YMCA RETIREMENT FUND
SAVINGS FOR LIFE

QUESTIONS & ANSWERS

Retire… Rehire?

The mission of the YMCA Retirement Fund is to empower YMCA employees to achieve economic security, resulting in loyalty to the YMCA Movement.

Occasionally, we are asked if a participant may be hired by a YMCA after they have retired. This is a complex question and every situation is not the same. The following FAQs may be helpful in understanding why this is a serious issue.

Q. Is it permissible for me to pre-arrange with my YMCA that I will retire, begin collecting my retirement benefits and then return to my old job—in other words, retire on Friday and get rehired the next week?

A. It is inappropriate and not in the spirit of the existing law to engage in a pre-arranged strategy to collect retirement benefits while still employed. In addition, if you apply for a lump sum distribution upon your termination of YMCA employment, you may not have a prior arrangement with the YMCA to return to work following receipt of the distribution. This is a violation of the Fund's Retirement Plan rules as well as federal tax law.

YMCA Retirement Plan document:

Section 5.1 "A Participant's eligibility to receive benefits under the Retirement Plan... must be the first day of a month subsequent to the **cessation of Compensation and the severance** from YMCA employment."

Section 6.3 "In no event shall any Participant **who is employed** by a Participating YMCA have the right to a withdrawal of his/her Accumulated Basic Participant Contributions or his/her YMCA Account Balance."

Treasury Regulations:

Treasury Regulation Section 1.401(a)-1(b)(1)(i) "In order for a pension plan to be a qualified plan under section 401(a), the plan must be established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, **after retirement** or attainment of normal retirement age."

IRS Rev. Rul. 74-254 "Revenue Ruling 56-693, as modified by Rev. Rul. 60-323, holds that a pension **plan fails** to meet the requirements for qualification under section 401(a) of the Code **if it permits employees to withdraw prior to normal retirement** any part of the funds accumulated on their behalf, which consist of employer contributions or increments thereon prior to the severance of employment or the termination of the plan. Therefore, a pension plan does not qualify if it permits distributions prior to normal retirement and prior to termination of employment or termination of the plan."

Q. Aren't there some people who do go back to work at a YMCA after they've already retired from a YMCA?

A. There are certain legitimate situations where an individual may become re-employed by a YMCA after he or she begins receiving their Retirement Fund annuity or has received a lump sum distribution. In order to avoid potential problems, it is recommended that you discuss specific situations with your legal counsel and secure a written legal opinion prior to taking any action.

Here are three examples of acceptable situations:

1. Jerry retired as a Branch Executive Director and began collecting his retirement benefit. Negotiations with his replacement fell through, and subsequently the Board asked him to return as the Branch Executive in an interim capacity while a new search is undertaken.

retire_rehire 8/30/18

2. Mary retired as Secretary of the Membership Department and began collecting her retirement benefit. After gardening and fixing up her home, she became bored, applied for and was accepted for a part-time position in the development office at another YMCA.
3. George terminated his YMCA employment because he was relocating from his hometown to another state to be closer to his sister. He applied for and received a lump sum distribution from the Retirement Plan. Since George and his sister were not getting along, he moved back to his hometown, applied for and was accepted for another position at the YMCA.

Here are three examples of unacceptable situations:

1. A very difficult personal situation necessitated that Brad find a way to add to his household income. Accordingly, he arranged with his supervisor that he would retire, begin collecting his retirement benefit then be rehired to his existing job.
2. Lucy was all set to retire as the CEO, but the Board had not yet found her replacement. The Board asked her to stay on for three extra months while they extended their search. She agreed, with the understanding that she would continue earning her salary and also start her retirement annuity.
3. Robin needed money to pay off her bills, so she arranged with her supervisor that she would terminate employment, take a distribution from the Fund and then be rehired to her existing job.

Q. What is the potential penalty if a YMCA engages in a strategy to help an individual to collect retirement benefits while still employed?

A. If the employee has not actually (and completely) terminated their employment, the plan will not be a tax-qualified pension plan. In the multiple-employer plan context in which the YMCA Retirement Fund operates, this could mean that the participating YMCA that violated this rule would be terminated from participation in the Plan, and the account balances of employees at that YMCA would become fully taxable to them at that time.

Where Can I Get More Information?

Call the YMCA Retirement Fund at 800-RET-YMCA or send an email to info@ymcaret.org