

# 9 Things You'll Want to Know: Tax Remedy

**1** **What is “tax remedy”?**  
PERS is directed to increase benefits for certain Tier One members to compensate for state income taxation on PERS benefits.

**2** **Who may receive a “tax remedy” increase?**  
Tier One members who were hired before July 14, 1995, have either service time before October 1, 1991, or at least 10 years of creditable service, and are Oregon residents for the purpose of paying Oregon income taxes, are eligible for the “tax remedy.”

Tier Two and OPSRP members **are not** eligible for the “tax remedy” on their PERS benefits.

**3** **How is my residency determined for a “tax remedy”?**  
PERS works with the Oregon Department of Revenue (DOR) every calendar year to determine residency based on income tax returns for the previous year.

Having an Oregon address of record with PERS does not satisfy residency certification requirements. Retirees can submit a **PERS Residency Status Certification** form to PERS at any time. Residency certification updates are effective for one calendar year beginning January 1 of the year following submission.

**4** **What would cause my “tax remedy” to be removed?**  
If DOR records indicate you are not an Oregon resident for income tax purposes, the “tax remedy” increase will be removed from your monthly PERS benefit payments in the upcoming calendar year.

In addition, if PERS cannot determine your Oregon residency based on information DOR provides, **and** if you have not provided PERS with an up-to-date **PERS Residency Status Certification** form verifying that you are an Oregon resident, PERS must stop paying you the “tax remedy.”

**5** **How will PERS communicate if the “tax remedy” is removed or restored?**  
If, based on your residency status, the “tax remedy” will be removed or restored from your monthly PERS benefit payment, you will receive a letter from PERS in late December showing the change to your benefit amount. It will also explain any action you must take if you disagree with the staff determination.

**6** **What forms/steps are required to update my residency status by December 15?**  
The **PERS Residency Status Certification** form is available on the PERS website at [www.oregon.gov/pers](http://www.oregon.gov/pers). You can also update your residency status using Online Member Services (OMS). Step-by-step information on how to certify your residency status in OMS is available online in the Retired Member Information section.

PERS must receive your residency certification **by December 15** to ensure the “tax remedy” you are eligible for will be included in your benefit payments in the upcoming year.

If you are certifying that you are an Oregon resident but you do not earn enough income to be required to file an Oregon tax return (see number 7), you must submit a paper **PERS Residency Status Certification** form to PERS.

**Please note:** Residency status certification cannot be done over the phone, but PERS Member Services can answer any questions at 888-320-7377.

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**I am not required to file Oregon state income tax returns based upon my income. Do I need to certify my residency status with PERS to continue receiving “tax remedy”?**

If you previously filed a *PERS Residency Status Certification* form showing you are not required to file tax returns because your income is below the filing threshold, you are no longer required to submit an annual residency certification unless:

1. you submit a change of address to PERS (including a move within Oregon); or
2. you file an Oregon personal income tax return.

If either of these conditions applies, you must recertify your current residency status by submitting a *PERS Residency Status Certification* form.

PERS must receive your residency certification by **December 15** to ensure the “tax remedy” will be included in your benefit payments in the upcoming year.

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**When is my residency status update effective?**

Residency certification updates submitted during a calendar year become effective January 1 of the following year.

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**Why does the “tax remedy” exist? What changes have been made by the Legislature?**

Until the late 1980s, PERS benefit payments were exempt from state income taxes, while federal retirement benefits were partially exempt. A 1989 federal Supreme Court ruling directed that states must tax federal and state retirement benefits in the same manner. In 1991 the Oregon Legislature passed a law to subject PERS benefits to state income tax.

The tax on PERS benefits was challenged to the Oregon Supreme Court, which held that it was a violation of the benefit contract with members. Senate Bill 656 (1991) and House Bill 3349 (1995) were approved by the Legislature to establish “tax remedy” payments to mitigate the effect of subjecting PERS benefits to state income tax.

Eligible members receive the higher of the two payments established in SB 656 and HB 3349. The formula under SB 656 is based on a member’s total service time, and the formula under HB 3349 is based on service time before the tax was imposed. The maximum “tax remedy” payment is 9.89 percent of a member’s benefit.

Senate Bill 822 (2013) eliminated the tax remedy for PERS benefit recipients who do not pay Oregon state income tax on their PERS benefits because they are not Oregon residents.



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