

### **Sec. 27. Forms of Payment; Election; Naming of Survivor Beneficiary; Failure to Make Timely Election; Amount of Retirement Allowance; Election if Member Married at Retirement Allowance Effective Date; Signature of Spouse; Effect on Election if Retiree Divorced From Spouse Named as Survivor Beneficiary.**

- (1) A member or a vested former member may elect to have retirement allowance payments made under one of the forms of payment described in subsection (2), and may name a survivor beneficiary unless Form of Payment SL is selected. The election of a form of payment and the naming of a survivor beneficiary shall be in writing and filed with the Retirement System before the date the first retirement allowance payment is made. An election of form of payment shall not be changed on or after the commencement date of the retirement allowance. Except as otherwise provided in section 30, a named survivor beneficiary shall not be changed on or after the commencement date of the retirement allowance if form of payment II, IIA or III is elected. A named survivor beneficiary may be more than 1 person if form of payment IV is elected.
  
- (2) The member or vested former member may elect 1 of the following forms of payment:
  - (a) Form of Payment SL – Straight Life Retirement Allowance. Under form of payment SL, the retiree is paid a retirement allowance for life. The amount shall be determined as provided in section 20 or 68.
  
  - (b) Form of Payment II – Life With 100% (Full) Continuation to Survivor Beneficiary. Under form of payment II, the retiree is paid a reduced retirement allowance until either the retiree or the named survivor beneficiary dies. Upon the death of the named survivor beneficiary, the retiree is paid the form of payment SL retirement allowance over the retiree's remaining life. Upon the death of the retiree during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid 100% (the full amount) of the reduced form of payment II retirement allowance over the named survivor beneficiary's remaining life.
  
  - (c) Form of Payment IIA – Life With 75% (3/4) Continuation to Survivor Beneficiary. Under form of payment IIA, the retiree is paid a reduced retirement allowance until either the retiree or the named survivor beneficiary dies. Upon the death of the named survivor beneficiary, the retiree is paid the form of payment SL retirement allowance over the retiree's remaining life. Upon the death of the retiree during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid 75% (3/4 of the amount) of the reduced form of payment IIA retirement allowance over the named survivor Beneficiary's remaining life.

- (d) Form of Payment III – Life With 50% (1/2) Continuation to Survivor Beneficiary. Under form of payment III, the retiree is paid a reduced retirement allowance until either the retiree or the named survivor beneficiary dies. Upon the death of the named survivor beneficiary, the retiree is paid the form of payment SL retirement allowance over the retiree's remaining life. Upon the death of the retiree during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid 50% (1/2 of the amount) of the reduced form of payment III retirement allowance over the named survivor beneficiary's remaining life.
  - (e) Form of Payment IV – Life With Period Certain Guarantee. Under form of payment IV, the retiree is paid a reduced retirement allowance for life. Upon the death of the retiree during the guaranteed period, the named survivor beneficiary is paid the full amount of the reduced form of payment IV retirement allowance for the remainder of the guaranteed period. The guaranteed period shall be selected by the retiree at the time of election of form of payment IV and shall be either 60 months, 120 months, 180 months, or 240 months, but the guaranteed period shall not exceed the retiree's life expectancy as of the date of retirement. The actuarial present value of remaining guaranteed retirement allowance payments shall be paid to the legal representative of the retiree or the named survivor beneficiary, whichever survives the longest if both the retiree and named survivor beneficiary die during the guaranteed period.
- (3) The amount of a retirement allowance under Forms of Payment II, IIA, III, and IV shall have the same actuarial present value as the amount of a retirement allowance under Form of Payment SL, computed as of the date of retirement.
  - (4) Automatic Spousal Protection. If a retiring member or vested former member is married at the retirement allowance effective date, an election under subsection (2)(b) (Form of Payment II - 100% full benefit) naming the spouse as survivor beneficiary shall be presumed and effective unless the election of another form of payment is signed by the spouse (this requirement may be waived by the Retirement Board if the signature of a spouse cannot be obtained because of extenuating circumstances). The remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive the pension or retirement allowance.
  - (5) If a retiree receiving a reduced retirement allowance under subsection (2)(b) to (e) is divorced from the spouse who had been named the retiree's survivor beneficiary under subsection (2)(b) to (e), the election of a reduced retirement allowance form of payment shall be considered void by the Retirement System if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in section 10 provides that the election of a reduced retirement allowance form of payment under subsection (2)(b) to (e) is to be considered void by the Retirement System and the retiree

provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the Retirement System. If the election of a reduced retirement allowance form of payment under subsection (2)(b) to (e) is considered void by the Retirement System under this subsection, the retiree's retirement allowance shall revert to a straight life retirement allowance, including post-retirement adjustments, if any, subject to an award or order of the court as described in section 10. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the Retirement System receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on the effective date of the amendatory act that added this subsection. This subsection does not require the Retirement System to distribute or pay retirement assets on behalf of a retiree in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

- (6) A retirement allowance payable under a form of payment provided in this section is subject to an eligible domestic relations order under the Eligible Domestic Relations Order Act.
- (7) Each member or vested former member who applies for retirement shall be given a written explanation, prior to retirement, of the optional forms of payment provided in this section.
- (8) Pursuant to 26 CFR §1.401(a)(9)-6, Q&A-16, the Board has determined that this section 27, as in effect on April 17, 2002, contains distribution options that satisfy 401(a)(9) of the IRC based upon the Board's reasonable and good faith interpretation of the provisions of that section. Any additions or amendments to this section, or to any other provisions of this Plan dealing with distribution options, after April 17, 2002, must meet the requirements of 401(a)(9) of the IRC and Treasury Regulation 1.401(a)(9), except to the extent that 401(a)(9) provides specific rules or exceptions for governmental plans.