HUMAN RESOURCES
Illinois State University

IMPORTANT NOTICE: Post-Retirement Reemployment

The University administration wants to remind the ISU community of Internal Revenue Service restrictions on reemployment after retirement in order to prevent negative tax consequences for both retiring employees and the University with respect to retirement plan distributions.

Any employee who intends to retire should avoid all verbal or written discussions about reemployment with the University until after the employee has actually retired from all employment with the University. Additionally, supervisors and all other University representatives should refrain from discussing or negotiating (verbal, written, email, etc.) any reemployment until after the employee has actually retired from all employment with the University.

Under Internal Revenue Code rules, distributions from SURS, the University's 403(b) Plan, and CMS' 457(b) Plan can only be made upon specified "distributable events." One of the events upon which distributions can be made is an employee's separation from service. The Internal Revenue Service has issued various forms of guidance that makes clear that an employee's separation from service must be "bona fide" in order to constitute an event that entitles the employee to a retirement plan distribution. Whether a separation from service is bona fide is based on all the facts and circumstances. However, IRS guidance provides that if the employee – on or before his or her retirement date - has an unwritten or written agreement in place to become reemployed by his or her employer, then the separation from service is not bona fide. Note that this guidance does not prohibit the University from rehiring a retiring employee, but simply requires that in order for retirement plan distributions to begin, the employee and the University must intend that all employment be terminated with no agreement as to future service.

If there is no bona fide separation in service, a distribution from SURS, the University's 403(b) Plan (unless age 59 ½), or CMS' 457(b) Plan is not permitted, and if made may result in tax penalties and liabilities for both the University and the retiree. In addition, rollovers of impermissible distributions to another retirement plan or IRA are taxable, and may result in excise taxes to the retiree if not timely corrected.

Please contact your Retirement Consultant in Human Resources (309) 438-8311 with questions.