



State Universities Retirement System of Illinois

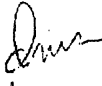
Serving Illinois Community Colleges and Universities

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Legal Department

## MEMORANDUM

TO: Employers

FROM: Dan M. Slack   
General Counsel  
and Associate Executive Director

RE: Compensation Subject to SURS Withholding

DATE: April 20, 2005

This memorandum supersedes my memorandum of December 4, 2002, on this issue and is effective from April 20, 2005, forward.

Section 15-157 of the Illinois Pension Code, 40 ILCS 5/15-157, requires every participating employee to make contributions of 8% of his or her pay to fund the benefits payable under the State Universities Retirement System. For purposes of this memo this will be referred to as "SURS withholding". (Police Officers or Firefighters may pay a higher contribution amount.) This contribution is deducted from the employee's pay on a pre-tax basis and remitted to SURS via payroll deduction. For employees paid through grant funds (statutorily referred to as "federal, trust or other funds"), the employer also remits the employer contribution. See Section 15-155(d) of the Illinois Pension Code, 40 ILCS 5/15-155(d).

The contributions are made as a percentage of the employees "earnings". Earnings are defined at Section 15-111 of the Illinois Pension Code, 40 ILCS 5/15-111. This memorandum states SURS' current understanding of what items of compensation are includable as "earnings" for purposes of Section 15-111. Such items may also be "basic compensation" under Section 15-110, but it is not necessary, for purposes of this memorandum, to distinguish between "basic compensation" and "earnings" as "basic compensation" is a component of "earnings".<sup>1</sup>

In determining whether compensation is subject to SURS withholding the key analysis is what the payment received by the employee is "for". If the payment is for services rendered, then the payment is subject to SURS withholding. If the payment is for a reason other than services rendered, it would not be subject to SURS withholding. For example, if the employer determines to pay, either to the employee or directly to SURS, the cost of service credit that the employee is eligible to purchase with SURS, that is a payment for the purchase of service credit and not for services rendered. Such a payment is not subject to SURS withholding.

In addition to the general guidance above, also noted below is the correct handling of some specific items:

**Bonus; Awards.** Bonuses received by an employee that are related to services rendered for a specific period of time, not to exceed one academic year, should be included in earnings subject to SURS withholding.<sup>2</sup> Awards, such as longevity of service awards, or outstanding employee awards, that are not associated with a particular time period are not subject to SURS withholding.

<sup>1</sup> Please note that some items of "earnings" may be excludable from the "final rate of earnings" under the provisions of Section 15-112 of the Illinois Pension Code, 40 ILCS 5/15-112.

<sup>2</sup> Earnings are always attributable to the period when earned, not when paid. SURS reserves the right to reallocate reported earnings to the period when earned, when this is necessary to accurately reflect the employee's earning history.

**Retirement Payments or Incentives.** Payments made to induce someone to retire, or not to retire, are not for services rendered, but are made in conjunction with an employee's retirement and are not subject to SURS withholding.<sup>3</sup>

**Group Fringe Benefits.** Group fringe benefits provided by the employer are not subject to SURS withholding. However, premiums on employer-provided group term life insurance in excess of \$50,000 are subject to SURS withholding.

**Housing Allowance.** A housing allowance, whether in the form of a direct salary payment, or as a residence in which the employee resides, is subject to SURS withholding.

**Automobile Allowance.** An automobile allowance in the form of a direct salary payment is subject to SURS withholding. However, neither business use nor personal use of an employer-provided automobile is subject to SURS withholding.

**Miscellaneous Other Benefits.** Fringe benefits that are provided in lieu of salary are subject to SURS withholding. Items that are not provided in lieu of salary (such as reimbursement for out-of-pocket travel expenses, relocation expenses, etc.) are not subject to SURS withholding. Items such as country club dues, tuition waivers, tickets to athletics and performing arts events for family members of employees, and other items which are reported as taxable income on the employee's Form W-2, are not subject to SURS withholding, unless such items are a negotiated fringe benefit in lieu of salary.

**Non-Qualified Moving Expenses.** Such expenses are not subject to SURS withholding as they are not furnished in lieu of salary.

**Unused Sick Leave Paid at Termination of Employment.** Such payments are not subject to SURS withholding, except for collectively bargained payments made in accordance with the fifth paragraph of §15-112 of the Illinois Pension Code, 40 ILCS 5/15-112.

**Overtime.** Overtime is subject to SURS withholding.

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<sup>3</sup> Such payments also are not includable in the final rate of earnings under Section 15-112.