ROTH ROLLOVERS WITHIN YOUR NYSDCP ACCOUNT

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New York State
Deferred Compensation Plan
A Plan for Your Future

The Plan allows Roth designated contributions and In-Plan Roth Rollovers. This brochure is intended to provide general education and should not be considered tax advice. It is very important that any participant consult with their tax advisors prior to requesting an In-Plan Roth Rollover.

CAN I CONVERT MY NYSDCP PRE-TAX ASSETS TO A ROTH?

Thanks to a law enacted in 2010, and expanded in 2012, participants may convert their Plan Pre-Tax assets to Roth (after-tax) assets without having to take an actual distribution from the Plan. This is known as an *In-Plan Roth Rollover*.

The amount of the In-Plan Roth Rollover is subject to ordinary income taxes in the year of the rollover. It is very important that anyone contemplating this transaction fully understand the impact this will have on their income taxes including estimated tax payments. Under federal law, once a rollover is processed, it is irrevocable and cannot be reversed.

Amounts rolled over grow tax-deferred like other types of contributions to the Plan. When a distribution is "Qualified", it is not subject to federal or New York State income taxes. These tax-free distributions make the Roth feature attractive.

WHO IS ELIGIBLE FOR AN IN-PLAN ROTH ROLLOVER?

Only a participant, beneficiary who is a surviving spouse or spousal alternate payee are eligible.

WHAT IS AND IS NOT ELIGIBLE FOR AN IN-PLAN ROTH ROLLOVER?

Pre-tax account balances, not including outstanding loans and balances in the Self Directed Investment Account through Schwab, are eligible for an In Plan Roth Rollover. Beginning January 1, 2013, the restriction that only amounts that are eligible for current actual distribution may be converted no longer applies. Distributions that are Required Minimum Distributions (RMD). Unforeseeable Emergency Withdrawals and distributions over 10 years or more or corrective distributions are not eligible.

HOW ARE IN-PLAN ROTH ROLLOVERS SHOWN IN MY ACCOUNT?

The amounts designated as In-Plan Roth rollover are held in a separate subaccount within your Plan account, as required by law. Although separately held, they will be included in your Quarterly statement and in all the summaries and totals.

ARE THERE ANY PLAN FEES RELATED TO A IN-PLAN ROTH ROLLOVER ACCOUNT?

There are no additional Plan fees related to the creation of the Roth rollover subaccount.

HOW MUCH CAN I ROLLOVER?

Full and partial In-Plan Roth Rollovers are allowed. Your investment allocations remain the same when an amount is rolled over. Once the rollover is processed, existing balances may be exchanged among available Plan investment options. The rollover can be a direct rollover or an indirect rollover. With a direct rollover, funds are not actually distributed but are moved to the rollover account internally. An indirect rollover is also possible when funds are distributed but rolled back into the Plan within 60 days of receipt. The indirect rollover may not be the preferred method since the Plan is required to withhold 20% for federal income taxes on the distribution when paid to the participant.

WHAT IS A QUALIFIED DISTRIBUTION?

A Qualified distribution must meet two requirements. The first is that a Roth contribution or In-Plan Roth Rollover must have been made at least five tax-years ago. Rollovers from other plans that offer a Roth feature may count towards the five year requirement in your designated Roth account. The period starts at the beginning of the year the first contribution or In-Plan Roth Rollover was made and is met on the fifth anniversary of that date. For example, a participant made his or her first Roth designated contribution or rollover on July 25, 2012. The first tax-year would start on January 1, 2012. The five year requirement would be met on January 1, 2017. The second requirement is that the distribution must be made after attainment of age 59½, death or disability. If the distribution is made under **both** of these conditions, it is Qualified and therefore tax-free.

Note: The designated Roth account and an In-Plan Roth Rollover account have independent 5 year requirements.

IF A DISTRIBUTION IS NOT QUALIFIED, HOW IS IT TAXED?

The portion attributed to Roth contributions and rollovers is not subject to income tax since it was already taxed when it was made. The growth portion of a distribution would be taxable on a pro-rata basis. For example, if 25% of the Roth rollover account value was due to growth, 25% of any distribution would be considered taxable.

WHAT IS THE SPECIAL RECAPTURE TAX?

If the source of funds used for an In-Plan Roth Rollover is from a pre-tax Rollover from another retirement plan that was not a section 457(b) plan, a 10% Special Recapture Tax may apply if distributions are made from the In-Plan Roth Rollover Account before age 59½ or the end of the fifth tax year after it was processed. This tax may apply even if the distribution would be Qualified for other purposes. This tax will not apply if the distribution is made after age 59½ or due to death or disability. If more than one conversion is done in different tax years, each conversion will have its own five year requirement.

WHO IS THE BENEFICIARY OF MY IN-PLAN ROLLOVER ACCOUNT?

The beneficiary designation on file also applies to the In-Plan Roth Rollover subaccount. Separate designations are not allowed under the Plan. Distributions to beneficiaries retain the same income tax treatment as if the participant had received the distribution. The five year holding requirement applies for a distribution to be considered Qualified even in the case of death.

CAN I ROLL OVER MY IN-PLAN ROTH ROLLOVER ACCOUNT TO ANOTHER PLAN?

If a distribution qualifies as an eligible rollover distribution, you may be able to roll Roth designated and In-Plan Roth Rollover funds to another employer plan that offers a Roth program, or to a Roth IRA. See "What is NOT eligible for an In-Plan Roth Rollover?"

If the distribution does not meet the conditions to be Qualified, the distributing plan will supply the amount that would be taxable if not rolled over, the age of the participant and the year of the first Roth deferral or rollover. This allows the successor plan to use any years already earned toward meeting the five year holding period. Qualified distributions would be rolled over and recorded as tax-free basis in the new plan. *Indirect rollovers* occur when the participant takes possession of the distribution instead of a *direct transfer*. This method is generally not advantageous since the only amount that can be rolled over would be the portion subject to income tax if not rolled over and the participant would not get credit for any years of participation under the previous plan. Indirect rollovers are also subject to mandatory federal withholding taxes.

If the rollover is made to Roth IRA accounts, the required five year holding period to be Qualified starts in the tax year the rollover is made regardless of the number of years of participation under the distributing plan. However, if the taxpayer had previously established any Roth IRA accounts, including the account receiving the rollover, the year the Roth IRA account was established would be used as the first tax year for determination of Qualified distributions. Once again, a direct rollover would be the preferred approach.

COMPARISON OF PRE-TAX VS. IN-PLAN ROTH ROLLOVER ASSETS

The primary advantage of the In-Plan Roth Rollover is the potential for tax-free distributions. Even in retirement, income taxes can be significant since pensions, Social Security and other types of income are likely to be subject to federal income taxation. In some cases, it may make sense to pay taxes on a lump sum in a single year or over multiple years to avoid taxes on a series of future distributions.

The primary disadvantage of a Roth rollover it is subject to taxes on the amount rolled over in the year of rollover. Many deductions, credits and exemptions are reduced based on your level of taxable income. A large rollover could trigger enough taxable income to push you into higher tax bracket. The taxpayer would need to have funds available to pay the taxes due including estimated tax payments. Although keeping amounts in the pre-tax portion of the account may result in taxes being paid in the future, planning may be used to limit the impact of those taxes. Distributions are not required until the participant attains age 70½ allowing for extended tax deferral. Timing distributions over a period of time may limit the exposure to higher tax brackets.

COMPARISON OF IN-PLAN ROTH ROLLOVER VS. ROTH IRA ROLLOVERS

Distributions from the Plan are not generally subject to an additional 10% early distribution tax whereas taxable distributions from a Roth IRA may be subject to the 10% additional tax. Roth IRA conversions may also have more stringent rules regarding additional taxes on early distributions of converted amounts, even if not subject to income taxes, prior to age 59½ or the fifth tax year. The Plan also provides low-cost core investment options and low administrative fees compared to many IRA products.

A conversion to a Roth IRA can be re-characterized by the taxpayer's tax return fling deadline, plus extensions, whereas an In-Plan Roth Rollover is irrevocable. Distributions from the Plan that are not Qualified are taxed on a less favorable pro-rated basis. Non-Qualifed distributions from Roth IRAs are received from tax-free basis first.

Roth IRA distributions used for qualified first time homebuyer expenses up to $10,000 may be Qualified. In-Plan Roth Rollover balances are subject to lifetime RMD rules whereas Roth IRAs are not. A participant could choose to hold Roth rollover assets in the Plan and rollover to a Roth IRA prior to age 70½ to avoid this potential disadvantage.

Roth IRA investment options can be very broad and are not limited to the Plan's investment options. However, the Plan offers numerous low-cost investment options.