

WSR 21-19-150  
PROPOSED RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS

[Filed September 22, 2021, 10:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-111.

Title of Rule and Other Identifying Information: WAC 415-02-750

How does the department comply with Internal Revenue Code distribution rules?

Hearing Location(s): On October 26, 2021, at 3:00 p.m. The hearing will be conducted by telephone conference only, 360-407-3830 or 855-682-0796 (toll free), Conference ID 65678922.

Date of Intended Adoption: October 27, 2021.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by October 25, 2021.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by October 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In accordance with chapter 189, Laws of 2021 (SB 5367), this amendment will allow DRS to initiate refunds of contributions to inactive, nonvested members with account balances less than \$1,000.

Reasons Supporting Proposal: Chapter 189, Laws of 2021 (SB 5367) requires DRS to establish a rule to identify inactive accounts of nonvested members with balances below \$1,000, and provide for closing the accounts and refunding the account balances.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapter 189, Laws of 2021 (SB 5367).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7288.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

September 22, 2021  
Jilene Siegel  
Rules Coordinator

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.]