

**MENDOCINO COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION**

**REGULATIONS FOR
IRC CODE § 401(a)(31) & 402(c)
ROLLOVERS**

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR IRC SECTION 402(c) ROLLOVERS

SECTION I. PURPOSE AND SCOPE

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to rollovers into and out of the Association in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish any reasonable procedures for paying rollover distributions or accepting rollover contributions that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. ROLLOVER DISTRIBUTIONS FROM THE ASSOCIATION

A. Rollovers

1. Direct Rollover

A "Direct Rollover" is that portion of an Eligible Rollover Distribution that the Association pays directly to an Eligible Retirement Plan, and may also be referred to as a trustee-to-trustee transfer to an Eligible Retirement Plan, at the direction of an Eligible Individual.

2. Indirect Rollover

An "Indirect Rollover" is that portion of an Eligible Rollover Distribution that the Association pays directly to an Eligible Individual.

B. Eligible Individuals

1. Eligible Individual

Only an "Eligible Individual" may elect a Direct Rollover. An "Eligible Individual" is:

a. Terminated From Employment

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A Member who has terminated employment from the County (or other agency participating in the Association) and who is eligible to withdraw his or her accumulated Member contributions under the Association;

b. Surviving Spouse

A deceased Member's surviving Spouse;

c. Alternate Payee

A Member's or former Member's Spouse or former Spouse who is the alternate payee under a domestic relations order, as defined in Code section 414(p), with regard to the interest of the Spouse or former Spouse; and

d. Non-Spouse Beneficiary

A deceased Member's non-spouse beneficiary who is a "designated beneficiary" under Code section 401(a)(9)(E), subject to the non-spouse beneficiary provisions in Section II.G.

2. Spouse

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

C. Payments that Can and Cannot be Rolled Over

1. Eligible Rollover Distribution Required

The Association will pay a Direct Rollover on behalf of an Eligible Individual only if the payment is an "Eligible Rollover Distribution."

2. Eligible Rollover Distribution Defined

An "Eligible Rollover Distribution" is any distribution to an Eligible Individual of all or any portion of the amount credited to the Eligible Individual under the Association. These amounts may include (a) refunds of Member contributions plus accumulated interest, or (b) one-time lump sum death benefit payments.

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3. After-Tax Portion

The portion of a distribution that consists of after-tax Member contributions may be rolled over if the after-tax funds are transferred in a direct trustee-to-trustee transfer to (a) a qualified trust or (b) an annuity contract described in Code Section 403(b). After-tax Member contributions may also be rolled over to an individual retirement account or annuity described in Code Section 408(a) or (b). The qualified trust or annuity contract must separately account for the transferred after-tax amounts, and must also separately account for the earnings on the after-tax amounts.

4. Exclusions From Eligible Rollover Distributions

An Eligible Rollover Distribution does not include the following kinds of payments:

a. Periodic Payments

Payments that are part of a series of substantially equal periodic payments (i) made at least once per year over the life (or life expectancy) of the Eligible Individual or the life (or life expectancy) of the Eligible Individual and his or her designated beneficiary, or (ii) made for a period of 10 years or more; or

b. Required Distributions

Payments that are "required minimum distributions" under Code Section 401(a)(9).

D. **Eligible Retirement Plans**

1. Payment to Eligible Retirement Plan

The Association will pay an Eligible Rollover Distribution directly to an "Eligible Retirement Plan."

2. Eligible Retirement Plan Defined

An "Eligible Retirement Plan" is:

- a. An annuity plan described in Code Section 403(a);
- b. An annuity contract described in Code Section 403(b);
- c. A governmental eligible deferred compensation plan described in Code Section 457(b) that agrees to separately account for amounts transferred into such plan from the Association;
- d. An individual retirement annuity described in Code Section 408(a);
- e. An individual retirement account described in Code Section 408(b);

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- f. A Roth IRA described in Code Section 408A; or
- g. A qualified trust described in Code section 401(a) (including defined benefit pension plans and defined contribution plans such as 401(k) plans, profit sharing plans, and money purchase plans).

3. Certain Exclusions

An Eligible Retirement Plan does not include, and a rollover cannot be made to, a SIMPLE IRA or a Coverdell Education Savings Account.

E. **Direct Rollovers**

1. Withholding and Direct Rollovers

The Association will not withhold any federal or state income taxes from a Direct Rollover. The only exception is that the Association will withhold federal or state income taxes from a Direct Rollover to a Roth IRA if the Eligible Individual requests that withholding on a form and in the manner prescribed by the Association.

2. Administrative Requirements, In General

An Eligible Individual who requests a Direct Rollover must complete a distribution form in the manner and form that the Association prescribes. The Association may require the Eligible Individual to provide any reasonable information and/or documentation for purposes of administering the Direct Rollover in accordance with the Code.

3. Rollover Check

The Eligible Individual must provide the Association with the name of the Eligible Retirement Plan to which the rollover check will be made payable for his or her benefit. If the Eligible Individual so chooses, the Association will provide this rollover check directly to the Eligible Individual who will be responsible for delivering the check to the recipient IRA or plan.

4. Eligible Individual's Responsibility Re Recipient Plan

The Eligible Individual is responsible for ensuring that any Eligible Retirement Plan that he or she has designated to receive the Eligible Individual's distribution from the Association in a Direct Rollover is an Eligible Retirement Plan that will accept and receive the rollover on his or her behalf in accordance with the applicable tax rules.

5. Time of Payment

The Association will pay a Direct Rollover on behalf of an Eligible Individual as soon as is reasonably and administratively practicable in accordance with its withdrawal and/or death benefit payment processes.

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F. Indirect Rollovers

1. Choice of Indirect Rollover

An Eligible Individual, other than a non-spouse beneficiary, may also choose to receive a rollover payment as an Indirect Rollover.

2. Indirect Rollover Withholding

An Indirect Rollover is subject to 20% federal income tax withholding and any applicable state withholding. The Association will withhold and deduct these taxes on behalf of the Eligible Individual as prescribed by federal and applicable state law.

3. Eligible Individual's Responsibility Re Recipient Plan

It is the responsibility of the Eligible Individual to roll over all or some portion of his or her Indirect Rollover payment to an IRA or eligible employer plan within 60 days if he or she wants the payment to qualify as a rollover for tax purposes. If an Eligible Individual wants to roll over 100% of the payment, the Eligible Individual must replace the 20% that was withheld for federal income taxes (and any applicable state withholding) with other money.

G. Direct Rollover of a Non-Spousal Distribution

1. Trustee-To-Trustee Transfer Required

A rollover on behalf of a non-spouse beneficiary must be a direct or trustee-to-trustee transfer and may not be paid in the form of an Indirect Rollover.

2. Non-Spouse Beneficiaries Who May Rollover and Rollover to Inherited IRA Only

A non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E) may roll over all or any portion of the non-spouse beneficiary's Eligible Rollover Distribution to an IRA that is established by the non-spouse beneficiary for purposes of receiving the distribution and that is treated as an "inherited IRA" under the Code. The IRA must be established in a manner that identifies it as an IRA with respect to a deceased individual and it must identify the deceased individual and the beneficiary (for example, "Tom Smith as beneficiary of John Smith").

3. Trust as Beneficiary

If the non-spouse beneficiary is a trust, the Association may make a Direct Rollover to an IRA on behalf of the trust, provided the beneficiaries of the trust satisfy the requirements to be designated beneficiaries within the meaning of Code Section 401(a)(9)(E). The IRA on behalf of the trust must be established in a manner that identifies it as an IRA with respect to a deceased

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individual and it must identify the deceased individual and the trust beneficiary (for example, "The Smith Family Trust as beneficiary of John Smith").

H. Notice Requirements

1. 402(f) Notice From the Association

The Association will provide the tax notice required under Code Section 402(f) to each Eligible Individual who requests a withdrawal from the Association.

2. Time Periods

The Association will not process any withdrawals from the Association until 30 days after the date such notice is received by the Eligible Individual requesting the withdrawal. If, however, the Eligible Individual waives this 30-day period on a form and in the manner prescribed by the Association, the Association may process the withdrawal before the 30-day period expires.

SECTION III. ROLLOVER CONTRIBUTIONS TO THE ASSOCIATION

Adoption of regulations providing for the acceptance of certain rollover contributions as determined below does not create any continuing entitlement for Eligible Members to make rollover contributions to the Association in the future and the right to make rollover contributions to the Association may be amended or terminated at any time and for any reason.

If the Association has determined to permit any rollover contributions, the Association will permit Eligible Members to make a rollover contribution to the Association subject to the limitations and conditions described in this Section III.

A. General Rules

1. Eligible Member

An "Eligible Member" is (1) an active Member of the Association, or (2) a Member of the Association that has elected a deferred retirement.

2. Rollovers Allowed

The Association will permit an Eligible Member to make a rollover contribution to the Association for (a) a purchase of service credit (to the extent a purchase of service credit is not prohibited under the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), or (b) a redeposit of previously withdrawn funds plus accumulated interest.

3. Separate Accounting

The Association will separately account for all rollover contributions.

4. Certification to the Association By Member

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Only eligible rollover distributions as defined by Code Section 402(c)(4) can be contributed to the Association. In addition to any requirements under subsections B, C, and D below, each Eligible Member making a rollover contribution to the Association must certify in writing the source of the rollover funds and that the rollover contribution is an eligible rollover distribution under the Code. The Association will not accept rollovers of any after-tax contributions or amounts attributable to designated Roth contributions, amounts that represent minimum required distributions, or any rollover that is an indirect rollover.

5. Elections and Association Discretion

An Eligible Member must make an election to purchase service credit or redeposit previously withdrawn contributions with a rollover contribution in the manner and form that is prescribed by the Association. The Association has final discretionary authority to determine whether any required information or documentation is satisfactory, whether a purchase of service credit would be prohibited under PEPRA, and whether the Association will accept an Eligible Member's rollover contribution.

6. Correction of Errors

If the Association accepts a rollover contribution that it later determines was not eligible to be rolled over to the Association, the Association will distribute, as soon as administratively possible, the amount of the rollover contribution back to the Eligible Member, plus accumulated interest.

B. Rollovers from Qualified Plans

1. Acceptance of Rollover

The Association may accept a rollover from another plan that is qualified under Code Section 401(a) and exempt from tax under Code Section 501(a).

2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the sending plan's tax-qualified status and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from a Code section 401(a) qualified plan, contains no after-tax or designated Roth contributions or earnings, or

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any amounts representing a required minimum distribution under Code section 401(a)(9); or

(ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code section 401(a)(9).

If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the former 401(a) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

c. Association Verification That the Plan is a Tax-Qualified Plan

The Association must take reasonable steps to verify that the rollover will be from a tax-qualified plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

(i) The Association may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The Association will check the entry on the line for characteristics indicating that the plan is intended to be a qualified plan (e.g. examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the Association may reasonably conclude that the plan is qualified, unless the Association has any direct evidence to the contrary.

(ii) If the qualified plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the Association demonstrating that the source of the rollover contribution is a qualified plan: (a) a copy of the plan's most recent favorable determination letter from the Internal Revenue Service stating that the plan is tax-qualified and a written certification from the plan's administrator that the plan continues to be tax-qualified, or (b) a written and signed certification from the plan's administrator that the source of the eligible rollover distribution is a qualified plan under Code Section 401(a).

C. Rollovers from an IRA

1. Acceptance of Rollover

The Association may accept a rollover from an individual retirement account or annuity (IRA) described in Code Section 408(a) or Code Section 408(b).

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2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the IRA's status and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from his or her IRA and contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code section 401(a)(9) or ; or

(ii) If the Eligible Member cannot certify, with respect to the after-tax or designated Roth contributions, a signed certification from an accountant or tax advisor or the IRA trustee/custodian providing the amount of pre-tax contributions and after-tax or designated Roth contributions in the IRA .

The Association will only accept a rollover contribution from the IRA in the amount of the pre-tax contributions and earnings. If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the IRA of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

D. Rollovers from Other Plans: 457(b) and 403(b)

1. Acceptance of Rollover

The Association may accept rollover contributions from an eligible plan under Code section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (a "governmental 457(b) plan"), and an annuity contract described in Code section 403(b).

2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the sending plan's status as an eligible 457(b) plan or an eligible Code section 403(b) annuity or custodial account and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any

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successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from an eligible 457(b) or 403(b) plan and contains no after-tax or designated Roth contributions or earnings; or

(ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings.

If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take steps to verify that the payment source (on the incoming check or wire transfer) is the former eligible 457(b) or 403(b) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

c. Association Verification That the Plan is an Eligible Plan

The Association must take reasonable steps to verify that the rollover will be from an eligible 457(b) plan or 403(b) plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

(i) The Association may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The System will check the entry on the line for characteristics indicating the plan is intended to be an eligible 457(b) or 403(b) plan (e.g., examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the Association may reasonably conclude that the plan is an eligible plan, unless the Association has any direct evidence to the contrary.

(ii) If the 457(b) or 403(b) plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the Association demonstrating that the source of the rollover contribution is an eligible governmental 457(b) plan or a Code section 403(b) plan: (a) a copy of the transferring plan's most recent private letter ruling from the Internal Revenue Service stating that the transferring plan qualifies as an eligible governmental 457(b) plan or a Code section 403(b) plan, as applicable, and a signed certification from the transferring plan's administrator that the transferring plan continues to be so qualified, or (b) a signed certification from

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the transferring plan's administrator that the rollover distribution source is an eligible governmental 457(b) plan or a Code section 403(b) plan, as applicable.

If the above verification cannot be made, the Association will not accept the rollover.