EMPLOYER PAYMENT PLAN

State law requires that employee contributions be paid on an after-tax basis (Basic Model) unless the employer elects to pay the employee contributions on a tax deferred basis. Tax deferred means that the contributions are not taxed as income to the employee at the time they are made, rather they are taxed at the time the employee receives a distribution from the retirement plan.

The IRC states that in order to pay employee contributions on a tax deferred basis, the contributions must be "picked-up" by the employer and treated as employer contributions. Employee contributions are considered to be "employer" contributions, and thus tax deferred, in the following instances:

Model 1: Salary reduction - The employee contribution is deducted from the employee's paycheck and deducted from the employee's gross wages when computing federal withholding.

Model 2: Offset against future salary increase - The employer is paying the employee contribution.

Model 3: Combination of Models 1 and 2.

Any specific questions concerning the tax status or Social Security status of member assessments should be directed to the IRS or Social Security Administration (SSA) since any penalties levied by those agencies for improper reporting are the liability of the employer, not NDPERS.

Requirements

Employer payment of employee contributions is allowed under the following conditions:

1. Employer must specify the Model they are following by completing the Employer Payment Plan SFN 52799. If a model is not elected, the employer will deduct the employee contributions from the employee's paycheck, but will not deduct the contributions from gross wages when computing federal withholding (Basic Model).
2. The employee must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement plan.
3. The employer must treat all employees covered under NDPERS equally.
4. The employer shall pay the employee contributions from the same source of funds used in paying compensation to the employee.

Effective Date

Initial Election: The initial election to tax defer contributions will be effective in the month adopted by the employer, however, the effective date cannot be earlier than the month the election form is received by NDPERS.

Changes to Election: A change to increase or decrease the percentage of contributions being tax deferred may be made anytime and will become effective in the month adopted by the employer; however, the effective date cannot be earlier than the month the election is received by NDPERS.

BASIC MODEL

EMPLOYER WITHHOLDS AND REMITS TAXED MEMBER CONTRIBUTIONS

Under the Basic Model, employee contributions are paid on an after-tax basis. This means the employee contributions are taxable to the employee in the year the contributions are made. When preparing payroll, the employee contributions are withheld from the employee's salary; however, the amount of the contributions does not reduce the employee's salary when calculating federal and state income tax withholding. It also does not reduce the salary amount reported on the W-2 tax form.

EXAMPLE

Base Salary	$ 20,000
SALARY FOR RETIREMENT PURPOSES	$ 20,000
Employee Contribution Due "After Tax" ($20,000 x 7.00%)	$ 1,400
Employer Contribution Due ($20,000 x 7.12%)	$ 1,424
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 20,000
Taxable Salary Reported to SSA subject to Social Security & Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000

For all employees participating in the NDPERS Retirement Plan, mark "Retirement Plan" in Box 13 of W-2 Form.

MODEL 1

EMPLOYER WITHHOLDS AND REMITS ALL OR A PORTION OF THE MEMBER CONTRIBUTIONS UNDER A SALARY REDUCTION AGREEMENT

This means the employee contributions are tax deferred until the employee withdraws them from the retirement plan. When preparing payroll, the employee contributions are withheld from the employee’s salary, and the amount of the contribution is subtracted from the employee’s salary when calculating federal and state income tax withholding. The salary amount reported on the W-2 form is also reduced by the amount of the employee contributions. This model outlines how an employer should report salaries and contributions when an employee's contributions are being made on a tax deferred basis under a salary reduction agreement. Any portion of the employee's contribution can be tax deferred. The examples below show partial and total payment of contributions under a salary reduction agreement.

EXAMPLE 1 – EMPLOYER DEDUCTS ONE-HALF OF THE EMPLOYEE CONTRIBUTION THROUGH A SALARY REDUCTION AGREEMENT

Base Salary	$ 20,000	
SALARY FOR RETIREMENT PURPOSES	$ 20,000	
Employee Contribution Due	$ 1,400	($20,000 x 7.00%)
Employer Contribution Due	$ 1,424	($20,000 x 7.12%)
Employee Contribution Tax Deferred Through A Salary Reduction Agreement ("Employee Portion Paid by Employee – Tax Deferred")	$ 700	
Employee Contribution Paid By Employee “After Tax”	$ 700	
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 19,300	($20,000 - $700)
Taxable Salary Reported to SSA- subject to social security and Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000	

For all employees participating in the NDPERS Retirement Plan, mark “Retirement Plan” in Box 13 of W-2 Form.

EXAMPLE 2 – EMPLOYER AGREES TO DEDUCT ALL EMPLOYEE CONTRIBUTIONS THROUGH A SALARY REDUCTION AGREEMENT.

Base Salary	$ 20,000
SALARY FOR RETIREMENT PURPOSES	$ 20,000
Employee Contribution Due ($20,000 x 7.00%)	$ 1,400
Employer Contribution Due ($20,000 x 7.12%)	$ 1,424
Employee Contribution Tax Deferred Through A Salary Reduction Agreement ("Employee Portion Paid by Employee – Tax Deferred")	$ 1,400
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 18,600 ($20,000 - $1,400)
Salary Reported to SSA- subject to social security and Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000

For all employees participating in the NDPERS Retirement Plan, mark “Retirement Plan” in Box 13 of W-2 Form.

MODEL 2

EMPLOYER PAYS ALL OR A PORTION OF THE MEMBER CONTRIBUTIONS IN LIEU OF A SALARY INCREASE

This means the employee contributions are tax deferred until the employee withdraws them from the retirement plan. The employer pays the employee contributions, so when preparing payroll, the contributions are not withheld from the employee's salary and they do not affect the employee's salary when calculating federal and state income tax withholding. The contributions also do not affect the salary amount reported on the W-2 form. This model outlines how an employer should report salaries and contributions when an employer pays the employee contributions in lieu of a salary increase. The employer can pay any portion of the employee contribution. The examples below show partial and total payment of contributions in lieu of a salary increase.

EXAMPLE 1 - EMPLOYER AGREES TO PAY ONE-HALF OF THE EMPLOYEE CONTRIBUTIONS IN LIEU OF A SALARY INCREASE

Base Salary	$ 20,000
SALARY FOR RETIREMENT PURPOSES	$ 20,000
Employee Contribution Due ($20,000 x 7.00%)	$ 1,400
Employer Contribution Due ($20,000 x 7.12%)	$ 1,424
Employee Contribution Paid by Employer in Lieu of Salary Increase - Employee Portion Paid by Employer – Tax- Deferred	$ 700
Employee Contribution Paid by Employee "After Tax"	$ 700
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 20,000
Taxable Salary Reported to SSA- subject to social security and Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000

For all employees participating in the NDPERS Retirement Plan, mark "Retirement Plan" in Box 13 of W-2 Form.

EXAMPLE 2 - EMPLOYER AGREES TO PAY ALL EMPLOYEE CONTRIBUTIONS IN LIEU OF A SALARY INCREASE

Base Salary	$ 20,000
SALARY FOR RETIREMENT PURPOSES	$ 20,000
Employee Contribution Due ($20,000 x 7.00%)	$ 1,400
Employer Contribution Due ($20,000 x 7.12%)	$ 1,424
Employee Contributions Paid by Employer in Lieu of Salary Increase "Employee Portion Paid by Employer – Tax Deferred	$ 1,400
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 20,000
Taxable Salary Reported to SSA- subject to social security and Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000

For all employees participating in the NDPERS Retirement Plan, mark “Retirement Plan” in Box 13 of W-2 Form.

MODEL 3

EMPLOYER WITHHOLDS AND REMITS A PORTION OF THE MEMBER CONTRIBUTIONS UNDER A SALARY REDUCTION AGREEMENT AND PAYS A PORTION OF THE MEMBER CONTRIBUTIONS IN LIEU OF A SALARY INCREASE

This model outlines how an employer should report salaries and contributions when a combination of a salary reduction agreement and an offset against a future salary increase is used. The reporting of the employee contribution depends on whether or not the contribution is being made on a tax- deferred basis.

EMPLOYER AGREES TO PAY THREE (3) PERCENT OF THE EMPLOYEE CONTRIBUTIONS IN LIEU OF A SALARY INCREASE, AND FOUR (4) PERCENT OF THE EMPLOYEE CONTRIBUTION IS DEDUCTED UNDER A SALARY REDUCTION AGREEMENT

Base Salary	$ 20,000	
SALARY FOR RETIREMENT PURPOSES	$ 20,000	
Employee Contributions Due ($20,000 x 7.00%)	$ 1,400	
Employer Contributions Due ($20,000 x 7.12%)	$ 1,424	
Employee Contributions Paid by Employer in Lieu of Salary Increase ($20,000 x 3.00%) "Employee Portion Paid by Employer – Tax Deferred")	$ 600	
Employee Contributions Tax deferred through a Salary Reduction Agreement ($20,000 x 4.00%) (Report on SFN 51414, Line (2) "Employee Portion Paid by Employee – Tax Deferred")	$ 800	
Taxable Salary Reported to IRS- subject to income tax withholding (Report in Box 1 of W-2 Form)	$ 19,200	($20,000 - $800)
Taxable Salary Reported to SSA- subject to social security and Medicare withholding (Report in Box 3 and Box 5 of W-2 Form)	$ 20,000	

For all employees participating in the NDPERS Retirement Plan, mark “Retirement Plan” in Box 13 of W-2 Form.