

# SPECIAL TAX NOTICE REGARDING PENSION PLAN PAYMENTS

This notice contains important information you will need before you decide how to receive your benefits from the San Francisco Electrical Workers Retirement Savings Plan and the Northern California Electrical Workers Pension Plan. This notice is provided because all or part of the payment that you receive from either or both Plans may be eligible to be rolled over to a traditional IRA or another qualified employer pension plan. *A "traditional IRA" does not include a Roth IRA, SIMPLE IRA, or an Education IRA.*

The rules in this notice apply more often to distributions from the San Francisco Electrical Workers Retirement Savings Plan because the lump sum payment option is available in more situations in that Plan. However, there may be limited situations when the rollover rules described herein also apply to distributions from the Northern California Electrical Workers Pension Plan.

This notice, which is patterned in many parts on an IRS model notice, is required by federal law. *The notice is not personal tax advice. You should consult with a personal tax advisor for tax advice upon which you want to rely.*

Special rules, summarized in Section III below, apply to death benefits payable to a spouse and other beneficiaries.

## I. GENERAL RULES ON TAXATION AND EARLY DISTRIBUTIONS

- A. **Tax on Distributions.** As a general rule, when you receive a distribution directly from a qualified pension plan, such as this Plan, you will pay federal and state taxes on the distribution. (There may be an exception for payments on account of certain disabilities.) This notice is intended to provide you with general information on the tax and rollover rules and some of your options.
- B. **Potential 10% Additional Tax on Certain Distributions.** In the Tax Reform Act of 1986, congress added section 72(t) to the Internal Revenue Code, which imposes an additional 10% federal tax on certain *early distributions* from a qualified employer plan, *unless the distribution meets one of the exceptions listed below.* (This portion of the notice applies mostly to distributions from the San Francisco Electrical Workers Retirement Savings Plan.)

### The primary exceptions to the 10% tax penalty include:

- i. **Eligible Rollover.** A rollover of the distribution in the manner described below in section II.
- ii. **Early Retirement at Age 55.** A distribution made to you on account of qualifying for early retirement under the Plan on or after age 55.
- iii. **Certain Disabilities.** A distribution due to your inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. (It is important that you recognize that not all disabilities meet this standard.)
- iv. **Periodic Payments--Substantially Equal Payments.** Periodic payments which are made in a series of substantially equal periodic installments (at least annually or more often) made for your life or life expectancy or for the joint lives or a term equal to the joint life expectancies of you and a designated beneficiary.

- v. **Medical Deduction.** A distribution to the extent such payment does not exceed the amount allowable as a medical deduction under Internal Revenue Code Section 213.
- vi. **Death Benefits.** A distribution to your beneficiary or your estate on account of your death.
- vii. **Certain Domestic Relations Orders.** A distribution to an alternate payee (spouse, child or other dependent) pursuant to a qualified domestic relations order.
- viii. **IRS Tax Levy.** A distribution to the U.S. Government pursuant to a federal tax levy.

***WARNING: You may also be liable for state tax penalties. For example, California assesses a 2.5% penalty.***

***REMINDER: The information in this notice is not intended to be tax advice. Thus, you may want to consult with a tax advisor before you receive your payment.***

## II. ROLLOVER RULES

### A. SUMMARY

There are two ways you may be able to receive a Plan payment that is eligible for rollover treatment. You may have ***all or any portion*** of your payment either 1) paid directly to a traditional IRA (Individual Retirement Account) or, if you choose, another qualified employer plan that will accept it (such payments are known as being PAID IN A "DIRECT ROLLOVER"); or 2) the payment can be PAID TO YOU.

A rollover is a payment of your Plan benefits to a traditional IRA or to another qualified employer plan. This choice will affect the tax you owe.

#### 1. If you choose a DIRECT ROLLOVER:

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- your payment will ***not*** be taxed in the current year and no income tax will be withheld and;
- your payment from the Plan will be made directly to your traditional IRA or, if you choose, to another qualified employer plan that accepts your rollover and;
- your payment will be taxed later when you take it out of the traditional IRA or the qualified employer plan.

#### 2. If you choose to have your Plan Payments That Are Eligible for Rollover Treatment PAID TO YOU:

- you will receive only 80% of the payment because the Plan is required by law to withhold 20% of the Payment and send it to the IRS as income tax withholding to be credited against your taxes. (This rule applies even if you later decide to roll over your benefit within 60 days of your receipt of it.) and;

- your payment will be taxed in the current year unless you roll it over. Under limited circumstances, you may be able to use special tax rules that could reduce the tax you owe. If, however, you receive the payment before the Plan's early retirement age of 55, you also may have to pay an additional 10% tax and;
- you can roll over your payment to a traditional IRA or to another qualified employer plan that accepts your rollover within 60 days after you receive the payment. (A qualified employer plan includes a "union" negotiated pension plan.) The amount rolled over will not be taxed until you take it out of the traditional IRA or the qualified employer plan. If you choose to roll over 100% of the payment to a traditional IRA or a qualified employer plan you must find other money to replace the 20% that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and that is not rolled over.

## B. MORE INFORMATION ON ROLLOVERS AND DISTRIBUTIONS

### 1. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

Certain payments from the Plan may be "eligible rollover distributions." This means that they can be rolled over to a traditional IRA or to another qualified employer plan that accepts rollovers. ***Payments from the Plan cannot be rolled over to a Roth IRA, SIMPLE IRA or an Education IRA.***

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) payments that are made at least once a year and that will last for:
  - your lifetime (or your life expectancy), or
  - your lifetime and your beneficiary's lifetime (or life expectancies), or
  - a period of ten years or more.

*Thus, if you elect a life annuity or joint and survivor annuity form of benefit from the Northern California Electrical Workers Pension Plan (and/or the San Francisco Electrical Workers Retirement Savings Plan), such payments cannot be rolled over.*

- b. **Required Minimum Payments-Age 70 ½ Retirement.** Beginning when you reach age 70 ½ or when you retire, whichever is later, a certain portion of your payment cannot be rolled over because under IRS rules that portion is a "required minimum payment" that must be paid to you. Special rules apply if you own 5% or more of your employer.

### 2. DIRECT ROLLOVER

A DIRECT ROLLOVER is a direct payment of the amount of your Plan benefits to a traditional IRA or another qualified employer plan that will accept it. You can choose a DIRECT ROLLOVER ***of all or any portion of*** your payment that is an "eligible rollover distribution" as described in Part II above. In a DIRECT ROLLOVER, the eligible

rollover distribution is paid directly from the Plan to a traditional IRA or another qualified employer plan that accepts rollovers (but this latter option is not available for spouses receiving death benefits).

If you choose a DIRECT ROLLOVER, you are not taxed on the payment until you later withdraw the funds from the traditional IRA or the qualified employer plan. In addition, no income tax withholding is required for any portion of your Plan benefits for which you choose a DIRECT ROLLOVER.

- a. **Direct Rollover to a Traditional IRA.** You can open a traditional IRA to receive the DIRECT ROLLOVER. If you choose to have your payment made directly to a traditional IRA, contact a traditional IRA sponsor (usually a financial institution) to determine how your payment should be made. Moreover, if you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. You may wish, however, to consider whether the traditional IRA you choose will allow you to move all or a part of your payment to another traditional IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on IRAs (including limits on how often you can roll over between IRAs).
- b. **Direct Rollover to a Plan.** [NOTE: *This option is not available for spouses or other beneficiaries*] If you are employed by an employer that has a qualified employer plan, and you want a DIRECT ROLLOVER of your Plan payments to that plan, ask that plan office whether it will accept a rollover. A qualified employer plan is not legally required to accept a rollover. If, however, your new plan does not accept a rollover, you can choose a DIRECT ROLLOVER to a traditional IRA as described above.
- c. **Direct Rollover of a Series of payments.** If you receive a payment that can be rolled over to a traditional IRA or another qualified employer plan that will accept it, and it is paid in a series of payments for *less than ten years*, your choice to make or not make a DIRECT PAYMENT for a payment will apply to all later payments in the series until you change your election. You may change your election for any later payment in the series.

### 3. PAYMENT PAID TO YOU

If your payment can be rolled over but it is made directly to you in cash (including a check), it is subject to 20% income tax withholding. The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a traditional IRA or another qualified employer plan that accepts rollovers. If you do not roll over the payment, special tax rules may apply.

## C. INCOME TAX WITHHOLDING

1. **Mandatory Withholding.** If any portion of your payment can be rolled over and you do not elect a DIRECT ROLLOVER, the Plan is required by law to withhold 20% of that amount. This amount is sent to the IRS as income tax withholding. For example, if you can roll over a payment of \$10,000, 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, you will report the full \$10,000 as a payment from the Plan. You are required to report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year.
2. **Voluntary withholding.** If any portion of your payment is taxable but cannot be rolled over, the mandatory withholding rules described above do not apply. In this situation, you may elect not to have withholding apply to that portion.

To elect out of withholding, ask the Plan Office for the election form and related information.

- 3. Sixty-day Rollover Option.** If you receive a payment that can be rolled over, you can still decide to roll over all or part of it to a traditional IRA or another qualified employer plan that accepts rollovers. If you decide to roll over your payment, you must contribute the amount of the payment you received to a traditional IRA or another qualified 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 qualified employer plan.

You can roll over up to 100% of the eligible rollover distribution including an amount equal to the 20% that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the traditional IRA or the qualified employer plan to replace the 20% that was withheld. On the other hand, if you roll over only the 80% that you received, you will be taxed on the 20% that was withheld. The following is an example:

***Example:** Your eligible rollover distribution 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 qualified employer plan. To do this, you roll over the \$8,000 you received from the Plan but you will have to find \$2,000 from other sources (such as your savings or a loan). In this scenario, the entire \$10,000 is not taxed until you take it out of the traditional IRA or qualified employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund (or an offset) 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 receive a refund of part of the \$2,000 withheld. (Any refund is likely, however, to be larger if you roll over the entire \$10,000.)*

***Additional 10% Tax for Certain Early Distributions.** These rules are also described briefly in Part I on pages 1 and 2 above. [NOTE: This 10% penalty does not apply to beneficiaries receiving death benefits.] If you receive a payment before you reach age 59½ and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The 10% penalty does not apply to your payment, however, if it is (1) paid to you because you separate from service with your employer during or after the year you reach age 55 (i.e., the Plan's early retirement age), (2) paid because you retire due to certain disabilities, (3) paid to you as equal (or almost equal) payments over your life or life expectancy (or your and your beneficiary's lives or life expectancies), (4) paid directly to the government to satisfy a federal tax levy, (5) paid to an alternate payee under a qualified domestic relations order, or (6) used to pay certain medical expenses. See IRS Form 5329 for information on the 10% federal penalty.*

- 4. Special Tax Treatment.** If an eligible distribution is not rolled over to a traditional IRA or qualified employer plan, it will be taxed in the year you receive it. If, however, the payment qualifies as a "lump sum distribution," it may be eligible for special tax treatment. A lump sum distribution is a payment, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you after you have reached age 59½ or because you have separated from service with your employer (or in the case of a self-employed individual, after you have reached age 59-1/2 or have become disabled).

For a payment to qualify as a lump sum distribution, you must have been a participant in the Plan for at least five years before the year in which you received the distribution. The special tax treatment for lump sum distributions is:

- a. **Ten Year Averaging if Born before January 1, 1936.** If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one time election to figure the tax on the payment by using "10 year averaging" (using 1986 tax rates). (Prior to January 1, 2000, the Internal Revenue Code contained special 5 year averaging rules which no longer apply; however, you may want to consult with a tax advisor if that issue is pertinent to your situation.) The goal of "averaging" is to reduce your tax.
- b. **Capital Gain Treatment if born before January 1, 1936.** In addition, if you receive a lump sum distribution and you were born before January 1, 1936, and if you were a Participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan taxed as a long term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. If you have previously rolled over a payment from the Plan (or certain other similar plans of the employer), you cannot use this special tax treatment for later payments from the Plan.

If you roll over your payment to a traditional IRA, you will not be able to use this special tax treatment for later payments from the traditional IRA. Also, if you roll over only a portion of your payment to a traditional IRA, this special tax treatment is not available for the rest of the payments. Additional restrictions are described in IRS Form 4972, which contains information on lump sum distributions and how you elect the special tax treatment.

### III. DEATH BENEFITS-SURVIVING SPOUSES AND SURVIVING BENEFICIARIES

The rules summarized above for payments to employees also apply, generally, to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees." You are an alternate payee if your interest in the Plan results from a "qualified domestic relations order," which is an order issued by a court, usually in connection with a divorce, past-due child support, or a legal separation. Some of the rules summarized above also apply to a deceased employee's beneficiary who is not a spouse. There are, however, some exceptions.

*If you are a surviving spouse*, you may choose to have an eligible distribution paid in a DIRECT ROLLOVER to a traditional IRA or paid to you. If you have the payment paid to you, you can keep it or roll it over to a traditional IRA but you cannot roll it over to a qualified employer plan. If you are an alternate payee, you have the same choices as the employee. Thus, you can have the payment paid as a DIRECT ROLLOVER or paid to you. If you have it paid to you, you can keep it or roll it over yourself to a traditional IRA or to another qualified employer plan that accepts rollovers. (You may want to consult with a tax advisor regarding the rollover of funds to an IRA and later withdrawal from the IRA prior to reaching age 59-1/2, among other issues.)

*If you are a beneficiary other than a surviving spouse*, you cannot rollover the distribution yourself and you may only choose a DIRECT ROLLOVER to an individual retirement account or individual retirement annuity that will be treated as an inherited IRA.

*If you are a surviving spouse, an alternate payee, or other beneficiary*, your payment is not subject to the additional 10% tax described above even if you are younger than age 59½.

*If you are a surviving spouse, an alternate payee, or another beneficiary*, you may be able to use

the special tax treatment for lump sum distributions, as described in Section II above. If you receive a payment because of the employee's death, you may be able to treat the payment as a lump sum distribution if the employee met the appropriate age requirements, whether or not the employee had five years of participation in the Plan.

#### HOW TO OBTAIN ADDITIONAL INFORMATION

*This notice summarizes **only the federal tax rules** that might apply to your payment (although the state tax penalty for early distributions is referenced on page 2). The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with a professional tax advisor before you elect payment of your benefits from the Plan. More specific information on the tax treatment of payments from qualified retirement plans is available in IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements. These publications are available from your local IRS office, or on the IRS' Internet Web Site, or by calling 1-800-TAX-FORMS.*