

**MACOMB COUNTY EMPLOYEES' RETIREMENT SYSTEM**

**RESOLUTION**

**Adopted: May 28, 2020**

**Re: Eligible Rollover Distributions**

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**WHEREAS**, the Board of Trustees is vested with the authority and fiduciary responsibility for the administration, management and operation of the Retirement System, and

**WHEREAS**, the Board of Trustees acknowledges that Section 402(f) of the Internal Revenue Code (the "Code") requires the Board to provide written notice and explanation to recipients of eligible rollover distributions from the Retirement System (hereinafter, the "Safe Harbor Notice"), and

**WHEREAS**, applicable tax law and regulations require said Safe Harbor Notice to be provided within a reasonable period of time in advance of such distributions, and

**WHEREAS**, the Internal Revenue Service recently published Notice 2018-74 which modifies the safe harbor explanations that may be used to satisfy the requirements of Code Section 402(f), and

**WHEREAS**, legal counsel has prepared a revised Safe Harbor Notice consistent with the requirements of Section 402(f) and Notice 2018-74, and

**WHEREAS**, the Board of Trustees has discussed this matter with legal counsel, therefore be it

**RESOLVED**, that the Retirement System is hereby amended to comply with and shall be administered in accordance with the requirements of Notice 2018-74, and further

**RESOLVED**, that the Board of Trustees hereby adopts the revised Safe Harbor Notice consistent with the requirements of Notice 2018-74, and further

**RESOLVED**, that the Safe Harbor Notice be provided to recipients of eligible rollover distributions from the Retirement System consistent with Code Section 402(f), and further

**RESOLVED**, that a copy of this resolution shall be retained in accordance with the Retirement System's record retention policy and provided to all appropriate parties.

**MACOMB COUNTY  
EMPLOYEES' RETIREMENT SYSTEM**

**YOUR ROLLOVER OPTIONS**

You are receiving this notice because all or a portion of a payment you are receiving from the Macomb County Employees' Retirement System (the "Plan") is eligible to be rolled over to an IRA or another employer plan. This notice is provided to you in accordance with Internal Revenue Code Section 402 and Internal Revenue Regulation 1.402(f), and is intended to help you understand the rollover options available to you.

This notice describes the rollover rules that apply to lump-sum payments from the Plan. Rules that apply to most lump-sum payments from the Plan are described in the "General Information About Rollovers" section of this notice. Special rules that only apply in special circumstances are described in the "Special Rules and Options" section.

**GENERAL INFORMATION ABOUT ROLLOVERS**

***How can a rollover affect my taxes?***

You will be taxed on a lump-sum payment from the Plan if you do not roll it over. If you are under the age of 59½ years and do not do a rollover, you will also have to pay an additional 10% income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you actually receive a payment, and the 10% additional income tax will not apply if the lump-sum payment(s) is(are) made after you attain age 59½ years (or if an exception applies).

***Where may I roll over the payment?***

You may roll over the lump-sum payment to either an Individual Retirement Account (IRA) or another 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 accepts the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan. 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: a direct rollover or a 60-day rollover.

1. If you do a direct rollover, the Plan will make the lump-sum payment directly to your IRA or another employer plan that will accept the rollover. You should contact the IRA sponsor or the administrator of the employer plan for additional information on where the rollover should be directed.

2. If you do not do a direct rollover, you may still accomplish a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the lump-sum payment from the Plan to make the deposit.

If you do not do a direct rollover, the Plan is required to withhold 20% of the lumpsum payment for federal income taxes. This means that, to roll over the entire lump-sum payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the lump-sum payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions (unless an exception applies).

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

If you wish to do a rollover, you may roll over all or part of the lump-sum payment eligible for rollover. Any lump-sum 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 lives or joint life expectancy of you and your beneficiary);
- Required minimum distributions after age 72 years (or after death);
- Hardship distributions;
- Corrective distributions of contributions that exceed tax law limitations; and
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution.

The Plan Administrator 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 years, you will have to pay the 10% additional income tax on early distributions for any lump-sum payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% 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 years 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 designated beneficiary);
- Payments made after you separate from service if you are a qualified public safety employee and you will be at least age 50 years in the year of the separation;

- Payments made due to a disability;
- Payments made after your death;
- Corrective distributions of contributions that exceed tax law limitations;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under an Eligible Domestic Relations Order (EDRO);
- Payments up to the amount of your deductible medical expenses;
- Certain payments made while you are on active military duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days; and
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution.

***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 years, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exception 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:

- There is no exception for payments after separation from service that are made after age 55 years;
- The exception for EDROs 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 or 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; and
- 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 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 does not address any state or local income tax rules (including withholding rules). Please consult your personal tax advisor regarding any state and/or local tax obligations.

## SPECIAL RULES AND OPTIONS

### *If your lump-sum payment includes after-tax contributions:*

After-tax contributions included in a lump-sum payment are not taxed. If a lump-sum payment is only part of your benefit, an allocable portion of your after-tax contributions is included in the lump-sum 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 lump-sum payment. In addition, special rules apply when you do a rollover, as described below.

You may roll over to an IRA a lump-sum 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 such a 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 a lump-sum payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of \$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.

You may roll over to an employer plan an entire lump-sum 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 lump-sum payment that includes after-tax contributions, but only up to the amount of the lump-sum 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, you must seek waiver from the IRS via a private letter ruling request. Private letter ruling requests require the payment of a nonrefundable user fee. For more information on what to do if you miss the 60-day rollover deadline, we suggest you contact your

personal tax advisor or visit the IRS website at [www.irs.gov/retirement-plans/retirement-plansfaqs-relating-to-waivers-of-the-60-day-rollover-requirement](http://www.irs.gov/retirement-plans/retirement-plansfaqs-relating-to-waivers-of-the-60-day-rollover-requirement).

***If you were born on or before January 1, 1936:***

If you were born on or before January 1, 1936, and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the lump-sum payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

***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:***

If you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income Plan pension 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, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

***If you roll over your payment to a Roth IRA:***

If you roll over a lump-sum payment from the Plan to a Roth IRA, a special rule applies under which the amount of the lump-sum payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% 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 lump-sum 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 years (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 in 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)*.

***If you are not a Plan participant:***

**Payments after death of the participant.**

If you receive a lump-sum distribution after the Plan 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% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section “If you were born on or before January 1, 1936” applies only if the Plan participant was born on or before January 1, 1936.

**If you are a surviving spouse.** If you receive a lump-sum 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 years 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 72 years.

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 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 72.

**If you are a surviving beneficiary other than a spouse.** If you receive a lump-sum payment from the Plan because of the participant’s death and you are a designated beneficiary other than a surviving spouse, the only rollover option available to you 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 an Eligible Domestic Relations Order.

If you are the spouse or former spouse of the Plan participant who receives a lump-sum payment from the Plan under an EDRO, you generally have the same options and the same tax treatment that the participant would have had (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). However, lump-sum payments under the EDRO 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 lump-sum 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 from the Plan is one in a series of payments to be made over a period of 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, 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 cashout of more than \$1,000 will be directly rolled over to an IRA chosen by the Plan administrator. A mandatory cashout is a payment from the Plan to a participant before the age of 62 years (or normal retirement age, if later) and without consent, where the Plan 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 on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You may also 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).

## **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, it is recommended that you consult with a professional tax advisor before you take a payment of your benefits from your Plan. You can also find more specific information on the tax treatment of payments from qualified employer plans in IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements*; IRS Publication 590-B, *Distributions from Individual Retirement Arrangements*; and, IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from your local IRS office, on the IRS's Internet Web Site at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

### **CONSULT YOUR TAX ADVISOR**

THIS NOTICE IS INTENDED TO PROVIDE GENERAL INFORMATION REGARDING THE VARIOUS TAX ISSUES FOR YOU TO CONSIDER RELATED TO (TOTAL OR PARTIAL) LUMP SUM DISTRIBUTIONS. BECAUSE OF THE COMPLEXITY OF DISTRIBUTIONS FROM ANY TYPE OF RETIREMENT PLAN, YOU SHOULD SEEK THE ADVICE OF A TAX ADVISOR TO HELP YOU DETERMINE IF YOU ARE ELIGIBLE FOR SPECIAL TAX TREATMENT AND TO DETERMINE THE TAX CONSEQUENCES REGARDING YOUR WITHDRAWAL. THE BOARD OF TRUSTEES MAKES NO REPRESENTATION AND GIVES NO ASSURANCE WITH RESPECT TO WHAT MAY OR MAY NOT BE PERMISSIBLE UNDER THE TAX LAWS. PLEASE CONSULT YOUR PERSONAL TAX ADVISOR.