

# 402(f) Notice of Special Tax Rules on Distributions

## This Special Tax Notice Applies to Distributions from Governmental 457(b) Plans

### General Summary

This notice contains important information you will need before you decide how to receive Plan benefits. It explains when and how you can continue to defer federal income tax on your retirement savings when you receive a distribution.

This notice is provided to you because all or part of the payment that you will soon receive from one or more plans in which you participate may be eligible for rollover by you or your Plan Administrator to a Traditional or Roth IRA or to an eligible employer plan. A “rollover” is a payment by you or the Plan Administrator of all or part of your benefit to another eligible employer plan or IRA. A rollover to an eligible employer plan or Traditional IRA allows you to continue to postpone taxation of that benefit until it is paid to you. A rollover to a Roth IRA results in current income inclusion, but those amounts are then subject to the special Roth IRA rules regarding taxation upon later distribution. An “eligible employer plan” includes a plan qualified under section 401(a) of the Internal Revenue Code, including a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; a section 403(a) annuity plan; a section 403(b) tax-sheltered annuity, and an eligible section 457(b) plan maintained by a governmental employer (governmental 457 plan). Your payment cannot be rolled over to a SIMPLE IRA, or a Coverdell Education Savings Account (formerly known as an education IRA). There are some special considerations before you elect to roll over your Plan benefit. First, an eligible employer plan is not legally required to accept a rollover. Before you decide to roll over your payment to another employer plan, you should find out whether the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions. If this is the case, you may want to roll your distribution over to an IRA instead or split your rollover amount between the eligible employer plan in which you will participate and an IRA. Second, you should find out about any documents that are required to be completed before the receiving plan will accept a rollover. Finally, you should find out what limits the receiving plan will put on later distributions of your rollover account. For example, the receiving plan may restrict subsequent distributions of the rollover amount or may require your spouse’s consent for any subsequent distribution. A subsequent distribution from the plan that accepts your rollover may also be subject to different tax treatment than distributions from this Plan. Check with the administrator of the plan that is to receive your rollover prior to making the rollover. You may also want to talk to your tax advisor before making any decisions.

If you have additional questions after reading this notice, you can contact your Plan Administrator.

## 1. Payments that can and cannot be rolled over

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 tax rules that apply to the IRA or employer plan. Eligible rollover distribution cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account. Your Plan Administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

### The following types of payments cannot be rolled over.

#### A. Payments Spread over Long Periods

You cannot roll over a payment if it is part of a series of equal (or almost equal) installment payments that are made at least once a year and that will last for:

- Your lifetime (or a period measured by your life expectancy), or
- Your lifetime and your beneficiary’s lifetime (or a period measured by your joint life expectancies), or
- A period of 10 or more years.

#### B. Required Minimum Payments

Beginning when you reach age 70½ or retire, whichever is later, a certain portion of your payment cannot be rolled over because it is a “required minimum payment” that must be paid to you.

#### C. Unforeseeable Emergency Distributions

A distribution on account of an unforeseeable emergency cannot be rolled over.

#### D. Distributions of Excess Contributions

A distribution that is made because legal limits on certain contributions were exceeded and cannot be rolled over.

#### E. Return of Automatic Enrollment Contributions

Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution.

## 2. Direct rollover

A DIRECT ROLLOVER is a direct payment of the amount of your Plan benefits to a Traditional or Roth IRA or an eligible employer plan that will accept it.

# 402(f) Notice of Special Tax Rules on Distributions

You can choose a DIRECT ROLLOVER of all or any portion of your payment that is an eligible rollover distribution, as described in Number 1 above. You are not taxed on any taxable portion of your payment for which you choose a DIRECT ROLLOVER (other than a rollover to a Roth IRA) until you later take it out of the Traditional IRA or eligible employer plan. In addition, no income tax withholding is required for any taxable portion of your Plan benefits for which you choose a DIRECT ROLLOVER to a Traditional IRA or an eligible employer plan.

A DIRECT ROLLOVER to a Roth IRA is included in income at the time of the rollover and may be subject to income tax withholding. There are some special rules that allow the rollover amounts to be included in income over more than one year, and your tax advisor can explain those in greater detail.

## **A. Direct Rollover to an Eligible Employer Plan**

If you are employed by a new employer that sponsors an eligible employer plan, and you want a DIRECT ROLLOVER to that plan, ask the Plan Administrator of that plan whether it will accept your rollover. An eligible employer plan is not legally required to accept a rollover. Even if your new employer's plan does not accept a rollover, you still can choose a DIRECT ROLLOVER to an IRA. If the employer plan accepts your rollover, the plan may provide restrictions on the circumstances under which you may later receive a distribution of the rollover amount or may require spousal consent to any subsequent distribution. Check with the Plan Administrator of that plan before making your decision.

## **B. Direct Rollover to an IRA**

You can establish an IRA to receive the DIRECT ROLLOVER. If you choose to have your payment made directly to an IRA, contact an 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. If you are unsure of how to invest your money, you can temporarily establish an IRA to receive the payment. However, in choosing an IRA, you may wish to make sure that the IRA you choose will allow you to move all or a part of your payment to another IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on Traditional IRAs (including limits on how often you can roll over between IRAs).

## **C. Change in Tax Treatment Resulting from a Direct Rollover**

The tax treatment of any payment from the eligible employer plan or Traditional IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from the Plan. See the section below entitled, "*10 percent Additional Income Tax on Early Distributions*" on page 3 of this Guide.

## **D. Direct Rollover to a Roth IRA**

If you roll over the payment 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 percent 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 percent 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 Publications 590-A, Contributions to Individual Retirement Arrangements (IRAs), and IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs).

## **E. 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 percent additional tax on early distributions will not apply (unless you take the amount rolled over out of the designated Roth account within the five-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 be not 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 five-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 five-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 percent additional income tax on early distributions (unless an exception applies).

# 402(f) Notice of Special Tax Rules on Distributions

However, if the distributee made a direct rollover to a designated Roth account in the plan of another employer, the 5-year period begins on January 1 of the year the distributee's first contribution was made 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 allocable to earnings after the rollover. The 10 percent additional income tax on early distributions will not apply to Section 457 plan distributions (unless the distribution from the 457 plan consists of funds that originated from a separate account holding rollover contributions from a 401(a) plan, 401(k) plan, a 403(b) plan, or an IRA).

**Once an in-plan conversion to a Roth has occurred, it is irrevocable.**

## 3. Payment paid to you

If your payment can be rolled over (see Number 1) and the payment is made to you in cash, it is subject to 20 percent federal income tax withholding on the taxable portion (state tax withholding may also apply). The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a Traditional or Roth IRA or an eligible employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

### A. Mandatory Withholding

If any portion of your payment can be rolled over under Number 1, and you do not elect to make a DIRECT ROLLOVER, the plan is required by law to withhold 20 percent of the taxable amount. This amount is sent to the IRS as federal income tax withholding. For example, if you can roll over a taxable payment of \$10,000 but choose to take the distribution in cash instead, only \$8,000 will be paid to you because the plan must withhold \$2,000 as income tax.

However, when you prepare your income tax return for the year, unless you make a rollover within 60 days (see "Sixty-Day Rollover Option" below), you must report the full \$10,000 as a taxable payment from the plan. You must report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year.

### B. Voluntary Withholding

If any portion of your payment is taxable but cannot be rolled over under Number 1, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, 10 percent of the taxable amount will generally be taken out of this portion.

### C. Sixty-Day Rollover Option

If you receive a payment that can be rolled over under Number 1, you can still decide to roll over all or part of it to a Traditional or Roth IRA or to an eligible employer plan that accepts rollovers. If you decide to roll over your payment, you must contribute the amount of the payment you received to an IRA (as described above) or eligible employer plan 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 Traditional IRA or the eligible employer plan.

You can roll over up to 100 percent of your payment that can be rolled over under Number 1, including an amount equal to the 20 percent of the taxable portion that was withheld. If you choose to roll over 100 percent, you must find other money within the 60-day period to contribute to the Traditional IRA or the eligible employer plan, to replace the 20 percent that was withheld. On the other hand, if you roll over only the 80 percent of the taxable portion that you received, you will be taxed on the 20 percent that was withheld.

*Example: The taxable portion of your payment that can be rolled over under Number 1 above is \$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 the entire \$10,000 to a Traditional IRA or an eligible employer plan. To do this, you roll over the \$8,000 you received from the Plan, and you will have to find \$2,000 from other sources (your savings, a loan, etc.). In this case, the entire \$10,000 is not taxed until you take it out of the Traditional IRA or an eligible employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of part or all of the \$2,000 withheld.*

If, on the other hand, you roll over only \$8,000, the \$2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return, you may get a refund of part of the \$2,000 withheld. (However, any refund is likely to be larger if you roll over the entire \$10,000. Also, the amount of any tax refund depends on the total income taxes you owe for the year on all income and the amount you have withheld during the year on all income.)

### 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. To apply for a waiver, 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, Individual Retirement Arrangements (IRAs).

### D. 10 Percent Additional Income Tax on Early Distributions

You will not have to pay the 10 percent additional income tax on distributions from this governmental 457(b) 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 percent additional income tax on early distributions (unless an exception applies).



# 402(f) Notice of Special Tax Rules on Distributions

## Eligible Employer Plan Exceptions

The 10 percent 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 defined benefit pension plan made after you separate from service if you are a public safety employee and you are 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 governmental 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
- 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

## IRA Exceptions

In general, the exceptions to the 10 percent 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:

- There is no exception for payments after separation from service that are made after age 55
- 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 of 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).

## **E. Special Election by Eligible Retired Public Safety Officers**

If you are an “eligible retired public safety officer,” you may make an election to exclude up to \$3,000 of your otherwise taxable payment from your gross income, and not be taxed on the amount you exclude, by instead having your payment directly made to the provider of an accident or health insurance plan or qualified long-term care insurance contract covering you, your spouse, or your dependents. All distributions are combined from all of your eligible retirement plan (section 401(a), 457(b), 403(a) and 403(b) plans) for purposes of the \$3,000 limit.

You are an “eligible retired public safety officer” if you separated from service as a public safety officer of the employer maintaining the plan, and your separation from service was due to your disability or attainment of normal retirement age. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew. Contact the Plan Administrator for more information about this special notice.

## **4. Payments that include After-tax Contributions**

### **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 the payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a complete distribution of your benefit which totals \$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.

# 402(f) Notice of Special Tax Rules on Distributions

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.

## 5. 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 percent additional income tax on early distributions and the special rules for public safety officers do not apply.

### 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 percent 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 percent 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 an 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 percent additional income tax on early distributions. You will have to receive required minimum distributions from the Inherited IRA.

### If you are an Alternate Payee

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 the participant would have (for example, you may roll over the payments to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10 percent 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 percent, the Plan is generally required to withhold 30 percent 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 IRA Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

## 6. 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 for 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, see IRA Publication 3, Armed Forces' Tax Guide.

## 7. State income tax

This notice does not describe any State or local income tax rules (including withholding rules).

## 8. 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 a federal tax treatment of payments from employer plans in; IRS Publication 575, Pension and Annuity income; IRS Publication 590, 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](http://www.irs.gov) or by calling 1-800-TAX-FORM.