



Information Sheet for ORP Election and/or Refund

TRS28IN (09-16)

PO Box 149676
Austin, Texas 78714-0185
(800) 223-8778
www.trs.texas.gov

Optional Retirement Program (ORP) Election

- The election of ORP in lieu of membership in the Teacher Retirement System of Texas (TRS) is irrevocable.
- If you established membership in TRS prior to your election to participate in ORP, your membership in TRS is terminated by your election to participate in ORP.
- All accrued rights to benefits from TRS, if any, are forfeited upon the election of ORP. This includes any benefits associated with TRS service credit you accrued prior to your election to participate in ORP, such as service or disability retirement benefits.
- Only one *Election to Participate in Optional Retirement Program and/or Refund form (TRS28)* should be filed with TRS for ORP election purposes, as you may elect ORP only once in lieu of participation in TRS. However, if you elect not to withdraw your TRS accumulated contributions at the time you elect to participate in ORP, you may submit a second TRS28 only for purposes of requesting a refund.
- The election to participate in ORP in lieu of membership in TRS must be made before the 91st day after the date you become eligible to participate in ORP.
- If your employer notifies you of your eligibility to participate in ORP after the first date of eligibility, but before the 91st day after the first day of eligibility, you must make your election before the later of the 91st day after the first day of eligibility or the 31st day after you were notified of eligibility. (If you are unsure about your first date of eligibility, your employer will provide that date to you.)
- If your employer fails to notify you of your eligibility to participate in ORP before the 91st day after the first you became eligible to participate, but notifies you before the 151st day after the first day you become eligible, you must make your election before the later of the 151st day after the first day of eligibility or the 31st day after you were notified of eligibility.
- If your employer fails to notify you of your eligibility to participate in ORP before the 151st day after the first day of eligibility, you are not eligible to elect to participate in ORP and must remain a participant of the TRS retirement plan.

Refund Election

A person who is a participant in ORP may withdraw their accumulated contributions from TRS; however, you are not required to withdraw your accumulated contributions at the time you elect to participate in ORP. To apply for a refund at a later date, you must submit a second TRS28. Please note that your account will not accrue interest after your election to participate in ORP.

Federal Income Tax Implications

Refunded amounts that represent tax sheltered contributions are subject to a mandatory 20 percent federal income tax withholding unless you elect to roll over all eligible amounts to another eligible retirement plan. The amount withheld may not be sufficient to cover your income tax liability for the refund. A 10 percent early withdrawal penalty assessed by the Internal Revenue Service (IRS) may also be applicable. All or a portion of your refund that is eligible for rollover may be rolled over. For more information regarding amounts in your TRS account that are eligible for rollover and types of retirement plans that are eligible to receive rolled over amounts, see the *Special Tax Notice Regarding Your Rollover Options Under TRS*.



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If you are not a U.S. citizen or resident alien of the U.S., TRS is required to withhold 30 percent for federal income tax unless you qualify for benefits under a U.S. tax treaty. If so, you must notify TRS of your eligibility for reduced withholding or exemption from withholding and provide TRS with a completed IRS Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding) and any other required documentation. The W8-BEN can be obtained on the IRS' website, www.irs.gov, or from TRS upon request. TRS recommends that you submit the completed Form W-8BEN with your TRS28 in order to expedite the processing of your refund.

It is your responsibility to submit the proper tax returns to the IRS and to pay any additional taxes or penalties that may be due. TRS encourages you to contact your professional tax advisor for specific advice on how this distribution may affect your taxes.

Additional Information about Rollovers

If you elect either a full or partial rollover, TRS will make the treasury warrant for the rollover payable to the trustee of the eligible retirement plan named on the *Refund Rollover Election form (TRS6A)*. **TRS will mail the treasury warrant for the rollover to the address listed on your TRS28. You are responsible for forwarding the treasury warrant to the plan receiving the rollover in order to complete the rollover.**

If the amount you elect to roll over is less than the total amount in your account at the time of distribution, TRS will pay any balance to you through a second payment, which will be payable to you and issued as either a direct deposit or paper treasury warrant.

If the amount you elect to roll over is less than your account total, TRS will roll over your tax sheltered funds first, then your non-tax sheltered funds to reach the total dollar amount you chose to roll over. If the amount you wish to roll over is less than your tax sheltered amount, TRS will pay you the remaining tax sheltered amount minus 20% for federal income tax withholding, plus any non-tax sheltered amount in your account.

Roth IRAs: A rollover to a Roth IRA results in a taxable distribution in the year in which it is paid by TRS. If you choose to rollover to a Roth IRA, you must complete Section 3 of the TRS6A regarding your withholding preference. TRS recommends that you consult with a professional tax advisor about whether the tax sheltered amount of your refund is subject to the 10% additional tax on early distributions described in the *Special Tax Notice Regarding Your Rollover Options Under the TRS*.

Foreign Trusts: A direct rollover may be made to a foreign trust that is part of a stock bonus, pension, or profit sharing plan established outside the U.S., if the receiving foreign trust would qualify for exemption from tax under Internal Revenue Code (IRC) §§ 401(a) and 501(a), except for the fact that it is a trust created or organized outside the U.S. To claim this exemption, in addition to any other information required by TRS, the distributee must furnish a written statement by an authorized official of the foreign trust stating that the foreign trust is a trust described under IRC § 402(d). TRS will not make a rollover to a foreign trust without this statement.



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Tax Statements Sent by TRS

Tax statements (Form 1099-R) are required to be mailed to your address on record no later than January 31 of the year following a refund. Form 1099-R includes the total amount of the lump sum distribution, any portion that is taxable income for the year paid, and the amount of income tax withheld. This information is also provided to the IRS as required by federal law. If you are not a U.S. citizen or resident alien of the U.S., TRS will report your distribution on a Form 1042-S instead of on a Form 1099-R.

If you elect to roll over all or a part of your refund, you will receive a separate Form 1099-R regarding the rollover amount. Tax statements are mailed to the same address used for refunds. You must notify TRS in writing if your address changes after you receive your refund. TRS must receive your notification prior to December 10 of the year in which you received your refund in order to ensure that the form will be sent to the correct address.

Instructions

If you are electing ORP participation and requesting a refund of your TRS accumulated contributions:

1. Read the *Special Tax Notice Regarding Your Rollover Options Under TRS*.
2. Complete the *Election to Participate in Optional Retirement Program and/or Refund form (TRS28)* in its entirety.
3. Section 4 – Refund Election. You must select one of the three options: Refund, Direct Rollover, or No Refund.
4. Section 5 – Payment Method for Portion Not Being Rolled Over. You may select either Direct Deposit or a paper treasury warrant. If you select Direct Deposit, be sure to include your financial institution name, account type, bank routing number, account number, and complete the declaration.
5. Sign the form in the presence of a notary public in Section 6 – Member Certification and Signature.
6. Have your employer complete Section 7 – Employer Certification.
7. Send the completed form to TRS.

If you previously elected ORP participation but you did not withdraw your TRS accumulated contributions at the time you elected ORP and you are now applying for a refund of your TRS accumulated contributions:

1. Read the *Special Tax Notice Regarding Your Rollover Options Under TRS*.
2. Complete Section 1 – Member Information on the *Election to Participate in Optional Retirement Program and/or Refund form (TRS28)*.
3. Do Not Complete Section 2 – Prior Optional Retirement Program Election Information.
4. Do Not Complete Section 3 – Member Election.
5. Complete Section 4 – Refund Election. You must select one of the three options: Refund, Direct Rollover, or No Refund.
6. Complete Section 5 – Payment Method for Portion Not Being Rolled Over. You may select either Direct Deposit or Check. If you select Direct Deposit, be sure to include your financial institution name, account type, bank routing number, account number, and complete the declaration.
7. Sign the form in the presence of a notary public in Section 6 – Member Certification and Signature.
8. Do not have your employer complete Section 7 – Employer Certification.
9. Send the completed form to TRS.



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Important Information

The form must be signed in front of a notary. If your name on the TRS28 is different than the one shown on TRS records, you must send TRS a copy of the court order or marriage license documenting your name change or social security card that reflects your name change. If your attorney-in-fact signs the request, a copy of the power of attorney must be submitted for review.

Please note that in some cases, TRS will issue your refund payment as a paper treasury warrant even when you have selected direct deposit. This may occur if the direct deposit information was not completed in its entirety. In addition, if you elect direct deposit and indicate that 100% of the refund will be transferred out of the United States, you will not be able to receive your refund through direct deposit and TRS will issue your refund payment as a paper treasury warrant mailed to the address listed on your TRS28 form.

If you would like to roll over all or a portion of your accumulated contributions that are eligible for rollover, a *Refund Rollover Election form (TRS6A)* must be submitted to our office. You must complete and sign the form TRS6A indicating the amount that you wish to roll over. The representative of the retirement plan (plan administrator or trustee) accepting the rollover must also sign the form certifying that the plan is eligible to receive the funds being rolled over from your TRS account. Refer to the *Special Tax Notice Regarding Your Rollover Options Under TRS* included with the *Requesting a Refund* packet for additional information as you consider whether to roll over your refund.