

WSR 21-22-048
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed October 28, 2021, 7:01 a.m., effective November 28, 2021]

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

Purpose: In accordance with RCW 41.50.180, this amendment will allow the department of retirement systems to initiate refunds of contributions to inactive, nonvested members with account balances less than \$1,000.

Citation of Rules Affected by this Order: Amending WAC 415-02-750 How does the department comply with Internal Revenue Code distribution rules?

Statutory Authority for Adoption: RCW 41.50.050 and 41.50.180.

Adopted under notice filed as WSR 21-19-150 on September 22, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: October 27, 2021.

Tracy Guerin
Director

OTS-3297.2

AMENDATORY SECTION (Amending WSR 10-24-099, filed 12/1/10, effective 1/1/11)

WAC 415-02-750 How does the department comply with Internal Revenue Code distribution rules? (1) All benefits paid from the retirement plan shall be distributed in accordance with a reasonable and good faith interpretation of the requirements of section 401 (a) (9) of the Internal Revenue Code, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(a) If a plan member separates from service prior to attaining eligibility for a future benefit and the balance of the member's accumulated contributions is less than \$1,000, the department may initiate a refund of the member's accumulated contributions following written notification to the member.

(i) A refund of the accumulated contributions initiated by the department under the terms of this section shall terminate all rights to benefits in the retirement plan.

(ii) If the member is reemployed in an eligible position, service credits earned prior to the refund may be restored upon repayment according to the provisions of the plan.

(b) Distribution of a member's benefit must begin by the later of April 1st following the calendar year in which a member attains age seventy and one-half or April 1st of the year following the calendar year in which the member retires;

~~((b))~~ (c) Unless distributed in a lump sum, the member's entire interest must be distributed over the member's life or the 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 designated beneficiary;

~~((e))~~ (d) The life expectancy of a member or the member's spouse or beneficiary may not be recalculated after the benefits commence;

~~((d))~~ (e) If a member dies before the required distribution of the member's benefits has begun, the member's entire interest must be either:

(i) Distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31st of the calendar year following the calendar year of the member's death; or

(ii) Distributed within five years of the member's death.

~~((e))~~ (f) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401 (a) (9) (G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation section 1.401 (a) (9)-6, Q&A 2; and

~~((f))~~ (g) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death.

(2) The retirement system pursuant to a valid dissolution order as defined in RCW 41.50.500 may establish separate benefits for a member and nonmember.

(3) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in section 401 (a) (9) (G) of the Internal Revenue Code and Treasury Regulation section 1.401-1 (b) (1) (i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent of the cost for all of the members' benefits received from the plan.

[Statutory Authority: RCW 41.50.050(5). WSR 10-24-099, § 415-02-750, filed 12/1/10, effective 1/1/11.]