

Testimony regarding Senate Bill 464

My name is Don Domes and I am a Licensed Tax and Small Business Consultant from Hillsboro, Oregon.

Senate Bill 464 addresses some of the persistent issues with the PERS portion of a retirement benefit that is tied to being an Oregon resident subject to Oregon Income Taxes. PERS evaluates this on an annual basis. They have two ways to determine that a person is an Oregon Resident: The first is via a timely filed tax return with the Oregon Department of Revenue. The second is via a simple PERS Residency Status Certification Form where a person signs under perjury that they are an Oregon Resident subject to Oregon Income Tax. The tax return has to be filed by Oct. 15 or the PERS Residency Status Certification Form has to be filed with PERS by Dec. 15. If one or the other of these are not completed by the due dates then the entire next year is impacted. Essentially if for some reason a persons tax return filing does not get included in the ODR file PERS gets from ODR they then send out a letter in early November to anyone they suspect may be impacted. That letter usually arrives in mid November. If a person has left on vacation or misses the letter for some reason and does not file the Oregon Resident subject to Oregon Income Tax form by December 15 their entire following year benefit is reduced! The letter that PERS sends out informing the person of the reduction often comes in late December. The letter advises that an appeal can be submitted. I saw a situation where this happened last year. An appeal was created and abundant evidence was provide that the person was an Oregon Resident subject to Oregon Income Tax. The first appeal was denied. That letter said the appeal denial could be appealed. The second appeal was denied and hat letter again said an additional appeal was possible. An addition appeal was submitted. This process continued. Eventually it was disclosed that PERS had no statutory authority to honor the appeals and restore the benefit until the next year! Essentially if the filing dates are not met in the prior year the appeal could not be honored with evidence of residency during the year impacted. This was verified by two Law Firms.

I suggest that you amend this bill to give PERS statutory power to honor these appeals and adjust the benefit every 3 months rather than just annually and base their determination of Residency on the facts. The present system only allows for a new determination annually. The appeal process remedy is essentially a sham until a whole year has passed!

I now advise all PERS retirees that are Oregon residents to file the PERS Residency Status Certification Form annually. This probably creates more paperwork for PERS, but it is the only method I have found to assure the retiree that they won't be caught in this issue.

Respectfully submitted,

Don W. Domes, Licensed Tax Consultant