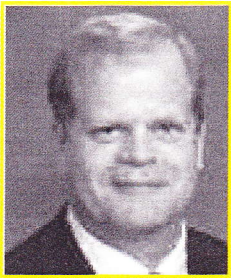




Special Estate Planning Required for MO Public Educators

By: David Glaser and James G. Blase



For most of the almost 200,000 active and retired Missouri public school teachers, administrators and staff ("educators"), their Missouri public school retirement system PSRS or public education employee retirement system PEERS benefits constitute, or will eventually constitute a significant portion of their financial net worth. It is therefore critically important that educators will want to ensure that their estate plans, including wills, trusts and beneficiary designations, have been prepared in a fashion which will best preserve these retirement benefits for their families, in the event of their premature deaths.

PSRS publishes a brochure titled "Protecting Those You Care About," which is intended to guide educators through the maze of survivorship planning for PSRS benefits. Unfortunately, the current Missouri statutes and regulations governing both PSRS and PEERS have made planning for this goal of protecting the educator's family almost insurmountable for many educators to achieve in the absence of expert guidance of a qualified estate planning attorney well-versed in the PSRS and PEERS statutes and regulations, as well as in the various policies followed by the PSRS and PEERS offices with respect to the same. Educators focus upon helping students succeed and typically do not have the time or the expertise needed to resolve the many challenging estate planning issues associated with their PSRS and PEERS survivorship benefits. As a result, their estate plans and beneficiary designations often are not responsive to their family's needs.

Part 1 of this article will focus on the most significant estate planning challenges associated with PSRS and PEERS. Part 2 of this article will focus on presenting solutions to these issues.

Background

While they may not always realize it, for many educators their PSRS/PEERS benefit is their biggest asset. If an educator averages between \$50,000 and \$100,000 per year over his or her last three years of employment, and has a PSRS/PEERS benefit of between 75 and 80 percent of his or her last three years of earnings, this translates into a retirement earnings stream of between \$40,000 and \$80,000 per year---with annual cost of living increases provided for life. Many educators end up earning more in their retirement years than in their working years! That is the true value of the educator's retirement benefits!

Because of this value, it is critically important that the educator's PSRS/PEERS benefits be protected and managed in the event he or she should die while still employed. PSRS/PEERS does an excellent job of providing workshops for educators to help them make decisions as they approach retirement, but many of the most important estate planning issues are not covered or addressed in these workshops. More importantly, estate planning issues obviously need to be considered prior to the time when the educator is eligible to attend these workshops, which is not until he or she is within five years of retirement.

It is generally in the educator's heirs' best interests to receive a lifetime benefit (or, potentially, for PSRS employees with younger children, a benefit during the children's dependency years) versus only receiving a "lump sum" payment.

This is because the lifetime benefit option (sometimes referred to as the "Option 2-type" benefit) reflects the value not only of the educator's contributions and related earnings, but also of the value of the employer's contributions. A "lump sum" benefit, on the other hand, equates to only the amount reflected on the educator's annual statement from PSRS/PEERS, which is generally equal to personal contributions plus interest credited at the rate determined annually by PSRS/PEERS. Keep in mind that in order to make an appropriate recommendation we would have to review your unique situation.

There are numerous challenges in trying to accomplish this goal of having the educator's heirs receive lifetime benefits, however. This is due to the many limitations in the system, including (in the event the educator is unmarried or dies in a common accident with his or her spouse, or for second marriages where either or both spouses wishes or wish to benefit children from a previous marriage) the inability to designate multiple children as monthly or dependency beneficiaries, as well as the pitfalls of providing a major outright benefit to children before they are mature enough to handle it. Unintended consequences can also occur in the event of a "life changing event," such as the birth or adoption of an additional child or children. Furthermore, serious adverse income and gift tax consequences will arise when the child who is designated as the sole lifetime beneficiary voluntarily elects to share these benefits with his or her siblings. Finally, because minor children are ineligible to receive outright dependency payments under Missouri law, a custodian would need to be designated by the educator to receive the payments for them---otherwise the payments would be distributed to a court-appointed conservator---a very cumbersome and expensive process in Missouri.

In Part 2 of this article we will outline techniques for overcoming all of the above-outlined limitations of the PSRS/PEERS system. To learn about these solutions now, please contact us for a free no obligation personal consultation or to arrange a complimentary workshop or seminar in your district for your employees.

*David S. Glaser is a former MOASBO President, an Investment Advisor Representative, and currently provides personal investment counseling for selected clients of Legacy Wealth Advisors. He also serves as CEO of the Voluntary Interdistrict Choice Corporation. Securities and advisory services offered through National Planning Corporation (NPC), Member FINRA/SIPC, a Registered Investment Advisor. Legacy Wealth Advisors, Choice Corporation, Blase & Associates, and NPC are separate and unrelated companies.

**James G. Blase is the principal of the law firm Blase & Associates LLC, and has been providing estate planning services for Missouri public school teachers, administrators and other individuals for 29 years. He is also an adjunct professor of estate planning at St. Louis University School of Law.

Special Estate Planning Required for MO Public Educators

By: David Claser and James G. Blase

In Part 1 of this article we discussed the various significant estate planning limitations associated with the current PSRS/PEERS retirement system. In this Part 2 we will outline techniques for overcoming all of these limitations.

The recommendations we have for active educators include taking the following steps:



1. Young and experienced educators alike should consider purchasing term life insurance (e.g., 10, 20 or 30 year renewable term) to cover the years prior to the educator becoming vested in Option 2-type benefits. For example, a 40-year old educator needing 10 more years of creditable service before his or her family will be entitled to receive the larger Option 2-type benefits might want to consider purchasing a 10-year renewable term life insurance policy, to cover the years while his or her family would have to wait to receive the Option 2-type benefits. An educator needing 20 more years of creditable service might consider a 20-year renewable term policy, etc.
2. Thinking even further ahead, the active educator might consider adding a so-called "convertibility rider" onto the term life insurance policy he or she purchases, to provide the educator with an option to automatically convert the term product to a cash value product upon retirement. The addition of the convertibility rider would allow the educator to elect the larger Option 1 retirement benefits payable only for the life of the educator, knowing that tax free life insurance proceeds would be available to his or her surviving spouse and/or children, in the event of a premature death. The amount of the premium would obviously be higher after the conversion of the policy from term to a cash value product, but the educator would have the larger Option 1 retirements benefits to help pay the additional premium. The significant benefit of this approach is that the death benefits payable to the surviving spouse and/or children under the life insurance policy are income tax-free, whereas Option 2 benefits are taxable.
3. Because it is impossible to predict which election - dependency, lump sum or Option 2 - will definitely be the best election for the designated beneficiary to make after the educator's death, the educator should generally designate his or her revocable trust as the first contingent beneficiary of the survivor benefit (or as the primary beneficiary if the educator is not married or does not wish to designate his or her spouse as the primary beneficiary).
4. The second contingent beneficiary (or the first contingent beneficiary if the educator is not married or does not wish to designate his or her spouse as primary beneficiary) should be the educator's youngest child or, if the child is a minor, a designated custodian for his or her benefit under the Missouri Transfers to Minors Law
5. The trustee of the revocable trust will then be given certain specific directions and powers under the terms of the trust document. These trustee directions, while obviously legal in nature, can be briefly summarized as follows:
 - a. The trust document should give the trustee the sole and absolute discretion to determine whether to accept the lump sum payment or disclaim the same and allow it to pass to the contingent beneficiary, applying specific guidelines which will be designated in the trust document.
 - b. If, after applying the specific guidelines, the trustee determines to accept the lump sum benefit, the Missouri PSRS/PEERS offices have confirmed that the trustee may also elect to roll the lump sum into an inherited IRA on behalf of the trust or trusts, thereby effectively allowing the beneficiaries of the trust or trusts to defer income tax on the lump sum payment over their life expectancies
 - c. In conjunction with the trustee's exercise of the trustee's authority to disclaim the lump sum benefit, the trustee

can be given the sole and absolute discretion to determine whether, as a prerequisite to making the disclaimer:

i. the contingent beneficiary should be required to agree up front to share the Option 2-type benefit with his or her siblings and the descendants of any sibling who is then deceased or who dies subsequent to the educator but before the designated beneficiary child; or

ii. if the children are still too young to receive Option 2-type unrestricted payments, either in the eyes of the law (i.e., because they are still minors) or in the eyes of the educator and/or trustee, the children and/or their legal guardians can be required to agree up front to redeposit the Option 2-type payments into a trust or trusts for the benefit of the children which is/are established under the educator's trust document.

d. The arrangement described in paragraph c, above, will not create gift or income tax problems for the trustee or for the designated beneficiary

6. Finally, and perhaps most importantly, a system needs to be in place to ensure that the educator remembers to reinstate his beneficiary designation in the event it is automatically voided by the PSRS/PEERS rules.

Because of the complexity of the financial planning process and the intricacies of successfully implementing the strategies described in this article, we have found group seminars and personal planning sessions to be highly beneficial for our current and potential clients. Please contact David at dglaser@legacy-wealthadvisors.com or (314) 574-6968 or Jim at jimblase@blaselaw.com or (314) 909-6565 to arrange a group seminar at your school or for a personal consultation.

*David S. Glaser is a former MOASBO President, a Registered Investment Advisor, and currently provides personal investment counseling for selected clients through Legacy Wealth Advisors. He also serves as CEO of the Voluntary Interdistrict Choice Corporation. Securities and advisory services offered through National Planning Corporation (NPC), Member FINRA/SIPC, a Registered Investment Advisor. Legacy Wealth Advisors, Choice Corporation, Blase & Associates, and NPC are separate and unrelated companies.

**James G. Blase is the principal of the law firm Blase & Associates LLC, and has been providing estate planning services for Missouri public school teachers, administrators and other individuals for 29 years. He is also an adjunct professor of estate planning at St. Louis University School of Law.

Estate planning can involve a complex web of tax rules and regulations. Tax laws surrounding estate planning concepts are subject to change. Please consult an estate planning attorney prior to making any financial decisions.




**WE ARE HERE TO SERVE YOU
IN A WAY NO ONE ELSE CAN!**

We are a dedicated, professional staff, all located in Missouri, working only for the MUSIC membership. We have been serving Missouri schools exclusively since 1985 and we will still be here for many years to come. THIS IS ALL WE DO!

MUSIC is non-profit and is owned and controlled by its 470+ member Districts. We offer a comprehensive package of coverages including Property, Liability, Automobile and Workers' Compensation. Additional benefits include a Board Policy Service, Loss Prevention Programs, Appraisals and Legal Seminars/Workshops.

If you would like a brochure, a listing of testimonials, or an application for membership, please give Dr. Gary VanMeter a call at (636) 916-2433 or email at gary.vanmeter@yahoo.com



MUSIC
Missouri United School
Insurance Council