

KENTUCKY PUBLIC PENSION AUTHORITY
Accounts, Financials, and Federal Taxation
(Amendment)

105 KAR 2:430. General compliance with federal tax laws.

RELATES TO: KRS 16.505-16.652, 61.510-61.705, 78.510-78.852, 26 U.S.C. 134, 401(a)(7), (8), (25), 414(d),(p),(u), 503(b)

STATUTORY AUTHORITY: KRS 61.505(1)(g), 61.645(9)(e), 78.782(9)(d)

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 61.645(9)(e) and 78.782(9)(d) require the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to conform with federal statutes and regulations and meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

Section 1. Compliance with 26 U.S.C. 401(a)(7) and 401(a)(8) for Vesting and Forfeitures.

- (1) A plan member shall be 100 percent vested in the member's accumulated contributions at all times.
- (2) In conformity with 26 U.S.C. 401(a)(8), any forfeitures of benefits by members or former members of the plan shall:
 - (a) Not be used to pay benefit increases; and
 - (b) Be used to reduce employer contributions.
- (3) Upon termination or partial termination of an affected retirement system, or the complete discontinuance of contributions, a member shall have a nonforfeitable interest in their accrued benefit to the extent funded except as provided by KRS 16.652, 61.692, and 78.852.

Section 2. Compliance with 26 U.S.C. 414(p) for Qualified Domestic Relations Orders. If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in 26 U.S.C. 414(p), then the agency shall follow the applicable requirements of 26 U.S.C. 414(p).

Section 3. Compliance with 26 U.S.C. 134, 401(a)(37), and 414(u) for Reemployed Veterans.

- (1) Effective December 12, 1994, notwithstanding any other provision of the retirement system law; contributions, benefits, and service credit with respect to qualified military service shall be governed by 26 U.S.C. 414(u), the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Heroes Earnings Assistance and Relief Tax Act of 2008.
- (2) For deaths on or after January 1, 2007 that occur while a member is performing qualified military service as defined by 38 U.S.C. 43, to the extent required by 26 U.S.C. 401(a)(37), survivors of a member in a state or local retirement or pension system shall be entitled to any additional benefits that the system would provide if the member had resumed employment and then died, including accelerated vesting or survivor benefits

that are contingent on the member's qualified military service shall be counted for vesting purposes.

(3) Beginning January 1, 2009, to the extent required by 26 U.S.C. 414(u)(12), an individual receiving differential wage payments as defined in 26 U.S.C. 3401(h)(2) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under 26 U.S.C. 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 4. Compliance with 26 U.S.C. 503(b) for Prohibited Transactions. Effective as of July 1, 1989, the board shall not engage in a transaction prohibited by 26 U.S.C. 503(b).

Section 5. Compliance with 26 U.S.C. 401(a)(25) for Actuarial Assumptions.

(1) Kentucky Public Pensions Authority shall determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the board by rule; and

(2) Benefits established in this section shall not be subject to employer discretion.

Section 6.

(1) In addition to any other vesting provisions under state law, except as provided in KRS 61.535 and 78.540, the normal retirement benefit of a member with nonhazardous service in the Kentucky Employees Retirement System or the County Employees Retirement System shall be nonforfeitable upon the later of:

(a) Attaining the normal retirement age of age sixty-five (65) years;

(b) For a member whose membership date is on or before August 31, 2008, the completion of four (4) years of service; or

(c) For a member whose membership date is on or after September 1, 2008, five (5) years of service earned pursuant to KRS 16.543(1), 61.543(1), or 78.615(1).

(2) In addition to any other vesting provisions under state law, except as provided in KRS 61.535 and 78.540, the normal retirement benefit of a member of the State Police Retirement System and a member with hazardous service in the Kentucky Employees Retirement System or the County Employees Retirement System shall be nonforfeitable upon the later of:

(a) For a member whose membership date is on or before August 31, 2008:

1. Attaining the normal retirement age of fifty-five (55) years; or

2. The completion of five (5) years of service; or

(b) For a member whose membership date is on or after September 1, 2008:

1. Attaining the normal retirement age of sixty (60) years; or

2. The completion of five (5) years of service earned pursuant to KRS 16.543(1), 61.543(1), or 78.615(1).

(105 KAR 001:430. 35 Ky.R. 980; 1730; eff. 2-6-2009; 39 Ky.R. 74; 753; 10-24-2012; Crt eff. 6-28-2019; Crt eff. 6-12-2026; 52 Ky.R. 1393; eff. 8-4-2026; Recodified to 105 KAR 002:430; eff. 8-5-2026.)