



Ohio Administrative Code Rule 3309-1-09 Federal taxation.

Effective: April 1, 2024

(A) For purposes of this rule, "benefit" refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.

(B) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code, 26 U.S.C. 414(d), and the following:

(1) The entire interest of a member shall be distributed to the member:

(a) Not later than the required beginning date; or

(b) Beginning not later than the required beginning date over the life of the member and a designated beneficiary (or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and designated beneficiary) within the meaning of section 401(a)(9) of the Internal Revenue Code.

(2)

(a) The required beginning date means April first of the calendar year following the later of:

(i) The calendar year in which the member attains the applicable age; or

(ii) The calendar year in which the member retires.



(b) For purposes of compliance with section 401(a)(9) of the Internal Revenue Code, "applicable age" means:

(i) Age seventy and one-half (if the member was born before July 1, 1949);

(ii) Age seventy-two (if the member was born after June 30, 1949, but before January 1, 1951); or

(iii) Age seventy-three, or the otherwise applicable age under section 401(a)(9)(C)(v) of the Internal Revenue Code, (if the member was born on or after January 1, 1951).

(3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.

(4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, over the life of such beneficiary, or over a period not extending beyond the life expectancy of the beneficiary, provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required to begin, pursuant to that section, until the end of the calendar year in which the member would have attained age seventy-two, in the case of a member who would have attained the applicable age. When the beneficiary is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated beneficiary may elect to be treated as if the surviving spouse were the member as provided under section 401(a)(9)(B)(iv) of the Internal Revenue Code.

(5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.



(C) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and a member or retirant does not respond after notification of such event, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.

(1) If the member is not eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall refund the member's account as authorized in section 3309.42 of the Revised Code.

(2) If the member is eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall calculate and pay a benefit as authorized in section 3309.36 or 3309.343 of the Revised Code, as a plan B, effective on the required beginning date as provided in paragraph (B)(2) of this rule.

(a) The member cannot purchase or receive any service credit after the effective date of the retirement allowance.

(b) A member who commences receipt of a retirement allowance under this rule, and who is married, may, not later than one year after the payment commenced, elect a plan of payment under division (B)(1), (B)(3)(b), or (B)(3)(c) of section 3309.46 of the Revised Code provided the spouse is named as the beneficiary. The election shall be made on a form provided by the retirement system and shall be effective on the later of the effective date of the retirement allowance or the marriage. Any overpayment may be recovered as provided in section 3309.70 of the Revised Code.

(c) If the member also was eligible for health care coverage pursuant to SERS rules and Chapter 3309. of the Revised Code, the member may, not later than sixty days after the commencement of payment of the retirement allowance, enroll for such health care coverage on a form provided by the retirement system. The effective date shall be no earlier than the first of the month after the retirement system receives the member's enrollment form.

(3) If the retirant is eligible for a benefit pursuant to section 3309.344 of the Revised Code, the retirement system shall calculate and pay a single lump sum benefit as authorized in section 3309.344 of the Revised Code. If such retirant also is eligible for an annuity, the retirant may return



the lump sum payment within sixty days of the receipt of the payment and request an annuity on a form provided by the retirement system.

(4) If the benefit payment of a deceased member's spouse is subject to section 401(a)(9) of the Internal Revenue Code, then the retirement system shall treat the spouse as if the spouse was the member for the purposes of this rule, to the extent provided under section 401(a)(9) of the Internal Revenue Code.

(D)

(1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date.

(2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.

(E) Effective January 1, 2007, to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.



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(F) If there is a termination of the plan described in Chapter 3309. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

(G) For purposes of the limit established by section 415 of the Internal Revenue Code, 26 U.S.C. 415, effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).