

## SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS

This notice contains important information you will need before you decide how to receive your benefits from the \_\_\_\_\_ (the "Plan").  
*(Company name & plan; ex: "ABC, Inc., 401(k) Profit Sharing Plan")*

### SUMMARY

A payment from the plan that is eligible for "rollover" may be taken in two ways. You may have all or any portion of your payment either 1) PAID IN A "DIRECT ROLLOVER" or 2) PAID TO YOU. A rollover is a payment of your plan benefits to your individual retirement account (IRA) or to another employer's qualified retirement plan. This choice will affect the amount of taxes you owe.

If you choose a DIRECT ROLLOVER:

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

If you choose to have your Plan benefits PAID TO YOU:

- You will receive only 75% of your payment because the plan administrator is required to withhold 20% of the payment for Federal income tax withholding and 5% for State income tax withholding (in California). The amounts withheld are sent to the respective tax agencies and will be credited toward your taxes.
- Your payment will be taxed in the current year unless you roll it over. You may be able to use special tax rules that could reduce the taxes you owe. However, if you received payment before age 59 ½, you also may have to pay an additional 10% federal excise tax (and 2 ½ percent for California)
- You may rollover the payment by paying it to your IRA or to another employer's qualified plan that accepts your rollover within 60 days of receiving the payment. The amount rolled over will not be taxed until you take it out of the IRA or the employer's qualified retirement plan.
- If you want to rollover 100% of the payment to an IRA or to another employer's qualified plan, you must come up with the money to replace the 25% which was withheld. If you roll over only to 75% that you received, you will be taxed on the 25% that was withheld in which was not rolled over.

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## I. PAYMENTS THAT MAY AND MAY NOT BE ROLLED OVER

Payments from the plan may be “eligible rollover distributions.” This means that they can be rolled over to an IRA or to another employer's qualified plan that accepts rollovers. Your plan administrator should be able to tell you what portion of your payment is an eligible rollover distribution. The following types of payments may not be rolled over:

1. Nontaxable payments. In general, only the “taxable portion” of your payment is an eligible rollover distribution. If you have made “after tax” employee contributions to the plan, these contributions that will be nontaxable when they are paid to you, and they cannot be rollover. (After tax employee contributions are, generally, contributions made from your own pay that were already taxed)
2. Payments Spread Over Long Periods. You may not rollover a payment if it is part of a series of substantially 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 10 years or more.
3. Required Minimum Distributions. Beginning in the year you reach age 70 ½ , a certain portion of your payment may not be rolled over because it is a “ Required Minimum Distribution” that must be paid to you.

## II. DIRECT ROLLOVER

You may choose a direct rollover of all or any portion of your payment that is an “eligible rollover distribution,” as described above. In a direct rollover, the eligible rollover distribution is paid directly from the Plan to an IRA or to another employer's qualified retirement plan that accepts rollovers. If you choose a direct rollover, you will not be taxed on the amount you rollover until you take it out of the IRA or the other Plan.

1. Direct Rollover To An IRA. He may open IRA to receive the direct rollover. (The term “IRA,” as used in this notice, includes Individual Retirement Accounts and Individual Retirement Annuities.) 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 may temporarily establish an IRA to receive the payment. However, in choosing an IRA, you may wish to consider whether the IRA allows 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 IRA's (including limits on how often you can roll over between IRA's).
2. Direct Rollover to a Plan. If you are employed by a new employer that has a plan, and you want a direct rollover to that plan, ask the administrator of that plan whether it will accept your rollover. If your new employer's plan does not accept a rollover, you may choose a direct rollover to an IRA.
3. Direct Rollover of a Series of Payments. If you receive eligible distributions that are paid in a series for less than 10 years, your choice to make or not make a direct rollover for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

### III. PAYMENT PAID TO YOU

If you have the payment made to you, it is subject to 20% federal income tax withholding. The payment is taxed in the year you receive it unless, within 60 days, you roll it over to an IRA or to another employer's qualified retirement plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

#### Income Tax Withholding:

1. **Mandatory Withholding.** If any portion of the payment to you is an eligible rollover distribution, the Plan is required by law to withhold 20% of that amount. For example, if your eligible rollover distribution is \$10,000, only \$8,000 will be paid to you because the plan will withhold \$2,000 for Federal income taxes. 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 will 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 not an eligible rollover distribution but is taxable, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. To elect out of withholding, ask the Plan Administrator for the election form and related information.
3. **Sixty Day Rollover Option.** If you have an eligible rollover distribution paid to you, you may still decide to rollover all or a portion of that amount to an IRA or to another employer's qualified retirement plan that accepts rollovers. If you decide to make a rollover, you must do so within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the IRA or the employer plan. You may rollover up to 100% of the eligible rollover distribution including an amount equal to 20% that was withheld. If you choose to rollover 100%, you must find other money within the 60 Day period to replace the amount that was withheld. On the other hand, if you roll over only the 80% to you received, you will be taxed on the 20% that was withheld.

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 \$8,000 you may rollover the entire \$10,000 to an IRA or another employer's qualified plan that accepts rollovers. To do this, you rollover the \$8,000 you received from the plan, and you will have to find \$2,000 from other sources. In this case, the entire \$10,000 is not taxed until you take it out of the IRA or the employer plan. If you rollover the entire \$10,000, when you file your income tax return you may get a refund of the \$2,000 withheld.

If, on the other hand, you rollover only \$8,000, the \$2,000 you did not rollover 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.

4. **Additional 10% Tax If You Are Under Age 59 ½.** If you receive a payment before you reach age 59 ½ and you do not rollover then, in addition to the regular income tax, you may have to pay an additional excise tax equal to 10% of the taxable portion of the payment. The additional 10% excise tax does not apply your payment if it is:
  - 1) Paid to you because you separate from service with your employer during or after the year you reach age 55, or
  - 2) Paid because you retire due to disability, or

3) Paid to you as substantially equal payments over your life or life expectancy (or you and your beneficiary's lives or life expectancies), or

4) Used to pay certain medical expenses. See IRS form 5329 for more information on the additional 10% tax.

5. **Special Tax Treatment.** If your eligible rollover distribution is not rolled over, it will be taxed in the year you receive it. However, if it qualifies as a “lump sum distribution,” it may be eligible for special tax treatment. A lump sum distribution is a payment made within one year equal to entire account balance under the plan and is payable to you because you have reached age 59 ½ or a separated from service with your employer. For a payment to qualify as a lump sum distribution, you must have been a Participant in the plan for at least five years. The special tax treatment for lump sum distributions as described below:

**Five-year Averaging.** If you receive a lump sum distribution after you are age 59 ½, you may be able to make a one-time election to figure that tax on the payment by using “5 year averaging.” Five-year averaging often reduces the tax you owe because it treats the payment much as if it were paid over five years.

**10 Year Averaging If You Were Born Before January 1, 1936.** If you receive a lump sum distribution and you are born before January 1, 1936, you may make a one-time election to figure that tax payment by using “10 year averaging” (using 1986 rates) instead of five-year averaging (using current tax rates). Like the five-year averaging rules, 10 year averaging often reduces the taxes you owe.

**Capital Gain Treatment If You Were Born Before January 1, 1936.** In addition, if you receive a lump sum distribution and you were born before January 1, 1936, you may elect to have the part of your payment that is attributable to you are pre-1974 participation in the plan (if any) and taxed as long-term capital gains at a rate of 20%.

5. There are other limits on the special tax treatment for lump sum distributions. For example, you may generally elect this special tax treatment only once in your lifetime, in the election applies to all lump sum distributions the received in that same year. If you have previously rolled over a payment from the plan, you may not use this special tax treatment for later payments from the plan. If you rollover your payment to an IRA, you will not be able to use this special tax treatment for later payments from the IRA. Also, if you rollover only a portion of your payment to an IRA, this special tax treatment is not available the rest of the payment. Additional restrictions are described in IRS Form 4972, which has more information on lump sum distributions and how you elect the special tax treatment.
6. **Employer Stock or Securities.** There is a special rule for a payment from the Plan that includes employer Stock (or other employer securities). To use this special rule the payment must qualify as a lump sum distribution (or would qualify except that you do not yet have five years of participation in the Plan), or the employer Stock included in the payment must be attributable to “after tax” employee contributions, if any. Under this special rule, you may have the option of not paying tax on the net unrealized appreciation of the Stock until you sell the stock. Net unrealized appreciation generally is the increase in the value of the employer Stock while it was held by the Plan. For example, if employer Stock was contributed your Plan account when the stock was worth \$1,000 but the stock was worth \$1,200 when you received it on you would not have to pay tax on the \$200 increase in value until you later sold the stock.
- You may instead elect to not have the special rule apply to the net unrealized appreciation. In this case, your net unrealized appreciation be taxed in the year you receive the stock, unless you rollover

the stock. The stock (including any net unrealized depreciation) can be rolled over to an IRA or to another employer's qualified retirement plan either in a direct rollover or a rollover that you make yourself.

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

#### IV. SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES

In general, the rules summarized above that apply to payments to employees may also apply to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees." You are in alternate payee if your interest in the Plan results from a Qualified Domestic Relations Order (QDRO), which is an order issued by a court usually in connection with a divorce or legal separation. Some of the rules summarized above also apply to a deceased employee's beneficiary who is not a spouse. However, there are some exceptions for payments to surviving spouses, alternate payees, and other beneficiaries that should be mentioned.

If you are a surviving spouse, you may choose to have an eligible rollover distribution paid in a direct rollover to an IRA or paid to you. If you have the payment paid to you, you may keep it or roll it over to an IRA but you may not rolled over to another employer's plan. If you are an alternate payee, you have the same choices as the employee. Thus, you may have the payment paid as a direct rollover or paid to you. If you have it paid to you, you may keep it or roll it over yourself to an IRA or to another employer's plan that accepts rollovers. If you are beneficiary other than the surviving spouse you may not choose a direct rollover and you may not rollover the payment yourself.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is not subject to the additional 10% excise tax described in section III above, even if you are younger than age 59 ½.

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 and the special rule for payments that include employer Stock, as described in section III 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 have five years of participation in the plan.

#### HOW TO OBTAIN ADDITIONAL INFORMATION

This notice summarize only the federal (not state or local) tax rules that might apply to your payment. 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 adviser before you take a payment of your benefits from the Plan. Also, you may find more specific information on the tax treatment of payments from qualified retirement plans 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 by calling 1 800 TAX-FORMS.