

# FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ("FCERA")

## IMPORTANT INSTRUCTIONS REGARDING REFUNDS OF RETIREMENT CONTRIBUTIONS

When you terminate your employment from Fresno County or a Special District that participates in FCERA, you must decide what you wish to do with your accumulated contributions in the Fresno County Employees' Retirement Association (FCERA). You may either receive a distribution of your contributions to FCERA or leave them on deposit with FCERA.<sup>1</sup> You should carefully consider all of your options. You should consider obtaining advice from a qualified financial planner or tax professional before making a decision. Only then should you select your option.

**IMPORTANT NOTICE: By requesting a withdrawal of your retirement contributions, you will forfeit all rights to future benefits from FCERA.** These benefits are listed in Section II entitled "Leaving Contributions on Deposit." However, if you return to employment and that employment entitles you to membership with FCERA, you may redeposit your withdrawn contributions, subject to certain requirements, and may regain your rights in FCERA.

### I. WITHDRAWAL OF YOUR CONTRIBUTIONS

If you terminate employment with the County of Fresno or a participating Special District, you can withdraw your accumulated retirement contributions and interest. However, as noted above, once you withdraw your contributions, your membership in FCERA is terminated and **you will forfeit your rights to all other benefits from FCERA**, including disability retirement benefits. If you return to employment and that employment entitles you to membership with FCERA, you may redeposit your withdrawn contributions plus interest prior to filing an application for retirement and may regain your rights in FCERA.

If you withdraw your accumulated contributions and interest, you have three options described below. Please see the notice entitled "Special Tax Notice Regarding Refunds of Retirement Contributions" for more detailed information on these options. This notice is available from the Retirement office if you have not already received it.

#### A. DIRECT PAYMENT TO YOU

You may choose to have FCERA disburse your contributions directly to you. However, FCERA must withhold federal income taxes in the amount of 20% and will also withhold state income tax unless you elect no state income tax withholding. In addition, you may be subject to a 10% early withdrawal federal

---

<sup>1</sup> Please note that you may be entitled to an immediate service retirement or disability retirement. This notice does not discuss these options. Please contact the Retirement Office for more information on service retirement and disability retirement.

tax penalty and a 2 1/2% early withdrawal state tax penalty for California residents (other states may impose a similar penalty) when you file your federal and state income tax returns. You should ask your tax advisor about this penalty. After you receive your withdrawal, you will have 60 days to rollover the funds to a traditional IRA or other qualified tax-deferred account to avoid the early withdrawal penalty and to avoid current income tax. However, because of tax withholding, the amount that you receive will not equal the full amount that must be rolled over to avoid these taxes. Therefore if you want to avoid all of these taxes by using a rollover you must find the additional funds from another source.

## **B. DIRECT ROLLOVER**

Upon your request, FCERA will pay the eligible funds directly to a traditional IRA that you choose or to the eligible retirement plan of your new employer, or effective January 1, 2008, if you are eligible, to a Roth IRA. By electing this option you will not have any taxes withheld and will not be subject to an early tax withdrawal penalty.

If you made member retirement contributions prior to July 1, 1985, those member contributions (but not earnings) were made on an after-tax basis. This means that the distribution of pre-July 1, 1985 member contributions (but not earnings) are not taxable upon distribution. You may elect different rollover options for your pre- and post-tax member contributions.

## **C. PART DIRECT PAYMENT AND PART DIRECT ROLLOVER**

You may have part of your contributions distributed directly to you under subsection A above and part contributed to an IRA or other retirement plan in a direct rollover under subsection B above. Any part that is paid directly to you will be subject to the income tax consequences described in paragraph A above.

## **II. LEAVING CONTRIBUTIONS ON DEPOSIT**

If you terminate employment with the County of Fresno or a participating Special District, you may elect to leave your accumulated retirement contributions and interest on deposit with FCERA, regardless of your years of service. However, you cannot receive an FCERA pension in the future unless you meet minimum eligibility requirements. If you leave your contributions on deposit, and you are or become eligible for benefits from FCERA, you may be eligible to receive the benefit of any future plan improvements.

Your funds will continue to earn interest while on deposit. Interest will be credited to your account at the same rate as it is credited to all other member accounts on deposit with FCERA.

If you elect to leave your retirement contributions on deposit with FCERA, the following options may be available to you:

## **A. DEFERRED RETIREMENT**

You may choose deferred retirement status if you terminate employment with a minimum of five (5) years of retirement service credit.<sup>2</sup> You must leave your accumulated contributions and interest on deposit with FCERA and make an election to take a deferred retirement. You may elect at any time before your effective date of retirement to rescind this election (unless you are employed by Fresno County, a participating Special District or a reciprocal agency) and withdraw all contributions and interest. If you die before receiving a retirement allowance, your accumulated contributions and interest will be paid to your designated beneficiary or estate.

Your funds will continue to earn interest while on deposit. Interest will be credited to your account at the same rate as it is credited to all other member accounts on deposit with the FCERA.

Deferred members may receive a retirement allowance upon the election of the member at any time at which they could have retired had they remained employed by Fresno County or a participating Special District. The actual retirement allowance does not automatically begin when the deferred member reaches the minimum age and years of service criteria for receiving a retirement allowance. A member on deferred retirement status must apply to the FCERA office sixty days prior to the desired retirement date in order to begin receiving timely payment of benefits.

## **B. RECIPROCAL RETIREMENT BENEFITS**

Reciprocal retirement benefits are available to all members of FCERA, regardless of years of service, who terminate employment from Fresno County or a participating Special District and establish membership with a California reciprocal retirement system, subject to certain conditions. These benefits are contingent upon the following:

1. You must establish membership in the participating retirement system of an eligible public agency within six months after leaving Fresno County or a participating Special District service, and
2. You must leave your contributions and interest on deposit with FCERA and inform FCERA in writing of the name of the county or other public agency in which you will be or are employed within six months after leaving Fresno County or participating Special District service.

The advantages of electing deferred retirement with reciprocity include the following:

---

<sup>2</sup> See Section B regarding service credit under reciprocity.

1. In the new system, your age for contribution purposes will be the same as when you entered FCERA.
2. Service credited under FCERA will count toward establishing your eligibility for benefits in both systems.
3. Upon death or retirement for service or disability (provided you retire simultaneously under all reciprocal systems), the final compensation used to determine your benefits from all systems will be the highest that you earned under any one system.
4. The contributions, which you have elected to leave on deposit in FCERA, may not be withdrawn while you remain employed by any agency which is covered by the 1937 Retirement Law, the State of California Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), Judges Retirement System or any agency having a reciprocal agreement with PERS.

1937 Retirement Law County Systems to which reciprocity provisions apply:

Alameda	Los Angeles	Orange	San Joaquin	Stanislaus
Contra Costa	Marin	Sacramento	San Mateo	Tulare
Imperial	Mendocino	San Bernardino	Santa Barbara	Ventura
Kern	Merced	San Diego	Sonoma	

Please contact the Retirement office if you would like information regarding reciprocal agreements with any other public agency.

### **C. RETIREMENT FUNDS REMAIN ON DEPOSIT**

You may elect to leave your retirement contributions on deposit with FCERA even if you do not have 5 years of service. You will not be eligible for a service retirement benefit unless you return to service with FCERA or a participating Special District and earn enough service so that the combined total equals or exceeds 5 years or earn sufficient additional service under a reciprocal system. Your election to leave accumulated contributions on deposit with FCERA may be revoked at any time except:

1. While you are employed with Fresno County or a participating Special District;
2. While you are in service (entered within six months after discontinuing service with Fresno County or a participating Special District) as a member of a reciprocal retirement system. A list of reciprocal systems is set out above; or

3. While you are in service as a member of a public retirement system supported, in whole or in part, by state funds.

\*\* \*\* \* \* \* \* \* \*\*

After you have selected your option, please complete the Disposition of Retirement Contributions form and return it to:

**Fresno County Employees' Retirement Association**  
7772 N. Palm Ave.  
Fresno, CA 93711

## **SPECIAL TAX NOTICE REGARDING REFUNDS OF RETIREMENT CONTRIBUTIONS**

This notice contains important information that you will need before you determine whether to take a distribution of the retirement contributions (plus interest) that you made to the Fresno County Employees' Retirement Association ("FCERA"). As required by the Internal Revenue Service (the "IRS"), this notice explains how you can continue to defer federal income tax on your retirement contributions to FCERA and this notice contains important information you will need before you decide whether and how to receive your contributions to FCERA.

This notice is provided to you by FCERA because you may receive a distribution of your contributions to FCERA and all or part of the payment that you will soon receive from FCERA may be eligible for rollover by you or your Plan Administrator to a traditional IRA or an eligible employer plan. Also, beginning in 2008, a rollover can be made directly from FCERA to a Roth IRA in certain circumstances.<sup>1</sup> A rollover is a payment by you or the Plan Administrator of all or part of your contributions to another plan or IRA that allows you to continue to postpone taxation of the contributions until they are 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 (such as FCERA), stock bonus plan, and money purchase plan; a section 403(a) annuity plan; a section 403(b) tax-sheltered annuity; and an eligible section 457(b) 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 contributions 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 FCERA. 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 contact the Retirement office at (559) 457-0681.

---

<sup>1</sup> For distributions made in 2008 and 2009, you will be able to make a direct rollover from FCERA to a Roth IRA if your federal adjusted gross income for the year of the rollover is \$100,000 or less and if you are not a married individual filing a separate federal income tax return. However, as this is a general notice, in all circumstances you should contact your qualified financial planner or tax professional for more detailed information about rolling over your distribution to a Roth IRA, as applicable, a traditional IRA and/or an eligible employer plan.

## SUMMARY

There are two ways you may be able to receive a payment of your contributions to FCERA that is eligible for rollover:

- (1) Certain payments can be made directly<sup>2</sup> to a traditional IRA that you establish, to an eligible employer plan that will accept and hold the payment for your benefit and beginning in 2008, payments may also be made to a Roth IRA in certain circumstances ("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, except for amounts directly rolled over to a Roth IRA, which will be taxed in the year of the rollover.<sup>3</sup> A special rule applies for amounts directly rolled over to a Roth IRA in 2010.
- You choose whether your payment will be made directly to your traditional IRA, to an eligible employer plan that accepts your rollover, or to a Roth IRA, if you are eligible. Your payment cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account.
- The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the eligible employer plan. Amounts directly rolled over to a Roth IRA will be taxed in the year of the rollover. 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 FCERA.

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

- You will receive only 80% of the taxable amount of the payment, because the Plan Administrator is required to withhold 20% of that amount and send it to the IRS as income tax withholding to be credited against your taxes.<sup>4</sup>
- The taxable amount of 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 59 1/2, you may have to pay an additional 10% tax.
- You can roll over all or part of the payment by paying it to your traditional IRA

---

<sup>2</sup> Please note that the payment may be in the form of a check made payable to the IRA or employer plan for your benefit. This check may be given to you to be delivered to the administrator of the IRA or employer plan. Payment in this form is still considered payment directly to the IRA or employer plan and qualifies as a DIRECT ROLLOVER.

<sup>3</sup> The law now permits a rollover from an eligible employer plan into a Roth IRA under certain circumstances.

<sup>4</sup> State taxes may also be withheld on this amount. Please contact the Retirement office for more information.

or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. You cannot have your contributions to FCERA paid to you and then later make a rollover to a Roth IRA. The amount rolled over will not be taxed until you take it out of the traditional IRA or the eligible employer plan.

- If within 60 days from the receipt of the payment, you want to roll over 100% of the payment to a traditional IRA or an eligible employer plan, you must find other money to replace the 20% of the taxable portion 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.

*Your Right to Waive the 30-Day Notice Period.* Generally, neither a DIRECT ROLLOVER nor a payment can be made from FCERA 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 to receive a distribution of your contributions and whether to have your 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 withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Retirement office.

## **MORE INFORMATION**

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

A refund of your retirement contributions from FCERA may be an “eligible rollover distribution.” This means that the refund can be rolled over to a traditional IRA, to an eligible employer plan that accepts rollovers and in certain circumstances after January 1, 2008, to a Roth IRA. Payments from FCERA cannot be rolled over to a SIMPLE IRA or a Coverdell Education Savings Account. The Retirement office should be able to tell you what portion of your payment is an eligible rollover distribution.

*After-tax Contributions.* If you made after-tax contributions to FCERA, these contributions may be rolled into a traditional IRA, to certain employer plans that accept rollovers of after-tax contributions and in certain circumstances after January 1, 2008, to a Roth IRA. After-tax contributions are generally contributions you made from your own pay that were already taxed. All contributions made to FCERA before July 1, 1985 were after-tax contributions (but interest accrued on these amounts is not after-tax because you have not paid tax on it yet). The following rules apply:

- a) Rollover into a Traditional IRA or to a Roth IRA.

You can roll over your after-tax contributions to a traditional IRA either directly or indirectly. The Retirement office may be able to tell you how much of your payment is taxable and how much of the payment is the after-tax portion, however the ultimate responsibility for this determination lies with you. Please consult your tax advisor for assistance.

Beginning January 1, 2008, you may directly rollover the after-tax contributions to a Roth IRA.

If you roll over after-tax contributions to a traditional IRA, it is your responsibility to keep track of, and report to the IRS on the applicable forms, the amount of these after-tax contributions. This will enable the nontaxable amount of any future distributions from the traditional IRA to be determined.

Once you roll over your after-tax contributions to a traditional IRA or Roth IRA, those amounts CANNOT later be rolled over to an employer plan.

- b) Rollover into an Employer Plan. You can roll over after-tax contributions from FCERA to another such plan using a DIRECT ROLLOVER if the other plan provides separate accounting for amounts rolled over, including separate accounting for the after-tax member contributions and earnings on those contributions. You CANNOT roll over after-tax contributions to a governmental 457 plan. If you want to roll over your after-tax contributions to an employer plan that accepts these rollovers, you cannot have the after-tax contributions paid to you first. You must instruct the Plan Administrator of FCERA to make a direct rollover on your behalf. Also, you cannot first roll over after-tax contributions to a traditional IRA and then roll over that amount into an employer plan.

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 a period measured by your life expectancy), or
- your lifetime and your beneficiary's lifetime (or a period measured by your joint life expectancies), or
- a period of 10 years or more.

*Required Minimum Payments.* Beginning when you reach age 70 1/2 or retire, whichever is later, 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 test, to correct a plan inconsistency or because legal limits on certain contributions were exceeded cannot be rolled over.

The Retirement office should be able to tell you if your payment includes amounts which cannot be rolled over.

## II. DIRECT ROLLOVER

A DIRECT ROLLOVER is a direct payment<sup>5</sup> of the amount of your FCERA contributions to a traditional IRA, an eligible employer plan that will accept such contributions or beginning on January 1, 2008, a Roth IRA. 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 traditional IRA or eligible employer plan. However, you will be taxed on the taxable portion of the payment that is directly rolled over to a Roth IRA in the year that you make the rollover. In addition, no income tax withholding is required for any taxable portion of your FCERA distribution for which you choose a DIRECT ROLLOVER.

*DIRECT ROLLOVER to a Traditional IRA or a Roth IRA.* You can open a traditional IRA to receive the direct rollover. If you choose to have your payment made directly to a traditional IRA or, if you are eligible, to a Roth IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional IRA or to a Roth IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA or, if you are eligible, a Roth IRA to receive the payment. However, in choosing a traditional IRA or a Roth IRA, you may wish to make sure that the traditional IRA or a Roth 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 traditional IRAs and Roth IRAs (including limits on how often you can roll over between IRAs).

*DIRECT ROLLOVER to an Eligible Employer Plan.* If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover your payment to that plan, ask the plan administrator of that plan whether the plan 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 a traditional IRA or, in some circumstances, a Roth 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.

*Change in Tax Treatment Resulting from a DIRECT ROLLOVER.* The tax treatment of any payment from the eligible employer plan, traditional IRA or a Roth IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from FCERA. 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(b) tax-sheltered annuity, a governmental 457 plan, a traditional IRA or a Roth 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 59 1/2" and "Special Tax Treatment if You Were Born before January 1, 1936."

---

<sup>5</sup> See footnote 2.

### 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 a traditional 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, FCERA 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 FCERA 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 FCERA. You must report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year. There will be no income tax withholding if your payments for the year are less than \$200.

*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, 10% will be taken out of this portion of your payment for federal income tax withholding (and an additional amount may be withheld for state income tax withholding). To elect out of withholding, ask the Retirement Office for the election form and related information.

*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 a traditional 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 a traditional 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 traditional 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 traditional 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 a traditional IRA or an eligible employer plan. To do this, you roll over the \$8,000 you received from FCERA, 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 traditional 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 roll over only \$8,000, the \$2,000 you did not roll over is taxed in the year it was withheld (and may be subject to the additional 10% tax described below). 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 Tax If You Are under Age 59 1/2.* If you receive a payment before you reach age 59 1/2 and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra federal tax equal to 10% of the taxable portion of the payment and an additional California tax equal to 2 1/2% of the taxable portion of the payment. The additional 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) 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, or (7) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% federal tax.

*Special Tax Treatment If You Were Born before January 1, 1936.* If you receive a payment from FCERA that can be rolled over under Part I above and you do not roll it over to a traditional IRA or other eligible employer plan that will accept it, 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 FCERA (and certain other similar plans of your employer) that is payable to you *after* you have reached age 59½ or because you have separated from service with your employer. For a payment to be treated as a lump sum distribution, you must have been a participant in FCERA for at least 5 years before the year in which you received the distribution and you must not be entitled to future FCERA benefits. 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 "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 and you were born before January 1, 1936, and if you were a participant in FCERA before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in FCERA taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. You may not elect this special tax treatment if you rolled amounts into FCERA from a 403(b) tax-sheltered annuity contract, a governmental 457 plan, or from an IRA not originally attributable to a qualified employer plan. If you have previously rolled over a distribution from FCERA (or certain other similar plans of the employer), you cannot use this special averaging treatment for later payments from FCERA. If you roll over your payment to a traditional IRA, Roth IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, you will not be able to use special tax treatment for later payments from that IRA, plan, or annuity. Also, if you roll over only a portion of your payment to a traditional IRA, Roth IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, this special tax treatment is not available for the rest of the payment. See IRS Form 4972 for additional information on lump sum distributions and how you elect the special tax treatment.

*Special Treatment of Reservists Called to Active Duty Between September 11, 2001 and December 31, 2007 for More Than 179 Days.* You may be exempt from the 10% penalty for early distributions from FCERA if you were an armed force reservists called to active duty after September 11, 2001 and before December 31, 2007. The 10% penalty will not apply to the member contribution portion of any distribution paid to a reservist if (a) the reservist was called to active duty for more than 179 days or an indefinite period of time and (b) the distribution is made during the period beginning on the date the reservist is called to active duty and ending on the close of the active duty period. Generally, a reservist may re-contribute all or part of the member contributions that were distributed during such period to an IRA within a two-year period beginning on the day after the end of the active duty. Please contact your tax professional for more information.

*Special Treatment of Distributions for Qualified Public Safety Employees.* The 10% early withdrawal penalty tax does not apply to distributions from the FCERA made to qualified public safety officers who separate from service after age 50. A qualified public safety officer is an employee of a state or political subdivision of a state (such as a county or city) whose principal duties include services requiring specialized training in the area of police protection, firefighting services or emergency medical services for any area within the jurisdiction of the state or the political subdivision of the state. In order to receive the exception from the 10% additional tax, you must (1) be a qualified public safety officer, defined above; (2) must have received the distribution from the FCERA and (3) the separation from service must have occurred during or after the calendar year in which you attained age 50. The exception from the 10% early withdrawal penalty does not apply to amounts rolled over into a traditional IRA, a Roth IRA, or eligible employer retirement plan which you subsequently take as an early withdrawal from such IRA or plan. Please contact your tax professional for more information.

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

In general, the rules summarized above that apply to payments to members also apply to payments to surviving spouses of members or former spouses who are “alternate payees.” You are considered an “alternate payee” for purposes of this notice if you are a spouse or former spouse whose interest in FCERA 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 or an alternate payee, you may choose to have a payment that can be rolled over, as described in Part I above, paid in a DIRECT ROLLOVER to a traditional IRA, to an eligible employer plan, paid to you or effective January 1, 2008, paid to a Roth IRA. If you have the payment paid to you, you can keep it or roll it over yourself to a traditional IRA or to an eligible employer plan. Thus, you have the same choices as the member.

If you are not a surviving spouse or an alternate payee, and you are a designated beneficiary in FCERA (other than an estate), you may choose to have a payment that can be rolled over, as described in Part I above, paid in a DIRECT ROLLOVER to a traditional inherited IRA or paid to you. No other forms of distribution are permitted if you are not a surviving spouse or alternate payee. If you elect to transfer the distribution to a traditional IRA, the IRA must be designated as an inherited IRA that identifies you as the participant’s beneficiary. In general, distributions from the inherited IRA must either be paid to you in full within 5 years of the deceased participant’s death or must commence within 12 months of the participant’s death and be paid over your life expectancy.

As explained above, surviving spouses and alternate payees, have the same choices as the member. However, unlike surviving spouses or alternate payees, non-spouse beneficiaries do not have the same choices as the member. If you are a non-spouse or alternate payee beneficiary, you may have the payment paid directly to you from FCERA or directly transferred from FCERA to an inherited traditional IRA that you establish. Because of this difference, the mandatory withholding rules described above in Part IV, which typically apply to payments that are not directly rolled over, do not apply to payments made to non-spouse designated beneficiaries.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is generally not subject to the additional 10% tax described in Part III above, even if you are younger than age 59 1/2.

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 as described in Part III above. If you receive a payment because of the member's death, you may be able to treat the payment as a lump sum distribution if the member met the appropriate age requirements, whether or not the member had 5 years of participation in FCERA.

## **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 consult with the Retirement office or a professional tax advisor before you take a payment of your contributions to FCERA. 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.