

## Re-employment After Retirement

If you are a retired member of the Delaware State Employees Pension Plan, there are very specific State and IRS guidelines regarding returning to work for the State of Delaware after retirement. Under State law, a retiree is not allowed to receive a State pay check from employment while also receiving a pension check. There are several consequences to the violation of these rules including the retiree owing back all pension benefits that were received while employed by the State. There are a few exceptions as outlined below.

A retiree who returns to work must be in one of the following type of positions that are non-pension creditable:

- Temporary Employee – An employee who is hired for a specific project or task and for a finite period of time that will not exceed 12 months in duration.
- Casual/Seasonal – An employee employed by an agency under 29 Del C. §5903(17) and works less than 30.0 hours per week.
- Substitute – An employee in a school who is compensated on a daily basis.

The employer may not modify an existing pension covered position to one of the above positions to accommodate the retiree and create a transaction to circumvent the return to work provisions.

The IRS indicates the following guidelines must be followed in order to return to work with an employer from whom you are receiving a qualified pension plan benefit:

If under age 65 –

- Must have a bona fide separation after retirement (six months or greater).
- Must not have had a pre-arranged agreement to return to work with the State.
- Must not be a contractor, working for a contractor or working for a temporary agency unless there has been a bona fide separation.

If over 65, and working in a non-pension creditable position that meets the above exceptions, the employee may receive both a pension payment and a pay check from the State of Delaware.

During 2012, the Pension Office will be contacting all agencies and school districts regarding the retirees that are employed in their locations to ensure that the State and IRS rules are being followed.