

Chapter 7. Refunds

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Refunds

Certain life events may entitle a VRS *member* or a member's *beneficiary* to receive a *refund* of the *member contribution account*. The member contribution account consists of the member's retirement contributions, including employer-paid member contributions, payments the member may have made to purchase *service credit*, plus any interest that has accrued on the account balance.

ELIGIBILITY

The following individuals may be eligible to take a refund of the member contribution account:

- A member who terminates VRS-covered employment, provided that the member does not become re-employed in another VRS-covered position within one full calendar month of termination (must be a bona fide break in service);
- A member who terminates VRS-covered employment and moves to a non-covered (part-time, non-classified, wage) position with a different VRS participating employer without a full calendar month break in service;
- A member who takes a work-related disability retirement; or
- The beneficiary of a member or *retiree* who dies with money remaining in the member contribution account.

The following individuals are **not eligible** to take a refund of the member contribution account:

- A member who continues employment in a VRS-covered position;
- A member who terminates VRS-covered employment and moves to a non-covered (part-time, non-classified, wage) position with the same employer, unless the member incurs a full calendar month break in service;

- A member on leave with or without pay unless employment is terminated including members on educational leave;
- A member on *short-term disability* or *long-term disability* under the *Virginia Sickness and Disability Program (VSDP)*;
- A member of VRS who transfers to another VRS-covered position or a position covered under the *State Police Officers' Retirement System (SPORS)*, the *Virginia Law Officers' Retirement System (VaLORS)*, the *Judicial Retirement System (JRS)* or any of the *Optional Retirement Plans (ORP)* or alternative retirement plans established by the Code of Virginia without at least a full calendar month break in service;
- An *educator* or faculty member who goes on summer break after completing a contract period with an employer, if the educator or faculty member will be returning to employment with the same or another VRS participating employer at the beginning of the next contract period;
- A member of VRS who is employed with a university who becomes eligible for and elects an *ORP*, unless the member terminates VRS-covered employment and has at least a full calendar month break in service. A member who does not terminate employment may transfer the balance of the member contribution account to the ORP or leave the funds in VRS. A member who leaves the funds in VRS becomes a member in deferred status. A member who wants to transfer contributions and interest to an ORP must complete a Request for Transfer of Refund to Optional Retirement Plan (VRS-3ORP);
- A member who retires for service or non-work related disability; or

REFUNDS AND MEMBERSHIP

Upon termination of employment, a member may:

- Leave retirement contributions plus interest in the retirement system, or
- Receive a refund of the accumulated contributions plus interest.

Retirement contributions in the system for at least 12 months earn 4 percent interest, compounded annually on June 30 of each year for as long as the funds remain in VRS.

Taking a refund cancels the member's right to a benefit.

If a member takes a refund of the member contribution account, VRS membership and the service credit represented by the amount of the refund are lost. In addition, the member forfeits the right to a monthly retirement benefit and Basic Group Life Insurance coverage ceases. The member may convert the entire amount of Group Life Insurance or any portion of the natural death benefit to an individual whole life policy, with certain conditions, using an Enrollment Form for Conversion of Group Life

Insurance (VRS-35). For additional information on conversion of life insurance, see Chapter 5, “Life Insurance,” in this manual.

A member who is currently receiving Long-Term Disability (LTD) benefits under the Virginia Sickness and Disability Program (VSDP) and who requests a refund loses LTD benefits as well as membership in VRS and eligibility for future benefits.

A member who is covered under VSDP may retain long term care coverage, even if there is a refund of the member contribution account. The member must pay the cost of the coverage. To retain coverage, the employee should complete the VSDP Long-Term Care Plan Authorization of Coverage Retention (VRS-170) and the VSDP Long-Term Care Plan Protection Against Unintentional Lapse (VRS-171) within 60 days of the date of termination.

If the member is enrolled in the State Retiree Health Benefits program, he or she will no longer be eligible for coverage.

Leaving the Money in VRS

A member who leaves retirement contributions in VRS defers retirement benefits and retains the service credit that was earned as an employee. This credit can be added to any service credit the member may earn through future VRS-covered employment.

If the member is vested when employment is terminated, and retirement contributions are left in VRS, the member will qualify for a reduced monthly retirement benefit at age 50 with ten years of service credit or at age 55 with five years of service credit. VRS contacts members at age 65 and provides an unreduced basic benefit estimate and the current account balance available for refund. A member whose contributions remain in VRS must start receiving a monthly benefit or take a refund by April 1 following the calendar year in which age 70 ½ is attained. VRS contacts members who do not retire prior to the calendar year in which age 70 ½ is attained. If the

Leaving contributions in VRS may qualify a member for a benefit as early as age 50.

member does not respond and has not submitted a retirement application, the member is retired under the Basic Benefit.

A member who chooses to leave the balance of the member contribution account in VRS must complete a Name/Address Declaration for Deferred Members (VRS-3A). **You are responsible for ensuring that the member completes a VRS-3A or has registered for *myVRS* and updated his or her own address.** VRS needs the member's current address on file to mail the annual statement.

Taking a Refund

Members who do not return to employment within one full calendar month of termination may apply for a refund. The Internal Revenue Service (IRS) prohibits distributions from a qualified pension plan without a bona fide break in service.

Note: All agencies of the Commonwealth of Virginia are considered one employer. For example, an employee of the University of Virginia who accepts a position with the Department of Environmental Quality remains an employee of the Commonwealth.

A member who terminates employment in a full-time VRS-covered position to work in a part-time, wage position with the same employer is not eligible to take a refund of the member contribution account unless there is a bona fide break in service of at least a full calendar month between the two positions. The member must not be reported on the employer's payroll for at least a full calendar month. The member may choose to leave retirement contributions plus interest in the system, thereby retaining VRS membership and service credit.

A member who terminates covered employment with a VRS participating employer and returns to covered employment with a different participating employer is eligible to receive a refund if he or she has incurred at least one full calendar month break in service between positions.

Payment for Annual Leave

An employer may pay a terminating member for accumulated annual leave in a lump-sum amount or may keep the member on the payroll until the leave is exhausted. The method of payment selected affects deductions, benefits, and the time when a Request for Refund (VRS-3) may be submitted.

If the member receives a lump-sum payment for the unused leave time, VRS contributions are not deducted, creditable service is not earned, and the VRS-3 may be processed immediately. If the member remains on the payroll until all leave is exhausted, submit the VRS-3 after the member is removed from the payroll. During this period, VRS contributions continue to be paid, the member earns service credit for the unused leave time, and eligibility for a refund is delayed. For additional information, see “Refund Application Process,” in this chapter.

REFUNDS PAYABLE DUE TO DEATH

If an active member dies, the beneficiary of the member’s retirement benefits is eligible for a refund of the member contribution account. A beneficiary who is the member’s spouse, minor child, or parent may choose a monthly benefit or a refund to the exclusion of any other named beneficiary. If the member’s death is from a cause compensable under the Virginia Workers’ Compensation Act, the designated beneficiary receives a refund of the member contribution account and the surviving spouse receives a monthly benefit. If there is no surviving spouse, any surviving minor children would equally share the monthly benefit. If no surviving minor children, then the surviving parent(s) receives the monthly benefit.

A beneficiary who receives a refund of the member contribution account is required to show positive proof of identity before receiving the refund. Either a copy of a Social Security card or driver’s license indicating the Social Security number can be used as proof of identity. When refunds are paid by order of precedence, as established by the Code of Virginia, VRS requires a

statement indicating all living heirs to include name, address, telephone number, and proof of Social Security number.

If a retiree who did not elect a survivor option dies before receiving retirement benefits that equal or exceed the balance of the member contribution account, the retiree's beneficiary is entitled to receive a refund of the remaining contributions plus interest that has accrued to the date of retirement.

For additional information on refunds payable due to death, see Chapter 6 "Member Death-in-Service Benefits" in this manual.

REFUNDS PAYABLE DUE TO WORK-RELATED DISABILITY RETIREMENT

A member who is approved for work-related disability retirement receives a mandatory refund of the member contribution account in addition to receiving a monthly retirement benefit from VRS. For additional information on disability retirement, see Chapter 9 "Disability Retirement" in this manual.

REFUND APPLICATION PROCESS

Provide a Request for Refund (VRS-3) to a member who chooses a refund. Additionally, provide a copy of the IRS 402(f) – Special Tax Notice, which members are required to read before taking a refund. This Special Tax Notice provides the member with information about the potential tax consequences of a refund and explains how distributions may be rolled over to an individual retirement account (IRA) or another qualified plan. Both forms are available on the VRS Web site (www.varetire.org).

The member completes Part A of the VRS-3 specifying the percentages of taxable and/or after-tax contributions to be paid out as a refund or rolled into an IRA or other qualified tax plan. VRS will issue a refund only if the member acknowledges that taking a refund cancels VRS membership and

forfeits future retirement benefits with VRS. The member acknowledges this when signing the VRS-3.

Employer certification is required on the VRS-3 if the member was reported in the last six months.

If the member has been terminated from VRS-covered employment for six months or less, the member’s last employer must complete and certify Part B of the VRS-3. Include the last payroll date in Part B of the form. The signature of either the authorized human resource officer or payroll representative is required. If the VRS-3 is signed by unauthorized personnel, the form is returned to the member with information about the signature requirement. This will delay the refund process. VRS reserves the right to deny any request that appears to be improperly authorized.

Note: The certifying personnel must be included as an authorized signer on the current Signature Authorization for Member Refund Requests (VRS-3S) on file at VRS. The VRS-3S must be signed by the administrative authority named on the Authorization of Employer Contacts (VRS-67). Notify VRS when there is a need to update the designations listed on the form. To request a new VRS-3S or to check current designations, call VRS at 1/888/827-3847.

Employer Responsibilities	Member Responsibilities
<ul style="list-style-type: none"> • Provide VRS-3 and IRS 402(f) — Special Tax Notice to member • Assist member in completing Part A of VRS-3 • Complete and certify Part B of the VRS-3 • Mail the original VRS-3 after the member is removed from payroll and all outstanding payroll adjustments are reported to VRS 	<ul style="list-style-type: none"> • Complete Part A of the VRS-3 • Have signature notarized by a Notary Public or other court official authorized to accept acknowledgements, if separated from the employer more than six months

The refund process takes 45-60 days from the date the last payroll contributions are made on behalf of the member or from the date VRS receives a valid VRS-3, whichever is later.

Advise the member that frequent inquiries to VRS, the Department of Accounts, or the Treasurer’s Office slow the processing of the refund. The

member may obtain the status of a refund or *rollover* request by calling the Virginia Informational Phone System (VIPS). Also, any request to change the member's mailing address after the VRS-3 has been submitted may cause a delay in processing the refund. A member who has an address change must notify VRS in writing and must include the member's Social Security number and the name of the former employer.

TAXATION OF REFUNDS

Refunds Paid to a Member

Refunds are subject to mandatory federal and state tax withholding.

The taxable portion of a refund paid to the member is subject to a mandatory 20 percent federal tax withholding in the year it is issued.¹ In addition, a 4 percent state tax withholding is applied to the taxable portion of the refund if the member is a legal resident of Virginia at the time of the refund. All funds in the member contribution account are taxed with the exception of funds on which the member has already paid taxes. VRS automatically withholds the required taxes before mailing the refund to the member. A member under age 59 ½ who receives a refund may have an additional 10 percent tax penalty imposed by the IRS. The individual taking the refund is responsible for reporting and paying the 10 percent tax penalty when filing his or her tax return.

A member may roll over the refund to defer taxes.

Tax withholdings and the 10 percent penalty can be deferred if the member chooses to roll over the taxable contributions and interest directly into a traditional IRA, a Roth IRA (under certain circumstances), 403(b) plan, 457 plan, 401(k) plan, or other qualified plan, as allowed by the Internal Revenue Code. If the refund is paid to the member, VRS withholds the appropriate taxes. The member may still roll over all or part of the payment to a traditional IRA or to an eligible employer plan that accepts rollovers within 60 days of receipt. Members eligible for the Virginia Cash Match Plan may

¹ Taxes are not withheld for refund amounts under \$200, regardless of who receives the refund. However, the recipient of the refund may be subject to additional taxes when filing the annual tax return.

roll the VRS refund into that plan. For additional information, see “Rollovers” in this chapter.

Refunds Paid to a Beneficiary

A spousal beneficiary may roll a refund to defer taxes.

A refund paid to the surviving spouse of a member may be rolled over in the same manner as the payment to the member. If the surviving spouse elects to receive a direct payment, VRS withholds 20 percent federal tax. In addition, a 4 percent state tax withholding is applied to the refund if the surviving spouse is a resident of Virginia at the time of payment. These withholding regulations apply only to the portion of the refund that represents taxable contributions and interest.

Even if the refund is paid directly to the spouse, the spouse may still roll over all or part of the payment to a traditional IRA, a Roth IRA (under certain circumstances) or to an eligible employer plan that accepts rollovers within 60 days of receipt.

A refund paid to a member’s beneficiary who is not the surviving spouse may be rolled over into a traditional IRA or under certain circumstances to a Roth IRA. It may not be rolled over to an employer plan. If the non-spouse beneficiary elects the payment to be made directly to the beneficiary, he or she may not later roll it over to another type of plan.

A refund paid to a surviving spouse or other beneficiary is generally not subject to the additional 10 percent tax penalty.

For additional information, see the IRS 402(f) – Special Tax notice on the VRS Web site.

Taxpayer Responsibility

VRS makes every effort to provide the member with the best information available on the tax status of a refund, but it is ultimately the member’s responsibility to ensure compliance with all state and federal tax regulations.

Members with tax questions concerning the refund should be directed to the Department of Taxation, the IRS, or a tax advisor.

ROLLOVERS

A terminated member may elect to roll over the refund of accumulated contributions and interest to a traditional IRA, a Roth IRA (under certain circumstances) or to an eligible employer plan that accepts rollovers, including the Commonwealth of Virginia Cash Match Plan. The payment may not be rolled over to a Simple IRA, or a Coverdell Education Savings Account (formerly known as an education IRA). This postpones payment of taxes on the refund until the money is actually paid out to the member.

A rollover can be made in one of two ways:

1. By VRS, or
2. By the member (when the member has opted to receive a direct refund payment from VRS).

A member may elect a direct rollover on the Request for Refund (VRS-3). VRS does not roll refunds less than \$200 of taxable income. Instead, the refund is paid directly to the member.

A member who elects a rollover after first receiving a refund payment from VRS **must** make the rollover within 60 days of receiving the refund. The member may replace federal and state tax withholdings with personal funds to roll over 100 percent of the refund. Otherwise, the tax withholding portion is subject to taxation in the year it is withheld. The amount rolled over is not taxable until the member receives the funds.

Funds received from a refund may be rolled to either a traditional IRA or an eligible employer plan. An eligible employer plan includes a plan qualified under section 401(a) of the Internal Revenue Code, including the Commonwealth of Virginia Cash Match Plan (if the employer provides that plan), a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan and money purchase plan; a section 403(a) annuity plan; a section

403(b) tax-sheltered annuity; and an eligible section 457(b) plan maintained by a governmental employer (governmental 457 plan). The VRS is a defined benefit plan qualified under section 401(a) of the Internal Revenue Code. The member may not roll over a refund received into a Roth IRA.

The member must verify the recipient plan accepts rollovers.

An eligible employer plan is not legally required to accept a rollover. Any member who wants to roll over the refund to another plan should check with that plan's administrator prior to making the rollover. **It is the responsibility of the member to verify that the recipient plan will accept a direct rollover.**

If the member made after-tax contributions to VRS, the portion of the payment representing after-tax contributions may not be rolled to a governmental 457 plan. If the after-tax contributions are to be rolled to an employer plan that accepts these rollovers, the refund payment cannot be paid to the member.

If the member has after-tax contributions rolled into a traditional IRA, it is the member's responsibility to report the amount of these after-tax contributions to the IRS on the applicable forms. Once the member rolls after-tax contributions into a traditional IRA, those amounts cannot later be rolled over to an employer plan.

Note for employers participating in the Commonwealth of Virginia

Cash Match Plan: The member may elect to roll over both taxable and after-tax portions of a refund to the Virginia Cash Match Plan by completing a 401(a) Incoming Transfer/Direct Rollover form available at www.varetire.org or by calling 1/877/327—5261 (VRS DCPLAN1). The refund may not be rolled over to the Virginia Deferred Compensation Plan.

ATTACHMENTS TO REFUNDS

VRS refunds are exempt from any county or municipal tax and are not subject to execution, attachment, garnishment or any other process whatsoever, except under the following conditions:²

² See [Code of Virginia](#) §51.1-124.4 for further information.

REFUNDS

- IRS tax levies (The member will be notified by the IRS and VRS regarding the amount of the attachment.)
- Debt to an employer who has employed the member
- Child support payments
- Marital property as stated in an *Approved Domestic Relations Order* (ADRO)

PAYMENTS PROCURED BY FRAUD OR FALSE STATEMENTS

Any payment to a member or beneficiary which is later determined to have been procured on the basis of any knowingly false statement or falsification of records may be recovered from the member or beneficiary by:

- Credit against future payments due the member or beneficiary;
- Legal action against the member or beneficiary; or
- Deducting any overpayment of benefits from insurance proceeds.

The member or beneficiary is given an opportunity to dispute any such proceedings in accordance with provisions of the Administrative Process Act.

COMPLETING THE REQUEST FOR REFUND (VRS-3)

In this field:	Enter the following:
Employer Code	Your five-digit employer code
Social Security Number	The member's Social Security number
Daytime Phone Number	The member's telephone number
Name	The member's first, middle, and last name
Address	The member's physical address
Date of Birth	The member's date of birth
Are you a Virginia resident?	Yes or No. The amount of Virginia state income tax withheld will be determined by the member's residency.
After-Tax Contributions	The percentage of after-tax contributions to be paid directly to the member and the percentage rolled to an IRA or other qualified plan
Taxable Contributions	The percentage of taxable contributions to be paid directly to the member and the percentage rolled to an IRA or other qualified plan
Financial Institution Information for After-Tax Contributions	Name, address, account number, and phone number of the financial institution receiving after-tax contributions
Financial Institution Information for Taxable Contributions	Name, address, account number, and phone number of the financial institution receiving taxable contributions
Signature	The member's signature and date
Notarization	The form must be properly notarized or acknowledged by a Notary Public or other court official authorized to accept acknowledgements if separated from the employer more than six months.
Employer Certification	The authorized agent's signature and date You must include the title, email address, and phone number of the authorized signer. Additionally, you must verify when the terminating member was or will be last reported on your payroll.

A sample of the form is shown on the following page. The member mails the completed form to:

**Virginia Retirement System
P.O. Box 2500
Richmond, Virginia 23218-2500**

REQUEST FOR REFUND

VIRGINIA RETIREMENT SYSTEM
P.O. Box 2500
Richmond, Virginia 23218-2500
Toll Free 1-888-VARETIR (827-3847)
www.varetre.org

1. Social Security Number

2. Employer Code

3. Daytime Phone Number

PART A. MEMBER INFORMATION (Please print)

4. Name (First) (Middle) (Last)	5. Date of Birth
6. Address (Street) (City) (State) (Zip+4)	7. Are you a Virginia resident? <input type="checkbox"/> Yes <input type="checkbox"/> No
8a. Enter the percentages of after-tax contributions (funds on which taxes have been paid) to be refunded and/or rolled over: _____ % paid directly to me + _____ % paid to the institution accepting after-tax contributions as a rollover (Complete Box 8b below.) = _____ 100 % Total after-tax funds	8a. Enter the percentages of taxable contributions (funds on which you have not paid tax) to be refunded and/or rolled over: _____ % paid directly to me + _____ % paid to the institution accepting taxable contributions as a rollover (Complete Box 9b below.) = _____ 100 % Total taxable contributions
8b. If a portion of your refund in Box 8a is a rollover of after-tax contributions, provide financial institution information below:	
IRA Custodian/Employer Plan Trustee _____ Address _____ City/State/Zip _____ Account Number _____ Phone Number _____ Type of Account (Choose One): <input type="checkbox"/> IRA <input type="checkbox"/> Other Qualified Plan	IRA Custodian/Employer Plan Trustee _____ Address _____ City/State/Zip _____ Account Number _____ Phone Number _____ Type of Account (Choose One): <input type="checkbox"/> IRA <input type="checkbox"/> Other Qualified Plan
10. Authorization: I certify that: 1) I have read and understand the information provided with this form; 2) I understand a 20 percent federal tax is withheld from the taxable portion of my refund and, if I am a resident of Virginia, an additional 4 percent state tax is withheld; 3) I may be subject to an additional 10 percent federal tax penalty on the taxable portion of my refund; 4) I have selected the payout of funds as shown above and understand I am no longer eligible for future retirement benefits; 5) I am not returning to work in a part-time position with the same employer for at least one full calendar month; and 6) that any willful falsification of facts presented may result in prosecution as provided by law.	
Member Signature _____ Date _____ NOTARY THE FOLLOWING CERTIFICATION MUST BE EXECUTED BY A NOTARY PUBLIC OR OTHER COURT OFFICIAL AUTHORIZED TO TAKE ACKNOWLEDGEMENTS. THIS FORM IS NOT VALID UNLESS PROPERLY NOTARIZED WHEN REQUIRED (Notarization is not required if employer certification is completed within six months of termination.) State of _____ City/County of _____ on _____ Month _____ Day _____ Year This individual whose name is signed to the foregoing instrument appeared before me, acknowledged the foregoing signature to be his/hers, and having been duly sworn by me, made an oath that the statements in Part A of the said instrument are true. Commission Expiration Date _____ Notary Signature _____ Registration No. (VA Notary Only) _____	

PART B. EMPLOYER CERTIFICATION (Required if the member has been out of a VRS-covered position less than six months)

This member terminated employment and is, to the best of my knowledge, not returning to work in a part-time position. I understand any fees incurred by VRS due to an in-service distribution will be charged back to the employer. This member does not/will not have any outstanding payroll adjustments and has been off the payroll for at least one full calendar month during a normal work period. The last retirement/life insurance contribution for this member was/will be reported on the payroll for the month of _____.

Benefits Administrator/Payroll Officer (Please print) _____ Title _____ Date _____

Benefits Administrator/Payroll Officer Signature _____ E-mail Address _____ Phone Number _____

VRS-3 (Rev. 05/09)

EMPLOYER CHECKLIST

Use this checklist as a guide when a member is terminating employment.

- Explain the consequences of taking a refund:
 - Loss of VRS membership, service credit, group life insurance coverage, and VSDP benefits
 - Loss of the right to apply for retirement
 - Tax implications
- Provide an estimate of benefits if the member is vested or requests an estimate, using *myVRS* for Employers.

If the member is leaving contributions in VRS:

- Assist the member with:
 - Completing a Name/Address Declaration for Deferred Members (VRS-3A) or
 - Registering for *myVRS* to update his or her address.

If the member is requesting a refund:

- Provide the following forms and assist with form completion:
 - Request for Refund (VRS-3)
 - IRS 402(f) – Special Tax Notice
 - Conversion to Classic Life (VRS-35)
- Certify Part B of the VRS-3 if the member is requesting a refund within six months of termination.
- Provide a copy of the VRS-3 to the member and retain a copy for your records.
- Report all outstanding payroll adjustments to VRS.
- Mail the **original** VRS-3 to VRS **after** the member has terminated service and is removed from payroll. VRS cannot accept faxed copies of this form.

VRS cannot accept faxed copies of the VRS-3.

Note: The member will usually receive a refund within 45 to 60 days after the date of the last payroll report on which the member was included, or within 45 to 60 days after the date the VRS-3 form is received by VRS, whichever is later.

***If the member participates in the Commonwealth of Virginia 456
Defined Compensation or Cash Match Plans:***

- Advise that the monies may be left in the Plans or the member may choose from a variety of distribution options.