

Understanding the 91A Reporting Process

August 2008
Commonwealth of Massachusetts
Public Employee Retirement Administration Commission

Sandra King, *PERAC Fraud Prevention Manager*



Commonwealth of Massachusetts

Public Employee Retirement Administration Commission

The Honorable Domenic J. F. Russo, *Chairman* | The Honorable A. Joseph DeNucci, *Vice Chairman*

The Honorable Deval Patrick | The Honorable Paul V. Doane | Kenneth J. Donnelly

James M. Machado | Donald R. Marquis

Joseph E. Connarton, *Executive Director*

5 Middlesex Avenue, Suite 304

Somerville, MA 02145

ph 617 666 4446 | fax 617 628 4002 | tty 617 591 8917 | web www.mass.gov/perac

Published by PERAC, 2008. Printed on recycled paper.

Fraud Prevention Manager's Letter

In performing its statutory responsibility with respect to the review of earnings of disability retirees, PERAC annually receives earnings reports from approximately 15,400 individuals. Contrary to the perception created in the media, the incontrovertible fact is that only a small percentage of these retirees have any earnings at all and those who are earning above the legal limit are an even smaller percentage. Nonetheless, significant sums have been recovered for the systems by PERAC.

Since PERAC's 1996 inception, the Commission's effective oversight and monitoring of overearning disability retirees has resulted in \$25,360,272 of savings, including: \$ 2,627,694.00 in return to work savings; \$3,421,659 in waived allowance savings; \$2,924,190 in termination savings; and \$16,386,729 in excess earnings savings.

The administration of section 91A of Chapter 32 is a key issue for both PERAC and the retirement boards. This publication will clarify important details of 91A reporting to ensure that the process will be as smooth as possible.

PERAC is guided by the need to be sensitive to the retirees while performing the role assigned to us. We believe that through a conscientious respect for the member; we have been able to accomplish that goal and can continue to do so in the future.

While this guide may be of great assistance to you in understanding the 91A process, please be sure to contact PERAC directly or consult your legal counsel about individual cases involving 91A issues.



Sandra E. King
PERAC Fraud Prevention Manager

Table of Contents

Overview of Process	1
Chapter 32:	
Section 91A. Adjusted Pension or Retirement Allowances	8
Section 91B. Enforcement of Section 91A; Wage Reporting System and Computer Match File	8
Section 91C. Access to Criminal Record Offender Information; Comparison with Retirement Allowances List	9
840 CMR: Public Employee Retirement Administration	
840 CMR 10:00: Standard Rules For Disability Retirement	
10.12: Hearing by Retirement Board	9
10.14: Annual Statement of Earnings; Definition of Earnings From Earned Income; Refunds and Modifications Based on Earnings Information	11
Pertinent 91A Cases	12
91A Form (Annual Statement of Earned Income: 2007)	13
Instructions for Submitting the Annual Statement of Earned Income (2007)	15
Frequently Asked Questions About the Annual Statement of Earned Income (2007)	17
Memorandum #47/2007: 2007 Disability Data	19
2007 Annual Statement of Earned Income: New Member Data	20
Reminder to New Members	21
Incomplete Letter	22
Excess Earning to Member	23
IRS Extension Deadline Reminder	24
Termination Notice	25
Termination After Extension Notice	26
Fraud Referral Form	27

The Fraud Prevention Unit

Originally, retirement boards were responsible for the collection of earned income data and monitoring overearnings of their disability retirees.

After a Boston Globe “Spotlight” Series, the Legislature passed Chapters 306 and 427 of the Acts of 1996 which created the Public Employee Retirement Administration Commission (PERAC) and established the Commission’s Fraud Prevention Unit. In addition, the new law transferred the responsibility of monitoring overearnings from the local boards to the Fraud Prevention Unit.

Since 1996, Section 91A has been amended once. The amendment in 2004 causes the termination rather than the suspension of the allowance of a member who fails to file the necessary documents unless the member shows good cause. The termination continues for the duration of the period of non-compliance.

The Fraud Prevention Unit has the powers and duties necessary for the prevention and investigation of fraudulent disability pension claims and payments. The Unit is now under the direction of Frank Valeri, Deputy Director, and is managed by Sandra King.

The Unit is responsible for the annual data collection relating to approximately 15,400 retirees from the 106 public employee retirement systems in the Commonwealth. The data includes earnings statements, registry information, criminal offender record information, data from retirement boards, and other relevant information.

The Annual Statement of Earned Income (a.k.a. the 91A Form)

G.L. c. 32, § 91A requires all Massachusetts public employees who retire for disability, whether accidental or ordinary, to file a 91A Form annually, certifying the full amount of earned income for the preceding year. The statute makes no exemption for age or infirmity. However, PERAC makes diligent efforts to advise and counsel individuals who need additional assistance to complete the 91A Form.

Definition of Earned Income

“Earned income” is defined as implying some labor, management, or supervision in production of the income thereof. Profits derived from the operation of a business through some labor, management, or supervision in production of such profits are earned income, regardless of how a retiree categorizes such income for income tax or other purposes.

Salary that is contributed to a deferred compensation (elective deferral) or a 401(k) plan is earned income in the year it is earned and contributed to a retirement plan. Examples of such plans are 401(k), 457, federal thrift savings, SARSEP, SIMPLE, tax shelter annuities, and Section 501(c)(18)(D) plans. Distributions from these plans are not earned income when they are taken at retirement.

Retirement pensions, Social Security, unemployment compensation, and income derived merely from ownership of property are not considered to be earned income.

G.L. c. 32, § 91A and § 91: Working and Reporting Earnings

A disability retiree can work, but certain limits are placed on the amount of earned income.

G.L. c. 32, § 91A provides that the amount of earned income, when added to the disability retirement allowance, cannot exceed the regular compensation that would have been payable to the retiree had he/she remained in the service in the grade held at the time of retirement, plus \$5,000.

Disability retirees can work for another governmental unit. However, the amount that a retiree can earn in a public sector job in Massachusetts is limited as are the total hours that a retiree can be employed, pursuant to G.L. c. 32, § 91A. A retiree can be employed in the public sector in Massachusetts for not more than 960 hours in a calendar year. The earnings from this employment, when added to the retirement allowance, cannot exceed the amount currently paid to the position from which the retiree retired (please note this limitation applies to all retirees receiving an allowance from a public retirement system in Massachusetts).

It is the retiree's responsibility to advise the person responsible for paying his/her compensation that he or she is a public retiree, and as a result, his/her post-retirement earnings in the public sector are limited. Please note that G.L. c. 32, § 91 provides no relief to a retiree who claims to be unaware of the hours or income limitations in the statute.

Completing and Filing 91A Forms

91A Forms must be completed and returned to PERAC by April 15th of each year. The only exception to this requirement is granted to members who show good cause for failing to file the form.

The 91A Form must be completed by signing the form, answering each of the questions, and if a member answered "YES" to any of the questions, attaching the pertinent documents.

Some of the pertinent documents are:

Federal Tax Return Form 1040

W2

Schedule C

1099 Miscellaneous

Corporate Tax Return Form 1120 or 1120S and Schedule K-1

Partnership Tax Return Form 1065 and Schedule K-1

91A Forms may be mailed or hand delivered to PERAC at Five Middlesex Avenue, Suite 304, Somerville, MA 02145

Board Data Updates Ongoing Cooperation

The Fraud Prevention Unit seeks cooperation from the boards to obtain data throughout the year. The Unit generally makes this request by means of a letter or a memo with the appropriate report attached. PERAC relies heavily on the data supplied by the boards, and consequently, it is most important that the data be accurate.

December Data Request

In order to maintain an accurate and current disability retiree database, each December PERAC supplies retirement boards with a list of their disability retirees and asks them to note all of the personal status changes that occurred in the preceding year. These changes should be made when a disability retiree:

- Has a new address, or a new seasonal address (especially during February-May);
- Has waived his/her allowance;
- Has returned to active status;
- Has moved to a nursing home;
- Is being cared for by a legally appointed guardian or via a power of attorney;
- Has died (please attach a copy of the death certificate).

Boards are also asked to fill out a New Member Data Form in its entirety for all new retirees approved by their board for an accidental or ordinary disability since January first of the preceding year.

The annuity figure is frequently missing from the information submitted on the New Member Data Form. However, it is part of the calculation to determine excess earnings and PERAC must have the figure to complete the calculation.

Please note that the pension figure should include the COLA and veteran's benefit, but not the annuity or the dependency amounts.

Each year, PERAC sends notices to recently approved disability retirees to remind them they will be receiving a 91A Form and instructions in the mail. Since these reminders are especially helpful to disability retirees who are new to the process, it is important for retirement boards to provide PERAC with addresses that are current.

It is imperative that retirement boards provide PERAC with all of the status updates and the information about new disability retirees no later than mid-January to ensure accuracy in the Commission's database prior to the 91A Forms being mailed.

IRS Form Extension Request

If a disability retiree or his/her accountant has requested an extension of time to file his/her tax return, the member must still complete and file the 91A Form and enclose a copy of the IRS Form Extension Request by April 15th.

When the federal tax return is completed, the member must forward copies of the first two pages of the federal tax return to PERAC along with the rest of the required documents. The member has until October 15th to submit the additional tax documents.

Corporate Extensions

If a disability retiree has filed for a Corporate Extension, the member must complete the 91A Form and return it to PERAC along with Corporate Extension Form 7004 by April 15th. The member will be required to submit the corporate tax documents to PERAC within three months of the corporation's filing year.

Incomplete 91A Forms

If a 91A Form is incomplete, PERAC will mail the disability retiree a letter detailing what was missing. Examples of missing information might include the member's signature, an unanswered question, or a pertinent tax document.

PERAC requests that the copy of the "incomplete letter" be returned to PERAC because, like the 91A Form, it includes a reference number (in the form of a bar code) that identifies the member. The presence of the bar code facilitates the efficient and accurate processing of the resubmitted information.

The member must return the letter by April 15th along with any related documents that may have been requested. If April 15th has already passed, the member must respond immediately.

Non-Compliance with G.L. c. 32, § 91A

PERAC will mail a termination letter to each disability retiree who fails to submit the 91A Form by April 15th without showing good cause. The letter informs the member that his/her rights to a retirement allowance shall cease and will not be re-instated until the member has complied.

PERAC will provide each retirement board with a report about their disability retirees who fail to submit a 91A Form.

The retirement board must write to each disability retiree who has not complied, notifying him/her that his/her allowance will be terminated if he/she does not comply within thirty days and that he/she has a right to be heard by the board to show good cause for not filing in a timely manner.

Excess Earnings & Data Verification Requests

After PERAC has received a majority of the completed 91A Forms for a given year, the Commission will request data from each of the retirement boards with members who have reported earnings that may require further review. The data must be returned to PERAC as soon as possible in order for PERAC to determine if a disability retiree has actually exceeded his/her allowable earnings for that calendar year. Please do not e-mail or fax a retiree's personal information to PERAC for privacy considerations.

If a disability retiree has earnings that may exceed what the member is allowed to earn, PERAC will ask the retirement board to provide PERAC with the member's annual annuity, pension, dependency, Workers' Compensation offset, and regular compensation (current salary).

The amount of regular compensation should reflect the annual rate of compensation the member would have received if he/she had continued in service. It includes educational incentives (Quinn Bill), longevity, and shift differential if the member received such benefits prior to retirement. For a complete definition of "regular compensation," please refer to PERAC Regulation 840 CMR 15.03. A retirement board that experiences difficulty in obtaining the current amount of regular compensation should seek assistance from PERAC.

If a position no longer exists, a retirement board may seek to use a similar title from another department or agency. If the board is still unable to determine an equivalent figure, assistance should be sought from PERAC.

Many retirement boards annually submit electronic (floppy diskette or cd) data files from which PERAC extracts disability data and programmatically updates PERAC's Wage Match database. The State Retirement Board submits an updated electronic disability file monthly.

Notification of Excess Earnings from PERAC

PERAC will send members with excess earnings a "Notification of Excess Earnings" letter. PERAC will also send a letter to his/her retirement board with a calculation report and copies of the documents the member submitted to PERAC.

Notification of Excess Earnings from the Retirement Board

The retirement board must also notify such member, in writing, of the amount of his/her excess earnings and the process for refunding the excess (payment in full or via monthly deductions). A retirement board cannot simply reduce or terminate a disability retiree's benefits without providing the retiree with notice that he/she may request a hearing before the retirement board.

PERAC must be notified of all board actions related to notification of excess earnings.

Payment Schedule

If a member chooses to have monthly deductions taken out of his/her monthly retirement allowance checks to pay back excess earnings, the boards have discretion about the payment schedule as long as repayment is completed in a timely manner.

Retirement Board Hearing

Please note that when the retirement board notifies PERAC about a hearing, PERAC will provide a detailed explanation of the calculations used to arrive at the excess earnings and any accompanying documents that will assist the board in understanding PERAC's methodology.

If a member requests a hearing, PERAC must be notified prior to such hearing. The retirement board may request that a PERAC representative attend the hearing. PERAC also reserves the right to attend any hearing to assist the retirement board in its excess earnings determination.

Appealing to the Division of Administrative Law Appeals

If benefits are terminated or reduced, the member has the right to appeal this action to the Division of Administrative Law Appeals (DALA) within 15 days of being notified about the termination or reduction. Once a board receives notice that a member is appealing to DALA, the board must notify PERAC. Prompt notice will ensure that PERAC, which is not always formally made a party in such appeals, is able to assist in the preparation for the hearing. PERAC will attend all such DALA hearings.

DOR and CORI Matches

Under c. 32, PERAC is required to conduct an annual wage match with the Department of Revenue (DOR) and to conduct a CORI search with the Criminal History Systems Board.

PERAC's 91A Scanning Procedures

PERAC is developing an Electronic Content Management System (ECM). ECM will streamline the process of collecting data from 91A Forms by making the entire process electronic.

The Fraud Prevention Unit is the first PERAC Unit to implement the system. The Unit is no longer required to enter data from each of the 15,400 (approximately) 91A Forms and several thousand related documents into the tracking program manually. The new system scans the 91A Forms and all related documents, automatically captures the relevant data from them, and stores an image of all documents.

Each disability retiree is assigned a reference number by PERAC that takes the place of his/her Social Security Number for PERAC's record-keeping practices. This reference number appears on each member's 91A Form as a bar code. Each disability retiree is assigned a unique bar code. If the bar code and several other key markings are missing from a 91A Form, the scanner will not recognize the disability retiree. Therefore, it is vital that the original 91A Form for each retiree, not a copy, be submitted to PERAC.

Retirees' requests for additional copies of the 91A Form should be referred to PERAC because only the Commission can produce copies with the unique bar code assigned to each member.

Because of the poor quality of faxed documents and their resulting inability to be scanned accurately, PERAC cannot accept faxed 91A Forms.

The ECM system includes an automated workflow component which determines the filing status of each 91A submission, processes the extracted information to update PERAC's Wage Match database, and appropriately routes each submission based on filing status.

The 91A automated workflow provides:

- Enhanced tracking of incomplete submissions
- Better tracking of members who have submitted extension requests
- Automated linking of re-submitted documents
- Validation of corrected information provided on the back of the 91A Form and captured by the scanning system prior to the Wage Match database update.
- Automatic updating status of submissions from "extension" to "incomplete" after extension deadline expires.

In general, the ECM system has several advantages:

- PERAC staff members are able to answer questions from members and boards more efficiently because all of the member information is easily accessible via the computer.
- PERAC staff members are able to track each disability retiree with greater ease from year to year.
- PERAC hopes to have all 91A Forms scanned into the Wage Match system very shortly after April 15th of each year.
- There are minimal operator/data entry errors.
- Time which was previously spent by staff filing and making copies of documents has been saved.

Fraud Hotline

If anyone suspects that a disability retiree is not reporting, or is under-reporting earned income, please call PERAC's Fraud Hotline at 1-800-445-3266. All calls are kept confidential and callers may remain anonymous.



This Is A Losing Hand

Help stop abuses that rip off
your retirement system.

All information is confidential.

CALL: 1.800.445.3266

**Public Employee Retirement
Administration Commission**
Protecting your taxpayer dollars.



Appendix

Chapter 32, Section 91A

Adjusted Pension or Retirement Allowances

Every person pensioned or retired under any general or special law for disability, including accidental disability, shall in each year on or before April fifteenth subscribe, under the penalties of perjury, and file with the commission a statement, in such form as the commission shall prescribe, certifying the full amount of his earnings from earned income during the preceding year. Such pensioned or retired person shall annually submit to the commission all pertinent W-2 forms, 1099 forms, other requested tax forms and proof of income, and any other documentation requested by the commission. Said forms and information shall be submitted on or before April fifteenth of each year. If such pensioned or retired person fails to submit such statement or such forms, and unless such person shall show good cause for such failure to submit such statements to the commission, the member's rights in and to the retirement allowance provided for in section six and seven shall terminate until the member has complied with his reporting requirements under this section.

If such earnings exceed an amount which when added to the member's retirement allowance is greater than the amount of regular compensation which would have been payable to such member if such member had continued in service in the grade held by him at the time he was retired plus the sum of five thousand dollars, said member shall refund the portion of his retirement allowance for such preceding year equal to such excess and until such refund is made, his pension or retirement allowance shall be held as security therefor. Prior to any termination or reduction of benefits pursuant to this section, the member shall be given a written notice and an opportunity to be heard by the retirement board and, upon such termination or reduction of benefits, shall have the right to appeal such action to the contributory retirement appeal board. A member shall not be entitled to recover a retirement allowance for any period during which the member's rights in and to his retirement allowance were terminated for failure to submit a statement to the commission under this section. After written notice and opportunity to be heard by the board, termination of a member's rights in and to a retirement allowance for failure to submit a statement to the commission shall be considered by the board to be effective as of the date that such statement was due to be submitted to the board. If a retirement allowance was paid to a member for any period during which such member's rights in and to a retirement allowance were terminated for failure to submit a statement to the commission, such member shall refund the portion of his retirement allowance attributable to such period.

Chapter 32, Section 91B

Enforcement of Section 91A; Wage Reporting System and Computer Match File

To facilitate the enforcement of the provisions of section ninety-one A by the public employee retirement administration commission, there shall be a wage reporting system and computer match file, which shall be operated in accordance with the provisions of this section.

(A) On an annual basis, the public employee retirement administration commission shall provide to the department of revenue such information as may be agreed upon pursuant to the terms of an interagency agreement between the department of revenue and the public employee retirement administration commission.

(B) The department of revenue shall compare such lists with data furnished to it in accordance with section ninety-one A, so as to determine if persons retired or pensioned and subject to the provisions of said section ninety-one A have complied with said section. Upon receipt of such information, the commission shall notify the respective retirement board which shall take the appropriate formal action provided for under this chapter. The DOR match can identify all disability retirees with W2 earnings within the Commonwealth.

[Please note, if a member is working out of state, the W2 cannot be verified.]

Chapter 32, Section 91C

Access to Criminal Record Offender Information; Comparison with Retirement Allowances List

The public employee retirement administration commission is hereby deemed to be an agency required to have access to criminal record offender information pursuant to clause (b) of section one hundred and seventy-two of chapter six. On at least an annual basis, the commission shall compare lists of all those receiving retirement allowances pursuant to sections six and seven with the information obtained pursuant to clause (b) of said section one hundred and seventy-two of chapter six. In the event said comparison gives the commission reason to believe that action should be taken in accordance with sections six or seven of this chapter, the commission shall notify the appropriate retirement board. The CORI search can identify all disability retirees that are or were incarcerated for the filing year in question. Part of the statute dictates that if a member was convicted of a felony after November 2006, then that member shall forfeit their retirement allowance for the period of incarceration.

840 CMR: Public Employee Retirement Administration

840 CMR 10.00: Standard Rules For Disability Retirement

10.12: Hearing by Retirement Board

(1) Notice. The retirement board shall give all parties at least 30 days notice of the time and place for the hearing and of the issues involved in the hearing. If the issues cannot be fully stated in advance of the hearing, they shall be fully stated as soon as practicable. In all cases of delayed statements, or where subsequent amendment of the issues is necessary, sufficient time shall be allowed after full statement or amendment to afford all parties reasonable opportunity to prepare and present evidence and argument respecting the issues. In the case of hearings conducted to enforce or implement the provisions of §§ 91, 91A or 91B of Chapter 32, the Commission shall participate at its discretion. The Commission shall present all documents to the Board, including testimony and documentation, and respond to questions from the Board or Hearing Officer, and at no point will PERAC be able to cross examine the retiree.

(2) Discovery. Any party and any authorized representative shall, at any time after a hearing has been requested or ordered and after reasonable notice to the retirement board, be permitted to examine and copy or photocopy, at cost and during normal business hours, any document in the case file pertaining to the member's file or the record of the hearing. All other discovery shall be at the discretion of the retirement board. A request for discovery may be made by any party at any time after a hearing has been requested or ordered.

(3) Conduct of Hearing. Hearings shall be conducted in an informal manner that affords all parties an opportunity to present all information and argument relevant to the proceeding.

(a) Presiding Officer. The chairperson of the retirement board, any other member of the board acting as chairperson, or any individual designated by the board, shall be the presiding officer and shall assure parties the right to call and question witnesses and introduce exhibits, and to present argument, relevant to the proceeding. The presiding officer shall assure an orderly presentation of the evidence and argument and that a record is made of the hearing.

(b) Continuances. The presiding officer may change the date, time or place of the hearing on his own motion or on the request of any party, upon due notice to all other parties, and may continue the hearing to a subsequent date to permit any party to present additional evidence, witnesses or other materials. At any time prior to decision, the presiding officer may reconvene the hearing for any purpose upon ten days written notice to all parties, stating therein the purposes for reconvening, and the date, time and place of the reconvened hearing.

(c) Oaths; Rulings; Briefs. The presiding officer shall administer the oath or affirmation to witnesses, shall rule upon the admissibility of evidence and upon any requests for rulings, and may order that written briefs be submitted by the parties.

(d) The Record. All proceedings in connection with the hearing shall be recorded by electronic or stenographic means and such record shall be maintained as part of the hearing record. Transcripts or duplicate tapes of the proceedings shall be supplied to any party, upon request, at that party's expense. At the discretion of the presiding officer, any party may be permitted to maintain a record so long as this does not interfere with the conduct of the proceedings. All documents and other evidence received shall also become part of the record.

(e) Executive Session. Since the principal purpose of a hearing on a disability retirement application is to discuss and evaluate the physical condition or mental health of the member, the hearing shall be held in executive session unless the member requests that the meeting be open. In such executive session only the retirement board, the secretary and the retirement board's counsel, the parties and their authorized representatives and such other persons as the presiding officer shall deem necessary for the conduct of the hearing shall be permitted to be present. No executive session shall be held until the retirement board has first convened in open session for which notice has been given, a majority of the members of the board have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has stated the purpose for an executive session, and has stated before the executive session if the board will reconvene after the executive session. The records of the hearing in executive session shall not be made available to the public except in accordance with the board's regulations on privacy and confidentiality and such other laws or regulations as may be applicable to such records.

(f) Evidence.

1. General. The retirement board need not observe the rules of evidence observed by courts but shall observe the rules of privilege recognized by law. Evidence shall be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Unduly repetitious evidence may be excluded.

2. Testimony; Stipulations. Witnesses shall testify under oath or affirmation and shall be available for questions by all parties. If a witness cannot, as a practical matter, be available in person the witness shall be available and testify by telephone conference call, or by any other reasonable means ordered by the presiding officer. Stipulations by the parties as to any fact or as to the testimony that would be given by an absent witness may be offered and received as evidence.

3. Documentary Evidence. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference in the discretion of the presiding officer.

4. Taking Notice of Facts. The retirement board may take notice of any fact which may be judicially noticed by the courts, and any fact within the retirement board's specialized knowledge. Parties shall be notified and afforded an opportunity to contest any facts so noticed.

5. Evidence to be Part of Record. All evidence, including any records, reports and documents of the retirement board, to be considered in making a decision shall be offered and made a part of the record of the proceeding and the record shall at all times be open for inspection by any party or authorized representative during business hours. The retirement board may, with notice to all parties, require any party to submit additional evidence for the record and shall afford parties an opportunity to submit rebuttal evidence.

(g) Subpoenas.

1. Issuance. The presiding officer shall, within five days of a written request of a party, issue a subpoena requiring the attendance and testimony of a witness or the production of any evidence including books, records, correspondence or documents relating to any matter in question at a hearing on a disability application.

2. Request to Vacate. Any person subpoenaed may file a written request requesting the presiding officer to vacate or modify the subpoena.

3. Decision on Request to Vacate or Modify Subpoena. The presiding officer shall notify all parties of the request to vacate or modify the subpoena and afford parties a reasonable time to respond. The presiding officer shall grant the request to vacate or modify the subpoena if the testimony or evidence subpoenaed does not relate with reasonable directness to any matter at issue in the proceeding or if the subpoena is otherwise unreasonable or oppressive.

(h) If any person fails to comply with a properly issued subpoena, the retirement board or the party requesting the issuance of the subpoena may petition the superior court for an order requiring compliance.

10.14: Annual Statement of Earnings; Definition of Earnings From Earned Income; Refunds and Modifications Based on Earnings Information

(1) The retirement board shall provide such information as the Commission shall require to assist it in performing its responsibilities pursuant to M.G.L. c. 32, §§ 91A and 91B.

(2) Upon receipt of notice from the Commission that a disability retiree has failed to file the Annual Statement of Earnings required by M.G.L. 32, § 91A, the retirement board shall review all information received and shall terminate the member's rights in and to the disability retirement allowance until the member has complied with the reporting requirements under M.G.L. 32, § 91A. Prior to any termination of benefits, the member shall be given a written notice and an opportunity to be heard by the retirement board and, upon such termination or reduction of benefits, shall have the right to appeal such action to the Contributory Retirement Appeal Board.

(3) At the board meeting immediately following the receipt of notice from the Commission that a disability retiree has had earnings in excess of the amount allowed by M.G.L. 32, § 91A, the board shall request the member to refund the retirement allowance for that year or a portion thereof equal to such excess, as the case may be. Initial notice of a request for refund shall include the calculation on which the request is based and shall state that the member may, within 15 days, file a written request for a hearing to show cause why the disability retirement allowances should not be suspended or terminated or why no refund is due. A copy of such initial notice shall also be sent to the Commission. If a retiree files a request for hearing, such hearing shall be held within 45 days of such request for hearing and shall be conducted pursuant to the provisions of 840 CMR 10.12. The board shall notify the member of its decision, including a final request for refund, if any, within 30 days of the hearing. If the member is to be required to refund an amount to the board, the notice of the board's decision shall include notification that the member's allowance shall be withheld until the refund is made. The member shall also be notified that if the refund is not made, payment of the retirement allowance shall be resumed only when the amounts withheld are sufficient to pay the amount of the refund. A copy of M.G.L. c. 32, § 16(4) shall be included with the notice of decision and, upon request, the retirement board shall advise and assist the applicant or retired member, as the case may be, in the filing of an appeal. A copy of this notification shall also be sent to the Commission.

(4) The term “earnings from earned income” as used in G.L. c. 32, § 91A shall mean income that implies some labor, management or supervision in the production thereof, not income derived from ownership of property. For purposes of G.L. c. 32, § 91A, if an individual operates a business for profit, individually or through an agent, that individual does not have the option of classifying such income as dividends as opposed to wages. Profits derived from the operation of a business through some labor, management or supervision of such profits are earned income, regardless of how a retiree categorized such income for income tax or other purposes.

Pertinent 91A Cases

Roland v. PERAC, CR-00-683 (DALA 2001)

Withdrawals from deferred compensation are not considered earned income.

Boston Ret. Bd. v. Contributory Ret. Appeal Bd., 803 N.E.2d 325 (Mass. 2004) PERAC’s definition of earned income pursuant to 840 CMR 10.14 is upheld.

Conway v. Medford Retirement Board, CR-04-436 (CRAB 2004)

PERAC has the burden of proof to determine a retiree’s excess earnings.

Gorman v. Contributory Ret. Appeal Bd., 852 N.E.2d 1092 (Mass. App. Ct. 2006) Gross wages, including contributions to deferred compensation, are considered earned income.

Teti v. PERAC, CR-05-190 (CRAB 2006)

Passive income derived from ownership of property is not earned income.

Benoit v. Everett Ret. Bd., CR-05-1311 (DALA 2006)

Retiree’s ordinary business income retained in his business is earned income.

Fillebrown vs. PERAC, CR-06-401, (CRAB 2007)

Retirement board can properly terminate a retiree’s allowance based on retiree’s failure to file annual statement of earned income.

Frazier v. Barnstable County Ret. Bd. and PERAC, appeal pending, CR-06-190 (DALA 2008)

Ownership of stock is not dispositive as to whether an individual has earned income from a business.



Commonwealth of Massachusetts
 Public Employee Retirement Administration Commission
 Five Middlesex Avenue, Suite 304 | Somerville, MA 02145
 Phone 617 666 4446 Web www.mass.gov/perac
 TTY 617 591 8917

Annual Statement of Earned Income: 2007

Provided for training purposes only. Not intended to be copied, completed or submitted to PERAC.

Retirement Board:
 Agency Retired From:
 Position Retired From:

Date of Retirement:
 PERAC Reference #:

If any of the personal information above is inaccurate or missing, you must fill in this circle: . Please enter your changes on the back of this form.

You must complete this statement and file it with the forms as specified below by April 15, 2008. If you fail to comply, your retirement allowance will be terminated until you meet the reporting requirement. Chapter 32, Section 91A of the Massachusetts General Laws

You must respond to every question.

1. Did you or will you file a Federal Income Tax Return, either individually or with your spouse? YES: / NO:

If YES, fill in the circle next to the return you filed. Enclose a copy of pages 1 and 2 of the return.

1040: 1040A: 1040EZ:

If you filed an IRS Form 4868 Extension Request, please fill this circle: and enclose a copy of the request.

2. Did you have any earned income from being an employee during 2007? YES: / NO:

If YES, fill in the circle next to the tax form(s) you filed. Enclose a copy of the form(s).

W-2: 1099 Misc.:

Was any part of this employment with a MA governmental unit/agency? Yes: / No:

3. Were you self employed (whether at a profit or a loss) during 2007? YES: / NO:

If YES, fill in the circle next to the tax form you filed. Enclose a copy of the form.

Schedule C: Schedule C-EZ: Schedule F:

4. Did you have a proprietary/ownership interest in any business from which you received income during 2007? YES: / NO:

If YES, and if the business owner is you, your spouse, or a dependent child, fill in the circle next to the tax form(s) you filed. Enclose a copy of the form(s).

1120: 1065 & Schedule K-1: 1120S & Schedule K-1:

5. Were you incarcerated in prison, jail, or other correctional facility during any portion of 2007? YES: / NO:

If YES, provide the information requested on the back of this form.

Be sure to sign the back of this form.



Print changes to your personal information ↓

First Name of Retiree

MI

Last Name of Retiree

Address Line 1

Address Line 2

City

State

Zip Code

Retiree's Phone Number

Retiree's Date of Retirement

Agency Retired From

Position Held at Time of Retirement

If you were incarcerated during any portion of 2007, please print details ↓

Name of Correctional Facility

Date of Conviction

Name of Offense

Date of Offense

Disposition

Misdemeanor Felony

IMPORTANT

Under the penalties of perjury, I declare that, to the best of my knowledge and belief, this form and the enclosures are true, correct, and complete.

SIGN HERE ↓

Enter date ↓

Keep a copy of this completed document for your files.





Commonwealth of Massachusetts
 Public Employee Retirement Administration Commission
 Five Middlesex Avenue, Suite 304 | Somerville, MA 02145
 Phone 617 666 4446 Web www.mass.gov/perac
 TTY 617 591 8917

INSTRUCTIONS FOR SUBMITTING THE ANNUAL STATEMENT OF EARNED INCOME

An incomplete or incorrectly completed *Statement* will impede timely processing. Please follow the instructions below to help PERAC process your *Statement* as quickly as possible.

Filing Deadline	You must complete the enclosed <i>Statement</i> in its entirety and file it with PERAC, along with copies of relevant tax forms and schedules, by April 15, 2008.
Personal Information	If the personal information printed at the top of the <i>Statement</i> contains errors or data is missing, fill in the bright red circle as indicated at the top of the form. Print the corrected information on the back of the form. Information that was correct on the front should not be reprinted on the back. If you don't need to use a field or fields, leave them blank. Please don't put a line through them.
●●●●●●●●	Answer all of the questions by filling in the circles completely in the column on the right hand side of the <i>Statement</i> . Indicate which forms you are enclosing by filling in the circle(s) completely. Our scanning software works best with darkened circles so please do not use check marks or x's.
Details on Tax Forms:	
U.S. Individual Tax Return	If you file a federal income tax return, even if it is filed jointly and the only income is attributable to your spouse, you must enclose a copy of the first two pages of your U.S. Individual Income Tax Return (Federal Form 1040, or 1040A, or 1040EZ).
IRS Form 4868 Extension Request	If you or your accountant has requested an extension of time to file your federal income tax returns, you must still complete and file the Annual Statement of Earned Income and enclose a copy of the IRS Form 4868 Extension Request by April 15, 2008. When your Federal Tax return is completed, you must then forward copies of the first two pages of your Federal tax return to PERAC along with the rest of the required documents.
Filing Electronically	If your federal tax return is filed electronically, you must print out a copy of your completed tax return in order to enclose the required copies to the <i>Statement</i> .
Forms Not to Enclose	The following documents are not needed to fulfill the reporting requirements and should not be submitted to PERAC: Federal Form 1040 (Schedules A,B,D,EIC, R, SE, Authorization of Signature) 1098 (mortgage interest statement) 1099-DIV (dividends and distributions) 1099-G (certain government payments) 1099-INT (interest income) 1099R's (distributions from pensions, annuities, retirement or profit sharing plans) Form 2106-EZ Form 2441 Form 8453-OL (tax declaration for an IRD e-file online return) State Tax Returns (MA DOR forms, etc.)

Stapling	Do not staple copies of tax forms and schedules to your <i>Statement</i> . We have a system to ensure that the forms you enclose do not become separated from your <i>Statement</i> . Stapling will actually result in slower processing
Signing the Statement	Be sure to sign and date the back of the <i>Statement</i> .
Keeping Copies	Keep a copy of your completed <i>Statement</i> and related tax forms for your records.
Blue Envelope	Use the enclosed self-addressed blue envelope to mail (regular, certified, FedEx, etc.) your <i>Statement</i> and enclosures to PERAC by April 15, 2008.
Faxing the Statement	Because the bar codes on faxed <i>Statements</i> cannot be processed accurately, faxed <i>Statements</i> will not be accepted.
Incomplete Submissions	If any of the required documents are missing from what you submit or are incomplete, you will receive a letter about what is problematic and guidance about how to resolve it.
Contacting PERAC	Please contact Ms. Sandra King at 617-666-4446, ext. 947 or Ms. Ellen Aucoin at ext. 957. We urge you to leave a voice mail message with your name and telephone number if your call cannot be handled immediately. Calls will be returned as quickly as possible.

G.L. c. 32, § 91A Provides:

Every person pensioned or retired under any general or special law for disability, including accidental disability, shall in each year on or before April fifteenth subscribe, under the penalties of perjury, and file with the commission (Public Employee Retirement Administration Commission) a statement, in such form as the commission shall prescribe, certifying the full amount of his earnings from earned income during the preceding year. Such pensioned or retired person shall annually submit to the commission all pertinent W-2 forms, 1099 forms, other requested tax forms and proof of income, and any other documentation requested by the commission. Said forms and information shall be submitted on or before April fifteenth of each year. If such pensioned or retired person fails to submit such statement or such forms, and unless such person shall show good cause for such failure to submit such statements to the commission, the member's rights in and to the retirement allowance provided for in section six and seven shall terminate until the member has complied with his reporting requirements under this section. If such earnings exceed an amount which when added to the member's retirement allowance is greater than the amount of regular compensation which would have been payable to such member if such member had continued in service in the grade held by him at the time

he was retired plus the sum of five thousand dollars, said member shall refund the portion of his retirement allowance for such preceding year equal to such excess and until such refund is made, his pension or retirement allowance shall be held as security therefor. Prior to any termination or reduction of benefits pursuant to this section, the member shall be given a written notice and an opportunity to be heard by the retirement board and, upon such termination or reduction of benefits, shall have the right to appeal such action to the contributory retirement appeal board. A member shall not be entitled to recover a retirement allowance for any period during which the member's rights in and to his retirement allowance were terminated for failure to submit a statement to the commission under this section. After written notice and opportunity to be heard by the board, termination of a member's rights in and to a retirement allowance for failure to submit a statement to the commission shall be considered by the board to be effective as of the date that such statement was due to be submitted to the board. If a retirement allowance was paid to a member for any period during which such member's rights in and to a retirement allowance were terminated for failure to submit a statement to the commission, such member shall refund the portion of his retirement allowance attributable to such period.



FREQUENTLY ASKED QUESTIONS ABOUT THE ANNUAL STATEMENT OF EARNED INCOME:

<p>Statutory Requirement</p>	<p>Who must file an <i>Annual Statement of Earned Income</i>? According to M.G.L. c. 32, § 91A, all disability retirees must file a <i>Statement</i> even if they did not have any income during the year.</p>
<p>Termination of Allowance</p>	<p>What happens if I don't file a <i>Statement</i> or submit the other documents required by PERAC? In accordance with § 91A, if a disability retiree fails to submit a <i>Statement</i> and the tax forms required by PERAC, and does not show good cause for this failure, the member's rights to a disability retirement allowance will cease and will not be reinstated until the member has complied with the reporting requirement.</p>
<p>Definition of Earned Income</p>	<p>What is earned income? Earned income is defined as implying some labor, management, or supervision in production thereof. Profits derived from the operation of a business through some labor, management, or supervision in production of such profits are earned income, regardless of how a retiree categorizes such income for income taxes or other purposes. Retirement pensions, Social Security, and unemployment compensation are not considered to be earned income.</p>
<p>Deferred Compensation</p>	<p>Is salary contributed to a deferred compensation or 401(k) plan considered to be earned income in the year it is contributed? Yes, in accordance with M.G.L. c. 32, § 91A, salary that is contributed to a deferred compensation (elective deferral) or 401(k) plan is earned income in the year it is earned and contributed to the retirement plan. Examples of such plans are 401(k), 457, federal thrift savings, SARSEP, SIMPLE, tax shelter annuities and Section 501(c)(18)(D) plans. Distributions from these plans are not earned income when they are taken at retirement.</p>
<p>Guardians</p>	<p>If a disability retiree has been confined to a nursing home or has been declared mentally incompetent and has difficulty in completing the <i>Statement</i>, what should be done? If at all possible, the retiree should fill out the form and sign it. However, the person acting as the retiree's guardian or the individual who holds the retiree's power of attorney may fill out the form on his/her behalf. The form should be returned to PERAC. Inclusion of a note explaining the retiree's status would be helpful.</p>
<p>Deceased Retirees</p>	<p>If a <i>Statement</i> is sent to a deceased retiree, what should be done with the form? Although PERAC makes every effort to avoid this situation, it can occur. Survivors or executors of the deceased's estate should simply return the <i>Statement</i> to PERAC with a note that the retiree has passed away, along with the date of death. Survivors are not required to complete the form.</p>

<p>Validation of Earnings</p>	<p>Does PERAC validate the earnings reported by disability retirees?</p> <p>The reported earnings are validated in a number of ways. Since disability retirees sign their <i>Statement</i> under the pains and penalties of perjury, it is very important to report fully and accurately.</p>
<p>Access</p>	<p>Who will have access to the <i>Statement</i> that I file?</p> <p>In accordance with §91A and the Privacy Act, your <i>Statement</i> and accompanying documents are not considered to be a public records. Only PERAC personnel and, in certain cases, retirement board staff will view these documents.</p>
<p>Working</p>	<p>Am I allowed to work while receiving my disability retirement allowance?</p> <p>Yes. Section 91A of Chapter 32 of the Massachusetts General Laws provides that a disability retiree’s earnings, when added to his/her retirement allowance (pension plus annuity), cannot exceed the regular compensation (salary) the member would have received had he/she remained in active service plus \$5,000.</p> <p>Please note that certain payments including bonuses, overtime, severance pay, any and all unused vacation or sick leave, early retirement incentive, or any other payments made as a result of giving notice of retirement are not considered part of regular compensation. (PERAC Regulations 840 CMR 15:30)</p> <p>Also please note that another section of the retirement law (§ 91) further limits the amount that any retiree may be paid for public sector work in Massachusetts. It is the retiree’s responsibility to advise the person responsible for paying his/her compensation that he or she is a public retiree and, as a result, his/her post-retirement earnings in the public sector are limited.</p>
<p>Current Regular Compensation</p>	<p>How can I determine how much regular compensation is currently being paid for the position from which I retired?</p> <p>You should contact the personnel office of the governmental unit from which you retired.</p>
<p>Reduction/Termination</p>	<p>Can a retirement board simply reduce or terminate a disability retiree’s benefits without any notice or without giving the retiree a chance to be heard?</p> <p>No. Prior to any termination or reduction of benefits pursuant to § 91A, the retiree must be given written notice and an opportunity to be heard by the retirement board. If benefits are terminated or reduced, the retiree has the right to appeal this action to the Contributory Retirement Appeal Board.</p>
<p>Incarceration</p>	<p>On the <i>Statement</i>, why do you ask disability retirees to answer whether they were incarcerated during any portion of the calendar year?</p> <p>Retirement allowance benefits to a disability retiree who is incarcerated for a felony committed on or after July 1, 1996 must cease for the period of incarceration. In order to ensure compliance with this statute, a response from each retiree is required.</p>
<p>Questions</p>	<p>If I have a question about completing the <i>Statement</i>, whom should I call at PERAC?</p> <p>Contact Ms. Sandra King at 617-666-4446, ext. 947 or Ms. Ellen Aucoin at ext. 957. We urge you to leave a voice mail message with your name and telephone number if your call cannot be handled immediately. Calls will be returned as quickly as possible.</p>
<p>Lost Statement</p>	<p>I lost my <i>Statement</i>, how can I get another one?</p> <p>You must contact PERAC directly. The forms are not available online or from the retirement boards.</p>

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*

JOSEPH E. CONNARTON, *Executive Director*

MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

PERAC MEMO #47

MEMORANDUM

TO: All Retirement Boards
FROM: Frank E. Valeri, Deputy Director
RE: 2007 Disability Data
DATE: December 19, 2007

In order to maintain an accurate and current disability retiree database, we request that you review the attached list and make all necessary status changes that occurred in the year 2007. These changes should be made when a member is deceased, confined to a nursing home, has waived his/her allowance, has returned to active status, or has had a change of address.

Please be reminded that, as a result of a change in the law that now terminates a member's allowance rather than suspends it for non-compliance, the importance of keeping PERAC apprised of any status changes is even greater.

Also, please fill out the enclosed "New Member Data" form **in its entirety** for all new retirees approved by your board for an accidental or ordinary disability in 2007. If any member is missing from your enclosed list, please include their information on the New Member Data form. You should make additional copies of the blank form if needed. It is imperative that all information be returned to PERAC no later than **January 16, 2008**, to ensure accuracy in our member database, prior to our mailing of the 2007 Annual Statements of Earned Income (91A).

Thank you for your continued cooperation in this matter.



PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

January 2008

Dear Disability Retiree:

THIS IS ONLY A REMINDER....

On or about March 1, 2008, the Public Employee Retirement Administration Commission (PERAC) will mail an Annual Statement of Earned Income for Calendar Year 2007 to you. That form must be **filled out and returned to PERAC by April 15, 2008**. Failure to file the Annual Statement completed and on time, will result in the termination of your retirement allowance.

Please **do not** forward any documents at this time. However, if your address has changed, please return this letter to us as soon as possible with the appropriate changes made in the space provided below.

Thank you for your attention in this matter. Should you have any questions, please do not hesitate to contact Sandra King at 617-666-4446, ext. 947, or Ellen Aucoin at ext. 957.

Sincerely,



Francis E. Valeri
Deputy Director

New Address: _____

Telephone No. _____



PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

(Mailed as needed)

Dear Disability Retiree:

We are in receipt of your 2007 Annual Statement of Earned Income (91A Form) that you submitted to the Public Employee Retirement Administration Commission (PERAC). However, your 91A form was incomplete for the following reason(s):

 You indicated that you had Filed for Extension, but did not send us a copy of your IRS Extension Request Form [This is one of a variety of reasons.]

In accordance with G.L. c32, §91A failure to file the completed Annual Statement of Earned Income by April 15, 2008, including the above listed required documents, will result in the termination of your retirement allowance. Please submit any and all missing documents, along with a copy of this letter, immediately to prevent termination of your retirement allowance.

Sincerely,



Francis E. Valeri
Deputy Director



PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*

JOSEPH E. CONNARTON, *Executive Director*

MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

June 2008

Dear Disability Retiree:

We have completed our review of the 2007 Annual Statement of Earnings and the accompanying documents you submitted to the Commission pursuant to G.L. c. 32, § 91A.

A disability retirement allowance must be adjusted if a retiree's earnings, when added to his or her retirement allowance, exceeded the amount of regular compensation which would have been payable to the retiree if he or she had continued in service in the grade held at the time of retirement, plus \$5,000.

Based on the information you submitted, you must make a refund to your retirement system. If you do not refund the amount to the retirement board, your retirement allowance will be withheld until the board recovers the full amount owed. The following calculation was used in determining the refund due:

<i>Current Salary</i>	+	\$5000		-	<i>Retirement Allowance</i>	=	<i>Allowable Earnings Reported</i>		<i>Refund Due</i>
\$34523.30	+	\$5000		-	\$20901.90	=	\$13621.40		\$19009.25
									\$5387.85

We have notified the retirement board from which you receive your retirement allowance of the refund you owe. You will be contacted by the retirement board soon relative to this matter and regarding your right to a hearing prior to the suspension of your retirement allowance.

Please note that, if your post-retirement earnings are from a governmental unit within Massachusetts, **G. L. c. 32, § 91** places additional limits on your earnings. You may work no more than 960 hours in a given year. In addition, your retirement allowance and your earnings added together may not exceed the salary for the position from which you retired.

Thank you for your attention in this matter.

Sincerely,

Francis E. Valeri

Deputy Director



PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

October 2008

Dear Disability Retiree:

This is to inform you that the Commission is in receipt of your request for an Extension with the IRS regarding the filing of your 2007 Federal Income Tax Return. Please be aware that the deadline, October 15, 2008, is approaching and, as of this date, the Commission has not received a completed Annual Statement of Earnings, or other necessary documents to support the earnings you have reported.

Failure to file the Annual Statement of Earnings and the other documents required by the Commission will result in the termination of your retirement allowance.

Thank you for your attention in this matter. If you have any further questions, please do not hesitate to call Sandra King at (617) 666-4446, ext 947.



Francis E. Valeri
Deputy Director



Notification of Termination Letter (2008 Sample)

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

May 2008

Dear Disability Retiree:

Please be advised that the Public Employee Retirement Administration Commission (PERAC) has not received your completed Annual Statement of Earned Income for Calendar Year 2007 in accordance with G.L. c. 32, § 91A.

As you are aware, failure to file this statement and accompanying documents shall result in the termination of your entire disability retirement allowance, effective April 15, 2007.

You may avoid termination of your allowance by submitting the completed Annual Statement of Earned Income, including any and all required documents to PERAC immediately.

Your Retirement Board will be advised to take action with your next monthly retirement allowance if you do not file.

If you have any questions regarding this notice, please contact Sandra King at (617) 666-4446, Ext. 947.

Sincerely,



Francis E. Valeri
Deputy Director



PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

October 2008

Dear Disability Retiree:

This is to advise you that the Commission has notified your Retirement Board that you failed to complete your 2007 Annual Statement of Earned Income. One of the requirements of the Annual Statement of Earned Income is that you supply the Commission with a copy of the first two pages of your Federal Income Tax Return. To date we have not received these pages.

Earlier this year you notified the Commission that you filed an extension with the Internal Revenue Service, which extended you until October 15, 2008. This extension has now expired. Therefore, in accordance with G.L. c. 32, § 91A, your retirement allowance will be terminated. You can avoid termination of your benefits by providing the Commission with the required documents.

You will soon be contacted by your retirement board regarding your right to a hearing prior to the termination of your benefits.

If you have any questions regarding this matter, please contact Sandra King at (617) 666-4446, Ext. 947.

Sincerely,



Francis E. Valeri
Deputy Executive Director



Fraud Referral Form

REFERRAL REPORT OF POTENTIAL FRAUD

Subject of Referral

NAME (LAST, FIRST, MIDDLE INITIAL)

S.S.# (IF AVAILABLE)

STREET ADDRESS

PHONE # (IF AVAILABLE)

CITY/TOWN

STATE

ZIP

RETIREMENT BOARD OF RETIREE

Allegation

Please give a brief description of the allegation.

Optional

If we need more information, may we contact you?

NAME (LAST, FIRST, MIDDLE INITIAL)

PHONE #

STREET ADDRESS

CITY/TOWN

STATE

ZIP

If you prefer to make a report by telephone, please call the PERAC Pension Fraud Hotline at 1-800-445-3266.

For PERAC Use Only

RECEIVED BY

DATE



Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
Five Middlesex Avenue, Suite 304, Somerville, MA 02145
ph 617 666 4446 | fax 617 628 4002 | tty 617 591 8917 | web www.mass.gov/perac

Commonwealth of Massachusetts

Public Employee Retirement Administration Commission

5 Middlesex Avenue, Suite 304

Somerville, MA 02145

ph 617 666 4446

fax 617 628 4002

tty 617 591 8917

web www.mass.gov/perac