

MEMORANDUM

TO: KPERS Designated Agents

FROM: Laurie McKinnon, Assistant General Counsel

DATE: June 11, 2001

RE:

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(1) Compensation Limits Rise for 2001

Federal rules prevent KPERS from accepting contributions on compensation or salary which exceeds a certain limit. The Omnibus Budget Reconciliation Act of 1993 (OBRA) placed the limit at \$150,000 per year to be indexed in increments of \$10,000 from time to time. This limit applies to new employees who became members of KPERS on or *after* January 1, 1996. The prior limit of \$235,840, indexed, applies to employees who became members of KPERS *before* January 1, 1996.

Compensation Limitations Since 1998:

	Members on or <i>after</i> <u>January 1, 1996</u>	Members <i>before</i> <u>January 1, 1996</u>
1998	\$160,000	\$265,000
1999	\$160,000	\$270,000
2000	\$170,000	\$275,000
2001	\$170,000	\$285,000

(2) The Definition of Compensation & Social Security Wages

Kansas Administrative Regulation 80-5-6 provides the definition of compensation for KPERS purposes. Often, employers are told to pay KPERS contributions on “social security wages.” For some employers this may work, but many employees have certain types of income that are not included in social security wages. KPERS contributions must be withheld from “gross compensation” before any deduction or reduction.

80-5-6. Compensation; defined.

(a) For the purpose of determining contributions to the retirement system for participating service, the compensation of the member shall include the following, with exceptions as noted in subsection (b):

(1) All amounts upon which the employer withholds and pays federal withholding, social security tax, or Medicare tax. These amounts shall include the imputed taxable value of any economic advantage, opportunity, or privilege granted to the member by the employer;

(2) to the extent not included in paragraph (1) above, all amounts sheltered from income taxation under 26 U.S.C. §§ 125, 403(b), and 457 of the federal internal revenue code, as defined in K.S.A. 74-4902(35), and amendments thereto; and

(3) to the extent not included in paragraphs (1) and (2) above, all amounts that represent the value of maintenance, board, lodging, laundry, tuition assistance, goods and services, and other allowances to members by employers in lieu of money; and

(4) for members who were first employed in a covered position before July 1, 1993, the amount of lump-sum termination payments for vacation, sick leave, and compensatory time.

(b) For the purpose of determining contributions to the retirement system for participating service, the compensation of the member shall not include the following:

(1) Any amounts that are not counted, according to any law or regulation of the state of Kansas, in a member's final average salary for calculations of retirement benefits;

(2) the imputed taxable amount for life insurance coverage above \$50,000;

(3) reimbursement for actual expenses;

(4) payments under any early retirement incentive program paid before the retirement of the member; and

(5) for those first hired after July 1, 1996, any compensation above \$150,000 per year, as indexed, in accordance with 26 U.S.C. § 401(a)(17) of the federal internal revenue code, as defined in K.S.A. 74-4902(35), and amendments thereto.

(c) Notwithstanding any rule and regulation or other provision of law to the contrary, the sum of contributions shall not exceed the limits under 26 U.S.C. § 415(c) of the federal internal revenue code, as defined in K.S.A. 74-4902(35), and amendments thereto.

(Emphases added.)

(3) No Simultaneous Contributions to KPERS and Regents Plan

According to K.S.A. 74-4902(14), a KPERS member may not receive service credit in KPERS for any period of service during which the member participates in the Board of Regents Retirement Plan. If you are a Regents Institution DA and are aware that you have an employee on payroll who participates in KPERS on another job, who is also eligible to participate in the Regents plan, it would be helpful if you would advise the employee that he or she will lose eligibility to accrue KPERS service credit by choosing to participate in the Regents plan. If you are a non-Regents Institution DA and know that one of your employees is working for a Regents Institution while retaining his or her KPERS-covered employment, you could be of similar service by advising the employee about this provision of Kansas law.

(4) The \$4,000 Lump Sum Death Benefit is Still Taxable

Legislation was introduced during the 2000 session which would have effectively styled KPERS' \$4,000 lump sum death benefit as "life insurance," which would have allowed the benefit to be disbursed without being taxed. Unfortunately, the Internal Revenue Service has declined to give KPERS a ruling on treating the death benefit as life insurance. Therefore, under federal law, the \$4,000 lump sum death benefit is still taxable to its recipients. (There is no Kansas income tax on any KPERS benefits.)

(5) KPERS Contributions from Monies Earmarked for Health Insurance

Whether to withhold KPERS contributions on various arrangements with regard to health insurance is an ongoing concern. Here are the basics:

- The value of health insurance paid by the employer is not subject to KPERS contributions.
- Cash in lieu of health insurance is subject to KPERS contributions.
- Additional salary, even though immediately deducted to cover all or part of the cost of health insurance, is subject to KPERS contributions.

This is another example of where the definition of compensation from K.A.R. 80-6-5, discussed in Paragraph 2, above, comes into play. The money in the paycheck, whether payable to the employee as cash or subtracted immediately to pay for the benefit, falls under the definition of compensation under K.A.R. 80-6-5(a)(3), and KPERS contributions are owed on these amounts.

(6) Where to Send Changes in Designation of Beneficiaries

Please note that all beneficiary designation changes should be sent directly to KPERS, and never to Security Benefit Life Insurance Co. (SBL). SBL administers, on KPERS' behalf, certain life insurance and disability benefits, but they receive their information and instruction directly from KPERS. Sending a Designation of Beneficiary form (K-

7/99) to SBL instead of KPERS could potentially cause problems if a member dies while the form is en route from SBL to KPERS or if the form stays at SBL. KPERS is governed by an administrative regulation that literally states the last form physically received in the KPERS office is the form KPERS must follow.

(7) First-Day Coverage & the Designation of Beneficiary Form

If you are a non-school employer and you have first-day coverage for death and disability benefits, please have new employees immediately complete a Designation of Beneficiary form (KPERS-7/99). The employer keeps the beneficiary form in the employee's personnel file. If an employee dies in the year of service, the employer will then send the beneficiary form to the KPERS office along with an Employers Report of Death or Disability form (KPERS-60). The beneficiary form should be sent to KPERS when the employee is enrolled in KPERS.

(8) Totality of Employment

An employee in a KPERS-covered position who also does other work for the same employer (e.g., working the ticket booth at ball games, cutting grass, performing janitorial work, etc.), must have KPERS contributions taken from all compensation earned from all positions with the same employer. This is called "totality of employment" and while it increases a member's salary, it does not add additional service credit. Members, by law, may earn only one calendar quarter of participating service credit for any employment within any one calendar quarter. (*See* K.S.A. 74-4913(2)(a) and K.A.R. 80-2-1 through 80-2-4.)

(9) Affiliation & Mandatory Enrollment

KPERS affiliation is irrevocable. Once an employer has affiliated with KPERS, that employer is thereafter affiliated with KPERS unless the employer experiences a change in circumstances which makes it ineligible by law to remain affiliated. Therefore, after an employer affiliates with KPERS, enrollment of new employees is mandatory after the employee's year of service. An employer's failure to enroll employees in KPERS results in an arrearage obligation under K.S.A. 74-4990. Employers who have questions about, or are having difficulty maintaining, the necessary enrollment procedures, should contact the KPERS office for assistance.

(10) Filling Out KPERS Forms Directly on the Website

All current KPERS forms are available in .PDF format on our website at www.kpers.org. Designated Agents and members may download and open each form and actually fill in the blanks on their own computer. The completed forms may then be printed as they appear on the terminal with the relevant information included. The printed form is then sent to the KPERS office. Individuals taking advantage of this convenience should obtain the appropriate signatures needed on the form before sending them to the KPERS office. The end result is very neat and readable.

(11) The EF-105 Form Available on the KPERS Website

The KPERS EF-105 form which provides employer authorization for the electronic transfer of funds to KPERS from the employer's financial institution is now available in .PDF format on the KPERS website, www.kpers.org. Employers may complete this form directly on the site, print the form, sign it, and return it to the Retirement System office. Changes in banking information are also to be completed on the EF-105 and returned to the KPERS office. Employers are encouraged to first read the instructions available on the second page of the form.

(12) Visiting the KPERS Office

KPERS members are always welcome at our office in Topeka. However, members will find that making an appointment to personally discuss their membership with a KPERS representative will ensure that staff has the member's file ready and has the necessary time to spend with the member. If necessary, the member should request a Retirement Benefit Estimate Request (KPERS-15E) form prior to the appointment.

(13) KPERS to Accept Discover Card Beginning July1, 2001

Beginning July 1, 2001, KPERS will accept the Discover credit card for payments from members. This includes, but is not limited to, payments for lump sum service purchases and refunds of benefit overpayments. KPERS will send members the necessary authorization form, or provide the same if the member chooses to come to the KPERS office, as credit card payments will not be accepted over the telephone. Members should note that KPERS will accept Discover cards issued in the member's name only, and that a two percent fee will be added to all credit card transactions.