

**BOARD OF TRUSTEES OF THE
EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE
MISSED CONTRIBUTIONS MAKE-UP POLICY**

Introduction

Employees' Retirement System (ERS) Class C and Class D members are required to contribute 5% of their compensation to ERS pursuant to Paragraphs (d) (1) and (2) of Section 8 of the ERS law. The members' contributions are mandatory and must be made up under Internal Revenue Code tax qualification rules generally requiring a plan to be administered in accordance with its terms. Failure to make up the missed 5% mandatory member contributions could adversely affect ERS' tax qualified status.

Contribution Deficiency Make-up Rules

Set forth below is a recommended process for deducting make-up member contributions from future pay. It is recognized that the process cannot address all details of implementation that will arise, which will have to be resolved by the Executive Director.

- A "make-up commencement date" is specified.
- The total amount of missed 5% mandatory member contributions ("contribution deficiency") is determined for each member.
 - no interest is added to the contribution deficiency
- If a member's contribution deficiency is less than \$100.00, that amount is deducted in a single sum from the member's pay for the first full payroll period beginning after the make-up commencement date.
- Otherwise, the amount to be deducted for any payroll period is 3% of the member's gross pay for that period, but not less than \$50.00. This amount is deducted every payroll period until the entire contribution deficiency is recovered.
- If a member terminates employment or dies with a contribution deficiency balance of \$100.00 or more, that amount will be offset against the periodic retirement allowance or death benefit to which the member or his or her beneficiary would otherwise be entitled. The offset is calculated by using an actuarial method and appropriate annuity factors recommended by ERS' actuary and approved by the Board of Trustees.
- On recovery of the full amount of the contribution deficiency balance through the offset described above, the reduced retirement allowance or death benefit payable to a member or beneficiary shall be restored to the full, unreduced amount of the retirement allowance or death benefit payable to the member or beneficiary, not including post-retirement increases on the amount reduced.

- If a member receiving a reduced retirement allowance dies before his or her contribution deficiency balance is fully recovered, the survivorship allowance payable to his or her beneficiary is calculated by using the full, unreduced amount of the retirement allowance prior to reduction.
- If a member terminates employment or dies with a contribution deficiency balance of less than \$100.00, that amount is deducted in a single sum from the member's periodic retirement allowance or the beneficiary's periodic death benefit for the first full payroll period beginning after the make-up commencement date.
- If a member terminates employment but is eligible to receive only a lump-sum return of contributions, no offset is made against that lump-sum payment.
- If a member dies with a contribution deficiency balance but his or her beneficiary is eligible to receive only a lump-sum death benefit, no offset is made against that lump-sum death benefit.
- For tax purposes, make-up deductions are treated the same as mandatory member contributions that are made at the correct time (i.e., they are treated as "picked up").

Adopted by the ERS Board of Trustees on May 16, 2019