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Virginia Retirement System

GUIDELINES AND APPLICATION FOR UNFORESEEABLE EMERGENCY WITHDRAWAL

COMMONWEALTH OF VIRGINIA 457 DEFERRED COMPENSATION PLAN

EMPLOYER PLAN NUMBER:
307042

IMPORTANT: PLEASE READ BEFORE COMPLETING THIS APPLICATION.

INTRODUCTION

The Commonwealth of Virginia's Deferred Compensation Plan (Plan) allows withdrawals in the event of an unforeseeable emergency resulting in a severe financial hardship as defined in section 457 of the Internal Revenue Code (Code), provided that certain conditions are met. The Virginia Retirement System (VRS), the Plan sponsor, recognizes that emergencies do occur and has chosen to allow distributions from the Plan. Distributions from the Plan may be made to participants when a genuine unforeseeable emergency causes a severe financial hardship that cannot be alleviated by any other means available to you. Because your contributions to the Plan are tax deferred and intended for retirement, each Unforeseeable Emergency Withdrawal (UEW) application is carefully reviewed for compliance with the Code to ensure the Plan remains in good standing with the IRS. A withdrawal cannot be considered for approval unless your emergency complies with IRS requirements allowing a distribution. This guide is designed to help you determine if your situation qualifies for an unforeseeable emergency hardship withdrawal from the Plan. Assets in your deferred compensation account may be withdrawn only as a last resort in situations where you have no other source of funds. If your current financial hardship can be relieved by any of the following remedies, you are not eligible for a UEW:

- discontinuing contributions to the Plan
- insurance reimbursement
- funds from a savings account
- loans from a financial institution
- the sale or liquidation of other assets

Although you cannot request amounts above the amount required to alleviate the hardship, the Plan allows an additional amount to pay the taxes due on the UEW. The amount of distribution you receive may not exceed the amount in your Deferred Compensation Plan. You may **not** withdraw money from your 401(a) Cash Match Plan, if you are enrolled in that Plan, for an unforeseeable emergency.

Whether your application is approved or not, you may want to consider whether suspending or reducing your contributions might alleviate some of your financial difficulties. If you decide to change your contribution to the Plan, you can do so by logging into your account at www.varetire.org, select the Account Log-in under the Defined Contribution Plans tab or by calling **1-VRS-DC-PLAN1** (1-877-327-5261).

At ICMA-RC, we take security of our participants retirement assets seriously. We have stringent security measures in place and we continuously apply enhancements to safe guard your assets.

Additional precautions are taken when processing withdrawal requests. Adding new or, changing existing information on file with ICMA-RC will result in verification of the entry which may delay your withdrawal.

UNFORESEEABLE EMERGENCY DEFINITION

For purposes of the Plan, an unforeseeable emergency is defined as a severe financial hardship of the participant or the participant's beneficiary resulting from:

- An illness or accident of the participant or the participant's beneficiary, the participant's or beneficiary's spouse or the participant's or beneficiary's dependent, (as defined in Code section l52(a));
- Loss of the participant's or beneficiary's property due to casualty;
- Loss of income due to illness, accident or layoff to participant, spouse or beneficiary of the participant (Applicable to actual loss of income and not potential future loss of income. Not approvable if due to workplace disciplinary action or legal action);
- Extraordinary and unforeseeable circumstances if they arise as a result of events beyond the control of the participant or the beneficiary, as follows:
  a. The imminent foreclosure of or eviction from the participant's primary residence;
  b. The need to pay for medical expenses, including nonrefundable deductibles, as well as the cost of prescription drug medication;
  c. The need to pay for the funeral expenses of a spouse, dependent, or beneficiary (as defined in Code section 152(a).

SITUATIONS NOT ELIGIBLE FOR WITHDRAWAL

The following situations do not qualify for a hardship withdrawal:

- Elective purchase, maintenance or remodeling of a home or other real estate;
- Payment of college tuition;
- Unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction;
- Unpaid utility bills;
- Loan repayments;
- Personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond your control);

- Payment of income taxes, interest or penalties;
- Marital separation or divorce;
- Legal judgments or legal fees;
- Purchase or repair of an automobile;
- Purchase or repair of a furnace or air conditioner;
- Credit card debt;
- Child Support payments; or
- Routine medical, dental or orthodontic services.

HOW TO APPLY

The *Application for Unforeseeable Emergency Withdrawal* includes a Statement of Need that must be completed. You must attach any documents supporting your request, including information about the circumstances, financial impact of the emergency, and the nature of your other resources available to meet the emergency. The documents required to support your application are listed in the Acceptable Circumstances section. Please be sure to keep a photocopy of your application and documentation in case we have any questions and you need to refer to your copy. Send the application and supporting documents to:

ICMA-RC
Attn: Workflow Management Team
P.O. Box 96220
Washington, DC 20090-6220

Fax Number: 202-682-6439

If you have any questions about applying for the withdrawal, contact ICMA-RC Investor Services Staff at **1-VRS-DC-PLAN1** (1-877-327-5261) and select option 1.

SUPPORTING DOCUMENTATION

Please refer to the Acceptable Circumstances section to identify what documentation is required to complete your request.

IMPORTANCE OF DOCUMENTATION

If the application is incomplete or adequate documentation is not provided with the application, there may be a delay in processing your request. If you are asked to provide additional documentation, you must do so within 10 days of the request or your case will be closed. Please keep a copy of your *Application for Unforeseeable Emergency Withdrawal* for your records. If your application is approved, you will receive the amount you have been approved for and it will be issued to you based upon the method of payment that you have selected. Please refer to the application for further details. If additional documentation is required, please resubmit with a copy of the original *Application for Unforeseeable Emergency Withdrawal* form.

TAX IMPLICATIONS

The distribution from the Plan is subject to state and federal income tax, but is not subject to an early withdrawal penalty. If you are approved for the withdrawal, you may also request the amount required to pay the taxes that will be due on the withdrawal. If your unforeseeable emergency hardship withdrawal request is approved, the amount distributed will be reported on an IRS Form 1099-R and will be includible in your gross income for both federal and state income tax purposes in the year the distribution is made. The wage withholding rules will apply to the withdrawal. Any withdrawal you receive is subject to federal and state income tax withholding unless you elect not to have the withholding apply. You may elect not to have withholding apply by indicating that on the *Application for Unforeseeable Emergency Withdrawal,* signing and dating the Application form and providing it to ICMA-RC. Otherwise, the default withholding will be 10% for federal income taxes and 4 percent for state income taxes. You may also indicate on the Application if you wish more to be withheld. If you elect not to have withholding apply to your withdrawal payment, or if you do not have enough federal or state income tax withheld from your withdrawal, you may be responsible for payment of estimated taxes. You may incur penalties under the estimated tax rules if your withholding and estimated tax payments are not sufficient. If a withdrawal is approved, the amount you receive may not be rolled into an IRA or any other retirement or tax-deferred savings plan.

ROTH ASSETS

If you have made Roth contributions to your 457 plan, you should give careful consideration to how you withdraw the Roth assets (contributions and associated earnings). Use section 6 to specify whether Roth or non-Roth assets should be distributed first.

Qualified "Tax-Free" Distributions

Distributions of Roth assets are tax-free if:

- Five years has passed since January 1 of the year of your first Roth contribution (including rollovers) and
- You are at least 59½ years old (or disabled or deceased).

HOW TO APPEAL A DENIAL

If all or a portion of the amount you requested is denied, you have the right to appeal the decision. You will receive a letter of instruction along with the additional documentation that is needed. Your appeal must be in writing, with all supporting documentation, as well as any additional documentation that may be requested. Please be sure to keep a photocopy of your application and documentation because a copy will need to be submitted with the appeal documents.

APPLICATION FOR UNFORESEEABLE EMERGENCY WITHDRAWAL

COMMONWEALTH OF VIRGINIA 457 DEFERRED COMPENSATION PLAN |

This form is valid only when the Statement of Need has been completed and the Participant Acknowledgement has been signed. Please refer to the guidelines accompanying this form to ensure accurate and complete information is provided. If your request is approved, the elections made on this form will apply to the distribution. Mail or Fax the completed application to:

ICMA-RC, Attn: Workflow Management Team, P.O. Box 96220, Washington, DC 20090-6220 | Fax Number: 202-682-6439

Plan Number **307042**

Last 4 of Social Security X X X / X X / ___ ___ ___ ___

VRS Customer ID ______________

Are you currently receiving long term disability benefits from your employer? . . . . ☐ Yes ☐ No

Full Name of Participant

____
LAST FIRST M.I.

Mailing Address/Street

____

City ______________________ State ___ ___ Zip+4 ___ ___ ___ ___ ___ – ___ ___ ___ ___

Daytime Phone Number (___ ___ ___) ___ ___ ___ – ___ ___ ___ ___

Evening Phone Number (___ ___ ___) ___ ___ ___ – ___ ___ ___ ___

Email Address ______________________________

Current Employer

____

Amount Requested for Unforeseeable Emergency *(This may be different than the amount you receive based on the approval process. If you do not elect a specific amount for withdrawal, your request will be processed for the maximum amount qualified based on your documentation.)* $______________

CHECK ACCEPTABLE CIRCUMSTANCES

For the Acceptable Circumstance selected you must provide the required documentation. Please use the checklist to verify that the documentation you are submitting meets the requirements listed below.

CHECK	ACCEPTABLE CIRCUMSTANCES	REQUIRED DOCUMENTATION CHECKLIST
☐	**Illness of the Participant, Spouse or the Participant's Dependent/Beneficiary** *(Routine medical, dental or orthodontic services do not apply)*	☐ All documentation must show that the date of service was within the past 12 months. ☐ Explanation of Benefits (EOB) Statement from insurer showing amount covered and not covered by insurance, amount owed by participant, and/or copies of prescription drug bills. If participant does not have insurance they must state so on their application and enclose copies of itemized physician or dental office bills. Collection notices and/or other forms of "debt" do not apply. Physician or dental office bills do not apply unless the participant verifies in writing with a signature that they do not have insurance in the Statement of Need section of this application. The participant must also explain why they are uninsured. ☐ Proof of marriage or dependency, i.e., copy of first page and signature page of participants' federal income tax return is required when applying for a spouse, dependent, or beneficiary of the participant.
☐	**Loss of income due to illness, accident or layoff** *(Applicable to actual loss of income and not potential future loss of income. Not approvable if due to workplace disciplinary action or legal action)*	☐ All documentation must be dated within the past 12 months. ☐ Pay stub copies for the last two pay periods and signed statement indicating reason for loss of income. ☐ Signed statement on employer letterhead providing exact dates of unpaid leave, current hourly pay rate and total number of hours on leave without pay. ☐ Proof of dependency is required when applying for a spouse or beneficiary of the participant. (i.e., copy of first page and signature page of participant's federal income tax return)

Employer Plan Number	Last 4 of Social Security	Name (LAST, FIRST, M.I.)
307042	X X X / X X / __ __ __ __	

CHECK ACCEPTABLE CIRCUMSTANCES (CONTINUED)

☐ **Major property loss due to casualty or severe weather** *(General house maintenance due to "wear and tear" is not covered)*	☐ All documentation must be dated within the past 6 months. ☐ Contractor's estimate for repair due to catastrophic damages and insurance coverage limit statement in participant's name. Repair estimate must be on company letterhead, signed by representative of company, and indicate address of property. If not on company letterhead, signature of representative must be notarized. Insurance statement must indicate address of property, whether the damage was due to casualty, and the nature of the casualty (i.e., fire, flood, wind, etc.). The statement from the insurer must clearly show the amount the insurance company is willing to pay for the claim. ☐ If uninsured, please include separate written statement and provide proof of cash purchase of home or letter from mortgage lender indicating homeowner's insurance is not required.
☐ **Funeral expenses of Spouse or Dependent/Beneficiary**	☐ All documentation must be dated within the past 6 months. ☐ Funeral home invoice in the name of the participant. ☐ Proof of marriage or dependency, i.e., copy of first page and signature page of participants' federal income tax return is required when applying for a spouse, dependent, or beneficiary of the participant.
☐ **To prevent eviction from Primary residence for the Participant**	☐ All documentation must be dated within the past 30 days. ☐ Unlawful detainer for eviction indicating property location, future court date and amount required for rent. (Please note court, attorney and late fees on the unlawful detainer are not eligible for distribution, only the amount listed that is needed to prevent imminent eviction). ☐ Proof of marriage or dependency, i.e., copy of first page and signature page of participants' federal income tax return is required when applying for a spouse, dependent, or beneficiary of the participant.
☐ **To prevent foreclosure on Primary residence for the Participant**	☐ All documentation must be dated within the past 30 days. ☐ Foreclosure notice indicating the property location, future foreclosure date and amount required to prevent imminent foreclosure. Moving from default of your loan to a foreclosure status with your lender is not what is needed for approval so "Late" and/ or "Cure of Default" notices cannot be considered. The "Foreclosure" notice needed must clearly state the property will be "foreclosed upon" on a specific future date. In addition to this letter, an amount to reinstate the loan must be provided from the mortgage company that shows the amount needed to reinstate your loan. ☐ Proof of marriage or dependency, i.e., copy of first page and signature page of participants' federal income tax return is required when applying for a spouse, dependent, or beneficiary of the participant.

STATEMENT OF NEED

Failure to complete the Statement of Need may result in the denial of your Unforeseeable Emergency Withdrawal application. Please describe the financial hardship and why it is due to an unforeseeable emergency. Please explain if/why other financial resources are not available to you to cover the unforeseeable expenses. Clear and specific documentation to support this claim and the amount you are requesting must be attached in order for this application to be considered. Please refer to list of required documents under Required Documentation section of Acceptable Circumstances.

Employer Plan Number **307042** | Last 4 of Social Security X X X / X X / __ __ __ __ | Name *(Last, First, M.I.)* ______________________

INSURANCE/OTHER RESOURCES

Will any portion of the expenses incurred as a result of the situation you claim as an unforeseeable emergency be covered by insurance? . . . . ☐ Yes ☐ No

If Yes, $_______________ of the $_______________ amount requested is covered by insurance.

Have you exhausted all other resources (including obtaining loans) prior to requesting this unforeseeable withdrawal? . . . . ☐ Yes ☐ No

PAYMENT DELIVERY OPTIONS

☐ **PAYABLE BY CHECK** *(mailed to my address of record)*

☐ **ACH DIRECT DEPOSIT** — Payment deposited to my account at a financial organization *(Complete the attached direct deposit form.)*

TAX WITHHOLDING

FEDERAL INCOME TAX WITHHOLDING *(Read the following statements carefully and make the appropriate selections.)*

Choose from the following:

☐ I do NOT want federal income taxes withheld from the distribution.

☐ I want federal income taxes withheld from the distribution. If you choose to have federal income taxes withheld from the distribution, you may choose one of the following options:

- ☐ I would like the required 10 percent federal income tax withheld.
- ☐ I would like to specify an amount (or percentage) to be withheld as indicated below in addition to the required 10 percent withholding.

  $_______________ ***or*** __ __ __%

STATE INCOME TAX WITHHOLDING *(Read the following statements carefully and make the appropriate selections.)*

Choose from the following:

☐ I do NOT want state income taxes withheld from the distribution.

☐ I want the required state income taxes withheld from the distribution. If you choose to have the required state income taxes withheld from the distribution, you may choose one of the following options:

- ☐ I would like the required 4 percent state income tax withheld.
- ☐ I would like to specify an amount (or percentage) to be withheld as indicated below in addition to the required state income tax withholding.

  $_______________ ***or*** __ __ __%

☐ **I would like to increase my distribution to cover taxes that are being withheld.** By choosing this option the approved amount of your distribution will be increased to cover the amount due for state and federal taxes. ☐ Yes ☐ No

ROTH ASSETS DEPLETION ORDER

If you have made Roth contributions to your 457 plan, use this section to specify whether Roth or non-Roth assets should be distributed first.

☐ Check this box to have your distribution taken first from your Roth balance (if applicable).
Non-Roth assets will be distributed prior to any Roth assets, unless the box is checked.

Employer Plan Number	Last 4 of Social Security	Name (*Last, First, M.I.*)
307042	X X X / X X / __ __ __ __	______________________

PARTICIPANT ACKNOWLEDGEMENT

Please review and initial each section before signing below. Failure to complete the Participant Acknowledgment may result in the denial of your Unforeseeable Emergency Withdrawal application.

______ I acknowledge that I have received, read, understand and agree to all information in the Guidelines for Unforeseeable Emergency Withdrawal. I affirm that the information on this form and on the Statement of Need is true and correct. I understand that I am liable for any income tax and/or penalties assessed by the Internal Revenue Service and that if I elect not to have withholding apply, or if I do not have enough federal or state income tax withheld, I may be responsible for payment of estimated taxes and penalties under the estimated tax rules if my withholding and estimated tax payments are not sufficient.

______ I certify that the information contained in this application is true and correct to the best of my knowledge and ability. It is submitted solely for the purpose of determining whether my situation qualifies for such a withdrawal under Section 457 of the Internal Revenue Code.

______ I acknowledge that I understand this request is for the Commonwealth of Virginia 457 Plan Only.

______ I acknowledge that I understand that the qualification of approval or denial for my Unforeseeable Emergency Withdrawal is based on a show of need based on the documentations provided and the rules of Section 457 of the Internal Revenue Code.

______ I fully understand that if the amount that is approved is lower than the amount requested, it may be due to incomplete documentation to support the full amount or my account balance was insufficient to cover the amount requested. Please contact ICMA-RC at **1-VRS-DC-PLAN1** (1-877-327-5261) and select option 1 to discuss further documentation needed for the full amount.

Participant Printed Name ____

Participant Signature ____ Date: __ __ / __ __ / __ __ __ __

DIRECT DEPOSIT AUTHORIZATION FORM

COMMONWEALTH OF VIRGINIA 457 DEFERRED COMPENSATION PLAN |

PAYEE INFORMATION

Plan Number **307042**

Last 4 of Social Security X X X / X X / __ __ __ __

Daytime Phone Number (__ __ __) __ __ __ – __ __ __ __

Full Name of Participant

____

LAST *FIRST* *M.I.*

DIRECT DEPOSIT ACCOUNT INFORMATION

PLEASE ATTACH A VOIDED CHECK HERE.

Account Information

Please contact your bank for this information. Incorrect information will delay electronic deposit processing. See page 2 of 2 of this form for an example of a check and the information needed.

Type of Depositor Account

☐ Checking ☐ Savings

Depositor Account Number

Name on your bank account ______________________________

Name of Financial Institution ______________________________

Financial Institution's Direct Deposit Routing Number

Financial Institution's Telephone Number

(__ __ __) __ __ __ – __ __ __ __

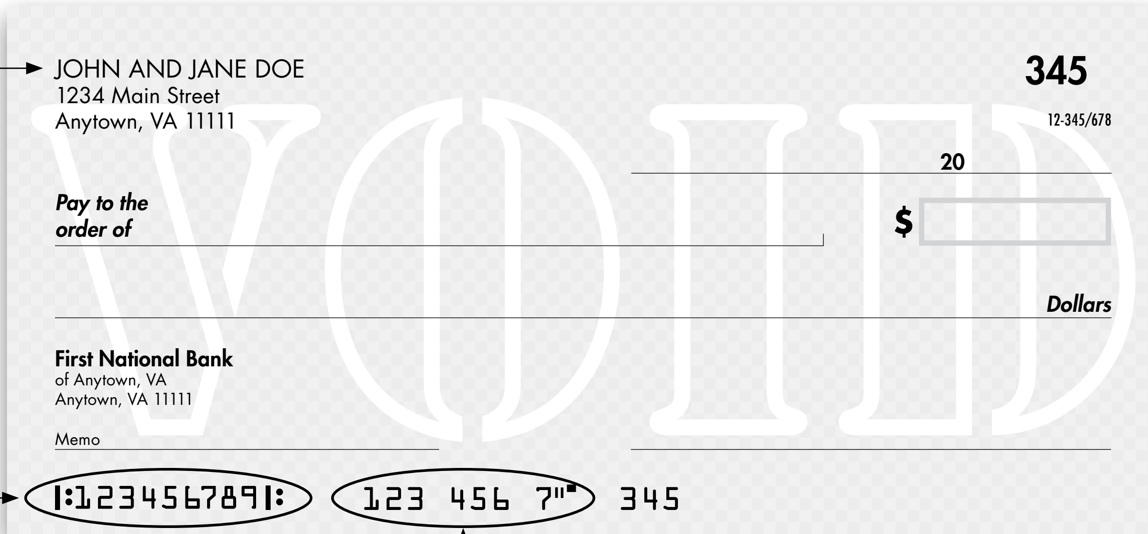
PARTICIPANT AUTHORIZATION

I hereby authorize the VantageTrust Company (hereinafter called the "Trust") to credit the above referenced account if my request for the unforeseeable emergency amount has been approved. This authorization agreement is to remain in full force and effect until the Trust has received written notification from me of its termination in such time and in such manner as to afford the Trust and depository a reasonable opportunity to act on it. This authorization agreement may also be terminated by the Trust.

In the event that the Trust notifies the bank that funds to which I am not entitled have been deposited to my account inadvertently, I hereby authorize and direct the bank to return said funds to the Trust as soon as possible.

Participant Signature ______________________________ Date: __ __ / __ __ / __ __ __ __

A. Be sure current address is shown.



B. Financial institution's routing number for direct deposit. Please call your bank to verify this number is correct for direct deposit. If the number is not correct, it will result in delays.

C. Your account number.

DCP

Virginia Retirement System

SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS

This Notice Applies to Distributions from Commonwealth of Virginia
457 Deferred Compensation Plan and Hybrid 457 Deferred Compensation Plan

This notice explains how you can continue to defer federal income tax on your retirement savings in the Deferred Compensation Plan of the Commonwealth of Virginia (the "Plan"). You are receiving it because all or a portion of a payment you are receiving is eligible to be rolled over to an IRA or an employer plan. It contains important information you will need to help you decide whether to do such a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are <u>not</u> from a designated Roth account (a type of account with special tax rules in some employer plans). If you also receive a payment from a designated Roth account in the Plan, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan 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.

If you have additional questions after reading this notice, call VRS toll free at 1-888-VARETIR (827-3847).

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

You will be taxed on a payment from the Plan if you do not roll it over.

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 plan, section 403(b) plan, or governmental section 457(b) 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 from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). 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 Plan 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, 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. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received). 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.

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 Plan 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)
- Required minimum distributions after age 70½; (or after death)
- Unforeseen Emergency Hardship Distribution
- Corrective distributions of contributions that exceed tax law limitations
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution

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

The payment is from a governmental section 457(b) plan

The Plan is a section 457(b) governmental plan. The same rules described elsewhere in this notice generally apply, including those allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers.

If you do not do a rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received).

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However, if you do a rollover to an employer plan that is not a governmental section 457(b) plan or that is an IRA, a later distribution made before age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies).

The 10% additional income tax on early distributions is applicable to:

- a payment from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA; and/or
- a later distribution made before age 59½ from another employer plan that is not a governmental section 457(b) plan.

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment described above (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 Plan:

- 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 made due to disability
- Payments after your death
- Corrective distributions of contributions that exceed tax law limitations
- Cost of life insurance paid by the Plan
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under an approved domestic relations order (ADRO)
- Payments up to the amount of your deductible medical expenses
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days

The 10% additional income tax on early distributions applicable to:

- a later distribution made before age 59½ from an 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 approved domestic relations orders (ADROs) 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 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?

If you are a Virginia resident, your payment is subject to state taxes at the time of the distribution, unless you elect to roll it over. If you do not use the direct rollover method, an additional 4 percent (4%) of the taxable amount will be withheld and forwarded to the Virginia Department of Taxation as state income tax withholding to be credited against your taxes.

This notice does not describe local income tax rules or the rules for other states.

SPECIAL RULES AND OPTIONS

If your payment includes designated Roth contributions

If your distribution is from a Roth Account in the Plan, you will receive a separate notice describing the tax rules applicable to that payment.

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 roll over your payment to a Roth IRA

If you roll over the payment to a Roth IRA, a special rule applies under which the amount of the payment rolled over 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*).

If you are not a plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice.

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

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 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 participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

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

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 (not including payments from a designated Roth account in the Plan), the Plan 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.

Unless you elect otherwise, a mandatory cashout of more than $1,000 (not including payments from a designated Roth account in the Plan) will be directly rolled over to an IRA chosen by the Plan administrator. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed $5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

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*.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. 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*; IRS Publication 590-A, *Contributions 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.

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Virginia Retirement System

SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS

Applicable to Payments from Roth Accounts

This notice explains how you can continue to defer federal income tax on your retirement savings in the Deferred Compensation Plan of the Commonwealth of Virginia (the Plan). You are receiving it because all or a portion of a payment you are receiving is eligible to be rolled over to a Roth IRA or a designated Roth account in an employer plan. It contains important information you will need to help you decide whether to do such a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are from a designated Roth account. If you also receive a payment from the Plan that is not from a designated Roth account, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan 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.

If you have additional questions after reading this notice, call VRS toll free at 1-888-VARETIR (827-3847).

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

After-tax contributions included in a payment from a designated Roth account are not taxed, but earnings might be taxed. The tax treatment of earnings included in the payment depends on whether the payment is a qualified distribution. If a payment is only part of your designated Roth account, the payment will not include an allocable portion of the earnings in your designated Roth account.

If the payment from the Plan is not a qualified distribution and you do not do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the earnings in the payment. However, if you do a rollover, you will not have to pay taxes currently on the earnings and you will not have to pay taxes later on payments that are qualified distributions.

If the payment from the Plan is a qualified distribution, you will not be taxed on any part of the payment even if you do not do a rollover. If you do a rollover, you will not be taxed on the amount you rollover and any earnings on the amount you roll over will not be taxed if paid later in a qualified distribution.

A qualified distribution from a designated Roth account in the Plan is a payment made after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying the 5-year rule, you count from January 1 of the year your first contribution was made to the designate Roth account. However, if you did a direct rollover to a designated Roth account in the Plan from a designated Roth account in another employer plan, your participation will count from January 1 of the year your first contribution was made to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the other employer plan.

Where may I roll over the payment?

You may roll over the payment to either a Roth IRA (a Roth individual retirement account or Roth individual retirement annuity) or a designated Roth account in an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the Roth IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to the IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the Roth IRA or the designated Roth account in the employer plan. In general, these tax rules are similar to those elsewhere described in this notice, but differences include:

- **If you do a rollover to a Roth IRA**, all of your Roth IRAs will be considered for purposes of determining whether you have satisfied the 5-year rule (counting from January 1 of the year for which your first contribution was made to any of your Roth IRAs).
- **If you do a rollover to a Roth IRA**, you will not be required to take a distribution from the Roth IRA during your lifetime and you must keep track of the aggregate amount of the after-tax contributions in all of your Roth IRAs (in order to determine your taxable income for later Roth IRA payments that are not qualified distributions).
- Eligible rollover distributions from a Roth IRA can only be rolled over to another Roth IRA.

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 Plan will make the payment directly to your Roth IRA or designated Roth account in an employer plan. You should contact the Roth 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, you may still do a rollover by making a deposit within 60 days into a Roth IRA, whether the payment is a qualified or nonqualified distribution. In addition, you can do a rollover by making a deposit within 60 days into a designated Roth account in an employer plan if the payment is a nonqualified distribution and the rollover does not exceed the amount of the earnings in the payment. You cannot do a 60-day rollover to an employer plan of any part of a qualified distribution. If you receive a distribution that is a nonqualified distribution and you do not roll over an amount at least equal to the earnings allocable to the distribution, you will be taxed on the amount of those earnings not rolled over.

If you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you at the same time, the portion directly rolled over consists first of earnings.

If you do not do a direct rollover and the payment is not a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received). This means that, in order to roll over the entire payment in a 60-day rollover to a Roth IRA, you must use the other funds to make up for the 20% withheld.

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 Plan 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)
- Required minimum distributions after age 70½; (or after death)
- Unforeseen Emergency Hardship Distribution
- Corrective distributions of contributions that exceed tax law limitations.

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

The payment is from a governmental section 457(b) plan

The Plan is a section 457(b) governmental plan. The same rules described elsewhere in this notice generally apply, including those allowing you to roll over the payment to a Roth IRA or an employer plan that accepts rollovers of designated Roth accounts.

If you do not do a rollover a payment is not a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received).

However, if you do a rollover to an employer plan that is not a governmental section 457(b) plan or that is a Roth IRA, a later distribution made before age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies).

The 10% additional income tax on early distributions applicable to:

- a later distribution made before age 59½ from another employer plan that is not a governmental section 457(b) plan.

If a payment is not a qualified distribution and you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from another employer plan that is not a governmental section 457(b) (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 Plan:

- 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 made due to disability
- Payments after your death
- Corrective distributions of contributions that exceed tax law limitations
- Cost of life insurance paid by the Plan
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under an approved domestic relations order (ADRO)
- Payments up to the amount of your deductible medical expenses
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days

The 10% additional income tax on early distributions applicable to:

- a later distribution made before age 59½ from a Roth IRA

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

- There is no exception for payments after separation from service.
- The exception for approved domestic relations orders (ADROs) 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 a Roth 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 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?

If you are a Virginia resident, your payment is subject to state taxes at the time of the distribution, unless it is a qualified distribution or you elect to roll it over. If the distribution is not a qualified distribution and you do not use the direct rollover method, an additional 4 percent (4%) of the taxable amount will be withheld and forwarded to the Virginia Department of Taxation as state income tax withholding to be credited against your taxes.

This notice does not describe local income tax rules or the rules for other states.

SPECIAL RULES AND OPTIONS

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 are not a plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, whether the payment is a qualified distribution generally depends on when the participant first made a contribution to the designated Roth account in the Plan.

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

A Roth IRA you treat as your own is treated like any other Roth 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).

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

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited Roth IRA. Payments from the inherited Roth IRA, even if made in a nonqualified distribution, 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 an approved domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the Plan under a approved domestic relations order (ADRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it).

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 (only including payments from the designated Roth account in the Plan) are less than $200, the Plan 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.

Unless you elect otherwise, a mandatory cashout of more than $1,000 (not including payments from a designated Roth account in the Plan) will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed $5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

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*.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. 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*; IRS Publication 590-A, *Contributions 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.

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