

Annual Leave Buy Down Frequently Asked Questions (FAQ)

1. **Question:** *What is an Annual Leave Buy Down?*

Answer: An Annual Leave Buy Down is the term used to denote the purchase or exchange of unused accrued Annual Leave hours for cash or deferral to a 457 Deferred Compensation account.

2. **Question:** *How do I know if I qualify for an Annual Leave Buy Down?*

Answer: Refer to your specific Memorandum of Understanding (MOU) for provisions and qualifications, specifically, Article XI of the Law Enforcement Management Unit (LEMU) MOU and Article 7 of the Exempt Management, Management, Confidential, and Other Unrepresented Resolution.

3. **Question:** *Why do I need to make an election to buy down Annual Leave hours?*

Answer: All employees who are eligible to buy down Annual Leave hours are now required to make this election during the open enrollment period. The Annual Leave Buy Down Election is an irrevocable election. Whatever choice you make on the election page you cannot “opt-out” of later should you change your mind at any time during the applicable calendar year.

4. **Question:** *Why did the Annual Leave Buy Down process change?*

Answer: The Department of Treasury, Internal Revenue Service (IRS), as a general rule has determined compensation is to be included in an employee’s gross income in the year it is received, whether actually received in the form of a biweekly or supplemental check or constructively received in the form of hours earned and accrued in your Annual Leave bank. When an employee has a choice of buying down leave hours to receive cash, that income is constructively received even if the employee never actually elects a buy down of Annual Leave hours. Income is not constructively received if the employee’s control of its receipt is subject to substantial limitation or restrictions (Treas. Reg. § 1.451-2(a)). It was determined that the provisions in the County’s current MOUs and Management Resolution could be susceptible to IRS Constructive Receipt taxation rules. The process was changed to conform to IRS tax code. By placing substantial limitations or restrictions, it reduces the risk of employees who have the option to cash out leave of being subject to taxation under the Constructive Receipt rule.

5. **Question:** *How do I make an election to buy down Annual Leave hours?*

Answer: To complete your election to buy down Annual Leave hours visit the Annual Leave Buy Down Election page through Employee Self-Service using the following path: Self Service > Benefits > Annual Leave Buy Down Election. You may also click the link provided during the Health Annual Open Enrollment period.

6. **Question:** *When must I submit an election to buy down Annual Leave hours?*

Answer: Your election to buy down Annual Leave hours must be submitted on-line during the Annual Open Enrollment period each year. **Elections do not carry over year-to-year.**

7. **Question:** *The 2023 Annual Open Enrollment period has concluded. Can I still make an election for an Annual Leave Buy Down for Calendar Year 2024?*

Answer: Yes, a special Enrollment period will be opened through December 31st, 2023, to allow time for employees to make their elections for Annual Leave Buy Downs occurring in Calendar Year 2024.

8. **Question:** *What happens if I do not submit an election to buy down Annual Leave hours?*

Answer: If you do not submit an on-line election during the Annual Open Enrollment period, by default you are waiving your option to buy down Annual Leave hours to receive cash in lieu of leave hours in the applicable calendar year.

9. **Question:** *What happens after I submit my election to buy down Annual Leave hours?*

Answer: After you submit your election to buy down Annual Leave hours, you may make changes to your election while the Annual Open Enrollment period is still open. Once the Annual Open Enrollment period is closed, your election is **irrevocable**. During pay periods 12 and 25 of the specified calendar year, all elections will be reviewed. This includes reconfirming your eligibility, confirming amount accrued for the specified calendar year, and processing the Annual Leave Buy down accordingly and any requests for deferrals into a 457 Deferred Compensation account.

10. **Question:** *Can I buy down Annual Leave hours I have earned in previous calendar years?*

Answer: No, employees are unable to buy down Annual Leave hours earned in previous calendar years.

11. **Question:** *If I am no longer able to buy down Annual Leave hours I have earned in previous calendar years, what happens to those hours?*

Answer: Annual Leave hours earned (accrued) are still your hours earned and will remain in your bank until they are used for vacation, leave, or cashed out to you upon separation from the County.

12. **Question:** *If I am at the maximum accrual for my Annual Leave bank per the MOU/Resolution, can I still elect an Annual Leave Buy Down?*

Answer: You may still elect an Annual Leave Buy Down, however, it may be voided in whole or in part if you do not have sufficient accruals earned at the time the Annual Leave Buy Down is paid out, since only hours you accrue during the year the Annual Leave Buy Down is occurring are eligible to be cashed out. Employees at or near their Annual Leave cap may need to use Annual Leave hours to ensure sufficient room in their Annual Leave bank to accrue enough hours to cover their election.

13. **Question:** *During the Annual Open Enrollment period, I elected to buy down Annual Leave hours. However, now I need those hours to coordinate my leave for a medical or family emergency. May I opt out of my original election?*

Answer: There are no provisions in the governing MOU or Management Resolution to allow an employee to opt out of their initial election. It is important to make your choice carefully.

14. **Question:** *If I am not allowed to opt out of my original election, what happens to my election when the Annual Leave Buy Downs are processed in pay period 12 or 25 of the applicable calendar year if I no longer have sufficient leave balances available?*

Answer: Any hours remaining in the employee's leave bank when Annual Leave Buy Downs are processed in pay period 12 or 25 of the applicable calendar year will be cashed out to the number of hours the employee elected (subject to year to date earned). For example, if the employee elected to buy down 80 hours of Annual Leave but only had 10 hours remaining in the leave bank at time of processing the buy down due to a coordination of benefits, the 10 hours remaining in the employee's Annual Leave bank will be processed and taxed accordingly.

15. **Question:** *At the time I made my Annual Leave Buy Down election, I was a member of one bargaining unit. During the time of cash out, I am now in a different bargaining unit. What happens to my election?*

Answer: At the time of cash out, if you are in a classification that accrues Annual Leave regardless of if you changed bargaining unit, your election will be processed accordingly. If you are no longer in a classification that accrues Annual Leave, your election will be considered void and will not be processed.

16. **Question:** *At the time I made my Annual Leave Buy Down election, I was an active employee. Now, I will be separating from the County prior to pay period 12 or 25 of the applicable calendar year. What happens to my election?*

Answer: If you separate from the County prior to the time of cash out, your Annual Leave Buy Down election will be considered void, and your Annual Leave balance will be disbursed in accordance with the applicable MOU/Resolution.