



## S-60/ORP IMPLEMENTATION UPDATE #28 (7/11/18)

### PROGRESS REPORT

On June 15, 2018 MTA met with representatives of the State Retirement Board (SRB) and the Department of Higher Education (DHE) to review implementation of Section 60.

Since the May meeting, MTA and a member of the SRB staff began work on a comprehensive statement of Section 60 procedures and compliance requirements, a preliminary draft of which was distributed to participants at the meeting for an initial review.

Problems and questions remain, as can be seen below.<sup>1</sup>

#### **1. Delay by the SRB in cashing checks, updating service cost and sending “bills”**

The SRB has been making progress in cashing checks.

The SRB continues to postpone sending bills for those with TIAA Traditional accounts, pending the development of written procedures.

#### **2. Paying those ORP assets still due after transfer of liquid assets**

The DHE still maintains that any type of work done for a state agency after you leave your current job disqualifies you from liquidating your TIAA Traditional assets within 120 days. This seems contrary to the law that established the ORP and raises a question about the validity of the DHE’s position. That prevents you from paying off your Section 60 obligations, which in turn prevents you from receiving your MSERS pension.

The DHE website now provides written information on how to pay off Section 60 obligations within 120 days after termination of state employment, but does not explain that if you do what many higher ed employees do, i.e., teach a course after retiring, that

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<sup>1</sup> For convenience, “EE” refers to “employee,” and “ER” refers to employer.” The term “EE-funded assets” refers to those ORP assets funded by required employee contributions plus net investment gains and interest, and “ER-funded assets” refers to the Commonwealth’s contributions to the ORP account plus net investment gains and interest.

means that you have not terminated your state employment. If you continue working in any capacity, however, whether at U Mass, a state university or a community college, or in any state agency, you are unable to access your ORP assets.

The DHE has elaborated on this apart from Section 60 considerations. If you retire from your MSERS-eligible or ORP-eligible job but work for the state in any capacity, the DHE's position is that you are barred from accessing your ORP assets.

### **3. What happens to Traditional ORP assets after payment of the service cost?**

The DHE is developing a spreadsheet to project earnings on amounts in a Traditional account equivalent to service cost payments made from rollover or non-ORP assets. MTA, the SRB and the DHE agree that such earnings belong to the individual, and it will be reassuring to know that there is a methodology in place for addressing this.

It is nonetheless recommended that you keep your own records of any payments you make toward the Section 60 service cost.

### **4. Payment of ER-funded assets and “excess” EE-funded assets from non-ORP sources**

As has been pointed out previously, the total price of transferring from the ORP to the MSERS includes the EE-funded ORP assets equal to the Section 60 service cost, and EE-funded ORP assets in excess of the service cost and all ER-funded ORP assets.

The SRB currently does not accept non-ORP assets to pay the last two, i.e., the excess of EE-funded assets and the ER-funded assets.

MTA has requested that members be allowed to use non-ORP assets to pay these amounts.

There have been technical obstacles to putting this in place, which have been described in Update #26.

A further complication is that some other retirement plans, from which you might want to pay these other Section 60 costs, might not allow a transfer of assets in these circumstances.

This is another reason to explore the usefulness of a TPA or SWAT.

### **5. Additional interest?**

The SRB has not decided whether to begin charging interest on the service cost.

MTA has explained that additional interest does not seem to be justified, as 8% annual interest was already factored into the service cost through December 31, 2013, ORP EE-

funded assets and ER-funded assets will continue to increase in value, and the MSERS will benefit from that increase. MTA urged that the SRB formally decide not to charge further interest. Such a decision will clear the way for establishing procedures to complete Section 60 implementation.

The current undefined state of Section 60 completion requirements is leaving members unable to make realistic plans and to prepare for their future.

## **6. Assistance**

For information about your service or cost calculation, or about receiving a bill or paying a bill, or about uncashed checks, contact the State Retirement Board at [orpinfo@tre.state.ma.us](mailto:orpinfo@tre.state.ma.us).

For information about the asset transfer process (including uncashed checks) or RMD's contact the Department of Higher Education at [ORP@bhe.mass.edu](mailto:ORP@bhe.mass.edu).

If you are unable to get an answer, or are confused about an answer or where to direct a question, please contact the MTA at [orp@massteacher.org](mailto:orp@massteacher.org).