

Defined Contribution Plans Employer Webinar



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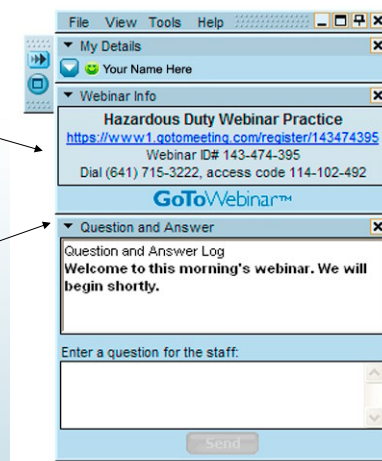
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COMMONWEALTH OF VIRGINIA
DEFINED CONTRIBUTION PLANS


**Employer Webinar
Defined Contribution
Plans
457(b) Uniformed
Services Leave
Make-Up**



Picture your financial future.

*Revised 09/24/2010

Introduction



- **Kelly Hiers, ING**
 - Plan Manager for Field Staff
- **Mackenzie Moss, ING**
 - Plan Consultant

Additional Resources

- **June Dennis, VRS**
 - Defined Contribution Plans Administrator

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457(b) Uniformed Services Leave Make-Up



Authority for Uniformed Services Leave Make-Up

- Uniformed Services and Reemployment Rights Act of 1994 (USERRA)
- USERRA overlays Sect.457(b)
- Pension Protection Act (PPA) of 2006
- Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008

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457(b) Uniformed Services Leave Make-Up



Uniformed Service Defined

- Army, Navy, Air Force, Marines, Coast Guard
- The reserve component of these services
- Army National Guard or Air National Guard*
- Commissioned corps of the Public Health Service
- Any other category of persons designated by the President in time of war or emergency

*Federal component only

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457(b) Uniformed Services Leave Make-Up



Uniformed Services Defined:

- active duty
- active duty for training
- initial active duty for training
- inactive duty training
- fitness for duty exams
- funeral honors
- full-time National Guard duty (federal component only)

Service may be voluntary or involuntary.

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457(b) Uniformed Services Leave Make-Up



Employees Eligible for the Make-Up

- Salaried full and part-time employees
- Hourly employees working regularly
- The only employees **not covered** are employees whose pre-service position of employment “is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.”

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457(b) Uniformed Services Leave Make-Up



Service NOT protected by USERRA

- Persons working for a contractor to one of the service branches.
- Commissioned Corps of the National Oceanic and Atmospheric Administration
- Civil Air Patrol
- Coast Guard Auxiliary
- Funeral honors duty performed by those not members of the uniformed services such as veteran's service organizations.

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457(b) Uniformed Services Leave Make-Up



- **Benefits to Employees**
- **Qualifying for the Benefits**

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457(b) Uniformed Services Leave Make-Up



Benefits

- Employees are made whole for benefits they would otherwise have received had they not left civilian employment for uniformed service.
- Participants may add to their 457(b) accounts money that was not contributed during a period of leave.
- If make-up contributions are made up, the participant must receive the cash match that would have been paid on those deferrals.

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457(b) Uniformed Services Leave Make-Up



Qualifying for Benefits

The following conditions must be met in order for 457 Plan participants to qualify for USERRA benefits:

1. The employee must give the employer advance written or verbal notice of the service.
2. The employee has no more than 5 years of total absences from the employer for military purposes. Subject to exceptions.
3. The employee must not have been released from service under dishonorable or other than honorable conditions.

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457(b) Uniformed Services Leave Make-Up

Qualifying for Benefits

4. The employee must return to employment with the original employer within the following specified time frames based on the length of his or her service:

| | |
|--|---|
| Less than 31 Days: | The employee must report to work no later than the beginning of the first full work period on the first full calendar day following discharge, allowing reasonable time required to return home safely and an 8-hour rest period. |
| More than 30 days but less than 181 days: | The employee must return to employment no later than 14 days following discharge. |
| More than 180 days: | The employee must return to employment no later than 90 days following discharge. |

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457(b) Uniformed Services Leave Make-Up

Timing of Make-Up

- Cannot exceed three times the length of uniformed service or
- Five years, if less.
- Period begins the day the employee returns to work with the original employer.
- Three times length or 5 years applies to each separate instance of leave.
- Period of make-up cannot extend beyond the duration of reemployment with the original employer.

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457(b) Uniformed Services Leave Make-Up



Timing of Make-Up

Example:

- Participant is on Uniformed Services Leave from July 2008 through November 2009. He returns to work in December 2009.
- The length of the Uniformed Service was 17 months.
- Therefore the participant has 51 months (3 x 17) from December 2009 to make up the missed contributions.

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457(b) Uniformed Services Leave Make-Up



Timing of Make-Up

Multiple Periods of Service

- Employee is re-employed and then required to return to Uniformed Service prior to being able to complete the Uniformed Services Leave Make-Up
- Time remaining on the first period of make up eligibility will be added to the subsequent periods of Uniformed Service Make-Up eligibility.

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457(b) Uniformed Services Leave Make-Up



Timing of Make-Up

Example:

Participant is on military leave from May 2008 until November 2008, returns to work in November 2008.

- Period of leave = 6 months; 18 months allowed for the make-up beginning at the point of return to employment.
- She reenters the military in February 2009.
- Reemployed for three months before returning to service.
- 15 months remaining on eligibility for the first period of make-up
- Eligibility for make-up of the second period of service is contingent upon the participant qualifying for that period.

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Make-Up Contribution Limits

- Use salary that would have been paid had employee not been on leave.
- If salary cannot be determined, use the average amount earned during the 12 months prior to the beginning of leave.
- The contribution limits for the year(s) in which the leave occurred apply.

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Make-Up Contribution Limits

- The amount that can be made up is the lesser of 100% of the compensation that would have been earned in the year(s) of leave or the annual limit for that year, if less.
- Reduced by any contributions made during the years covered by the uniformed services leave.

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457(b) Uniformed Services Leave Make-Up

Make-Up Contribution Limits

| Year | Annual Dollar Limit | Age 50+ Catch-up | Standard Catch-up |
|------|---------------------|------------------|-------------------|
| 2002 | \$11,000 | \$1,000 | \$22,000 |
| 2003 | \$12,000 | \$2,000 | \$24,000 |
| 2004 | \$13,000 | \$3,000 | \$26,000 |
| 2005 | \$14,000 | \$4,000 | \$28,000 |
| 2006 | \$15,000 | \$5,000 | \$30,000 |
| 2007 | \$15,500 | \$5,000 | \$31,000 |
| 2008 | \$15,500 | \$5,000 | \$31,000 |
| 2009 | \$16,500 | \$5,500 | \$32,000 |

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457(b) Uniformed Services Leave Make-Up



Contributing Uniformed Services Make-Up:

- Must be through payroll deduction
- May not be made by giving the employer an after-tax payment
- May start as early as the date of reemployment.
- Make-up deferrals reduce the tax liability for the current tax year

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457(b) Uniformed Services Leave Make-Up



Application requires:

- Leave begin date – from DD-214
- Leave Separation date – from DD-214
- Length of uniformed services leave
- Return to employment date
- Date eligibility for uniformed services leave make-up will end
- Salary that would have been paid during period of leave.
- Date make-up deferrals will begin
- Amount of current deferrals that represent the make up.

NOTE: DD-214 required as back-up documentation for the application.

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457(b) Uniformed Services Leave Make-Up

Application

- Establishes the amount of make-up
- Establishes time during which make-up deferrals must be completed
- Establishes eligibility for employer Cash Match
- Documents that amounts over annual limit are not excess deferrals for the current year

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457(b) Uniformed Services Leave Make-Up

Commonwealth of Virginia
457 Deferred Compensation and Cash Match Plans
Guide to Uniformed Service Leave Make-Up

Background: When civilian employees participate in uniformed service they are eligible for certain benefits defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). This Guide addresses the rights and responsibilities of employees of the Commonwealth of Virginia or a Political subdivision or school division participating in the Commonwealth's 457 Deferred Compensation and Cash Match Plans who left employment for uniformed service and are reemployed by the original employer within the time frame specified by USERRA. Upon reemployment these employees are entitled to Plan benefits that would have accrued had the employee not been absent due to uniformed service. This Guide also outlines conditions that employees must meet in order to receive these benefits.

Eligibility: USERRA extends continued benefit rights to most employees absent from work because of "service in the uniformed services." For purposes of USERRA, "uniformed services" includes: the Army, Navy, Air Force, Marines, Coast Guard and the reserve components of these services, the commissioned corps of the Public Health Service, the National Guard, the National Disaster Medical System and any other category of persons designated by the President in a time of war or emergency.

"Service" for purposes of USERRA means active duty, active duty for training, initial active duty for training, inactive duty training, examination to determine fitness for duty, funeral honors, and full-time National Guard duty. Service may be voluntary or involuntary.

Qualifying for the Benefits: The following conditions must be met in order for 457 Plan participants to claim USERRA benefits:

1. The employee gives the employer advance written or verbal notice of the service, unless precluded by military necessity.
2. The employee has no more than 5 cumulative years of absence from the employer for uniformed service. However, this limitation is subject to exceptions. Most notably, uniformed service resulting from an order to active duty because of war or national emergency declared by the President or Congress does not count against the five-year limit.
3. Employee must not have been released from the uniformed service under dishonorable or other punitive condition.
4. The employee must return to employment with the original employer within the following specified time frames based on the length of his or her service:

| | |
|---|--|
| Period of service 30 days or less | The employee must report to work no later than the beginning of the first full work period or less |
| Period of service more than 30 but less than 180 days | The employee must return to employment no later than 14 days following discharge, plus reasonable time required to return home safely and an 8-hour rest period. |
| Period of service of 180 days | The employee must return to employment no later than 90 days following discharge. |

In each instance, if the employee is unable to meet the deadline through no fault of his or her own, the deadline is extended to a time that is as soon as possible. In addition, the preceding deadlines are extended for up to two years for an employee who is hospitalized or convalescing.

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- Application available online at www.varetire.org under Defined Contribution Plans
- Must be signed by employer and employee
- Mailed to VRS as indicated on form

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457(b) Uniformed Services Leave Make-Up



Eligibility for Employer Cash Match

- USERRA entitles employee to accrued benefits based on employee contributions to the 457 Plan
- This entitlement exists only to the extent that the participant makes up 457 Plan contributions after return to employment.
- The application identifies the contributions to which the missed employer cash match payments apply.

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457(b) Uniformed Services Leave Make-Up



Subsequent Legislation and Regulations Expanded Uniformed Service Leave Make-Up

- Clarified that the period between discharge and returning to employment counts as leave for purposes of 457 Plan make-up.
- Differential pay, such as the Virginia state employee supplemental military pay, can be contributed to the 457 Plan.

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457(b) Uniformed Services Leave Make-Up



HEART Act of 2008 – Special Distribution Rules

- Employee on active duty for more than 30 days may take a distribution from their 457 Plan
- Distribution is penalty-free, but taxes are due
- Employee taking distribution is barred from contributing to the 457 Plan for 6 months from date of distribution
- Could reduce the amount of time available to make up missed contributions
- Employee may not re-contribute the amount distributed and cannot make up distributed amounts.

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457(b) Uniformed Services Leave Make-Up



HEART Act of 2008 – Differential Pay

- Employee on active duty and receiving differential pay may contribute the differential pay to the 457 Plan.
- Differential pay is employer payments to service members to compensate them for the difference between civilian pay and military pay.
- The employer pays the Cash Match on differential pay contributed by salaried employees.
- Differential pay contributed to the 457 Plan counts toward the annual limit for the year it is contributed.

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457(b) Uniformed Services Leave Make-Up



Requirement to Give Notice:

- Federal law requires employers to notify employees of their rights under USERRA.
- This requirement is met by displaying the notice where employers customarily place notices for employees.
- Employers may also provide notice in other ways that minimum cost if full text is provided.
- DOL notice can be obtained at http://www.dol.gov/vets/programs/userra/USERRA_Federal.pdf

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VRS Contacts




Defined Contribution Plans Administration

| | | |
|--|--|--------------|
| Plans Administrator - June Dennis | | |
| | JDennis@varetire.org | 804-344-3163 |
| Plans Officers | | |
| Steve Cerreto | SCerreto@varetire.org | 804-771-7731 |
| Bridgette Watkins | BWatkins@varetire.org | 804-775-3210 |
| Plan and Policy Analyst | | |
| Donald Cleary | Dcleary@varetire.org | 804-771-7753 |

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VRS Contacts



DC Plans Customer Service Center

- Toll Free 1-VRS-DCPLAN1
(1-877-327-3261)

VRS Customer Contact Center

- Toll Free 1-888-VARETIR (827-3847)

VRS Web site

- www.varetire.org
- Select the Defined Contribution Plans tab

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Virginia Service Center



Regional Registered Representatives


| | |
|---|---|
| <p>Kelly Hiers – Virginia Plans Manager, Richmond/Central VA</p> <ul style="list-style-type: none"> • Email: Kelly.Hiers@us.ing.com • 1-877-327-5261, option 2, extension 13 | <p>Mackenzie Moss – Tidewater Representative</p> <ul style="list-style-type: none"> • Email: Mackenzie.Moss@us.ing.com • 1-877-327-5261, option 2, extension 12 |
| <p>David Detamore – Central/Northern VA Representative</p> <ul style="list-style-type: none"> • Email: David.Detamore@us.ing.com • 1-877-327-5261, option 2, extension 11 | <p>Janice Parker – Western VA Representative</p> <ul style="list-style-type: none"> • Email: Janice.Parker@us.ing.com • 1-877-327-5261, option 2, extension 14 |

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Virginia Retirement System

COMMONWEALTH OF VIRGINIA DEFINED CONTRIBUTION PLANS



We welcome your questions!

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