

## **CITY OF EL PASO FIREMEN & POLICEMEN'S PENSION FUND**

### **INFORMATION IN CONNECTION WITH LUMP SUM DISTRIBUTION OF FORWARD DROP, BACK DROP & REFUND OF CONTRIBUTIONS**

#### **YOUR ROLLOVER OPTIONS**

You are receiving this notice because all or a portion of a lump sum payment you are receiving from the City of El Paso Firemen & Policemen's Pension Fund (the "Plan") is eligible to be rolled over to an IRA or your new employer's plan if any **and if** that plan permits acceptance of rollovers. This notice is intended to help you decide whether to do such a rollover. If you decide to roll over some or all of your eligible rollover distribution you may be able to postpone paying federal income taxes on that rollover until you later receive those monies. One advantage of postponing any federal income tax is that you may accumulate more earnings tax free during that deferral period. You may or may not be in a lower income tax bracket when you later receive the postponed distribution.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section below. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section later in this memo.

#### **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. In addition to the regular rate of tax your Plan payment may be subject to an additional 10% early distribution tax if you are under age 59½ and do not do a rollover. This 10% additional income tax on early distributions (generally, distributions made before age 59½), **unless an exception, described below, 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 later payments are made **after** you are age 59½ (or if an exception to the 10% additional income tax 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, IRAs are not subject to spousal consent rules, 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 and then you will give written instructions to the Plan's administrative office to make your 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 only 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.** This means that, in order to roll over the entire payment in a 60-day rollover, you would need to 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, as described below). Because of this withholding rule and the difficulty some people may experience finding other available funds to roll over that 20% of your distribution that was withheld and paid to the U.S. Treasury (IRS) you may want to reconsider if it is better for you to make a direct rollover.

### **How much may I roll over?**

If you want to do a rollover, you may roll over all or part of the amount **eligible for rollover**.

The regular annuity payments from the Plan over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary are **not** eligible to be rolled over.

Any other 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 joint lives or joint life expectancies of you and your beneficiary)**;
- Required minimum distributions after age 70½ (if you were born before July 1, 1949), after age 72 (if you were born after June 30, 1949), or after death; and
- Distributions of certain premiums for health and accident insurance.

The Plan's administrative staff 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 (this would be on the total amount of the payment, including the amount withheld for income tax) that you do not roll over, **unless one of the exceptions listed below applies.**

The 10% additional income tax does **not** apply to the following payments from the Plan (**the first two exceptions below may be of particular interest to you, so we have highlighted them**):

- **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. Because the Plan is a governmental defined benefit pension plan, this exception will likely apply to any distribution made to you after you separate from service, as long as you were at least 50 years old when you separated from service;**
- **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 joint lives or joint life expectancies of you and your beneficiary that is, the normal, early and disability retirement forms of benefits are not subject to the 10% early distribution tax);**
- Payments made due to disability;
- Payments after your death;
- 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; and
- Payments excepted from the additional income tax by federal legislation relating to certain declared emergencies and disasters.

**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, yes, 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 50 for qualified public safety employees does not apply when the distribution later comes out of the IRA;**
- 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); and
- 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.

Additional exceptions apply for payments from an IRA that don't apply to payments from an employer plan, including:

- Education expenses;
- Payments up to \$10,000 used in a qualified first-time home purchase;
- 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 generally does not address any State or local income tax rules (including withholding rules). Some states, including Texas, have no state income tax.*

## **SPECIAL RULES AND OPTIONS**

### **If your payment includes after-tax contributions**

After-tax contributions included in a payment are not taxed. If you receive a partial payment of your total 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 the 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 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 rolled over consists first of the amount that would be taxable if not rolled over.

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 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**

Since the Plan is a governmental plan, and you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you may be able to 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, the law defines a public safety officer as a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew. You may wish to consult a tax professional to determine if you qualify for the rules at Internal Revenue Code §402(l).

**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. In general, the 10% additional income tax on early distributions will not apply. However, if you take the amount rolled over out of the Roth IRA within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional income tax will then apply (unless an exception applies).

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)*.

You cannot roll over a payment from the Plan to a designated Roth account **in** an employer plan.

**If you are not a Plan Member**

Payments after death of the Member. If you receive a distribution after the Member's death that you do not roll over, the distribution generally will 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.

**If you are a surviving spouse.** If you receive a payment from the Plan as the surviving spouse of a deceased Member, you have the same rollover options that the Member 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 that 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 were born before July 1, 1949) or age 72 (if you were born after June 30, 1949).

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 Member had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the Member 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 Member would have been age 70½ (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949).

**If you are a surviving beneficiary other than a spouse.** If you receive a payment from the Plan because of the Member'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 QDRO. If you are the spouse or former spouse of the Member who receives a payment from the Plan under a QDRO, you generally have the same options and the same tax treatment that the Member 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 do 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, 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 cash out of more than \$1,000 will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cash out is a payment from a plan to a Member made before age 62 (or normal retirement age, if later) and without consent, where the Member'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](http://www.irs.gov).

### **FOR MORE INFORMATION**

You may wish to consult with the plan administrator, 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](http://www.irs.gov), or by calling 1-800-TAX-FORM.