



**Department of
Civil Service**

Separation From State Service

Information For Exempt Class Employees

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PREFACE

This document provides general information on selected issues that relate to separation from State service of exempt or non-competitive confidential or policy making employees. This information applies to all exempt class employees of Executive Branch agencies and departments, but does not apply to employees of public authorities. If you do not know whether or not you are an exempt class employee, you should contact your Personnel Office.

This document is not intended to provide exhaustive detail on every conceivable issue or option that may be presented when an employee leaves State service. Employees are encouraged to review their individual situations with their Personnel Office, their Health Benefits Administrator, the Retirement System, the Department of Civil Service and agency counsel.

The information in this booklet is geared to employees who do not have tenure protection under the Civil Service Law. Employees are encouraged to check with their Personnel Office to determine if their service or their status as an honorably discharged Veteran who served during time of war, or as a volunteer firefighter, affords them any Civil Service Law protections.

Employees in positions having Civil Service Law protection may only be laid off in accordance with Civil Service procedures. The information herein relates only to terminations, whether voluntary or not, that are not the consequence of a layoff.

I. LEAVE ACCRUALS

All employees in positions classified in the exempt jurisdictional class are subject to the Attendance Rules for Employees in New York State Departments and Institutions and, upon termination, are entitled to cash payment for:

1. Unused vacation credits up to 30 days (225 hours), prorated for less than full time employees;
2. Up to 30 days (225 hours) of unused overtime compensatory time of credits for hours worked between 37.5 and 40 hours in a workweek by overtime eligible employees;
3. Up to 240 hours of overtime compensatory time (any combination of FLSA overtime compensatory time accrued for hours worked beyond 40 in a workweek by overtime eligible M/C employees, Over 40 Comp Time credits, or Over 40 Comp Time II credits);
4. Any accrued and unused Voluntary Reduction in Work Schedule (VRWS) credits; and
5. The five-day salary deferral. (This is in addition to the regular biweekly salary check that has been previously lagged.)

In the case of voluntary resignation, the appointing authority may withhold the vacation lump sum payment if the employee does not give written notice of the resignation at least two weeks prior to the last day of work. You should contact your Personnel Office to determine if your agency has such a requirement.

Payments for accrued leave credits generally are made within six weeks after separation from service and are taxable. Cash payments are not made for personal leave, holiday leave, or sick leave unused upon separation.

If you are terminated or resign from State service, you must be re-employed in State service within one year of your date of separation to have unused sick leave, unexpired holiday leave, and any uncompensated vacation credits restored. If your break in service exceeds one year, you must be reinstated by the Civil Service Commission to have these credits restored.

II. HEALTH INSURANCE INFORMATION

This information explains how separation from State service affects health insurance and related benefits when the employee does not have tenure protections or Preferred List rights under Civil Service Law. This is only a summary. Please refer to plan documents and contact the Health Benefits Administrator (HBA) in your agency's Office of Human Resources if you have questions.

Health Insurance Coverage

Your health insurance coverage under The Empire Plan or HMO through the New York State Health Insurance Program (NYSHIP) will end 28 days after the last day of the last payroll period for which you were paid. However, a separated Exempt Class employee may continue health insurance coverage as a retiree or as a vestee, provided eligibility requirements for such continuation are satisfied, or under COBRA and New York State Continuation Coverage, or under a conversion/direct-pay contract. This memo and the *NYSHIP General Information Book* explain the provisions and important deadlines. The *NYSHIP General Information Book* is available in your agency and on the Department's web site, <https://www.cs.ny.gov>. Click on Benefit Programs, then NYSHIP Online and choose your group and plan, if prompted, and select Health Benefits & Option Transfer.

Retiree Coverage

Retirement System requirements for retirement and NYSHIP requirements for continuation of health insurance in retirement are different. Do not assume that health insurance benefits will continue automatically when you retire. Also, note that if you are eligible to retire at the time you leave service, but delay collecting your State pension, you may still continue your health insurance coverage under retiree provisions, provided you meet the eligibility requirements for both retirement and continuation of health benefits in retirement.

You must meet three eligibility requirements to continue health insurance coverage in retirement:

1. **Complete the minimum service period.** First, you must have completed a minimum service period, which is determined by the date on which you last entered State service and you must have served a minimum of one year with the employer from whose service you are retiring. If you were last hired on or after April 1, 1975, you must have had at least ten years in State service or at least ten years of combined service with the State and one or more Participating Employers or Participating Agencies.

(A Participating Employer is a government agency in New York State such as the Thruway Authority or Metropolitan Transit Authority that is maintained and financed from special administrative funds and participates in NYSHIP. A Participating Agency is a city, town, municipality or school district in New York State that participates in NYSHIP. NOTE: By law, New York City cannot participate in NYSHIP. Therefore, employment with New York City does not count toward the minimum service requirement for continuing NYSHIP coverage in retirement, even if you can count it for pension purposes.)

Less than full-time employment: Periods of less than full-time employment will be considered as full-time if you were eligible for health insurance enrollment. Periods of employment in which you did not meet the eligibility requirements will not be counted. Periods when you were paying both the employer share and employee share of the NYSHIP premium while on leave without pay do not count toward the minimum service requirement.

2. Satisfy requirements for retiring as a member of a retirement system.

You must be qualified for retirement as a member of a retirement system administered by New York State (such as the New York State and Local Employees' Retirement System, the New York State Teachers' Retirement System or the New York State and Local Police and Fire Retirement System) or any of its political subdivisions.

If you are not a member of a retirement system administered by the State, you may qualify for health insurance as a retiree by meeting other requirements. See your *NYSHIP General Information Book* for details.

3. Be enrolled in NYSHIP. You must be enrolled in NYSHIP as an enrollee or a dependent on the date employment ends.

4. If you meet the above requirements, but not the member age requirement, you may preserve your right to coverage as a retiree by maintaining continuous NYSHIP coverage until you reach retirement age. (See Vestee Coverage on page 3.)

Premium Payments

As a retiree, the State will contribute to the cost of your coverage. Your share of your health insurance premiums can be deducted from your monthly retirement check or paid directly to the Employee Benefits Division. If you will be receiving your pension, there may be a lag of several months before deductions begin. Meanwhile, you will be billed directly each month for your share of the premium. You must make these payments each month until premium deductions begin.

Sick Leave Credits

If you are subject to a formal sick leave accrual system at the time of retirement, you may be entitled to use the value of accumulated unused sick leave, up to a maximum of 200 days (for M/Cs), to establish a monthly “sick leave credit” that can offset all or part of the cost of health insurance during retirement. However, if you leave employment in vested status, you are not eligible to have sick leave credits applied to your premium while you are in vested status or after you retire.

Dual Annuitant Sick Leave Credit

Your monthly sick leave credit ends when you die and may not be used by surviving dependents to pay for continued health benefits coverage unless you chose the Dual Annuitant Sick Leave Credit. At the time of your retirement, you may specify that you want your dependent survivors to be able to use your monthly sick leave credit toward their NYSHIP premium if you die. This is called the Dual Annuitant Sick Leave Credit. If you do not elect the Dual Annuitant option, in writing, before your last day on the payroll, your sick leave credit will be fully applied during your lifetime and will end at your death.

Deferred Health Insurance Coverage

If you are eligible for retirement at the time you leave State service, you may delay the start of retiree health insurance coverage and the calculation of your sick leave credit indefinitely if you have other coverage available, such as through your spouse’s employer or through your own subsequent employment. There are advantages to deferring coverage. For example, the dollar value of your monthly sick leave credit will be higher when you reenroll in NYSHIP than it would have been at the time of retirement because it will be calculated when you are older. If you wish to take advantage of the benefits of deferred retiree coverage, you must elect to do so in writing before your last day on the payroll.

For details, see the *NYSHIP General Information Book*.

Vestee Coverage

If your employment with the State ends before you reach retirement age, you may be able to continue health insurance coverage as a vestee. You must have:

1. Vested as a member of a retirement system administered by the State or one of its political subdivisions, such as a municipality; (Your membership in the retirement system must be based, at least in part, upon service with the State employer you are leaving.)

and

2. Met the minimum service requirement (but not the age requirement) for continuing health insurance in retirement at the time employment is terminated. (NOTE: For most employees, ten years of service is required for retiree health insurance even though pension vesting occurs at five years.)

If you choose to continue health insurance coverage while in vested status, you are responsible for paying both the employer and employee shares of the health insurance premium. **In no case may sick leave credit be applied toward health insurance premium costs either while you are in vested status or after you become eligible for health insurance as a retiree.**

Coverage ends permanently if you do not continue health insurance as a vestee

If you are eligible to continue coverage during vested status, but do not do so, or if you fail to make the required premium payments as a vestee, coverage for you and your dependents will be terminated permanently. You may not re-enroll as a vestee at a later date and you lose eligibility for coverage as a retiree. NOTE: If you are eligible to continue NYSHIP coverage as the dependent of another NYSHIP enrollee, or as the employee of another NYSHIP Participating Employer or Agency, you may satisfy the vestee coverage requirements by doing so, as an alternative to paying full share as a vested enrollee yourself. However, you must be sure there is no break in your coverage between the date you leave State service as a vestee and the date you become eligible to be a retiree for health benefits purposes.

Medicare and Health Insurance for Vestees and Retirees

As a retiree or vestee in NYSHIP, you and your covered dependents must be enrolled in Medicare Parts A and B and have both parts in effect when *first* eligible for Medicare coverage that pays primary to NYSHIP. NYSHIP will not provide any benefits for coverage available under Medicare. If you or a dependent is eligible for primary Medicare coverage, but fail to enroll or enroll late, you will be responsible for the full cost of medical services that Medicare would have covered, until your Medicare coverage goes into effect.

If the employee or employee's spouse or domestic partner is age 65 or over or if the employee or enrolled dependent is disabled or has had end-stage renal disease for more than 30 months: Medicare will be primary to NYSHIP once State employment ends. (In rare instances, Medicare is primary for an active employee and/or dependent.) NYSHIP regulations determine when enrollees must have Medicare in effect. For information on NYSHIP's Medicare requirements, ask your agency HBA for the booklet "Medicare & NYSHIP." You may also order a companion video online.

For information on how to enroll in Medicare Parts A and B, check the Social Security Administration web site at www.ssa.gov or call 1-800-772-1213.

COBRA and New York State Continuation Coverage

If you are not eligible to continue coverage in NYSHIP as a retiree or as a vestee, you can still continue your NYSHIP coverage for a total of 36 months under the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) and New York State Continuation Coverage for you and your covered dependents. Under COBRA and State Continuation Coverage, you pay the full premium for the option in which you are enrolled plus a two percent administrative fee. Enrollees are no longer eligible for this coverage if they become entitled to Medicare benefits during the continuation period.

60-day Deadline

When your agency Health Benefits Administrator notifies the Employee Benefits Division that your employment with the State has ended, the Division will, in turn, notify you that you have the right to choose COBRA continuation coverage. You have 60 days after the date your NYSHIP coverage ends, or 60 days from the date you are notified of eligibility for COBRA continuation coverage, whichever is later, to inform the Employee Benefits Division that you want COBRA continuation coverage. (Health insurance

coverage ends 28 days after the last day of the last payroll period for which the employee was paid.) If you do not choose COBRA continuation coverage during the 60-day application period, your NYSHIP coverage will end. Your total eligibility period is 36 months under COBRA and State Continuation Coverage combined.

It is important that you make timely premium payments; if your coverage is canceled for non-payment of premium, your eligibility for continuation coverage will end permanently.

At the end of your NYSHIP continuation of coverage period, you may convert to a direct-pay conversion contract with your NYSHIP Health Maintenance Organization (HMO) or with Empire BlueCross BlueShield or UnitedHealthCare if you are enrolled in The Empire Plan. You are also eligible to choose conversion instead of COBRA continuation, but if you do, you lose your right to COBRA/Continuation Coverage under NYSHIP.

If you choose COBRA/State Continuation Coverage, you must exhaust those benefits to be eligible to convert to a direct-pay conversion contract. If you choose COBRA/Continuation Coverage and fail to make the required payments or you cancel coverage for any reason, you will not be eligible to convert to an individual policy.

Direct-Pay Conversion Contracts

Under certain conditions, NYSHIP enrollees and their dependents are entitled to direct-pay conversion contracts after NYSHIP coverage ends or after exhausting continuation coverage. Empire Plan and HMO plan documents explain direct-pay conversion contracts. The benefit package and the premium costs for direct-pay conversion contracts are different from what you had under NYSHIP. You do not need to provide evidence of insurability.

III. Other Health Related Benefits

M/C Dental and Vision Benefits

Your M/C Dental and Vision plans are not part of your health insurance and do not continue automatically. You may continue dental and vision care benefits under COBRA. If you do not continue coverage under COBRA, dental coverage and vision coverage will end 28 days after the last day of the last payroll period for which you are paid.

When your coverage ends, you will automatically receive a COBRA application for dental and vision benefits if you are enrolled for health insurance. If you are not enrolled in NYSHIP health insurance, you must request a COBRA dental/vision application by writing to: COBRA Unit, Employee Benefits Division, NYS Department of Civil Service, Albany, NY 12239. Please include your name, Social Security number, address and telephone number.

60-day COBRA Deadline

You must request continuation of dental/vision coverage under COBRA within 60 days of the date coverage would otherwise end.

You are no longer eligible for COBRA coverage after you become entitled to Medicare benefits during the COBRA continuation period.

Employees who are eligible for retirement are also eligible for a retiree dental package. This coverage begins at the end of State employment or at the end of the COBRA period. If you do not enroll when first eligible, you may not enroll later.

Income Protection Plan Insurance

There are no conversion privileges for Income Protection Program (IPP) insurance for short-term disability (STD) or long-term disability (LTD). Enrollment ends on your last day on the payroll as an active employee, unless you are receiving STD or LTD at the time your employment ends. If you are receiving benefits, see your benefits booklet for additional information.

M/C Accident and Sickness Insurance

There are no conversion privileges for this insurance. Coverage ends on your last day on the payroll as an active employee.

M/C Life Insurance

If you are enrolled in the M/C Life Insurance Program:

- If you are no longer eligible to continue participation in the life insurance coverage program, life insurance will terminate on the last day of the coverage period for which the last deduction was taken. At that time, you may convert to a standard direct-pay policy with the carrier.
- If you transfer, either temporarily or permanently, to a State position not designated Management/Confidential, you will be permitted to continue life insurance coverage under the M/C Program for up to six months (13 biweekly pay periods) to provide time to obtain other coverage.
- If you retire or are eligible to retire as a member of the New York State Retirement System, and are enrolled in the group insurance program for M/C employees, you may choose to continue in the program or convert to an individual MetLife policy. If you choose to remain in the M/C Life program, you may continue both personal and dependent life insurance in retirement subject to the age-related life insurance reductions, or may choose to convert to an individual policy.
- If you are not a member of a retirement system administered by New York State but are age 55 or older, you may be eligible to continue M/C Life Insurance. Check with your agency Health Benefits Administrator or the Employee Benefits Division if you have questions.
- If you are not eligible for retirement as a member of a retirement system administered by New York State, and are not yet 55, you will not be eligible to continue in the M/C Life Insurance program but may convert to an individual MetLife policy.

For more information, or for a conversion policy: Read the M/C Life Certificate of Insurance. This book and copies of the available MetLife conversion policies should be available in your Human Resources office.

If you have questions about your health insurance and related benefits after talking with the Health Benefits Administrator in your agency's Office of Human Resources, call the Employee Benefits Division at (518) 457-5754 (Albany area) or 1-800-833-4344 to speak with an Employee Benefits Representative, Monday – Friday 9 a.m. to 3 p.m. Eastern time.

IV. DEFERRED COMPENSATION PLAN

GENERAL INFORMATION

You are eligible to receive benefit payments from your New York State Deferred Compensation Plan account 45 days after your termination of employment with the State. Beginning January 3, 2011, the 45 day waiting period will apply only to lump sum distributions from the Plan. However, you are not required to receive benefits from your Plan account until the year in which you become age 70 ½. The Deferred Compensation Plan permits former employees to continue their participation in the Plan with all benefits, except the ability to make additional deferrals to the Plan, throughout their lifetime.

The Plan offers significant flexibility in the manner in which you receive your Plan benefits. Plan benefits can be paid to you in as a Full Withdrawal, as a Partial Withdrawal, or as Periodic Payments paid to you in monthly, quarterly, semi-annual or annual installments. Periodic payments can be paid as a fixed dollar amount or over a fixed period of time, including life expectancy.

You have the ability to change your benefit payment option at any time during your distribution period. The only time a benefit payment is required is in the year you become age 70 ½ and each year thereafter. You may change your benefit payment schedule after becoming 70 ½ as long as your annual benefit payments equal or exceed your required minimum distribution.

If you have any questions or need further information about distribution of your Deferred Compensation account, please contact the Plan HELPLINE at 1-800-422-8463 or visit the Plan Web site (www.nysdcp.com).

BENEFIT PAYMENT OPTIONS

The following is a brief description of each type of benefit payment.

Full Withdrawal

This payment method provides that your Plan Account is paid to you in one lump sum. Should you take a full withdrawal payment, you will no longer be a participant in the Plan.

Partial Withdrawal

This option provides for a partial lump sum payment to you from your Plan Account. The remainder may be paid out through regular Periodic Payments that you select, such as monthly, quarterly, semi-annually, or annually. You may also defer payment of the balance and take additional partial lump sum payments when you need additional funds. Partial lump sum payments are limited to 12 payments each year and must be a minimum of \$500 per payment.

Periodic Payments

This option allows you to establish a regular payment schedule of benefits

- Over a fixed number of years, but not to exceed your life expectancy or, if your spouse is your beneficiary of record and is more than ten years younger than you, the joint life expectancy of you and your spouse

OR

- As a fixed dollar amount.

If you select a Periodic Payout option to be paid over a fixed number of years, you should be aware of the following:

- The amount of each benefit payment will be calculated by dividing your account balance on the date of the payment by the number of payments remaining. Depending on the change in the market value of your account, the benefit amount may change with each payment.
- The period of years over which benefit payments may be made may not exceed the number of years established in the Uniform Life and Joint and Last Survivor Life Expectancy tables that are prepared by the United States Department of the Treasury. Information regarding the life expectancy of a person of your age and situation can be obtained by calling the HELPLINE, visiting the Plan Web site. Benefit payments are prorated among your investment options if you are invested in more than one investment option.

ROLLOVER OF PLAN ASSETS TO ANOTHER PLAN

Upon termination of employment, you also may roll over the assets in your Plan account to another deferred compensation plan, a 401(a), 401(k), or 403(b) plan, or an Individual Retirement Account. The tax consequences, distribution options, investment options, and participation costs in each may differ from the Plan. You are encouraged to examine the requirements and limitations of any plan to which you may contemplate rolling over your Plan assets. Contact the HELPLINE or an Account Executive for the appropriate forms.

V. UNEMPLOYMENT INSURANCE

Anyone terminated from a non-competitive or exempt class position should consider filing for unemployment insurance (UI) benefits.

A. WHEN TO FILE

Affected individuals may file a claim for benefits during the first week in which they become totally or partially unemployed (working less than four days in a week and earning \$405 or less). Employees terminated mid-week whose earnings for that particular Monday through Sunday week are in excess of \$405 should file claims during the following week. It is not necessary to file claims on a Monday because claims are effective Monday of the week in which the individual initially files for benefits. Mondays and Tuesdays are the busiest days of the week, so affected individuals may wish to file later in the week.

Claims are filed through the Department of Labor's website, www.labor.ny.gov or by telephone by calling the Telephone Claims Center (TCC) toll-free at 1-888-209-8124. If you are filing from out of state, call 1-877-358-5306.

B. ELIGIBILITY

1. General Information

The UI Program provides benefits to individuals who have sufficient employment to establish a claim, are unemployed through no fault of their own, are ready, willing and able to work and are actively seeking work. Eligibility for UI is determined on an individual basis, based on information received from the claimant and the employing governmental entity concerning the individual's job duties and responsibilities.

In order to establish a claim, an individual must have sufficient earnings in the base period, which is the first four of the last five completed calendar quarters or the alternative base period, which is the last four completed calendar quarters prior to the week in which the claim is filed. The individual must have wages in at least two quarters in the base period, with earnings of at least \$1,600 in one quarter and total base earnings of one and one-half times the high quarter earnings.

2. Exclusion for Policymakers

a. Statutory Exclusion

Assuming that all other UI eligibility criteria are met, an exempt class or non-competitive policy influencing government employee may be denied benefits under Section 565.2(e) of the Labor Law, which excludes from unemployment insurance coverage “a person in a major non-tenured policymaking or advisory position.” Agency heads and their deputies may be excluded from coverage under this exception. However, it must be stressed that a determination as to whether a person meets the criteria to be excluded under Section 565.2(e) can only be made on an individual basis following a review of all necessary information and documentation.

b. Criteria

The question as to whether the position is considered a major policymaking or advisory position can only be addressed through a close examination of the relationship and interactions of the position to other positions within the governmental entity and the extent to which the individual was actually engaged in policymaking or advisory activities for the entity.

Individuals whose eligibility for UI is at issue because of Section 565.2(e) of the Labor Law will be asked to complete a questionnaire regarding their employment. The questionnaire will ask a series of questions which will be used to obtain information used to determine whether the individual is eligible for UI. Individuals should be prepared to provide detailed information relating to their job duties and responsibilities.

Employers will also be asked to furnish such detailed information including specific examples of the work performed.

For further information regarding unemployment insurance benefits, visit the Department of Labor’s website www.labor.ny.gov. You can also get information by calling 1-888-581-5812, or from out of state 1-888-864-9920.

VI. RETIREMENT ELIGIBILITY

Any employee 55 years of age or older who has vested retirement rights in the New York State and Local Employees' Retirement System ("Retirement System") may be eligible to retire. If you do not know whether you have vested rights, you should contact your Personnel Office or the Retirement System at 518-474-7736.

You must file for retirement at least thirty (30) days, but no more than ninety (90) days, prior to the projected effective date of your retirement. Thus, if you plan to retire effective December 31, 2010, you must file by December 1, 2010. (Vested members no longer on a public employer's payroll can file between 90 days and one day before their date of retirement.)

Employees in Tier 1 of the Retirement System (employees who joined the Retirement System before July 1, 1973) may retire at age 55 with no reduction in retirement benefit.

Tier 2 members (employees who joined the Retirement System on or after July 1, 1973 and before July 27, 1976) with fewer than 30 years of credited service may retire at age 55 with a reduction in benefit. Tier 2 members retiring at age 62 or older receive a complete retirement benefit.

Tier 3 members (employees who joined the Retirement System on or after July 27, 1976 and before September 1, 1983) and Tier 4 members (employees who joined the Retirement System on or after September 1, 1983) may retire at age 55 with no reduction of benefit if they retire with 30 years of service. Any Tier 3 or 4 member retiring before age 62 with less than 30 years of service will receive a reduced retirement benefit.

Tier 5 members (employees who joined the Retirement System on or after January 1, 2010) may retire at age 55 with a reduction in benefit. Tier 5 members retiring at age 62 or older receive a complete retirement benefit.

Employees who are retirement eligible should review their annual Retirement System member statements for Tier status and benefit information and should contact their Personnel Office or the Retirement System at 518-474-7736 for further information and consultation.

Your first retirement benefit check should be received about 30 to 60 days after the effective date of your retirement.

VII. PENSION CONTRIBUTIONS

If you have been making employee contributions to the Retirement System (as is required by the Tier 3, 4 and 5 plans), you have some options to consider.

Tier 3 and 4 members are vested when they have accrued five years of service credit. Tier 5 members must have 10 years of service credit to be vested. Once you are vested, you have the right to receive a benefit once you reach the minimum retirement age.

If you have been a member of the Retirement System for less than ten years, you may withdraw your accumulated employee contribution by filing a written demand for withdrawal to the Retirement System. You are not, however, required to withdraw from the system. Tier 3 and 4 members who have accrued between five and ten years of service and withdraw their contributions will no longer be eligible for a benefit in retirement.

If you do withdraw your accumulated employee contribution, you may make a direct rollover of your employee contribution to an Individual Retirement Account ("IRA"), Roth IRA or other eligible retirement plan that will accept the rollover. Except for a rollover to a Roth IRA, a rollover to an IRA or other eligible retirement plan will prevent any immediate income tax liability for the entire amount of the employee contribution. Otherwise, Federal tax of twenty percent of your withdrawn employee contribution will be withheld and will be, in most instances, taxable income.

Withdrawal applications should be addressed to:

New York State & Local Retirement Systems
Member Services Bureau
Withdrawal Unit
110 State Street
Albany, New York 12244-0001

If you have at least one year of member service in the Retirement System, and are in active service, you may borrow up to 75 percent of the total employee contributions made to the Retirement System. The minimum loan amount is \$1,000, so you must have at least \$1,334 in employee contributions to obtain a loan.

The loan, together with interest, must be repaid within five years. If you fail to repay your loan within five years or do not make payments on time, the IRS will deem the loan to be in default and the entire amount not repaid (including the interest that has accrued) will be reported to the IRS as taxable income. Loan applications are available in your Personnel Office or from the Retirement System.

You may exercise the loan option while you are in active service, but you may not exercise the loan option after you have left active state service. **Therefore, if you want to borrow instead of withdrawing contributions, you must file before you terminate State employment.** If you terminate State employment, however, the loan is still outstanding and interest continues to accrue. You must continue making payments on the loan at least quarterly to avoid defaulting on the loan and incurring negative tax consequences. When you retire, if you have an outstanding loan balance, your retirement benefit will be permanently reduced by the actuarial equivalent of the loan.

If you withdraw from the System and have an outstanding loan balance, the amount of accumulated employee contributions refunded to you will be reduced by the amount of your outstanding loan. The total employee contribution balance (before reduction for the loan) will be taxable income.

If you are re-employed with the State or another public employer participating in the Retirement System within seven years of separation of service, regardless of whether or not you are vested, you will retain your original Tier status. If you believe you will be re-employed by a government agency that participates in the Retirement System (which includes virtually all local governments, but not New York City), you should make every effort to keep your employee contributions in the Retirement System.

VIII. OTHER ISSUES

Other Issues

Tenure

Exempt Class employees can receive permanent appointments and serve a probationary period if permanently appointed. However, in general, Exempt Class employees do not obtain tenure. (Tenure provides employees with an opportunity for a hearing prior to discipline or discharge.) The Civil Service Law provides that an Exempt Class employee is tenured if he/she is: permanent, and has completed probation, and is an honorably-discharged war-time veteran or exempt volunteer firefighter, but is not a "...private secretary, cashier or deputy of any official or department."

If you are a qualifying war-time veteran, it is important that you advise your Office of Human Resources so that you receive any rights due to you as a result of this status.

Layoff

Exempt Class employees do not have any protections or rights upon the abolition of their positions.

Rights to Return to a Former State Title

Many Exempt Class employees formerly worked in competitive, noncompetitive or labor class titles and may have had tenure or layoff rights in that title. In order to retain those rights, a leave of absence from the position is required. No current rule or contract provides for a mandatory leave of absence from the competitive, noncompetitive, or labor class to serve in the Exempt Class. Generally, agencies may grant an employee a discretionary leave of absence from their permanent competitive or noncompetitive title while they are serving in an Exempt Class title. These discretionary leaves of absence have a limit of two years, after which the agency may request an extension by the Civil Service Commission for up to two additional years where it would be in the best interests of the State service. An Exempt Class employee who has a discretionary leave may return to the former title upon mutual agreement with the former agency, or upon termination from the Exempt Class position. If the Exempt Class employee does not return to the former title at the end of the leave of absence, the employee loses the right to return.

During a leave of absence, employees continue to have certain rights they would have if they were actually serving in the position, such as any rights to compete in promotion examinations, seniority rights during a reduction in force, etc.

APPENDIX A

EMPLOYMENT AND CAREER SERVICES

NYS Department of Labor Employment Services Offices

Website: <http://www.labor.ny.gov>

The Department of Labor Division of Employment Services offices provide convenient “one-stop shopping” for employment-related needs. They offer many DOL programs in a single location – including career-related assistance and services for employers. Some offices are located in One-Stop Career Centers, where the New York State Department of Labor works in tandem with county and local workforce agencies. One-Stop career centers are operated by county and local workforce agencies, and offer a wide range of services for job seekers and businesses, including resume-writing advice, job training information, career workshops, recruitment assistance, and access to thousands of job listings.

NYS Department of Civil Service

Website: <http://www.cs.ny.gov>

The Department of Civil Service website is available to assist those seeking a career in the Executive branch of State service.

NYS Unified Court System

Website: <http://www.nycourts.gov/careers>

The NYS Unified Court System website is available to assist those seeking a career with the Judicial branch of State service.

Legislative Branch of NYS Government

Website: <http://www.assembly.ny.gov>

The NYS Assembly website is available to assist those seeking a career in the Legislative branch of State service.

APPENDIX B
INFORMATION RESOURCES

Civil Service Rights – Appointments, Leaves, Tenure, etc.

NYS Department of Civil Service
(518) 457-2487 or 1-877-697-5627
www.cs.ny.gov

**Labor Market Statistics, Job Search,
Resume Preparation, Interview Tips**

NYS Department of Labor
(518) 457-9000 or 1-888-469-7365
www.labor.ny.gov

Retirement Information

NYS Office of the State Comptroller
(518) 474-7736 or 1-866-805-0990
www.osc.state.ny.us

Employee Assistance Program

1-800-822-0244
www.worklife.state.ny.us/EAP/



Department of Civil Service

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