



Ohio Administrative Code

Rule 5505-3-08 Federal tax compliance provisions.

Effective: April 6, 2023

(A) The board shall distribute the funds established in Chapter 5505. of the Revised Code to members, retirants and their beneficiaries in accordance with the provisions of such chapter. No part of the corpus or income of these funds may be used for or diverted to any purpose other than the exclusive benefit of the members, retirants, and their beneficiaries.

(B) If there is a termination of the plan described in Chapter 5505. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member and retirant to the benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

(C) Employer contribution forfeitures of a member arising from severance of employment, death, or for any other reason shall not be applied to increase the benefits any member would otherwise receive under Chapter 5505. of the Revised Code in accordance with section 401(a)(8) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(8).

(D) Notwithstanding any provisions in highway patrol retirement system rules or Chapter 5505. of the Revised Code to the contrary, distributions to members, retirants, and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) and with the following rules:

(1) The entire interest of a member or retirant shall be distributed to such member or retirant -

(a) No later than the required beginning date, or

(b) Beginning not later than the required beginning date, in accordance with applicable regulations, over the life of such member or retirant and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9).



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

(a) The calendar year in which the member or retirant attains the required minimum distribution age,
or

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

(3) If distribution of a member's or retirant's benefit has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) , and the member or retirant dies, any survivor benefits will be distributed as reasonably practicable under the plan of payment selected under Chapter 5505. of the Revised Code and effective as of the date following the member's or retirant's death.

(4) If a member dies before the distribution of the member's interest has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) , any remaining interest of the member will be distributed within five years after the death of such member. Notwithstanding the foregoing, if any 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 of 1986, 26 U.S.C.A. 401(a)(9), the benefit may be distributed (in accordance with applicable regulations) over the life of such beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), provided that such distribution 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, pursuant to this rule, to begin until the end of the calendar year in which the member would have attained the minimum distribution age and, if the spouse dies before the distribution to the spouse commences, then the spouse shall be treated as the member for purposes of this rule.

(5) Any death benefit amounts payable under Chapter 5505. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9)(G).

(E) Whenever the amount of the benefit is to be determined on the basis of actuarial assumptions, no employer discretion will be permitted.



(F) A member who is entitled to a distribution which qualifies as an eligible rollover distribution pursuant to sections 401(a)(31) and 402(f)(2)(A) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(31) and 402(f)(2)(A) may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by sections 401(a)(31)(A) and 408(A) of the Internal Revenue Code of 1986, 26 U.S.C. A. 401(a)(31)(A) and 408(A). A qualified nonspouse beneficiary of a deceased member may only rollover directly to an inherited individual retirement account or annuity to the extent permitted by section 402(c)(11) of the Internal Revenue Code of 1986, 26 U.S.C.A. 402(c)(11).

(G) 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 two hundred thousand dollars. Annual compensation means "salary", as such term is defined in section 5505.01 of the Revised Code during the plan year or such other consecutive twelve month period over which salary is otherwise determined under the plan (hereinafter referred to as the "Determination Period"). In determining benefit accruals in plan years beginning after December 31, 2001, the annual compensation limit for the determination period beginning before January 1, 2002 shall be two hundred thousand dollars. The two hundred thousand dollar limit on annual compensation in this paragraph shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual "salary" for the determination period that begins with or within such calendar year.

(H) For purposes of the limit established by section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415 (as used in section 5505.17, 5505.174, 5505.175, 5505.176, 5505.177, or 5505.18 of the Revised Code), effective January 1, 1998, compensation shall include amounts excludable from the employee's gross income under sections 125, 132(f), 402(e)(3), 402(h), 403(b), or 457 of the Internal Revenue Code of 1986, 26 U.S.C.A 125, 132(f), 402(e)(3), 402(h), 403(b), or 457. Effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 3401(h)(2).

(I) The plan does not permit involuntary cashout distributions and therefore complies with the provisions of section 401(a)(31)(B) of the Internal Revenue Code of 1986, 26 U.S.C.A 401(a)(31)(B).



(J)

(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 of 1986, 26 U.S.C.A. 415 are incorporated herein by reference, including any provisions of the pension funding equity act of 2004 that apply to governmental plans.

(2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415 (as used in section 5505.17, 5505.174, 5505.175, 5505.176, 5505.177, or 5505.18 of the Revised Code) have been exceeded with respect to a member or retirant in the plan described in Chapter 5505. of the Revised Code. The limitation year for the plan is the calendar year.

(K) Effective January 1, 2007, notwithstanding any provision in Chapter 5505. 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 of 1986, 26 U.S.C.A. 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 accrual relating to the period of qualified military service) that would be provided under Chapter 5505. of the Revised Code had the member resumed employment and then terminated employment on account of death.