

# SPECIAL TAX NOTICE

## REGARDING PAYMENTS FROM YOUR QUALIFIED PLAN

This notice contains important information you will need before you decide how to receive benefits from your 401(a) or 403(b) account [401(a) refers to 401(k), profit sharing and money purchase plans]. We are required to provide this notice to you at least 30 days, but no more than 90 days, before the date of distribution. You have the right to consider whether to elect a direct rollover for at least 30 days after the notice is provided. Your employer's plan may provide that by completing and returning the distribution request form in less than 30 days, you elect to waive the 30-day requirement. This would mean that you do not wish to wait 30 days before receiving your requested distribution. We will process your distribution request as of the date we receive it in good order at the above address.

All or any portion of your payment that is an "eligible rollover distribution" may be either paid in a "direct rollover" or paid to you. A direct rollover is a payment of benefits to an Individual Retirement Arrangement (IRA), to another 403(b) tax deferred annuity (TDA) if your distribution is being made from a TDA, or to another 401(a) qualified plan if your distribution is being made from a 401(a) qualified plan.

## PAYMENTS THAT MAY NOT BE DIRECTLY ROLLED OVER

The following payments cannot be rolled over and must be paid to you:

**Non-taxable Payments** – In general, only the "taxable portion" of your payment is an eligible rollover distribution. Any "after-tax" employee contributions you made to your 401(a) plan or 403(b) account cannot be rolled over.

**Hardship Withdrawals or Deferrals** – Effective January 1, 1999, hardship distributions from 401(k) and 403(b) plans may not be rolled over. Because they are not eligible rollover distributions, they are not subject to the 20% federal withholding. Rather these amounts are subject to 10% voluntary federal withholding. However, hardship distributions from a 401(k) plan or a 403(b) account prior to January 1, 1999, remain subject to the 20% federal withholding.

**Payments Spread Over Long Periods** – You cannot roll over a payment if it is part of a series of equal or almost equal payments that are made at least once a year and that will last for:

1. your lifetime (*or your life expectancy*)
2. your lifetime and your beneficiary's lifetime (*or life expectancies*), or
3. a period of ten years or more.

**Required Minimum Distribution Payments** – A certain portion of your distribution payment cannot be rolled over if it is a "required minimum payment." (*Certain payments made upon a Participant's death are required minimum payments and cannot be rolled over.*) Payments which are minimum required distributions generally must commence by April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70 ½ or (2) the calendar year that the Participant retires. However, distributions from the TDA Contract attributable to the TDA account value as of December 31, 1986 must begin by the end of the calendar year in which a Participant reaches age 75 or retires, whichever is later. If you are a Participant in a 401(a) plan and you are considered a 5% owner in the employer sponsoring the plan, special rules govern the timing of your required minimum distribution. If you attained age 70 ½ prior to January, 1996 special rules apply to the definition of required minimum payment.

## DIRECT ROLLOVER

You may choose a direct rollover of all or any portion of your payment that is an "eligible rollover distribution." In a TDA or 401(a) qualified plan direct rollover, payment is made from the TDA or 401(a) qualified plan to an IRA, or to another TDA or 401(a) qualified plan respectively, that accepts rollovers generally. No direct rollover from a 401(a) qualified plan to a TDA or from a TDA to a 401(a) qualified plan is allowed. If you choose a direct rollover, you are not taxed on a payment until it is distributed from the IRA, TDA, or 401(a) qualified plan.

**Direct Rollover to IRA** – If you choose to have your payment made directly to an IRA, contact the IRA sponsor (*usually a financial institution*) to find out how to have your payment made in a direct rollover to an IRA at that institution. See Internal Revenue Service (IRS) Publication 590, “*Individual Retirement Arrangements*,” for more information on IRAs.

**Direct Rollover From TDA to TDA** – If you are employed by a new employer that has a TDA with a different carrier, or if you want to roll over to a TDA with another carrier, ask the employer or carrier whether it will accept your rollover. If the rollover cannot be accepted, you can choose a direct rollover to an IRA.

**Direct Rollover From 401(a) Qualified Plan to 401(a) Qualified Plan** – If you are employed by a new employer that has a 401(a) qualified plan and you want a direct rollover of your 401(a) benefit to the new plan, ask the administrator of that plan whether it will accept your rollover. If your new employer’s plan does not accept a rollover, you can choose a direct rollover to an IRA.

**Direct Rollover of a Series of Payments** – If you receive eligible rollover distributions that are paid in a series for less than ten years, your choice whether or not to roll over a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

### **PAYMENT PAID TO YOU**

**Mandatory Withholding** – If any portion of an eligible rollover distribution is paid to you, we are required by federal law to withhold 20% of that amount and send it to the IRS as income tax withholding. For example, if your rollover distribution is \$10,000, only \$8,000 will be paid to you because the plan must withhold \$2,000 as income tax. You will need to report the tax withheld on your IRS Form 1040, and it will be credited against any income tax you owe for the year. The payment is taxed in the year you receive it unless, within 60 days of receipt, you roll it over to an IRA or to another plan of the same type that accepts rollovers.

**State Withholding** – If state income tax withholding is required on the payment, or if you elect to have it withheld, we will withhold such tax and send it to the state.

**Voluntary Withholding** – If any portion of your payment is not an eligible rollover distribution but is taxable, the mandatory withholding rules do not apply. 10% federal withholding will automatically apply unless you elect to have no income tax withheld.

**Sixty Day Rollover Option** – If you have an eligible rollover distribution paid to you, you may still decide to roll over all or part of it to an IRA, or to another plan of the same type that accepts rollovers. If you decide to roll over, you must make the rollover within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the IRA, TDA, or 401(a) qualified plan. You may roll over up to 100% of the amount that was an eligible rollover distribution, including an amount equal to the 20% that was withheld. If, within the 60 day period, you choose to roll over 100%, you must contribute other money to the IRA, TDA, or 401(a) qualified plan to replace the 20% that was withheld. If you roll over only the 80% that you received, the 20% that was withheld will be included in your taxable income for the year.

For example, if your eligible rollover distribution was \$10,000 and you choose to have it paid to you, you will receive \$8,000 and \$2,000 will be sent to the IRS as income tax withholding. Within 60 days after receiving the \$8,000 you may roll over up to \$10,000 to an IRA or another employer plan. In this case, the entire \$10,000 is not taxed until you take it out of the IRA or employer plan and you may be eligible to receive a refund of \$2,000 withheld when you file your income tax return.

**Additional 10% Premature Withdrawal Tax If You Are Under Age 59 ½** If you receive a payment before you reach age 59 ½ (*and no other statutory exemption applies*) and you do not roll it over, you may have to pay an extra premature distribution excise tax, in addition to federal income tax. Unless an exception applies, you will have to pay this extra tax, equal to 10% of the taxable portion of the payment, when you file your income tax return. See premature distribution instructions on the distribution form and IRS Form 5329 for more information on the 10% tax.

## **SURVIVING SPOUSES, ALTERNATE PAYEES AND OTHER BENEFICIARIES**

With some exceptions, the rules summarized above also generally apply to payments to surviving spouses of employees and to spouses or former spouses who are “alternate payees”. (*You are an alternate payee if your interest in a TDA or 401(a) qualified plan results from a “qualified domestic relations order” issued in connection with a divorce or legal separation.*) Some of these rules apply to a deceased employee’s beneficiary who is not a spouse.

- **If you are a surviving spouse**, you may choose to have an eligible rollover distribution paid in a direct rollover to an IRA or paid to you. If you have the payment paid to you, you may keep it or roll it over yourself to an IRA, but you may not roll it over to another TDA or 401(a) qualified plan. If you do not request a direct rollover and you have the payment paid to you, we are required by law to withhold 20% of the amount and send it to the IRS as income tax withholding.
- **If you are a former spouse who is an alternate payee**, you have the same choices as the employee: you may have the payment paid in a direct rollover to an IRA, or to another plan of the same type that accepts rollovers. If you do not request a direct rollover and you have the payment paid to you, we are required by law to withhold 20% of the amount and send it to the IRS as income tax withholding. If payment is made to you, the same Sixty Day Rollover option described above applies to you.
- **If you are a beneficiary other than the surviving spouse**, you may not choose a direct rollover and you may not roll over the payment yourself. 10% federal withholding will automatically apply unless you elect to have no income tax withheld.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is not subject to the additional 10% premature distribution tax described above, and you may be eligible to use the special tax treatment for lump-sum distributions.

## **SPECIAL TAX TREATMENT FOR LUMP-SUM DISTRIBUTIONS FROM A 401(a) QUALIFIED PLAN**

If your eligible rollover distribution from your 401(a) account is not rolled over, it will be taxed in the year you receive it. However, if it qualifies as a “lump-sum distribution,” it may be eligible for special tax treatment. A lump-sum distribution is defined as a payment, within one year, of your entire balance under the 401(a) qualified plan (and certain other similar plans of the employer), that is payable to you because you have reached age 59 ½ or have separated from service with your employer. For a payment to qualify as a lump-sum distribution, you must have been a Participant in the plan for at least 5 years. The special tax treatment for lump-sum distributions is described below.

- **Five Year Averaging** – If you receive a lump-sum distribution on or after the date you attain age 59 ½ but in any event no later than December 31, 1999, you may be able to make a one-time election to figure the tax on the payment by using “5 year averaging.” This may reduce the tax you owe by treating the payment as if it were paid over 5 years.
- **Ten Year Averaging if you were Born Before January 1, 1936** – If you receive a lump-sum distribution and you were born before January 1, 1936, you may make a one-time election to figure the tax on the payment by using “10 year averaging” (*using 1986 tax rates*) instead of 5 year averaging (*using current tax rates*).
- **Capital Gain Treatment if you were Born Before January 1, 1936** – In addition, if you receive a lump-sum distribution and you were born before January 1, 1936, you may elect to have part of your payment that is attributable to your pre-1974 participation in the plan (*if any*) taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump-sum distributions. For example, you may generally elect this special tax treatment only once in your lifetime, and the election applies to all lump-sum distributions that you receive in that same year. If you have previously rolled over a payment from the plan (*or certain other similar plans of the employer*), you may not use this special tax treatment for later payments from the plan. If you roll over your payment to an IRA, you will not be able to use this special tax treatment for later payments from the IRA. Also, if you roll over only a portion of your payment to an IRA, this special tax treatment is not available for the rest of the payment. See IRS Form 4972, “*Tax on Lump-Sum Distributions*,” for more information.

**Employer Stock or Securities** – There is a special rule for a payment from the Plan that includes employer stock (*or other employer securities*). To use this special rule, 1) the payment must qualify as a lump-sum distribution, as described above (*or would qualify except that you do not yet have 5 years of participation in the Plan*), or 2) the

employer stock included in the payment must be attributable to “after-tax” employee contributions, if any. Under this special rule, you may have the option of not paying tax on the “net unrealized appreciation” of the stock until you sell the stock. Net unrealized appreciation generally is the increase in the value of the employer stock while it was held by the plan. For example, if employer stock was contributed to your Plan account when the stock was worth \$1,000 but the stock was worth \$1,200 when you received it, you would not have to pay tax on the \$200 increase in value until you later sold the stock.

You may instead elect not to have the special rule apply to the net unrealized appreciation. In this case, your net unrealized appreciation will be taxed in the year you receive the stock, unless you roll over the stock. The stock (*including any unrealized appreciation*) can be rolled over to an IRA or another employer plan either in a direct rollover or a rollover that you make yourself.

If you receive employer stock in a payment that qualifies as a lump-sum distribution, the special tax treatment for lump-sum distributions described above (*such as 5 year averaging*) also may apply. See IRS Form 4972 for additional information on these rules.

### **HOW TO OBTAIN ADDITIONAL INFORMATION**

This notice summarizes only the federal – not state or local – tax rules that might apply to your payment. Since the rules are complex and contain many conditions and exceptions not included above, you may wish to consult a professional tax advisor before taking a payment of your benefits. Also, you can find more specific information on the tax treatment of payments from TDAs in IRS Publication 571, “*Tax Sheltered Annuity Programs For Employees of Public Schools and Certain Tax-Exempt Organizations*”, 401(a) qualified plan in IRS Publication 575, “*Pension and Annuity Income*”, and IRS Publication 590, “*Individual Retirement Arrangements*”. These publications are available from your local IRS office by calling 1-800-TAX-FORM (829-3676).