

LOANS

SPECIAL NOTICE CONCERNING UNPAID LOAN BALANCE

Non-payment of an outstanding loan may significantly decrease your retirement benefits, will trigger a Federal tax liability, and may result in a tax penalty on the outstanding balance.

Shortly after your retirement date, you will receive a letter from NYCERS stating the taxable amount of your outstanding loan. The letter will remind you that you may defer your tax liability by rolling the taxable amount into an IRA account.

Before you file for retirement, visit NYCERS to learn about the tax and retirement benefit consequences of an unpaid loan and about your repayment options.

This section will provide a thorough explanation of loans and the consequences of an outstanding loan at retirement or resignation. Also refer to the **TAXATION** section of this booklet for additional information.

A Tier 4 member of NYCERS in *Active Service*, who has credit for at least one year of *Membership Service*, may borrow an amount not to exceed 75% of the amount last posted to his or her *MCAF* account (minus any outstanding loans). This is also true of some RRF accounts that are typically associated with the Special Occupational Group Programs. The following restrictions apply to all Tier 4 loans.

- You must be in pay status on the payroll of a *Participating Employer* to be issued a loan
- Only one loan may be issued to you in any 12-month period. **There is no provision in law to allow any exceptions**
- The minimum amount of any loan is \$1,000. (You must have at least \$1,334 to your credit in your *MCAF* and *RRF* accounts to qualify for the minimum loan amount)
- A service fee of \$15.00 is charged for processing each loan. You do not have to pay this separately, as the fee is deducted from the loan check

EXAMPLE: If you apply for a \$1,000 loan, the net amount of your check will be \$985.00.

- Once a loan has been properly issued, it may not be canceled
- A member may change the amount of their loan repayment only once in any 12-month period
- The member must file a *Change of Repayment Form* (Form # 301) with NYCERS, and pay a service fee of \$15.00 (by money order only)
- The member must pay interest on the loan at a rate equal to 1% less than NYCERS' valuation rate. The current valuation rate, as of July 1, 1999 is 8%. Therefore, the current interest rate on Tier 4 loans is 7%
- When applying for a loan, the amount of your **new** loan becomes consolidated with the present value of any previous loan(s). Your repayment schedule will be based on the total of your new consolidated loan

- The minimum repayment is 2% of your gross salary per payroll period. However, if this repayment rate will not pay off the loan within five years, the repayment rate will be increased accordingly. Once set, the repayment schedule remains the same for each payroll period until the loan is paid in full or a new loan is negotiated. You may elect to repay your loan in a period of less than five years. NYCERS can tell you approximately how much your loan payment will be for the repayment period you elect
- Payments must be made through payroll deductions. However, if you resign, are terminated from City service, or you are not in pay status on the payroll of a *Participating Employer*, you may make arrangements with NYCERS to make periodic direct payments. There is a \$5.00 per-payment fee charged for making direct payments
- There is a \$20.00 fee for personal checks which are returned uncollectible by the bank

Consequences of Non-Payment

- An outstanding loan balance at retirement will reduce a member's retirement benefit. Since interest continues to accrue on any unpaid loan up to the retirement date, the outstanding balance may increase to such a sizeable amount as to significantly decrease the retirement benefit that may be otherwise payable
- It is important that you contact NYCERS to make arrangements for direct payments, if you are no longer receiving a pay check from which loan payments are being deducted. This is especially true for Vested members
- A loan on which no payments have been made for over 90 days is termed a *Non-Performing Loan*
- If a member has a *Non-Performing Loan*, he or she forfeits all future entitlement to borrow from this system until the outstanding balance is fully repaid
- A *Non-Performing Loan* may have adverse tax consequences. See also the **TAXABILITY** section
- Insurance coverage is discontinued on a *Non-Performing Loan*. However, once a member starts making regular payments again, the loan will be considered to be insured, although it otherwise remains a *Non-Performing Loan*

Insurance

- Insurance coverage is mandatory and applies only upon the death of the member
- All loans (except *Non-Performing* loans) that are fully insured 30 days after being issued
- There is a modest insurance premium (.3%) deducted from every loan payment. **You may not elect to waive the insurance premium**
- A *Non-Performing Loan* is not covered by loan insurance until regular payments resume
- For the first 30 days after a renegotiated loan is issued, the insurance coverage continues on the outstanding balance of the previous loan. The amount of the new loan will not be insured for the first 30 days
- The loan insurance rate is reviewed at least once a year. Loan insurance premiums may change over the life of a loan
- The terms and/or conditions of loan insurance coverage may be modified, or insurance coverage may be discontinued

Taxability

prior to retirement

Tier 4 loans are subject to taxation, if the total outstanding loan is both:

- Greater than \$10,000, **AND**
- More than 50% of the member's non-forfeitable accrued vested benefit

Members who apply for a Tier 4 loan will be advised that cumulative loans totaling more than \$10,000 may have Federal income tax consequences. The member will be informed of those consequences prior to distribution of a taxable loan.

NYCERS will issue loans that are tax-free, including the tax-free portion of higher requested loans. We will then send the member a letter, which will state one of the following:

1. (a) Part of the loan requested is taxable, **AND**
 - (b) A loan has been processed for the tax-free portion of the loan requested, detail the specific tax consequences of taking the balance of the loan requested, and give the member the opportunity to receive a supplemental loan, **OR**
 - (c) The loan requested is fully taxable, due to the prior outstanding loans, and if a loan is issued, the prior loan balance will also be subject to taxation on the Federal level.

When borrowing results in a consolidated loan amount over \$50,000, the excess over \$50,000 is subject to Federal income tax.

If the loan is not repaid within five years, then the outstanding balance at the end of the five-year period will be considered a taxable distribution. In addition, if loan payments are not made for a 90-day period, the IRS considers the loan to be a *Non-Performing Loan*, and all or part of the outstanding balance is deemed taxable. Subsequent loan payments will not negate the fact that a taxable distribution has been reported. Members who are under the age of 59 1/2, and have a taxable distribution due to a *Non-Performing Loan* or an outstanding loan balance at the end of the five-year period, will incur an additional 10% penalty on such distribution.

outstanding loan at retirement

The outstanding loan balance at retirement is subject to federal taxation. Shortly after your retirement date, you will receive a letter from NYCERS advising you of the taxable amount of such outstanding loan. You can make arrangements to roll it over to an IRA, if you desire, thereby delaying the taxability.

- In addition to being taxable at the member's normal tax rate, a member under the age of 55 will incur an additional 10% penalty on such a distribution
- Members who are age 55 or older when they retire are not subject to the 10% penalty on such a distribution
- Members who are under age 59 1/2 and have a taxable distribution due to a *Non-Performing Loan* or an outstanding balance at the end of a five-year period, will incur an additional 10% penalty on such a distribution

Before you file for retirement or resign from City service, visit NYCERS' Customer Service Center to learn about the tax and retirement benefit consequences of an unpaid loan and about your repayment options.

Loans on Additional Member Contributions (AMCs)

Any outstanding loan against a *Participant's AMCs* will be deducted from the amount on deposit in the member's RRF account before it is refunded to the member. If there is no provision for a refund of *AMCs* in the *Participant's Program*, the amount of the outstanding loan against the *Participant's AMCs* will be deducted from the member's *MCAF* account before the refund is processed.

Participants in the 55/25 Program and the 57/5 Program are only eligible to borrow up to 75% of the AMC credited as employee contributions (plus interest earned thereon).

Participants in the following Special Occupational Group Programs may borrow against their *AMCs* under loan rules that apply to all Tier 4 members:

- Transit 25/55 Program
- TBTA 50/20 Program
- Dispatchers 25-Year Program
- EMT 25-Year Program
- Automotive Service 50/25 Program
- Special Officer 25-Year Program

Participants in the Sanitation 20-Year Program or the Deputy Sheriff 25-Year Program **may not borrow any portion of their *AMCs***.