



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

EXECUTIVE ORDER No. 23

December 2, 2016

DESIGNATION OF CERTAIN EMPLOYEES' CONTRIBUTIONS TOWARD EMPLOYER
PENSION COSTS AS EMPLOYER PICK-UP CONTRIBUTIONS PURSUANT TO SECTION
414(h) OF THE INTERNAL REVENUE CODE

WHEREAS, uniformed employees of the New York City Fire Department who are subject to Article 14 of the Retirement and Social Security Law, as amended by Chapter 298 of the Laws of 2016 ("the Law"), contribute a percentage of their salary ("Contributions") to the New York City Fire Department Pension Fund towards the cost of the retirement benefits provided for such employees ("Covered Employees"); and

WHEREAS, pursuant to section 414(h) of the Internal Revenue Code, employee contributions to a public employer pension plan may be picked up on a pre-tax basis by the public employer and excluded from an employee's federal gross income if the employer specifies that the contributions, although designated as employee contributions to the plan, are being paid by the employer in lieu of contributions by the employee, and the employee cannot choose to receive the amounts directly instead of having them paid by the employer; and

WHEREAS, the Internal Revenue Service requires that the City take formal action evidencing an intent to establish an employer pick-up under section 414(h); and

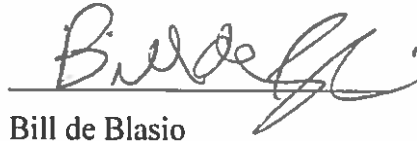
WHEREAS, picking up such contributions on behalf of the Covered Employees will not impose any cost on the City;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Employer Pick-up of Member Contributions of Covered Employees.

- a. The City, through the Office of Payroll Administration, shall pick up the Contributions required of the Covered Employees under the Law by reducing the salary of each of the Covered Employees by that amount which each such Covered Employee is required to contribute under the Law. The Contributions so picked up shall be paid by the City in lieu of the Contributions to be paid by Covered Employees pursuant to Law and shall be treated as employer contributions solely for the purposes of determining federal income tax treatment under section 414(h) of the United States Internal Revenue Code.
- b. No Covered Employee whose Contributions are to be picked up pursuant to this Order shall have any right to elect that such pick up, with accompanying deduction from the compensation of such Covered Employee as prescribed by subdivision a of this section, shall not be effectuated.
- c. Subject to the provisions of subdivision a and b of this section, for all other purposes, this Order does not alter:
 - i. the obligation of such Covered Employee to pay New York state and New York city income and/or wages or earnings taxes and the withholding of such taxes;
 - ii. the determination of the amount of any retirement allowance or other pension fund benefit payable to or on account of such Covered Employee or any other pension fund right, benefit or privilege of such Covered Employee; or
 - iii. the inclusion of the Contributions picked up pursuant to this section as part of the employee compensation of such Covered Employee and such Covered Employee's gross compensation (as it would be in the absence of a pick-up program applicable to him or her hereunder).

Section 2. Effective Date. This Order shall take effect immediately.

A handwritten signature in black ink, appearing to read "Bill de Blasio", written over a horizontal line.

Bill de Blasio

Mayor