

105 KAR 1:270. Federal tax withholding or direct rollover of funds for eligible distributions.

RELATES TO: KRS 16.505, 16.578, 16.645, 61.505(1)(f), 61.510, 61.625, 61.635, 61.640, 61.690, 78.510, 78.545, 26 U.S.C. 72(t), 401(a), 402

STATUTORY AUTHORITY: KRS 61.505(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(f) 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 KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 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. 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 funds. 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 at the retirement office within a reasonable time, and a procedure in the event that an alternate payee cannot be located.

Section 1. Definitions.

- (1) Definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.
- (2) Prior to April 1, 2021, "the Agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "the Agency" means the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.
- (3) "File" means the following methods for delivering or submitting a form to the retirement office: mail, fax, secure email, in-person delivery, and upload via Self Service on the Web site maintained by the agency (if available).
- (4) "Provide" means the following methods for the agency to make a form available to a member, beneficiary, or alternate payee: mail, fax, secure email, and upload via Self Service on the Web site maintained by the agency (if available).

Section 2. Application for Refund of Accumulated Account Balance.

- (1)
 - (a) To receive a refund of an accumulated account balance in accordance with KRS 61.625 and 78.545, a member shall apply for a refund on a Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection.
 - (b) Upon request by the member, the agency shall provide the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with a copy of the Special Tax Notice Regarding Payments, to the member.
 - (c) Additionally, the agency may make the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.
- (2)
 - (a) The member shall complete the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, and file it at the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution 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(s) participating in the agency from which the member has terminated employment 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.

(3)

(a) The refund of contributions shall not be processed unless the member is eligible to receive a refund pursuant to KRS 61.625 and 78.545 and the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, is filed by the member at the retirement office.

(b) The refund of contributions shall not be processed earlier than forty-five (45) days from the date of the member's termination of employment with the participating employer(s) that previously employed the member.

Section 3. Required Form following Member Selection of an Actuarial Refund Retirement Payment Option, Lump-sum Refund of Contributions, or Partial Lump-sum Retirement Payment Option.

(1)

(a) Along with each blank Form 6010, Estimated Retirement Allowance, 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, along with the Special Tax Notice Regarding Payments, to the member.

(b) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)

(a) If the member completes the Form 6010, Estimated Retirement Allowance, and selects an actuarial refund retirement payment option, lump-sum refund of contributions, or partial lump-sum retirement payment option, the member shall also complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and file both completed forms at the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution 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 option selected by the member on the completed and filed Form 6010, Estimated Retirement Allowance, shall not be processed unless the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, is filed at the retirement office.

Section 4. Required Form following Beneficiary Selection of Lump-sum Payment Option or Sixty (60) Months Certain Payment Option, or if Beneficiary Eligible for Lump-sum Refund of Contributions Only.

(1)

(a) Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the beneficiary of the deceased member has selected the lump-sum actuarial

refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option, 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, along with the Special Tax Notice Regarding Payments, to the beneficiary of the deceased member.

(b) If the beneficiary of the deceased member 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, along with the Special Tax Notice Regarding Payments, to the beneficiary of the deceased member.

(c) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)

(a) The beneficiary of the deceased member shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and file it at the retirement office.

(b) If the beneficiary of the deceased member intends to have the funds rolled over directly into an IRA or other plan, the beneficiary of the deceased member shall have the trustee or institution 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)

(a) The payment option selected by the beneficiary of the deceased member on a Form 6010, Estimated Retirement Allowance shall not be processed unless the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, is filed at the retirement office.

(b) If the beneficiary of the deceased member is only eligible for a lump-sum refund of the deceased member's accumulated account balance, payment to the beneficiary of the deceased member shall not be processed unless the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, is filed at the retirement office.

Section 5. 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)

(a) If the alternate payee is eligible for a lump-sum portion of the member's accumulated contributions, actuarial refund, or partial lump-sum payment option pursuant to a 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, along with the Special Tax Notice Regarding Payments, to the alternate payee.

(b) If the alternate payee is eligible for an actuarial refund or partial lump-sum payment option pursuant to a qualified domestic relations order, the agency shall provide a Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments, to the alternate payee.

(c) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)

(a) The alternate payee shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and file it at the retirement office.

(b) If the alternate payee intends to have the funds rolled over directly into an IRA or other plan, the alternate payee shall have the trustee or institution 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, or a portion of the member's accumulated account balance, actuarial refund, or partial lump-sum payment option, pursuant to the qualified domestic relations order shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, is filed at the retirement office.

(4)

(a) If the alternate payee does not file at the retirement office the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, within thirty (30) days of receipt of the form and the Special Tax Notice Regarding Payments, 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 plan.

(b) The agency shall hold the amount payable to the alternate payee under this section for at least 180 days after the payment becomes payable.

1. The agency shall make all reasonable efforts to locate the alternate payee during the 180 days and shall make payment to the alternate payee if he or she is located within that period.

2. If the alternate payee has not been located within 180 days after the alternate payee's payment becomes payable and the agency has exhausted all reasonable efforts to locate the alternate payee, the agency shall pay the payment held to the member and shall assign the federal tax liability for this payment to the member. Interest shall not accrue on this lump-sum payment during the 180 day period or thereafter. If the alternate payee is subsequently located, any amounts already paid to the member shall no longer be payable to the alternate payee.

Section 6. Optional Form for Qualified Public Safety Employee electing to 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 in 26 U.S.C. Internal Revenue Code, Section 72(t), shall not be subject to the ten (10) percent early distribution tax penalty if electing to receive an actuarial refund, lump-sum refund, partial lump-sum refund, or the ten (10) years certain option if the member files the following completed forms at the retirement office:

(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); 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)

(a) 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.

(b) Additionally, the agency may make 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), available on its Web site.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", February 2021;

(b) "Special Tax Notice Regarding Payments", February 2021;

(c) Form 6010, "Estimated Retirement Allowance", February 2021;

(d) Form 6025, "Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution", February 2021; and

(e) Form 4527, "Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t)", February 2021.

(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.

(19 Ky.R. 2352; eff. 6-7-1993; Am. 20 Ky.R. 830; eff. 12-6-1993; 21 Ky.R. 1532; eff. 2-8-1995; 29 Ky.R. 773; eff. 11-12-2002; 34 Ky.R. 121; 545; eff. 10-5-2007; 35 Ky.R. 119; eff. 10-3-2008; Crt eff. 2-24-2020; 47 Ky.R. 2623; 48 Ky.R. 767; eff. 11-30-2021.)