

**SPECIAL TAX NOTICE REGARDING YOUR  
ROLLOVER OPTIONS**  
*“Safe Harbor Explanation”*

This notice provides an updated § 402(f) “Safe Harbor Explanation,” which reflects changes to the Internal Revenue Code under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and Pension Protection Act of 2006 (PPA). You are receiving the notice because all or a portion of a payment you will soon receive from TGRS-MERS is eligible to be rolled over to an IRA or an employer plan. The notice is intended to help you decide whether to do a rollover.

Rules that apply to most types of plan payments are described in "General Information About Rollovers." Special rules that only apply in certain circumstances are described in "Special Rules and Options." If you have received this notice electronically, you may request a paper copy from TGRS-MERS at no charge to you.

**GENERAL INFORMATION ABOUT ROLLOVERS**

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

You will be taxed on a payment from TGRS-MERS if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies).

If you do a rollover to a traditional IRA or an eligible employer plan, you will not have to pay tax until you receive payments later from the IRA or plan, and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

If you do a rollover to a Roth IRA, you will be taxed on the amount rolled over (reduced by any after-tax amount). However, if you are under age 59½ at the time of the rollover, the 10% additional income tax will not apply. For more details, see the section below titled, "If you roll over your payment to a Roth IRA."

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

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 section 401(a) plan, section 403(b) plan, or governmental section 457(b) deferred compensation plan) that will accept the rollover. The rules of the IRA or employer plan that receives the rollover will determine your investment options, fees, and rights to payment of the rolled over amount in the future. 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, TGRS-MERS 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.

If you do not do a direct rollover, TGRS-MERS will pay the distribution directly to you. TGRS-MERS must withhold 20% of the payment for federal income taxes, and if you are under age 59½ and no exception applies, an additional 10% federal income tax on early distributions. However, you will still have the opportunity to do a rollover. You have 60 days after receiving the payment from TGRS-MERS to deposit the distribution into an IRA or an eligible employer plan that will accept it. This means that, in order to roll over the *entire* payment in a 60-day rollover, you will have to use other funds to make up for the federal income taxes withheld by TGRS-MERS. If you do not roll over the entire amount, the portion not rolled over is taxed and subject to the early distribution penalty (unless you are age 59½ or 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 amount eligible for rollover. Any payment from TGRS-MERS is eligible for rollover, except:

- Payments spread over a period of at least 10 years, or over your life or life expectancy, or over the lives or joint life expectancy of you and your beneficiary (This means that your lifetime monthly benefits are not eligible for rollover.)
- Required minimum distributions after age 70½ (or after death)
- Corrective distributions of contributions that exceed tax law limitations

TGRS-MERS can tell you what portion of a payment is eligible for rollover. 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, an amount will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask TGRS-MERS for the election form and related information.

### **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 TGRS-MERS (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 TGRS-MERS:

- Payments made after separation from service after attainment of age 55
- If you are a public safety employee, payments made after separation from service after attainment of age 50
- 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 over the lives or joint life expectancy of you and your beneficiary
- Payments made due to disability
- Payments 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 or qualified domestic relations order
- Payments up to the amount of your deductible medical expenses

## **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, you will have to pay the 10% additional income tax on early distributions from the IRA, 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:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for domestic relations orders 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).
- 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.
- 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 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?**

If you do not do a rollover, your distribution is includible in taxable income under the Michigan Income Tax Act, 1967 PA 281, MCL 206.30, unless certain requirements are met. In order to qualify for a deduction, the distribution must not occur prior to your earliest eligible retirement date and it must be paid to either you or your surviving spouse (payments received by a surviving child or other non-spouse beneficiary are not deductible). In addition, any part of the distribution that is attributable to voluntary unmatched (before-tax) employee contributions is not deductible.

If you reside in a state other than Michigan, you should consult your tax advisor to determine the state and/or local tax rules for eligible rollover distributions.

## **SPECIAL RULES AND OPTIONS**

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

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is generally included in the payment. 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 payment.

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 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 TGRS-MERS and a portion is paid to you, each of the payments will include an allocable portion of the after-tax contributions. If you do a 60-day rollover to an IRA of only a portion of the payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a complete distribution of your benefit which totals \$12,000, of which \$2,000 is after-tax contributions. In this case, if you roll over \$10,000 to an 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 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 cannot rollover after-tax contributions to a governmental 457 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. To apply for a waiver, 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, Individual Retirement Arrangements (IRAs).

### **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 payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

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

You can roll over a payment from TGRS-MERS made before January 1, 2010 to a Roth IRA only if your modified adjusted gross income is not more than \$100,000 for the year the payment is made to you and, if married, you file a joint return. These limitations do not apply to payments made to you from TGRS-MERS after 2009. If you wish to roll over the payment to a Roth IRA, but you are not eligible to do a rollover to a Roth IRA until after 2009, you can do a rollover to a traditional IRA and then, after 2009, elect to convert the traditional IRA into a Roth IRA. TGRS-MERS is not responsible for verifying your eligibility to make a rollover to a Roth IRA. (IRS Notice 2008-30)

If you roll over the payment 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. 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). For payments from TGRS-MERS during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

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 calendar 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.

You cannot roll over a payment from TGRS-MERS to a designated Roth account in an employer plan.

For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs). You should consult your tax advisor if you are interested in rolling over your distribution to a Roth IRA.

### **If you are not a TGRS-MERS 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 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 member was born on or before January 1, 1936.

**If you are a surviving spouse.** If you receive a payment from TGRS-MERS 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 (a spouse for federal tax law purposes must be a person of the opposite sex to whom you are married).

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 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 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 TGRS-MERS, 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 you are a surviving beneficiary other than a spouse.** If you receive a payment from TGRS-MERS 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 domestic relations orders. If you are the spouse or former spouse of the member who receives a payment from TGRS-MERS under an eligible or qualified domestic relations order, you generally have the same options 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). If you are an alternate payee other than the spouse or former spouse of the member, you generally have the same options as a surviving beneficiary other than the spouse, so that the only rollover option you have is to do a direct rollover to an inherited IRA. Payments under the eligible or qualified domestic relations order 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%, TGRS-MERS 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 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, TGRS-MERS is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

## **NOTICE PERIOD**

Generally, payment cannot be made by TGRS-MERS until at least 30 days after you receive this notice. Thus, you have at least 30 days to consider whether or not to have your payment 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 payment will then be processed in accordance with your election as soon as practical after it is received by TGRS-MERS.

## **FOR MORE INFORMATION**

You may wish to consult with TGRS-MERS, the Internal Revenue Service, the State of Michigan Department of Treasury, or a professional tax advisor before taking a payment from TGRS-MERS. 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, 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. State of Michigan tax forms are available at [www.michigan.gov/taxes](http://www.michigan.gov/taxes), or by calling 1-800-827-4000.