

## **SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS**

### **IBEW Local No. 32 NECA Profit Sharing Annuity Plan (“Plan”)**

This notice explains how you can continue to defer federal income tax on your retirement plan savings in the Plan and contains important information you will need before you decide how to receive your Plan benefits. All references to “the Code” are references to the Internal Revenue Code of 1986, as amended. This notice summarizes only the federal (not state or local) tax rules which apply to your distribution. Because these rules are complex and contain many conditions and exceptions which we do not discuss in this notice, you may need to consult with a professional tax advisor before you receive your distribution from the Plan.

#### **A. TYPES OF PLAN DISTRIBUTIONS**

**Eligibility for rollover.** The Code classifies distributions into two types: (1) distributions you may roll over (“eligible rollover distributions”) and (2) distributions you may not roll over. See “Distributions not eligible for rollover” below. You also may receive a distribution under which part of the distribution is an eligible rollover distribution and part is not eligible for rollover. 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 (except for a rollover from a pre-tax account to a Roth IRA, described in the last paragraph of Section B below). The Plan Administrator will assist you in identifying which portion of your distribution is an eligible rollover distribution and which portion is not eligible for rollover.

**Plans that may accept a rollover.** You may roll over an eligible rollover distribution either to a Roth IRA, to a traditional IRA or to an eligible employer plan that accepts rollovers. An “eligible employer plan” includes a plan qualified under Code §401(a), including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan (including an ESOP) or money purchase plan; a §403(a) annuity plan; a 403(b) plan; and an eligible §457(b) plan maintained by a governmental employer (governmental 457 plan). **YOU MAY NOT ROLL OVER ANY DISTRIBUTION TO A SIMPLE IRA OR A COVERDELL EDUCATION SAVINGS ACCOUNT (FORMERLY KNOWN AS AN EDUCATIONAL IRA).**

**Deciding where to roll over a distribution.** 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. 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 to split your rollover amount between the employer plan in which you will participate and an IRA. You also should find out about any documents you must complete before a receiving plan or IRA sponsor will accept a rollover. 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 also may be subject to different tax treatment than distributions from this Plan. Check with the administrator of the plan that is to receive your rollover regarding subsequent distributions and taxation of the amount you will roll over, prior to making the rollover.

**Distributions not eligible for rollover.** An eligible rollover distribution means any distribution to you of all or any portion of your account balance under the Plan except: (1) a distribution which is part of a series of substantially equal periodic payments; (2) a required minimum distribution; (3) a hardship distribution; (4) an ESOP dividend; (5) a corrective distribution; (6) a loan treated as a distribution; (7) life insurance cost; (8) 90-day automatic enrollment withdrawals; or (9) ESOP prohibited allocations.

*Substantially equal periodic payments.* You may not roll over a distribution if it is part of a series of substantially equal payments made at least once a year and which will last for: (1) your lifetime (or your life expectancy), (2) your lifetime and your beneficiary's lifetime (or life expectancies), or (3) a period of 10 years or more.

*Required minimum distributions.* Beginning in the year in which occurs the later of your retirement or your attainment of age 70½, the Code may require the Plan to make "required minimum distributions" to you. You may not roll over the required minimum distributions. Special rules apply if you own more than 5% of the Employer.

*Hardship distributions.* A hardship distribution is not eligible for rollover.

*Corrective distributions.* A distribution from the plan to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded cannot be rolled over.

*Loans treated as taxable "deemed" distribution.* The amount of a plan loan that becomes a taxable deemed distribution because of a default cannot be rolled over. However, a loan offset amount is eligible for rollover, as discussed in Part C. below. Ask the Plan Administrator if distribution of your loan qualifies for rollover treatment.

**30-Day Notice Period/Waiver.** After receiving this notice, you have at least 30 days to consider whether to receive your distribution or have the distribution directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your distribution then will be processed in accordance with your election as soon as practical after the Plan Administrator receives your election.

## **B. DIRECT ROLLOVER**

**Direct rollover process.** You may elect a direct rollover of all or any portion of an eligible rollover distribution. If you elect a direct rollover, the Plan Administrator will pay the eligible rollover distribution directly to your IRA or to another eligible employer plan which you have designated. Alternatively, for the cash portion of your distribution, if any, the Plan Administrator may give you a check negotiable by the trustee or custodian of the recipient eligible employer plan or IRA. To complete the direct rollover, you must deliver the check to that trustee/custodian. A direct rollover amount is not subject to taxation at the time of the rollover, unless the direct rollover is from a pre-tax account to a Roth IRA. Except for a direct rollover of a pre-tax amount to a Roth IRA, the taxable portion of your direct rollover will be taxed later when you take it out of the IRA or the eligible employer plan. Depending on the type of plan, the later distribution may be subject to *different tax treatment* than it would be if you received a taxable distribution from this Plan. If you elect a direct rollover, your election form must include identifying information about the recipient IRA or plan.

**Treatment of periodic distributions.** If your Plan distribution is a series of payments over a period of less than ten years, each payment is an eligible rollover distribution. Your election to make a direct rollover will apply to all payments unless you advise the Plan Administrator of a change in your election. The Plan might not let you choose a direct rollover if your distributions for the year are less than \$200.

**Splitting a distribution/small distributions.** If your distribution exceeds \$500, you may elect a direct rollover of only a part of your distribution, provided the portion directly rolled over is at least \$500. If your distribution is \$500 or less, you must elect either a direct rollover of the entire amount or payment of the entire amount.

**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 roll over your benefit to a 403(b) plan, a governmental 457 plan, or an IRA, your benefit no longer will be eligible for that special treatment. See the sections below entitled “10% penalty tax if you are under age 59½” and “Special tax treatment if you were born before 1936.”

**Taxation of direct rollover of pre-tax distribution to Roth IRA.** If you directly roll over a pre-tax distribution to a Roth IRA, the taxable portion of the distribution is subject to taxation for the taxable year in which the distribution occurs (except that a special taxation rule applies to distributions during 2010 that you roll over to a Roth IRA, under which the distribution can be subject to taxation ratably during 2011 and 2012).

After you roll over a pre-tax distribution 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 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. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

### C. DISTRIBUTIONS YOU RECEIVE

**Taxation of eligible rollover distributions.** The taxable portion of an eligible rollover distribution which you elect to receive is taxable to you in the year you receive it unless, within 60 days following receipt, you roll over the distribution to an IRA or to another eligible employer plan.

**Withholding on eligible rollover distributions.** The taxable portion of your eligible rollover distribution is subject to 20% federal income tax withholding. You may not waive this withholding. For example, if you elect to receive a taxable eligible rollover distribution of \$5,000, the Plan will pay you only \$4,000 and will send to the IRS \$1,000 as income tax withholding. You will receive a Form 1099-R from the Plan reporting the full \$5,000 as a distribution from the Plan. The \$1,000 withholding amount applies against any federal income tax you may owe for the year. The direct rollover is the *only* means of avoiding this 20% withholding.

**60-day rollover option.** The direct rollover explained in Section B above is not the only way to make a rollover. If you receive payment of an eligible rollover distribution, you still may roll over all or any portion of the distribution to an IRA (including a Roth IRA) or to another eligible employer plan that accepts rollovers. If you decide to roll over the distribution, *you must make the rollover within 60 days of your receipt of the payment.* The portion of your distribution which you elect to roll over generally is not subject to taxation until you receive distributions from the IRA or eligible employer plan. However, see “Taxation of direct rollover of pre-tax distribution to Roth IRA,” above.

You may roll over 100% of your eligible rollover distribution even though the Plan Administrator has withheld 20% of the distribution for income tax withholding. If you elect to roll over 100% of the distribution, you must obtain *other money* within the 60-day period to contribute to the IRA or eligible employer plan to replace the 20% withheld. If you elect to roll over only the 80% which you receive, the 20% withheld will be subject to taxation.

*Example.* Assume the taxable portion of your eligible rollover distribution is \$5,000, and you do not elect a direct rollover. The Plan pays you \$4,000, withholding \$1,000 for income taxes. However, assume within 60 days after receiving the \$4,000 payment, you decide to roll over the entire \$5,000 distribution. To make the rollover, you will roll over the \$4,000 you received from the Plan and you will contribute \$1,000 from other sources (your savings, a loan, etc.). In this case, you will not have any tax liability with respect to the Plan distribution. The Plan will report a \$5,000 distribution for the year and you will report a \$5,000 rollover. When you file your income tax return, you may receive a refund of the \$1,000 withheld. If you roll over only the \$4,000 paid from the Plan, the \$1,000 you do not roll over is taxable. In addition, the \$1,000 you do not roll over may be subject to a 10% penalty tax. See “10% penalty tax if you are under age 59½” below. When you file your income tax return, you still may receive an income tax refund, but the refund likely will be smaller because \$1,000 of the distribution is taxable.

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).

**Withholding on distributions not eligible for rollover.** The 20% withholding described above does not apply to any taxable portion of your distribution that is *not* an eligible rollover distribution. You may elect whether to have federal income tax withholding apply to that portion. If you do not wish to have any income taxes withheld on that portion of your distribution, or if you wish to have an amount other than 10% withheld, you will need to sign and date IRS Form W-4P, checking the box opposite line 1. The Plan Administrator will provide you Form W-4P if your distribution includes an amount that does not constitute an eligible rollover distribution. If you do *not* return the Form W-4P to the Plan Administrator prior to the distribution, the Plan Administrator will treat the failure to return the form as an *affirmative election* to have 10% withholding apply.

**10% penalty tax if you are under age 59½.** If you receive a distribution from the Plan before you reach age 59½ and you do not roll over the distribution, the taxable portion of your distribution is subject to a 10% penalty tax in addition to any federal income taxes unless an exception applies. The exceptions are as follows:

- Payments made after you separate from service if you will be at least 55 in the year of the separation.
- 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 the lives or joint life expectancy of you and your beneficiary).
- Payments made due to disability.
- Payments after your death.
- Corrective distribution of contributions that exceed tax law limitations.
- Cost of life insurance paid by the Plan.
- Payments made directly to the government to satisfy a federal tax levy.
- Payments made under a qualified domestic relations order (QDRO).
- Payments up to the amount of your deductible medical expenses.
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days.

If you roll over the distribution to an IRA, and receive a distribution from the IRA when you are under age 59½, you will have to pay the 10% additional penalty tax unless an exception applies. While the exceptions generally are the same as those listed above, there are some differences. See IRS Publication 590 for a discussion of the IRA distribution rules.

If you directly roll over a pre-tax distribution to a Roth IRA, the 10% penalty will not apply to the taxable portion of the distribution. However, if a taxable amount you rolled over into a Roth IRA from a pre-tax account is distributed within five years, the 10% penalty will apply to the distribution as if the distribution were includible in gross income.

The 10% penalty tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution (including earnings) is attributable to an amount you rolled over *to* that plan 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 a traditional 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 1936.** If your distribution is a “lump sum distribution,” and you were born before 1936, you may elect special treatment, but only if you do not roll over any part of the lump sum distribution. If you roll over only a portion of your distribution to an IRA, a governmental 457 plan, or a 403(b) plan, this special tax treatment is not available for the rest of the payment. A lump sum distribution is a distribution, within one calendar year, of your entire vested account balance (including any nontaxable portion of your distribution) under the Plan (and certain similar plans maintained by the Employer). If you are not a self-employed individual, the distribution must occur after you attain age 59½ or after you have separated from service with the Employer. For a self-employed individual, a lump sum distribution must occur after the self-employed individual attains age 59½ or becomes disabled.

**Ten-year averaging.** If you receive a lump sum distribution and you were born before 1936, you can make a one-time election to figure the tax on the lump sum distribution under “10-year averaging” using 1986 tax rates. Ten-year averaging often reduces the tax you owe.

**Capital gain treatment.** If you receive a lump sum distribution, you were born before 1936 *and* you were a participant in the Plan before 1974, you may elect to have the part of your lump sum distribution attributable to your pre-1974 participation taxed as long-term capital gain at a rate of 20%.

**Special tax treatment election and limitations.** You must have completed at least five years of active participation in the Plan for special tax treatment to apply to the lump sum distribution election. You may elect special tax treatment (ten-year averaging or capital gain treatment) by filing IRS Form 4972 with your income tax return. The instructions to Form 4972 provide further details regarding the reporting of your lump sum distribution and describe the rules for determining whether a distribution qualifies as a lump sum distribution. As a general rule, you may not elect special tax treatment for a lump sum distribution if you elected ten-year (or previously available five-year) averaging with respect to a prior lump sum distribution you received after December 31, 1986, or after you had attained age 59½. You may not elect this special tax treatment if you rolled amounts into this Plan from a 403(b) plan, from a governmental 457 plan or from an IRA not originally attributable to a qualified employer plan. You also may not elect special tax treatment if you previously rolled over another distribution from the Plan. Finally, you may not elect special tax treatment if you roll over your distribution to an IRA, a governmental 457 plan or a 403(b) plan, and then take a distribution from the IRA, plan or annuity.

### **If you are not a plan participant**

**Payments after death of the participant.** If you receive a distribution after the participant'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 rule described

under the section "Special tax treatment if you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

**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.

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 59 1/2 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 70 1/2.

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 participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70 1/2.

**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.

**Payments under a qualified domestic relations order.** If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

**U.S. Armed Forces service.** 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.

**Government publications.** IRS Publication 575, Pension and Annuity Income, IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans), and IRS Publication 590, Individual Retirement Arrangements (IRAs), provide additional information about the tax treatment of plan distributions and rollovers. These publications are available from a local IRS office, on the IRS's Internet Website at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORMS.

**Nonresident aliens.** 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%, the Plan 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.