

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 2:270. Federal tax withholding or direct rollover of eligible distributions.

RELATES TO: KRS 16.505, 16.578, 16.601, 16.645, 61.505(1)(g), 61.510, 61.542, 61.621, 61.625, 61.635, 61.640, 61.685, 61.690, 61.705, 78.510, 78.545, 78.5534, 78.5538, 395.455, 26 U.S.C. 72(t), 401(a), 402, 3405

STATUTORY AUTHORITY: KRS 61.505(1)(g)

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 to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852. 26 U.S.C. 402 establishes the federal taxation requirements regarding direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. 26 U.S.C. 3405 establishes requirements for federal tax withholding for periodic payments and distributions. This administrative regulation establishes the procedure for informing affected members, beneficiaries, and alternate payees of their rights with regard to federal taxation rules and provides forms for members, beneficiaries, and alternate payees to indicate their preference for federal tax withholding or direct rollover of eligible distributions. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relations order if the alternate payee does not file the form required for federal income tax purposes within a reasonable time, and a procedure if an alternate payee cannot be located.

Section 1. Definitions.

(1) ~~["Beneficiary" means:]~~

~~[(a)] [A person designated by the member in accordance with KRS 61.542 and 78.545 to receive any available benefits in the event of the member's death; or]~~

~~[(b)] [A person to whom the member's assets are ordered to be transferred pursuant to KRS 395.455.]~~

~~[(2)]~~ "Death benefit beneficiary" means:

(a) A beneficiary~~[person]~~ designated by the retired member pursuant to~~[in accordance with]~~ KRS 61.705 and 78.5538 to receive the \$5,000 death benefit in the event of the retired member's death; or

(b) A person to whom the member's assets are ordered to be transferred pursuant to KRS 395.455.

(2) ~~[(3)]~~ "Eligible beneficiary" means a person who:

(a) Meets the eligibility qualifications for in-line-of-duty death benefits pursuant to~~[as provided by]~~ KRS 16.601(1)-(3) and 78.5534(1)-(3) or duty-related death benefits pursuant to~~[as provided by]~~ KRS 61.621(3) and 78.545; and

(b) Elects, or has a parent or guardian elect~~[who elects]~~ on his or her behalf, the payment option for benefits that includes the one-time payment of \$10,000 pursuant to~~[in accordance with]~~:

1. KRS 16.601(1)(b) or (3) and 78.5534(1)(b) or (3); or
2. KRS 61.621(3)(b) and 78.545.

Section 2. Application for Refund of Accumulated Account Balance.

(1)

- (a) To apply for ~~a refund of~~ an accumulated account balance refund in accordance with KRS 61.625 and 78.545, a member shall complete and file a valid Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, incorporated by reference in 105 KAR 1:170, selecting the option for payment.
- (b) If the member intends to have the funds from the refund of an accumulated account balance rolled over directly into an IRA or other qualified plan, the member shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 4525~~[- Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection,]~~ certifying that the rollover will be accepted.
- (c) The employer or employers may complete the applicable portion of the Form 4525~~[- Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection,]~~ verifying termination of employment.
- (2) Upon request by the member, the agency shall provide the Form 4525~~[- Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection,]~~ and ~~a copy of~~ the special tax notice regarding payments required by 26 U.S.C. 402(f) ~~[Special Tax Notice Regarding Payments,]~~ to the member.
- (3)
- ~~[(a)]~~ The ~~[refund of the]~~ accumulated account balance refund shall not be processed:
- (a) Unless ~~[unless]~~ the member is eligible to receive a refund pursuant to KRS 61.625 and 78.545 and the valid Form 4525~~[- Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection,]~~ is filed;~~[-]~~
- (b) Earlier ~~[The refund of the accumulated account balance shall not be processed earlier]~~ than forty-five (45) calendar days from the date of the member's termination of employment with the participating employer or employers that previously employed the member;~~or[-]~~
- (c)
1. If, ~~[The member's refund of the accumulated account balance shall not be processed if]~~ within forty-five (45) calendar days of the date of the member's termination of employment with the employer or employers, the member:
- a. Reemploys ~~[The member reemploys]~~ in any position, including a full-time, part-time, seasonal, temporary, emergency, interim, probationary, or intermittent position with one (1) or more employers through which he or she has participated; or
- b. Participates ~~[The member participates]~~ in the system or systems from which his or her accumulated account balance refund has been requested.
2. A member whose accumulated account balance refund is not processed pursuant to subparagraph 1. of this paragraph may reapply for a refund in accordance with subsection (1) of this section if the member again becomes eligible for an ~~[to receive a refund of his or her]~~ accumulated account balance refund pursuant to KRS 61.625 and 78.545.
- (4) The member shall be required to repay the accumulated account balance refund to the systems in compliance with KRS 61.685(1) and 78.545 if, at the time of the member's receipt of the accumulated account balance refund, the member is:
- (a) Reemployed in any position, including a full-time, part-time, seasonal, temporary, emergency, interim, probationary, or intermittent position, with one (1) or more employers through which he or she participated; or
- (b) Participating in the system from which the accumulated account balance refund has been requested.

Section 3. Required Form for Member Selection of an Actuarial Refund Retirement Payment Option, Lump-sum Refund of the Accumulated Account Balance~~[accumulated account balance]~~, or Partial Lump-sum Retirement Payment Option.

(1) Along with each Form 6010, Estimated Retirement Allowance, incorporated by reference in 105 KAR 5:200, the agency shall provide the member with the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, incorporated by reference in 105 KAR 5:200, and the special tax notice regarding payments required by 26 U.S.C. 402(f).~~[Special Tax Notice Regarding Payments]~~.

(2)

(a) If the member files a valid Form 6010~~[Estimated Retirement Allowance]~~, on which an actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement payment option is selected, the member shall also file a valid Form 6025~~[Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, selecting the option for payment]~~.

(b) If the member intends to have the funds rolled over directly into an IRA or other qualified plan, the member shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution]~~, certifying that the rollover will be accepted.

(3) The agency shall not process payment of an actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement payment option to the member unless it has~~[the following are]~~ on file:

(a) A valid Form 6010~~[Estimated Retirement Allowance]~~ with the actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement option for payment selected; and

(b) A valid Form 6025~~[Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution]~~.

Section 4. Required Form for Beneficiary Selection of Lump-sum Payment Option or Sixty (60) Months Certain Payment Option, or if Beneficiary Eligible for Lump-sum Refund of the Accumulated Account Balance Only. This section solely establishes the forms and requirements for beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Beneficiaries subject to this section may also be subject to additional requirements pursuant to 105 KAR 3:180 and 105 KAR 3:240.

(1) Single beneficiary.

(a)

1. With~~[Along with]~~ each Form 6010, Estimated Retirement Allowance, the agency shall provide the beneficiary with the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and the special tax notice regarding payments required by 26 U.S.C. 402(f)~~[Special Tax Notice Regarding Payments]~~.

2. If the beneficiary is only eligible for a lump-sum refund of the deceased member's accumulated account balance, the agency shall provide the Form 6025~~[Direct Rollover, Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding Eligible Rollover Distribution, and the Special Tax Notice Regarding Payments]~~ to the beneficiary.

(b)

1. If the beneficiary files a valid Form 6010~~[, Estimated Retirement Allowance,]~~ on which a lump-sum actuarial refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option is selected, or if the beneficiary is only eligible for a lump-sum refund of the deceased member's accumulated account balance, the beneficiary shall also file a valid Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, selecting the option for payment].~~

2. If the beneficiary intends to have the funds rolled over directly into an IRA or other qualified plan, the beneficiary shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ certifying that the rollover will be accepted.

(c) The agency shall not process payment to the beneficiary of a lump-sum actuarial refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option unless it has~~[the following are]~~ on file a valid:

1. ~~[A valid]~~ Form 6010~~[, Estimated Retirement Allowance,]~~ with the actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement payment option selected; and
2. ~~[A valid]~~ Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution].~~

(2) Multiple beneficiaries.

(a) If~~[there are]~~ multiple beneficiaries~~[and the beneficiaries]~~ have elected a lump-sum actuarial refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option, all beneficiaries shall indicate his or her agreement~~[agree]~~ to the payment option, sign,~~[for payment selected]~~ and file a single valid Form 6010~~[, Estimated Retirement Allowance, indicating the selection agreed upon, and signed by all beneficiaries]~~. Each beneficiary shall also file a valid Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution].~~

(b) If~~[there are]~~ multiple beneficiaries~~[and the beneficiaries]~~ are only eligible for a lump-sum refund of the deceased member's accumulated account balance, each beneficiary shall file a valid Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution].~~

(c) Any beneficiary who~~[that]~~ intends to have~~[his or her portion of the]~~ funds rolled over directly into an IRA or other qualified plan shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ certifying that the rollover will be accepted.

(d) The agency shall not process payment of a lump-sum actuarial refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option to a beneficiary unless it has~~[the following are]~~ on file for all beneficiaries:

1. A single valid Form 6010~~[, Estimated Retirement Allowance,]~~ completed in accordance with paragraph (a) of this subsection, if applicable; and
2. A valid Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover~~

~~Distribution,]~~ for each beneficiary completed in accordance with paragraphs (b) and (c) of this subsection.

~~[(3)] [This section solely establishes the forms and requirements for beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Beneficiaries subject to this section may also be subject to additional requirements under 105 KAR 4:180 and 105 KAR 3:240.]~~

Section 5. Required Form for Death Benefit Beneficiaries. This section solely establishes the forms and requirements for death benefit beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Death benefit beneficiaries subject to this section may also be subject to additional requirements under 105 KAR 3:240.

(1) Upon a member's death, the agency shall provide the Form 6025, Direct Rollover, Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding Eligible Rollover Distribution, and the special tax notice regarding payments required by 26 U.S.C. 402(f)~~[Special Tax Notice Regarding Payments]~~, to the death benefit beneficiary who shall file a valid Form 6025 with the agency.

(2)

~~[(a)] [The death benefit beneficiary shall file a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution.]~~

~~[(b)]~~ Δ [If the] death benefit beneficiary who intends to have the funds rolled over directly into an IRA or other qualified plan~~[, the death benefit beneficiary]~~ shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ certifying that the rollover will be accepted.

(3) Payment to the death benefit beneficiary shall not be processed unless the member is deceased and the valid Form 6025~~[, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ is filed.

~~[(4)] [This section solely establishes the forms and requirements for death benefit beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Death benefit beneficiaries subject to this section may also be subject to additional requirements under 105 KAR 3:240.]~~

Section 6. Required Form for Eligible Beneficiaries. This section solely establishes the forms and requirements for eligible beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Eligible beneficiaries subject to this section may also be subject to additional requirements under 105 KAR 3:457.

(1) The agency shall provide the Form 6025, Direct Rollover, Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding Eligible Rollover Distribution, and the special tax notice regarding payments required by 26 U.S.C. 402(f)~~[Special Tax Notice Regarding Payments]~~, to the eligible beneficiary who shall file a valid Form 6025 with the agency.

(2)

~~[(a)] [The eligible beneficiary shall file a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution.]~~

~~[(b)]~~ If the eligible beneficiary intends to have the funds rolled over directly into an IRA or other qualified plan, the eligible beneficiary shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ certifying that the rollover will be accepted.

(3) Payment to the eligible beneficiary shall not be processed unless the member is deceased and the valid Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ is filed.

~~[(4)] [This section solely establishes the forms and requirements for eligible beneficiaries related to direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan. Eligible beneficiaries subject to this section may also be subject to additional requirements under 105 KAR 3:457.]~~

Section 7. Required Form for Alternate Payee who is Eligible for Actuarial Refund or Partial Lump-sum Payment Option, or Eligible for a Portion of the Lump-sum Refund, Partial Lump-sum, or Actuarial Refund Retirement Payment Option selected by the Member.

(1) If the alternate payee is eligible for a lump-sum portion of the member's accumulated account balance, actuarial refund, or partial lump-sum payment option pursuant to a qualified domestic relations order (QDRO), or an actuarial refund or partial lump-sum payment option pursuant to a QDRO~~[qualified domestic relations order]~~, the agency shall provide the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and the special tax notice regarding payments required by 26 U.S.C. 402(f)~~[Special Tax Notice Regarding Payments]~~, to the alternate payee.

(2)

(a) To receive a lump-sum portion of the member's accumulated account balance, actuarial refund, or partial lump-sum payment option pursuant to a QDRO~~[qualified domestic relations order]~~, or to receive an actuarial refund or partial lump-sum payment pursuant to a QDRO~~[qualified domestic relations order]~~, the alternate payee shall file a valid Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~.

(b) If the alternate payee intends to have the funds described in paragraph (a) of this subsection rolled over directly into an IRA or other qualified plan, the alternate payee shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ certifying that the rollover will be accepted.

(3) The payment to an alternate payee of an actuarial refund or lump-sum refund pursuant to a QDRO~~[qualified domestic relations order]~~, or a portion of the member's accumulated account balance, actuarial refund, or partial lump-sum payment option pursuant to the QDRO~~[qualified domestic relations order]~~ shall not be processed until the valid Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ is filed.

(4)

(a) If the alternate payee does not file the valid Form 6025~~[- Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,]~~ by the end of the thirtieth (30th) calendar day~~[thirty (30) calendar days]~~ from the date the form and the special tax notice regarding

~~payments~~~~[Special Tax Notice Regarding Payments]~~ were provided to the alternate payee, the alternate payee's payment shall be processed and treated for federal income tax purposes as if the alternate payee had made an election to directly receive the funds instead of rolling over the payment to an IRA or other qualified plan.

(b)

1. The agency shall:

a. ~~Hold~~ ~~[hold]~~ the amount payable to the alternate payee under this section for at least 180 calendar days after the payment becomes payable;~~[-]~~

b. ~~[2.]~~ ~~Make~~ ~~[The agency shall make]~~ all reasonable efforts to locate the alternate payee during the 180 calendar days;~~[-]~~ and

c. ~~Shall pay~~ ~~[shall make payment to]~~ the alternate payee if he or she is located within the 180 day~~[that]~~ period.

2. ~~[3.]~~ If the alternate payee has not been located during the time period ~~established~~~~[described]~~ in subparagraph 1. of this paragraph and the agency has exhausted all reasonable efforts to locate the alternate payee;~~[-]~~

a. ~~The~~ ~~[the]~~ agency shall pay the payment held to the member and shall assign the federal tax liability for ~~the~~~~[this]~~ payment to the member;~~[-]~~

b. Interest shall not accrue on ~~the~~~~[this]~~ lump-sum payment during the 180 calendar day period or thereafter; ~~and~~~~[-]~~

c. If the alternate payee is subsequently located, any amounts already paid to the member shall no longer be payable to the alternate payee.

Section 8. Optional Form for Qualified Public Safety Employee ~~Electing~~~~[electing]~~ to ~~Receive~~~~[receive]~~ an Actuarial Refund Retirement Payment Option, Lump-sum Refund, Partial Lump-sum Refund, or Ten (10) Year Certain Retirement Payment Option.

~~[(1)]~~ A member who was last employed as a "qualified public safety employee" as defined ~~by~~~~[in]~~ 26 U.S.C.~~[Internal Revenue Code.]~~ Section 72(t), and who ~~elects~~~~[is electing]~~ to receive an actuarial refund, lump-sum refund of the accumulated account balance, partial lump-sum refund, or the ten (10) years certain option, shall not be subject to the ten (10) percent early distribution tax penalty if the member files a valid~~[the following valid forms:]~~

~~[(a)]~~ ~~[The]~~ Form 4527, Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t) which the agency shall provide upon request~~[-; and]~~

~~[(b)]~~ ~~[The Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution.]~~

~~[(2)]~~ ~~[Upon request by the member, the agency shall provide the Form 4527, Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t), to the member.]~~

Section 9. Optional Form for Greater Federal Tax Withholding.

(1)

(a) If the member does not elect to have the refund of the accumulated account balance rolled over directly into an IRA or other qualified plan, except as established~~[provided]~~ in paragraph (b) of this subsection, twenty (20) percent for federal taxes shall be withheld from funds paid to a member who files a valid Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, in accordance with Section 2 of this administrative regulation.

(b) If the member wants to withhold more than the mandatory twenty (20) percent of the funds for federal taxes, the member shall file a valid withholding certificate for the

applicable tax year required by 26 U.S.C. Section 3405~~[Form 6028, Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions].~~

(2)

(a) If the member, beneficiary, death benefit beneficiary, eligible beneficiary, or alternate payee does not elect to have the funds rolled over directly into an IRA or other qualified plan, except as provided in paragraph (b) of this subsection, twenty (20) percent for federal taxes shall be withheld from funds paid to the member, beneficiary, or alternate payee who files a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, in accordance with Sections 3 through 7 of this administrative regulation.

(b) If the member, beneficiary, death benefit beneficiary, eligible beneficiary, or alternate payee wants to withhold more than the mandatory twenty (20) percent of the funds for federal taxes, the member, beneficiary, or alternate payee shall file a valid withholding certificate for the applicable tax year as required by 26 U.S.C. Section 3405~~[Form 6028, Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions].~~

(c) ~~The [If an invalid, incomplete, or incorrect Form 6028, Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions, is filed, the]~~ agency shall notify ~~a[the]~~ person who files an~~[filed the]~~ incomplete or incorrect withholding certificate~~[Form 6028]~~ that he or she has until the end of the forty-fifth (45th) calendar day~~[forty-five (45) calendar days]~~ from the date of notification to file a corrected valid withholding certificate~~[Form 6028,]~~ or the funds will be paid with the regular twenty (20) percent withholding for federal taxes.

Section 10. Incorporation by Reference.

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

~~[(a)] ["Special Tax Notice Regarding Payments", July 2023;]~~

~~[(b)] [Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", April 2021;]~~

~~[(c)] Form 4527, "Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t)", September 2023, is incorporated by reference[;]~~

~~[(d)] [Form 6010, "Estimated Retirement Allowance", April 2021;]~~

~~[(e)] [Form 6025, "Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution", June 2023; and]~~

~~[(f)] [Form 6028, "Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions", November 2022].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8 a.m. to 4:30 p.m., or on the agency's website~~[Web site]~~ at kyret.ky.gov.

105 KAR 2:270 Federal tax withholding or direct rollover of eligible distributions is approved for filing.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: September 25, 2026

FILED WITH LRC: September 29, 2026 at 8:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2026 at 10:00 a.m. Eastern Time at

the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Carole J. Catalfo, **Phone:** (502) 696-8679, **Email:** Legal.Non-Advocacy@kyret.ky.gov

Subject Headings:Retirement and Pensions, State Employees, Taxation

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the procedure for informing affected members, beneficiaries, and alternate payees of their rights with regard to federal taxation rules and provides forms for members, beneficiaries, and alternate payees to indicate their preference for federal tax withholding or direct rollover of eligible distributions. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relations order (QDRO) if the alternate payee does not file the form required for federal income tax purposes within a reasonable time, and a procedure if an alternate payee cannot be located.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the procedure for informing affected members, beneficiaries, and alternate payees of their rights with regard to federal taxation rules and provide forms for members, beneficiaries, and alternate payees to indicate their preference for federal tax withholding or direct rollover of eligible distributions. This administrative regulation is also necessary to establish a procedure to issue a check to an alternate payee of a QDRO if the alternate payee does not file the form required for federal income tax purposes within a reasonable time, and a procedure if an alternate payee cannot be located.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852. 26 U.S.C. 402 establishes the federal taxation requirements regarding direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the statutes by establishing the procedure for informing affected members, beneficiaries, and alternate payees of their rights with regard to federal taxation rules and provide forms for members, beneficiaries, and alternate payees to indicate their preference for federal tax withholding or direct rollover of eligible distributions. This administrative regulation also assists in the administration of the statutes by establishing a procedure to issue a check to an alternate payee of a qualified domestic relations order if the alternate payee does not file the form required for federal income tax purposes within a reasonable time, and a procedure if an alternate payee cannot be located.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment updates definitions for "beneficiary" and "death benefit beneficiary" to include non-persons (such as trusts) as beneficiaries and to clarify that only beneficiaries of retired members are eligible to receive the death benefit; removes Forms 4525, 6010, and 6025 from being incorporated by reference in favor of a citation to 105 KAR 5:200 where the forms are "housed" for efficiency; removes the Special Tax Notice required by, and inserts a citation to, 26 U.S.C. 402(f) from being incorporated by reference because it is already governed by the federal Internal Revenue Code and enables the KPPA to revise the notice when required by the federal government; and streamlines and revises language to comply with the drafting requirements of KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation:

The amendment to this administrative regulation is necessary to update definitions for "beneficiary" and "death benefit beneficiary" to include non-persons, such as trusts, as beneficiaries and to clarify that only beneficiaries of retired members are eligible to receive the death benefit; remove Forms 4525, 6010, and 6025 from being incorporated by reference in favor of a citation to 105 KAR 5:200 where the forms are "housed" for efficiency; removes the Special Tax Notice required by, and inserts a citation to, 26 U.S.C. 402(f), from being incorporated by reference because it is already governed by the federal Internal Revenue Code and enables the KPPA to revise the notice when required by the federal government; and to streamline and revise language to comply with the drafting requirements of KRS Chapter 13A. (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852. 26 U.S.C. 402 establishes the federal taxation requirements regarding direct rollovers of distributions and the withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan.

(c) How the amendment conforms to the content of the authorizing statutes:

No answer provided.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment to this administrative regulation will assist in the effective administration of the statutes by updating and clarifying definitions, streamlining materials incorporated by reference, and revising and clarifying language that also complies with KRS Chapter 13A.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?(If yes, provide the year of the legislation and either the bill number or Kentucky Acts chapter number being implemented). Yes. KRS 61.505(1)(g). Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Those members, of approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees

Retirement System, who are affected by the federal taxation requirements regarding direct rollovers of distributions and withholding of federal income tax on distributions that are not rolled over to an IRA or other qualified plan.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

The regulated community will have the benefit of updated and clarified definitions for "beneficiary" and "death benefit beneficiary", fewer incorporated forms in favor of citing to 105 KAR 5:200 where the forms are "housed" for efficiency; up-to-date Special Tax Notice information; and streamlined language that should make the regulation easier to read and use.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no additional costs because the regulation is already being implemented as written.

(b) On a continuing basis:

There will be no additional costs because the regulation is already being implemented as written.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No, an increase in fees or funding will not be necessary.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied?

Yes, tiering is applied to the extent that different forms and processes are required for different beneficiaries and whether they choose federal tax withholding or direct rollover of eligible distributions.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 61.505(1)(g), 26 U.S.C. 402(f)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

KRS 61.505(1)(g)

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:None.

For subsequent years:None.

2. Revenues:

For the first year:None.

For subsequent years:None.

3. Cost Savings:

For the first year:None.

For subsequent years:None.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

There are no affected local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

There are no additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This administrative regulation has minimal fiscal impact. It is being implemented as written.

(b) Methodology and resources used to reach this conclusion:

The agency analyzed costs and procedures for its processes and procedures for informing affected members, beneficiaries, and alternate payees of their rights regarding federal tax withholding and direct rollover of eligible distributions, issuing checks to alternate payees of a QDRO if the payee does not file the federal income tax form within a reasonable time, and when an alternate payee cannot be located.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).

(b) The methodology and resources used to reach this conclusion:

The agency analyzed costs and procedures for its processes and procedures for informing affected members, beneficiaries, and alternate payees of their rights regarding federal tax withholding and direct rollover of eligible distributions, issuing checks to alternate payees of a QDRO if the payee does not file the federal income tax form within a reasonable time, and when an alternate payee cannot be located.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

26 U.S.C. 402(f)

(2) State compliance standards.

KRS 61.505(1)(g)

(3) Minimum or uniform standards contained in the federal mandate.

26 U.S.C. 402(f) requires plan administrators to provide recipients of eligible rollover distributions with written "Special Tax Notice" information that explains direct rollovers, mandatory withholding for cash payments, 60-day rollover rules, and tax treatment of non-rolled over amounts, which must be provided 30–180 days before distribution.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements, than the federal mandate.