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Circular Letter

January 24, 2014

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **EMPLOYER BILLING CHANGE FOR THE INTERNAL REVENUE CODE SECTION 415(b) REPLACEMENT BENEFIT PLAN**

The purpose of this Circular Letter is to inform you of the change in how the California Public Employees' Retirement System (CalPERS) will bill all participating employers for the Internal Revenue Code (IRC) section 415(b) Replacement Benefit Plan (RBP).

A CalPERS employer becomes a participating RBP employer whenever any eligible former employee is paid a retirement allowance that exceeds the annual dollar limit set under IRC 415(b). IRC section 415(b) is a federal provision that limits the amount of the annual retirement benefit an individual can be paid from a tax-qualified defined benefit pension plan such as CalPERS.

At the end of each year, the Internal Revenue Service issues the IRC 415(b) limit on the maximum benefit that is payable from a defined benefit plan for the next calendar year. For 2014, the annual limit is \$210,000 for members who retire at ages 62 - 65. The annual limit is lower for members who retire at ages 50 – 61.

CalPERS, in accordance with Government Code section 21750 et seq. and Title 2 of the Code of Regulations section 589 et seq., established a Replacement Benefit Plan (RBP) to ensure that members are provided with retirement and other related benefits that are commensurate with the benefits that would have been received had the benefits not been limited due to IRC 415(b).¹

Participating Employers

All contracting agencies in CalPERS are deemed to have elected to participate in the RBP based on statute.

¹ Effective January 1, 2013 in accordance with the California Public Employees' Pension Reform Act of 2013 (PEPRA), section 7522.43(b) provides that a public retirement system may continue to administer a plan of replacement benefits for employees first hired prior to January 1, 2013.

Replacement Benefit Plan

At the time a member retires, the IRC 415(b) limit is applied to the calculated retirement allowance in accordance with all applicable factors affecting the limit (such as the age at which the member retires) to determine if the retirement allowance is subject to the IRC 415(b) limit. CalPERS retirees whose allowances exceed the limit are notified via letter that their benefit is subject to the limit and that they will be issued two payments, one from the Public Employees' Retirement Fund (PERF) on the first of each month, and a quarterly payment from the Replacement Benefit Custodial Fund (RBF), typically issued on March 1, June 1, September 1, and December 1.

CalPERS then calculates the RBP amount and submits an invoice to each of the retiree's former employers using a proportionate calculation method based on the service credit earned with each employer. After all the employer invoices are paid, the RBF payment is issued to the retiree during the next quarterly cycle.

Once a retirement allowance has been limited due to IRC 415(b), it will be re-tested annually to determine if the IRC 415(b) limit has increased to such a point that the total retirement allowance no longer exceeds the limit, at which point the retirement allowance would be fully paid through the PERF. Likewise, with this annual re-testing, allowances that are close to the IRC 415(b) limit in one year may become limited upon payment of the cost-of-living allowance increase (COLA) or any other adjustment that increases the allowance in a subsequent year.

Employer Billing Changes for the RBP

For members newly retired in 2013, employers are billed proportionately for replacement benefits based on the amount of service credit earned by the member with that employer. Employers may be billed for service earned many years prior to the member's actual retirement date, and the member may not have retired directly from that employer. Beginning in 2014, the same multi-employer billing process will apply for all retirees who retired prior to 2013 and whose allowances are already limited by IRC 415(b). Employers will be billed for replacement benefits based on the amount of service credit earned by the member with that employer. Historically, CalPERS had billed the RBP amount to the employer where the member earned the highest amount of service credit, typically the last employer from which the member directly retired. However, the multi-employer billing process is required to comply with current Internal Revenue Service regulations. Given the above, in January 2014, employers who have not previously had a retiree participating in the RBP may receive an annual invoice for a former employee who worked for that employer in the distant past and is now retired.

Employer Impact

Annual employer valuations are calculated based on the maximum allowance payable from the PERF, in accordance with IRC 415(b) limits. Because the PERF benefits of affected retirees are reduced due to the RBP payments, the PERF contribution valuation for affected employers will also be reduced.

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Refer to the attached fact sheet for additional information.

If you have any questions, please call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

ANTHONY SUINE, Chief
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Attachment: [Internal Revenue Code Section 415\(b\) Fact Sheet](#)