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Circular Letter

June 11, 2012

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **2012 COMPENSATION LIMITS - IRC SECTION 401(a)(17)**

The purpose of this Circular Letter is to update you on the 2012 compensation limit for members that can be taken into account under the retirement plan, and outline the procedures for reporting a member who has reached the limit. Section 401(a)(17) of the Internal Revenue Code (IRC) provides dollar limitations on annual compensation that can be taken into account under qualified retirement plans.

The compensation limit for the 2012 calendar year is $250,000. The limit for previous years is as follows:

2011	2010	2009	2008	2007	2006
$245,000	$245,000	$245,000	$230,000	$225,000	$220,000

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

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.

- Although the my|CalPERS system will notify Business Partners when an employee meets or exceeds the IRC 401(a)(17) compensation limit, it is up to the Business Partner to monitor when an employee meets or exceeds the limit.

- my|CalPERS will track member earnings over multiple CalPERS contracting agencies. Therefore, if a member is hired in the middle of the year from another CalPERS agency, my|CalPERS will notify you, the current employer, when the member reaches or exceeds the compensation limit.

- 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.

- In those cases where member contributions have been posted and the member has met or exceeded the IRC 401(a)(17) limit, the employer must back out any and all member contributions after the limit was met.

- 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 monthly pay rate and special compensation for a 12 or 36 consecutive month period 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. Compensation will be calculated using the applicable compensation limits provided in federal regulations.

If you have any questions, please call our CalPERS Customer Contact Center at
888 CalPERS (or **888**-225-7377).

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