

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amended at ARRS Committee)

105 KAR 1:150. Installment purchase procedures.

RELATES TO: KRS 16.560, 16.645(19), 61.552(9), 61.575, 78.545(7), 78.640, 26 U.S.C. 414(h), 415, 38 U.S.C. 43

STATUTORY AUTHORITY: KRS 16.645, 61.505(1)(g), 61.552(9), 78.545

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 16.645, 61.552(9), and 78.545 permit an employee participating in the Kentucky Retirement Systems or the County Employees Retirement System to purchase service credit by payroll deducted installments. This administrative regulation establishes the process and forms related to this option, and provides for the preservation of installment purchases for military personnel called into service.

Section 1. Definitions.

- (1) "Amortization schedule" means a table of installment payments for the entirety of the repayment period that includes each month's interest, principal, and remaining balance.
- (2) "Omitted service" is defined by KRS 61.552.
- (3) "Recontribution of a refund" is defined by KRS 61.552.
- (4) "Remit" means to make payment to the agency through the normal State Treasurer Office process.
- (5) "Termination date" means the date on which the member has ceased or will cease his or her employment with the participating employer.

Section 2. Eligibility for installment payment plan.

- (1) An employee may purchase or regain service credit by making installment payments in lieu of a lump-sum pursuant to KRS 16.645, 61.552(9)(a)2., and 78.545.
- (2) Installment payment plans shall be allowed for participating employees of a participating employer if:
 - (a) The employee has complied with all requirements to purchase service credit pursuant to 105 KAR 1:130 and 1:260;
 - (b) One (1) year of installment payments shall be made for each \$1,000 or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years;
 - (c) The agency has provided notification to the employee that he or she is eligible to purchase or regain service by installment payments; and
 - (d) The employer certifies its agreement to deduct and remit installment payments on all participating employees by submitting to the agency a completed Form 7280, "Employer Certification for Installment Purchase of Service," incorporated by reference in 105 KAR 1:120.
- (3) The agency may refuse to allow new installment purchase agreements for employees of an employer that has previously failed to deduct and remit installment payments for other employees pursuant to administration regulations established in KAR Title 105.
- (4)

(a) Multiple service purchases may be combined under a single installment purchase, except that an employee shall not make more than one (1) installment purchase at the same time; and

(b) Once multiple service purchases have been combined in an installment purchase, the employee shall not separate the purchases or pay a portion of one (1) of the purchases even if the installment payment plan ceases.

Section 3. Calculation and Selection.

(1) The agency shall:

(a) Calculate the monthly installment payment necessary to pay the cost of the service being purchased pursuant to KRS 16.645, 61.552(9)(c)1., and 78.545; and

(b) Provide the calculations and monthly payment options to the employee on a:

1. After Tax Installment Purchase of Service Agreement pursuant to KRS 61.645, 61.552(9)(a)2.b., and 78.545, and shall not exceed the limitations for annual additional contributions established in 26 U.S.C. 415; and

2. Before Tax Installment Purchase of Service Agreement pursuant to KRS 16.645, 61.552 (9)(a)2.a, and 78.545.

(2) The employee shall choose, complete, and file his or her selected payment option on the applicable installment agreement.

(3) Installment payments shall be established in accordance with KRS 16.645, 61.552(9)(c)5, and 78.545.

Section 4. Administration of the Installment Purchase of Service Agreement.

(1) Upon receipt of a valid After Tax Installment Purchase of Service Agreement or Before Tax Installment Purchase of Service Agreement, the agency shall provide the employee with an amortization schedule.

(2) After receipt of any down payment by transfer or rollover from a qualified retirement plan or deferred compensation arrangement pursuant to Section 7 of this administrative regulation, if applicable, the agency shall notify the employee and employer of the:

(a) Amount of the monthly installment payments;

(b) Total installment payments; and

(c) Dates the installment payments shall begin and shall end.

(3) The agency shall reject an Installment Purchase of Service Agreement and shall calculate a new cost of the purchase if the employee:

(a) Does not file a valid Installment Purchase of Service Agreement by the deadline for purchase of the service credit;

(b) Fails to fully and properly complete and sign the Installment Purchase of Service Agreement;

(c) Indicates that a down payment is to be made, but the employee does not pay the down payment pursuant to Section 7 of this administrative regulation; or

(d) Fails to file a corrected valid Installment Purchase of Service Agreement by the end of the thirtieth (30th) calendar day from a recalculation of the cost to purchase.

(4) If the agency rejects an Installment Purchase of Service Agreement pursuant to subsection (3) of this section, any down payment shall be refunded to the member or, if rollover or transfer, returned to the qualified retirement plan or deferred compensation arrangement.

Section 5. After Tax Installment Purchase of Service Agreement.

(1) The employer shall be solely responsible for withholding sufficient amounts through payroll reduction from the employee to allow the payment of After Tax Installment Purchase of Service Agreement installments.

(2) If the employee is not employed twelve (12) months each fiscal year, the employer shall withhold sufficient funds from the employee's wages to allow the employer to remit

the required reductions with the employer's contribution reports during any months in which the employee is not paid.

(3)

(a) The employee shall notify the agency in writing if he or she desires to terminate the agreement.

(b) Upon receipt of the notice from the employee, the agency shall notify the employee and employer of the date to stop reductions.

(c) Payments made prior to cancellation shall be credited in accordance with Section 8(2) of this administrative regulation. Any payment amount remaining that does not purchase a full month of service credit shall be refunded.

(4) The employee may request a payoff amount for the After Tax Installment Purchase of Service Agreement and shall have until the end of the sixtieth (60th) calendar day from the payoff date, requested by the employee and agreed to by the agency, to pay the installment agreement in full by lump sum payment, but the payoff shall be made prior to the effective date of retirement to add one or more service purchases if they are otherwise qualified to do so.

(5) The employee may have the installment agreement recalculated to add one (1) or more service purchases if he or she is otherwise qualified to do so.

(6) The employee shall not receive a return of the payroll reductions pursuant to this administrative regulation except pursuant to the normal disbursement procedures for a member's accumulated contributions or accumulated account balance under KRS 61.575 and 78.640.

(7) The After Tax Installment Purchase of Service Agreement shall be void if the employer fails to remit installment payments in accordance with Section 8(1) of this administrative regulation for sixty (60) calendar days. The employee may request a:

(a) Payoff pursuant to subsection (4) of this section; or

(b) New installment agreement for the balance if they are otherwise qualified to do so.

Section 6. Before Tax Installment Purchase of Service Agreement.

(1)

(a) A valid Before Tax Installment Purchase of Service Agreement including all specified payroll reduction authorizations, amounts, and deductions, shall be an irrevocable, binding agreement if properly and fully completed and signed by the employee, authorized by the employer, and accepted by the agency.

(b) Once the employee enters into the irrevocable agreement:

1. Prepayments shall not be accepted for the purchase of service credit that is subject to the installment purchase agreement; and

2. The employee shall not receive the payroll reduction or installment payment directly instead of having it contributed to the systems.

(c) For the purposes of this section, after-tax contributions shall only be received to the extent allowed by 26 U.S.C. 415.

(d) Payroll reductions shall cease only after the installment purchase agreement has expired by its terms or upon:

1.

a. The employee's death if the employee's beneficiary pays the remaining amount owed by lump sum payment using after-tax dollars by the end of the sixtieth (60th) calendar day from the employee's date of death.

b. If the balance is not paid, the beneficiary shall receive credit for each one (1) month period of service credit purchased. The beneficiary shall receive any installment payment that had already been made when the employee's death occurred, and that was not used to purchase a one (1) month period of service credit pursuant to the normal disbursement procedures for a member's

accumulated contributions or accumulate account balance pursuant to KRS 61.575 and 78.640; or

2.

a. Termination of the member's employment if the member pays the remaining amount owed by lump sum payment by the end of the sixtieth (60th) calendar day from the member's termination date but prior to the member's effective retirement date.

b. If the balance is not paid, the member shall only be entitled to receive credit for each one (1) month period of service credit actually purchased. The member shall receive any contributions that were not used to purchase one (1) month period of service credit pursuant to the normal disbursement procedures for the member's accumulated contributions or accumulated account balance pursuant to KRS 61.575 and 78.640.

(2)

(a) If a valid Before Tax Installment Purchase of Service Agreement is on file, the monthly reductions for installment payments shall be:

1. Through employer pick-up contributions established in 26 U.S.C. 414(h)(2); and
2. Remitted to the agency from the same funding source used to pay earnings to employees.

(b)

1. The employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees;
2. Although designated as employee contributions, the contributions shall be paid by the employer in lieu of contributions by the employee; and
3. The pick-up shall:
 - a. Not commence earlier than the month after the authorization is signed; and
 - b. Only be applicable to contributions to the extent that the compensation that is reduced for the contributions is limited to compensation earned for services after the effective date of the pick-up.

(3) Employee contributions picked up pursuant to this section shall:

- (a) Be treated as tax-deferred employer pick-up contributions pursuant to 26 U.S.C. 414(h);
- (b) Not be included in the gross income of the employee until they are distributed or made available pursuant to 26 U.S.C. 414(h);
- (c) Not have federal income taxes withheld;
- (d) Be remitted to the agency in accordance with Section 8 of this administrative regulation; and
- (e) Be credited to the employee's account and treated, for all other purposes, as if the amount were part of the employee's annual compensation.

Section 7. Down Payment.

(1) A down payment shall be made by:

- (a) Completing and filing a valid Form 4170, "Direct Transfer/Rollover Authorization Form", incorporated by reference in 105 KAR 1:330, for the amount of the down payment; or
- (b) Personal check if the service purchase is for:
 1. Recontribution of a refund as defined by Section 1 of this administrative regulation;
 2. Omitted service as defined by Section 1 of this administrative regulation; or
 3. Grandfathered service as defined by 105 KAR 1:001.

(2) The down payment shall be made no later than the end of due date indicated on the Installment Purchase of Service Agreement.

Section 8. Remission of Installment Payments and Service Credit.

- (1) The employer shall remit installment payments to the agency:
 - (a) As required by the Installment Purchase of Service Agreement; and
 - (b) In conjunction with the employer's contribution report as established in 105 KAR 1:140.
- (2) The amount required to purchase one (1) month of service credit shall be calculated by dividing the total of the installment payments due under the agreement by the number of months of service credit being purchased. Upon receipt of installment payments equal to this amount, the agency shall credit one (1) month of service credit to the member's account.
- (3) On the end date of the Installment Purchase of Service Agreement:
 - (a) The agreement shall be terminated;
 - (b) Any payments received shall be credited for service; and
 - (c) Any payment amount remaining that does not purchase a full month of service credit shall be refunded.

Section 9. Suspension of Installment Purchase of Service Agreement Due to Military Service.

- (1) The employer shall advise the agency in writing or by appropriate personnel action that the employee is on active military duty, and the employee's installment purchase agreement shall be suspended during the period of military duty for which the employee does not receive creditable compensation from the employer.
- (2) When an employee who did not receive creditable compensation during military leave returns to employment, the employee's installment purchase agreement shall not be recalculated and the employer shall resume remitting the remaining reductions unless the employee terminates or pays the balance of his or her After Tax Installment Purchase of Service Agreement pursuant to Section 5 of this administrative regulation.

Section 10. Suspension of Installment Purchase Service Agreement Due To Sick Leave Without Pay.

- (1) The employer shall notify the agency in writing or by appropriate personnel action that the employee is on sick leave without pay, and the installment purchase agreement shall be suspended during the period of sick leave without pay.
- (2) Upon return to the employer from the period of sick leave without pay, the employee's installment purchase agreement shall not be recalculated. The employer shall resume remitting the remaining reductions unless the employee terminates or pays the balance of his or her After Tax Installment Purchase Service Agreement pursuant to Section 5 of this administrative regulation.

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