



Special Tax Notice Regarding Your Rollover Options For Distributions From a Retirement System

Form Last Revised: February, 2020

You are receiving this notice because all or a portion of a payment you are receiving from the (insert name of Retirement System) Berkshire County Retirement System is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover. ***If you are receiving this electronically, you may request a paper copy of this notice from the plan administrator at no charge to you.***

Rules that apply to most payments from a Retirement System are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

General Information About Rollovers

How Can a Rollover Affect My Taxes?

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

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

You may only do a rollover to a SIMPLE IRA if the account has been established for at least two years. The two-year period begins on the first day on which the employer deposits contributions in the SIMPLE IRA.

If you do a rollover to a Roth IRA, you will be taxed on the amount rolled over (reduced by any after-tax amount). However, if you are under age 59½ at the time of the rollover, the 10% additional income tax will not apply. See the section below titled "If You Roll Over Your Payment To a Roth IRA" for more details.

Where May I Roll Over the Payment?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified section 401(a) plan, section 403(b) plan, or governmental section 457(b) deferred compensation plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment of the rolled over amount in the future. Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

How Do I Do a Rollover?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Retirement System will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, the Retirement System is required to withhold 20% of the payment for federal income taxes. If you do not do a direct rollover, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. This means that, in order to roll over the entire payment in a 60-day rollover, you must use other

funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59 ½ (unless an exception applies).

How Much May I Roll Over?

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Retirement System is eligible for rollover, except:

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

The Retirement System administrator or the payor can tell you what portion of a payment is eligible for rollover.

If any portion of your payment is taxable but cannot be rolled over, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, an amount will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask the Retirement System administrator for the election form and related information.

If I Don't Do a Rollover, Will I Have To Pay the 10% Additional Income Tax On Early Distributions?

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Retirement System (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from the Retirement System:

- Payments made after you separate from service if you will be at least age 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 from a governmental defined benefit pension plan made after you separate from service if you are a public safety employee and you are at least age 50 in the year of the separation
- Payments made due to disability
- Payments after your death
- Corrective distributions of contributions that exceed tax law limitations
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under a qualified domestic relations order (QDRO) to an alternate payee who is a spouse or former spouse, child, or dependent of the member
- Payments up to the amount of your deductible medical expenses

If I Do a Rollover To An IRA, Will the 10% Additional Income Tax Apply To Early Distributions From the IRA?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for qualified domestic relations orders (QDROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

Will I Owe State Income Taxes?

This notice does not describe any State or local income tax rules (including withholding rules). For individual advice or any questions regarding state and local tax rules, you are encouraged to consult your personal tax professional.

Special Rules and Options**If Your Payment Includes After-Tax Contributions**

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is included in the payment, so you cannot take a payment of only after-tax contributions. However, if you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in a payment. In addition, special rules apply when you do a rollover, as described below.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the Retirement System and at the same time the rest is paid to you, the portion directly rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions. In this case, if you directly roll over \$10,000 to an IRA that is not a Roth IRA, no amount is taxable because the \$2,000 amount not directly rolled over is treated as being after-tax contributions. If you do a direct rollover of the entire amount paid from the Plan to two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over \$10,000 to an IRA that is not a Roth IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If You Miss the 60-Day Rollover Deadline

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see *IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs)*.

If You Were Born On or Before January 1, 1936

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see *IRS Publication 575, Pension and Annuity Income*.

If You Roll Over Your Payment to a Roth IRA

If you roll over a payment from the Retirement System 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).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the 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-A, Contributions to Individual Retirement Arrangements (IRAs)*, and *IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs)*. You should consult your tax advisor if you are interested in rolling over your distribution to a Roth IRA.

If You are an Eligible Retired Public Safety Officer and Your Pension Payment is Used to Pay for Health Coverage or Qualified Long-Term Care Insurance.

If you retired as a public safety officer and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of \$3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

The Form 1099-R that you receive from the Retirement System administrator will report the deducted insurance premium as taxable. If you want to take advantage of this \$3,000 exclusion, you must report the amount claimed on Form 1040. The instructions to Form 1040 explain that the taxable amount received from the Retirement System, reduced by the amount of qualified premiums deducted and paid by the Retirement System (not to exceed \$3,000), must be entered on line 16b of the Form 1040. Next to the entry, in the margin, you must write the letters "PSO." This is an annual election—you will need to report the exclusion for each year in which you want to claim the exclusion.

If You Are Not a Retirement System Member

Payments after death of the member. If you receive a distribution after the member's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If You Were Born On or Before January 1, 1936" applies only if the member was born on or before January 1, 1936.

If You Are a Surviving Spouse¹

If you receive a payment from the Retirement System as the surviving spouse of a deceased member, you have the same rollover options that the member would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the member had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the member had not started taking required minimum distributions from the Retirement System, you will not have to start receiving required minimum distributions from the inherited IRA until the year the member would have been age 70½.

If You Are a Surviving Beneficiary Other Than a Spouse¹

If you receive a payment from the Retirement System because of the member's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. If you do not do a direct rollover to an inherited IRA, the Retirement System must withhold 20% of the payment for federal income tax. 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 spouse¹ of the member who receives a payment from the Retirement System under a qualified domestic relations order (QDRO), you generally have the same options the member would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). If you are an alternate payee other than the spouse or former spouse of the member and the member has died, you generally have the same options as a surviving beneficiary other than the spouse, so that the only rollover option you have is to do a direct rollover to an inherited IRA. Payments under the QDRO will not be subject to the 10% additional income tax on early distributions if you are the spouse or former spouse, child, or dependent of the member.

¹ A spouse is an individual recognized under a marriage validly entered into in any state or foreign jurisdiction.

If You Are a Nonresident Alien

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Retirement System is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also *IRS Publication 519, U.S. Tax Guide for Aliens*, and *IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other Special Rules

If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than \$200, the Retirement System is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.

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

Notice Period

Generally, payment cannot be made from the Retirement System until at least 30 days after you receive this notice. Thus, you have at least 30 days to consider whether or not to have your payment rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your payment will then be processed in accordance with your election as soon as practical after it is received by the Retirement System administrator.

For More Information

You may wish to consult with the Retirement System administrator or payor, or a professional tax advisor, before taking a payment from the Retirement System. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: *IRS Publication 575, Pension and Annuity Income*, and *IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs)*, *IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs)*, and *IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.