

# KENTUCKY PERSONNEL CABINET

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**THOMAS B. STEPHENS**  
SECRETARY

## MEMORANDUM

**PERSONNEL MEMO 16-61**

**To:** Cabinet Secretaries  
Agency Heads  
HR Administrators

**From:** Thomas B. Stephens, Secretary 

**Date:** November 28, 2016

**Re:** FICA Taxation of Mandatory Employee Retirement Contributions

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**Please be advised that, effective January 1, 2017, the mandatory employee retirement contributions of Executive Branch employees participating in the Kentucky Employees Retirement System (KERS) will be wages subject to Federal Insurance Contributions Act (FICA) taxes.**

Currently, mandatory employee retirement contributions of members participating in KERS are made on a before-tax basis and are automatically deducted by the various governmental employers of the Commonwealth and paid into the retirement plan. This means that the contributions made by the employer on behalf of the employee are withheld from an employee's gross pay before state, federal, and FICA taxes are withheld.

Recently, the IRS notified the Commonwealth that its agencies, and other government agencies, by use of the above before-tax treatment of contributions, were not in compliance for calculating FICA and Medicare contributions. The IRS indicated its intention to bring all entities into compliance by January 1, 2016. Through a series of negotiations, the dispute was settled to protect government agencies from any past liabilities associated with this compliance issue, and to postpone the effective date of the change until January 1, 2017. Accordingly, effective January 1, 2017, mandatory employee retirement contributions of all Executive Branch employees participating in KERS will be wages subject to FICA taxation. Since this is a matter within the authority and discretion of the IRS, employees are without legal recourse against the Commonwealth.

The Personnel Cabinet will distribute additional information to HR Administrators and state employees to assist in the implementation and understanding of this change. Once the communication is disseminated, employees will be encouraged to contact their agency HR office with additional questions.

Please note that the increased amounts were already factored into the personnel costs that were provided in 2015 by the Office of State Budget Director (OSBD) in the budget development process.

Please direct questions to Commissioner Mary Elizabeth Bailey, Department of Human Resources Administration, via email at [MaryE.Bailey@ky.gov](mailto:MaryE.Bailey@ky.gov) or by phone at (502) 564-7571.