

Safe Harbor Explanations – Eligible Rollover Distributions

Notice 2018-74

I. PURPOSE

This notice modifies the two safe harbor explanations in Notice 2014-74, 2014-50 I.R.B. 937, that may be used to satisfy the requirement under § 402(f) of the Internal Revenue Code (“Code”) that certain information be provided to recipients of eligible rollover distributions. The safe harbor explanations as modified by this notice take into consideration certain legislative changes and recent guidance, including changes related to qualified plan loan offsets (as defined in section 13613 of the Tax Cuts and Jobs Act of 2017 (“TCJA”), P.L. 115-97) and guidance issued on self-certification of eligibility for a waiver of the deadline for completing a rollover (described in Rev. Proc. 2016-47, 2016-37 I.R.B. 346), and include other clarifying changes.

To assist with the implementation of the modified safe harbor explanations, this notice contains two appendices. Appendix A contains two model safe harbor explanations: one for distributions that are not from a designated Roth account, and a second for distributions from a designated Roth account. Appendix B provides instructions on how to amend the safe harbor explanations contained in Notice 2014-74 to reflect the revisions included in the modified safe harbor explanations in Appendix A.

II. BACKGROUND

A. Section 402(f)

Section 402(f) requires the plan administrator of a plan qualified under § 401(a) to provide the written explanation described in § 402(f)(1) to any recipient of an eligible rollover distribution, as defined in § 402(c)(4). In addition, §§ 403(a)(4)(B) and 457(e)(16)(B) require the plan administrator of a § 403(a) plan, or an eligible § 457(b) plan maintained by a governmental employer described in § 457(e)(1)(A), to provide the written explanation to any recipient of an eligible rollover distribution. Further, § 403(b)(8)(B) requires a payor under a § 403(b) plan to provide the written explanation 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 written explanation described in § 402(f) (“§ 402(f) notice”).

Notice 2014-74 contains two safe harbor explanations that reflect relevant law as of December 8, 2014: 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 2014-74 provides that the safe harbor explanations may be used by plan administrators and payors to satisfy § 402(f) to the extent that the explanations accurately reflect current law.

B. Recent Statutory Changes Related to Qualified Plan Loan Offsets

Section 1.402(c)-2, Q&A-3(a), provides that, unless specifically excluded, an eligible rollover distribution means any distribution to an employee (or to a spousal distributee described in § 1.402(c)-2, Q&A-12(a)) of all or any portion of the balance to the credit of the employee in a qualified plan. Section 1.402(c)-2, Q&A-3(b), provides that certain distributions (for example, required minimum distributions under § 401(a)(9)) are not eligible rollover distributions.

Section 1.402(c)-2, Q&A-9(a), provides that a distribution of a plan loan offset amount (as defined in § 1.402(c)-2, Q&A-9(b)) is an eligible rollover distribution if it satisfies § 1.402(c)-2, Q&A-3. Thus, an amount up to the plan loan offset amount may be rolled over by the employee (or spousal distributee) to an eligible retirement plan within the 60-day period described in § 402(c)(3), unless the plan loan offset amount fails to be an eligible rollover distribution for another reason.

Section 1.402(c)-2, Q&A-9(b), provides that a distribution of a plan loan offset amount is a distribution that occurs when, under the plan terms governing a plan loan, the participant's accrued benefit is reduced (offset) in order to repay the loan. This can occur when, for example, the terms governing a plan loan require that, in the event of an employee's termination of employment or request for a distribution, the loan is to be repaid immediately or treated as in default. A plan loan offset can also occur when, under the terms of the plan loan, the loan is canceled, accelerated, or treated as if it were in default (for example, when the plan treats a loan as in default upon an employee's termination of employment or within a specified period thereafter). See also § 1.72(p)-1, Q&A-13(a)(2). Because a plan loan offset is an actual distribution for purposes of the Code, not a deemed distribution under § 72(p), a plan loan offset cannot occur prior to a distributable event. See generally § 1.72(p)-1, Q&A-13(b).

Section 13613 of the TCJA amended § 402(c)(3) of the Code to provide an extended rollover deadline for qualified plan loan offset amounts (as defined in § 402(c)(3)(C)(ii)). Any portion of a qualified plan loan offset amount (up to the entire qualified plan loan offset amount) may be rolled over into an eligible retirement plan by the individual's tax filing due date (including extensions) for the taxable year in which the offset occurs.

A qualified plan loan offset amount is defined in § 402(c)(3)(C)(ii) as a plan loan offset amount that is distributed from a qualified employer plan to a participant or beneficiary solely by reason of: (1) the termination of the qualified employer plan, or (2) the failure to meet the repayment terms of the loan from such plan because of the severance from employment of the participant. Additionally, under § 402(c)(3)(C)(iv), a qualified plan loan offset may occur only if the relevant plan loan meets the requirements of § 72(p)(2).

C. Other Recent Statutory Changes¹

Section 100121 of the Moving Ahead for Progress in the 21st Century Act (“MAP-21”), P.L. 112-141, amended chapters 83 and 84 of title 5 of the United States Code (“U.S.C.”), to permit certain federal retirees to participate in phased retirement. MAP-21 amended the Code to add § 72(t)(2)(A)(viii), which provides that if an employee participates in phased retirement, any payments made under a phased retirement annuity under § 8336a(a)(5) or 8412a(a)(5) of title 5 of the U.S.C., or a composite retirement annuity under § 8336a(a)(1) or 8412a(a)(1) of title 5 of the U.S.C., are excepted from the 10% additional tax under § 72(t).

Section 2 of the Defending Public Safety Employees’ Retirement Act (“DPSERA”), P.L. 114-26, amended § 72(t)(10)(B) with respect to the exception to the 10% additional tax under § 72(t) on early distributions from a governmental retirement plan for qualified public safety employees who have reached age 50 by expanding the exception to include specified federal law enforcement officers, customs and border protection officers, federal firefighters, and air traffic controllers who have reached age 50, and eliminating the requirement that the distributions be from a defined benefit plan. Section 306 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, includes a list of federal governmental employees added to the definition of qualified public safety employee in § 72(t)(10)(B).

D. Other Extensions of 60-Day Rollover Deadline

Rev. Proc. 2016-47 provides guidance concerning waivers of the 60-day rollover deadline contained in §§ 402(c)(3) and 408(d)(3). Specifically, it provides for a self-certification procedure (subject to verification on audit) that may be used by a taxpayer claiming, in specified circumstances, eligibility for a waiver under § 402(c)(3)(B) or 408(d)(3)(I) with respect to a rollover into a qualified plan or individual retirement arrangement (“IRA”). A plan administrator

¹ Although not requiring modifications to the safe harbor explanations, section 41104 of the Bipartisan Budget Act of 2018, P.L. 115-123, amended § 6343 of the Code to provide that certain retirement plan benefits distributed from a plan as a result of an improper levy may, when they are returned to an individual, be eligible to be rolled over into the plan or an IRA. These amounts may be rolled over by the tax filing due date (not including extensions) for the tax year during which the Internal Revenue Service (“IRS”) returns the improperly levied funds to the individual. As amended, § 6343 provides that, when the IRS returns improperly levied funds, the Secretary of the Treasury will notify the individual that the returned amount may be eligible to be rolled over.

or an IRA trustee generally may rely on a taxpayer's self-certification in determining whether a taxpayer has satisfied the conditions for a waiver of the 60-day rollover deadline.

Rev. Proc. 2007-56, 2007-2 C.B. 388, provides a list of time-sensitive acts, the performance of which may be postponed under §§ 7508 (relating to service in combat zones or contingency operations) and 7508A (relating to taxpayers affected by a federally declared disaster or a terroristic or military action). Rev. Proc. 2007-56 includes on the list of acts that may be postponed under §§ 7508 and 7508A the 60-day deadline for rolling over an eligible rollover distribution to an eligible retirement plan (which includes an IRA). Rev. Proc. 2007-56 does not, by itself, provide any postponements under § 7508A. Rather, for taxpayers to be entitled to a postponement under § 7508A of any act listed in the revenue procedure, the IRS must publish a notice or issue other guidance (including an IRS News Release) providing relief with respect to a federally declared disaster or a terroristic or military action. For example, News Release TX-2018-05, July 9, 2018, provides tax relief relating to severe storms and flooding in Texas.²

III. MODIFICATIONS TO THE SAFE HARBOR EXPLANATIONS

There are two updated safe harbor explanations appended to this notice (see Appendix A). The safe harbor explanations modify the safe harbor explanations in Notice 2014-74 to reflect certain legislative changes and guidance issued after December 8, 2014, including: (1) the extended rollover deadline for qualified plan loan offset amounts under TCJA, (2) the exception to the 10% additional tax under § 72(t) for phased retirement distributions to certain federal retirees under MAP-21, (3) the expanded exception to the 10% additional tax under § 72(t) for specified federal employees who have reached age 50 under DPSERA, and (4) the self-certification procedures under Rev. Proc. 2016-47 for claiming eligibility for a waiver of the deadline for making rollovers. The safe harbor explanations also include other clarifying modifications, such as modifications clarifying that the 10% additional tax under § 72(t) for early distributions applies only to amounts includable in income, explaining how the rollover rules apply to governmental § 457(b) plans that include designated Roth accounts, clarifying that the general exception to the 10% additional tax under § 72(t) for payments from a governmental plan made after a qualified public safety employee separates from service (if the employee will be at least age 50 in the year of the separation) is not available for payments from IRAs, and

² For certain disasters, Congress has enacted legislation providing special rules for distributions made on account of the disaster. For information on rules applicable to distributions (and the ability to repay those distributions) made on account of Hurricane Harvey or Tropical Storm Harvey, Hurricane Irma, Hurricane Maria, the 2017 California wildfires, and certain 2016 disasters, see Publication 976, *Disaster Relief*. Distributions made on account of these disasters (assuming certain requirements are met) are not treated as eligible rollover distributions for purposes of § 402(f). See, for example, section 502(a)(6)(A) of the Disaster Tax Relief and Airport and Airway Extension Act of 2017, P.L. 115-63.

recognizing the possibility that taxpayers affected by federally declared disasters and other events may have an extended deadline for making rollovers. For instructions on how to amend the safe harbor explanations in Notice 2014-74 to reflect these modifications, see Appendix B. The updated safe harbor explanations provided in this notice may be used by plan administrators and payors to satisfy § 402(f). However, the updated safe harbor explanations will not satisfy § 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after September 18, 2018.

The first safe harbor explanation reflects the rules relating to distributions not from a designated Roth account. Thus, the first safe harbor explanation should only be used for a distribution that is not from a designated Roth account. The second safe harbor explanation reflects the rules relating to distributions from a designated Roth account. Thus, the second safe harbor explanation should only be used for a distribution from a designated Roth account. Both explanations should be provided to a participant if the participant is eligible to receive eligible rollover distributions both from a designated Roth account and from 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 § 402(f) for an eligible rollover distribution that is not from a designated Roth account if 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 § 402(f) for an eligible rollover distribution from a designated Roth account if 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, provides, in general, that a reasonable period of time for providing an explanation is no less than 30 days (subject to waiver) and no more than 90 days before the date on which the distribution is made. However, § 1.402(f)-1, Q&A-2(a), of the Proposed Income Tax Regulations, pursuant to section 1102(a)(1)(B) of the Pension Protection Act of 2006, P.L. 109-280, provides that a notice required to be provided under § 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). These 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 § 402(f) notice may be provided as much 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. 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 § 402(f).

Alternatively, a plan administrator or payor may satisfy § 402(f) by providing an explanation that is different from a safe harbor explanation. Any explanation must contain the information required by § 402(f) and must be written in a manner designed to be easily understood.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2014-74 is modified.

DRAFTING INFORMATION

The principal author of this notice is Naomi Lehr of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Lehr at (202) 317-4102 (not a toll-free number).

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Appendix A

For Payments Not From a
Designated Roth Account

YOUR ROLLOVER OPTIONS

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the “Plan”) is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

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 with special tax rules in some employer plans). 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 the “General Information About Rollovers” section. Special rules that only apply in certain circumstances are described in the “Special Rules and Options” section.

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

You will be taxed on a payment from the Plan if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (generally, distributions made before age 59½), unless an exception applies. However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

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, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs 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.

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 sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, you may still do a rollover by making 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 do not 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 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

How much may I roll over?

If you wish to do a rollover, 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 lives or joint life expectancy of you and your beneficiary);
- Required minimum distributions after age 70½ (or after death);
- Hardship distributions;
- ESOP dividends;
- Corrective distributions of contributions that exceed 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 requested to be withdrawn within 90 days of the first contribution; and
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if you roll over a distribution of S corporation stock to an IRA).

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 income tax on early distributions?

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not 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 income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be 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 lives or joint life expectancy of you and your beneficiary);
- Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments 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 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 requested to be withdrawn within 90 days of the first contribution;
- Payments for certain distributions relating to certain federally declared disasters; and
- Phased retirement payments made to federal employees.

If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions on the part of the distribution that you must include in income, unless an exception applies. In

general, the exceptions to the 10% additional income 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 made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.
- The exception for qualified domestic relations orders (QDROs) does not apply (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).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) 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).

Will I owe State income taxes?

This notice does not describe 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 are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is included in the payment, so you cannot 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 a 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 directly rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are

receiving a distribution 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 is not a Roth IRA, no amount is taxable because the \$2,000 amount not directly 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.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over \$10,000 to an IRA that is not 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 is not 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 cannot be extended. However, the IRS has the limited 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)*.

If your payment includes employer stock that you do not roll over

If you do not 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 will not 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 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 will not apply to any subsequent payments from the IRA or employer 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, 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. Any offset amount that is not rolled over will be taxed (including the 10% additional income 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 sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

If you were born on or before January 1, 1936

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not 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 do not do a rollover, you will not have to pay the 10% additional income 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 is not a governmental section 457(b) plan, a later distribution made before age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an “unforeseeable emergency” and the special rules under “If

your payment includes employer stock that you do not roll over” and “If you were born on or before January 1, 1936” do not 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 Plan payments paid directly as 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, up to a maximum of \$3,000 annually. 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 IRA

If you roll over a payment from the Plan to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not 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 are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. 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 do a rollover to a designated Roth account in the Plan

You cannot roll over a distribution to a designated Roth account in another employer’s plan. However, you can roll the distribution 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. However, the 10% additional tax on early distributions will not apply (unless 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).

If you roll over the payment to a designated Roth account in the Plan, later payments from the designated Roth account that are qualified distributions will not 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 your first contribution was made to the 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 are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies).

If you are not a Plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the 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 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 income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions

from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

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 will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (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 will not be subject to the 10% additional income tax on early distributions.

If you are a nonresident alien

If you are a nonresident alien and you do not 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 Form 1040NR and attaching your Form 1042-S. See Form W-8BEN 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 make 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 is not required to allow you to do a direct rollover and is not 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) and without consent, where the participant's benefit does not exceed \$5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at www.irs.gov.

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 ROLLOVER OPTIONS

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the “Plan”) is eligible to be rolled over to a Roth IRA or designated Roth account in an employer plan. This notice is intended to help you decide whether to do a rollover.

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 is not 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 the “General Information About Rollovers” section. Special rules that only apply in certain circumstances are described in the “Special Rules and Options” section.

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

After-tax contributions included in a payment from a designated Roth account are not 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 is not a qualified distribution and you do not do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the earnings in the payment. If you are under age 59½, a 10% additional income tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies). However, if you do a rollover, you will not have to pay taxes currently on the earnings and you will not have to pay taxes later on payments that are qualified distributions.

If the payment from the Plan is a qualified distribution, you will not be taxed on any part of the payment even if you do not do a rollover. If you do a rollover, you will not be taxed on the amount you roll over and any earnings on the amount you roll over will not be taxed if paid later in a qualified distribution.

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 your 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 your 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.

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 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, no spousal consent rules apply to Roth IRAs and Roth IRAs may not 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 will not be required to take a distribution from the Roth IRA during your lifetime and 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 are not 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 not do a direct rollover, you may still do a rollover by making 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 does not exceed the amount of the earnings in the payment. You cannot do a 60-day rollover to an employer plan of any part of a qualified distribution. If you receive a distribution that is a nonqualified distribution and you do not roll over an amount at least equal to the earnings allocable to the distribution, you will be taxed on the amount of those earnings not rolled over, including the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

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.

If you do not do a direct rollover and the payment is not 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 20% withheld.

How much may I roll over?

If you wish to do a rollover, 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 lives or joint life expectancy of you and your beneficiary);
- Required minimum distributions after age 70½ (or after death);
- Hardship distributions;
- ESOP dividends;
- Corrective distributions of contributions that exceed 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 requested to be withdrawn within 90 days of the first contribution; and
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if S corporation stock is held by an IRA).

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 income tax on early distributions?

If a payment is not a qualified distribution and you are under age 59½, you will have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not 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 income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be 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 lives or joint life expectancy of you and your beneficiary);
- Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments 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 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 requested to be withdrawn within 90 days of the first contribution; and
- Payments for certain distributions relating to certain federally declared disasters.

If I do a rollover to a Roth IRA, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from a Roth IRA when you are under age 59½, you will have to pay the 10% additional income 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 income tax for early

distributions from a Roth IRA listed above are the same as the exceptions for early distributions from a plan. However, there are a few differences for payments from a Roth IRA, including:

- The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.
- The exception for qualified domestic relations orders (QDROs) does not apply (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).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) 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).

Will I owe State income taxes?

This notice does not describe 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 cannot be extended. However, the IRS has the limited 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)*.

If your payment includes employer stock that you do not roll over

If you receive a payment that is not a qualified distribution and you do not 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 will not 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 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 will not have any taxable income and the special rule relating to the distributed employer stock will not apply to any subsequent payments from the Roth IRA or employer 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 do not 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, 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 is not a qualified distribution and you do not roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional income 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 sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a nonqualified distribution 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 distribution that is not a qualified distribution and that you do not 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 an IRA or an employer plan that accepts rollovers. One difference is that, if you receive a payment that is not a qualified distribution and you do not roll it over, you will not have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not 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 an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution that is not a qualified distribution made before age 59½ will be subject to the 10% additional income tax on earnings allocated to the payment (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an “unforeseeable emergency” and the special rules under “If your payment includes employer stock that you do not roll over” and “If you were born on or before January 1, 1936” do not apply.

If you receive a nonqualified distribution, 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 nonqualified distributions paid directly as 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, up to a maximum of \$3,000 annually. 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 are not a Plan participant

Payments after death of the participant. If you receive a distribution after the participant’s death that you do not roll over, the distribution will generally 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 income tax on early distributions and the special rules for public safety officers do not 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 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 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 will not have to receive 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 income tax on early distributions (unless an exception applies).

If you treat the Roth IRA as an inherited Roth IRA, payments from the Roth IRA will not be subject to the 10% additional income tax on early distributions. An inherited Roth IRA is subject to required minimum distributions. If the participant had started taking required minimum distributions from the Plan, you will have to receive required minimum distributions from the inherited Roth IRA. If the participant had not started taking required minimum distributions, you will not have to start receiving required minimum distributions from the inherited Roth IRA until the year the participant would have been age 70½.

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, will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited Roth IRA.

Payments under a qualified domestic relations order. If you are the spouse or a former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (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 as described in this notice).

If you are a nonresident alien

If you are a nonresident alien and you do not 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 Form 1040NR and attaching your Form 1042-S. See Form W-8BEN 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 make 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 is not required to allow you to do a direct rollover and is not 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) and without consent, where the participant's benefit does not exceed \$5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at www.irs.gov.

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.

Appendix B

Some plan administrators that have been using the safe harbor explanations in Notice 2014-74 may wish to update those explanations by making amendments to them (rather than by simply replacing them with the revised safe harbor explanations in Appendix A). This appendix provides instructions on how to amend the safe harbor explanations in Notice 2014-74 to reflect the modifications made in the revised safe harbor explanations in Appendix A. Part 1 contains amendments to the safe harbor explanation for payments not from a designated Roth account and Part 2 contains amendments to the safe harbor explanation for payments from a designated Roth account.

Part 1 – Amendments to the Safe Harbor Explanation for Payments not from a Designated Roth Account

1. Under the heading “**How can a rollover affect my taxes?**,” replace the second sentence with the following:

If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (generally, distributions made before age 59½), unless an exception applies.

2. Replace the heading “**Where may I roll over the payment?**” with the following:

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

3. Under the heading “**How do I do a rollover?**,” replace the second sentence of the third paragraph beginning “If you do not do a direct rollover” with the following:

Generally, you will have 60 days after you receive the payment to make the deposit.

4. Under the heading “**How much may I roll over?**,” add semicolons at the end of the first 8 bullets, and the word “and” after the semicolon in the eighth bullet.

5. Under the heading “**If I don’t do a rollover, will I have to pay the 10% additional income tax on early distributions?**,” replace the second sentence of the first paragraph with the following:

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.

6. Under the heading **“If I don’t do a rollover, will I have to pay the 10% additional income tax on early distributions?”**, replace the bullet list with the following:
- Payments made after you separate from service if you will be 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 lives or joint life expectancy of you and your beneficiary);
 - Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
 - Payments made due to disability;
 - Payments 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 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 requested to be withdrawn within 90 days of the first contribution;
 - Payments for certain distributions relating to certain federally declared disasters; and
 - Phased retirement payments made to federal employees.
7. Under the heading **“If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?”**, replace the first sentence of the first paragraph with the following:
- If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions on the part of the distribution that you must include in income, unless an exception applies.
8. Under the heading **“If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?”**, replace the first bullet with the following:

The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.

9. Under the heading, “**If you miss the 60-day rollover deadline,**” replace the paragraph with the following:

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited 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)*.

10. Under the heading, “**If you have an outstanding loan that is being offset,**” replace the paragraph with the following two paragraphs:

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, 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. Any offset amount that is not rolled over will be taxed (including the 10% additional income 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 sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

11. Under the heading “**If your payment is from a governmental section 457(b) plan,**” replace the last sentence with the following:

Other differences include that you cannot do a rollover if the payment is due to an “unforeseeable emergency” and the special rules under “If your payment includes employer stock that you do not roll over” and “If you were born on or before January 1, 1936” do not apply.

12. Replace the heading “**If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance**” with the following:

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

13. Under the heading “**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,**” replace the first sentence with the following:

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 Plan payments paid directly as 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, up to a maximum of \$3,000 annually.

14. Replace the heading “**If you are not a plan participant**” with the following:

If you are not a Plan participant

15. Replace the paragraph under the heading “Payments under a qualified domestic relations order” with the following:

If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (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 will not be subject to the 10% additional income tax on early distributions.

16. Under the heading “**Other special rules,**” replace the first sentence of the second paragraph with the following:

If your payments for the year are less than \$200 (not including payments from a designated Roth account in the Plan), the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes.

17. Under the heading “**Other special rules**,” replace the fourth paragraph with the following:

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces’ Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at www.irs.gov.

Part 2 – Amendments to the Safe Harbor Explanation for Payments from a Designated Roth Account

1. Under the heading “**How can a rollover affect my taxes?**,” replace the second sentence of the second paragraph with the following:

If you are under age 59½, a 10% additional income tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies).

2. Replace the heading “**Where may I roll over the payment?**” with the following:

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

3. Under the heading “**What types of retirement accounts and plans may accept my rollover?**,” replace the second parenthetical in the first sentence with the following:

(a tax-qualified plan, section 403(b) plan, or governmental section 457 plan)

4. Under the heading “**How do I do a rollover?**,” replace the first sentence of the third paragraph beginning “If you do not do a direct rollover” with the following:

If you do not do a direct rollover, you may still do a rollover by making a deposit (generally within 60 days) into a Roth IRA, whether the payment is a qualified or nonqualified distribution.

5. Under the heading “**How much may I roll over?**,” add semicolons at the end of the first eight bullets, and the word “and” after the semicolon in the eighth bullet.
6. Under the heading “**If I don’t do a rollover, will I have to pay the 10% additional income tax on early distributions?**,” replace the bullet list with the following:
 - Payments made after you separate from service if you will be 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 lives or joint life expectancy of you and your beneficiary);
 - Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
 - Payments made due to disability;
 - Payments 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 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 requested to be withdrawn within 90 days of the first contribution; and
 - Payments for certain distributions relating to certain federally declared disasters.
7. Under the heading “**If I do a rollover to a Roth IRA, will the 10% additional income tax apply to early distributions from the IRA?**,” replace the first bullet with the following:

The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.

8. Under the heading “**If you miss the 60-day rollover deadline,**” replace the paragraph with the following:

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited 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)*.

9. Under the heading “**If you have an outstanding loan that is being offset,**” replace the paragraph with the following two paragraphs:

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, 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 is not a qualified distribution and you do not roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional income 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 sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

10. Before the heading “**If you receive a nonqualified distribution, are an eligible retired public safety officer, and your pension payment is used**”

to pay for health coverage or qualified long-term care insurance,” add the following new heading and paragraph:

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 receive a payment that is not a qualified distribution and you do not roll it over, you will not have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not 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 an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution that is not a qualified distribution made before age 59½ will be subject to the 10% additional income tax on earnings allocated to the payment (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an “unforeseeable emergency” and the special rules under “If your payment includes employer stock that you do not roll over” and “If you were born on or before January 1, 1936” do not apply.

11. Replace the heading “**If you receive a nonqualified distribution, are an eligible retired public safety officer, and your pension payment is used to pay for health coverage or qualified long-term care insurance**” with the following:

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

12. Replace the heading “**If you are not a plan participant**” with the following:

If you are not a Plan participant

13. Replace the paragraph under the heading “Payments under a qualified domestic relations order” with the following:

If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (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 as described in this notice).

14. Under the heading “**Other special rules,**” replace the first sentence of the second paragraph with the following:

If your payments for the year (only including payments from the designated Roth account in the Plan) are less than \$200, the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes.

15. Under the heading “**Other special rules,**” replace the fourth paragraph with the following:

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces’ Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at www.irs.gov.