

## **105 KAR 1:380. Minimum distribution.**

RELATES TO: KRS 61.645(9)(e), 26 C.F.R. 1.401(a)(9)-1-1.401(a)(9)-9, 26 U.S.C. 401(a)(9)

STATUTORY AUTHORITY: KRS 61.645(9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) requires the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9), and are meant to be a reasonable good faith interpretation of those statutory requirements. This administrative regulation establishes minimum distribution requirements in compliance with 26 U.S.C. 401(a)(9).

### **Section 1. Definitions.**

- (1) "Member" means a member of a retirement fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, and administered by the Kentucky Retirement Systems.
- (2) "Required beginning date" means April 1 of the calendar year following the later of:
  - (a) The calendar year in which the member attains age seventy and one-half (70 1/2); or
  - (b) The calendar year in which the member retires.

### **Section 2.**

- (1) This administrative regulation shall apply to members of a fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.
- (2) Kentucky Retirement Systems shall pay all benefits in accordance with a good faith interpretation of the requirements of 26 U.S.C. 401(a)(9) and the Code of Federal Regulations in effect under that section, as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d). The requirements of 26 U.S.C. 401(a)(9) shall take precedence over any inconsistent provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.
- (3) The member's entire interest shall be distributed over the member's life or lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

### **Section 3.**

- (1) Except as provided in subsection (2) of this section, the member's entire interest shall be distributed, or begin to be distributed, to the member no later than the member's required beginning date.
- (2) If the member dies before distributions begin, the member's entire interest shall be distributed, or begin to be distributed, no later than as follows:
  - (a) Except as provided in subsection (3) of this section, if the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by the later of:
    1. December 31 of the calendar year immediately following the calendar year in which the member died; or
    2. December 31 of the calendar year in which the member would have attained age seventy and one-half (70 1/2);
  - (b) If the member's surviving spouse is not the member's sole designated beneficiary, distributions to each designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died; or

(c) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(3) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest shall be distributed at least as rapidly as under the method of distribution before the member's death.

(4)

(a) For purposes of Section 3(2) to (3) and Section 6 of this administrative regulation, distributions shall be required to begin on the member's required beginning date.

(b) If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse pursuant to subsection (2)(a) of this section, the date distributions are considered to begin shall be the date distributions actually commence.

#### Section 4.

(1) If the member's interest is paid in the form of annuity distributions, payments pursuant to the annuity shall satisfy the following requirements:

(a) The annuity distributions shall be paid in monthly periodic payments;

(b) The distribution period shall be over a life (or lives) or over a period certain not longer than the period described in this section or Section 5 or 6 of this administrative regulation;

(c) Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted; and

(d) Payments shall increase only as follows:

1. By the annual percentage increase provided for pursuant to KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852;

2. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in this section dies, or if the beneficiary is the member's spouse and they divorce, as provided in KRS 61.635(10);

3. To provide cash refunds of employee contributions upon the member's death; or

4. To pay any increased benefits that result from a plan amendment.

(2)

(a) The amount that shall be distributed on or before the member's required beginning date, or if the member dies before distributions begin, the date distributions are required to begin pursuant to Section 3(2) of this administrative regulation, shall be the payment that is required for one (1) month.

(b) The second payment shall not be required to be made until the end of the next payment interval even if that payment interval ends in the next calendar year.

(c) All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for months ending on or after the member's required beginning date.

#### Section 5.

(1) The amount of annuity paid to a member's beneficiary shall not exceed the maximum determined under the incidental death benefit requirement of 26 U.S.C. 401(a)(9)(G), and the minimum distribution incidental benefit rule under 26 C.F.R. 1.401(a)(9)-6, Q&A-2.

(2) The death and disability benefits provided by Kentucky Retirement systems shall be limited by the incidental benefit rule set forth in 26 U.S.C. 401(a)(9)(g) and 1.401-1(b)(1)

(i) or any successor law. As a result, the total death or disability benefits payable shall not

exceed twenty-five (25) percent of the cost of all of the members' benefits received from Kentucky Retirement Systems.

(3)

(a) Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member pursuant to the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 for the calendar year that contains the annuity starting date.

(b) If the annuity starting date precedes the year in which the member reaches age seventy (70), the applicable distribution period for the member shall be the distribution period for age seventy (70) under the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 plus the excess of seventy (70) over the age of the member as of the member's birthday in the year that contains the annuity starting date.

(4) If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain shall not exceed the longer of the member's applicable distribution period, as determined pursuant to this subsection, or the joint life and last survivor expectancy of the member and the member's spouse as determined pursuant to the joint and last survivor table established in 26 C.F.R. 1.401(a)(9)-9, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

#### Section 6.

(1) If the member dies before the date distribution of the member's interest begins and there is a designated beneficiary, the entire interest payable to the member shall be distributed, beginning no later than the time established in Section 3(2)(a) or (b) of this administrative regulation, over the life of the designated beneficiary or over a period certain not exceeding:

(a) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

(b) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section shall apply as if the surviving spouse were the member, except that the time by which distributions are required to begin shall be determined without regard to Section 3(2)(a) of this administrative regulation.

(30 Ky.R. 1137; 1457; eff. 1-5-2004; 34 Ky.R. 124; 547; eff. 10-5-2007; 35 Ky.R. 973; 1722; eff. 2-6-2009; TAm eff. 3-5-2019; Crt eff. 3-5-2019.)