Utah Retirement Systems 401(k) and 457 Plans

Special Tax Notice Regarding Plan Payments

This notice explains how you can continue to defer federal income tax on your retirement savings in the URS 401(k) and 457 Plans, and contains important information you will need before you decide how to receive your Plan payments. This notice is provided to you because all or part of the payment you will soon receive from the Plan may be rolled over, by you or your plan administrator, to an IRA or an eligible employer plan. A rollover is a payment of all or part of your 401(k) or 457 to another plan or IRA that allows you to continue to postpone taxation of that payment until it is paid to you. However, if you do not wish to postpone taxation, your payment can also be rolled over to a Roth IRA; pre-tax amounts rolled over to a Roth IRA will be subject to income tax in the year of distribution. Your payment cannot be rolled over to 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 another employer plan, you need to ask if the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. You should also inquire if any documents are required to be completed before the receiving plan will accept a rollover. Even if an eligible employer plan accepts rollovers, it might not accept rollovers of certain types of distributions. If an eligible 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 requesting the rollover. If you have additional questions after reading this notice, please contact our Defined Contribution Department at **800-688-401k** or **801-366-7720**.

Payments That Cannot Be Rolled Over

Payments Made to a Coverdell Savings Plan. You cannot rollover a URS 401(k) or 457 into this type of account.

Payments Spread Over Long Periods. You cannot rollover a payment if it is part of a series of equal (or almost equal) payments made at least once a year and will last for: your lifetime (or a period measured by your life expectancy), or a period of 10 years or more.

Required Minimum Distributions. Beginning when you reach age 70½ or retire, whichever is later, a certain portion of your payment cannot be rolled over because it is a required minimum distribution (RMD) that must be paid to you.

Hardship Distributions. A hardship distribution cannot be rolled over.

Corrective Distributions. A distribution made because legal limits on certain contributions were exceeded cannot be rolled over.

Rollover Options

There are two ways you may be able to receive a Plan payment that is eligible for rollover: a direct rollover or a payment paid to you.

Direct Rollover

A direct rollover is a direct payment of the amount of your Plan benefits to an 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. Payments made to a qualified employer plan or traditional IRA will not be taxed until you later take it out of the receiving traditional IRA or eligible employer plan. Payments made to a Roth IRA are subject to taxation in the year of distribution. No income tax withholding is required for any portion of your Plan for which you choose a direct rollover.

Direct Rollover to an IRA

You can open a traditional IRA or Roth IRA to receive the direct rollover. If you choose to have your payment made directly to an IRA, contact our Defined Contribution Department or an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to an IRA. However, in choosing an IRA, you may wish to inquire whether the IRA you choose allows you to move all or 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 IRAs (including limits on how often you can roll over between IRAs).

Direct Rollover to an Employer Plan

If you are employed by a new employer with an eligible retirement savings 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 an 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 that plan's administrator before making your decision.

Change in Tax Treatment Resulting from a Direct Rollover

The tax treatment of any payment from the eligible employer plan, or IRA, receiving your direct rollover might be different than if you received your payment in a taxable distribution directly from your URS Plan. For example, if you were born before January 2, 1936, you might be entitled to 10-year averaging or capital gain treatment. However, if you have your payment rolled over to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or an IRA, your payment will no longer be eligible for that special treatment. See the following sections entitled, *Additional 10% Tax if You are Under Age 59½* and *Special Tax Treatment if You Were Born Before January 2, 1936* (page 3).

Direct Rollover Summary

If you choose a direct rollover to a traditional IRA or an eligible employer plan:

- Your payment will not be taxed in the current year and no income tax will be withheld.
- You choose whether your payment is made directly to your traditional IRA or to an eligible employer plan that accepts your rollover.
- 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 if you received a taxable distribution from this Plan.

If you choose a direct rollover to a Roth IRA:

- Your payment will be subject to income tax in the year of distribution.
- A direct rollover of your distribution to a Roth IRA avoids the 10% tax on early distributions.
- Amounts withheld for income tax that are not rolled over may be subject to the additional 10% tax on early distributions.
- You should consult a tax advisor if you are interested in rolling over your distribution to a Roth IRA.

Payment Paid to You

If your payment is made to you in cash, it is subject to 20% federal income tax withholding. The payment is taxed in the year it takes place 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.

Mandatory Withholding

For withdrawals that you do not roll over, the Plan 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 the Plan 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 *60-day Rollover Option* to follow), you must report the full $10,000 as a taxable payment from the Plan. You must report the $2,000 as tax withheld, and it will be credited against any income tax you owe for the year. *Note: There will be no income tax withholding if your payment is less than $200.*

Voluntary Withholding

If any portion of your payment is taxable, but is not eligible to be rolled over under the rules listed within this notice (see page 1 for *Payments That Cannot Be Rolled Over*), the mandatory withholding rules do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, "an amount will be taken out" of this portion of your payment for federal income tax withholding (depending on the type of payment). To elect out of withholding, contact our office to obtain a *Substitute W-4P* form and related information.

60-day Rollover Option

If you receive a payment that can be rolled over under the rules listed within this notice, you can still decide to roll over all or part of it to an IRA or to an eligible employer plan that accepts rollovers. If you decide to do a rollover, 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. You can roll over up to 100% of your payment 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 replace the 20% that was withheld. Or if you roll over only the 80% of the taxable portion you received, you will be taxed on the 20% that was withheld.

Example: The taxable portion of your payment that can be rolled over 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 a traditional IRA or an eligible 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 new account. Also, 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, instead, 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 59½ (applies to the 401(k) plan only; 457 plans are not subject to this tax)

If you receive a payment before you reach age 59½ 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. See IRS Form 5329 for more information on the additional 10% tax.

Exceptions to the Additional 10% Tax

The additional 10% tax generally does not apply to: 1) payments paid after you separate from service with your employer during or after the year you reach age 55; 2) payments paid to a *qualified public safety employee* who separates from service as a *qualified public safety employee* during or after the year they reach age 50 (a *qualified public safety employee* provides police protection, firefighting or emergency medical services within the jurisdiction of the employing state or political subdivision); 3) payments paid due to total and permanent disability; 4) payments paid as equal (or almost equal) payments over your life or life expectancy (or yours and your beneficiary's life or life expectancies); 5) payments paid directly to the government to satisfy a federal tax levy; 6) payments paid to an alternate payee under a domestic relations order; 7) payments paid to a beneficiary due to death; 8) payments up to the amount you paid for unreimbursed medical expenses during the year, minus 10% (or 7.5% if you or your spouse were born before January 2, 1951) of your adjusted gross income for the year; 9) qualified reservist distributions from your elective deferrals while serving on active duty for at least 180 days. See IRS Form 5329 for more information on the additional 10% tax.

Special Tax Treatment if You Were Born Before January 2, 1936 (applies to the 401(k) plan only)

If you receive a payment from the 401(k) plan that can be rolled over and you do not roll it over, the payment will be taxed in the year you receive it. However, if the payment 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 after you have reached age 59½ or because you have separated from service with your employer. For a payment to be treated as a lump-sum distribution, you must have been a participant in the Plan for at least five years before the year in which you received the distribution. The special tax treatment for lump-sum distributions that may be available to you is described below:

10-year Averaging.

If you receive a lump-sum distribution and you were born before January 2, 1936, you can make a one-time election to figure the tax on the payment by using 10-year averaging (using 1986 tax rates): 10-year averaging often reduces the tax you owe.

Capital Gain Treatment.

If you receive a lump-sum distribution and you were born before January 2, 1936, and you were a participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan 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 you receive in that same year. You may not elect this special tax treatment if you rolled amounts into your 401(k) from a 403(b) tax-sheltered annuity contract, a governmental 457 plan, or from an IRA not originally attributable to a qualified employer plan. If you have previously rolled over a distribution from this Plan (or certain other similar plans of the employer), you cannot use this special averaging treatment for later payments from the Plan. If you roll over your payment to an IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, you will not be able to use special tax treatment for later payments from that IRA, 457 plan, or annuity. Also, if you roll over only a portion of your payment to an IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, this special tax treatment is not available for the rest of the payment. See IRS Form 4972 for additional information on lump-sum distributions and how you elect the special tax treatment.

Qualified Reservist Distribution

If you have been called to active duty for more than 179 days or for an indefinite period, you are eligible to withdraw elective deferrals (your contributions) from your 401(k) account without the 10% early withdrawal tax. The distribution must be made no earlier than the date of the order or call to active duty and no later than the close of the active duty period. Also, upon your return from active duty, you may redeposit any funds that you withdrew, to an IRA, for up to 2 years from the end of active service. These amounts would be above and beyond the current contribution limits. You must be ordered or called to duty after September 11, 2001.

Payment Paid to You Summary

If you choose to have a Plan payment that is eligible for roll over paid to you:

- You will receive only 80% of the taxable amount of the payment because the plan administrator is required to withhold 20% of that amount 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 to a traditional IRA or eligible employer plan. Under limited circumstances, you may be able to use special tax rules that could reduce the tax you owe. However, if you receive the payment before age 59½, you may have to pay an additional 10% tax on distributions from the 401(k) (does not apply to the 457 plan).
- You can roll over all or part of the payment by paying it to your IRA or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. Amounts rolled over to a traditional IRA or eligible employer plan will not be taxed until you take it out of the new traditional IRA or eligible employer plan. Amounts rolled over to a Roth IRA will be subject to income tax in the year of the distribution.
- 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% that you received, you will be taxed on the 20% that was withheld and not rolled over.

Your Right to Waive the 30-day Notice Period

Generally, a direct rollover or a payment cannot 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 signing the withdrawal/rollover application. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by our office.

Surviving Spouses, Alternate Payees, and Other Beneficiaries

In general, the rules summarized above for 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 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 an alternate payee, you may choose to have a payment paid in a direct rollover to an IRA or eligible employer plan or paid to you. If you have the payment 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 designated beneficiary, other than a surviving spouse or an alternate payee, you can choose to take a payment or direct rollover to an IRA, which will be treated as an inherited IRA subject to the minimum distribution rules applicable to beneficiaries. You cannot choose a direct rollover to an eligible employer plan, and you cannot roll over the payment yourself.

Special Rules

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is generally not subject to the additional 10% tax described above, even if you are younger than age 59½. **Note: If you choose to roll over to an IRA or an eligible employer plan in your name, the funds rolled over will be subject to the rules and tax treatment of the new IRA or eligible employer plan. Thus, you may be subject to the additional 10% tax described above.* 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. See the section entitled *Special Tax Treatment if You Were Born Before January 2, 1936*. If you receive a payment because of an 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 had five 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 your Plan. Also, 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*. These publications are available from your local IRS office, on the IRS website at **www.irs.gov**, or by calling **1-800-TAX- FORMS**.