

Frequently Asked Questions for General Memo 620

What does the Accelerated Payment (AP) provision of P.A. 97-0609 do?

It requires immediate payment of that portion of the cost of a pension attributable to a compensation increase of 6% or more* in the final earnings period. The cost will be determined when the pension is calculated and IMRF will bill the employer. The cost must be paid within 90 days interest free, or within three years with a 7.5% interest charge.

How is it determined if an AP is required?

Each group of 12 months in the 48-month FRE period (or 96-month FRE period for Tier 2 members) will be compared to the immediately preceding 12 months to determine if there is an increase of 6% or more.

How is the AP calculated?

The pension is computed two ways: with all the compensation (which will be used to calculate the pension the member will actually be paid) and without the compensation that exceeds the limit. The present value of the two pensions is then calculated, and the AP is the difference between the two.

Are there exceptions to the AP?

Yes. There are six exceptions to the AP:

Overtime earnings;

Compensation increases because of promotions resulting in increased responsibility and workload;

Compensation increases paid pursuant to collective bargaining agreements or contracts entered into, amended, or renewed before January 1, 2012;

Increases paid to members who are 10 years or more from retirement eligibility;

Increases resulting from increases in hours required to be worked;

Increases paid under personnel policies:

which are not applicable to employees who began service on or after January 1, 2012; and,

which were adopted before January 1, 2012.

How does an employer claim an exemption from the AP?

Employers will be sent a statement when a pension with an increase triggering the AP is calculated. An Exemption Form will be included with the statement. If the employer believes there is an applicable exemption, the employer will complete the Exemption Form and return it to IMRF with evidence of the claimed exemption.

What will be accepted as evidence of the claimed exemption?

Acceptable evidence of the exemption will include (this list is not exhaustive):

Copies of collective bargaining agreements

Copies of personal services contracts

Copies of Board minutes adopting personnel policies

Copies of check stubs or other statements related to employee wages (documenting compensation for overtime or increased hours of work)

Copies of Board minutes or other official announcements of promotions

How is retirement eligibility determined for purposes of increases paid to members who are 10 years or more from retirement eligibility?

Members are eligible for a pension at age 55 (Tier 1 regular and Elected County Official plan), age 50 (SLEP plan), and age 62 (Tier 2 regular and ECO plans). Thus, increases paid to members 10 or more years younger than those ages will be exempt, even if the increases are in the member's final earnings period and used to compute the pension.

What happens if a portion of the increase is attributable to an exemption?

If a partial exemption is claimed and proved, the pension cost due to the increase will be recalculated to consider only the non-exempt compensation. The employer will receive a revised AP Statement.

What if an employee has more than one employer during the final earnings period?

The employer that paid the triggering increase (an increase over compensation previously paid by the same employer) will be responsible for the pension cost of that increase. If both employers paid increases, the cost of those increases will be split in the same proportion as the increased wages that each employer contributed to the additional pension cost.

Are increases paid before January 1, 2012, but within an employee's final earnings period, exempt from the AP?

Yes. Only increases paid on or after January 1, 2012 (the effective date of this provision of P.A.97-0609) will be considered in the calculation for an AP.

Is an increase exempt from the AP if it is paid after the expiration of a collective bargaining agreement (CBA), but pursuant to a provision of the expired CBA, which was in effect before January 1, 2012? (For example, a retirement bonus given pursuant to the CBA for a retirement that occurs after the CBA expires.)

Yes, if the prerequisite for that increase occurs during the period covered by the collective bargaining agreement. For example, if the CBA allows a particular salary increase in the year prior to retirement if the employee gives at least 12 months notice of intent to retire, and the employee gives that notice during the period covered by the CBA, it will be exempt even if paid after the expiration of the CBA.

Are increases paid pursuant to a personal services contract executed, amended or renewed before January 1, 2012, exempt from the AP?

Increases paid pursuant to a personal services contract executed, amended or renewed before January 1, 2012, will be exempt from the AP, if the term of the contract conforms to all applicable statutory limitations. However, if there are no statutory limits on the contract term, and the term of the contract exceeds that of the appointing authority and is an attempt to bind successors in matters incident to their own administration and responsibilities, that contract will not be allowed for purposes of the exemption.

How is overtime compensation defined?

The IMRF Board of Trustees has defined overtime compensation as □compensation paid for hours worked in excess of a standard workday or workweek.□ Cash-outs of accumulated time credited in lieu of overtime (commonly called □comp time□) are not exempt.

What □personnel policies□ will be considered as allowing an exemption?

The exemption will be allowed for compensation increases paid under written personnel policies that were **formally adopted by the employer□s governing body** (or under the auspices of the governing body) before January 1, 2012, and which **contain an explicit exemption** of employees hired on or after a specific date (but no later than January 1, 2012).

Is there an exemption for long-standing policies that provide for a cash-out of accrued leave at retirement?

No. The only exemptions are for payments pursuant to formal, written personnel policies in effect before January 1, 2012, and which specifically exempt new hires from eligibility for the AP-triggering payments, or payments pursuant to an exempt CBA. If cash outs of sick and vacation time are not paid pursuant to exempt personnel policies, or an exempt contract or CBA, and the cash out causes an increase of 6% or more in one of the FRE 12-month periods, the AP will be required.

How does 1.5 times the increase in the CPI-U, which is greater than 6%, affect the calculation of the AP?

If 1.5 times the increase in the CPI-U (as of September) is more than 6%, that greater amount will be used to determine whether there is an AP-triggering increase for each of the 12-month periods that begin between October and the following September. Each September□s CPI-U will be considered only for those 12-month periods that begin during the following October through September.

Is the 125% rule still in effect?

Yes. The 125% rule, which limits the earnings to be included in the pension calculation in the final three months of the FRE period to no more than 125% of the earnings in any of the other months of the FRE period, is still applicable to the calculation of the pension. Please note: P.A. 97-0609 also contains a provision that increases the 125% rule period to the final 24 months of the FRE period for employees who first become participants on or after January 1, 2012.

* The statute provides for an AP when the compensation increase is the greater of 6% (or more) or 1.5 times the increase in the Consumer Price Index-Urban (CPI-U).