

## Special Tax Notice Regarding Rollovers

The statements contained in this notice prepared by the Office of Personnel Management (OPM) are based upon a review of Internal Revenue Service (IRS) publications, specifically Publications 575, *Pension and Annuity Income*, 590, *Individual Retirement Arrangements (IRAs)*, and 721, *Tax Guide to U.S. Civil Service Retirement Benefits*. However, the authority to determine income tax liability in a particular case is vested with the IRS, not OPM. Any questions that you may have concerning tax liability in your particular case should be addressed to the IRS.

This notice is provided to you because all or part of the payment that you will soon receive from the Office of Personnel Management (OPM) may be eligible for rollover by you or OPM to a traditional IRA or an eligible employer plan. A rollover is a payment by you or OPM of all or part of your lump sum to another plan or IRA that allows you to continue to postpone taxation of the lump sum until it is paid to you. Your payment cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account (formerly known as an 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 legally required* to accept a rollover. Before you decide to roll over your payment to an 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 must 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 a traditional IRA or split your rollover amount between the employer plan in which you will 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 OPM. Check with the administrator of the plan that is to receive your rollover prior to making the rollover.

If you have a Federal Retirement Thrift Savings Plan account, you may roll over the taxable portion of your lump sum into that account. The Thrift Savings Plan (TSP) will not accept non-taxable [after-tax] monies. To accomplish a rollover to the TSP, you will need to submit form TSP-60 to us. See Part II *Direct Rollover* for more information.

### Summary

There are two ways you may be able to receive a payment that is eligible for rollover:

1. We can make certain payments directly to a traditional IRA that you establish or to an eligible employer plan that will accept it and hold it for your benefit ("*Direct Rollover*"); or
2. We can make the payment *to you*.

If you choose a *Direct Rollover*:

- Your payment will not be taxed in the current year and OPM will not withhold income tax.
- You choose whether your payment will be made directly to your traditional IRA or to an eligible employer plan that accepts your rollover. Your payment cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account because these are not traditional IRA's.
- The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the eligible 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 OPM.

If you choose to have a payment that is eligible for rollover *paid to you*:

- You will receive only 80% of the taxable amount of the payment, because the Office of Personnel Management (OPM) is required to withhold 20% of that amount and send it to the Internal Revenue Service (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. If you receive the payment before age 59-1/2, you may have to pay an additional 10% tax.
- You can roll over all or part of the payment by paying it to your traditional Individual Retirement Arrangement (IRA) or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of the traditional IRA or the eligible employer plan.
- If you want to roll over 100% of the payment to a traditional IRA or an eligible employer plan, you must find other money to replace the 20% of the taxable portion that was withheld. If you roll over only the 80% you receive, 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 to you can be made 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 OPM receives it.

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## ***More Information***

### **I. Payments That Can and Cannot Be Rolled Over**

Payments from OPM may be “eligible rollover distributions.” This means that they can be rolled over to a traditional IRA or to an eligible employer plan that accepts rollovers. Payments from OPM cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account. The interest (taxable) portion of your payment is an eligible rollover distribution.

***After-tax Contributions:*** The after-tax (non-taxable) portion of your payment may be rolled into either a traditional IRA or to certain employer plans that accept rollovers of the 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. OPM can 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 IRS 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 rollover 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 OPM 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 lifetime (or a period measured by your life expectancy), or
- Your lifetime and your beneficiary's lifetime (or a period measured by your joint life expectancies), or
- A period of 10 years or more.

## **II. Direct Rollover**

A direct rollover is a direct payment of your lump sum to a traditional Individual Retirement Arrangement (IRA) or an eligible 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 I. You are not taxed on any taxable portion of your payment for which you choose a direct rollover until you later take it out of the traditional IRA or eligible employer plan.

In addition, no income tax withholding is required for any taxable portion of your payment for which you choose a direct rollover. Also, because there is no tax withholding on amounts less than \$200, generally OPM will not let you choose a direct rollover if your taxable payment is less than that figure (but see Part IV below).

***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 an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional IRA at that 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 want to make sure that 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 Internal Revenue Service (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 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 plan administrator of that plan whether it will accept your rollover. An eligible employer plan is *not* legally required to accept a rollover. Even 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 a payment that can be rolled over to a traditional IRA or an eligible employer plan that will accept it, and it is paid in a series of payments 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.

### ***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 lump sum in a taxable distribution directly from OPM.

***Direct Rollover to the Thrift Savings Plan (TSP).*** If you choose to roll part or all of the taxable portion of your distribution into your TSP account, you need to submit form TSP-60, *Request for Transfer Into the TSP*, along with your application for payment of the distribution. This form is available on the internet at [www.tsp.gov/forms](http://www.tsp.gov/forms). Fill out your portion of the form; we will complete our portion and fax it to the TSP office for processing. The form must be approved by the Thrift Savings Board and the Board must notify OPM to transfer the funds. This process can take two to three weeks.

## **III. Payment Paid To You**

If your payment can be rolled over (see Part I on page 2) but the payment is made to you, it is subject to 20% federal 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 an eligible employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

### ***Income Tax Withholding:***

***Mandatory Withholding.*** If any portion of your payment can be rolled over under Part I on page 2 and you do not elect to make a direct rollover, OPM is required by law to withhold 20% of the taxable amount. This amount is sent to the IRS as federal income tax withholding. For example, if you can roll over a taxable payment of \$10,000, only \$8,000 will be paid to you because OPM must withhold \$2,000 as income tax. However, when you prepare your income tax return for the year, unless you make a rollover within 60 days (see "Sixty-Day Rollover Option"), you must report the full \$10,000 as a taxable payment from OPM. You must report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year. There will be no income tax withholding if your payments for the year are less than \$200.

**Sixty-Day Rollover Option.** If you receive a payment that can be rolled over under Part I on page 2, you can still decide to roll over all or part of it to a traditional Individual Retirement Arrangement (IRA) or to an eligible employer plan that accepts rollovers. If you decide to roll it over, you must contribute the amount of the payment you received to a traditional IRA or eligible 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 eligible employer plan.

You can roll over up to 100% of your payment that can be rolled over under Part I on page 2, including an amount equal to the 20% of the taxable portion 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 to an eligible 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:** The taxable portion of your payment that can be rolled over under Part I on page 2 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 Internal Revenue Service (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 eligible employer plan. To do this, you roll over the \$8,000 you received from the Office of Personnel Management (OPM), 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 traditional IRA or an eligible employer plan. If you roll over the entire \$10,000, when you file your income tax return, you may get a refund of part or all 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 tax 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 age 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 generally does not apply to (1) payments that are paid after you separate from service with your employer during or after the year you reach age 55, (2) payments that are paid because you retire due to disability, (3) payments that are paid directly to the government to satisfy a federal tax levy, (4) payments that are paid to an alternate payee under a qualified domestic relations order, or (5) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% tax.

#### **IV. Surviving Spouses, Alternate 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 entitlement to payment results from a court order processed by OPM in connection with a divorce, annulment, or legal separation.

If you are a surviving spouse or an alternate payee, you may choose to have a payment that can be rolled over, as described in Part I on page 2, paid in a direct rollover to a traditional IRA or to an eligible employer plan or paid to you. If you have payment made to you, you can keep it or roll it over yourself to a traditional IRA or to an eligible employer plan. Thus, you have the same choices as the employee.

If you are the designated beneficiary of a deceased employee or retiree, but not the spouse or an alternate payee, and the payment is made after 2006, a special rule may permit you to roll over all or a portion of the distribution you receive. The distribution must be a direct trustee-to-trustee transfer to your IRA that was set up to receive the distribution. The transfer will be treated as an eligible rollover distribution and the receiving plan will be treated as an inherited IRA. For more information on an inherited IRA, see IRS Publication 590.

If you are a beneficiary other than a surviving spouse, alternate payee, or designated beneficiary, you **cannot** choose a direct rollover, and you **cannot** roll over the payment yourself.

If you are a surviving spouse, an alternate payee, or other 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.

#### **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 discussed above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with the IRS or a professional tax advisor before you take your payment from OPM. You can find more specific information on the tax treatment of payments from qualified employer plans in IRS Publication 575, *Pension and Annuity Income*, and IRS Publication 590, *Individual Retirement Arrangements*. For an overview of the tax consequences of payments from the Civil Service Retirement System or the Federal Employees Retirement System, you can also consult IRS Publication 721, *Tax Guide to U.S. Civil Service Retirement Benefits*. These publications are available from your local IRS office, on the IRS's internet website at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORMS.