"Tax Remedy" Elimination for Certain Benefit Recipients (Senate Bill 822)

1. **What is the "tax remedy?"**
   In 1991, the Oregon Legislature changed the law so recipients had to pay state income tax on the PERS benefits they received during a calendar year.

   Senate Bill 656 (1991) and House Bill 3349 (1995) provided formulas by which PERS was directed to increase benefits for certain recipients as a remedy for now imposing state income tax on the benefits received. The increases that result from applying these formulas are known as the "tax remedy."

   The tax remedy formulas are based on the time period and/or amount of service time the member worked in PERS-covered employment and is different for each benefit recipient. If eligible (see Question 2), the minimum increase is 1% and the maximum is 9.89% of the initial benefit.

2. **Who receives the "tax remedy?"**
   Tier One members who established PERS membership before July 14, 1995 and have either service time before October 1, 1991 or at least 10 years of creditable service are eligible for the tax remedy. Tier Two and OPSRP members are not eligible for any tax remedy.

3. **How are the tax remedy increases determined?**
   Under the Senate Bill 656 formula, a benefit recipient receives a percentage increase based on the number of years of service credit that person has in PERS, from a minimum increase of 1% with 10 years of creditable service to a maximum of 4% with 30 years of creditable service.

   Under the House Bill 3349 formula, a benefit recipient receives a percentage increase based on the ratio of his/her service in PERS that occurred before 1991 to total years of service. If benefit recipient's entire service occurred before October 1991, he/she would receive the maximum adjustment of 9.89%. If half of his/her service was before that date, the increase would be 50% of 9.89%, and so on. Eligible benefit recipients receive the benefit increase under either the House Bill 3349 formula or the Senate Bill 656 formula, whichever is greater.

4. **What effect did Senate Bill 822 have on the "tax remedy" for certain PERS benefit recipients?**
   Senate Bill 822 (2013) eliminated the tax remedy for benefit recipients who do not pay Oregon state income tax because they do not reside in Oregon. This is because the benefit increase was provided as a remedy for subjecting PERS benefits to Oregon state income tax.

5. **How often does PERS review a benefit recipient's residency status?**
   PERS will work with the Oregon Department of Revenue (DOR) each calendar year to determine a benefit recipient's residency status based on income tax returns filed for the previous year.

A new Oregon Administrative Rule is scheduled for consideration and adoption at the September 27, 2013 PERS Board meeting. As currently proposed, if DOR notifies PERS that a person:

- Filed personal income tax as an Oregon resident, PERS will continue or start paying that person the tax remedy.
- Filed personal income tax as a non-Oregon resident, PERS will stop paying that person the tax remedy.
- Did not file Oregon personal income tax, PERS will stop paying the tax remedy unless PERS has a Residency Status Declaration Certification on file that the benefit recipient is an Oregon resident.
- Filed personal income tax as a partial-year resident in the most recent year and the prior year the person filed personal income tax as a resident (so the person moved out of state), PERS will stop paying that person the tax remedy.
- Filed personal income tax as a partial-year resident in the most recent year and the prior year the person filed personal income tax as a non-resident (so the person moved to Oregon), PERS will start paying that person the tax remedy.
- Filed personal income tax as a partial-year resident and the prior year the person did not file personal income tax, PERS will start paying that person the tax remedy.
- If PERS cannot determine the benefit recipient's residency based on information provided by DOR and the person has not provided PERS with a Residency Status Declaration Certification that he/she is an Oregon resident, PERS will stop paying that person the tax remedy.

If a benefit recipient's residency status changes, he/she can submit a Residency Status Declaration Certification form to PERS to start or discontinue the tax remedy payment. Based on statute, any change to a benefit will be effective January 1 of the calendar year after PERS receives notice of the change.

6. **How will PERS communicate to me if my tax remedy is eliminated or restored?**
   PERS will send a letter to a benefit recipient whose tax remedy is eliminated or restored. The letter will show the change in benefit amount.

7. **Do I need to declare my residency status when I retire?**
   When a member completes a retirement application, the member must also complete a Residency Status Declaration Certification form and certify if he/she will be an Oregon resident when retired.