

Safe Harbor Explanations – Eligible Rollover Distributions

Notice 2026-13

I. PURPOSE

This notice provides two safe harbor explanations that plan administrators may use to satisfy the requirement under section 402(f) of the Internal Revenue Code (Code) to provide certain information to recipients of eligible rollover distributions. One safe harbor explanation is for distributions that are not from a designated Roth account, and the other safe harbor explanation is for distributions from a designated Roth account. These safe harbor explanations modify the two safe harbor explanations provided in Notice 2020-62, 2020-35 IRB 476. The modifications to the safe harbor explanations take into consideration certain legislative changes made by Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), and implement a recommendation from the U.S. Government Accountability Office (GAO).

II. BACKGROUND

A. Section 402(f)

Section 402(f) requires the plan administrator of a plan qualified under section 401(a) to provide the written explanation described in section 402(f)(1) (section 402(f) notice) to any recipient of an eligible rollover distribution, as defined in section 402(c)(4). In addition, section 403(a)(4)(B) requires the plan administrator of a section 403(a) plan to provide the section 402(f) notice to any recipient of an eligible rollover distribution, section 457(e)(16)(B) requires the

plan administrator of a governmental section 457(b) plan¹ to provide the section 402(f) notice to any recipient of an eligible rollover distribution, and section 403(b)(8)(B) requires a payor under a section 403(b) plan to provide the section 402(f) notice to any recipient of an eligible rollover distribution.

Section 1.402(f)-1, Q&A-1(a), provides that the plan administrator of a qualified plan is required, within a reasonable period of time before making an eligible rollover distribution, to provide the distributee with the section 402(f) notice.

Notice 2020-62 sets forth two safe harbor explanations that may be used to satisfy the requirements for a section 402(f) notice based on the relevant law as of August 6, 2020: one safe harbor explanation is for payments not from a designated Roth account and the other safe harbor explanation is for payments from a designated Roth account. Notice 2020-62 provides, however, that those two safe harbor explanations will not satisfy section 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after August 6, 2020.

B. Recent Statutory Changes Related to Distributions

1. Section 72(t)

Section 72(t)(1) generally provides for a 10% additional tax on the portion of a distribution from a qualified retirement plan (as defined in section 4974(c)) that is includible in gross income, unless the distribution qualifies for one of the exceptions in section 72(t)(2).

¹ A governmental section 457(b) plan is an eligible section 457(b) plan maintained by governmental employer described in section 457(e)(1)(A).

a. Distributions for Emergency Personal Expenses

Section 115 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(I), which provides a new exception to the 10% additional tax for a distribution from an applicable eligible retirement plan to an individual for emergency personal expenses. For a description of the rules relating to the exception to the 10% additional tax for emergency personal expense distributions and the optional adoption of emergency personal expense distribution provisions, see Notice 2024-55, 2024-28 IRB 31.

Section 72(t)(2)(I)(viii) generally provides that the special rules in section 72(t)(2)(H)(vi)(II) (for qualified birth or adoption distributions) also apply for emergency personal expense distributions. Thus, an emergency personal expense distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

b. Certain Distributions to Qualified Public Safety Employees and Private-Sector Firefighters

Prior to the enactment of the SECURE 2.0 Act, section 72(t)(10)(A) of the Code provided that, in the case of a distribution to a qualified public safety employee (as defined in section 72(t)(10)(B)) from a governmental plan (as defined in section 414(d)), the exception to the 10% additional tax in section 72(t)(2)(A)(v) (relating to separation from service) is applied by substituting age 50 for age 55. The SECURE 2.0 Act made changes to the exception to the 10% additional tax for qualified public safety employees in

section 72(t)(10). Sections 308 and 329 of the SECURE 2.0 Act modified the exception to the 10% additional tax under section 72(t)(10) of the Code by providing that the exception applies to a distribution either from a governmental plan to a qualified public safety employee or from a qualified plan, section 403(a) annuity, or section 403(b) plan to a private-sector employee who provides firefighting services, if the distribution is received after the employee's separation from service and the earlier of the attainment of age 50 or 25 years of service under the plan. In addition, section 330 of the SECURE 2.0 Act amended section 72(t)(10)(B)(i) of the Code by adding State or local correction officers and forensic security employees providing for the care, custody, and control of forensic patients to the definition of qualified public safety employee.

c. Distributions to Domestic Abuse Victims

Section 314 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(K), which provides a new exception to the 10% additional tax for an eligible distribution to a domestic abuse victim (domestic abuse victim distribution). For a description of the rules relating to the exception to the 10% additional tax for domestic abuse victim distributions and the optional adoption of domestic abuse victim distribution provisions, see Notice 2024-55. Section 72(t)(2)(K)(vi)(II) provides that a domestic abuse victim distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

d. Distributions to Terminally Ill Individuals

Section 326 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding a new exception to the 10% additional tax for distributions made to a terminally ill individual. Section 72(t)(2)(L) provides that an employee who is a terminally ill individual and receives a distribution (terminally ill individual distribution) on or after the date on which the employee has been certified by a physician as having a terminal illness will not be subject to the 10% additional tax with respect to the distribution. For a description of the rules relating to the exception to the 10% additional tax for terminally ill individual distributions, see Part F of Notice 2024-2, 2024-2 IRB 316. A terminally ill individual distribution is an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), and the mandatory withholding rules under section 3405.

Although section 72(t)(2)(L) provides an exception to the 10% additional tax, it does not provide an exception from the distribution restriction requirements in sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), and 403(b)(11). Therefore, a plan that is subject to these distribution restriction requirements may only make a terminally ill individual distribution to an employee who is otherwise eligible for a permissible distribution. For example, a section 401(k) plan may distribute a terminally ill individual distribution to an employee who is otherwise eligible for a permissible distribution and meets the requirements of that permissible distribution, such as a distribution after the employee separates from service, without violating the distribution restriction requirements under

section 401(k)(2)(B)(i). For the distribution to also meet the requirements of a terminally ill individual distribution, the distribution must meet the applicable requirements in Notice 2024-2, for a terminally ill individual distribution, including the content requirement for the certification described in Q&A F-6, the timing requirement for the certification described in Q&A F-7, and the documentation requirement described in Q&A F-13 of Notice 2024-2. In the example above, when distributing the terminally ill individual distribution, the plan administrator of the section 401(k) plan would need to provide a section 402(f) notice for the separated employee requesting a terminally ill individual distribution.

e. Qualified Disaster Recovery Distributions

Section 331 of the SECURE 2.0 Act amended section 72(t) of the Code by (1) adding section 72(t)(2)(M), which provides a new exception to the 10% additional tax for any qualified disaster recovery distribution, and (2) adding section 72(t)(11), which provides additional rules related to qualified disaster recovery distributions. Section 72(t)(11)(A) and (B) permits an individual whose principal place of abode at any time during the incident period of a qualified disaster is located in the qualified disaster area and who has sustained an economic loss by reason of the qualified disaster to receive a distribution of up to \$22,000 (a qualified disaster recovery distribution) on or after the first day of the incident period of the qualified disaster and before the date that is 180 days after the applicable date with respect to the disaster. A *qualified disaster* is defined in section 72(t)(11)(E) as any disaster with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford

Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, 102 Stat. 4689 (1988), after December 27, 2020. The term *applicable date* is defined in section 72(t)(11)(F)(iii) as the latest of December 29, 2022 (the date of enactment of section 72(t)(11)(F)), the first day of the incident period (as specified by the Federal Emergency Management Agency) with respect to the qualified disaster, or the date of the disaster declaration with respect to the qualified disaster. Section 72(t)(11)(G)(i) provides that a qualified disaster recovery distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

For a description of the rules relating to the exception to the 10% additional tax for qualified disaster recovery distributions and the optional adoption of qualified disaster recovery distribution provisions, see IRS Fact Sheet 2024-19, *Disaster relief frequently asked questions: Retirement plans and IRAs under the SECURE 2.0 Act of 2022* (IR-2024-132, May 3, 2024).

f. Distributions from Pension-Linked Emergency Savings Accounts

Section 127(e)(2) of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(J), which provides that the 10% additional tax does not apply to distributions from a pension-linked emergency savings account (PLESA) pursuant to section 402A(e). See section II.B.3.c of this notice for a general description of PLESAs, including the application of section 402(f) notice requirements to PLESA distributions.

g. Qualified Long-Term Care Distributions

Section 334 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(N) to provide a new exception to the 10% additional tax for qualified long-term care distributions, which are generally distributions made to an employee during the taxable year to pay for certified long-term care insurance for the employee or the employee's spouse. Section 334 of the SECURE 2.0 Act also added section 401(a)(39) of the Code, which provides that a trust forming part of a qualified defined contribution plan will not be treated as failing to constitute a qualified trust solely because the plan permits qualified long-term care distributions, if certain requirements are met.² Section 334 of the SECURE 2.0 Act is effective for distributions made after December 29, 2025.

Section 72(t)(2)(N)(iii) provides that a qualified long-term care distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

2. Required Minimum Distributions

Section 401(a)(9) establishes a mandatory date, known as the "required beginning date," by which required minimum distributions to a plan participant must start. Under section 402(c)(4)(B), required minimum distributions are not eligible rollover distributions.

² Qualified long-term care distributions are also permitted from section 401(k) plans pursuant to section 401(k)(2)(B)(i)(VII), qualified annuity contracts pursuant to section 403(a)(6), section 403(b) custodial accounts pursuant to section 403(b)(7)(A)(i)(VII), section 403(b) annuity contracts pursuant to 403(b)(11)(E), and governmental section 457(b) plans pursuant to section 457(d)(1)(A)(v).

a. Applicable Ages for Required Minimum Distributions

Section 107 of the SECURE 2.0 Act amended section 401(a)(9) of the Code to increase the ages at which required minimum distributions must begin. Section 401(a)(9)(C)(i) provides that the required beginning date for required minimum distributions is April 1 of the calendar year following the later of (I) the calendar year in which the employee attains the applicable age, or (II) the calendar year in which the employee retires. Section 401(a)(9)(C)(v) provides that, (I) in the case of an individual who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, the applicable age is 73, and (II) in the case of an individual who attains age 74 after December 31, 2032, the applicable age is 75.

b. Required Minimum Distributions Not Required from Designated Roth Account in a Plan

Section 325 of the SECURE 2.0 Act amended section 402A(d) of the Code by adding section 402A(d)(5), which provides that neither required minimum distributions under section 401(a)(9)(A) nor the incidental death benefit requirements of section 401(a) apply to any designated Roth account in a plan.

c. Surviving Spouse Election to Be Treated as Employee

Section 327 of the SECURE 2.0 Act amended the special rule for the surviving spouse of an employee under section 401(a)(9)(B)(iv) of the Code. Under section 401(a)(9)(B)(iv), if the designated beneficiary in section 401(a)(9)(B)(iii)(I) is the surviving spouse of the employee and the surviving spouse will be taking annual distributions over a period of longer than

10 years, then those distributions are not required to start until the year in which the employee would have attained the applicable age. If the surviving spouse dies before required minimum distributions to the surviving spouse begin, favorable required minimum distribution rules in section 401(a)(9)(B)(iii) would apply as if the surviving spouse is the employee.

In addition, a surviving spouse may elect to be treated as if the surviving spouse were the employee for purposes of determining the amount of each required minimum distribution. If this election is made, then the surviving spouse may take distributions over a longer number of years than the surviving spouse's remaining life expectancy. If this election is not made, required minimum distributions will be made over the life of the surviving spouse (or over a period not extending beyond the life expectancy of the surviving spouse).

3. Other Statutory and Regulatory Changes Related to Distributions

a. Mandatory Distributions

Section 304 of the SECURE 2.0 Act increased from \$5,000 to \$7,000 the dollar thresholds related to distributions under sections 411(a)(11) and 401(a)(31)(B) of the Code. Section 411(a)(11) generally permits plans qualified under section 401(a) to include provisions allowing for the immediate distribution of a separating participant's benefit without such participant's consent if the present value of the nonforfeitable accrued benefit does not exceed \$7,000 (mandatory distributions). Plans may provide that amounts attributable to previous rollovers into the plan are excluded for purposes of determining whether the present value of the nonforfeitable accrued benefit does not exceed \$7,000.

If a distributee does not make an affirmative election to have a mandatory distribution of more than \$1,000 paid from a plan qualified under section 401(a)³ in a direct rollover to an eligible retirement plan or to receive the distribution directly, section 401(a)(31)(B) requires that such mandatory distribution be paid in a direct rollover to an individual retirement plan, i.e., an individual retirement account as described in section 408(a) or an individual retirement annuity described in section 408(b) (IRA), of a designated trustee or issuer. Section 401(a)(31)(B)(i) requires that the plan administrator notify the distributee in writing (either separately or as part of the section 402(f) notice) that the distribution may be paid in a direct rollover to an IRA.

b. Distributions from Governmental Plans to Eligible Retired Public Safety Officers for Health and Long-Term Care Insurance

Section 402(l) provides special rules regarding distributions from governmental plans to eligible retired public safety officers for health and long-term care insurance. Section 402(l)(1) provides that, in general, in the case of an employee who is an eligible retired public safety officer and who makes an election under section 402(l)(6) with respect to any taxable year, the employee's gross income for that taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of the distributions does not exceed the amount paid by the employee for qualified health insurance premiums for the taxable year. Section 402(l)(2) limits the

³ The mandatory distribution rules in section 401(a)(31)(B) also apply to 403(b) plans pursuant to section 403(b)(10) and governmental section 457(b) plans pursuant to section 457(d)(1)(C).

amount that may be excluded from gross income for the taxable year under section 402(l)(1) to \$3,000.

Prior to the enactment of the SECURE 2.0 Act, section 402(l)(5)(A) of the Code provided that insurance premiums may be excluded from gross income only if the payment of the premiums is made directly to the provider of the accident or health plan or qualified long-term insurance contract by deduction from a distribution from the retirement plan (the direct payment requirement). As amended by section 328 of the SECURE 2.0 Act, section 402(l)(5)(A)(i) of the Code eliminates the direct payment requirement. Instead, section 402(l)(5)(A)(i) provides that the tax treatment under section 402(l)(1) applies to a distribution without regard to whether payment of the premiums is made directly to the provider of the accident or health plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan, or is made to the employee.

c. Pension-Linked Emergency Savings Accounts

Section 127 of the SECURE 2.0 Act amended title I of the Employee Retirement Income Security Act of 1974 (ERISA) and section 402A of the Code to provide that certain retirement plans may include PLESAs. In general, PLESAs are short-term savings accounts established and maintained in connection with a defined contribution plan and are treated as a type of designated Roth account.

Section 402A(e)(10)(A) provides that distributions from PLESAs generally are not treated as eligible rollover distributions for purposes of section 402(f), except as provided in section 402A(e)(10)(B). Pursuant to

section 402A(e)(10)(B), in the case of termination of employment of the participant or termination of the PLESA by the plan sponsor, a distribution may be transferred under section 402A(e)(8)(A)(i)⁴ to another designated Roth account in the defined contribution plan, and, if so transferred, the distribution from the PLESA is treated as an eligible rollover distribution for purposes of section 402(f).

d. Collectibles

On July 19, 2024, the Treasury Department and the Internal Revenue Service (IRS) published TD 10001 (89 FR 58886), which sets forth final regulations under section 401(a)(9) that, among other things, updated the list of distributions and deemed distributions that are not eligible rollover distributions. Specifically, § 1.402(c)-2(c)(3)(x) provides that amounts treated as distributed as a result of the purchase of a collectible pursuant to section 408(m) are not eligible rollover distributions.

C. Government Accountability Office Report

On May 22, 2024, the GAO released a report, titled *401(k) Retirement Plan Tax Notices: Federal Actions Can Help Participants Understand Their Distribution Options*, GAO-24-107167 (GAO Report). The GAO Report examines the effectiveness of section 402(f) notices in helping participants understand their distribution options and associated tax consequences.

⁴ Under section 402A(e)(8)(A)(i), a participant may elect to transfer the PLESA account balance, in whole or in part, into another designated Roth account of the participant under the defined contribution plan.

The GAO Report made several recommendations to the Department of the Treasury (Treasury Department) to mitigate the challenges section 401(k) plan participants face regarding section 402(f) notices. The GAO Report recommended that the section 402(f) notices provide clearer and more concise information about each of the following four distribution options and their associated tax consequences: (1) leave their savings in their former employer's plan, (2) roll over their savings into a plan sponsored by their new employer in a plan-to-plan rollover, (3) roll over their savings into an IRA, or (4) take a lump-sum distribution.

The GAO Report also recommended that the Treasury Department address the timing requirements for plans to provide the section 402(f) notice to ensure the section 402(f) notice is provided to participants when they leave their jobs and become eligible to take distributions. The GAO Report acknowledged that the Treasury Department informed the GAO that there is no statutory authority to require a section 402(f) notice to a participant upon separation from service.

Under § 1.402(f)-1, Q&A-2(b), a plan administrator may provide a participant with a section 402(f) notice earlier than is required (for example, upon a participant's separation from service). Then, rather than providing the full section 402(f) notice a second time within the required section 402(f) notice timeframe, a plan administrator would be permitted to provide the participant with a summary of the section 402(f) notice within that timeframe. However, if the participant requests the full section 402(f) notice after receiving the summary, the

plan administrator would need to provide the section 402(f) notice without charge.

The Treasury Department and the IRS encourage plan administrators to consider implementing the GAO Report's recommendation to provide the section 402(f) notice in connection with a participant's separation from service under the options described in § 1.402(f)-1, Q&A-2(b), in order to provide the participant with information about distribution options at the point in time when the participant is facing an important decision about retirement savings.

III. MODIFICATIONS TO THE SAFE HARBOR EXPLANATIONS

Two updated safe harbor explanations are appended to this notice (see the Appendix). The safe harbor explanations modify the safe harbor explanations in Notice 2020-62 to reflect certain legislative changes made after August 6, 2020, including: (1) various changes relating to the exceptions under section 72(t)(2) to the 10% additional tax under section 72(t)(1), (2) changes relating to the required minimum distribution rules for surviving spouses, (3) the increased age for determining required beginning dates for required minimum distributions under section 401(a)(9), (4) the elimination of required minimum distributions with respect to designated Roth accounts in a plan, (5) the increased dollar thresholds related to small lump-sum distributions under sections 411(a)(11) and 401(a)(31)(B), (6) changes to the rules relating to distributions from governmental plans for health and long-term care insurance, and (7) rules relating to PLESA distributions.

The safe harbor explanations also include a paragraph setting forth the options generally available to plan participants receiving eligible rollover distributions. As noted in the GAO Report, providing clear and concise information will allow notice recipients to fully consider the implications of their distribution options before they make decisions about their plan savings. Finally, the safe harbor explanations include other minor modifications to improve clarity, including a limitation on rollovers to SIMPLE IRA plans under section 408(p)(1)(B) and a table of contents to help a recipient easily identify information and topics that are relevant to the recipient's decision.

The updated safe harbor explanations provided in this notice may be used by plan administrators and payors to satisfy section 402(f). The updated safe harbor explanations will not, however, satisfy section 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after January 15, 2026. The IRS anticipates updating the safe harbor explanations to reflect relevant future changes, including provisions of the SECURE 2.0 Act that are not effective until taxable years beginning after December 31, 2026.⁵

The first safe harbor explanation reflects the rules relating to distributions not from a designated Roth account. Thus, the first safe harbor explanation should be used only if the participant is eligible to receive an eligible rollover distribution that is not from a designated Roth account. The second safe harbor

⁵ The SECURE 2.0 Act includes the following provisions that are not effective until taxable years beginning after December 31, 2026: section 103 (adding Code section 6433, which provides for Saver's Match contributions) and section 309 (adding Code section 139C, which provides for the exclusion from income of certain disability-related qualified first responder retirement payments).

explanation reflects the rules relating to distributions from a designated Roth account. Thus, the second safe harbor explanation should be used only if the participant is eligible to receive an eligible rollover distribution from a designated Roth account. Both explanations should be provided to a participant if the participant is eligible to receive eligible rollover distributions from both a designated Roth account and an account other than a designated Roth account.

The safe harbor explanation in this notice for distributions not from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution that is not from a designated Roth account if it is provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made. Similarly, the safe harbor explanation in this notice for distributions from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution from a designated Roth account if it is provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made.

Section 1.402(f)-1, Q&A-2, currently provides, in general, that a reasonable period of time for providing an explanation is no less than 30 days (subject to waiver by the distributee) and no more than 90 days before the date on which the distribution is made. However, proposed § 1.402(f)-1, Q&A-2(a), pursuant to section 1102(a)(1)(B) of the Pension Protection Act of 2006, Pub. L. 109-280, 120 Stat. 780, provides that a notice required to be provided under section 402(f) may be provided to a participant as much as 180 days before the date on which the distribution is made (or the annuity starting date). The

proposed regulations further provide that, with respect to the extended period for notices, plans may rely on the proposed regulations for notices provided during the period beginning on the first day of the first plan year beginning on or after January 1, 2007, and ending on the effective date of final regulations. Thus, the section 402(f) notice may be provided as many as 180 days before the date on which the distribution is made (or the annuity starting date).

A plan administrator or payor may customize a safe harbor explanation by omitting any information that does not apply to the plan, and the Treasury Department and IRS encourage that customization. For example, if the plan does not hold after-tax employee contributions, it would be appropriate to eliminate the section “If your payment includes after-tax contributions” in the explanation for payments not from a designated Roth account. Similarly, if the plan does not provide for distributions of employer stock or other employer securities, it would be appropriate to eliminate the section “If your payment includes employer stock that you do not roll over.” Other information that may not be relevant to a particular plan includes, for example, the sections “If your payment is from a governmental section 457(b) plan” and “If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance.” In addition, the plan administrator or payor may provide additional information with a safe harbor explanation if the information is not inconsistent with section 402(f).

Alternatively, a plan administrator or payor may satisfy section 402(f) by providing an explanation that is different from a safe harbor explanation provided

in this notice. To satisfy section 402(f), an explanation must include the information required by section 402(f) and must be written in a manner designed to be easily understood.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2020-62 is superseded.

DRAFTING INFORMATION

The principal authors of this notice are Jordan D. Kohl and Christina M. Cerasale of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Ms. Kohl at (312) 292-2170 (not a toll-free number).

Appendix

For Payments Not From a
Designated Roth Account

YOUR OPTIONS FOR ELIGIBLE ROLLOVER DISTRIBUTIONS

You are receiving this notice because you are eligible to receive a payment from the [INSERT NAME OF PLAN] (the “Plan”) that you can transfer (roll over) to an IRA or another employer plan. This notice is intended to help you decide whether to roll over the payment (or some portion of it).

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SPECIAL RULES AND OPTIONS

- If your payment includes after-tax contributions
- If you miss the 60-day rollover deadline
- If your payment includes employer stock that you don’t roll over
- If you have an outstanding loan that is being offset
- If you receive a payment and you were born on or before January 1, 1936
- If your payment is from a governmental section 457(b) plan
- If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance
- If you roll over your payment to a SIMPLE IRA
- If you roll over your payment to a Roth IRA
- If you roll over your payment to a designated Roth account in the Plan
- If you aren’t a Plan participant
- If you are a nonresident alien
- Other special rules

FOR MORE INFORMATION

GENERAL INFORMATION ABOUT ROLLOVERS

This notice describes the rollover rules that apply to payments from the Plan that are not from a designated Roth account (a type of account in some employer plans that is subject to special tax rules). If you also receive a payment from a designated Roth account in the Plan, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan are described in this “General Information About Rollovers” section. Special rules that only apply in certain circumstances are described in the “Special Rules and Options” section, including rules if your Plan is a governmental section 457(b) plan, you have after-tax contributions, or your benefit doesn’t exceed \$7,000.

What can I do with an amount that is eligible for rollover?

When an amount payable (that is, an amount you are eligible to take as a payment from the Plan) is eligible for rollover, you generally may choose some combination of the following:

- Leave it in the Plan, that is, do not take the payment,
- Roll it over into another employer plan,
- Roll it over into an IRA, or
- Take it, don’t roll it over, and pay any required taxes.

Whether these options are available to you depends on your circumstances and the terms of the Plan. For example, you may be required to take a payment (and not roll it over) based on your age or if your benefit is below a certain threshold.

How can a payment affect my taxes?

If you don’t do a rollover, you will be taxed on a payment from the Plan, and, if you are under age 59½, you will also have to pay a 10% additional tax (unless an exception applies).

How can a rollover affect my taxes?

If you do a rollover, you won’t have to pay tax until you receive payments later.

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan (such as a section 401(k) plan), a section 403(b) plan, or a governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer

plan that receives the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, IRAs aren't subject to spousal consent rules, and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan. For additional information on IRAs, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

How do I do a rollover?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA provider or the administrator of the employer plan for information on how to do a direct rollover.

If you do a 60-day rollover, you will receive a payment from the Plan and then make a deposit into an IRA or eligible employer plan that will accept it. Generally, you will have 60 days after you receive the payment to make the deposit. If you don't do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the amount withheld. If you don't roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional tax on early distributions if you are under age 59½ (unless an exception applies).

How much may I roll over?

You may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Required minimum distributions;
- Hardship distributions;
- Payments of employee stock ownership plan (ESOP) dividends;
- Corrective distributions of contributions that exceeded tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;

- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP;
- Distributions used to pay certain premiums for health and accident insurance; and
- Amounts treated as distributed as a result of the purchase of a collectible.

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional tax on distributions before age 59½?

If you are under age 59½, you will have to pay the 10% additional tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you don't roll over, unless one of the exceptions listed below applies. This tax applies to the part of the distribution that you must include in income and is in addition to the regular income tax on the payment not rolled over.

The 10% additional tax doesn't apply to the following payments from the Plan:

- Payments made after you separate from service if you are at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in substantially equal amounts over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Payments from a governmental plan made after you separate from service as a qualified public safety employee and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments from a private-sector plan made after you separate from service as a private-sector firefighter and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments made due to disability;
- Payments made after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments from a defined contribution plan that are qualified birth or adoption distributions;
- Payments from a defined contribution plan for purposes of meeting unforeseeable or immediate financial needs relating to personal or family emergency expenses (emergency personal expense distributions);

- Payments to a victim of domestic abuse from a defined contribution plan that isn't subject to the qualified joint survivor annuity or qualified preretirement survivor annuity rules (domestic abuse victim distributions);
- Payments after you receive a certification from a physician that you have a terminal illness (terminal illness distributions);
- Payments that are qualified disaster recovery distributions;
- Payments made from a defined contribution plan that are qualified long-term care distributions;
- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;
- Phased retirement payments made to federal employees; and
- Payments from a pension-linked emergency savings account.

For more information about the 10% additional tax and the exceptions to the 10% additional tax, see IRS Publication 575, *Pension and Annuity Income*, under the heading *Tax on Early Distributions*. For information on how to claim an exception, see the Instructions for IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*.

If I do a rollover to an IRA, will the 10% additional tax apply to a later distribution from the IRA before age 59½?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional tax on early distributions on the part of the payment that you must include in income, unless an exception applies. In general, the exceptions to the 10% additional tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- The exception for payments from a plan made after you separate from service if you are at least age 55 in the year of the separation (or the earlier of age 50 or attainment of 25 years of service under the Plan for qualified public safety employees and private-sector firefighters) doesn't apply to payments from an IRA;
- The exception for payments made pursuant to a QDRO under a plan doesn't apply to an IRA (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse); and
- The exception for substantially equal periodic payments from a plan also applies to payments from an IRA but without regard to whether you have had a separation from service.

Also, there are exceptions to the 10% additional tax that do not apply to payments from a plan but that do apply to payments from an IRA, including:

- Payments for qualified higher education expenses;
- Payments up to \$10,000 used in a qualified first-time home purchase; and
- Payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

For more general information about the 10% additional tax and the exceptions to the 10% additional tax on payments from an IRA, see the Instructions to IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*. See also, IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*, under the heading *Early Distributions*.

Will I owe state income taxes?

This notice doesn't address any state or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If your payment includes after-tax contributions

After-tax contributions included in a payment aren't taxed. If you receive a partial payment of your total benefit, an allocable portion of your after-tax contributions is included in the payment, so you can't take a payment of only after-tax contributions. However, if you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in the payment. In addition, special rules apply when you do a rollover, as described below.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the Plan and at the same time the rest is paid to you, the portion rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a payment of \$12,000, of which \$2,000 is after-tax contributions. In this case, if you directly roll over \$10,000 to an IRA that isn't a Roth IRA, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions. If you do a direct rollover of the entire amount paid from the Plan to

two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

Similarly, if you do a 60-day rollover to an IRA of only a portion of a payment made to you, the portion rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a payment of \$12,000, of which \$2,000 is after-tax contributions, and no part of the payment is directly rolled over. In this case, if you roll over \$10,000 to an IRA that isn't a Roth IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and isn't a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline can't be extended. However, the IRS has authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, under the heading *Rollovers*.

If your payment includes employer stock that you don't roll over

If you don't do a rollover, you can apply a special rule to payments of employer stock (or other employer securities) that are either attributable to after-tax contributions or paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock won't be taxed when distributed from the Plan and will be taxed at capital gain rates when you sell the stock. Net unrealized appreciation is generally the increase in the value of employer stock after it was acquired by the Plan. If you do a rollover to an IRA or an employer plan for a payment that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the payment), the special rule relating to the distributed employer stock won't apply to any later payments from the IRA or, generally, the plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan (offset amount), typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset, even though you will not receive the offset amount. Generally, you may roll over all or any portion of the offset amount using other funds. Any offset amount that isn't rolled over will be taxed (including the 10% additional tax on early distributions, unless an exception applies). You may roll over offset amounts to an IRA or an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers).

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you separate from service. If your plan loan offset occurs for any other reason (such as a failure to make level loan repayments that results in a deemed distribution), then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a payment and you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum payment that you don't roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you don't do a rollover, you won't have to pay the 10% additional tax on early distributions from the Plan even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that isn't a governmental section 457(b) plan, a later distribution made before age 59½ will be subject to the 10% additional tax on early distributions (unless an exception applies). Other differences include that you can't do a rollover if the payment is an "unforeseeable emergency" distribution, and that the special rules under the sections "If your payment includes employer stock that you don't roll over" and "If you were born on or before January 1, 1936" don't apply.

If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income, not to exceed \$3,000, the amounts, (1) that were paid by the Plan directly to an insurer of health coverage or qualified long-term care insurance or (2) that were received by you from the Plan and used to pay for premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a SIMPLE IRA

You can only roll over a payment from the Plan to a SIMPLE IRA plan after the end of the 2-year period beginning on the date you first participated in the SIMPLE IRA plan.

If you roll over your payment to a Roth IRA

If you roll over a payment from the Plan to a Roth IRA (which, for purposes of this explanation, includes a Roth SIMPLE IRA), a special rule applies under which the amount of the payment rolled over, reduced by any after-tax amounts, will be taxed. In general, the 10% additional tax on early distributions won't apply. However, if you take the amount rolled over out of the Roth IRA within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional tax will apply on the amount includible in gross income (unless an exception applies).

If you roll over the payment to a Roth IRA, you won't have to take required minimum distributions from the Roth IRA during your lifetime. Later payments from the Roth IRA that are qualified distributions won't be taxed, including earnings after the rollover. A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that aren't qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional tax on early distributions (unless an exception applies). For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

If you roll over your payment to a designated Roth account in the Plan

You can't roll over a payment to a designated Roth account in another employer's plan. However, you can roll the payment over into a designated Roth account in the distributing Plan. If you roll over a payment from the Plan to a designated Roth account in the Plan, the amount of the payment rolled over, reduced by any after-tax amounts directly rolled over, will be taxed. In general, the 10% additional tax on early distributions won't apply. However, if you take the amount rolled over out of the designated Roth account within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional tax will apply on the amount includible in gross income (unless an exception applies).

If you roll over the payment to a designated Roth account in the Plan, you won't have to take required minimum distributions from the designated Roth account during your lifetime. Later payments from the designated Roth account that are qualified distributions won't be taxed, including earnings after the rollover. A qualified distribution from a designated Roth account is a payment made both after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying this 5-year rule, you count from January 1 of the year of the first contribution to your designated Roth account. However, if you made a direct rollover to a designated Roth account in the Plan from a designated Roth account in a plan of another employer, the 5-year period begins on January 1 of the year you made the first contribution to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the plan of the other employer. Payments from the designated Roth account that aren't qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional tax on early distributions (unless an exception applies).

If you aren't a Plan participant

Payments after death of the participant. If you receive a payment after the participant's death that you don't roll over, the payment generally will be taxed in the same manner described elsewhere in this notice. However, the 10% additional tax on early distributions and the special rules for public safety officers don't apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the deceased participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA either as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional tax on early distributions (unless an exception applies) and required minimum distributions from your IRA will be based on your age.

If you treat the IRA as an inherited IRA, payments from the IRA won't be subject to the 10% additional tax on early distributions. However, if the participant had started taking required minimum distributions from the Plan, required minimum distributions must continue to be made from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, distributions from the inherited IRA must begin when the participant would have been required to begin required minimum distributions.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA won't be subject to the 10% additional tax on early distributions. You will have to take required minimum distributions from the inherited IRA.

For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

Payments under a qualified domestic relations order (QDRO). If you are the spouse or former spouse of the participant who receives a payment from the Plan under a QDRO, you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). However, payments under the QDRO won't be subject to the 10% additional tax on early distributions.

For more information, see IRS Publication 504, *Divorced or Separated Individuals*.

If you are a nonresident alien

If you are a nonresident alien and you don't do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing IRS Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, and attaching your IRS Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. See IRS Form

W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)*, for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to do a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than \$200, not including payments from a designated Roth account in the Plan, the Plan isn't required to allow you to do a direct rollover and isn't required to withhold federal income taxes. However, you may do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout of more than \$1,000, not including payments from a designated Roth account in the Plan, will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) without the participant's consent. Generally, a mandatory cashout is only allowed if the participant's benefit doesn't exceed \$7,000.

You may have the ability to repay certain distributions from your retirement plan. If you took a qualified reservist distribution, a qualified disaster recovery distribution, a qualified birth or adoption distribution, an emergency personal expense distribution, a domestic abuse victim distribution, or a terminal illness distribution, you generally may repay that distribution to an eligible retirement plan within a certain time period. For more information on repayments of qualified reservist distributions, see IRS Publication 3, *Armed Forces' Tax Guide*. For more information on other repayments, see IRS Publication 575, *Pension and Annuity Income*, or consult a professional tax advisor.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.

YOUR OPTIONS FOR ELIGIBLE ROLLOVER DISTRIBUTIONS

You are receiving this notice because you are eligible to receive a payment from the [INSERT NAME OF PLAN] (the "Plan") that you can transfer (roll over) to a Roth IRA or designated Roth account in an employer plan. This notice is intended to help you decide whether to roll over the payment (or some portion of it).

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GENERAL INFORMATION ABOUT ROLLOVERS

This notice describes the rollover rules that apply to payments from the Plan that are from a designated Roth account. If you also receive a payment from the Plan that isn't from a designated Roth account, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a designated Roth account are described in this "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section, including rules if your Plan is a governmental section 457(b) plan, you have after-tax contributions, or your benefit doesn't exceed \$7,000.

What can I do with an amount that is eligible for rollover?

When an amount payable (that is, an amount you are eligible to take as a payment from the Plan) is eligible for rollover, you generally may choose some combination of the following:

- Leave it in the Plan, that is, do not take the payment,
- Roll it over into a designated Roth account in another plan,
- Roll it over into a Roth IRA, or
- Take it, don't roll it over, and pay any required taxes.

Whether these options are available to you depends on your circumstances and the terms of the Plan. For example, you may be required to take a payment (and not roll it over) based on your age or if your benefit is below a certain threshold.

How can a payment affect my taxes?

After-tax contributions included in a payment from a designated Roth account aren't taxed, but earnings might be taxed. The tax treatment of earnings included in the payment depends on whether the payment is a qualified distribution. If a payment is only part of your designated Roth account, the payment will include an allocable portion of the earnings in your designated Roth account.

If the payment from the Plan isn't a qualified distribution and you don't do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the portion of the payment that is earnings. If you are under age 59½, a 10% additional tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies).

If the payment from the Plan is a qualified distribution, you won't be taxed on any part of the payment even if you don't do a rollover. A qualified distribution from a

designated Roth account in the Plan is a payment made after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying the 5-year rule, you count from January 1 of the year the first contribution was made to the designated Roth account. However, if you did a direct rollover to a designated Roth account in the Plan from a designated Roth account in another employer plan, your participation will count from January 1 of the year the first contribution was made to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the other employer plan.

How can a rollover affect my taxes?

If the payment isn't a qualified distribution and you do a rollover, you won't have to pay taxes currently on the earnings and you won't have to pay taxes later on payments that are qualified distributions. If the payment is a qualified distribution and you do a rollover, you won't be taxed on the amount you roll over and any earnings on the amount you roll over won't be taxed when paid later.

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either a Roth IRA (a Roth individual retirement account or Roth individual retirement annuity) or a designated Roth account in an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the Roth IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the Roth IRA or employer plan (for example, Roth IRAs cannot provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the Roth IRA or the designated Roth account in the employer plan. In general, these tax rules are similar to those described elsewhere in this notice, but differences include:

- If you do a rollover to a Roth IRA, all of your Roth IRAs will be considered for purposes of determining whether you have satisfied the 5-year rule (counting from January 1 of the year for which your first contribution was made to any of your Roth IRAs).
- If you do a rollover to a Roth IRA, you must keep track of the aggregate amount of the after-tax contributions in all of your Roth IRAs (in order to determine your taxable income for later Roth IRA payments that aren't qualified distributions).
- Eligible rollover distributions from a Roth IRA can only be rolled over to another Roth IRA.

How do I do a rollover?

There are two ways to do a rollover. You can either do a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your Roth IRA or designated Roth account in an employer plan. You should contact the Roth IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you at the same time, the portion directly rolled over consists first of earnings. For example, assume you are receiving a nonqualified distribution of \$12,000, of which \$2,000 is earnings. In this case, if you directly roll over \$10,000 to an IRA that is a Roth IRA, no amount is taxable because the \$10,000 amount rolled over includes the \$2,000 in earnings and the remaining \$2,000 paid to you is attributable to after-tax contributions.

If you do a 60-day rollover, you will receive a payment from the Plan and then make a deposit (generally within 60 days) into a Roth IRA, whether the payment is a qualified or nonqualified distribution. In addition, you can do a rollover by making a deposit within 60 days into a designated Roth account in an employer plan if the payment is a nonqualified distribution and the rollover doesn't exceed the amount of the earnings in the payment. You can't do a 60-day rollover to an employer plan of any part of a qualified distribution.

If you do a 60-day rollover and the payment isn't a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover to a Roth IRA, you must use other funds to make up for the amount withheld.

How much may I roll over?

You may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Required minimum distributions to a beneficiary;
- Hardship distributions;
- Payments of employee stock ownership plan (ESOP) dividends;
- Corrective distributions of contributions that exceeded tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;

- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP;
- Distributions used to pay certain premiums for health and accident insurance; and
- Amounts treated as distributed as a result of the purchase of a collectible.

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional tax on distributions before age 59½?

If a payment isn't a qualified distribution and you are under age 59½, you will have to pay the 10% additional tax on early distributions with respect to the earnings allocated to the payment that you don't roll over (including amounts withheld for income tax), unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the earnings not rolled over.

The 10% additional tax doesn't apply to the following payments from the Plan:

- Payments made after you separate from service if you are at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Payments from a governmental plan made after you separate from service as a qualified public safety employee and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments from a private-sector plan made after you separate from service as a private-sector firefighter and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments made due to disability;
- Payments made after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments from a defined contribution plan that are qualified birth or adoption distributions;
- Payments from a defined contribution plan for purposes of meeting unforeseeable or immediate financial needs relating to personal or family emergency expenses (emergency personal expense distributions);

- Payments to a victim of domestic abuse from a defined contribution plan that isn't subject to the qualified joint survivor annuity or qualified preretirement survivor annuity rules (domestic abuse victim distributions);
- Payments after you receive a certification from a physician that you have a terminal illness (terminal illness distributions);
- Payments that are qualified disaster recovery distributions;
- Payments made from a defined contribution plan that are qualified long-term care distributions;
- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution; and
- Payments from a pension-linked emergency savings account.

For more information about the 10% additional tax and the exceptions to the 10% additional tax, see IRS Publication 575, *Pension and Annuity Income*, under the heading *Tax on Early Distributions*. For information on how to claim an exception, see the Instructions for IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*.

If I do a rollover to a Roth IRA, will the 10% additional tax apply to a later distribution from the Roth IRA before age 59½?

If you receive a payment from a Roth IRA when you are under age 59½, you will have to pay the 10% additional tax on early distributions on the earnings paid from the Roth IRA, unless an exception applies or the payment is a qualified distribution. In general, the exceptions to the 10% additional tax for early distributions from a Roth IRA listed above are the same as the exceptions for early distributions from a designated Roth account in an employer plan. However, there are a few differences for payments from a Roth IRA, including:

- The exception for payments from a plan made after you separate from service if you are at least age 55 in the year of the separation (or the earlier of age 50 or attainment of 25 years of service under the Plan for qualified public safety employees and private-sector firefighters) doesn't apply to payments from an IRA;
- The exception for payments made pursuant to a QDRO under a plan doesn't apply to an IRA (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to a Roth IRA of a spouse or former spouse); and
- The exception for substantially equal periodic payments from a plan also applies to payments from an IRA but without regard to whether you have had a separation from service.

Also, there are exceptions to the 10% additional tax that do not apply to payments from a plan but that do apply to payments from a Roth IRA, including:

- Payments for qualified higher education expenses;
- Payments up to \$10,000 used in a qualified first-time home purchase; and
- Payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

For more general information about the 10% additional tax and the exceptions to the 10% additional tax on payments from an IRA, see the Instructions to IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*. See also, IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*, under the heading *Early Distributions*.

Will I owe state income taxes?

This notice doesn't address any state or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline can't be extended. However, the IRS has authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, under the heading *Rollovers*.

If your payment includes employer stock that you don't roll over

If you receive a payment that isn't a qualified distribution and you don't roll it over, you can apply a special rule to payments of employer stock (or other employer securities) that are paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock included in the earnings in the payment won't be taxed when distributed to you from the Plan and will be taxed at capital gain rates when you sell the stock. If you do a rollover to a Roth IRA or a

designated Roth account in another employer plan for a nonqualified distribution that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the distribution), you won't have any taxable income and the special rule relating to the distributed employer stock won't apply to any later payments from the Roth IRA or, generally, the plan. Net unrealized appreciation is generally the increase in the value of the employer stock after it was acquired by the Plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you receive a payment that is a qualified distribution that includes employer stock and you don't roll it over, your basis in the stock (used to determine gain or loss when you later sell the stock) will equal the fair market value of the stock at the time of the payment from the Plan.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan (offset amount), typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. If the distribution attributable to the offset isn't a qualified distribution and you don't roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional tax on early distributions, unless an exception applies). You may roll over the earnings included in the loan offset to a Roth IRA or designated Roth account in an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers). You may also roll over the full amount of the offset to a Roth IRA.

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you separate from service. If your plan loan offset occurs for any other reason (such as a failure to make level repayments that results in a deemed distribution), then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a payment and you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum payment that isn't a qualified distribution and that you don't roll over, special rules for calculating the amount of the tax on the earnings in the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to a Roth IRA or a designated Roth account in an employer plan that accepts rollovers. One difference is that, if you receive a payment that isn't a qualified distribution and you don't roll it over, you won't have to pay the 10% additional tax on early distributions with respect to the earnings allocated to the payment that you don't roll over, even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to a Roth IRA or to a designated Roth account in an employer plan that isn't a governmental section 457(b) plan, a later distribution that isn't a qualified distribution made before age 59½ will be subject to the 10% additional tax on earnings allocated to the payment (unless an exception applies). Other differences include that you can't do a rollover if the payment is an "unforeseeable emergency" distribution and that the special rules under the sections "If your payment includes employer stock that you don't roll over" and "If you receive a nonqualified distribution and you were born on or before January 1, 1936" don't apply.

If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income, up to a maximum of \$3,000 annually, nonqualified distributions (1) that were paid by the Plan directly to an insurer of health coverage or qualified long-term care insurance or (2) that were received by you from the Plan and used to pay for premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a Roth SIMPLE IRA

You can only roll over a payment from the Plan to a Roth SIMPLE IRA plan after the end of the 2-year period beginning on the date you first participated in the Roth SIMPLE IRA plan.

If you aren't a Plan participant

Payments after death of the participant. If you receive a payment after the participant's death that you don't roll over, the payment generally will be taxed in the same manner described elsewhere in this notice. However, whether the

payment is a qualified distribution generally depends on when the participant first made a contribution to the designated Roth account in the Plan. Also, the 10% additional tax on early distributions and the special rules for public safety officers don't apply, and the special rule described under the section "If you receive a nonqualified distribution and you were born on or before January 1, 1936" applies only if the deceased participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to a Roth IRA, you may treat the Roth IRA either as your own or as an inherited Roth IRA.

A Roth IRA you treat as your own is treated like any other Roth IRA of yours, so that you won't have to take any required minimum distributions during your lifetime and earnings paid to you in a nonqualified distribution before you are age 59½ will be subject to the 10% additional tax on early distributions unless an exception applies.

If you treat the Roth IRA as an inherited Roth IRA, payments from the Roth IRA won't be subject to the 10% additional tax on early distributions. An inherited Roth IRA is subject to required minimum distributions.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited Roth IRA. Payments from the inherited Roth IRA, even if made in a nonqualified distribution, won't be subject to the 10% additional tax on early distributions. You will have to take required minimum distributions from the inherited Roth IRA.

For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

Payments under a qualified domestic relations order (QDRO). If you are the spouse or a former spouse of the participant who receives a payment from the Plan under a QDRO, you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own Roth IRA or to a designated Roth account in an eligible employer plan that will accept it).

For more information, see IRS Publication 504, *Divorced or Separated Individuals*.

If you are a nonresident alien

If you are a nonresident alien, the payment isn't a qualified distribution, and you don't do a direct rollover to a U.S. Roth IRA or designated Roth account in a U.S. employer plan, the Plan is generally required to withhold 30% (instead of withholding 20%) of the earnings for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing IRS Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, and attaching your IRS Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. See IRS Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)*, for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

If you receive a payment from a pension-linked emergency savings account

In general, if you receive a payment from a pension-linked emergency savings account (PLESA), the rules for other payments from a designated Roth account apply. However, several special rules apply to payments from PLESAs. First, all payments from PLESAs are treated as qualified distributions, even if, for example, the payment is made before you reach age 59½ and before you have had a PLESA for at least 5 years. Second, if you terminate employment or your employer terminates your PLESA, you may elect, in addition to your usual rollover options, to roll over all or part of your PLESA into another designated Roth account in the Plan.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to do a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year (only including payments from the designated Roth account in the Plan) are less than \$200, the Plan isn't required to allow you to do a direct rollover and isn't required to withhold federal income taxes. However, you can do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout from the designated Roth account in the Plan of more than \$1,000 will be directly rolled over to a Roth IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) without the participant's consent. Generally, a mandatory cashout is only allowed if the participant's benefit doesn't exceed \$7,000.

You may have the ability to repay certain distributions from your retirement plan. If you took a qualified reservist distribution, a qualified disaster recovery distribution, a qualified birth or adoption distribution, an emergency personal expense distribution, a domestic abuse victim distribution, or a terminal illness distribution, you generally may repay that distribution to an eligible retirement plan within a certain time period. For more information on repayments of qualified reservist distributions, see IRS Publication 3, *Armed Forces' Tax Guide*. For more information on other repayments, see IRS Publication 575, *Pension and Annuity Income*, or consult a professional tax advisor.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.