



Subject: Special Rules Applicable To Refund of Contributions (Plus Interest)

We understand that you are no longer employed by the City of Fort Worth. Therefore, you are eligible to apply for a refund of your contribution to the Employees' Retirement Fund of the City of Fort Worth (the "Fund"). Enclosed is a form containing (1) an Application for Withdrawal of Contributions (Plus Interest) and on the backside, (2) a Notice Regarding Withholding of Federal Income Tax and Option to Transfer Interest and Pre-Tax Contributions directly to an IRA or any qualified plan. Both sides **MUST** be completed.

However, if you are Vested (have at least five years of credited service), you may leave your contributions in the Fund and receive a Vested Termination pension at a later date. If you choose to vest your funds, please complete the enclosed Notice of Intent to Vest form and mail it back to the address listed on the bottom of the form. For information or calculations on Vested Termination Retirement please contact Jennifer J. Sierra at (817) 632-8902 or 800-741-9914.

We have also enclosed an IRS Model Notice regarding the various rules that apply to distributions from qualified plans. **PLEASE READ IT COMPLETELY.** The Internal Revenue Code (the "Code") contains a vast array of complicated rules governing the taxation of distributions from qualified plans. The Code also requires qualified plans to allow certain distributions from qualified plans (or portions thereof) to be directly rolled over to another qualified plan or an individual retirement account ("IRA"). Because the rules governing distributions from qualified plans are so complex, you should consult a tax advisor prior to making any decisions with respect to your distribution from the Fund.

The distribution that you will receive consists of three (3) parts: (1) Post-tax contributions prior to April 1, 1999; (2) Pre-tax contributions made after April 1, 1999; and (3) Accumulated interest.

Please note: It will take approximately 60 days from your separation date to receive your refund of contributions from the Retirement Fund.

Should you have any questions or need additional information, please do not hesitate to contact Carla Perez at (817) 632-8901 or 800-741-9914. Thank you.

3801 Hulen, Suite 101 ~ Fort Worth, Texas 76107
Main: 817.632.8900 ~ Fax: 817.632.8910



APPLICATION FOR WITHDRAWAL OF CONTRIBUTIONS (PLUS INTEREST)

Please read carefully and complete both sides of this Application

You must complete this Application (front & back) to receive a refund/transfer of your contributions plus interest. **A refund/rollover check will be mailed approximately sixty (60) days from your separation date.**

I, _____, hereby certify that I ceased to be an employee with the
 (Please Print Name)
 City of Fort Worth _____ Department on _____ 20__.

I hereby make application for withdrawal of my contributions (plus interest) from the Employees' Retirement Fund of the City of Fort Worth aka the Fort Worth Employees' Retirement Fund aka the Fort Worth Employees' Retirement Fund (hereinafter "the Fund"). I HEREBY ACKNOWLEDGE MY IRREVOCABLE ACCEPTANCE OF THIS SETTLEMENT OF MY INTEREST IN THE EMPLOYEES' RETIREMENT FUND AND ACCEPT, FOR MYSELF, MY BENEFICIARIES, HEIRS AND ASSIGNS, MY ESTATE AND REPRESENTATIVES THEREOF, THE BENEFITS AS SET FORTH BELOW IN FULL SETTLEMENT OF MY RIGHTS THERE UNDER AND OF ANY OBLIGATION OF THE FUND ON ACCOUNT OF MY EMPLOYMENT WITH THE CITY OF FORT WORTH. FOR THE CONSIDERATION OF THE FUNDS DESCRIBED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION STATED, I HEREBY COMPROMISE, SETTLE, FULLY RELEASE, QUIT CLAIM, ASSIGN, GIVE UP, ACQUIT, REMIT, AND FURTHER DISCHARGE THE FUND FROM ANY AND ALL MANNER OF CLAIMS WHICH THE I NOW HAVE OR IN THE FUTURE MAY HAVE FOR ANY KIND OR CHARACTER OF DAMAGE, INJURY, HARM, FINANCIAL LOSS OR OTHER LOSS OR DAMAGE WHATSOEVER AGAINST THE FUND.

FOR OFFICE USE ONLY

Term Date: _____
 Hire Date: _____
 Department No. _____
 Employee No. _____
 CYTD Pre-Tax Contribution _____
 Prior LTD Pre-Tax Contribution _____
 Prior LTD Post-Tax Contribution _____
 Interest (Current & Prior) _____
 Sub- Total _____
 Taxable Contributions _____
Total Refund to Employee _____
Total Rollover Amount _____

 (HOME TELEPHONE NUMBER)

 (WORK OR ALTERNATE TELEPHONE NUMBER)

 (SOCIAL SECURITY NUMBER)

 (SIGNATURE)

 (STREET ADDRESS)

 (CITY) (STATE) (ZIP CODE)

(OVER)

**NOTICE REGARDING WITHHOLDING OF FEDERAL INCOME TAX
AND OPTION TO TRANSFER INTEREST AND PRE-TAX CONTRIBUTIONS**

Federal law requires that the distribution of interest and pre-tax contributions that you receive from the Fort Worth Employees' Retirement Fund (the "Fund") be subject to federal income tax withholding, unless you elect to transfer the interest and pre-tax contributions to another qualified plan, qualified annuity plan, individual retirement account ("IRA"), or individual retirement annuity (other than an endowment contract). Withholding will only apply to the interest portion and pre-tax contribution of the distribution you receive. If you do not elect to transfer the interest portion and pre-tax contribution, federal law requires the Fund to withhold 20% of such amount. There will be no withholding on the return of the non-deductible (post-tax) contributions you made to the Fund. If the amount of federal income tax withheld is insufficient, you may be responsible for payment of estimated tax. You may incur penalties under the estimated tax rules if your withholding and any estimated tax you pay are not sufficient. For this purpose, you may wish to consult with your tax advisor.

WITHDRAWAL SELECTION:

I elect to rollover _____% (whole percentage from 1% to 100%) of the **TAXABLE** interest portion and pre-tax contributions of my distribution to the following qualified plan, qualified annuity plan, IRA, or individual retirement annuity (other than an endowment contract) established for me with the following institution:

_____,
with any remainder distributed to me. I understand that this election will be subject to the following guidelines.

- **I must furnish the Retirement Fund with a Letter of Acceptance with rollover instructions where transfer is to be made;** that it is, or is intended to be an individual retirement annuity, IRA, a qualified plan described in section 401(a) of the Internal Revenue Code of 1986, or a qualified annuity plan described in section 403(a) of the Internal Revenue Code of 1986, as applicable, **and that it will accept the transfer.**

I elect to receive a refund of my contributions from the Employees' Retirement Fund.

SIGNATURE

DATE

RETURN THIS FORM TO:

FORT WORTH EMPLOYEES' RETIREMENT FUND
3801 HULEN STREET, SUITE 101
FORT WORTH, TX 76107
(817) 632-8900
(Faxed applications will not be accepted)

Please note: This form to be used by separated full-time employees for refund of interest and contributions to the retirement fund.



ELECTRONIC DEPOSIT AUTHORIZATION FORM

I hereby make the following requests and authorizations relating to my non-periodic benefit payment from the employee benefit plan described below: (1) I request and authorize you to initiate credit entries to my Account indicated below; (2) I request and authorize you to initiate debit entries and adjustments for any credit entries made in error to the Account; and (3) I request and authorize the Financial Institution named below to credit and/or debit any such entries to the Account.

1. NAME OF PARTICIPANT COMPANY: **FORT WORTH EMPLOYEES' RETIREMENT FUND**

2. PARTICIPANT NAME (Please Print)

(First Name) (M.I.) (Last Name)

3. TELEPHONE NUMBER (____) - ____ - _____

4. SOCIAL SECURITY NUMBER _____ - _____ - _____

5. FINANCIAL INSTITUTION NAME AND ADDRESS

BANK NAME: _____

CITY _____ STATE _____

*****A Voided Check MUST be attached to process this request*****
(A Bank Representative can fill out the following portion if a voided check is not included)
[ATTACH CHECK HERE]

6. ACCOUNT TYPE: Checking Savings

7. BANK ROUTING NUMBER _____ - _____ - _____

8. ACCOUNT NUMBER _____

Signature of Bank Representative Printed Name Phone Number

In the event of a discrepancy, I understand that I will be required to provide corrected information by completing a new form.
The authority granted by me on this form is to remain in full force and effect until you have received written notification of its termination in such time and in such manner as to afford you and my Financial Institution a reasonable opportunity to act on it.
I hereby discharge you from all liability whatsoever for any actions taken by you in accordance with the above request and authorization.

PARTICIPANT SIGNATURE _____ DATE _____

Rollovers

If you withdraw cash or other assets from a qualified retirement plan in an eligible rollover distribution, you can defer tax on the distribution by rolling it over to another qualified retirement plan or a traditional IRA. You do not include the amount rolled over in your income until you receive it in a distribution from the recipient plan or IRA without rolling over that distribution. (For information about rollovers from traditional IRAs, see chapter 1 of Publication 590.)

If you roll over the distribution to a traditional IRA, you cannot deduct the amount rolled over as an IRA contribution. When you later withdraw it from the IRA, you cannot use the optional methods discussed earlier under *Lump-Sum Distributions* to figure the tax.

Self-employed individuals are generally treated as employees for the rules on the tax treatment of distributions, including the rules for rollovers.

See *Designated Roth accounts*, later, for information on rollovers related to those accounts. Also, see *Rollovers to Roth IRAs*, later, for information on rollovers from a qualified retirement plan to a Roth IRA.

Qualified retirement plan. For this purpose, the following plans are qualified retirement plans.

- A qualified employee plan.
- A qualified employee annuity.
- A tax-sheltered annuity plan (403(b) plan).
- An eligible state or local government section 457 deferred compensation plan.

Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any part of the balance to your credit in a qualified retirement plan except:

1. Any of a series of substantially equal distributions paid at least once a year over:
 - a. Your lifetime or life expectancy,
 - b. The joint lives or life expectancies of you and your beneficiary, or
 - c. A period of 10 years or more,
2. A required minimum distribution (discussed later under *Tax on Excess Accumulation*),
3. Hardship distributions,
4. Corrective distributions of excess contributions or excess deferrals, and any income allocable to these distributions, or of excess annual additions and any allocable gains (see *Corrective distributions of excess plan contributions*, at the beginning of *Taxation of Nonperiodic Payments*, earlier),
5. A loan treated as a distribution because it does not satisfy certain requirements either when made or later (such as upon default), unless the participant's accrued benefits are reduced (offset) to repay the loan (see *Loans Treated as Distributions*, earlier),
6. Dividends paid on employer securities, and

7. The cost of life insurance coverage.

In addition, a distribution to the plan participant's beneficiary generally is not treated as an eligible rollover distribution. However, see *Qualified domestic relations order*, *Rollover by surviving spouse*, and *Rollovers by nonspouse beneficiary*, later.

Temporary waiver of required minimum distributions (RMDs) for 2009. For 2009, you are not required to take an RMD from your IRA or employer-provided qualified retirement plan. This waiver applies to participants in these plans as well as beneficiaries. The waiver also applies to those individuals who turn 70½ in 2009 and delay their 2009 RMD until April 1, 2010. This waiver **does not** apply to RMDs for 2008, even for individuals who turned 70½ in 2008 and choose to take the 2008 RMD by April 1, 2009.

If you received a distribution in 2009 that would otherwise be an RMD, you can roll over that amount into an eligible retirement plan within 60 days of the distribution. The plan administrator is permitted, but not required to offer a direct rollover of that amount. Also, the distribution is not subject to the 20% income tax withholding requirement.

Rollover of nontaxable amounts. You may be able to roll over the nontaxable part of a distribution (such as your after-tax contributions) made to another qualified retirement plan that is a qualified employee plan or a 403(b) plan, or to a traditional or Roth IRA. The transfer must be made either through a direct rollover to a qualified plan or 403(b) plan that separately accounts for the taxable and nontaxable parts of the rollover or through a rollover to a traditional or Roth IRA.

If you roll over only part of a distribution that includes both taxable and nontaxable amounts, the amount you roll over is treated as coming first from the taxable part of the distribution.

Any after-tax contributions that you roll over into your traditional IRA, become part of your basis (cost) in your IRAs. To recover your basis when you take distributions from your IRA, you must complete Form 8606, Nondeductible IRAs, for the year of the distribution. For more information, see the Form 8606 instructions.

Withholding requirements. If an eligible rollover distribution is paid to you, the payer must withhold 20% of it. This applies even if you plan to roll over the distribution to another qualified retirement plan or to an IRA. However, you can avoid withholding by choosing the direct rollover option, discussed later. Also, see *Choosing the right option* at the end of this discussion.

Exceptions. An eligible rollover distribution is not subject to withholding to the extent it consists of net unrealized appreciation from employer securities that can be excluded from your gross income. (For a discussion of the tax treatment of a distribution of employer securities, see *Figuring the Taxable Amount* under *Taxation of Nonperiodic Payments*, earlier.)

In addition, withholding from an eligible rollover distribution paid to you is not required if:

- The distribution and all previous eligible rollover distributions you received during the tax year from the same plan (or, at the payer's option, from all your employer's plans) total less than \$200, or

- The distribution consists solely of employer securities, plus cash of \$200 or less in lieu of fractional shares.

Direct rollover option. You can choose to have any part or all of an eligible rollover distribution paid directly to another qualified retirement plan that accepts rollover distributions or to a traditional or Roth IRA.

There is an automatic rollover requirement for mandatory distributions. A mandatory distribution is a distribution made without your consent and before you reach age 62 or normal retirement age, whichever is later. The automatic rollover requirement applies if the distribution is more than \$1,000 and is an eligible rollover distribution. You can choose to have the distribution paid directly to you or rolled over directly to your traditional or Roth IRA or another qualified retirement plan. If you do not make this choice, the plan administrator will automatically roll over the distribution into an IRA of a designated trustee or issuer.

No tax withheld. If you choose the direct rollover option, or have an automatic rollover, no tax will be withheld from any part of the distribution that is directly paid to the trustee of the other plan. If any part of the eligible rollover distribution is paid to you, the payer must generally withhold 20% of it for income tax.

Payment to you option. If an eligible rollover distribution is paid to you, 20% generally will be withheld for income tax. However, the full amount is treated as distributed to you even though you actually receive only 80%. You generally must include in income any part (including the part withheld) that you do not roll over within 60 days to another qualified retirement plan or to a traditional or Roth IRA.

If you are under age 59½ when a distribution is paid to you, you may have to pay a 10% tax (in addition to the regular income tax) on the taxable part (including any tax withheld) that you do not roll over. See *Tax on Early Distributions*, later.

Partial rollovers. If you receive a lump-sum distribution, it may qualify for special tax treatment. See *Lump-Sum Distributions*, earlier. However, if you roll over any part of the distribution, the part you keep does not qualify for special tax treatment.



Rolling over more than amount received. If the part of the distribution you want to roll over exceeds (due to the tax withholding) the amount you actually received, you will have to get funds from some other source (such as your savings or borrowed amounts) to add to the amount you actually received.

Example. You receive an eligible rollover distribution of \$10,000 from your employer's qualified employee plan. The payer withholds \$2,000, so you actually receive \$8,000. If you want to roll over the entire \$10,000 to postpone including that amount in your income, you will have to get \$2,000 from some other source to add to the \$8,000 you actually received.

If you roll over only \$8,000, you must include the \$2,000 not rolled over in your income for the distribution year. Also, you may be subject to the 10% additional tax on the

\$2,000 if it was distributed to you before you reached age 59½.

Time for making rollover. You generally must complete the rollover of an eligible rollover distribution paid to you by the 60th day following the day on which you receive the distribution from your employer's plan.

The IRS may waive the 60-day requirement where the failure to do so would be against equity or good conscience, such as in the event of a casualty, disaster, or other event beyond your reasonable control.

Example. In the previous example, you received the distribution on June 30, 2009. To postpone including it in your income, you must complete the rollover by August 29, 2009, the 60th day following June 30.

Frozen deposits. If an amount distributed to you becomes a frozen deposit in a financial institution during the 60-day period after you receive it, the rollover period is extended. An amount is a frozen deposit if you cannot withdraw it because of either:

- The bankruptcy or insolvency of the financial institution, or
- A restriction on withdrawals by the state in which the institution is located because of the bankruptcy or insolvency (or threat of it) of one or more financial institutions in the state.

The 60-day rollover period is extended by the period for which the amount is a frozen deposit and does not end earlier than 10 days after the amount is no longer a frozen deposit.

Retirement bonds. If you redeem retirement bonds purchased under a qualified bond purchase plan, you can roll over the proceeds that exceed your basis tax free into an IRA or qualified employer plan. Subsequent distributions of those proceeds, however, do not qualify for the 10-year tax option or capital gain treatment.

Annuity contracts. If an annuity contract was distributed to you by a qualified retirement plan, you can roll over an amount paid under the contract that is otherwise an eligible rollover distribution. For example, you can roll over a single sum payment you receive upon surrender of the contract to the extent it is taxable and is not a required minimum distribution.

Rollovers of property. To roll over an eligible rollover distribution of property, you must either roll over the actual property distributed or sell it and roll over the proceeds. You cannot keep the distributed property and roll over cash or other property.

If you sell the distributed property and roll over all the proceeds, no gain or loss is recognized on the sale. The sale proceeds (including any portion representing an increase in value) are treated as part of the distribution and are not included in your gross income.

If you roll over only part of the proceeds, you are taxed on the part you keep. You must allocate the proceeds you keep between the part representing ordinary income from the distribution (its value upon distribution) and the part representing gain or loss from the sale (its change in value from its distribution to its sale).

Example 1. On September 4, 2008, Paul received an eligible rollover distribution from his employer's noncontributory qualified employee plan of \$50,000 in nonemployer stock. On September 24, 2008, he sold the stock for \$60,000. On October 3, 2008, he contributed \$60,000 cash to a traditional IRA. Paul does not include either the \$50,000 eligible rollover distribution or the \$10,000 gain from the sale of the stock in his income. The entire \$60,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 2. The facts are the same as in Example 1, except that Paul sold the stock for \$40,000 and contributed \$40,000 to the IRA. Paul does not include the \$50,000 eligible rollover distribution in his income and does not deduct the \$10,000 loss from the sale of the stock. The \$40,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 3. The facts are the same as in Example 1, except that Paul rolled over only \$45,000 of the \$60,000 proceeds from the sale of the stock. The \$15,000 proceeds he did not roll over includes part of the gain from the stock sale. Paul reports \$2,500 ($\$10,000 \div \$60,000 \times \$15,000$) as capital gain and \$12,500 ($\$50,000 \div \$60,000 \times \$15,000$) as ordinary income.

Example 4. The facts are the same as in Example 2, except that Paul rolled over only \$25,000 of the \$40,000 proceeds from the sale of the stock. The \$15,000 proceeds he did not roll over includes part of the loss from the stock sale. Paul reports \$3,750 ($\$10,000 \div \$40,000 \times \$15,000$) capital loss and \$18,750 ($\$50,000 \div \$40,000 \times \$15,000$) ordinary income.

Property and cash distributed. If both cash and property were distributed and you did not roll over the entire distribution, you may designate what part of the rollover is allocable to the cash distribution and what part is allocable to the proceeds from the sale of the distributed property. If the distribution included an amount that is not taxable (other than the net unrealized appreciation in employer securities) as well as an eligible rollover distribution, you may also designate what part of the nontaxable amount is allocable to the cash distribution and what part is allocable to the property. Your designation must be made by the due date for filing your tax return, including extensions. You cannot change your designation after that date. If you do not make a designation on time, the rollover amount or the nontaxable amount must be allocated on a ratable basis.

Qualified domestic relations order (QDRO). You may be able to roll over tax free all or part of a distribution from a qualified retirement plan that you receive under a QDRO. (See *Qualified domestic relations order (QDRO)* under *General Information*, earlier.) If you receive the distribution as an employee's spouse or former spouse (not as a nonspousal beneficiary), the rollover rules apply to you as if you were the employee.

Rollover by surviving spouse. You may be able to roll over tax free all or part of a distribution from a qualified retirement plan you receive as the surviving spouse of a deceased employee. The rollover rules apply to you as if you were the employee. You can roll over the distribution into a qualified retirement plan or a traditional or Roth IRA.

For a rollover to a Roth IRA, see *Rollovers to Roth IRAs*, later.

A distribution paid to a beneficiary other than the employee's surviving spouse is generally not an eligible rollover distribution. However, see *Rollovers by nonspouse beneficiary* next.

Rollovers by nonspouse beneficiary. If you are a designated beneficiary (other than a surviving spouse) of a deceased employee, you may be able to roll over tax free all or a portion of a distribution you receive from an eligible retirement plan of the employee. The distribution must be a direct trustee-to-trustee transfer to your traditional or Roth 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 information on inherited IRAs, see Publication 590.

How to report. Enter the total distribution (before income tax or other deductions were withheld) on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. From that result, subtract the amount that was rolled over either directly or within 60 days of receiving the distribution. Enter the remaining amount, even if zero, on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. Also, write "Rollover" next to the line.

However, if the distribution was rolled over to a Roth IRA, you must include the amount rolled over in income (other than after-tax amounts) on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. For more information, see *Rollovers to Roth IRAs*, later.

Written explanation to recipients. The administrator of a qualified retirement plan must, within a reasonable period of time before making an eligible rollover distribution, provide you with a written explanation. It must tell you about all of the following.

- Your right to have the distribution paid tax free directly to another qualified retirement plan or to a traditional or Roth IRA.
- The requirement to withhold tax from the distribution if it is not directly rolled over.
- The nontaxability of any part of the distribution that you roll over within 60 days after you receive the distribution.
- Other qualified retirement plan rules that apply, including those for lump-sum distributions, alternate payees, and cash or deferred arrangements.
- How the distribution rules of the plan to which you roll over the distribution may differ from the rules that apply to the plan making the distribution in their restrictions and tax consequences.

Reasonable period of time. The plan administrator must provide you with a written explanation no earlier than 90 days and no later than 30 days before the distribution is made. However, you can choose to have a distribution made less than 30 days after the explanation is provided as long as the following two requirements are met.

- You must have the opportunity to consider whether or not you want to make a direct rollover for at least 30 days after the explanation is provided.
- The information you receive must clearly state that you have the right to have 30 days to make a decision.

Contact the plan administrator if you have any questions regarding this information.

Designated Roth accounts. You can roll over an eligible rollover distribution from a designated Roth account only into another designated Roth account or a Roth IRA. If you want to roll over the part of the distribution that is not included in income, you must make a direct rollover of the entire distribution (see *Direct rollover option*, earlier) or you can roll over the entire amount (or any portion) to a Roth IRA.

A qualified distribution from a designated Roth account is not includible in income. (A qualified distribution is defined earlier in the discussion of designated Roth accounts under *Taxation of Periodic Payments*). Generally, you cannot have a qualified distribution within the 5-tax-year period beginning with the first tax year for which the participant made a designated Roth contribution to the plan. If a direct rollover is made from a designated Roth account under another plan, the 5-tax-year period of participation begins on the first day of your tax year in which you first had designated Roth contributions made to either the account making the distribution or receiving the distribution, whichever was earlier.

If you roll over only part of an eligible rollover distribution that is not a qualified distribution and not paid as a direct rollover contribution, the part rolled over is considered to be first from the income portion of the distribution.

Example. You receive an eligible rollover distribution that is not a qualified distribution from your designated Roth account. The distribution consists of \$11,000 (investment) and \$3,000 (income earned). Within 60 days of receipt, you roll over \$7,000 into a Roth IRA. The \$7,000 consists of \$3,000 of income and \$4,000 of investment. Since you rolled over the part of the distribution that could be included in gross income (income earned), none of the distribution is included in gross income.

Rollovers to Roth IRAs. Beginning in 2008, you can roll over distributions directly from a qualified retirement plan to a Roth IRA if, for the tax year of the distribution, both of the following requirements are met.

- Your modified adjusted gross income for Roth IRA purposes (explained in chapter 2 of Publication 590) is not more than \$100,000.
- You are not a married individual filing a separate return.

You must include in your gross income distributions from a qualified retirement plan that you would have had to include in income if you had not rolled them over into a Roth IRA. You do not include in gross income any part of a distribution from a qualified retirement plan that is a return of contributions to the plan that were taxable to you when paid. In addition, the 10% tax on early distributions does not apply.

Any amount rolled over to a Roth IRA is subject to the same rules for converting a traditional IRA into a Roth IRA. For more information, see *Converting From Any Traditional IRA Into a Roth IRA* in chapter 1 of Publication 590.

How to report. Enter the total amount of the distribution before income tax or deductions were withheld on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. Enter the remaining amount, even if zero, on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b.

Choosing the right option. Table 1 may help you decide which distribution option to choose. Carefully compare the effects of each option.

Table 1. Comparison of Payment to You Versus Direct Rollover

Affected item	Result of a payment to you	Result of a direct rollover
Withholding	The payer must withhold 20% of the taxable part.	There is no withholding.
Additional tax	If you are under age 59½, a 10% additional tax may apply to the taxable part (including an amount equal to the tax withheld) that is not rolled over.	There is no 10% additional tax. See <i>Tax on Early Distributions</i> , later.
When to report as income	Any taxable part (including the taxable part of any amount withheld) not rolled over is income to you in the year paid.	Any taxable part is not income to you until later distributed to you from the new plan or IRA. However, see <i>Rollovers to Roth IRAs</i> , earlier, for an exception.

Qualified settlement income. If you are a qualified taxpayer and you received qualified settlement income in connection with the Exxon Valdez litigation, you can contribute all or part of it to an eligible retirement plan. This includes a qualified retirement plan. The amount contributed cannot exceed \$100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior tax years) or the amount of qualified settlement income received during the tax year. Contributions for the year can be made until the due date for filing your tax return, not including extensions.

Qualified settlement income that you contribute to a qualified retirement plan will be treated as having been rolled over in a direct trustee to trustee transfer within 60 days of the distribution. The amount contributed is not included in your taxable income and it is not considered to be investment in the contract.

You are a qualified taxpayer if you are:

- A plaintiff in the civil action *In re Exxon Valdez*, No. 89-095-CV (HRH) (Consolidated) (D.Alaska), or
- The beneficiary of the estate of a plaintiff who acquired the right to receive qualified settlement income from that plaintiff and who is the spouse or immediate relative of that plaintiff.

Qualified settlement income is any interest or punitive damage awards which are:

- Otherwise includible in income, and
- Received in connection with the Exxon Valdez civil action described (whether pre- or post-judgment and whether related to a settlement or a judgment).

Qualified settlement income can be received as periodic payments or as a lump-sum. See Publication 525, Taxable and Nontaxable Income, for information on how to report qualified settlement income.

Special rule for Roth IRAs and designated Roth accounts. Qualified settlement income that is contributed to a Roth IRA or a designated Roth account will be:

- Included in your taxable income for the year the qualified settlement income was received, and
- Treated as part of your cost basis (investment in the contract) that is not taxable when distributed.

Special Additional Taxes

To discourage the use of pension funds for purposes other than normal retirement, the law imposes additional taxes on early distributions of those funds and on failures to withdraw the funds timely. Ordinarily, you will not be subject to these taxes if you roll over all early distributions you receive, as explained earlier, and begin drawing out the funds at a normal retirement age, in reasonable amounts over your life expectancy. These special additional taxes are the taxes on:

- Early distributions, and
- Excess accumulation (not receiving minimum distributions).

These taxes are discussed in the following sections.

If you must pay either of these taxes, report them on Form 5329. However, you do not have to file Form 5329 if you owe only the tax on early distributions and your Form 1099-R correctly shows a "1" in box 7. Instead, enter 10% of the taxable part of the distribution on Form 1040, line 59 and write "No" under the heading "Other Taxes" to the left of line 59. If you file Form 1040NR, enter 10% of the taxable part of the distribution on line 54 and write "No" on the dotted line next to line 54.

Even if you do not owe any of these taxes, you may have to complete Form 5329 and attach it to your Form 1040 or Form 1040NR. This applies if you meet an exception to the tax on early distributions but box 7 of your Form 1099-R does not indicate an exception.

Tax on Early Distributions

Most distributions (both periodic and nonperiodic) from qualified retirement plans and nonqualified annuity contracts made to you before you reach age 59½ are subject to an additional tax of 10%. This tax applies to the part of the distribution that you must include in gross income. It does not apply to any part of a distribution that is tax free, such as amounts that represent a return of your cost or that were rolled over to another retirement plan. It also does not apply to corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions (discussed earlier under *Taxation of Nonperiodic Payments*).

For this purpose, a qualified retirement plan is:

- A qualified employee plan (including a qualified cash or deferred arrangement (CODA) under Internal Revenue Code section 401(k)),
- A qualified employee annuity plan,
- A tax-sheltered annuity plan (403(b) plan), or
- An eligible state or local government section 457 deferred compensation plan (to the extent that any distribution is attributable to amounts the plan received in a direct transfer or rollover from one of the other plans listed here or an IRA).

5% rate on certain early distributions from deferred annuity contracts. If an early withdrawal from a deferred annuity is otherwise subject to the 10% additional tax, a 5% rate may apply instead. A 5% rate applies to distributions under a written election providing a specific schedule for the distribution of your interest in the contract if, as of March 1, 1986, you had begun receiving payments under the election. On line 4 of Form 5329, multiply the line 3 amount by 5% instead of 10%. Attach an explanation to your return.

Exceptions to tax. Certain early distributions are exempted from the early distribution tax. If the payer knows that an exception applies to your early distribution, distribution code "2," "3," or "4" should be shown in box 7 of your Form 1099-R and you do not have to report the distribution on Form 5329. If an exception applies but distribution code "1" (early distribution, no known exception) is shown in box 7, you must file Form 5329. Enter the taxable amount of the distribution shown in box 2a of your Form 1099-R on line 1 of Form 5329. On line 2, enter the amount that can be excluded and the exception number shown in the Form 5329 instructions.



If distribution code "1" is incorrectly shown on your Form 1099-R for a distribution received when you were age 59½ or older, include that distribution on Form 5329. Enter exception number "12" on line 2.

General exceptions. The tax does not apply to distributions that are:

- Made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life

expectancies) of you and your designated beneficiary (if from a qualified retirement plan, the payments must begin after separation from service). See *Substantially equal periodic payments*, later.

- Made because you are totally and permanently disabled, or
- Made on or after the death of the plan participant or contract holder.

Additional exceptions for qualified retirement plans.

The tax does not apply to distributions that are:

- From a qualified retirement plan (other than an IRA) after your separation from service in or after the year you reached age 55 (age 50 for qualified public safety employees),
- From a qualified retirement plan (other than an IRA) to an alternate payee under a qualified domestic relations order,
- From a qualified retirement plan to the extent you have deductible medical expenses (medical expenses that exceed 7.5% of your adjusted gross income), whether or not you itemize your deductions for the year,
- From an employer plan under a written election that provides a specific schedule for distribution of your entire interest if, as of March 1, 1986, you had separated from service and had begun receiving payments under the election,
- From an employee stock ownership plan for dividends on employer securities held by the plan,
- From a qualified retirement plan due to an IRS levy of the plan, or
- From elective deferral accounts under 401(k) or 403(b) plans, or similar arrangements, that are qualified reservist distributions.

Qualified public safety employees. If you are a qualified public safety employee, distributions made from a governmental defined benefit pension plan are not subject to the additional tax on early distributions. You are a qualified public safety employee if you provided police protection, firefighting services, or emergency medical services for a state or municipality, and you separated from service in or after the year you attained age 50.

Qualified reservist distributions. A qualified reservist distribution is not subject to the additional tax on early distributions. A qualified reservist distribution is a distribution (a) from elective deferrals under a section 401(k) or 403(b) plan, or a similar arrangement, (b) to an individual ordered or called to active duty (because he or she is a member of a reserve component) for a period of more than 179 days or for an indefinite period, and (c) made during the period beginning on the date of the order or call and ending at the close of the active duty period. You must be ordered or called to active duty after September 11, 2001.

If you received a qualified reservist distribution before 2006 and paid the 10% additional tax, you can claim a refund of that tax by filing Form 1040X to amend your return for the year not otherwise barred by a statute of

limitations in which you received the qualified reservist distribution. Write "ACTIVE DUTY RESERVIST" at the top of the form and show the date that you were called to active duty, the amount of the qualified distribution, and the amount of the 10% additional tax paid in Part II.



You can choose to re-contribute part or all of the distributions to an IRA. These additional contributions must be made within 2 years after your active-duty period ends. Any amount recontributed must be reported on Form 8606 as a nondeductible contribution. You cannot take a deduction for these contributions. However, the normal dollar limitations for contributions to IRAs do not apply to these special contributions, and you can make regular contributions to your IRA, up to the amount otherwise allowable.

Additional exceptions for nonqualified annuity contracts. The tax does not apply to distributions that are:

- From a deferred annuity contract to the extent allocable to investment in the contract before August 14, 1982,
- From a deferred annuity contract under a qualified personal injury settlement,
- From a deferred annuity contract purchased by your employer upon termination of a qualified employee plan or qualified employee annuity plan and held by your employer until your separation from service, or
- From an immediate annuity contract (a single premium contract providing substantially equal annuity payments that start within one year from the date of purchase and are paid at least annually).

Substantially equal periodic payments. Payments are substantially equal periodic payments if they are made in accordance with one of the following methods.

1. **Required minimum distribution method.** Under this method, the resulting annual payment is redetermined for each year.
2. **Fixed amortization method.** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.
3. **Fixed annuitization method.** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.

For information on these methods, see Revenue Ruling 2002-62, which is on page 710 of Internal Revenue Bulletin 2002-42 at www.irs.gov/pub/irs-irbs/irb02-42.pdf.



A change from method (2) or (3) to method (1) is not treated as a modification to which the recapture tax (discussed next) applies.

Recapture tax for changes in distribution method under equal payment exception. An early distribution recapture tax may apply if, before you reach age 59½, the distribution method under the equal periodic payment exception changes (for reasons other than your death or disability). The tax applies if the method changes from the

method requiring equal payments to a method that would not have qualified for the exception to the tax. The recapture tax applies to the first tax year to which the change applies. The amount of tax is the amount that would have been imposed had the exception not applied, plus interest for the deferral period.

The recapture tax also applies after you reach age 59½ if your payments under a distribution method that qualifies for the exception are modified within 5 years of the date of the first payment. In that case, the tax applies only to payments distributed before you reach age 59½.

Report the recapture tax and interest on line 4 of Form 5329. Attach an explanation to the form. Do not write the explanation next to the line or enter any amount for the recapture on lines 1 or 3 of the form.

Tax on Excess Accumulation

To make sure that most of your retirement benefits are paid to you during your lifetime, rather than to your beneficiaries after your death, the payments that you receive from qualified retirement plans must begin no later than your required beginning date (defined later). The payments each year cannot be less than the minimum required distribution.

If the actual distributions to you in any year are less than the minimum required distribution (RMD) for that year, you are subject to an additional tax. The tax equals 50% of the part of the required minimum distribution that was not distributed.

For this purpose, a qualified retirement plan includes:

- A qualified employee plan,
- A qualified employee annuity plan,
- An eligible section 457 deferred compensation plan, or
- A tax-sheltered annuity plan (403(b) plan) (for benefits accruing after 1986).

Temporary waiver of RMDs for 2009. For 2009, you are not required to take an RMD from your IRA, or employer-provided qualified retirement plan. This waiver applies to participants in these plans as well as beneficiaries. The waiver also applies to those individuals who turn 70½ in 2009 and delay taking their 2009 RMD until April 1, 2010. This waiver **does not** apply to RMDs for 2008, even for individuals who turned 70½ in 2008 and choose to take their 2008 RMD by April 1, 2009. See *Required beginning date*, later.

Waiver. The tax may be waived if you establish that the shortfall in distributions was due to reasonable error and that reasonable steps are being taken to remedy the shortfall. If you believe you qualify for this relief, you must file Form 5329 and attach a letter of explanation. In Part VIII of that form, enter "RC" and the amount you want waived in parentheses on the dotted line next to line 52. Subtract this amount from the total shortfall you figured without regard to the waiver and enter the result on line 52.

State insurer delinquency proceedings. You might not receive the minimum distribution because assets are invested in a contract issued by an insurance company in

state insurer delinquency proceedings. If your payments are reduced below the minimum because of these proceedings, you should contact your plan administrator. Under certain conditions, you will not have to pay the 50% excise tax.

Required beginning date. Unless the rule for 5% owners applies, you generally must begin to receive distributions from your qualified retirement plan by April 1 of the year that follows the later of:

- The calendar year in which you reach age 70½, or
- The calendar year in which you retire from employment with the employer maintaining the plan.

However, your plan may require you to begin to receive distributions by April 1 of the year that follows the year in which you reach age 70½, even if you have not retired.

If you reach age 70½ in 2009, you are not required to receive your first distribution by April 1, 2010. Your first required distribution however must be made for 2010 by December 31, 2010.

5% owners. If you are a 5% owner, you must begin to receive distributions from the plan by April 1 of the year that follows the calendar year in which you reach age 70½. This rule does not apply if your retirement plan is a government or church plan.

You are a 5% owner if, for the plan year ending in the calendar year in which you reach age 70½, you own (or are considered to own under section 318 of the Internal Revenue Code) more than 5% of the outstanding stock (or more than 5% of the total voting power of all stock) of the employer, or more than 5% of the capital or profits interest in the employer.

Age 70½. You reach age 70½ on the date that is 6 calendar months after the date of your 70th birthday. For example, if your 70th birthday was on June 30, 2008, you reached age 70½ on December 30, 2008. If your 70th birthday was on July 1, 2008, you reached age 70½ on January 1, 2009.

Required distributions. By the required beginning date, you must either:

- Receive your entire interest in the plan (for a tax-sheltered annuity, your entire benefit accruing after 1986), or
- Begin receiving periodic distributions in annual amounts calculated to distribute your entire interest (for a tax-sheltered annuity, your entire benefit accruing after 1986) over your life or life expectancy or over the joint lives or joint life expectancies of you and a designated beneficiary (or over a shorter period).

After the starting year for periodic distributions, you must receive at least the minimum required distribution for each year by December 31 of that year. (The starting year is the year in which you reach age 70½ or retire, whichever applies in determining your required beginning date.) If no distribution is made in your starting year, the minimum required distributions for 2 years must be made the following year (one by April 1 and one by December 31). For

2009, no RMD is required from your IRA or employer-provided qualified retirement plan.

Example 1. You retired under a qualified employee plan in 2007. You reached age 70½ on August 20, 2008. For 2008 (your starting year), you must receive a minimum amount from your retirement plan by April 1, 2009. No RMD would be required for 2009. Your next RMD for 2010 should be made by December 31, 2010.

Example 2. You retired under a qualified plan in 2008. You reached age 70½ on February 1, 2009. For 2009 (your starting year), no distribution was required. Your first RMD will be by December 31, 2010.

Distributions after the employee's death. If the employee was receiving periodic distributions before his or her death, any payments not made as of the time of death must be distributed at least as rapidly as under the distribution method being used at the date of death.

If the employee dies before the required beginning date, the entire account must be distributed under one of the following rules.

- Rule 1. The distribution must be completed by December 31 of the fifth year following the year of the employee's death. For 2009, the distribution can be waived, effectively taking distributions over a 6-year period.
- Rule 2. The distribution must be made in annual amounts over the life or life expectancy of the designated beneficiary. For 2009, the distribution can be waived.

The terms of the plan may determine which of these two rules applies. If the plan permits the employee or the beneficiary to choose the rule that applies, this choice must be made by the earliest date a distribution would be required under either of the rules. Generally, this date is December 31 of the year following the year of the employee's death.

If the employee or the beneficiary did not choose either rule and the plan does not specify the one that applies, distribution must be made under Rule 2 if the employee has a designated beneficiary and under Rule 1 if the employee does not have a designated beneficiary.

Distributions under Rule 2 generally must begin by December 31 of the year following the year of the employee's death. However, if the surviving spouse is the beneficiary, distributions need not begin until December 31 of the year the employee would have reached age 70½, if later.

If the surviving spouse is the designated beneficiary and distributions are to be made under Rule 2, a special rule applies if the spouse dies after the employee but before distributions are required to begin. In this case, distributions may be made to the spouse's beneficiary under either Rule 1 or Rule 2, as though the beneficiary were the employee's beneficiary and the employee died on the spouse's date of death. However, if the surviving spouse remarries after the employee's death and the new spouse is designated as the spouse's beneficiary, this special rule applicable to surviving spouses does not apply to the new spouse.

Minimum distributions from an annuity plan. Special rules may apply if you receive distributions from your retirement plan in the form of an annuity. Your plan administrator should be able to give you information about these rules.

Minimum distributions from an individual account plan. Your plan administrator should be able to give you information about how the amount of your required distribution was figured.

If there is an account balance to be distributed from your plan (not as an annuity), your plan administrator must figure the minimum amount that must be distributed from the plan each year.

What types of installments are allowed? The minimum amount that must be distributed for any year may be made in a series of installments (for example, monthly or quarterly) as long as the total payments for the year made by the date required are not less than the minimum amount required for the year.

More than minimum. Your plan can distribute more in any year than the minimum amount required for that year but, if it does, you will not receive credit for the additional amount in determining the minimum amount required for future years. However, any amount distributed in your starting year will be credited toward the amount required to be distributed by April 1 of the following year.

Combining multiple accounts to satisfy the minimum distribution requirements. Generally, the required minimum distribution must be figured separately for each account. Each qualified employee retirement plan and qualified annuity plan must be considered individually in satisfying its distribution requirements. However, if you have more than one tax-sheltered annuity account, you can total the required distributions and then satisfy the requirement by taking distributions from any one (or more) of the tax-sheltered annuities.

Survivors and Beneficiaries

Generally, a survivor or beneficiary reports pension or annuity income in the same way the plan participant would have reported it. However, some special rules apply, and they are covered elsewhere in this publication as well as in this section.

Estate tax deduction. You may be entitled to a deduction for estate tax if you receive amounts included in your income as income in respect of a decedent under a joint and survivor annuity that was included in the decedent's estate. You can deduct the part of the total estate tax that was based on the annuity, provided that the decedent died after his or her annuity starting date. (For details, see section 1.691(d)-1 of the regulations.) Deduct it in equal amounts over your remaining life expectancy.

If the decedent died before the annuity starting date of a deferred annuity contract and you receive a death benefit under that contract, the amount you receive (either in a lump sum or as periodic payments) in excess of the decedent's cost is included in your gross income as income in

respect of a decedent for which you may be able to claim an estate tax deduction.

You can take the estate tax deduction as an itemized deduction on Schedule A, Form 1040. This deduction is not subject to the 2%-of-adjusted-gross-income limit on miscellaneous deductions. See Publication 559, *Survivors, Executors, and Administrators*, for more information on the estate tax deduction.

Survivors of employees. Distributions the beneficiary of a deceased employee gets may be accrued salary payments; distributions from employee profit-sharing, pension, annuity, or stock bonus plans; or other items. Some of these should be treated separately for tax purposes. The treatment of these distributions depends on what they represent.

Salary or wages paid after the death of the employee are usually the beneficiary's ordinary income. If you are a beneficiary of an employee who was covered by any of the retirement plans mentioned, you can exclude from income nonperiodic distributions received that totally relieve the payer from the obligation to pay an annuity. The amount that you can exclude is equal to the deceased employee's investment in the contract (cost).

If you are entitled to receive a survivor annuity on the death of an employee, you can exclude part of each annuity payment as a tax-free recovery of the employee's investment in the contract. You must figure the tax-free part of each payment using the method that applies as if you were the employee. For more information, see *Taxation of Periodic Payments*, earlier.

Survivors of retirees. Benefits paid to you as a survivor under a joint and survivor annuity must be included in your gross income. Include them in income in the same way the retiree would have included them in gross income. See *Partly Taxable Payments under Taxation of Periodic Payments*, earlier.

If the retiree reported the annuity under the Three-Year Rule and recovered all of the cost tax free, your survivor payments are fully taxable.

If the retiree was reporting the annuity under the General Rule, you must apply the same exclusion percentage to your initial survivor annuity payment called for in the contract. The resulting tax-free amount will then remain fixed for the initial and future payments. Increases in the survivor annuity are fully taxable. See Publication 939 for more information on the General Rule.

If the retiree was reporting the annuity under the Simplified Method, the part of each payment that is tax free is the same as the tax-free amount figured by the retiree at the annuity starting date. This amount remains fixed even if the annuity payments are increased or decreased. See *Simplified Method* under *Taxation of Periodic Payments*, earlier.

Guaranteed payments. If you receive guaranteed payments as the decedent's beneficiary under a life annuity contract, do not include any amount in your gross income until your distributions plus the tax-free distributions received by the life annuitant equal the cost of the contract. All later distributions are fully taxable. This rule does not apply if it is possible for you to collect more than the guaranteed amount. For example, it does not apply to payments under a joint and survivor annuity.

Hurricane-Related Relief

The following discussions cover many of the special rules regarding withdrawals and repayments from certain retirement plans. These rules provided relief to taxpayers who suffered an economic loss as a result of Hurricane Katrina, Rita, or Wilma and applied to distributions received before 2007 as qualified hurricane distributions (defined later). However, they may still affect taxpayers after 2007. For example, they explain how much of a qualified distribution may have to be included in income after 2007 and when an amended return must be filed to reduce the amount of a qualified distribution previously included in income as a result of repayments made after 2007.

If you received a qualified hurricane distribution, the taxable amount is figured in the same manner as other distributions (see the sections on *Cost, Taxation of Periodic Payments*, and *Taxation of Nonperiodic Payments*, earlier). However, the distribution is included in income ratably over 3 years beginning with the year you received the distribution, unless you elected to report the entire amount in the year of distribution. You can repay the distribution and not be taxed on the distribution. See *Qualified Hurricane Distributions*, later.

Form 8915, *Qualified Hurricane Retirement Plan Distributions and Repayments*, is used to report repayments of qualified hurricane distributions and to figure the taxable amount of your qualified hurricane distributions.

For information on other tax provisions related to these hurricanes, see Publication 4492, *Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma*.

Qualified Hurricane Distributions

If you received a qualified hurricane distribution, you must include it in your income in equal amounts over 3 years. For example, if you received a \$60,000 qualified hurricane distribution in 2006, you had to include \$20,000 in your income in 2006 and would include in income the same amount in 2007 and 2008. However, you could have elected to include the entire distribution in your income in the year it was received.

A qualified hurricane distribution was any distribution you received from an eligible retirement plan if all of the following conditions applied.

1. The distribution was made:
 - a. After August 24, 2005, and before January 1, 2007, for Hurricane Katrina.
 - b. After September 22, 2005, and before January 1, 2007, for Hurricane Rita.
 - c. After October 22, 2005, and before January 1, 2007, for Hurricane Wilma.
2. Your main home was located in a qualified hurricane disaster area listed below on the date shown for that area.
 - a. August 28, 2005, for the Hurricane Katrina disaster area. For this purpose, the Hurricane Katrina disaster area included the states of Alabama, Florida, Louisiana, and Mississippi.