



STATE OF NEW YORK

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

IRS Code 101 (h) (1) In general. Gross income 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 of 1968) killed in the line of duty.

Exceptions (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 Safety Streets Act of 1968

101 (h) (2) (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, the officer was voluntarily intoxicated at the time of death, the officer was performing such officer's duties in a grossly negligent manner at the time of death, or the payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

Learn about line of duty death benefits information for all states and US territories at ODMP.org. Brought to you by Concerns of Police Survivors and the Officer Down Memorial Page.



To obtain certified copies of registered personal documents, contact **New York State Department of Health, Empire State Plaza, Corning Tower Building, 2nd Floor, Albany, NY 12237, phone (212) 619-4530.**

For the **five boroughs of New York City** (Bronx, Manhattan, Queens, Brooklyn, and Staten Island), contact **Vital Records, Department of Health, 125 Worth Street, New York, NY 10013, phone (212) 566-6402.**

STATE DEATH BENEFITS

Any death benefits that may be available are administered through the **New York State Retirement System**. They administer the payment of Ordinary Death Benefits, Accidental Death Benefits, and Disability Benefits.

STATE PENSION BENEFITS

The State Retirement System covers its **members** with two different types of death benefits: ordinary death benefits and accidental death benefits.

The ordinary death benefit is paid to the designated beneficiary if a **member** credited with at least one year of service since last joining the **Police and Fire Retirement System** dies while employed in public service, or while on medical leave without pay. The ordinary death benefit may also be payable when a member dies within one year of leaving public employment, provided he had not been otherwise gainfully employed during that year.

The accidental death benefit is paid on behalf of members who die as the direct result of an on-the-job accident, *regardless of their length of time in service.*

The ordinary death benefit is paid to the beneficiary **designated by the member**. The first **\$50,000** of this benefit is group term life insurance and is **exempt from Federal income tax** under present rulings. Ordinary death benefits are paid in a single lump sum payment; however, the beneficiary of a Tier 1 member may elect to receive the benefit as an annuity.

Tier 1 Ordinary Death Benefits - The regular ordinary death benefit (Section 360 of the Retirement and Social Security Law) is equal to **1/12th of the member's last year's earnings multiplied by the member's service credit up to thirty-six years.**

If a member who is *eligible to retire* dies in service, an alternative death benefit is payable if it provides a **larger benefit**. This benefit would be the initial value of the member's pension if he retired the day he died. However, the benefit calculation for members covered by the age 55 plan provides a smaller benefit than the formula used if they actually had retired.

Tier 2 Ordinary Death Benefits - Tier 2 members enrolled in a plan which permits retirement upon completion of a specified period of service without regard to age are covered

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by a death benefit after completion of **ninety days of service**. This benefit is equal to **three times the member's salary raised to the next multiple of one thousand dollars**. This benefit **cannot** exceed three times the maximum salary specified in Section 130 of the Civil Service Law or the specific limitations regarding age at entrance into service (See limitations described under Death Benefit Two.)

Members employed by New York State in the Security Services unit or Security Services supervisors, in Parkway Police, Capital Police and Environmental Conservation Division of Enforcement should refer to the section of this article describing their special benefit.

Tier 2 members not enrolled in a special retirement plan which allows for retirement on the basis of service credit regardless of age, **must select** one of the death benefits described below within the first ninety days after becoming members of the Retirement System, or by law, they are paid to the beneficiaries designated by the active members.

Death Benefit One is equal to 1/12th of the member's last year's earnings multiplied by their years of service credit, up to thirty-six years. If a member dies **at age 62 or older**, while still in service, an initial value of the member's pension is calculated. The initial value is calculated under Section 375-c (RSSL). This amount is compared to the benefit provided by 1/12th of the last year's earnings for each year of service and the **greater benefit is paid**.

Death Benefit One is not payable if the member's death occurs after retirement.

Death Benefit Two is equal to the member's salary during the last year of service multiplied by the number of years of service, up to three years. This benefit is subject to the following limitations **based on the member's age at date of membership**:

Age Last Joined System	Maximum Benefit
52	Salary x 2 1/2
53	Salary x 2
54	Salary x 1 1/2
55 to 64	Salary x 1
65 and over	\$1,000

If the member remains in service at age 61, the amount payable as Death Benefit Two is reduced to **90% of the total benefit**. Thereafter, each year the member remains in service the benefit is reduced by an **additional 10% to a minimum of 10% of the original benefit**.

After retirement, the benefit payable is reduced to **50% of the benefit payable prior to retirement**. The second year of retirement, the benefit is reduced by an **additional 25%**. The third year of retirement and thereafter, the benefit is **10% of the benefit in force at age 60**, or at the time of retirement, whichever occurred first.

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Special Death Benefit for New York State Police, Security Services Unit Members and Supervisors, Parkway Police, Capital Police and Members in the Environmental Conservation Division of Enforcement. A special ordinary death benefit, *in lieu of the basic ordinary death benefit*, is payable to the beneficiary(ies) designated by the member upon the death of a member or officer of the **New York State Police** who is covered by Section 381-b (twenty year retirement plan) and has credit for ninety or more days of service while actually a member of the Retirement System.

This benefit is equal to **three times the member's annual salary** raised to the next higher multiple of one thousand dollars.

For members or officers of the State Police who were in service **on or before April 1, 1969**, a benefit equal to the ordinary death benefit - 1/12th X last year's earnings X number of years of service (up to 36 years), is payable *if it provides a larger death benefit than the special death benefit*.

The death benefit payable on behalf of officers or members of State Police who enter or reenter service **after April 1, 1969**, *can never exceed three times the member's last year's salary raised to the next higher multiple of one thousand dollars*.

Accidental Death Benefits - The Accidental Death Benefit is a benefit payable in monthly installments. The yearly amount payable is equal to **the member's final salary**, payable in the order shown below:

1. to a widow(er) for life or until remarriage
2. where there is no widow(er) or in the event of remarriage, to minor children until the last child reaches age 18
3. where there is no widow(er) and no minor children, to a dependent parent for life.

This benefit is subject to **reduction by the amount of any Workers' Compensation benefit** paid or payable. If the combined accidental death and Workers' Compensation payments **do not equal or exceed the amount of the ordinary death benefit**, the Retirement System will pay the difference to the designated beneficiary or to the estate. **This benefit applies to the widow/er of a paid uniformed member of a county sheriff's department (outside the city of New York), New York City policemen, firemen, transit police, housing police, and New York City corrections officers.**

Reasonable funeral expenses, **not to exceed \$3,000**, will be paid to families of police officers who die from injuries received in the line of duty as a direct result of a crime, *without regard to the financial difficulty of the claimant*.

Police Officers or Representatives - Cause of Action for Injury or Death: In addition to any other right of action or recovery under any other provision of law, in the event any accident, causing injury, death or a disease which results in death, occurs directly or indirectly

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as a result of any neglect, omission, willful or culpable negligence of any person or persons in failing to comply with the requirements of any of the statutes, rules, orders and requirements of the federal, state, county, village, town or governments or of any and all their departments, divisions and bureaus, the person or persons guilty of said neglect, omission, willful or culpable negligence at the time of such injury or death **shall be liable to pay any officer, or the spouse and children, or pay to the parents, or pay to the brothers and sisters, being the surviving heirs-at-law of any deceased person thus having lost his life, a sum of money, in the case of death not less than five thousand dollars (\$5,000).**

**New York State Employees Retirement System:
Chapter 348 Sec. 6231A**

- (1) The pension paid to the widow or widower will continue during **his or her lifetime**. If the deceased police officer shall leave no widow or widower, or if their widow or widower shall die before all his or her children shall have attained the age of 18, or if students, before all o f his or her children shall have attained age 23, or sooner die, then to
- (2) **His or her child or children under age eighteen**, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue as a joint and survivor pension until every such child shall have attained age eighteen. If there are no dependent children than monies should be distributed to
- (3) His or her dependent mother or father.

The pension on account of accidental death and the reserve for increased take-home pay shall be paid to:

- (1) The member's widow or widower to continue **during his or her lifetime**. If he or she shall leave no widow or widower, or if his or her widow shall die before all his or her children shall have attained age 18, or if students, before all of his or her children shall have attained age 23, or sooner die, then to
- (2) **His or her children**, if no dependent children then payable to
- (3) His or her dependent father or dependent mother, such pension shall continue for the life of the parent so elected.

Specific retirement information can be obtained by contacting the New York State and Local Police and Fire Retirement System, Governor Alfred E. Smith State Office Building, Albany, NY 12244; (518) 473-1791, or contact the New York City Police Pension Fund, 1 Police Plaza, New York, NY 10038 to see what their policies are.



EDUCATION BENEFITS

Memorial scholarships for families of deceased police officers and firefighters supplement.

Memorial scholarships provide financial aid to children or spouses of deceased police officers, correction officers, firefighters and volunteer firefighters of New York state who have died as the result of injuries sustained in the line of duty. **This scholarship supplements the \$450 received through the Child of Police Officer-Firefighter-Correction Officer (CPF) award programs.** Awards are made for full-time undergraduate study at approved colleges and other post secondary institutions in New York State. **Note: Spouses are eligible for scholarship payments effective with the 1993-94 academic year.**

You must be a New York State resident and attending an approved undergraduate program in New York State. The police officer, correction officer, firefighter or volunteer firefighter must have died as the result of injuries sustained in the line of duty as a member of a department in New York State.

The Memorial Scholarship award will be **equal to the applicant's actual tuition cost or the State University of New York (SUNY) undergraduate tuition**, whichever is less. Students attending institutions with tuition charges higher than the SUNY tuition charges may, if eligible, **receive additional assistance through New York's Tuition Assistance Program (TAP).** *Memorial Scholarships also provide funds to meet the non-tuition costs of attending college.* At SUNY and CUNY (City University of New York State), the annual award would be equal to the non-tuition cost of attendance less any federal Pell Grant and any other federal and state-funded scholarships or grants. Non-tuition costs include room and board and an allowance for books, supplies and transportation. At a private college, the award would be equal to the average of the non-tuition costs at SUNY colleges less any federal Pell Grant or other federal and state-funded scholarships or grants.

The annual filing deadline is May 1 of the academic year.

The amount is paid for four years of full-time undergraduate study (or for five years in an approved five-year bachelor's program). For additional information or to receive an application write to **Ms. Noreen Grose, Supervisor, New York State Higher Education Services Corporation, (NYSHESC) 99 Washington Avenue, Albany, NY 12255; or call (888) 697-4372, or go to www.hesc.com/memorial.html.**

HEALTH BENEFITS

Health plans vary. Check with your local department to determine benefit packages available.

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The surviving family of members of the **New York State Police** will have health coverage extended **at no cost for 3 months**. At the end of this time period the family will be offered to continue the coverage at your local city's group rate which is substantially lower than an individual rate.

The New York State Civil Service Department, Civil Service Building, Campus, Albany, NY 12239, is responsible for any health care benefits that may be available.

WORKERS' COMPENSATION

Workers' Compensation coverage is compulsory for employers in New York.

Benefit is **66 2/3%** of the employee's wage for spouse only or spouse with child(ren) with a **minimum weekly benefit of \$40 and a maximum weekly benefit of \$400**. *Payments are subject to Social Security benefit offsets.*

Two-year lump sum payable to spouse **upon remarriage and weekly benefits cease**. Children receive benefits until age 18 or beyond age 18 if disabled, or until age 23 if full-time students. **Funeral expenses are limited** to amounts established in a fee schedule of charges and costs for funeral services established by the Chairperson of the New York Workers' Compensation Board.

To receive workers' compensation benefits the surviving spouse must **take** the initiative and file a workers' compensation claim through a workers' compensation attorney to receive any compensation. The determination as to whether the claim will be paid will be determined by the Workers' Compensation Appeals Board.

Contact the New York State Workers' Compensation board, 180 Livingston Street, Brooklyn, NY 11248, telephone (719) 802-6600.

PERSONAL LIFE POLICIES

Descent and Distribution: In case of intestacy, real property descends and personal property is distributed according to same rules.

Distribution of intestate decedent's estate as follows: **(1)** If decedent survived by spouse and issue, \$50,000 and one-half of residue to spouse, balance to issue, by representation; **(2)** if decedent survived by spouse and no issue, whole to spouse; **(3)** if decedent survived by issue and no spouse, whole to issue, by representation; **(4)** if decedent is survived by parent(s) and no spouse or issue, whole to surviving parent(s), except that parent who neglected or refused to provide for, or abandoned, child under 21 may not inherit from such child whether or not such child dies before 21; **(5)** if decedent survived by issue of parents and no spouse, issue or

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parents whole to issue of parents, by representation; (6) if decedent survived by grandparent(s) or their issue, and no spouse issue, parent or issue of parents, grandparent, children of grandparents or grandchildren of grandparents, one-half to great-grandchildren of paternal grandparents, per capita, and one-half to great grandchildren of maternal grandparents, per capita.

Incident to its determination of distributees entitled to share in estate, court may adjudge that person who might otherwise be distributee is dead or that no distributees other than those stated in record exist.

In case of intestacy, occurring on or after August 11, 1977, distributee may renounce all or part of his share of all property of decedent. Renunciation must be filed within nine months of effective date of disposition. Affidavit must be submitted by renouncing party that no consideration has been or will be received from person whose interest is being accelerated, unless otherwise authorized by court. Renunciation on behalf of infant, incompetent or deceased person requires court approval. Renunciation has same effect with respect to renounced share as though renouncing person had predeceased decedent and is retroactive to creation of disposition.

Surviving Spouse - cannot inherit from deceased spouse where: **(a)** There has been a final decree or judgment of divorce, of annulment or declaring nullity of marriage or dissolving such marriage on ground of absence, recognized as valid in N.Y.; **(b)** marriage was void as being incestuous, bigamous, or prohibited remarriage; **(c)** survivor has obtained in another jurisdiction final decree of judgment of divorce, an annulment or declaring nullity of marriage or dissolving such marriage on ground of absence, not recognized as valid in N.Y.; **(d)** there has been final decree or judgment of separation rendered against survivor, recognized as valid in NY; **(e)** survivor abandoned decedent and such abandonment continued until time of death; **(f)** surviving spouse who had the means to support decedent, failed or refused to provide for decedent, unless such marital duty was resumed and continued until death of decedent.

PEER SUPPORT ORGANIZATION

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.**

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ADDITIONAL BENEFITS

A memorial to police officers slain in the line of duty was constructed on the **Empire State Plaza in the city of Albany**. **Contact person is Deputy Commissioner O'Conner, Office of General Services, (518) 474-0335.**

Counseling Expenses of Survivors - In recognition of the devastating effect homicide has on the surviving members of a victim's family, counseling will be reimbursed. Family members of police officers killed in the line of duty as the direct result of a crime will be eligible for **Crime Victims Board compensation**, without regard to financial hardship, for counseling necessary to address the emotional trauma resulting from the loss of a loved one. Family members that are included are widow, children, parents, brothers, sisters, and guardians.

Fraternal Order of Police - \$1,000 life insurance death benefit to a surviving beneficiary of an F.O.P. member in good standing. **Contact your local F.O.P.**

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.