



STATE OF IDAHO

DEATH BENEFITS

IMPORTANT NOTICE: Both Federal and State death benefits MAY be tax exempt.

The IRS Code of the United States states that:

Survivor benefits attributable to service by a public safety officer who is killed in the line of duty:

(1) In General

Gross incomes shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act 1968) killed in the line of duty—

- (A) If such annuity is provided, under a governmental plan which meets the requirements of section 401(a), to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and
- (B) To the extent such annuity is attributable to such officer's service as a public safety officer.

(2) Exceptions

Paragraph (1) shall not apply with respect to the death of any public safety officer if, as determined in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968—

- (A) The death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;
- (B) The officer was voluntarily intoxicated at the time of death;
- (C) The officer was performing such officer's duties in a grossly negligent manner at the time of the death
- (D) The payment is to an individual whose actions were substantial contributing factor to the death of the officer



To obtain certified copies of registered personal documents, contact the Bureau of Vital Records and Health Statistics, 450 W State Street, 1st Floor, Boise, ID 83720. (208) 334-5980.

STATE DEATH BENEFITS

Beginning July, 2009, there is a **state death benefit** paid for the line-of-duty death of any certified peace officer, detention officer, or correctional officer in the employ of the state or a political subdivision of the state.

The sum of **\$100,000 will be disbursed to a surviving spouse**, with or without dependent children. In the event there is **no surviving spouse, the sum of \$100,000 will be disbursed evenly to surviving dependent children under the age of 21**. In the event there is *neither a surviving spouse nor surviving dependent children under the age of 21*, the **sum of \$40,000 will be disbursed to the surviving parent or parents of the slain officer**, to be split equally between the natural or adopted parents of the slain officer.

The death benefit provided in this section shall **not be subject to state income taxes**, and shall not affect, nor be affected by, any death benefit payments as may be provided under chapter 13, title 59, Idaho code.

STATE PENSION BENEFITS

SURVIVOR COMPENSATION

In the event a paid policeman is killed or sustains injury, from which death results, while in the performance of his duty *or from causes disconnected with his official duties* but during the period of his service, and leaves surviving spouse or minor child or children if spouse has predeceased officer shall be paid from the retirement fund a yearly sum equal to **1/2 of the amount of the salary attached to his/her rank for a period of one year** next preceding date of death. Payments will be made to remarried spouse for sole benefit of minor children until children reach age 18. Unmarried officer leaving **dependent** natural father and mother, benefit pay shall be paid **50% to each parent** until death.

In event any paid policeman shall die within three (3) months, from and as a result of injuries received in performance of duty or from causes disconnected with his official duties but during the period of his service and shall at the time of his death be unmarried but shall leave surviving him dependent natural father and mother, the retirement or benefit pay to which he would have been entitled thereunder shall be paid **fifty per cent (50%)** to each of the surviving parents during the continuance of his or her natural life.



ORDER OF ELIGIBILITY

- Spouse
- Minor child/children under the age of 18
- Natural dependent parents

Contact: Public Employees Retirement System, PO Box 83720, Boise, ID 83720. (800) 451-8228.

EDUCATION BENEFITS

Idaho Statutes, Title 33, Education, Chapter 43, Scholarships

Any dependent of a full-time or part-time public safety officer, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or disabled in the line of duty **shall be admitted to attend any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefore.**

Said dependents **shall be provided** by the institution or college with books, equipment and supplies necessary for the pursuit of the dependent's chosen program of enrollment **not to exceed the actual cost therefore, or \$500, whichever is less**, per quarter, semester, intensified semester, or like education period.

Said dependent **shall be provided** with the institution or college's published **normal on-campus residential facility housing and meals program** for each month the dependent is enrolled full time under this statute and continues to actually reside in such on-campus residential facility.

Provided however, that the educational benefits provided for in this section **shall not exceed a total of 36 months or 4 nine-month periods**; provided further that such educational benefits *shall not extend beyond 10 years following the date the dependent receives a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion, or beyond the date such dependent turns 30 years old, whichever comes first.*

The dependent shall be required to meet the educational qualifications as such institution of higher education or professional-technical college has established for other prospective students. **Application for eligibility under this section shall be made to the state board of education and board of regents of the University of Idaho.** The board shall verify the



eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.

The scholarships provided in this section shall be available for dependents of public safety **officers who were killed or disabled in 1975 or thereafter.**

Note-We interpret the above information to mean the school which the dependent wishes to attend will submit required paperwork to the state board of education and board of regents of the University of Idaho for eligibility determination. Talk with the institution you wish to attend – and take a copy of this information – so they can refer to the appropriate Idaho statute.

HEALTH BENEFITS

Varied depending upon police department benefits. **Contact the Benefits Assistance Officer in your agency.**

WORKERS' COMPENSATION

Workers' Compensation coverage is compulsory for employers in Idaho.

The benefit is **45%** of the employee's wage if survived by a **spouse only** or **60%** if survived by a **spouse and child(ren)**, with a **minimum weekly benefit of \$290.70 and a maximum weekly benefit of \$581.40, with a maximum period of 500 weeks.** There is also a maximum allowance of **\$6,000** to cover actual expenses of transportation of employee's body to his or her place of residence within the United States or Canada.

Upon remarriage, spouse receives either 180 weeks of compensation or balance of 500 weeks, whichever is less.

Contact the Idaho State Industrial Commission, PO Box 83720, Boise, ID 83720-0041. (208)334-6000.

PENSION PAYMENTS 50-1516

Disability under Workers' Compensation: Any policeman, father, mother, widow, child or children of a policeman are entitled to compensation under the Workmen's Compensation Law shall draw benefits under provisions of this chapter *only to the extent that the benefits under provisions of this chapter exceed those to which he shall be entitled under the Workmen's Compensation Law of the state of Idaho*, also if eligible he/she (officer) will receive retirement under the provisions of this chapter he may make appropriations to the



board to be retired at (1/2) the rate of pay applicable for the job classification at the time of disability.

Contact the Public Employee Retirement System, PO Box 83720, Boise, Idaho, 83702 (208) 334-3365.

PERSONAL LIFE POLICY - INTESTATE

Descent and Distribution - 15-2-201. Quasi-community property.

- (a) Upon death of a married person domiciled in this state, one-half (1/2) of the quasi-community property shall belong to the surviving spouse and the other one-half (1/2) of the quasi-community property shall be subject to the testamentary disposition of the decedent and, if not devised by the decedent, goes to the surviving spouse.
- (b) Quasi-community property is all persona property, wherever situated, and all real property situated in this state which has heretofore been acquired or is hereafter acquired by the decedent while domiciled elsewhere and which would have been the community property of the decedent and the surviving spouse had the decedent been domiciled in this state at the time of its acquisition plus all personal property wherever situated, and all real property situated in this state, which has heretofore been acquired or is hereafter acquired in exchange for real or personal property, wherever situated, which would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time the property so exchanged was acquired, provided that real property does not and personal property does not include leasehold interests in real property, provided that quasi-community property shall include real property situated in another state and owned by a domiciliary of this state if the laws of such state permit descent and distribution of such property to be governed by the laws of this state.
- (c) All quasi-community property is subject to the debts of decedent.



15-2-202. Augmented estate. Whenever a married person domiciled in the state has made a transfer of quasi-community property to a person other than the surviving spouse without adequate consideration and without the consent of the surviving spouse, the surviving spouse may require the transferee to restore to the decedent's estate one-half (1/2) of such property, if the transferee retains such property and, if not, one-half (1/2) of its proceeds or, if none, one-half (1/2) of its value at the time of transfer if:

- (a) The decedent retained, at the time of his death, the possession or enjoyment of or the right to income from the property;
- (b) The decedent retained, at the time of his death, a power either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for his own benefit;
- (c) The decedent held the property at the time of his death with another with the right of survivorship; or
- (d) The decedent had transferred such property within two (2) years of his death to the extent that the aggregate transfers to any one (1) donee in either of the years exceeded three thousand dollars (\$3,000).

15-2-203. Elective right to quasi-community property and augmented estate.

- (a) The right of the surviving spouse in the augmented quasi-community property estate shall be elective and shall be limited to one-half (1/2) of the total augmented quasi-community property estate which will include, as a part of the property described in section 15-2-201 and section 15-2-202, of this code, property received from the decedent and owned by the surviving spouse at the decedent's death, plus the value of such property transferred by the surviving spouse at any time during marriage to any person other than the decedent which would have been in the surviving spouse's quasi-community property augmented estate if that spouse had predeceased the decedent to the extent that the owner's transferred property is derived from the decedent by any means other than testate or intestate succession without a full consideration in money or moneys worth. This shall not include any benefits derived from the federal social security system by reason of service performed or disability incurred by the decedent, and shall include property transferred from the decedent to the surviving spouse by virtue of joint ownership and through the exercise of a power of appointment also exercisable in favor of others than the surviving spouse and appointed to the



surviving spouse.

- (b) The elective share to the quasi-community estate thus computed shall be reduced by an allocable portion of general administration expenses, homestead allowance, family allowance, exempt property and enforceable claims.
- (c) Property owned by the surviving spouse at the time of the decedent's death and property transferred by the surviving spouse is presumed to have been derived from the decedent except to the extent that the surviving spouse establishes that it was derived from another source.

15-2-204. Right of election personal. The right of election of the surviving spouse may be exercised only during his lifetime by him. In the case of a protected person, the right of election may be exercised only by order of the court in which protective proceedings as to his property are pending, after finding that exercise is necessary to provide adequate support for the protected person during his probable life expectancy.

15-2-205. Proceeding for elective share --- Time Limit

- (a) The surviving spouse may elect to take his elective share in the augmented net estate by filing in the court mailing or delivering to the personal representative a petition for the elective share within six (6) months after the publication of the first notice to creditors for filing claims which arose before the death of the decedent. The court may extend the time for election as it sees fit for cause shown by the surviving spouse before the time for election has expired.
- (b) The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented net estate whose interests will be adversely affected by the taking of the elective share.
- (c) The surviving spouse may withdraw his demand for an elective share at any time before entry of a final determination by the court.
- (d) After notice and hearing, the court shall determine the amount of the elective share and shall order its payment from the assets of the augmented net estate or by contribution as appears appropriate under section 15-2-207 of this code. If it appears that a fund or property included in the augmented net estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the



liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than he would have been if relief had been secured against all persons subject to contribution.

- (e) The order or judgment of the court may be enforced as necessary in suit for contribution or payment in other courts of this state or other jurisdictions.

15-2-206. Effect of election on benefits by will or statute.

- (a) The surviving spouse's election of his elective share does not affect the share of the surviving spouse under the provisions of the decedent's will or intestate succession unless surviving spouse also expressly renounces in the petition for an elective share the benefit of all or any of the provisions. If any provision is so renounced, the property or other benefit which would otherwise have passed to the surviving spouse thereunder is treated, subject to contribution under subsection 15-2-207 (b), as if the surviving spouse had predeceased the testator.
- (b) A surviving spouse is entitled to homestead allowance, exempt property and family allowance whether or not he elects to take an elective share and whether or not he renounces the benefits conferred upon him by the will except that, if it clearly appears from the will that a provision therein made for the surviving spouse was intended to be in lieu of these rights, he is not so entitled if he does not renounce the provision so made for him in the will.

15-2-207. Liability of others.

- (a) In proceeding for an elective share, property which passes or has passed to the surviving spouse by testate or intestate succession and property included in the augmented estate which has not been renounced is applied first to satisfy the elective share and to reduce the amount due from other recipients of portions of the augmented estate.
- (b) The remaining amount of the elective share is equitably apportioned among beneficiaries of the will and transferred of the augmented estate in proportion to the value of their interest therein.



- (c) Only original transferees from, or appointees of, the decedent and their donees, to the extent the donees have the property or its proceeds, are subject to the contribution to make up the elective share of the surviving spouse. A person liable to contribution may choose to give up the property transferred to him or to pay its value as of the time it is considered in computing the augmented estate.

15-2-208. Waiver. The right of election of a surviving spouse and the rights of the surviving spouse to homestead allowance, exempt property and family allowance, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement or waiver signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights to elective share, homestead allowance, exempt property and family allowance by each spouse in the property of the other and a renunciation by each of all benefits which would otherwise pass to him from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

PEER SUPPORT

Established in 1984, **Concerns of Police Survivors, Inc., (COPS)**, is a national, non-profit organization that works with law enforcement agencies, police organizations, mental health professional, and local peer-support organizations to provide assistance to surviving families of law enforcement officers killed in the line of duty. COPS has become a "lifeline" to police survivors nationwide. **Contact the COPS National Office or visit www.nationalcops.org/chap.htm for information on a chapter in your area.**

FUNERAL AND CREMATION BENEFITS

Dignity Memorial funeral, cremation and cemetery providers created the Public Servants Program for emergency service personnel. This program provides dignified and honorable tributes, at no cost, for career and volunteer law enforcement officers who fall in the line of duty. Visit their website for complete information @ www.dignitymemorial.com and look under Public Servants for details. You may also call 800-344-6489 and speak with a representative.