

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)~~[61.373, 61.377, 61.552(14), 61.552(24)]~~, 61.575, 78.545(7), 78.640~~[78.545(34)]~~, 26 U.S.C. 414(h), 415~~[, 29 U.S.C. 28]~~, 38 U.S.C. 43

STATUTORY AUTHORITY: KRS 16.645, 61.505(1)(g), 61.552(9), 78.545~~[61.552(14), (24), 61.645(9)(c)]~~

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)~~[61.645(9)U(c)]~~ authorizes the Kentucky Public Pensions Authority on behalf~~[Board of Trustees]~~ of Kentucky Retirement Systems and County Employees Retirement System to promulgate~~[all]~~ administrative regulations that are consistent with and necessary or proper~~[in order]~~ to carry out the provisions of KRS 16.505 to 16.652, 61.505~~[61.515]~~ to 61.705, and 78.510~~[16.510 to 16.652, and 78.520]~~ to 78.852. KRS 16.645, 61.552(9), and 78.545 permit~~[61.552(14) and 61.552(24) permits]~~ 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 ~~ff~~" 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* ~~[their]~~ employment with *the* ~~[their]~~ 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~~[the]~~ 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* ~~[they are]~~ eligible to purchase or regain service by installment payments; and
 - (d) The employer certifies ~~[an agency that has certified]~~ its agreement to deduct and remit installment payments on all participating employees by submitting to the agency a completed~~[participating in the Kentucky Retirement Systems. The certification shall be made on the~~ ~~[Form]~~ Form 7280, "Employer Certification for Installment Purchase of

Service," incorporated by reference in 105 KAR 1:120~~[provided by the retirement system]~~.

(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. [Section 2.] Calculation and Selection.

(1) The agency~~[retirement system]~~ shall:

(a) Calculate ~~[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* ~~[their]~~ selected payment option on the applicable installment agreement.

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

~~[(2)] [The employee may select a payment period of not less than one (1) year and not more than five (5) years in accordance with KRS 61.552(14)(e).]~~

~~[(3)] [The retirement system shall provide to the employee a "Form 5708, After Tax Installment Service Agreement" and a "Form 5709, Before Tax Installment Purchase of Service Agreement." The employee shall complete and return to the retirement systems only one (1), but not both, of either the Form 5708, After Tax Installment Purchase of Service Agreement or the Form 5709, Before Tax Installment Purchase of Service Agreement. An employee shall not enter into more than one (1) installment purchase of service agreement at any given time.]~~

~~[(4)] [The agreement shall contain a space for selecting the payment option and an authorization for withholding the installment payments.]~~

~~[(5)] [The agreement shall provide a space for the employee to indicate the amount of any down payment to be made by the employee, whether by personal check or rollover or transfer of funds from a qualified retirement plan or deferred compensation arrangement.]~~

~~[(6)] [The monthly payment options offered to the employee on the Form 5708 After Tax Installment Purchase of Service Agreement shall not exceed the limitations for annual additional contributions in 26 U.S.C. 415].~~

Section 4. [Section 3.] Administration of the Installment Purchase of Service Agreement.

(1) Upon receipt of a valid~~[the completed and signed Form 5708,]~~ After Tax Installment Purchase of Service Agreement or~~[the Form 5709,]~~ Before Tax Installment Purchase of Service Agreement, the agency~~[retirement system]~~ shall provide the employee with an amortization schedule~~[notify the employee and employer of the amount of the installment payment, the date the payments shall begin, the date the payments shall end, and the total payments]~~.

(2) After receipt of any ~~[If the employee is making a]~~ 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~~[retirement system]~~ shall notify the employee and employer of the:

(a) Amount ~~[amount]~~ of the monthly installment payments;

(b) Total installment payments; and

(c) Dates the installment payments shall begin and shall end ~~[following receipt of the transferred or rolled over funds.]~~

~~[(3)] [An amortization schedule shall be sent to the employee].~~

(3) ~~[(4)]~~ The agency shall reject an~~[Form 5708, After Tax]~~ Installment Purchase of Service Agreement~~[or the Form 5709, Before Tax Installment Purchase of Service Agreement shall be rejected]~~ and shall calculate a new~~[calculation of the]~~ cost of the purchase~~[shall be performed]~~ if the employee:

(a) Does not file a valid ~~[The Form 5708, After Tax]~~ Installment Purchase of Service Agreement~~[or the Form 5709, Before Tax Installment Purchase of Service Agreement is not filed at the retirement systems]~~ by the deadline for purchase of the service credit;

(b) Fails ~~[The employee fails]~~ to fully and properly complete and sign the~~[Form 5708, After Tax]~~ Installment Purchase of Service Agreement~~[or the Form 5709, Before Tax Installment Purchase of Service Agreement]~~;

(c) Indicates ~~[The employee 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~~[include the check or proof of eligibility to rollover or transfer funds from a qualified retirement plan or deferred compensation arrangement with the Form 5708, After Tax Installment Purchase of Service Agreement or Form 5709, Before Tax Installment Purchase of Service Agreement by the deadline for purchase of the service credit];~~ or

(d) Fails ~~[The employee fails]~~ to file a corrected valid Installment Purchase of Service Agreement by the end of the thirtieth (30th) calendar day from~~[Installment Purchase of Service Agreement within thirty (30) days of]~~ a recalculation of the cost to purchase.

(4) ~~[(5)]~~ If the agency rejects an~~[Form 5708, After Tax]~~ Installment Purchase of Service Agreement~~[or Form 5709]~~ pursuant to~~[, Before Tax Installment Purchase of Service is rejected under]~~ subsection ~~(3)~~~~[(4)]~~ 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. [Section 4.] After Tax Installment Purchase of Service Agreement.

(1) The employer shall~~[remit the installments to the retirement system as required by the agreement, but 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~~[the]~~ installments.

(2) ~~[The installments shall be remitted to the retirement systems only with the employer's contribution report.]~~ If the employee is not employed twelve (12) months each fiscal year, the employer~~[agency]~~ shall withhold sufficient funds from the employee's wages to allow the employer~~[agency]~~ to remit the required reductions~~[deductions]~~ with the employer's contribution reports during any months in which the employee is not paid.

(3)

(a) The ~~[retirement system shall not accept personal checks from the employee as payment for these deductions.]~~

[Section 5.]

~~[(1)] [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.]

~~[(2)] [Upon receipt of installment payments equal to this amount, the retirement system shall credit one (1) month of service credit to the member's account.]~~

~~[Section 6.]~~

~~[(1)] [The]employee shall notify the agency[retirement system] in writing if *he or she desires[they desire]/he desires* to terminate the agreement[Form 5708, After Tax Installment Purchase of Service Agreement].~~

~~(b) Upon receipt of the notice from the employee, the agency[retirement system] shall notify the employee and[his] employer of the date to stop reductions[deductions].~~

~~(c) Payments made prior to cancellation shall ~~will~~ 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) ~~[(2)]~~ The employee may request a payoff amount for the[Form 5708.] After Tax Installment Purchase of Service Agreement and[. The employee] shall have until the end of the sixtieth (60th) calendar day[sixty (60) days] from the payoff date, requested by the employee and agreed to by the agency[retirement system], to pay the installment agreement in full by lump sum payment, but the payoff shall be made prior to the effective date of retirement[. At the end of the due date of the contract, the contract shall be terminated and any payment received shall be credited for service, and any payment amount remaining that will not purchase the next month of service shall be refunded.] 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 ~~they are~~* 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

~~[(3)] [The Form 5709,] 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[retirement systems].~~

~~(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 *which*~~ had already been made when the employee's death occurred, and ~~that was *which were*~~ 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 *it*~~

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 *which*~~ 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 *which*~~ 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 [The retirement system may refuse to allow new installment agreements for employees of an agency which fails to deduct and remit the installment payments in accordance with Sections 1 through 10 of this administrative regulation].

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 [If an employee leaves a position to perform military duty as provided in KRS 61.377, the] employer shall advise the agency[retirement system] 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 [Upon return to employment as provided in KRS 61.373], the employee's installment purchase agreement shall not be recalculated and the employer shall resume remitting the remaining reductions[deductions] unless the employee terminates or pays the balance of his or her[their]. After Tax Installment Purchase of Service Agreement pursuant to Section 5[the installment agreement as provided in Section 6] of this administrative regulation.

Section 10. ~~[Section 9.]~~ Suspension of Installment Purchase Service Agreement Due To Sick Leave Without Pay.

(1) The employer shall notify the agency[advise the retirement system] in writing or by appropriate personnel action that the employee is on sick leave without pay, and the installment purchase agreement[of an employee placed on sick leave without pay] 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[deductions] unless the employee terminates or pays

the balance of ~~his or her~~*their* After Tax Installment Purchase Service Agreement pursuant to Section 5~~[the installment agreement as provided in Section 6]~~ of this administrative regulation.

[Section 10.]

~~[(1)] [KRS 61.552(14) allows a member to purchase and reinstate credit under any of the provisions of KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 in the retirement systems administered by the Kentucky Retirement Systems by making installment payments in lieu of a lump-sum payment by establishing an irrevocable employer pick-up of member contributions as described by 26 U.S.C. 414(h)(2).]~~

~~[(2)] [The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest compounded annually at the actuarial rate in effect when the member elects to make the purchase shall be added for the period that the installments are to be made. 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. Multiple service purchases shall be combined under a single installment purchase; however, an employee shall not make more than one (1) installment purchase at the same time. 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.]~~

~~[(3)] [The employer shall pay the installments by payroll reduction. Upon notification by the retirement systems, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employer contributions as provided in 105 KAR 1:140, Section 1(1). The employer shall pay the monthly reductions the employee elects to have applied to purchase service credit through pick-up contributions. The payroll reductions shall be paid to the Kentucky Retirement Systems through the normal State Treasurer Office remittance process, from the same source of funds that is used in paying earnings to the employees. The employer shall pick-up these contributions by a corresponding reduction in the cash salary of the employees. These contributions, although designated as employee contributions, shall be paid by the employer in lieu of contributions by the employee.]~~

~~[(4)] [An employee may elect to pay all or part of any contribution to purchase or reinstate service credit. An employee's election to purchase or reinstate service credit through pick-up contributions shall be pursuant to an irrevocable, binding written authorization on a Form 5709, Before Tax Installment Purchase of Service Agreement, which specifies the amount of the monthly payroll reductions and the period over which the payroll reductions shall be made. The pick-up shall not commence earlier than the month after the authorization is signed. The pick-up shall only be applicable to contributions to the extent the compensation which is reduced for the contributions is limited to compensation earned for services after the effective date of the pick-up. Once the employee enters into the irrevocable agreement, prepayments shall not be accepted for the purchase of the service that is subject to the irrevocable authorization, and the employee shall not receive the contributions directly instead of having the contributions contributed to the retirement system. However, an employee shall not be prevented from paying any amounts not covered by the authorization with after-tax dollars, subject to any applicable statutes and rules. An employee shall not have at any given time more than one (1) irrevocable reduction authorization.]~~

~~[(5)] [Contributions picked up as provided by subsection (4) of this section shall be treated as tax-deferred employer pick-up contributions pursuant to 26 U.S.C. 414(h). Based upon the Internal Revenue Service ruling that pursuant to 26 U.S.C. 414(h) these~~

~~picked up contributions are not includable in the gross income of the employee until such time as they are distributed or made available, each employer shall not withhold federal income taxes on these picked up contributions.]~~

~~[(6)] [Employee contributions picked up as provided by subsection (4) of this section shall be transmitted to the retirement systems and shall be credited to the employee's account and treated, for all other purposes, as if the amount were a part of the employee's annual compensation.]~~

~~[(7)] [All payroll reduction authorizations, including the amounts and duration specified, shall be binding and irrevocable upon the employee's execution of a Form 5709, Before Tax Installment Purchase of Service Agreement. These reductions shall cease only after the authorization has expired by its terms or upon any of the following events:]~~

~~[(a)] [The employee's death. If the death of an employee occurs, the employee's beneficiary shall have the option of paying the remaining amount owed by lump sum payment, using after-tax dollars, within sixty (60) days of the employee's death. If the balance is not paid, the beneficiary shall be entitled to receive credit for each one (1) month period of service purchased. The beneficiary shall receive any contributions of the employee which had already been made when the employee's death occurred and which were not used to purchase a one (1) month period of service credit only pursuant to the normal disbursement procedures for a member's accumulated contributions under KRS 61.575.]~~

~~[(b)] [The termination of the member's employment. If the member's employment is terminated, the member shall have the right to pay the remaining amount owed by lump sum payment on or within sixty (60) days of the member's termination of employment, but prior to the effective retirement date of the member. If the balance is not paid, the member shall be entitled to receive credit only for each one (1) month period of service actually purchased. The member shall receive any contributions which were not used to purchase one (1) month period of service credit pursuant to the normal disbursement procedures for a member's accumulated contributions under KRS 61.575.]~~

~~[(c)] [For purposes of subsection (7)(a) and (b) of this section, after-tax contributions shall only be received to the extent allowed by 26 U.S.C. 415.]~~

~~[(8)] [If the employee is on military leave or sick leave without pay, the installment purchase shall cease and shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.]~~

~~[(9)] [The employee shall not receive a return of the payroll reductions made under Sections 1 through 10 of this administrative regulation, except pursuant to the normal disbursement procedures for a member's accumulated contributions under KRS 61.575.]~~

~~[(10)] [Payroll reductions under this section shall not last longer than five (5) years.]~~

~~[(11)] [The retirement systems shall begin accepting before tax payroll reduction agreements from employees in February 2003. The earliest effective date for receipt of before tax contributions from employers shall be those payroll reports due in March 2003. An employee who has a current post-tax installment purchase of service agreement in place as of January 31, 2003 may terminate this purchase and make an election under this section to convert the installment purchase of service agreement to an irrevocable pretax employer pick up of contributions before December 31, 2003.]~~

~~[Section 11.] [Incorporation by Reference.]~~

~~[(1)] [The following material is incorporated by reference:]~~

~~[(a)] ["Form 7280, Employer Certification for Installment Purchase of Service, November 2002," Kentucky Retirement Systems;]~~

~~[(b)] ["Form 5708, After Tax Installment Purchase of Service Agreement, June 2003," Kentucky Retirement Systems; and]~~

~~[(c)] ["Form 5709, Before Tax Installment Purchase of Service Agreement, January 2003," Kentucky Retirement Systems.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

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