 107-16, and all applicable regulations and amendments related thereto.

(d) "Fund" means the Indiana state teachers' retirement fund.

(e) "IRS" means the Internal Revenue Service.

(f) "OBRA '93" refers to the federal Omnibus Budget Reconciliation Act of 1993, P.L.103-66, and all applicable regulations and amendments related thereto. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 17-1-1; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3879; readopted Jul 8, 2009: 20090715-IR-550090499ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 5-1-1) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 17-1-1) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

35 IAC 17-1-2 Introduction

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-1.5; IC 5-10.4; IC 5-10.5

Sec. 2. (a) OBRA '93 was signed into law on August 10, 1993. Among other things, OBRA '93 contained amendments to Section 401(a)(17) of the Code relating to the annual compensation limit for tax-qualified retirement plans. Section 401(a)(17) of the Code provides an annual compensation limit for each employee under a qualified plan. The annual compensation limit was subsequently amended by EGTRRA for plan years beginning after December 31, 2001. A plan may not base contributions or benefits on annual compensation in excess of this annual compensation limit.

(b) Prior to its amendment by OBRA '93, the annual compensation limit under Section 401(a)(17) of the Code was two hundred thousand dollars ($200,000), adjusted for cost-of-living increases (two hundred thirty-five thousand eight hundred forty dollars ($235,840) for 1993). Section 401(a)(17) of the Code was amended by OBRA '93 to reduce the annual compensation limit to one hundred fifty thousand dollars ($150,000), and to modify the manner in which cost-of-living adjustments are made to the annual compensation limit. EGTRRA subsequently amended this annual compensation limit to two hundred thousand dollars ($200,000) as modified by cost of living adjustments.

(c) OBRA '93, however, provides a grandfather clause for certain eligible participants in governmental plans. This grandfather rule applies to individuals who already were participants in governmental plans before the first plan year beginning after December 31, 1995, or, if earlier, the first plan year for which the plan is amended to comply with OBRA '93. Under the grandfather rule, the annual compensation limit contained in OBRA '93 will not apply to those eligible participants to the extent that the annual compensation limit in OBRA '93 would reduce the amount of compensation taken into account under the plan below the amount that was allowed to be taken into account under the plans as in effect on July 1, 1993. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 17-1-2; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3879; readopted Jul 8, 2009: 20090715-IR-550090499ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 5-1-2) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 17-1-2) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

35 IAC 17-1-3 Purpose

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-1.5; IC 5-10.4; IC 5-10.5

Sec. 3. The purpose of this rule is to comply with OBRA '93 and EGTRRA as those acts amended Section 401(a)(17) of the Code. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 17-1-3; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3880; readopted Jul 8, 2009: 20090715-IR-550090499ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 5-1-3) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 17-1-3) by P.L.23-2011,*

SECTION 22, effective July 1, 2011.

35 IAC 17-1-4 Text

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-1.5; IC 5-10.4; IC 5-10.5

Sec. 4. The annual compensation limitations of Section 401(a)(17) of the Code shall be applied as follows:

(1) The annual compensation limit under Section 401(a)(17) of the Code, as amended by OBRA '93 and EGTRRA, shall not apply to any eligible participant, in any future year, to the extent that the application of the annual compensation limit in Section 401(a)(17) of the Code, as amended by OBRA '93 and EGTRRA, would reduce the amount of annual compensation that is allowed to be taken into account under the fund below the amount that was allowed to be taken into account under the fund as in effect on July 1, 1993. As used in this subdivision, "eligible participants" includes all members who participated in the fund prior to July 1, 1996.

(2) The annual compensation limit under Section 401(a)(17) of the Code, as amended by OBRA '93, will be effective with respect to noneligible participants as of July 1, 1996. As used in this subdivision, "noneligible participants" includes all members who did not participate in a fund prior to July 1, 1996. Effective for years beginning after December 31, 2001, the annual compensation limit under Code Section 401(a)(17), as amended by EGTRRA, will be effective with respect to noneligible participants. The annual compensation limit will be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than twelve (12) months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve (12). If the compensation for any prior determination period is taken into account in determining a plan member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 17-1-4; filed Jul 15, 2003, 4:30 p.m.: 26 IR 3880; readopted Jul 8, 2009: 20090715-IR-550090499ONA; adopted Dec 16, 2009: 20100106-IR-550090990ONA) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund (550 IAC 5-1-4) to the Board of Trustees of the Indiana Public Retirement System (35 IAC 17-1-4) by P.L.23-2011, SECTION 22, effective July 1, 2011.

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