

**§ 25-14-5. Deferred compensation program authorized; investment; deferred compensation exempt from tax and execution.**

(1) The State of Mississippi, or any state agency, county, municipality or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's income, and a county, municipality or other political subdivision, except community and junior college districts, may make contributions to the plan on behalf of actively participating members on a uniform basis through an employer contribution agreement as provided for in the Mississippi Deferred Compensation Plan and Trust Plan Document if making the contribution does not conflict with any other state law. Those funds may subsequently be used to purchase a fixed or variable life insurance or annuity contract authorized for purchase by the Public Employees' Retirement System of Mississippi for the purpose of protecting its obligation to the deferred compensation program for the employee from any life underwriter duly licensed by this state who represents an insurance company licensed to contract fixed and variable annuities and fixed or variable life insurance business in this state and authorized by the Public Employees' Retirement System of Mississippi to offer their products in the plan, or to purchase any investments authorized for purchase by the Public Employees' Retirement System of Mississippi under Section 25-11-121, or to invest those monies in a fund or funds maintained by a corporate trustee, which fund or funds are used as an investment media for retirement, pension or profit sharing plans that are tax qualified for that purpose. However, in the administration of this plan, the Public Employees' Retirement System of Mississippi may adopt such regulations as are reasonable and necessary to assure the orderly functioning of the plan, but those regulations shall not unreasonably restrict all licensed life underwriters and insurance companies described in this section from concurrently participating in providing contracts authorized under this section.

(2) Except as otherwise provided in subsections (3) and (4) of this section and anything in any other law to the contrary notwithstanding, the deferred portion of the employee's compensation, the plan and the monies in the plan created by this chapter are exempt from any state, county or municipal ad valorem taxes, income taxes, premium taxes, privilege taxes, property taxes, sales and use taxes and any other taxes not so named, until the deferred compensation is paid to the employee or beneficiary and exempt from levy, garnishment, attachment or any other process whatsoever.

(3) The Mississippi Deferred Compensation Plan and Trust or any other deferred compensation plan established by this chapter may include Roth accounts pursuant to 26 USC Section 402A of the Internal Revenue Code or any other post-tax vehicle contribution allowed pursuant to the Internal Revenue Code if permitted under the plan document. A participant's Roth or other allowable post-tax contribution into a deferred compensation account shall be treated by the employer as includable in the participant's income at the time the participant would have received that amount in compensation if the participant had not made a deferred election.

(4) The Mississippi Deferred Compensation Plan and Trust shall comply with any judgment, decree or order which establishes the right of an alternate payee within the meaning of Internal Revenue Code Section 414(p)(8) to all or a portion of a Participant's benefit under the Plan to the extent that it is a "qualified domestic relations order" ("QDRO") under Code Section 414(p). The administrator shall establish reasonable written procedures to determine whether a domestic relations order is a QDRO and to administer the distribution of benefits with respect to such orders, which procedures may be amended from time to time. Notwithstanding any other provisions in the plan, the plan may make an immediate distribution to the alternate payee pursuant to a QDRO.

**§ 25-14-15. Deferred compensation not included for withholding taxes purposes.**

Except as provided in Section 25-14-5(3) and notwithstanding any other provision of this chapter or any other provision of law to the contrary, any sum deferred under the deferred compensation program shall not be included for the purposes of computation of any taxes withheld on behalf of any employee.

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