

As we begin a new year, it also begins a new tax year for our retirees and our members who are considering retirement. So in this issue we thought that it might be beneficial to provide general information on the taxability of benefits. Below is a table which highlights what portions of benefits are considered taxable under IRS rules. While it is always advisable to have the member consult a tax professional if they have questions, we hope this table will be helpful for you.

TYPE OF BENEFIT	TAXABILITY	ADDITIONAL INFORMATION
Refund: Directly paid to member	Yes, except the portion of the member's contributions made in after-tax dollars, referred to as the "Safe Harbor" portion, which is non-taxable.	When processing a refund application, please provide member with a copy of Special Tax Notice provided
Refund: Rollover	Any taxable portion rolled to another qualified plan is not taxed at time of rollover. Monies will fall under IRS tax rules for the new plan	Provide Special Tax Notice to member.
Normal Retirement Pension	Benefit is taxable except for the Safe Harbor portion, which is not taxable.	The PSPRS only withholds for Federal and AZ state taxes. System doesn't withhold for any other state income taxes.
Accidental Disability Pension	<ul style="list-style-type: none"> • Less than 20 years – The benefit is not taxable. • More than 20 years -The portion of the benefit based on 20 years is not taxable; any portion of the benefit based on more than 20 years is taxable except for any Safe Harbor amounts which are not taxable. 	
Temporary Disability Pension (PSPRS)	The benefit is not taxable.	
Ordinary Disability Pension	Benefit is taxable except for Safe Harbor portion which is non-taxable.	Local boards must also inquire annually on any additional income earned, to determine the offset until the member attains normal date.

Accidental or Total and Permanent Disab Accidental or Total and Permanent Disability Pension (CORP)	<ul style="list-style-type: none"> • Less than 20 years – The benefit is not taxable. • More than 20 years -The portion of the benefit based on 20 years is not taxable; any portion of the benefit based on more than 20 years is taxable except for any Safe Harbor amounts which are not taxable. 	
Catastrophic Disability Pension (PSPRS)	Benefit taxability follows same guidelines as an Accidental Disability.	
DROP/Reverse DROP funds	Any portion paid directly to member and not rolled to a qualified plan is considered taxable except the Safe Harbor portion which is non-taxable.	Please provide Special Tax Notice to member.
Survivor/Guardian (non KIA): Active and Retired	Benefit is taxable.	A portion may be non-taxable based on Safe Harbor contributions. PSPRS office will make the determination on any non-taxable amounts.
Survivor (KIA)	Benefit is considered non-taxable	

**UPCOMING TRAINING SEMINARS
FEBRUARY 4, 2010**

Southern Arizona PSPRS Local Board Conference (Agenda forthcoming)
Time 9 AM to 4 PM

Topic: General Local Board Conference (Tucson area)

Location: Town of Marana Municipal Complex
11555 West Civic Center Drive, Marana, AZ 85653

If you would like to sign up for this seminar: email rortega@psprs.com
Or call 602-255-5575 extension 2047. Please provide the names of all individuals who will be in attendance.

For any questions regarding upcoming training events or general questions regarding PSPRS or CORP, please contact Robert Ortega at 602-255-5575 extension 2047 or email rortega@psprs.com.

L'IL RONNIE'S CORNER - "DROP & DISABILITY"

It's seems incredible that DROP was passed into law during the 1999 – 2000 Legislative session. It went into effect on July 1, 2001 and here we are over eight years later going strong.

To sum up this article I will say this, DROP & Disability retirements are like mixing "Oil & Water". Before I begin, I must point out that all of the opinions in this article are mine and mine only and not necessarily those of the Fund Manager, staff or anyone else. In fact legal counsel for the Fund Manager is working on a legal brief on this and other related issues and will have an "official" opinion in the next few months that I will report on later.

When I was working on the proposed DROP language in 1999, I found that most DROP programs across the nation did not allow a member to apply for a disability retirement if they had elected to participate in DROP. In the beginning, AZ PSPRS DROP did not allow you to apply for a disability if the injury occurred prior to the DROP period. In 2002, it was changed to allow you to apply for disability for any injury incurred during your career.

So here we are in 2010 and we have a problem. It's called human nature. Human nature drives us in our desire to survive as comfortably as we can. That includes gaining as much benefits and stuff as we can amass during our lifetime prior to retirement. There is no problem with receiving all the pension benefits you deserve but not if it is contrary to the law. That same human nature also tends to upset people who cannot get these benefits when others are.

Many jurisdictions are allowing injured employees to continue to work in "light / limited duty" positions for extended periods of time. That's a great benefit provided by the employer. When these members hit 20 years, many are allowed to continue to work light duty by the employer and elect DROP for an additional 60 months. We are finding some of these same members applying for accidental disability retirement under one of the three following examples:

- Close to the end of the DROP period
- At the end of the DROP period
- After the end of the DROP period

Many members have called me and expressed they don't think this is right or fair. Some are offended that the employer allowed the injured employee to continue to work all this time and now they are trying to get a tax-exempt accidental disability that will raise the employer contribution rate they pay into PSPRS. So what do I think? It really doesn't matter what I personally think about the issue but I will try and bring what is happening into perspective by explaining the letter of the law.

First, a member of the system can make application for benefits in a timely manner as long as that application is made prior to one year after leaving employment.

Second, members who are injured in the line of duty during the DROP period and apply for a disability in a timely manner after the medical condition has stabilized have no problem.

Many small departments cannot afford to keep an employee on light / limited duty and need to hire a full duty person to replace the injured employee. To do so, they must terminate the permanently injured employee allowing them to afford the replacement. These permanently injured members need to apply for the accidental disability with special attention to ARS 38-844.B

The problem is this:

Members working for large employers are allowed to work in a "light / limited duty" assignment after they have become stable with no expectation of returning to full crime fighting or firefighting duty. These members are truly blessed. They may work up to or beyond 20 years in the system and then many join DROP for five additional years. This is allowed by law if the employer has no problem keeping them on light / limited duty all that time. The problem comes when the employee/member applies for a disability at the end of the DROP period. The definition of an "Accidental Disability" is as follows:

"Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty."

I have underlined the problem. I believe when an employer allows a member to stay working after being permanently injured and the employee accepts the "light / limited duty job" for an extended time period that those duties become a "reasonable range of duties". This is based on the employer's "offer to stay employed and working" and the employee accepting the offer to remain employed. Remember the law allows the board to determine what "reasonable range of duties is".

At the conclusion of the DROP period, some members apply for an accidental disability and continue to work until the last day in light / limited duty, which poses two problems:

- Has the "light / limited duty" employment become this employee's reasonable range of duties by mutual agreement and understanding? I submit that it has, but, that is a board call.
- Is the member leaving employment due to the injury? I submit that they are leaving as a result of the contract they signed with PSPRS and the employer stating they would end DROP by a certain date. Leaving DROP in a timely manner will avoid several very distasteful penalties placed on DROP participants.

If this is the case and they are leaving because of DROP and not the injury, the board has no other option but to deny the "accidental disability" application

Some boards have already allowed members to take an accidental disability retirement that they may not have been qualified for based on continued light duty for years. You cannot go back and change your past actions. But please do not think that your past practice in any way should cause the board to continue the past practice and making a decision that is contrary to the law that gives boards a lot of leeway. If the past practice is unacceptable by law, stop doing that.

Some members just want as much as they can possibly get. It's human nature and that's fine. But if they do not qualify based on the law, it is the board's duty to do the right thing in these cases. It's your call.

Remember, if you hear any rumors please call me for the facts. Be safe.
L'il Ronnie

Contact Ron at 602-361-0803 or littletonnie@mac.com if you need some help, a visit or training. We are here to serve you.

