

## **102 KAR 1:240. Increase in compensation limit.**

RELATES TO: KRS 161.220(10), 26 C.F.R. 1.401(a)(17)-1(d)(4)(ii), 26 U.S.C. 401(a)(17)

STATUTORY AUTHORITY: KRS 161.310(1), 161.716

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the board of trustees to promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business. KRS 161.716 requires the board of trustees to promulgate administrative regulations as are necessary to remove any conflicts with federal laws and to protect the interests of the members and survivors of members of the retirement system. This administrative regulation establishes the increase in compensation limit as provided by 26 U.S.C. 401(a)(17)(A).

Section 1. Definition. "Annual compensation" is defined by KRS 161.220(10).

Section 2. Increase in Limit. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000.

(1) For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited as provided in Section 3 of this administrative regulation.

(2) If the determination period consists of fewer than twelve (12) months, the annual compensation limit shall be an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which shall be the number of months in the short determination period, and the denominator of which shall be twelve (12).

(3) If the compensation for any prior determination period is taken into account in determining a plan member's contributions or benefits for the current plan year, the compensation for the prior determination period shall be subject to the applicable annual compensation limit in effect for that prior period.

Section 3. Cost-of-living Adjustment.

(1) The \$200,000 limit on annual compensation in Section 2 of this administrative regulation shall be adjusted for cost-of-living increases in accordance with 26 U.S.C. 401(a)(17)(B).

(2) The cost-of-living adjustment in effect for a calendar year shall apply to annual compensation for the determination period that begins with or within the calendar year.

Section 4. In determining benefit accruals in plan years beginning after December 31, 2001, the annual compensation limit in Section 2 of this administrative regulation shall be:

(1) \$150,000 for any determination period beginning in 1996 or earlier for members who became participants on or after July 1, 1996;

(2) \$160,000 for any determination period beginning in 1997, 1998, or 1999 for members who became participants on or after July 1, 1996;

(3) \$170,000 for any determination period beginning in 2000 or 2001 for members who became participants on or after July 1, 1996; or

(4) Effective only for the 1996 plan year, In determining the compensation of an employee eligible for consideration pursuant to this provision, 26 U.S.C. 414(g)(6) shall apply, except that the term, "family", shall include only the spouse of the member and any lineal descendant of the employee who has not attained age nineteen (19) before the close of the year.

Section 5. The annual compensation on which contributions are reported shall not exceed the maximum annual compensation limit as established in Sections 2 through 4 of this

administrative regulation.

- (1) The retirement system shall notify employers of the maximum annual compensation limit.
- (2) Each employer shall report contributions on all annual compensation up to the maximum annual limit.
- (3) Once an employee's annual compensation has reached the maximum annual limit, the employer shall continue to report the employee's creditable compensation but shall not report any further employer or employee contributions on the employee's annual compensation.
- (4) If excess contributions are erroneously reported, the retirement system shall refund the excess contributions to the employer for distribution to the employee after making payroll deductions in accordance with federal and state law.

Section 6. A member who became a participant prior to July 1, 1996, shall be an eligible participant for purposes of 26 C.F.R.

(28 Ky.R. 2113; 2324; eff. 5-16-2002; 35 Ky.R. 1822; 2406; eff. 6-5-2009; Crt eff. 7-3-2019.)