

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 013 – RETIREMENT BENEFITS**

1 **459-013-0310**

2 **Payment of Increased Benefits under ORS 238.372 to 238.384**

3 (1) For purposes of determinations under ORS 238.372 to 238.384:

4 (a) “Person” includes a member, an alternate payee, or a beneficiary.

5 (b) The increased benefit percentage to be added to a benefit paid to a beneficiary
6 under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement
7 allowance under ORS 238.305 or 238.325 will be determined based on:

8 (A) The increased benefit percentage(s) for which the member is otherwise eligible
9 under ORS 238.364, 238.366 and 238.368; and

10 (B) The residency of the beneficiary.

11 (2) PERS will make the following determinations on residency status for the purpose
12 of determining increased benefit eligibility under ORS 238.372 to 238.384, based on the
13 yearly Oregon personal income tax return information provided by the Department of
14 Revenue. Determinations under this section are effective the first day of the calendar year
15 following receipt of information from the Department of Revenue.

16 (a) If the Department of Revenue notifies PERS that a person:

17 (A) Filed Oregon personal income tax as a resident, PERS will treat the person as a
18 resident of Oregon.

19 (B) Filed Oregon personal income tax as a non-resident, PERS will treat the person
20 as a non-resident of Oregon *[, except as provided in section (3) below]*.

21 (C) Did not file Oregon personal income tax, PERS will treat the person as a non-
22 resident of Oregon *[, except as provided in section (3) below]*.

1 (D) *[Filed Oregon personal income tax as a partial-year resident and the prior year*
2 *the person filed personal income tax as a resident, PERS will treat the person as a non-*
3 *resident of Oregon, except as provided in section (3) below.*

4 (E) *Filed Oregon personal income tax as a partial-year resident and the prior year*
5 *the person filed personal income tax as a non-resident, PERS will treat the person as a*
6 *resident of Oregon.*

7 (F) *Filed Oregon personal income tax as a partial-year resident and the prior year*
8 *the person did not file personal income tax, PERS will treat the person as a resident of*
9 *Oregon.]*

10 (G) *Filed Oregon personal income tax as a partial-year resident, and the person*
11 *also submitted residency status information on a form provided by PERS and received by*
12 *PERS in the same calendar year, PERS will determine residency status based on the*
13 *information provided on the form.]*

14 **(D) Filed Oregon personal income tax as a partial-year resident with the**
15 **Oregon resident end-date either left blank or listed as the last day of the year on the**
16 **tax return form, PERS will treat the person as a resident of Oregon.**

17 **(E) Filed Oregon personal income tax as a partial-year resident with the**
18 **Oregon resident end-date listed as other than the last day of the year on the tax**
19 **return form, PERS will treat the person as a non-resident of Oregon.**

20 **(F) Filed Oregon personal income tax as a partial-year resident joint filer with**
21 **the pensions and annuities amount reported under the Oregon column in the joint**
22 **filer return equal to or greater than the amount of PERS benefits distributed for the**
23 **same tax year, PERS will treat the person as a resident of Oregon.**

1 (G) Filed Oregon personal income tax as a partial-year resident joint filer with
2 the pension and annuities amount reported under the Oregon column in the joint
3 filer return being less than the amount of PERS benefits distributed for the same tax
4 year, PERS will treat the person as a non-resident of Oregon unless the resident
5 end-date is left blank or is the last day of the year on the tax return form.

6 (H) Filed Oregon personal income tax as a non-resident joint filer with the
7 pensions and annuities amount reported under the Oregon column in the joint filer
8 return equal to or greater than the amount of PERS benefits distributed for the
9 same tax year, PERS will treat the person as a resident of Oregon.

10 (I) Filed Oregon personal income tax as a non-resident joint filer with the
11 pensions and annuities amount reported under the Oregon column in the joint filer
12 return being less than the amount of PERS benefits distributed for the same tax
13 year, PERS will treat the person as a non-resident of Oregon.

14 (b) If PERS cannot make a residency status determination based on information
15 provided by the Department of Revenue or the person did not otherwise provide PERS
16 with residency status information, PERS will treat the person as a non-resident of
17 Oregon, except as provided in section (3) below.

18 (3) For purposes of determining increased benefit eligibility under ORS 238.372 to
19 238.384, residency status information submitted on a form provided by PERS and
20 received by PERS in the current calendar year will supersede any Oregon personal
21 income tax return information provided by the Department of Revenue pursuant to
22 section (2) of this rule.

23 (4) Residency status forms received by PERS shall be effective as follows:

1 (a) The first day of the calendar month following receipt, if received between
2 January 1 and April 15;

3 (b) The first day of the calendar year following receipt, if received on or after April
4 16.

5 (5) Notwithstanding sections (2) and (3) of this rule, PERS will revoke increased
6 benefit eligibility and seek repayment if it finds a person has submitted fraudulent
7 residency status information under section (2) or (3) of this rule.

8 Stat. Auth.: ORS 238.650

9 Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372 to 238.384