



Legislation Details (With Text)

File #: 12-0088 **Version:** 0 **Name:** Employees', Elected Officials', and Fire and Police Employees' Retirement Systems - Technical Revisions
Type: Ordinance **Status:** Enacted
File created: 6/4/2012 **In control:** City Council
On agenda: **Final action:** 6/26/2012
Enactment date: **Enactment #:** 12-43

Title: Employees', Elected Officials', and Fire and Police Employees' Retirement Systems - Technical Revisions

FOR the purpose of providing that the Employees', Elected Officials', and Fire and Police Employees' Retirement Systems need comply only with a "reasonable good faith interpretation" of Internal Revenue Code § 401(a)(9); expanding the vehicles into which eligible distributions from these Systems can be rolled over, to include qualified defined benefit plans, § 403(b) tax-deferred annuity plans, certain § 457(b) plans, and Roth IRAs; permitting non-spouse beneficiaries of Systems members to make rollovers; removing a restriction on rollovers by surviving spouses of members of the Employees' and Elected Officials' Systems; clarifying the availability of the non-line-of-duty death benefit for members of the Fire and Police Employees' System who are on military service; applying cost-of-living adjustments to increase the \$160,000 limit on annual Fire and Police Employees' Retirement System benefits under § 415 of the Internal Revenue Code and applying those cost-of-living adjustments to retired members of the Fire and Police Employees' Retirement System; conforming certain provisions to the Internal Revenue Code; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the Employees', Elected Officials', and Fire and Police Employees' Retirement Systems of the City of Baltimore.

Sponsors: City Council President (Administration)

Indexes: Elected Officials, Employees Retirement System, Fire & Police Retirement Systems, Revisions

Code sections:

Attachments: 1. 12-0088 - 1st Reader.pdf, 2. F & P Retirement System - 12-0088.pdf, 3. F & P Retirement System (Actuarial letter) - 12-0088.pdf, 4. Finance - 12-0088.pdf, 5. ERS - 12-0088.pdf, 6. Law - 12-0088.pdf, 7. Labor Commissioner - 12-0088.pdf, 8. 12-0088 - 3rd Reader.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|--|--|--------|
| 6/26/2012 | 0 | Mayor | Signed by Mayor | |
| 6/25/2012 | 0 | Taxation, Finance and Economic Development Committee | Recommended Favorably | |
| 6/25/2012 | 0 | City Council | Advanced to 3rd Rdr., Adopted Comm. Report | |
| 6/25/2012 | 0 | City Council | Approved and Sent to the Mayor | |
| 6/18/2012 | 0 | Taxation, Finance and Economic Development Committee | Scheduled for a Public Hearing | |
| 6/7/2012 | 0 | The City Council | Referred for a Report | |
| 6/7/2012 | 0 | The City Council | Referred for a Report | |
| 6/7/2012 | 0 | The City Council | Referred for a Report | |
| 6/7/2012 | 0 | The City Council | Referred for a Report | |

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| 6/7/2012 | 0 | The City Council | Referred for a Report |
| 6/4/2012 | 0 | City Council | Assigned |
| 6/4/2012 | 0 | City Council | Introduced |

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Retirement Systems)

A BILL ENTITLED

AN ORDINANCE concerning
Employees', Elected Officials', and Fire and Police Employees' Retirement Systems - Technical Revisions

FOR the purpose of providing that the Employees', Elected Officials', and Fire and Police Employees' Retirement Systems need comply only with a "reasonable good faith interpretation" of Internal Revenue Code § 401(a)(9); expanding the vehicles into which eligible distributions from these Systems can be rolled over, to include qualified defined benefit plans, § 403(b) tax-deferred annuity plans, certain § 457(b) plans, and Roth IRAs; permitting non-spouse beneficiaries of Systems members to make rollovers; removing a restriction on rollovers by surviving spouses of members of the Employees' and Elected Officials' Systems; clarifying the availability of the non-line-of-duty death benefit for members of the Fire and Police Employees' System who are on military service; applying cost-of-living adjustments to increase the \$160,000 limit on annual Fire and Police Employees' Retirement System benefits under § 415 of the Internal Revenue Code and applying those cost-of-living adjustments to retired members of the Fire and Police Employees' Retirement System; conforming certain provisions to the Internal Revenue Code; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the Employees', Elected Officials', and Fire and Police Employees' Retirement Systems of the City of Baltimore.

BY repealing and reordaining, with amendments
Article 22 - Retirement Systems
Section(s) 9(r) and (t)(1), 22(m) and (o)(1), and
34(h)(1), (t), (u)(1), (u)(3), and (w)(1)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 22. Retirement Systems

Subtitle - Employees' Retirement System

§ 9. Class C membership.

(r) Compliance with Internal Revenue Code § 401(a)(9).

(1) Distributions under this subtitle shall be made in accordance with [the regulations adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue Code § 401(a)(9), as applicable to this [system] SYSTEM [, including Regulation § 1.401(a)(9)2], which regulations override any distribution options in this subtitle to the extent of any inconsistency]. This subsection is intended to comply with [the requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue Code § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY not be interpreted to impose any requirements on this [system] SYSTEM or on any member or beneficiary OF THIS SYSTEM beyond those required to comply with A REASONABLE GOOD FAITH INTERPRETATION OF § 401(a)(9). This subsection only specifies the latest permissible time by which distributions must begin and the longest permissible period over which distributions may be made, and in no way precludes any earlier commencement or more rapid distribution provided for in this subtitle.

(2) Distribution of a member's retirement benefit shall begin no later than the April 1 following the calendar year during which the member both has reached age 70½ and has terminated employment with the City. Distribution shall be made over a period not extending beyond the life of the member or the joint lives of the member and his or her beneficiary.

(3) If a member dies before distribution of his or her retirement benefit begins, the member's entire benefit shall be distributed within 5 years after death. This requirement is deemed satisfied by any distribution of the member's benefit payable to his or her DESIGNATED beneficiary over a period not extending beyond the life or life expectancy of the beneficiary, as long as those distributions begin no later than December 31 of the calendar year following the calendar year of the member's death. However, if the DESIGNATED beneficiary is the member's surviving spouse, the date on which the distributions are required to begin is December 31 of the calendar year in which the member would have attained age 70½. This paragraph (3) does not apply if distribution of the member's benefit began before his or her death and the remaining portion of the member's benefit is distributed at least as rapidly as under the method of distribution being used at the date of the member's death. Any amount paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

(t) Eligible rollover distribution.

(1) Definitions.

(A) In this subsection, the following terms have the meanings indicated:

(B) (i) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee.

(ii) "Eligible rollover distribution" does not include:

1. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

2. any distribution to the extent that it is required under Internal Revenue Code § 401(a)(9); and
3. the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(III) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN "ELIGIBLE ROLLOVER DISTRIBUTION" MERELY BECAUSE THE PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B);

II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR

III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS), INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

(C) [(i)] "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(I) [1.] an individual retirement account described in Internal Revenue Code § 408(a);

(II) [2.] an individual retirement annuity described in Internal Revenue Code § 408(b);

(III) [3.] an annuity plan described in Internal Revenue Code § 403(a); [or]

(IV) [4.] a qualified trust described in Internal Revenue Code § 401(a);

(V) AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B);

(VI) AN ELIGIBLE PLAN DESCRIBED IN INTERNAL REVENUE CODE § 457(B), IF IT IS MAINTAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND IT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO THAT PLAN FROM THIS SYSTEM; OR

(VII) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

[(ii)] However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an

individual retirement account or individual retirement annuity.]

(D) (i) "Distributee" means an employee or former employee.

(ii) In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code § 414(p), are "distributees" with regard to the interest of the spouse or former spouse.

(III) EFFECTIVE JULY 1, 2010, A "DISTRIBUTE" ALSO INCLUDES THE EMPLOYEE'S OR FORMER EMPLOYEE'S NONSPOUSE DESIGNATED BENEFICIARY. IN THE CASE OF A NONSPOUSE BENEFICIARY, THE DIRECT ROLLOVER MAY BE MADE ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B) ("IRA") THAT IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED IRA UNDER § 402(C)(11).

(E) "Direct rollover" means a payment under this subtitle to the eligible retirement plan specified by the distributee.

Subtitle - Elected Officials' Retirement System

§ 22. Benefits.

(m) Compliance with Internal Revenue Code § 401(a)(9).

(1) Distributions under this subtitle shall be made in accordance with [the regulations adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue Code § 401(a)(9), as applicable to this [system] SYSTEM[, including Regulation § 1.401(a)(9)2], which regulations override any distribution options in this subtitle to the extent of any inconsistency]. This subsection is intended to comply with [the requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue Code § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY not be interpreted to impose any requirements on this [system] SYSTEM or on any member or beneficiary OF THIS SYSTEM beyond those required to comply with A REASONABLE GOOD FAITH INTERPRETATION OF § 401(a)(9). This subsection only specifies the latest permissible time by which distributions must begin and the longest permissible period over which distributions may be made, and in no way precludes any earlier commencement or more rapid distribution provided for in this subtitle.

(2) Distribution of a member's retirement benefit shall begin no later than the April 1 following the calendar year during which the member both has reached age 70½ and has terminated employment with the City. Distribution shall be made over a period not extending beyond the life of the member or the joint lives of the member and his or her beneficiary.

(3) If a member dies before distribution of his or her retirement benefit begins, the member's entire benefit shall be distributed within 5 years after death. This requirement is deemed satisfied by any distribution of the member's benefit payable to his or her DESIGNATED beneficiary over a period not extending beyond the life or life expectancy of the beneficiary, as long as those distributions begin no later than December 31 of the calendar year following the calendar year of the member's death. However, if the DESIGNATED beneficiary is the member's surviving spouse, the date on which the distributions are required to begin is December 31 of the calendar year in which the member would have attained age 70½. This paragraph (3) does not apply if distribution of the member's benefit began before his or her death and the remaining portion of the member's benefit is distributed at least as rapidly as under the method of distribution being used at the date of the member's death. Any amount paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

(o) Eligible rollover distribution.

(1) Definitions.

(i) In this subsection, the following terms have the meanings indicated:

(ii)(A) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee.

(B) "Eligible rollover distribution" does not include:

1. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;
2. any distribution to the extent that it is required under Internal Revenue Code § 401(a)(9); and
3. the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(C) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN "ELIGIBLE ROLLOVER DISTRIBUTION" MERELY BECAUSE THE PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B);

II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR

III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS), INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

(iii) [(A)] "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) [1.] an individual retirement account described in Internal Revenue Code § 408(a);

(B) [2.] an individual retirement annuity described in Internal Revenue Code § 408(b);

(C) [3.] an annuity plan described in Internal Revenue Code § 403(a); [or]

(D) [4.] a qualified trust described in Internal Revenue Code § 401(a);

(E) AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B);

(F) AN ELIGIBLE PLAN DESCRIBED IN INTERNAL REVENUE CODE § 457(B), IF IT IS MAINTAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND IT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO THAT PLAN FROM THIS SYSTEM; OR

(G) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

[(B) However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.]

(iv) (A) "Distributee" means an employee or former employee.

(B) In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code § 414(p), are "distributees" with regard to the interest of the spouse or former spouse. EFFECTIVE JULY 1, 2010, A "DISTRIBUTE" ALSO INCLUDES THE EMPLOYEE'S OR FORMER EMPLOYEE'S NONSPOUSE DESIGNATED BENEFICIARY. IN THE CASE OF A NONSPOUSE BENEFICIARY, THE DIRECT ROLLOVER MAY BE MADE ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B) ("IRA") THAT IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED IRA UNDER § 402(C)(11).

(v) "Direct rollover" means a payment under this subtitle to the eligible retirement plan specified by the distributee.

Subtitle - Fire and Police Employees' Retirement System

§ 34. Benefits.

(h) Nonlineofduy death benefit.

(1) Scope of subsection.

This subsection (h) applies to a member who dies while [actively employed] IN EMPLOYMENT STATUS (INCLUDING A MEMBER WHO DIES WHILE PERFORMING "QUALIFIED MILITARY SERVICE", AS DEFINED IN INTERNAL REVENUE CODE § 414(U)), but whose death does not qualify under subsection (i) as a lineofduy death.

(t) Compliance with Internal Revenue Code § 415.

(1) Notwithstanding any other provision of this subtitle, no benefits are provided under this subtitle to the extent that they exceed the limitations applicable to governmental plans covering Police and Fire Department employees in

Internal Revenue Code § 415 and the regulations adopted under it.

(2) THE \$160,000 DOLLAR LIMITATION UNDER INTERNAL REVENUE CODE § 415(B)(1)(A) SHALL BE AUTOMATICALLY ADJUSTED UNDER § 415(D), EFFECTIVE JANUARY 1 OF EACH YEAR AND AS PUBLISHED IN THE INTERNAL REVENUE BULLETIN. AUTOMATIC ADJUSTMENTS UNDER § 415(D) THAT BECOME EFFECTIVE AFTER A MEMBER HAS TERMINATED EMPLOYMENT WITH THE CITY SHALL APPLY WITH RESPECT TO THAT MEMBER'S BENEFIT.

(u) Compliance with Internal Revenue Code § 401(a)(9).

(1) Distributions under this subtitle shall be made in accordance with [the regulations adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue Code § 401(a)(9), as applicable to this [system] SYSTEM[, including Regulation § 1.401(a)(9)2], which regulations override any distribution options in this subtitle to the extent of any inconsistency]. This subsection is intended to comply with [the requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue Code § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY not be interpreted to impose any requirements on this [system] SYSTEM or on any member or beneficiary OF THIS SYSTEM beyond those required to comply with A REASONABLE GOOD FAITH INTERPRETATION of § 401(a)(9). This subsection only specifies the latest permissible time by which distributions must begin and the longest permissible period over which distributions may be made, and in no way precludes any earlier commencement or more rapid distribution provided for in this subtitle.

(3) If a member dies before distribution of his or her retirement benefit begins, the member's entire benefit shall be distributed within 5 years after death. This requirement is deemed satisfied by any distribution of the member's benefit payable to his or her DESIGNATED beneficiary over a period not extending beyond the life or life expectancy of the beneficiary, as long as those distributions begin no later than December 31 of the calendar year following the calendar year of the member's death. However, if the DESIGNATED beneficiary is the member's surviving spouse, the date on which the distributions are required to begin is December 31 of the calendar year in which the member would have attained age 70½. This paragraph (3) does not apply if distribution of the member's benefit began before his or her death and the remaining portion of the member's benefit is distributed at least as rapidly as under the method of distribution being used at the date of the member's death. Any amount paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

(w) Eligible rollover distribution.

(1) Definitions.

(A) In this subsection, the following terms have the meanings indicated:

(B) (i) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee.

(ii) "Eligible rollover distribution" does not include:

1. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

2. any distribution to the extent that it is required under Internal Revenue Code § 401(a)(9); and

3. the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(III) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN "ELIGIBLE ROLLOVER DISTRIBUTION" MERELY BECAUSE THE PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B);

II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR

III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS), INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

(C) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(i) an individual retirement account described in Internal Revenue Code § 408(a);

(ii) an individual retirement annuity described in Internal Revenue Code § 408(b);

(iii) an annuity plan described in Internal Revenue Code § 403(a);

(iv) a qualified trust described in Internal Revenue Code § 401(a);

(v) an eligible deferred compensation plan described in Internal Revenue Code § 457(b), [that] IF IT is maintained by a state, a political subdivision of a state, or an agency or instrumentality of either; [or]

(vi) an annuity contract described in Internal Revenue Code § 403(b); OR

(VII) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

(D) (i) "Distributee" means an employee or former employee.

(ii) In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code § 414(p), are "distributees" with regard to the interest of the spouse or former spouse.

(iii) EFFECTIVE JULY 1, 2010, A "DISTRIBUTE" ALSO INCLUDES THE EMPLOYEE'S OR FORMER EMPLOYEE'S NONSPOUSE DESIGNATED BENEFICIARY. IN THE CASE OF A NONSPOUSE BENEFICIARY, THE DIRECT ROLLOVER MAY BE MADE ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B) ("IRA") THAT IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED IRA UNDER § 402(C)(11).

(E) "Direct rollover" means a payment under this subtitle to the eligible retirement plan specified by the distributee.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

dlr12-276,~intro/30May12
art22/ERS,EOS,F&P Modifications/aa:me

dlr12-276,~intro/30May12
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art22/ERS,EOS,F&P Modifications/aa:me