

SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS

This notice contains important information you will need before you decide how to receive your benefits from the North Dakota Public Employees Retirement System, referred to as the "Plan".

This notice is provided by the North Dakota Public Employees Retirement System because all or part of the payment that you will soon receive from the Plan may be eligible for rollover to a traditional IRA or an eligible employer plan. A "traditional IRA" does not include a Roth IRA, SIMPLE IRA, or education IRA. 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).

An eligible employer plan is not 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. You should also find out about any documents that are required to be completed before the receiving plan will accept a rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to traditional IRA or split your rollover amount between the employer plan in which you participate and a traditional IRA. If an employer plan accepts your rollover, the 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.

If you have additional questions after reading this notice, you can contact the North Dakota Public Employees Retirement System at (701) 328-3900 or toll free (800) 803-7377.

SUMMARY

A payment from the Plan that is eligible for "rollover" can be taken in two ways. You can 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 traditional individual retirement arrangement (IRA) or to another employer plan. This choice will affect the tax 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 traditional IRA or, if you choose, to another employer plan that accepts your rollover. Your Plan payment cannot be rolled over to a Roth IRA, a SIMPLE IRA, or an education IRA because these are not traditional IRAs.
- ◆ The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the employer plan. Depending on the type of plan, the later distribution may be subject to different tax treatment than it would be if you received a taxable distribution from this Plan.

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

- ◆ You will receive only 80% of the payment, because the Plan administrator is required to withhold 20% of the payment and send it to the IRS as income tax withholding to be credited against your taxes.
- ◆ The taxable amount of 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 tax you owe. However, if you receive the payment before age 59 1/2, you also may have to pay an additional 10% tax.
- ◆ You can roll over all or part of the payment by paying it to your traditional IRA or to another employer 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 traditional IRA or employer plan.

- ◆ If you want to roll over 100% of the payment to a traditional IRA or an 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.

Your Right to Waive the 30-Day Notice Period.

Generally, neither a direct rollover nor a payment can be made from the plan until at least 30 days after your receipt of this notice. Thus, after receiving this notice, you have at least 30 days to consider whether or not to have your withdrawal directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Plan administrator.

I. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

Payments from the Plan may be "eligible rollover distributions". This means that they can be rolled over to a traditional IRA or to another employer plan that accepts rollovers. Payments from a plan cannot be rolled over to a Roth IRA, a SIMPLE IRA, or an education IRA. Your Plan administrator will be able to tell you what portion of your payment is an eligible rollover distribution.

After-tax Contributions. If you made after-tax contributions to the Plan, these contributions may be rolled over into either a traditional IRA or to certain employer plans that accept rollovers of after-tax contributions. The following rules apply:

- a. Rollover into a Traditional IRA. You can roll over your after-tax contributions to a traditional IRA either directly or indirectly. Your plan administrator will be able to tell you how much of your payment is the taxable portion and how much is the after-tax portion.

If you roll over after-tax contributions to a traditional IRA, it is your responsibility to keep track of, and report to the Service on the applicable forms, the amount of these after-tax contributions. This will enable the nontaxable amount of any future distributions from the traditional IRA to be determined.

Once you roll over your after-tax contributions to a traditional IRA, those amounts CANNOT later be rolled over to an employer plan.

- b. Rollover into an Employer Plan. You can roll over after-tax contributions from an employer plan that is qualified under Code section 401(a) or a section 403(a) annuity plan to another such plan using a direct rollover if the other plan provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You can also roll over after-tax contributions from a section 403(b) tax-sheltered annuity to another section 403(b) tax-sheltered annuity using a direct rollover if the other tax-sheltered annuity provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You CANNOT roll over after-tax contributions to a governmental 457 plan. If you want to roll over your after-tax contributions to an employer plan that accepts these rollovers, you cannot have the after-tax contributions paid to you first. You must instruct the Plan administrator of this Plan to make a direct rollover on your behalf. Also, you cannot first roll over after-tax contributions to a traditional IRA and then roll over that amount into an employer plan.

The following types of payments **cannot** be rolled over:

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 life expectancy, or
- ◆ your life expectancy and your beneficiary's life expectancies, or
- ◆ a period of ten years or more.

Required Minimum Payments. Beginning in the year you reach age 70 1/2 after you have terminated employment, a certain portion of your payment cannot be rolled over because it is a "required minimum payment" that must be paid to you under federal tax law.

II. DIRECT ROLLOVER

You can 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 a traditional IRA or another employer plan that accepts rollovers. If you choose a direct rollover, you are not taxed on a payment until you later take it out of the traditional IRA or the employer plan.

Direct Rollover to a traditional IRA. You can open a traditional 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 a traditional IRA, contact a traditional IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct

rollover to a traditional IRA at the institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. However, in choosing a traditional IRA, you may wish 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 traditional IRAs (including limits on how often you can roll over between IRAs).

Direct Rollover to a New Employer's Plan. If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover to that plan, ask the administrator for that plan whether it will accept your rollover. A qualified employer plan is not legally required to accept a rollover. If your new employer's plan does not accept a rollover, you can choose a direct rollover to a traditional 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.

Direct Rollover of a Series of Payments. If you receive eligible rollover distributions that are paid in a series for less than ten years, your choice to 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.

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. For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment, as explained below.

However, if you have your benefit rolled over to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or a traditional IRA in a direct rollover, your benefit will no longer be eligible for that special treatment. See the sections below entitled "Additional 10% Tax If You Are Under Age 59 1/2" and "Special Tax Treatment If You Were Born Before January 1, 1936."

III. PAYMENT PAID TO YOU

If you have the payment made to you, it is subject to 20% income tax withholding on the taxable portion. The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a traditional IRA or another plan that accepts rollovers. If you do not roll it over, special rules may apply.

Income tax withholding

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. This amount is sent to the IRS as income tax withholding. For example, if your eligible rollover distribution is \$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 will report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year.

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 case, you may elect not to have withholding apply to that portion. If you do nothing, 10% will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask the Plan administrator for the election form and related information.

Sixty-Day Rollover Option. If you have an eligible rollover distribution paid to you, you can still decide to roll over all or part of it to a traditional IRA or another employer plan that accepts rollovers. If you decide to roll over, you must make the rollover within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the traditional IRA or the 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 IRA or the 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.

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 an IRA or 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 IRA or employer plan. If you roll over 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 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.)

Additional 10% Tax If You Are Under Age 59 1/2. If you receive a payment before you reach 59 1/2 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 additional 10% tax does not apply to your payment if it is [1] paid to you because you separated from service with your employer during or after the year you reach age 55, [2] paid because you retired due to disability, [3] paid to you as equal (or almost equal) payments over your life expectancy (or your and your beneficiary's 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 more information on the additional 10% tax.

The additional 10% tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution is attributable to an amount you rolled over to that plan (adjusted for investment returns) from another type of eligible employer plan or IRA. Any amount rolled over from a governmental 457 plan to another type of eligible employer plan or to a traditional IRA will become subject to the additional 10% tax if it is distributed to you before you reach age 59 1/2, unless one of the exceptions applies.

Special Tax Treatment If You Were Born Before January 1, 1936. 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, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you because you have reached age 59 1/2 or have separated from service with your employer (or, in the case of a self-employed individual, because 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 5 years. The special tax treatment for lump sum distributions is described below.

Ten-Year Averaging If You Were Born Before January 1, 1936. If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure tax on the payment by using "10-year averaging" (using 1986 tax rates). Ten-year averaging often reduces the tax 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 your pre-1974 participation in the Plan (if any) taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you 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. You may not elect this special tax treatment if you rolled amounts into this Plan from a 403(b) tax-sheltered annuity contract or from an IRA not originally attributable to a qualified employer plan. 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 rollover your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, you will not be able to use this special tax treatment for later payments from the traditional IRA, plan or annuity. Also, if you roll over only a portion of your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, this special tax treatment is not available for 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.

IV. SURVIVING SPOUSES, ALTERNATIVE PAYEES, AND OTHER BENEFICIARIES

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees". You are an alternate payee if your interest in the Plan results from a "qualified domestic relations order", which is an order issued by a court, usually in connection with a divorce or legal separation.

If you are a surviving spouse or alternate payee, you may choose to have an eligible rollover distribution paid in a direct rollover to an IRA or to an eligible employer plan or paid to you. If you have the payments paid to you, you can keep it or roll it over yourself to an IRA or to an eligible employer plan. Thus, you have the same choices as the employee. If you are a beneficiary other than the surviving spouse, you **can** choose a direct rollover and you **can** roll over the payment yourself. Effective for distributions made after December 31, 2006, a beneficiary other than a surviving spouse is permitted to rollover payments that are "eligible rollover distributions" to an INHERITED IRA pursuant to the provisions of §402©11, but NOT other types of IRAs or to employer plans."

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is not subject to the additional 10% tax described in Section III above, even if you are younger than age 59 1/2.

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 III above. If you receive a payment

because of the employee's death, you may be able to treat the payments as a lump sum distribution if the employee met the appropriate age requirements, whether or not the employee had 5 years of participation in the Plan.

HOW TO OBTAIN ADDITIONAL INFORMATION

This notice summarizes 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 advisor before you take a payment of your benefits from the Plan. Also, you can find more specific information on the tax treatment of payments from qualified retirement plans in the IRS Publication 575, "Pension and Annuity Income", and IRS Publication 590, "Individual Retirement Arrangements". These publications are available from your local IRS office, on the IRS's Internet Web Site at www.irs.gov, or by calling 1-800-TAX-FORMS.