TIAA CREF

FINANCIAL SERVICES FOR THE GREATER GOOD®

REFUND REQUEST IMPORTANT INFORMATION

TYPES OF REFUNDS

Mistake of Fact

A contribution made in error can be refunded to the institution only if the reason for the error is clerical in nature (see Revenue Ruling 91-4), keeping in mind that the IRS has not defined a mistake of fact but the general belief is that this type of error should be narrowly construed. The refund to the institution generally must be processed within 12 months from the date of original contribution unless a non-ERISA plan is involved. No Form 1099-R is generated. The standard operating procedure is to leave the earnings on the contract. Alternatively, the earnings can be removed from the contract and deposited to the plan suspense account. Earnings should not be refunded to the institution if the plan is subject to ERISA. As a matter of policy, participants should not be harmed by these types of adjustments. Therefore, if there is a loss, only the contribution reduced by the loss will be returned to the institution.

If the plan is a governmental 403(b) plan, TIAA-CREF will follow the institution's instructions even if more than 12 months from the date of the contribution. For all other plans, if the refund is after the 12-month timeframe, please consult with your legal counsel to determine the appropriate correction method.

Excess Aggregate Contribution Refund as a result of an Average Contribution Percentage (ACP) Test Failure
See IRC Regulations §1.401(m)-2(b)(1) and (2)

When a voluntary contributory retirement plan fails the Average Contribution Percentage (ACP) Test (also known as the "matching test"), the amounts by which employer matching contributions and/or any after-tax employee contributions for Highly Compensated Employees (HCEs) exceed the limits of IRS Section 401(m) are considered to be "Excess Aggregate Contributions" (EACs). One method to correct a matching test failure is to distribute the EACs (adjusted for earnings through the end of the tax year) to the affected HCEs. The Pension Protection Act of 2006 (PPA) amended the IRC to provide that distributions to affected HCEs of excess aggregate contributions will be taxed in the year of distribution. This amendment is effective for 2008 plan years. Prior to this change, distributions of excess aggregate contributions completed within 2½ months of the plan year-end were taxable in the year of the contribution. If correction of a matching test failure is not completed within 12 months, the plan could lose its tax-deferred status. The distribution will be made to the participant and a Form 1099-R will be issued. An excise tax of 10% of the excess contributions will be imposed on the employer unless refunds are made within 2½ months after the end of the plan year.

Either employee after-tax contributions or vested employer matching contributions may be distributed to the participant to correct for the excess contributions. If excess aggregate contributions consist of any unvested employer matching contributions, those should be forfeited and used to reduce future employer contributions to the plan.

Generally, corrective distributions must be made within 12 months of the plan year-end. If not completed within the 12-month timeframe, please consult with your legal counsel about the possibility of utilizing the Internal Revenue Service's Employee Plans Compliance Resolution System (EPCRS) to correct for the failure.

REFUND REQUEST IMPORTANT INFORMATION

Excess Deferral Refund as a result of an Average Deferral Percentage (ADP) Test Failure

See IRC Regulations §1.401(k)-2(b)(2)

Employee 401(k) elective deferrals (either pre-tax contributions or Roth 401(k) contributions) are subject to the ADP test. This test does not apply to 403(b) elective deferrals. As with EAC refunds, refunds of elective deferrals that failed the ADP test (adjusted for earnings through the end of the tax year) will now be taxed in the year of distribution. The distribution will be made to the participant and a Form 1099-R will be issued. An excise tax of 10% of the excess contributions will be imposed on the employer unless refunds are made within 2½ months after the end of the plan year, but in any case, corrective distributions must generally be made within 12 months of the plan year-end.

If not completed within the 12-month timeframe, please consult with your legal counsel about the possibility of utilizing the Internal Revenue Service's Employee Plans Compliance Resolution System (EPCRS) to correct the failure.

402(g) Limit Refund

See IRC Regulations §1.402(g)-1(e)(2) and (3)

Elective deferrals (either pre-tax contributions or Roth 401(k)/403(b) contributions) that exceed the IRC Section 402(g) limit must be refunded to the participant under rules established by the IRS. Provided excess deferrals (adjusted for earnings through the end of the tax year) are distributed by April 15, the excess will be reported for the year of contribution only. The refund will be issued to the participant and a Form 1099-R will be generated for the year of contribution if the refund is completed timely.

If the refund is not completed timely, the excess will be taxed twice — in both the year of contribution as well as the year of distribution. A Form 1099-R will be generated by TIAA in the year a distribution is made. If the refund is not processed by the April 15 deadline, please consult with your legal counsel about the possibility of utilizing the Internal Revenue Service's Employee Plans Compliance Resolution System (EPCRS) to correct the failure.

415(c) Limit Refund

See §6.06(2) of Revenue Procedure 2008-50, and §.08 of Appendix A to Revenue Procedure 2008-50

A correction is required when the IRC Section 415(c) limit is exceeded by a participant. Section 415 limits the amount of employee elective deferrals (pre-tax and Roth), employee after-tax contributions and employer contributions that can be made annually on an employee's behalf to all of an employee's 403(b) plans (whether or not sponsored by the same employer). Qualified plans are also subject to the Section 415 limit, but generally there is a separate 415 limit for participants covered by both a 403(b) and a 401(a) plan. Special care must be taken to apply the plan aggregation rules properly where a participant is benefiting under more than one plan. The plan document and the employer's legal counsel should always be consulted to determine the appropriate correction method if the limit is exceeded.

Generally, excess employee contributions (either pre-tax, Roth, or after-tax, adjusted for earnings) are refunded to the participant. A Form 1099-R is issued for the year of the refund, and the employer must notify the employee that the excess amount is not eligible for favorable tax treatment, including rollover treatment. If the pre-tax, Roth or after-tax employee contributions being refunded were matched by the employer, the matching contributions relating to such contributions should generally be forfeited and placed in a suspense account to be used to reduce future employer contributions.

If the excess annual additions resulted from the allocation of employer contributions, please consult with your legal counsel to determine the appropriate correction method.

The 415 limit is subject to a 10% Federal Tax withholding which TIAA-CREF will remove before processing the refund. If the participant would like to OPT Out of the 10% withholding, the participant must complete a Form W-4P and it must be returned with the Refund Request Form. In addition, depending upon a particular state's rules and the participant's state withholding election, regardless of whether or not the participant resides in one of these mandatory states, the 10% federal tax withholding is always required unless the participant elects to opt out. The states which may be impacted by state tax withholding are: Arkansas, California, Delaware, Georgia, Iowa, Kansas, Maine, Maryland, Massachusetts, Nebraska, North Carolina, Oklahoma, Oregon, Vermont and Virginia.

Excess Deferrals to a Section 457(b) Plan
See IRC Regulations §1.457-4(e)

Deferrals of compensation that exceed the Section 457(b) maximum deferral limit must be refunded to the participant under rules established by the IRS. The rules for refunding excess deferrals in a Section 457(b) plan are different depending on whether the eligible plan is a tax-exempt or a governmental plan. When the 457(b) plan is governmental, the excess deferrals, adjusted for allocable net income, must be distributed to the participant as soon as administratively practicable after the plan determines that the deferrals are in excess of the limitation. The excess deferrals are reported on Form 1099-R and taxed in the year of distribution.

Under a tax-exempt 457(b) plan, the excess deferrals, adjusted for allocable net income, must be distributed to the participant no later than the first April 15 following the close of the taxable year in which the excess deferrals occur. The excess deferrals are included in the participant's gross income for the taxable year, in which the excess deferrals occurred, but the earnings are taxed in the year distributed, and a W-2 is used to report the return of excess deferrals. W-2 reporting must be processed by the institution unless prior authorization has been provided to TIAA-CREF on Form 2678. If distributions of excess deferrals are not completed by the April 15 deadline, please consult with your legal counsel to determine the appropriate correction method.

The method of correction does not change based on whether the contributions were made by the employer or employee for both tax-exempt and governmental 457(b) plans.

Other (Refund is being distributed from a Section 457(f) plan, Section 415(m) plan, a 401(a)(17) correction, or any other special situation)

The institution should direct TIAA-CREF how it wishes the refund to be processed, including how to process the related earnings, after discussing with legal counsel.

MULTIPLE PLANS

When requesting refunds from multiple plans, you must submit a separate Plan Administrator Refund Request form for each plan.

MULTIPLE PARTICIPANTS

When requesting the same type of refund for multiple participants from the same plan, you may either complete a separate Refund Request Form for each participant or you may select the checkbox for Multiple Participants in Section 3 of the Refund Request Form, and attach a spreadsheet with the required data elements to be mailed or faxed back with the form.

In lieu of submitting a separate Refund Request Form for each participant, you may attach a spreadsheet to the Refund Request form. The following data elements must be included in order to avoid any delays in processing. If you are requesting refunds for over 25 participants, please send a spreadsheet but also contact your Institutional Liaison or the Administrator Telephone Center so that they may facilitate your request.

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REFUND REQUEST IMPORTANT INFORMATION

A Plan#
Must match the plan # selected in Section 2 on the Refund Request form.

If you are requesting refunds from different plan numbers, you must submit a separate request form and/or spreadsheet for each plan.

B Type of Refund
Must match what was selected in Section 4 Type of Refund section of form (i.e., Mistake of Fact, 402(g) excess, etc.)

If you are requesting different refund types, you must submit separate request forms and applicable spreadsheets for each refund type.

C Participant Name
Last Name, First Name, MI

D Social Security Number
List full nine digits of the Participant's Social Security Number.

E Contract#
List the TIAA-CREF contract number from which the contribution should be removed.

F Source
Indicate the source of funds from which the refund is to be removed by using the same source descriptions contained in Section 5 on the Refund Request form.

G Payroll dates or trade dates
Payroll dates or trade dates of excess contributions. If no dates are indicated, TIAA-CREF will take the refund amount from the last contribution amounts posted to the contracts.

H Dollar amount
List the dollar amount to be removed for each source indicated.

Example of Refund Request Spreadsheet

A **Plan #** |_____|_____|_____|_____|_____|_____|_____|

B **Type of Refund:** ____
(copy the refund type that you checked off in the Refund Type section of the form)

C Participant Name	D Social Security Number	E Contract #	F Source	G Payroll Date or Trade Date	H Dollar Amount
First, MI, Last Name	Enter the full social security number	From which funds contribution should be removed	$ source that funds are to be removed from (i.e. Employer, employee pre-tax, Employee After-tax, Roth 403(b), etc.	Payroll dates or trade dates of excess contributions [Or indicate Last-in, First Out (LIFO)]	
John A. Doe	123-45-6789	A123456-7	Employee pre-tax	12/15/2009	$50.00
John A. Doe	123-45-6789	A123456-7	Employee pre-tax	12/31/2009	$50.00
John A. Doe	123-45-6789	A123456-7	Employer	12/31/2009	$100.00

FORFEITURE/SUSPENSE ACCOUNTS

When refund proceeds are directed for deposit to a plan's forfeiture/suspense account, your institution must have an active forfeiture/suspense account. If you need to confirm if you have an active forfeiture/suspense account, please contact your assigned Institutional Liaison or the Administrator Telephone Center at **888 842-7782**.