Refunds

NYCERS
RETIREMENT AND BENEFITS

FOR ALL TIERS — LAST UPDATE SEPTEMBER 2012

Tier Membership Information:

Your tier is generally determined by the date you joined NYCERS, as follows:

- Tier 1 – Members who joined NYCERS prior to July 1, 1973
- Tier 2 – Members who joined NYCERS between July 1, 1973 and July 26, 1976 and DA Investigators who join(ed) NYCERS between July 1, 1973 and March 31, 2012
- Tier 3 – Correction Officers who join(ed) NYCERS between July 27, 1976 and March 31, 2012
- Tier 4 – Members who join(ed) NYCERS between July 27, 1976 and March 31, 2012 except Correction Officers and DA Investigators
- Tier 6 – Members who joined NYCERS on or after April 1, 2012

Members may become eligible for any of the following types of refunds:

- Refund of member's accumulated salary deductions (all tiers)
- Refund of excess contributions (Tiers 1 and 2 only)
- Refund of *Additional Member Contributions* (Tiers 2, 3, 4 and 6 only)

How do I qualify for a refund of my accumulated salary deductions?

Your accumulated salary deductions (ASF for Tiers 1 and 2; MCAF for Tiers 3, 4 and 6) are the basic contributions you make to NYCERS, based on your tier and plan.

Upon resignation or termination (with less than 10 years of *Credited Service* for Tiers 3, 4 and 6 members) from City service, you qualify for a refund of your accumulated salary deductions, **plus** interest, **less** the present value of any outstanding loans.

You must be off the payroll of your City employer for 30 days or more before being eligible for a refund. If your City employer's payroll records show that you are on a leave of absence with or without pay, you are not eligible for a refund.

Please keep in mind that:

1. If you have satisfied the service requirements for your tier and plan, and you want to collect a Vested Retirement Benefit once you reach the payability age, you should not apply for a refund. You should file the proper *Notice of Intention to Vest* form for your tier and plan before you leave City service. Contact NYCERS with any questions you may have concerning your right to a Vested Retirement Benefit.

2. A member may elect to receive a refund after they have filed a Notice of Intent to Vest form, by waiving their right to a Vested Retirement Benefit. Tiers 3 and 4 members with five or more but less than 10 years of *Credited Service* can still withdraw their accumulated deductions, with interest. To do so, the member must complete a *Waiver of Right To A Vested Retirement Benefit* and file it with NYCERS. In taking a refund, however, the member terminates their membership and forfeits their right to any future benefits from NYCERS, including any vested retirement benefit to which they would otherwise be entitled.

3. Tiers 3, 4 and 6 members with 10 or more years of *Credited Service* are not eligible for a refund of their accumulated deductions.

If you receive a refund of your accumulated salary deductions, plus interest, your membership in NYCERS will be terminated. Should you return to City service at a future date, your new membership will be governed by the pension laws in effect at that time.

Note: Accumulated salary deductions left on deposit by members who cease City service will continue to be credited with interest for up to five years after resignation or termination of covered employment.

Tiers 3 or 4 members who last joined NYCERS prior to July 16, 1989, may leave their accumulated salary deductions on deposit with NYCERS until their 62nd birthday, during which time their contributions will continue to be credited with interest. Otherwise, interest will cease on the date of withdrawal or at a date five years after their resignation or termination, whichever comes first.

NYCERS' Call Center:	Mail:	Visit:	Web Site:
(347) 643-3000 or 1-877-6NYCERS	335 Adams Street, Suite 2300	Customer Service Center:	www.nycers.org
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How do I qualify for a refund of my excess contributions?

Excess contributions are those that are made after a Tier 1 or Tier 2 member has satisfied the service requirements for their tier and plan.

If you have satisfied the requirements described in the table below, you may be eligible for a refund of your excess contributions.*You must cancel your rate of deduction (see note below) before applying for a refund of excess contributions.

Retirement Plan	Service Requirements
Tier 1, Plan A and Tier 2, Plan C	25 years of *Career Pension Plan Qualifying Service*
Tier 1, Plan B and Tier 2, Plan D	25 years of *Allowable Service* and 55 years of age or older
Tiers 1 & 2 Uniformed Sanitation Force Plans	20 or 25 years of *Allowable Sanitation Service*, depending on your tier and plan
Tiers 1 & 2 Uniformed Correction Force Plans	20 or 25 years of *Allowable Correction*

* If you have an outstanding loan at the time you apply for a refund of excess contributions, you may not be eligible for a refund until your loan is paid in full.

Note: Tier 1 and Tier 2 members may elect to cancel their rate of deduction after completing the required years of service for their tier and plan (as illustrated in the table above). If you elect to cancel your rate, you must complete an Application To Cancel Rate Of Deduction (Form # 311) and file it with NYCERS. Upon receipt of your application, NYCERS will cancel your deductions (if you are eligible) or will mail you a letter indicating the reason why your rate cannot be cancelled.

Members who choose to leave their excess accumulated deductions on deposit with NYCERS will receive an additional annuity at retirement.

How do I qualify for a refund of my *Additional Member Contributions*?

Participants (or their beneficiary[ies]) in the Tier 4 25-Year Early Retirement Program and the Age-57 Retirement Program may be eligible to receive a refund of the employee portion (50% of the total) of their Additional Member Contributions (AMCs), in the event of:

- death
- retirement on a disability
- service retirement at age 62 or later (with *Active Service* immediately prior to retirement, and at least six months of *Active Service* in each of the previous two years)
- transfer to another New York City or State public retirement system (including NYC Board of Education Retirement System (BERS), provided you do not hold an *Eligible Position* for the BERS' 55/25 or the BERS' 57/5 Programs)
- for Participants in the Age-57 Retirement Program only, resignation from City service with less than 10 years of *Credited Service*. (Participants with 10 or more years of *Credited Service* are automatically vested, and may not receive a refund of their MCAF or AMC's.)
- for Participants in the 55/25 Program only, termination for economic reasons affecting the employer

Participants in the following programs may withdraw their AMCs, together with accumulated interest, as follows:

- Tier 3 Uniformed Correction Force Plans who have rendered fewer than 15 years of *Allowable Correction Service* and cease to hold an *Eligible Position* in the Department of Correction, for any reason whatsoever

- Tier 4 Sanitation 20-Year Retirement Program who have rendered fewer than 15 years of *Allowable Sanitation Service*, and cease to hold an *Eligible Position* in the Department of Sanitation, for any reason whatsoever

- Tier 4 and 6 TBTA 20-Year and Age-50 Retirement Program who have rendered fewer than 15 years of *Credited Service* in a *TBTA Eligible Position,* and cease to hold a *TBTA Eligible Position*, for any reason whatsoever

Special Note:

Any Participant who terminates service in an *Eligible Position* and takes a refund of their AMCs, and returns to active service as a member in an *Eligible Position*, shall again become a Participant in the same Program, and will be required to repay the amount refunded to them with interest.

For example, a participant in the Tier 4 Sanitation 20-Year Retirement Program who:

- transfers to the NYC Transit Authority, and becomes a Participant of the Transit 25-Year and Age-55 Retirement program,
- receives a refund of his/her AMCs under the Sanitation 20-Year Retirement Program, and
- later transfers back to the uniformed force of the Department of Sanitation,
- will automatically again become a Participant in the Sanitation 20-Year Retirement Program, and will be required to pay back the amount of their refund plus interest.

Members who are no longer eligible to participate in one of the special retirement programs enacted since 1992, may be eligible to receive a refund of their *Additional Member Contributions*. In most of those programs, Participants with 15 or more years of Credited or Allowable Service are not eligible to receive a refund of their Additional Member Contributions. Tier 4 and 6 Automotive Workers and Police Communications Technicians with 5 or more years of Credited Service are not eligible for a refund of their Additional Member Contributions. Participants should check the SPD booklet for their tier and program and/or contact NYCERS.

How do I apply for a refund?

- if you are applying for a refund of your accumulated salary deductions, you must complete an Application For Refund of Member's Accumulated Salary Deductions, (Form # 331), and file it with NYCERS

- if you are a Tier 1 or Tier 2 member applying for a refund of your excess contributions, you must complete an Application For Refund of Excess Contributions, (Form #332), and file it with NYCERS

- if you are a Participant applying for a refund of your *Additional Member Contributions* only, you must complete an Application for Refund Of Additional Member Contributions, (Form # 333), and file it with NYCERS

What happens once NYCERS receives my application for a refund? How is it processed?

NYCERS will process your properly completed and acknowledged Application for Refund of Member's Accumulated Salary Deductions (Form # 331) and mail you an Election of Payment Notice, approximately 45 days after you are no longer on the City payroll. If your employer places you on a leave of absence, you are considered to be on payroll, and not eligible to receive a refund.

The Election of Payment Notice contains three options, under which you can elect to receive or rollover the taxable portion of your refund:

- a direct refund, including the taxable portion, subject to 20% Federal income tax withholding
- a rollover of the taxable portion of the refund into an IRA account or employer plan
- rollover of a portion of the taxable distribution, designated by you, into an IRA account or employer plan

You may elect only one of the three options.

If you elect to rollover part or all of the taxable portion of your refund, you must designate, on the Election of Payment Notice, the institution and account number that you want NYCERS to send your refund to.

Members have 30 days to complete and return their Election of Payment Notice to NYCERS. If you do not return the notice to us within 30 days of the date of our letter, we will process your full refund, less 20% Federal income tax withholding on the taxable portion of your distribution.

Note: The date you receive your last paycheck from your City employer depends on your leave balance at the time you resign or are terminated. It is your responsibility to make sure your employer processes your resignation or termination.

If you apply for a refund of your accumulated salary deductions and your employer has not yet processed your resignation or termination (your name still appears on their payroll), NYCERS will send you a letter advising you that we cannot process your application for refund.

How much is my refund going to be?

You will be advised of the amount of your refund when we send you the Election of Payment Notice. It will represent the amount you contributed to NYCERS while a member, plus interest accumulated during that time.

If you do not receive an Election of Payment Notice, because your refund does not contain a taxable distribution, NYCERS will mail you a letter advising you of the amount of your refund.

Am I allowed to cancel my refund application?

You may cancel your refund application at any time before NYCERS mails your refund check. Your request to cancel your refund must be received by NYCERS in writing.

When will I get my refund?

Your refund check will be mailed approximately 15 business days after we receive your Election of Payment Notice. If you do not respond to the Election of Payment Notice within 30 days, your refund check will be mailed approximately 15 business days after the end of the 30-day period.

If you have not received your refund check within 10 business days after the date NYCERS mails it, you should complete an Affidavit Concerning Lost Check (Form # 399) and send it to NYCERS, in order to be issued a replacement check.

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What are the tax consequences of taking a refund?

Withdrawal of your accumulated salary deductions, excess contributions, and/or AMCs may result in a Federal income tax liability. The taxable distribution, if any, is outlined on your Election of Payment Notice, along with an explanation of the Federal income tax consequences.

The refund check you receive from NYCERS may be less than the total taxable distribution, if you have an outstanding loan at the time of the refund.

In addition to a Federal income tax liability, withdrawal of your contributions before you attain age 59½ may result in an additional 10% Federal income tax penalty.

Why does NYCERS withhold taxes from my refund check?

The taxable portion of a refund is subject to Federal income tax. If you do not elect to roll it over, NYCERS is required, by the Internal Revenue Code rules and regulations, to withhold 20% of the taxable portion of the distribution.

Is there a way to avoid Federal income tax consequences?

Yes, but only temporarily, by rolling over the taxable portion of the distribution into an IRA account or employer plan.

Will resignation and refund affect my rights to a future retirement benefit?

If you resign from City service and apply for a refund of your accumulated salary deductions, your NYCERS membership terminates, and you forfeit the right to any future benefits from NYCERS based on that membership. Should you return to City service in the future, your new membership will be governed by the pension laws in effect at that time.

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