

WSR 21-07-044
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed March 11, 2021, 8:29 a.m., effective April 11, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Deferred compensation program (DCP) distributions, to clarify distribution rules for DCP customers who return to covered employment.

Citation of Rules Affected by this Order: Amending WAC 415-501-485.

Statutory Authority for Adoption: RCW 41.50.030 and 41.50.050.

Adopted under notice filed as WSR 21-04-141 on February 3, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2021.

Tracy Guerin
Director

OTS-2882.1

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-485 How do I obtain a distribution? Distribution from the plan is governed by Internal Revenue Code Sections 401 (a) (9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are available from the department's designated record keeper.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section;

(iii) A distribution from funds that were rolled into the deferred compensation account (may be subject to tax penalties); or

(iv) An in-service distribution in any calendar year in which you will reach age seventy and one-half or more.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

- (i) The calendar year in which you reach age seventy-two; or
- (ii) The calendar year in which you retire.

(c) If you do not choose a distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a) (9).

(2) **Method of distribution.** Payment options include a lump sum payment, partial lump sum payment, (~~periodic~~) installment payments, or an annuity purchase.

Beginning at age seventy-two or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a) (9).

(3) **Voluntary in-service distribution at any age.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

(a) Your entire account value does not exceed five thousand dollars;

(b) You have not previously received an in-service distribution; and

(c) You have made no deferrals during the two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you (~~begin to receive distributions~~) submit an immediate lump sum or partial distribution request and the request is received in good order prior to being rehired, your distribution will be processed even if you become rehired with a DCP employer. If you are receiving installment payments or have requested to receive installment payments and then return to employment with a DCP employer, (~~distributions~~) your payments from your DCP account will cease. You may request a distribution when you are again eligible consistent with these rules.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-485, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-485, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.780(10). WSR 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-485, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]