

Document: Proposed Rule, **Register Page Number:** 26 IR 2112

Source: March 1, 2003, Indiana Register, Volume 26, Number 6

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register . However, this document is unofficial.

**TITLE 550 BOARD OF TRUSTEES OF THE
INDIANA STATE TEACHERS' RETIREMENT
FUND**

Proposed Rule
LSA Document #02-325

DIGEST

Amends 550 IAC 3 to conform to changes made to the Internal Revenue Code by the Economic Growth and Tax Relief Reconciliation Act of 2001. Adds 550 IAC 5 to changes made to the Internal Revenue Code by the Economic Growth and Tax Relief Reconciliation Act of 2001. Adds 550 IAC 6 concerning rollovers, service purchases, and enhanced retirement savings opportunities for fund members (Senate Enrolled Act 59). Effective 30 days after filing with the secretary of state.

550 IAC 3-1-1	550 IAC 3-2-2
550 IAC 3-1-2	550 IAC 5
550 IAC 3-1-3	550 IAC 6
550 IAC 3-2-1	

SECTION 1. 550 IAC 3-1-1 IS AMENDED TO READ AS FOLLOWS:

550 IAC 3-1-1 Definitions

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-2-14; IC 21-6.1

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

(b) "Board of trustees" means the board of trustees of the Indiana state teachers' retirement fund.

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

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

~~(d)~~ (e) "Eligible rollover distribution" means any distribution of all or any taxable portion of the benefit to the credit of a member or a member's spouse, except that an eligible rollover distribution does not include the following:

(1) Any distribution that is one (1) of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member and the member's designated beneficiary.

(2) Any distribution that is one (1) of a series of substantially equal periodic payments for a specified period of ten (10) years or more.

(3) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.

(4) The portion of any distribution that is not ~~includable~~ **includible** in gross income, **provided that any portion of any distribution that is not includible in gross income may be an eligible rollover distribution for purposes of a rollover to either:**

(A) a traditional individual retirement account or individual retirement annuity; or

(B) a qualified trust that is part of a plan that is a defined contribution plan that will separately account for the taxable and nontaxable portions of the distribution, in a direct trustee-to-trustee transfer.

(5) Any distribution that is made upon hardship by the member.

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

(f) (g) "IRS" means the Internal Revenue Service.

(g) (h) "UCA" refers to the federal Unemployment Compensation Amendments of 1992, P.L.102-318, and all applicable regulations and amendments related thereto. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 3-1-1; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2033; readopted and extended filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731*)

SECTION 2. 550 IAC 3-1-2 IS AMENDED TO READ AS FOLLOWS:

550 IAC 3-1-2 Introduction

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-2-14; IC 21-6.1

Sec. 2. (a) The UCA was signed into law on July 3, 1992. The UCA expanded the permanent federal-state extended unemployment benefits program and extended the existing emergency unemployment insurance program. The sources of financing for the UCA benefit extensions include provisions affecting distributions from tax-qualified pension plans such as the fund. The provisions in this article apply to distributions made after December 31, 1992, and include the following: **of the UCA were subsequently amended by EGTRRA.**

(1) Changes in the rules applicable to rollovers from tax-qualified plans:

(2) A provision that requires such plans to give participants entitled to a distribution eligible for rollover treatment the option to have that amount paid directly in the form of a direct rollover to a qualified defined contribution plan, an individual retirement account or annuity, or a similar plan specified by the participant.

(3) Changes in the withholding taxes applicable to distributions from such plans:

(b) ~~The fund does not accept rollover contributions from other retirement plans. However, the fund permits rollover contributions to be paid directly to other retirement plans under certain circumstances. Accordingly, the rules governing the fund need to be amended to conform to the direct rollover requirements under the UCA to allow such rollovers at the member's or member's spouse's election.~~

(c) (b) 550 IAC 3-2 includes the model language set forth in Revenue Procedure 93-12, issued December 30, 1992, to amend the fund to comply with the requirements of Section 401(a)(31) of the Code. 550 IAC 3-2 reflects the model amendment drafted by the IRS **as amended by EGTRRA.** The board of trustees recognizes that some provisions included in the model amendment language are not applicable to a governmental plan as defined in Section 414(d) of the Code. As a result, those provisions that are not applicable to a governmental plan will not be applied by the board of trustees. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 3-1-2; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2034; readopted and extended filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731*)

SECTION 3. 550 IAC 3-1-3 IS AMENDED TO READ AS FOLLOWS:

550 IAC 3-1-3 Purpose

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-2-14; IC 21-6.1

Sec. 3. (a) The purpose of this rule is to comply with the UCA to the extent required by Section 401(a)(31) of the Code.

(b) A member of the fund may elect, at the time and in the manner prescribed by the board of trustees, to have all or a portion of an eligible rollover distribution paid directly to another eligible retirement plan as specified by the member.

(c) A surviving spouse who is entitled to receive an eligible rollover distribution may elect, at the time and in the manner prescribed by the board of trustees, to have all or a portion of an eligible rollover distribution paid directly to ~~an individual~~ **another eligible retirement account or annuity plan** as specified by the spouse. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 3-1-3; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2034; readopted and extended filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731*)

SECTION 4. 550 IAC 3-2-1 IS AMENDED TO READ AS FOLLOWS:

550 IAC 3-2-1 Model amendment language

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-2-14; IC 21-6.1

Sec. 1. **The amendments to this rule applies required by EGTRRA apply** to distributions made on or after January 1, ~~1993~~ **2002**. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this rule, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 3-2-1; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2034; readopted and extended filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731*)

SECTION 5. 550 IAC 3-2-2 IS AMENDED TO READ AS FOLLOWS:

550 IAC 3-2-2 Definitions

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-2-14; IC 21-6.1

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) "Distributee" includes an employee or former employee, **as well as the employee's or former employee's surviving spouse**. In addition, the employee's or former employee's surviving spouse ~~and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees is a distributee~~ with regard to the interest of the spouse or former spouse.

(d) "Eligible retirement plan" means:

(1) an individual retirement account described in Section 408(a) of the Code;

(2) an individual retirement annuity described in Section 408(b) of the Code;

(3) an annuity plan described in Section 403(a) of the Code; ~~or~~

(4) a qualified trust described in Section 401(a) of the Code;

(5) an eligible deferred compensation plan under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (so long as the plan agrees to separately account for amounts rolled into the plan); or

(6) an annuity contract under Section 403(b) of the Code;

that accepts the distributee's eligible rollover distribution. ~~However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~

(e) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include the following:

(1) Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more.

(2) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.

(3) The portion of any distribution that is not ~~includable~~ **includible** in gross income, ~~(determined without regard to the exclusion provided that any portion of any distribution that is not includible in gross income may be an eligible rollover distribution for net unrealized appreciation with respect purposes of a rollover to employer securities): either:~~

(A) a traditional individual retirement account or individual retirement annuity; or

(B) a qualified trust that is part of a plan that is a defined contribution plan that will separately account for the taxable and nontaxable portions of the distribution, in a direct trustee-to-trustee transfer.

(4) Any distribution that is made upon hardship by the member.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 3-2-2; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2034;

readopted and extended filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731)

SECTION 6. 550 IAC 5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 5. ANNUAL COMPENSATION LIMITS

Rule 1. General Provisions

550 IAC 5-1-1 Definitions

Authority: IC 5-10.2-2-1; IC 21-6.1-3-6

Affected: IC 5-10.2-2-1.5; IC 21-6.1

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 State Teachers’ Retirement Fund; 550 IAC 5-1-1)*

550 IAC 5-1-2 Introduction

Authority: IC 5-10.2-2-1; IC 21-6.1-3-6

Affected: IC 5-10.2-2-1.5; IC 21-6.1

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 State Teachers’ Retirement Fund; 550 IAC 5-1-2)*

550 IAC 5-1-3 Purpose

Authority: IC 5-10.2-2-1; IC 21-6.1-3-6

Affected: IC 5-10.2-2-1.5; IC 21-6.1

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 State Teachers' Retirement Fund; 550 IAC 5-1-3*)

550 IAC 5-1-4 Text

Authority: IC 5-10.2-2-1; IC 21-6.1-3-6

Affected: IC 5-10.2-2-1.5; IC 21-6.1

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 non-eligible participants.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 5-1-4)

SECTION 7. 550 IAC 6 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6. ROLLOVERS, SERVICE PURCHASES, AND ENHANCED RETIREMENT SAVINGS OPPORTUNITIES

Rule 1. General Provisions

550 IAC 6-1-1 Definitions

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-3-10; IC 21-6.1

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

(b) "Board of trustees" means the board of trustees of the Indiana state teachers' retirement fund.

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

(d) "Direct rollover" means a payment from an eligible retirement plan specified by the member to the fund.

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

(f) "Eligible retirement plan" means:

(1) an individual retirement account described in Section 408(a) of the Code;

(2) an individual retirement annuity described in Section 408(b) of the Code;

(3) an annuity plan described in Section 403(a) of the Code;

(4) a qualified trust described in Section 401(a) of the Code;

(5) an eligible deferred compensation plan under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (so long as the plan agrees to separately account for amounts rolled into the plan); or

(6) an annuity contract under Section 403(b) of the Code;

that accepts the distributee's eligible rollover distribution.

(g) “Eligible rollover distribution” means any distribution of all or any taxable portion of the benefit to the credit of a member or a member’s spouse, except that an eligible rollover distribution does not include the following:

- (1) Any distribution that is one (1) of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member and the member’s designated beneficiary.
- (2) Any distribution that is one (1) of a series of substantially equal periodic payments for a specified period of ten (10) years or more.
- (3) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.
- (4) The portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an eligible rollover distribution for purposes of a rollover to either:
 - (A) a traditional individual retirement account or individual retirement annuity; or
 - (B) a qualified trust which is part of a plan which is a defined contribution plan that will separately account for the taxable and nontaxable portions of the distribution, in a direct trustee-to-trustee transfer.
- (5) Any distribution that is made upon hardship by the member.

(h) “Fund” means the Indiana state teachers’ retirement fund.

(i) “IRS” means the Internal Revenue Service. *(Board of Trustees of the Indiana State Teachers’ Retirement Fund; 550 IAC 6-1-1)*

550 IAC 6-1-2 Rollover for purchase of service

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-3-10; IC 21-6.1

Sec. 2. The fund may accept any portion of an eligible rollover distribution in payment of all or a portion of a member’s purchase of service credit authorized under the fund’s statutes. The fund may accept an eligible rollover distribution paid directly to the system in a direct rollover. *(Board of Trustees of the Indiana State Teachers’ Retirement Fund; 550 IAC 6-1-2)*

550 IAC 6-1-3 Trustee-to-trustee transfer

Authority: IC 21-6.1-3-6

Affected: IC 5-10.2-3-10; IC 21-6.1

Sec. 3. The fund may accept a direct trustee-to-trustee transfer from a deferred compensation plan under Code Section 457(b) or a tax-sheltered annuity under Code Section 403(b) for the purchase of permissive service credit, as defined in Code Section 415(n)(3)(A), or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3). *(Board of Trustees of the Indiana State Teachers’ Retirement Fund; 550 IAC 6-1-3)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on March 26, 2003 at 3:00 p.m., at the Board of Trustees of the Indiana State Teachers’ Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana the Board of Trustees of the Indiana State Teachers’ Retirement Fund will hold a public hearing on proposed amendments regarding compliance with federal pension law changes. Send written comments to Thomas N. Davidson, General Counsel, Indiana State Teachers’ Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204. Copies of these rules are now on file at the Indiana State Teachers’ Retirement Fund, 150 West Market Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Dr. William E. Christopher
Executive Director
Board of Trustees of the Indiana State Teachers’ Retirement Fund