



**PASEF**

Penn Association of  
Senior & Emeritus Faculty

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**NEW**  
**FACULTY INCOME ALLOWANCE PROGRAM**  
**(FIAP)**

**OCTOBER 24, 2023**

# Summary of “Old” FIAP

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- Ended June 30, 2023
- Eligibility age between 60 and 69
- Cash benefit =
  - 165% of academic base salary
  - or
  - 165% of average base salary in school  $\leq$  200%
- Paid in 24 equal payments upon retirement
- 20% rule

# Summary of New FIAP

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- Effective July 1, 2023
- Eligibility age window changed: 65 to 72
- Cash benefit = 200% of academic base salary
- Change in timing of payout
- 20% rule: view re post-retirement activity modified

# Rollover of New FIAP

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- Announcement September 5
- New FIAP backdated to July 1, 2023
- No prior consultation re new policy
- Changes since Sept 5

## Custom and Practice re consultation

- 1994 Task Force on Faculty Retirement
- 2005 Review on the University Tax-Deferred Retirement Plan and Retiree Medical Plan

# New FIAP - Two Options

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- Immediate FIAP - works full time and then retires
- Phased Work FIAP - works at 50% for two years and retires at the end of the two-year period

# FIAP Eligibility

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Standing faculty as defined in the faculty handbook

Satisfy the rule of 75 and 10 or more years of full-time continuous service

If you are the following age:

**Ages 60-64:** (as of June 30, 2024) can terminate any time before June 30<sup>th</sup> of the academic year you reach 72

**Ages 65-72:** can terminate on or after age 65 but before June 30<sup>th</sup> in the academic year you reach age 72

**Age 72:** must terminate employment as of June 30<sup>th</sup> in the academic year you reach age 72

# Considerations about New FIAP Payout

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## New age eligibility window

- All retirees will have qualified for Medicare
- Most retirees will likely have qualified for full Social Security (maximum is reached at age 70)
- Some retirees will be close to the required RMD

# Good News

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- FIAP can be elected as late as academic year when you attain age 72.
- FIAP payout is 200% of academic base salary.
- A new option is “phased work” -- “phased retirement” remains but cannot be combined with “phased work.”
- “Phased retirement” ending in academic year when you attain age 72 can be combined with immediate FIAP.



# Not Good News ... the Tax Bomb

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The three rules:

1. Plan ahead.
2. Begin working with your financial adviser *and* your accountant or tax attorney (“tax professional”) now.
3. Repeat rules 1 and 2.

# Assumptions

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- Elect immediate FIAP at latest date eligible (June 30 following 72<sup>nd</sup> birthday).
- Birthdate is July-December, hence age 73 attained at time of retirement.
- Spouse has no income or files separate tax return.

# Tax Bomb #1: Social Security

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- You must take social security benefits no later than age 70.
- 85% of gross (not net) social security benefits are taxable as ordinary income. (PA, however, does not tax social security or pensions.)

## Tax Bomb #2: RMDs

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- RMD = required minimum annual distribution from **each** of your retirement accounts.
- You must begin taking RMDs no later than 12/31 of the year in which you attain age 73. There is one exception—see below.
- Many will have multiple retirement accounts—look carefully at your TIAA statement. **Each** account needs enough free cash for the RMD. Have your financial adviser work with TIAA well in advance to confirm that sufficient cash will be available in each account no later than 12/31. Don't wait until the last minute to do this—TIAA staff are very busy toward the end of the calendar year.

## Tax Bomb #3: FIAP

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- The immediate FIAP lump-sum payout is taxable as ordinary income when paid shortly after your retirement date.
- OGC informs us that the payout cannot be distributed over 24 months as under the old FIAP.

Under the scenario sketched here, you will be liable for taxes on the following upon retirement:

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- 50% of your Penn salary (since you are working full-time through June 30), plus
- Social Security, plus
- RMDs from retirement accounts, plus
- FIAP lump-sum payment
- In other words: ***250% of your Penn salary plus social security and RMDs.***

# Assuming phased-work rather than immediate FIAP, you will be liable for taxes on the following:

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## Upon retirement:

- 50% of your Penn salary (since you paid 100% through June 30), plus
- Social Security, plus
- RMDs from retirement accounts
- In other words: ***50% of your Penn salary plus social security and RMDs.***

## In the calendar year following retirement:

***100% of your Penn salary plus social security and RMDs*** since the FIAP payout occurs in the calendar year following retirement.

# Workarounds

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PASEF does not offer tax advice. We advise you strongly to work with your financial planner and tax professional.

Off the record:

- Postpone initial RMD until April 15 of year following your 73<sup>rd</sup> birthday *if taking immediate FIAP*.
- Prepay charitable contributions by creating a Donor Advised Fund (easily done on Vanguard or Fidelity) and making contributions from the DAF.

Again, this is not tax advice. Work with your financial planner and tax pro ***now***.

Happy Halloween!



## “The 20% Rule”

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The IRS views FIAP as a severance payment, which means that the employee must have “separated from service”.

Treas. Reg. 1.409A-1(h)(1): “An employee is presumed to have separated from service where *the level of ... services performed decreases ... to 20 percent or less* of the ... level of services performed by the employee during the ... preceding 36-month period.

# Old FIAP Booklet

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At the time of the termination, ...

- the faculty member will stop performing all services for the University
  - or ... any services performed for the University will be significantly and permanently decreased.
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- In general, the level of services to be performed after retirement should be no more than 20% of the level of services performed before the termination or retirement.

# New FIAP Booklet

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At the time of the termination, ...

- the faculty member will stop performing all services for the University
- Before returning to work, a participant is required to obtain the approval of their Dean as well as the Provost's office.
- In general, the level of services to be performed after retirement should be no more than 20% of the level of services performed before the termination or retirement.

# What constitutes 20%

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Some examples from the 10/3/2023 revision of FIAP Booklet:

- Teaching one credit unit each year
- Working in a research position for the equivalent of no more than eight hours per week.
- Assisting with a defined special project for the equivalent of no more than eight hours per week.

“for faculty who are permitted to return to work for research or clinical activity, it must be for a limited duration, with a transitional plan in place.”

# Treasury Regulation fine print

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An employee is ***presumed to have separated from service*** where the level of ... services ... decreases ... to **20 percent or less** of the [prior] level

An employee will be ***presumed not to have separated ...*** where the level of ... services ... continues at ... **50 percent or more** of the [prior] level

*The presumption is rebuttable by demonstrating that ....*

**No *presumption* applies to a decrease ... to a level that is more than 20 percent and less than 50 percent of the [prior] level**

# Can we *plan* for part-time?

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“At the time of the termination ... , the senior faculty member and the University *anticipate that the faculty member will stop performing all services* for the University.”

## Can we plan for part-time work?

*Our* best understanding:

- For up to 20% of prior effort, *yes*.
- Employment for more than 20% but less than 40% can be approved in some cases *if due to unforeseen circumstances at the time of retirement*.
- Example from Treasury Regs: unforeseen “business circumstances such as termination of the employee's replacement caused the employee to return to employment.”

# What about continuing research?

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Faculty Handbook II.E.9 (Retirement). C(Rights and Privileges of Retired Faculty Members):

*“3. Retired faculty members may file research or travel grant applications. The consent of the relevant department chair or dean must be obtained .... Such applications shall be transmitted further only if the Vice Provost believes the project to be of significance, if there is probability of its being completed and if necessary office and laboratory space is available.”*

FIXED as of this morning!!!!

**BUT**

the 10/3/2023 revision of FIAP Booklet:

**“no new funded research activity will be approved. “**

## Vice Provost for Faculty's website

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<https://faculty.upenn.edu/faculty/retirement/>

- Faculty Income Allowance Policy Booklet
- Faculty Income Allowance Policy FAQ
- Faculty Income Allowance Policy – Changes to Booklet and FAQ since 9/5/23 announcement