

# CORRECTION POLICY

## For the Defined Contribution Component of the Hybrid Retirement Plan



### Background

Employers are responsible for reporting employer and employee contributions to VRS for the Hybrid Retirement Plan defined benefit (DB) component and to the third-party administrator (TPA) for the Hybrid Retirement Plan defined contribution (DC) component. Employers must reconcile their payroll to VRS and the TPA at least once a month to identify discrepancies. From time to time, errors may occur in the process, requiring employers to take corrective measures. This policy addresses corrections for errors made under the DC component of the Hybrid Retirement Plan. Employers are responsible for following the corrective methods outlined in this policy.

### Compliance

The corrective measures provided here follow Internal Revenue Service (IRS) Revenue Procedure 2019-19, adjusted to take into consideration the constraints of VRS-participating employers' payroll and tax-reporting systems. Employers will be responsible for any "penalties, interest, compliance fees or other charges" associated with the failure to follow state and federal laws that may be imposed under the *Code of Virginia* Section 51.1-124.22(A)(14). There may be a fee charged in the future for processing corrections.

### Time Frames

It is important to correctly report contributions to the Hybrid Retirement Plan defined contribution (DC) component each pay period. Contributions should be made as soon as administratively possible following the pay date but no later than 15 business days following the end of the month in which the amount is withheld from the member's creditable compensation.

Missed contributions found within 90 days can be corrected immediately by the employer through payroll. After 90 days the employer must complete the Defined Contribution Plans Request for Account Review form. Corrections may require the employer to pay penalties, fees and/or missed earnings.

Excess contributions found within 14 business days from the trade date posted to the member's account can be returned directly to the employer by contacting the third-party administrator. After 14 business days, corrections will follow the corrective methods outlined in this policy and employers must complete the Request for Account Review Form. Corrections may require the employer to pay penalties and/or fees.

### Processing Guidelines

- 1. Correction Requests Not in Good Order** – Request for Account Review forms require the employer to provide details of the error and amounts withheld in payroll. In the absence of this information, VRS will consider requests to remove excess contributions to be Not in Good Order (NIGO) and will not proceed with the correction until additional details are provided by the employer. Corrections involving funding for account shortages will still be processed without error details or payroll information; however, VRS will assume that the missing contributions were not withheld from the employee, and the employer will be charged a Qualified Non-Elective Contribution (QNEC) for the employee source funds.
- 2. Thresholds for Overages/Shortages** – VRS will only process Request for Account Review forms for discrepancies greater than +/- \$50.

### Forfeitures, Gains and Missed Earnings

The Hybrid Retirement Plan is subject to an "exclusive benefit rule" under the Internal Revenue Code. The exclusive benefit rule generally prohibits the return of contributions to an employer once they have been made to the Plan. Rather, contributions made in error should remain in the Plan and will offset future contributions or plan expenses.

- 1. Employer Excess Contributions and Gains:** When there are excess contributions or gains, the funds will be transferred from the participant's account to a forfeiture account that the employer must use to either offset future contributions or pay plan expenses. Periodically, employers can direct that the forfeiture account be used to offset an upcoming employer contribution.
- 2. Missed Earnings:** The employer will be required to fund missed earnings if the amount calculated is \$10 or more for each correction. A fee may be charged for missed earnings calculations for late contributions.

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## Corrections for Late Contributions

### Employer delayed submitting contributions to third-party administrator (TPA).

**Example A:** An employer remits required contributions to the TPA outside of the required time frame.

Hybrid 401(a) Contributions			Hybrid 457 Contributions
Employee Mandatory 1%	Employer Mandatory 1%	Employer Match on Employee Voluntary	Employee Voluntary
<p>If the employer fails to remit contributions to the TPA within <b>90 days*</b> of deduction from the member's paycheck, VRS will direct the TPA to calculate missed earnings on the contributions. <b>The employer is required to pay missed earnings.</b></p>			

\* Note: The requirement for the employer to pay missed earnings on late contributions is subject to change to fewer than 90 days.

## Negative Corrections to Remove Contributions Due to Ineligibility

### Member enrolled in the Hybrid Retirement Plan in error.

**Example B:** An employer enrolls a member in myVRS Navigator with the wrong job name or incorrect SSN, when the correct job name or SSN would make the member ineligible for the Hybrid Retirement Plan but eligible for participation in the VRS DB Plan.

Hybrid 401(a) Contributions			Hybrid 457 Contributions
Employee Mandatory 1%	Employer Mandatory 1%	Employer Match on Employee Voluntary	Employee Voluntary
Employee mandatory contributions transfer to DB Plan via Plan-to-Plan transfer to be applied to the correct VRS plan.	<b>Employer contributions, net of losses or fees, are credited to the employer's forfeiture account.*</b>		Commonwealth of Virginia (COV) 457 Plan participating employer?
Gains are forfeited.**	Gains are forfeited.**		<p><b>YES</b> Employee voluntary contributions are transferred to the COV 457 Plan if the member has an account balance.</p> <p><b>NO</b> Employee voluntary contributions are paid directly to the member who will receive a Form 1099-R after calendar year-end.</p> <p>Member retains any gains.</p>

\* Note: If VRS is responsible for the enrollment error, the employer contributions will be returned to the employer and VRS will reimburse the TPA for any fees.

\*\* Gains are credited to the plan-level forfeiture account.

# CORRECTION POLICY

## For the Defined Contribution Component of the Hybrid Retirement Plan



### Negative Corrections to Remove Excess Contributions

#### Contributions were remitted in excess of what is permitted or required under plan.

**Example C:** An employer withheld from pay before the member was eligible for benefits, after the member separated employment, while the member was on leave without pay or working less than full time, or based on incorrect creditable compensation in payroll.

Hybrid 401(a) Contributions		Hybrid 457 Contributions
Employee Mandatory 1%	Employer Mandatory 1%	Employer Match on Employee Voluntary
Excess contributions are paid directly to the member who will receive a Form 1099-R after calendar year-end.	<b>Employer contributions, net of losses or fees, are credited to the employer's forfeiture account.</b>	
Member retains any gains.	Gains are forfeited.*	
		Employee Voluntary
		Excess contributions are paid directly to the member who will receive a Form 1099-R after calendar year-end.
		Member retains any gains.

\* Gains are credited to the plan-level forfeiture account.

#### Voluntary contributions deducted and remitted to TPA in error.

**Example D:** Employer fails to stop or fails to decrease member's voluntary contributions.

Hybrid 401(a) Contributions	Hybrid 457 Contributions
Employer Match on Employee Voluntary	Employee Voluntary
<b>Employer contributions, net of losses or fees, are credited to the employer's forfeiture account.</b>	Excess contributions are paid directly to the member who will receive a Form 1099-R after calendar year-end.
Gains are forfeited.*	Member retains any gains.

**Example E:** Employer sends voluntary contributions to the VRS Hybrid 457 Deferred Compensation Plan instead of the employer-sponsored hybrid 403(b).

Hybrid 401(a) Contributions	Hybrid 457 Contributions
Employer Match on Employee Voluntary	Employee Voluntary
<b>Employer contributions, net of losses or fees, are credited to the employer's forfeiture account.</b>	Employee voluntary contributions are paid directly to the member who will receive a Form 1099-R after calendar year end.
Gains are forfeited.*	Member retains any gains.

\* Gains are credited to the plan-level forfeiture account.

# CORRECTION POLICY

## For the Defined Contribution Component of the Hybrid Retirement Plan



### Positive Corrections to Make Up Missed Contributions

#### Contributions not deducted from member's paycheck.

When an employer fails to enroll member in myVRS Navigator and/or deduct contributions from pay.

**Example F:** The member receives compensation from the employer, but the employer has not reported the member to VRS for retirement purposes, and no VRS DC contributions have been withheld from the member's paycheck.

Hybrid 401(a) Contributions			Hybrid 457 Contributions
Employee Mandatory 1%	Employer Mandatory 1%	Employer Match on Employee Voluntary	Employee Voluntary
<b>Fewer than 90 days from VRS coverage start date</b>			
The member will make up missed contributions through payroll to be posted by the TPA as of the date received.	Employer will make up contributions to be posted by the TPA as of the date received.	<b>No retroactive correction</b> Member may elect to make voluntary contributions to be effective as soon as administratively possible, but no later than when the member's voluntary contributions would have been effective under normal guidelines for VC changes.	
<b>More than 90 days from VRS coverage start date</b>			
The employer is required to pay missed contributions at the following rates:			
100% This corrective action is a QNEC.	100%	100%	50% of VC% This corrective action is a QNEC.
Employer responsible for missed earnings, if any.			

Note: The VC% is derived from the average VC% under the Hybrid 457 Deferred Compensation Plan, which is determined annually.

#### Voluntary contributions not deducted from member's paycheck.

**Example G:** Member properly elects to start or increase voluntary contributions, but the employer fails to act on member's direction.

Hybrid 401(a) Contributions	Hybrid 457 Contributions
Employer Match on Employee Voluntary	Employee Voluntary
Member direction to start or increase voluntary contributions must be effective the next available pay date following the month in which the member gave the direction.	
<b>Fewer than 90 days from the first available pay date of the month following the request. VC% is paid by member for missed contributions.</b>	
<b>More than 90 days from first available pay date of the month following the request.</b>	
Employer required to remit a match on 100% of the missed voluntary contribution.	Employer required to remit a QNEC equal to 50% of the missed contribution amount.
Employer responsible for missed earnings, if any.	

Note: When a member transfers between VRS-participating employers, with or without a break in service, the member is responsible for ensuring voluntary contributions restart with the new employer, pursuant to Virginia Hybrid 457 Deferred Compensation Plan Section 3.03. There will be no corrective action if the member fails to re-elect voluntary contributions. If funds are sent to an employer-sponsored hybrid 403(b) in error, then the appropriate contributions need to be made to the Hybrid 457 Deferred Compensation Plan. The employer must work directly with the 403(b) provider to determine how excess contributions to the 403(b) plan are addressed.

# CORRECTION POLICY

## For the Defined Contribution Component of the Hybrid Retirement Plan



### Positive Corrections to Make-Up Missed Contributions *(continued)*

#### Retroactive pay increase

**Example H:** Before the salary adjustment, the member was compensated and VRS DC contributions were remitted; however, due to the retroactive pay increase, additional contributions are due.

Hybrid 401(a) Contributions			Hybrid 457 Contributions
Employee Mandatory 1%	Employer Mandatory 1%	Employer Match on Employee Voluntary	Employee Voluntary
<b>Contributions withheld at the point the retroactive pay increase is paid to member.</b>			
		Based on member's VC% at the time the contribution should have been remitted.	
No missed earnings due to member.			

### Terms

**COV 457 Plan** — Commonwealth of Virginia 457 Deferred Compensation Plan

**QNEC** — Qualified Non-Elective Contribution

**TPA** — Third-Party Administrator

**VC%** — Voluntary Contribution Percentage

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