

## **IMPORTANT TAX INFORMATION**

### **The Annuity Plan of the Electrical Industry 158-11 Harry Van Arsdale Jr. Avenue, Flushing, NY 11365**

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#### **Special Tax Notice Regarding Plan Payments**

This notice (referred to as the "Special Tax Notice Regarding Plan Payments" or a "402(f) Notice") explains how you can continue to defer federal income tax on your retirement savings in your Plan and contains important information you will need before you decide how to receive your Plan benefits. This notice is provided to you by the Annuity Plan of the Electrical Industry ("the Plan") because all or part of the payment that you will soon receive from the Plan may be eligible for rollover by you or your Plan Administrator to an IRA or an eligible employer plan. A rollover is a payment by you or the Plan Administrator of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. Your payment cannot be rolled over to a SIMPLE IRA, or a Coverdell Education Savings Account (formerly known as an education IRA). An "eligible employer plan" includes a plan qualified under section 401(a) of the Internal Revenue Code, including a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; a section 403(a) annuity plan; a section 403(6) tax sheltered annuity; and an eligible section 457(6) 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 should find out whether the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. You should also find out about any documents that are required to be completed before the receiving plan will accept a rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to an IRA or split your rollover amount between the employer plan in which you will participate and an IRA. If an employer plan accepts your rollover, the plan may restrict subsequent distributions of the rollover amount or may require your spouse's consent for any subsequent distribution. A subsequent distribution from the plan that accepts your rollover may also be subject to different tax treatment than distributions from this Plan. Check with the administrator of the plan that is to receive your rollover prior to making the rollover. If you have additional questions after reading this notice, you can call your Plan or contact your Plan Administrator at the address set forth in the summary plan description for the Plan.

**Benefits of Deferring:** Before electing to receive an annuity distribution, you should be aware of the

advantages of deferring your distribution from a qualified retirement plan. Generally participants who fail to defer or rollover will receive an immediate distribution subject to income tax (and possibly an additional 10% tax) and they will lose the opportunity to shelter from income tax the future investment earnings on their accounts. It is important to seek advice from a tax professional when considering a distribution from a qualified plan.

#### **Summary**

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

- 1) Certain payments can be made directly to an IRA that you establish or to an eligible employer plan that will accept it and hold it for your benefit ("DIRECT ROLLOVER"); or
- 2) The payment can be PAID TO YOU.

#### **If you choose a DIRECT ROLLOVER:**

- Your payment will not be taxed in the current year, and no income tax will be withheld.
- Your payments will be made directly to your IRA or, if you choose, to another qualified employer plan that accepts your rollover. Your plan payment cannot be rolled over to a SIMPLE IRA, or a Coverdell Education Savings Account, because these are not traditional IRAs.
- Your payment will be taxed later when you take it out of the IRA or the qualified employer plan.

#### **If you choose to have a Plan payment that is eligible for a rollover PAID TO YOU:**

- You will receive only 80% of the payment, because the Plan Administrator is required to withhold 20% of the payment and send it to the IRS as income tax withholding to be credited against your taxes.
- Your payment will be taxed in the current year unless you roll it over. 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 also may have to pay an additional 10% tax.

You can roll over the payment by paying it to your IRA or to another qualified employer plan that accepts your rollover within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of the IRA or the qualified employer plan.

- If you want to roll over 100% of the payment to an IRA or another qualified employer plan, you must find other money to replace the 20% that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and that is not rolled over.

**Note: The choice you make will apply to all future distributions from the Plan unless you change your election at some future time.**

### **Your Right to Waive the 30-Day Notice Period**

Generally, neither a direct rollover nor a payment can 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 making an affirmative election indicating whether or not you wish to make a direct rollover.

## **I. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER**

Payments from the Plan may be "eligible rollover distributions." This means that they can be rolled over to an IRA or to an eligible employer plan that accepts rollovers. Payments from a plan cannot be rolled over to a SIMPLE IRA, or a Coverdell Education Savings Account. Your Plan Administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

The following types of payments cannot be rolled over:

### **Payments Spread Over Long Periods**

You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for:

- Your lifetime (or your life expectancy), or
- Your lifetime and your beneficiary's lifetime (or life expectancies), or
- A period of ten years or more.

### **Required Minimum Payments**

Beginning in the year you reach age 70½, a certain portion of your payment cannot be rolled over because it is a "required minimum payment" that must be paid to you.

### **Corrective Distributions**

A distribution that is made to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded cannot be rolled over.

## **II. 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, as described in Part I above. You are not taxed on any taxable portion of your payment for which you choose a DIRECT ROLLOVER until you later take it out of the IRA or eligible employer plan. In addition, no income tax withholding is required for any taxable portion of your Plan benefits for which you choose a DIRECT ROLLOVER.

### **Direct Rollover to an IRA**

You can open an IRA to receive the direct rollover. If you choose to have your payment made directly to an IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to an IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish an IRA to receive the payment. However, in choosing an IRA, you may wish to make sure that the IRA you choose will allow you to move all or a 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 a Plan**

If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover to that plan, ask the plan administrator of that plan whether it will accept your rollover. An eligible employer plan is not legally required to accept a rollover. Even if your new employer's plan does not accept a rollover, you can choose a DIRECT ROLLOVER to 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 the plan administrator of that plan before making your decision.

**If You Roll Over Your Payment To A Roth IRA.** 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 the Plan during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

### **Direct Rollover of a Series of Payments**

If you receive a payment that can be rolled over to an IRA or an eligible employer plan that will accept it, and it is paid in a series of payments for less than 10 years, your choice to make or not make a DIRECT ROLLOVER for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

### **Change in Tax Treatment Resulting from a DIRECT ROLLOVER.**

The tax treatment of any payment from the eligible employer plan or IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from the Plan. For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment, as explained below. However, if you

have your benefit rolled over to a section 403(6) tax-sheltered annuity, a governmental 457 plan, or an IRA in a DIRECT ROLLOVER, your benefit will no longer be eligible for that special treatment. See the sections below entitled "Additional 10% Tax if You Are Under Age 59½" and "Special Tax Treatment if You Were Born before January 1, 1936."

### **III. PAYMENT PAID TO YOU**

If your payment can be rolled over (see Part I above) and the payment is made to you in cash, it is subject to 20% federal income tax withholding on the taxable portion (state tax withholding may also apply). The payment is taxed in the year you receive it unless, within 60 days, you roll it over to an IRA or an eligible employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

### **INCOME TAX WITHHOLDING**

#### **Mandatory Withholding**

If any portion of your payment can be rolled over under Part I above and you do not elect to make a DIRECT ROLLOVER, 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 "Sixty-Day Rollover Option" below), 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.

As a result of the Pension Protection Act of 2006 (PPA), if you are a beneficiary who elects to make a direct rollover to an IRA under Part II, other than a surviving spouse or alternate payee, mandatory withholding will not apply.

#### **Voluntary Withholding**

If any portion of your payment is taxable but cannot be rolled over under Part I above, 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 the Plan Administrator for the election form and related information.

As a result of PPA, if you are a beneficiary, other than a surviving spouse or alternate payee, any payment made to you will be subject to this voluntary withholding.

#### **Sixty-Day Rollover Option**

If you receive a payment that can be rolled over under Part I above, 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 roll over, you must

contribute the amount of the payment you received to an IRA or eligible employer plan within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the IRA or the eligible employer plan.

You can roll over up to 100% of your payment that can be rolled over under Part I above, including an amount equal to the 20% of the taxable portion that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the IRA or the eligible employer plan, to replace the 20% that was withheld. On the other hand, if you roll over only the 80% of the taxable portion that you received, you will be taxed on the 20% that was withheld.

*Example: The taxable portion of your payment that can be rolled over under Part I above 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 an 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 IRA or an eligible employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of part or all of the \$2,000 withheld. If, on the other hand, you rollover 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**

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. The additional 10% tax generally does not apply to: (1) payments that are paid after you separate from service with your employer during or after the year you reach age 55, (2) payments that are paid because you retire due to disability, (3) payments that are paid as equal (or almost equal) payments over your life or life expectancy (or your and your beneficiary's lives or life expectancies), (4) dividends paid with respect to stock by an employee stock ownership plan (ESOP) as described in Code Section 404(k), (5) payments that are paid directly to the government to satisfy a federal tax levy, (6) payments that are paid to an alternate payee under a Qualified Domestic Relations Order, (7) payment as a qualified reservist distribution, or (8) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% tax. The additional 10% tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution is attributable to an amount you rolled over to that plan (adjusted for investment returns) from

another type of eligible employer plan or IRA. Any amount rolled over from a governmental 457 plan to another type of eligible employer plan or to an IRA will become subject to the additional 10% tax if it is distributed to you before you reach age 59½, unless one of the exceptions applies.

#### **Special Tax Treatment If You Were Born Before January 1, 1936**

If you receive a payment from a plan qualified under section 401 (a) or a section 403(a) annuity plan that can be rolled over under Part I and you do not roll it over to an IRA or an eligible employer plan, 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 (or, in the case of a self-employed individual, after you have reached age 59½ or have become disabled). 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.

#### **Ten-Year Averaging**

If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using "Ten-year averaging" (using 1986 tax rates). Ten-year averaging often reduces the tax you owe.

#### **IV. SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES**

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees." However, there are certain differences in the rollover options available to former spouses and other beneficiaries. You are an alternate payee if your interest in the Plan results from a "Qualified 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.** If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

**If you are a surviving beneficiary other than a spouse.** If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option 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.

If you are a surviving spouse, an alternate payee or another beneficiary, your payment is not subject to the additional 10% tax described in Part III above, even if you are younger than age 59½.

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 and the special rule for payments that include employer stock, as described in Part III above. If you receive a payment because of the 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 5 years of participation in the Plan.

#### **Notice Regarding Your Right to Delay Distribution from Your Plan**

When you participate in a retirement plan, what you do with your retirement savings is one of the most significant financial decisions you will make. Before electing to receive a distribution from your plan, you should carefully consider the consequences of taking your benefit now instead of waiting until a later time. As described above, if the value of your account exceeds the plan's mandatory distribution amount threshold, you have the right to defer your distribution. Please refer to your plan's Summary Plan Description for the rules regarding how long you can continue to defer your distribution.

#### **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 talk to the Plan Administrator or 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's Internet Web Site at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORMS.