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Circular Letter

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **2009 COMPENSATION LIMITS - IRC SECTION 401(a)(17)**

Section 401(a)(17) of the Internal Revenue Code provides dollar limitations on annual compensation that can be taken into account under qualified retirement plans. The purpose of this Circular Letter is to update you on the 2009 compensation limit for members that can be taken into account under the plan, and outline the procedures for reporting a member who has reached the limit.

The compensation limit for the 2009 calendar year is \$245,000. The limit for previous years is as follows:

2008	2007	2006	2005	2004	2003
\$230,000	\$225,000	\$220,000	\$210,000	\$205,000	\$200,000

The compensation limit is only applicable to persons who first became members or participants of the California Public Employees' Retirement System (CalPERS) on or after July 1, 1996. **The employer should notify all persons who are subject to the compensation limit requirements.**

The compensation limit does not limit the salary an employer can pay an employee who is a member of CalPERS, but rather limits the amount of compensation taken into account under the plan. Members should not make contributions on compensation that exceeds the limit for each calendar year. In addition, all compensation reported should be compensation that is reportable to CalPERS, and should exclude items such as overtime, automobile allowances, lump sum payouts, etc.

If you have an employee whose compensation reaches the limit, please adhere to the following steps.

- Send a notice to the following address indicating the member's name, Social Security number and period in which the employee's compensation first exceeded the limit:

California Public Employees' Retirement System
Attn: Payroll Manager
Re: Section 401(a)(17)
P.O. Box 942709
Sacramento, CA 94229-2709

- **Stop member contributions and notify the member of the action taken.**
- Continue reporting Pay Code, Pay Rate, Member Earnings, **and a Contribution Code 01**, but **no** member contributions for the periods that remain in the calendar year. Reporting contribution code 01 allows the employee to continue earning service credit without making contributions on earnings that exceed the limit. If contribution code 11 is used instead of 01, the member will not receive service credit. If you were reporting contributions under Member Normal (contribution code 01), then you will continue using the same contribution code; however, if you were reporting contributions under Tax Deferred (contribution code 11), you will need to change the contribution code to 01 for the remainder of the calendar year.
- If Special Compensation is also reported, then report Pay Code, Pay Rate, Member Earnings, and Contribution Code 06 (member paid) or 16 (tax deferred) without contributions. If an employee's pay rate increases after the time you cease reporting contributions, please indicate the higher pay rate and earnings with a Contribution Code 05 or 15 on your payroll transaction in case legislation were to change the original limits established for the year.
- While the law limits employee contributions, **employer contributions should still be paid** on all earnings that are reported.
- Once the calendar year is over, resume reporting member contributions for your employee and begin monitoring for the new calendar year.
- If an employee has already reached the limit and the above has not been done, please use a Contribution Code 02 or 12 to make a prior period contribution adjustment, and reverse contributions reported for each service period that exceeded the limit. For Special Compensation, reverse each original entry that exceeded the limit, and report Pay Code, Pay Rate, Member Earnings, and Contribution Code 06 or 16 without contributions. For a retroactive salary adjustment, reverse each original entry that exceeded the limit, and report Pay Code, Pay Rate, Member Earnings, and Contribution Code 05 or 15, without contributions.

- Federal law does not allow CalPERS to refund over-reported contributions to an active CalPERS member. The employer must report these adjustments, and refund the money to the employee(s).

Impact on Final Compensation:

Final compensation is the average full time-time monthly pay rate and special compensation for the last 12 or 36 consecutive months of employment. For members who are subject to the limit, their final compensation will be capped at the limit in effect for each 12-consecutive-month period that is used to calculate their retirement allowance if they were to retire.

The determination of compensation for each 12 month period shall be subject to the annual compensation in effect for the calendar year in which the 12 month period begins. In a determination of average annual compensation over more than one 12 month period, the amount of compensation taken into account for each 12 month period shall be subject to the applicable annual compensation limit.

For example, if a member's retirement date is May 1, 2007, the 12 month final compensation period would be May 1, 2006 through April 30, 2007. To calculate the final compensation for this 12 month period, the 2006 calendar limit of \$220,000 starting January 1, 2006 would be applied to the final compensation period. The monthly compensation earnable would be capped at \$18,333.33 per month.

If you have any questions regarding the limits, please contact the CalPERS' Employer Contact Center at **888 CalPERS** (or **888-225-7377**).

Lori McGartland, Chief
Employer Services Division