

# Chapter Five

# Distributions

## Chapter Five Highlights

From time to time your employees will want to make distributions from their retirement plan account. Since there may be significant tax consequences associated with a distribution, you are required by law to provide Participants notification about the probable tax consequences for certain types of distributions. To help you manage this responsibility, Transamerica Retirement Services has prepared an IRS Special Tax Notice for your use.

This sample Special Tax Notice is presented in its entirety on pages 4–12 of this chapter. It is also included with each of the distribution forms at the back of this guide, and available on [www.TA-Retirement.com](http://www.TA-Retirement.com).

***Distributions may be referred to as withdrawals, loans or disbursements.***

<b>Contents</b>	<b>Page</b>
5.1 IRS Special Tax Notice	2-12
5.2 Plan Loans	13-21
5.3 Hardship Withdrawal Requests	22-24
5.4 Distribution Requests	25-27
5.5 Forced Distributions	28-32
5.6 Rolling Over Funds to a Transamerica IRA	33
5.7 Minimum Required Distributions	34-35
5.8 Death Benefit Claims	36-37

## 5.1 IRS SPECIAL TAX NOTICE

### Required Distribution and Withdrawal Notices

You are required by the IRS to provide a written "Explanation of Special Tax Rules on Distributions" (except for loans and corrective distributions resulting from testing) for each Participant or Beneficiary requesting a distribution or withdrawal of funds from your company's plan. You can find this document on pages 4–12 of this chapter. Additionally, you may be required to supply the "Explanation of Automatic Annuity upon Distribution" and "Explanation of Qualified Pre-Retirement Survivor Annuity," depending on which distribution options are contained in your Plan Document.

Please do the following:

1. **Inform Participants that they have a 30-day Decision Period**—You are legally required by the IRS to give Participants 30-days to consider whether or not to elect a Direct Rollover. This waiting period begins upon the Participant's receipt of the IRS Special Tax Notice. Participants may receive distributions prior to the 30-day period as long as they make an affirmative election to do so and they are fully aware that they are entitled to the 30-day period to make their decision.
2. **Withholding Tax for Certain Distributions**
  - Distributions greater than \$200 which are received in cash are subject to a mandatory 20% federal income tax withholding. Transamerica Retirement Services withholds this percentage and sends it to the IRS.
  - Distributions that are rolled over directly into an IRA or another qualified plan are not subject to the mandatory withholding tax.
  - Participants, surviving spouses and spousal alternate payees (payees entitled to benefits pursuant to a Qualified Domestic Relations Order), receiving such distributions must receive timely notification of these requirements to enable them to make an informed election prior to the actual distribution.
  - Failure to provide proper and timely notification could result in disqualification of the plan.

***The IRS Special Tax Notice must accompany all distribution request forms given to Participants or beneficiaries. If you have any questions on any of the enclosed material, please contact SponsorConnect<sup>SM</sup>.***

## 5.1 IRS SPECIAL TAX NOTICE *Cont.*

### **Using the IRS Model Language**

The IRS has provided model language for the notice to plan Participants and other recipients eligible for a rollover distribution. We have prepared the enclosed IRS Special Tax Notice from the IRS model.

***Failure to provide Participants with proper and timely notifications for plan distributions could result in plan disqualification.***

# SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION 401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b) TAX SHELTERED ANNUITIES

---

## Special Tax Notice Regarding Plan Payments

This notice explains how you can continue to defer federal income tax on your retirement savings in your Employer's Plan (the "Plan") and contains important information you will need before you decide how to receive your Plan benefits.

This notice is provided to you by your Plan Administrator because all or part of the payment that you will soon receive from the Plan may be eligible for rollover by you or your Plan Administrator to a traditional IRA or an eligible employer plan. A rollover is a payment by you or the Plan Administrator of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. Your payment cannot be rolled over to a Roth IRA, 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, 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 payment 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 a traditional IRA or split your rollover amount between the employer plan in which you will participate and a traditional 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 this Plan. 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 your Plan Administrator.

### Summary

There are two ways you may be able to receive a Plan payment that is eligible for rollover:

1. Certain payments can be made directly to a traditional IRA that you establish or to an eligible employer plan that will accept it and hold it for your benefit ("DIRECT ROLLOVER"); or
2. The payment can be **PAID TO YOU**.

#### A. If you choose a **DIRECT ROLLOVER**:

- Your payment will not be taxed in the current year and no income tax will be withheld.
- You choose whether your payment will be made directly to your traditional IRA or to an eligible employer plan that accepts your rollover. Your payment cannot be rolled over to a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account because these are not traditional IRAs.

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

- The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the eligible employer plan. 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 this Plan.

**B. If you choose to have a Plan payment 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.
- 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<sup>1/2</sup>, 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 or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of the traditional IRA or the eligible employer plan.
- If 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 the plan 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 or not to have your withdrawal 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 Plan Administrator.

**MORE INFORMATION**

**I. Payments that can and cannot be rolled over**

**II. Direct Rollover**

**III. Payment paid to you**

**IV. Surviving spouses, alternative payees, and other beneficiaries**

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

Payments from the Plan may be "eligible rollover distributions." This means that they can be rolled over to a traditional IRA or to an eligible employer plan that accepts rollovers. Payments from a plan cannot be rolled over to a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account. Your Plan Administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

**After-tax Contributions.** If the Plan allowed and you made after-tax contributions, these contributions may be rolled into either a traditional IRA or to certain employer plans that accept rollovers of the after-tax contributions. The following rules apply:

- a. **Rollover into a Traditional IRA.** You can roll over your after-tax contributions to a traditional IRA either directly or indirectly. Your Plan Administrator should be able to tell you how much of your payment is the taxable portion and how much is the after-tax portion.

If you roll over after-tax contributions to a traditional IRA, it is your responsibility to keep track of, and report to the Service 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, 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 an employer plan that is qualified under Code section 401(a) or a section 403(a) annuity plan 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 employee contributions and earnings on those contributions. You can also roll over after-tax contributions from a section 403(b) tax-sheltered annuity to another section 403(b) tax-sheltered annuity using a direct rollover if the other tax-sheltered annuity provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee 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 this Plan 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, if applicable to your Plan, 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:
  1. your lifetime (or a period measured by your life expectancy), or
  2. your lifetime and your beneficiary's lifetime (or a period measured by your joint life expectancies), or
  3. a period of 10 years or more.
- Required Minimum Payments.** Beginning when you reach age 70<sup>1/2</sup> 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. Special rules apply if you own 5% or more of your employer.
- Hardship Distributions.** A hardship distribution cannot be rolled over.
- ESOP Dividends.** Cash dividends paid to you on employer stock held in an employee stock ownership plan cannot be rolled over.

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

- ❑ **Corrective Distributions.** A distribution that is made to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded cannot be rolled over.
- ❑ **Loans Treated as Distributions.** The amount of a plan loan that becomes a taxable deemed distribution because of a default cannot be rolled over. However, a loan offset amount is eligible for rollover, as discussed in Part III below. Ask the Plan Administrator of this Plan if distribution of your loan qualifies for rollover treatment.

The Plan Administrator of this Plan 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 of the amount of your Plan benefits to a traditional IRA or an eligible employer plan that will accept it. 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. In addition, no income tax withholding is required for any taxable portion of your Plan benefits for which you choose a DIRECT ROLLOVER. This Plan might not let you choose a DIRECT ROLLOVER if your distributions for the year are less than \$200.

- ❑ **DIRECT ROLLOVER to a Traditional 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, 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 at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. However, in choosing a traditional IRA, you may wish to make sure that the traditional IRA you choose will allow you to move all or a part of your payment to another traditional IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on traditional IRAs (including limits on how often you can roll over between IRAs).
- ❑ **DIRECT ROLLOVER to a Plan.** If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover to that plan, ask the Plan Administrator of that plan whether it 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. 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.
- ❑ **DIRECT ROLLOVER of a Series of Payments.** If you receive a payment that can be rolled over to a traditional IRA or an eligible employer plan that will accept it, and it is paid in a series of payments for less than 10 years, your choice to make or not make a DIRECT ROLLOVER for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

- ❑ **Change in Tax Treatment Resulting from a DIRECT ROLLOVER.** The tax treatment of any payment from the eligible employer plan or traditional IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from the Plan. 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, or a traditional 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 59½" and "Special Tax Treatment if You Were Born before January 1, 1936."

### 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, the Plan 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 the Plan 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 the Plan. 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. To elect out of withholding, ask the Plan Administrator 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

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

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 the Plan, 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. 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 10% Tax If You Are under Age 59<sup>1/2</sup>.** If you receive a payment before you reach age 59<sup>1/2</sup> and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The additional 10% 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) dividends paid with respect to stock by an employee stock ownership plan (ESOP) as described in Code section 404(k), (5) 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% tax.

The additional 10% tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution is attributable to an amount you rolled over to that plan (adjusted for investment returns) from another type of eligible employer plan or IRA. Any amount rolled over from a governmental 457 plan to another type of eligible employer plan or to a traditional IRA will become subject to the additional 10% tax if it is distributed to you before you reach age 59<sup>1/2</sup>, unless one of the exceptions applies.

- ❑ **Special Tax Treatment If You Were Born before January 1, 1936.** If you receive a payment from a plan qualified under section 401(a) or a section 403(a) annuity plan that can be rolled over under Part I and you do not roll it over to a traditional IRA or an eligible employer plan, 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. (See also "Employer Stock or Securities", below.) A lump sum distribution is a payment, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you after you have reached age 59<sup>1/2</sup> or because you have separated from service with your employer (or, in the case of a self-employed individual, after you have reached age 59<sup>1/2</sup> or have become disabled). For a payment to be treated as a lump sum distribution, you must have been a Participant in the plan for at least

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

five years before the year in which you received the distribution. 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 you were a Participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan 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 this Plan from a 403(b) tax-sheltered annuity contract or from an IRA not originally attributable to a qualified employer plan. If you have previously rolled over a distribution from this Plan (or certain other similar plans of the employer), you cannot use this special averaging treatment for later payments from the Plan. If you roll over your payment to a traditional 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, 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.

- ❑ **Employer Stock or Securities.** There is a special rule for a payment from the Plan that includes employer stock (or other employer securities). To use this special rule, 1) the payment must qualify as a lump sum distribution, as described above, except that you do not need five years of plan participation, or 2) the employer stock included in the payment must be attributable to "after-tax" employee contributions, if any. Under this special rule, you may have the option of not paying tax on the "net unrealized appreciation" of the stock until you sell the stock. Net unrealized appreciation generally is the increase in the value of the employer stock while it was held by the Plan. For example, if employer stock was contributed to your Plan account when the stock was worth \$1,000 but the stock was worth \$1,200 when you received it, you would not have to pay tax on the \$200 increase in value until you later sold the stock.

You may instead elect not to have the special rule apply to the net unrealized appreciation. In this case, your net unrealized appreciation will be taxed in the year you receive the stock, unless you roll over the stock. The stock can be rolled over to a traditional IRA or another eligible employer plan, either in a direct rollover or a rollover that you make yourself. Generally, you will no longer be able to use the special rule for net unrealized appreciation if you roll the stock over to a traditional IRA or another eligible employer plan.

If you receive only employer stock in a payment that can be rolled over, no amount will be withheld from the payment. If you receive cash or property other than employer stock, as well as employer stock, in a payment that can be rolled over, the 20% withholding

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

amount will be based on the entire taxable amount paid to you (including the value of the employer stock determined by excluding the net unrealized appreciation). However, the amount withheld will be limited to the cash or property (excluding employer stock) paid to you.

If you receive employer stock in a payment that qualifies as a lump sum distribution, the special tax treatment for lump sum distributions described above (such as 10-year averaging) also may apply. See IRS Form 4972 for additional information on these rules.

- ❑ **Repayment of Plan Loans.** If your employment ends and you have an outstanding loan from your Plan, your employer may reduce (or "offset") your balance in the Plan by the amount of the loan you have not repaid. The amount of your loan offset is treated as a distribution to you at the time of the offset and will be taxed unless you roll over an amount equal to the amount of your loan offset to another qualified employer plan or a traditional IRA within 60 days of the date of the offset. If the amount of your loan offset is the only amount you receive or are treated as having received, no amount will be withheld from it. If you receive other payments of cash or property from the Plan, the 20% withholding amount will be based on the entire amount paid to you, including the amount of the loan offset. The amount withheld will be limited to the amount of other cash or property paid to you (other than any employer securities). The amount of a defaulted plan loan that is a taxable deemed distribution cannot be rolled over.

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

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees." You are an alternate payee if your interest in the Plan 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 or to an eligible employer plan or paid to you. 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 employee.

If you are a beneficiary other than a surviving spouse or an alternate payee, you cannot choose a direct rollover, and you cannot roll over the payment yourself.

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<sup>1/2</sup>.

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 and the special rule for payments that include employer stock, as described in Part III above. If you receive a payment because of the employee's death, you may be able to treat the payment as a lump sum distribution if the employee met the appropriate age requirements, whether or not the employee had 5 years of participation in the Plan.

SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION  
401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b)  
TAX SHELTERED ANNUITIES *Cont.*

---

**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 Plan Administrator or a professional tax advisor before you take a payment of your benefits from your Plan. 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.

**Section V below applies only if your plan provides for joint and survivor annuities. (Please ask your Plan Administrator or refer to your Summary Plan Description to determine whether your plan provides for joint and survivor annuities.)**

**V. SPOUSAL CONSENT REQUIREMENT**

The law dictates that any plan Participant who is married must receive a joint and survivor benefit unless his/her spouse consents to an alternate form of payment as permitted by the plan document prior to any distribution from the retirement plan when the benefit exceeds \$5,000.

The spouse's consent must be in writing and must be witnessed by a plan representative or notary. The consent must acknowledge understanding the effect of the election if the form chosen is a single-sum cash-out. The spouse must understand that this election will cause forfeiture of any rights to a pre-retirement survivor's benefit that might have been payable under the plan in the event of the Participant's death prior to retirement, and will cause forfeiture of any survivor benefit provided by a deferred survivor annuity.

**SPOUSAL CONSENT REQUIREMENT, PART 2:**

**For the Participant and his/her spouse**

If the Participant's vested balance exceeds \$5,000, the Participant may direct the Trustee to purchase a Qualified Joint and Survivor Annuity ("QJSA"), if offered by this plan. An Annuity can give the Participant a monthly or quarterly retirement payment for the rest of his/her life. Under the QJSA, after the Participant dies, the spouse will receive a specified percentage of the retirement benefit that was paid to the Participant. The benefit paid to the spouse after the Participant dies is called the "survivor annuity." The spouse will continue to receive this survivor benefit for the rest of his/her life. The Participant **MUST** elect this form of benefit **UNLESS** his/her spouse **VOLUNTARILY** agrees, in writing, to give up the QJSA method of payment. The spouse must also agree to any alternate form of benefit payment. The plan Participant's election of an alternate form of benefit payment may give him/her larger retirement benefits while he/she is alive, but these options might not pay or leave the spouse any benefits after the Participant dies. If the QJSA is selected, the Participant and spouse will receive additional information regarding the options available under the QJSA.

**VI. CHANGING YOUR BENEFIT CHOICE**

Your distribution choice may be revoked provided written notice is received within a reasonable period prior to the distribution being made. To expedite this procedure your Employer should contact Transamerica Retirement Services regarding the revocation of your choice by telephone or FAX.

## 5.2 PLAN LOANS

If your plan offers loans, a Participant may borrow against the eligible vested balance in their account. The operational issues that affect how the Participant loan program is administered are contained in your loan policy that is consistent with your plan. Some of the most important aspects include:

### **Plan Administrator Loan Process Steps—(For Paperless Loans, See Below)**

1. Complete the loan instructions with the plan Participant
2. Submit form to TA East
3. Loan Department checks for completeness and eligibility
4. The promissory note, amortization schedule and check is mailed to you for acceptance of the loan term. You may release the loan check to the Participant upon receipt of the signed promissory note from the Participant

### **Paperless Loans**

Paperless loans are designed to allow eligible employees the opportunity to model a general purpose loan through an automated Voice Response System (VRS) or the Web site. The Participant can request the loan through a Customer Service Representative via the Voice Response System.

Paperless loans are NOT available for Residential Loans or Hardship Loans, or where spousal consent is required. The Plan must be REA exempt, therefore, plans where the normal form of payment is a Joint and Survivor (J&S) Annuity will not have access to paperless loans unless they amend their plan to remove the J&S Annuity requirement. This eliminates all Defined Benefit and Money Purchase Pension Plans, or any Profit Sharing plan with transferred assets from a Defined Benefit or Money Purchase plan.

### **How It Works**

The Participant will model a loan with the desired amount and length of loan repayments via the VRS or the Web site. Once the Participant selects "Request a Loan" a disclosure will appear and once the Participant agrees, the loan will go into processing.

### ***IMPORTANT NOTE:***

***The loan paperwork and check will be sent to the Plan Sponsor.***

## 5.2 PLAN LOANS *Cont.*

TA East processes the loan request on the next business day, if requested prior to 4:00 p.m. (ET), or, on the second business day, if after 4:00 p.m. (ET). A check will be generated within two days after the loan is processed. The loan paperwork (Loan Note and Security Agreement, Amortization Schedule and Withdrawal confirm) and loan check is mailed to the Plan Sponsor.

The Plan Sponsor presents the loan paperwork and the check to the Participant upon receipt and must keep a copy of the signed Loan Note and Security Agreement. The Plan Sponsor is responsible for processing the loan repayments in a timely manner.

The Participant is responsible for communicating any errors or discrepancies in a timely manner to the toll-free number at TA East. By endorsing/cashing the check, the Participant agrees to the fact that they have received, read, and understood the terms and provisions of the Loan Note and Security Agreement and the Amortization Schedule.

To cancel a loan, the Participant must notify TA East in writing. Written notification must include name, social security number, plan name and contract number. If the check has been deposited/cashed, the loan cannot be cancelled.

***IMPORTANT NOTE: Once the Participant agrees to the disclosure, the loan request cannot be cancelled.***

***Please note that a copy of the amortization schedule is always mailed to the Plan Sponsor.***

***If the check has been deposited/cashed, the loan cannot be cancelled.***

(SAMPLE)

## LETTER TO PLAN SPONSOR

---

Date

Client Name  
Company Name  
Street Address  
City, State Zip

Re: Plan Name  
Contract No.

Dear \_\_\_\_\_ :

As we discussed during the installation meeting, you have selected to allow Participants to initiate and complete loan requests using Transamerica's Voice Response System or Participant Web site. Paperless Loans allows eligible employees to model and request general-purpose loans online or via the toll-free TransDirect number.

How it works:

The Participant either calls the Voice Response System or visits the Participant Web site. The Participant will model a loan with the desired amount and length of loan repayments. Once the Participant elects "Request a Loan", a disclosure will appear and once the Participant agrees, the loan will go into processing. Once the Participant agrees to the disclosure, the loan request cannot be cancelled. To cancel a loan, the Participant must notify Transamerica in writing.

Transamerica will process the loan request on the next business day if requested prior to 4:00 p.m. (ET), or on the second business day if after 4:00 p.m. (ET). Transamerica will mail the loan paperwork and check to you, the Plan Sponsor.

The Plan Sponsor presents the check and loan paperwork to the Participant upon receipt. Once the check has been deposited or cashed, the loan cannot be cancelled. You must keep a copy of the Promissory Note and implement loan repayments via payroll deductions in a timely manner. You will need to identify loan repayments as such in your payroll transmissions to Transamerica.

Regular paper-based loan request documents will remain available to participants. The Paperless Loans feature does not change the process for residential loans. Residential and hardship loans will require approval from you, the Plan Sponsor.

Please contact me with any questions or concerns at 1-800-319-7626 ext. xxxx

Sincerely,

Project Manager  
New Business Installation  
Transamerica Retirement Services

Cc: Broker

## 5.2 PLAN LOANS *Cont.*

### Loan Policy Terms and Use

As Plan Administrator, you are required to have your loan policy documented and available to Participants. The following definitions will help you understand the guidelines and terms used in processing Participant loans.

- ❑ **Minimum Loan Amount**—Under DOL regulations, the minimum loan amount cannot be higher than \$1,000. Refer to your plan document for the actual minimum loan amount allowed under your company's plan.
- ❑ **Maximum Loan Amount**—\$50,000 or 50% of the vested individual account balance, whichever is less. The \$50,000 maximum loan amount is reduced by the total of the Participant's highest outstanding loan balance during the 12 month period ending on the day prior to the date the loan is made, minus the loan balance on the date the loan is made.
- ❑ **Application/Processing Fee**—A one-time \$50.00 fee per loan will be charged for application/processing costs. Verify this amount in your Service Agreement. This amount will be deducted from the loan amount paid to the Participant.
- ❑ **Annual Loan Account Fee**—A \$50.00 loan account fee for each Participant loan outstanding will be paid by the employer or the Participant. Verify this amount in your Service Agreement. Refer to your Summary Plan Description to see which method applies.
- ❑ **Duration**—The employee can elect to pay back the loan in 1-5 years for general-purpose loans, or longer for a loan used in purchasing or building a principal residence.
- ❑ **Source/Application of Funds**—Loan distributions will be made in accordance with Participant elections noted on the form, or if no elections are made, on a prorated basis from each investment option of a Participant's account. If vesting applies, only the vested account balance will be used to calculate the maximum loan amount.
- ❑ **Re-payment**—Loan payments are due each pay period via payroll deduction. The payments must be remitted to Transamerica Retirement Services in the same frequency as elective contributions, if applicable, but not less frequent than quarterly, and the employer must authorize the use of payroll repayment. The

***Repayments of loans are not considered pre-tax contributions, and, therefore, must be made on an after-tax basis. Loan payments will not provide a cost basis so the Participant will be taxed again when the money is withdrawn.***

***A terminated Participant should not remit repayments directly to Transamerica Retirement Services.***

## 5.2 PLAN LOANS *Cont.*

payroll frequency may be weekly, bi-weekly, monthly, or semi-monthly. For loan repayment made by payroll deduction, an amortization schedule is sent to you. The amortization schedule will contain the date and the amount for the first payment. Payroll deduction repayment avoids loan defaults. If your plan allows for loan repayments from terminated Participants, the preferred method of repayment for the terminated Participant is for him/her to write a check to the employer for each repayment. The employer can then remit the loan repayment to Transamerica Retirement Services with regular payroll/loan repayment contributions. A terminated Participant should not remit loan repayments directly to Transamerica Retirement Services. Personal checks from Participants will be returned.

- **Interest Rate**—The interest rate is fixed for the life of the loan and the interest amount is credited only to the account of the Participant taking the loan. The interest rate, which must be determined by the Trustee(s), must be a reasonable rate of interest charged by persons in the business of making loans under similar circumstances; for example, this could be based on the Prime Rate published in *The Wall Street Journal*, plus 1% on the first business day of the month in which the loan is originated. The interest rate determined by the Trustee(s) is required on each loan application form. The method for determining the interest rate should be applied consistently to all Participants.
- **Loan Balance**—Explanation of loan balance versus total balance: The loan balance is the outstanding principal amount owed on a Participant's loan. This amount is included in the Participant's total balance. If a Participant leaves and takes a distribution from the plan with an outstanding loan balance, the outstanding balance is deducted from the amount to be paid, as the Participant already has this money.
- **Default**—We define loan default (deemed distribution) as:
  - (a) The Participant or beneficiary fails to make a payment by the due date.
  - (b) The Participant's or Beneficiary's (if applicable) leave of absence extends beyond twelve (12)

***A loan is in default when the sum of two consecutive monthly payments is not received when due. The entire unpaid amount plus interest will be reported as taxable income and a 1099 will be issued unless the Participant cures the default in a timely manner.***

***As of January 1, 2002, owner-employees who were previously restricted from taking personal loans from qualified retirement plans are permitted to do so. This restriction was lifted as part of the new legislation passed in June 2001.***

## 5.2 PLAN LOANS *Cont.*

months and the Participant or Beneficiary fails to make the loan payment by the earlier of (i) the due date following the suspension period or (ii) the due date of the last installment.

- (c) If TA East does not receive a loan repayment within 90 days on an outstanding loan, a letter will be sent to the Plan Sponsor indicating the loan is in default. If loan repayments are still not received and no response is received from the Plan Sponsor, the loan will be defaulted.

Once a loan is deemed distributed, the interest that accrues thereafter on that loan is not included in income. Repayments received after default are treated as after-tax contributions, for tax purposes when withdrawn later but are not treated as after-tax contributions for purposes of the ACP test or the maximum annual additions. For purposes of calculating the maximum permitted amount of any subsequent loan, a loan that has been deemed distributed is considered outstanding until the loan obligation has been satisfied.

- ❑ **Outstanding Loan Upon Termination**—If a Participant with an outstanding loan ends employment, retires, or incurs a disability, and elects to take a distribution of their entire account balance from the plan, the employee must either repay the loan or the employee may reduce ("offset") their account balance in the plan by the amount of the loan not repaid. The amount of the loan offset is treated as a distribution to the Participant at the time of the offset and will be taxed unless the Participant rolls over an amount equal to the amount of the loan offset to another qualified employer's plan or an IRA within 60 days of the date of the offset. The 20% mandatory income tax withholding will be based on the total vested account balance including the amount of the loan offset. If the Participant does not elect to withdraw the entire account balance the loan can remain in force as long as the Participant continues to make the loan payments when due.
- ❑ **Leave of Absence**—Loan repayments may be suspended by the Participant during a period of unpaid authorized leave of absence up to a maximum of twelve months, provided that the leave of absence commences at least 12 months before the final installment is due.

***Loan repayments can be made in full at any time, but partial pre-payments are not allowed.***

## 5.2 PLAN LOANS *Cont.*

The term of the loan will not be extended due to a leave of absence. At the end of the 12 month suspension period, or, if earlier, the date repayment again commences, the amount of the installment will be recalculated so that repayment is completed by the original loan term. The Plan Administrator must notify Transamerica Retirement Services in writing of any such Participant status.

- ❑ **Pre-Payment Restriction**—Repayment in full can be made at any time. Partial pre-payments are not allowed. The preferred method for a full repayment is with a certified check from the Participant or a check from the Plan Sponsor. A personal check from the Participant will not be accepted. Please make sure the repayment includes the Participant's name, Social Security Number, and loan number. The check should be made payable to Transamerica Retirement Services and mailed to Transamerica Retirement Services at the Edgewood, New York, address.
- ❑ **Additional Loans**—Your plan may limit the number of loans any Participant may have outstanding at any given time. Your plan may permit a Participant to refinance or renegotiate an existing loan. Refinancing is when one loan replaces another. Renegotiating is when additional funds are borrowed within the same duration as the original loan. Please refer to your plan document or Summary Plan Description.
- ❑ **Deductibility**—Interest paid on loans is generally not deductible.
- ❑ **Truth-in-Lending**—Plan loans may be subject to federal Truth-in-Lending requirements promulgated by the Federal Reserve Board. Regulation Z applies to individuals who extended credit more than 25 times a year if the credit is subject to a finance charge or payable by written agreement in more than four installments.

Pursuant to this regulation, a **loan disclosure statement must be issued** disclosing:

1. Creditor Identity
2. Amount Financed—with a brief description of the amount of credit provided to the Participant on the Participant's behalf

***All loan repayments must be sent in the same frequency as elective contributions.***

***No personal checks will be accepted at TA East for Participants.***

## 5.2 PLAN LOANS *Cont.*

3. Itemization Financed Amount—including the amount distributed to the Participant directly and the amount distributed to a third party
4. Finance Charge—including a brief description of the dollar amount the credit will cost the Participant
5. Annual Percentage Rate—including a brief description of the cost of the credit on a yearly basis
6. Explanation of the operation of a variable rate, if applicable
7. Payment Schedule—indicating the amounts and timing of payments
8. Total Repayment Amount Disclosure—including a brief explanation of the amount the Participant will have paid when all scheduled payments are made
9. Payment Penalty Description, if any
10. Statement Late Payment Consequences
11. Security Interest Identification
12. Other Requirements, which would generally not apply to a plan loan. The finance charge and annual percentage rate must be more conspicuous than any other disclosure.

### **The Loan Process**

**Prior to assisting a Participant in completion of the loan application form, be sure loans are allowed under your plan.**

If loans are available, you may provide the Participant with the Loan Application form and your plan's loan policy, if you have one.

Items **required** for loan processing:

- Completed loan application form.
- Distribution instructions indicating breakdown of fund(s) from which benefits will be withdrawn.
- There may be a loan withdrawal fee. Please refer to your Service Agreement.

***Make sure that loans are allowed under your plan before you begin assisting a Participant with application forms. Contact Transamerica East to verify that the loan amount is permissible.***

***A sample Loan Application can be found at the back of this guide.***

## 5.2 PLAN LOANS *Cont.*

### **Important Plan Trustee Responsibility**

It is your responsibility to verify the information provided by the Participant, then sign and date the form authorizing the loan.

**Once the loan application has been received at Transamerica Retirement Services, the Loan Department will check for completeness and eligibility. And, once Transamerica Retirement Services has reviewed the loan, a promissory note and check will be mailed to the Plan Sponsor for acceptance of the loan terms.**

The Plan Sponsor may release the loan check to the Participant upon receipt of the signed promissory note from the Participant. This signed promissory note should be kept in your files.

**Once the check is issued, endorsement of the loan check signifies agreement to the terms and conditions of the promissory note.**

***Promissory notes for the loan are not issued until the loan department has verified documents for completeness, and eligibility, and you have authorized the loan terms with your signature.***

## 5.3 HARDSHIP WITHDRAWAL REQUESTS

There are four statutory safe harbor circumstances for a hardship withdrawal:

- Costs directly related to the purchase of a Participant's principal residence
- To pay post-secondary tuition and educational expenses of Participant, spouse, or dependents, for the next 12 months
- To pay unreimbursed medical and/or hospital expenses for a Participant, spouse, or dependents
- To prevent eviction from or foreclosure on the mortgage of a Participant's principal residence.

A Participant must prove qualification under one of these circumstances and exhaust all other means of obtaining assets before applying for a hardship withdrawal. This includes taking a loan out from the plan, if loans are available. Once a hardship withdrawal is taken, a Participant is prohibited from making elective deferrals to the plan for a period of time.

The suspension period for all hardship withdrawals taken out after 1/1/02 is 6 months. The suspension period for hardship withdrawals taken out prior to 1/1/02 may be 6 or 12 months. The election to reduce this suspension period was made as part of the Adoption Agreement to Amendment E. If you cannot locate this document, please contact SponsorConnect<sup>SM</sup> for assistance.

The Internal Revenue Code allows early distribution (prior to age 59½) of Participant deferrals for extreme financial hardship. A hardship distribution of deferrals may be made "on account of an immediate and heavy financial need of the employee in an amount necessary to satisfy such financial need." Your plan document determines the circumstances under which a hardship distribution will be allowed under your plan. If your plan allows for hardship distributions, the administration of that benefit is based on rules similar to the IRC "Safe Harbor" rule. You will need to inform the Participant about the rules which apply under your plan.

***If a hardship distribution is made, the Participant's elective deferrals must be suspended for a period of time.***

**Effective January 1, 2002, this suspension has been reduced to only six months as part of the new legislation passed in June 2001.**

## 5.3 HARDSHIP WITHDRAWAL REQUESTS *Cont.*

### Criteria for Hardship Withdrawals

Under the "Safe Harbor" rules there are four circumstances for a hardship withdrawal:

1. **Medical Expenses** previously incurred by the Participant, the Participant's spouse, or any dependent of the Participant, or medical expenses necessary to obtain medical care for such individuals to the extent these expenses are not covered by insurance.
2. Costs directly related to the **Purchase of a Principal Residence** for the Participant (excluding mortgage payments).
3. **Tuition Payments** and related educational fees for the next 12 months of post-secondary education for the Participant, his/her spouse, children, or other dependents.
4. Payments necessary to **Prevent Eviction** of the Participant from his/her principal residence, or foreclosure on the mortgage of the Participant's principal residence.

### Hardship Withdrawal Limitations

Under the Safe Harbor rules, the Participant will be deemed to meet the requirement that the distribution is necessary to satisfy a financial need if:

- The amount of the withdrawal does not exceed the amount of the Participant's stated need for the withdrawal, including monies necessary to pay federal, state, and local income tax, and penalties resulting from distribution.

The Participant has obtained all other distributions and loans available from all employer plans. Under all plans, the Participant's annual deferral limitation under IRC 402(g) for the taxable year immediately following the taxable year in which the hardship withdrawal is made, will be reduced by the amount of deferrals (and salary deferral contributions under other plans maintained by the employer) made during the taxable year of the hardship withdrawal.

*Example: (Assuming this is the only plan and using a 6 month suspension period)*

Joe defers \$3,000 between January 1, 2001, and Oct. 15, 2001. On Oct.15 he takes a hardship withdrawal and his deferrals cease. When suspension ceases on April 1, 2002, he will only be permitted to

**Effective January 1, 2002, this suspension has been reduced to only six months as part of the new legislation passed in June 2001.**

## 5.3 HARDSHIP WITHDRAWAL REQUESTS *Cont.*

defer a total of \$8,000 in the 2002 calendar year. This is calculated by taking the limitation amount under IRC 401(g), which is \$11,000 for 2002, and subtracting the amount that he deferred in 2001 (\$11,000 - \$3,000 = \$8,000).

- The amount available for hardship withdrawals is limited to deferrals and cannot include any earnings accrued on the deferrals after 12/31/88.

### **Taxation of Hardship Withdrawals**

As of January 1, 2002, hardship distributions from all contribution types including Employer Contribution Accounts will not be eligible for rollover distributions. As such, they will not be subject to the mandatory 20% federal withholding rules. However, since it will still be treated as income to the Participant, they will have to pay taxes on this money when they file their personal returns. This will require advance planning by the Participant to ensure he/she will have the funds when he/she files his/her return.

Unless the individual elects otherwise, 10% federal withholding will apply to these payments. The hardship distribution will be reported on Form 1099-R.

**Transamerica Life Insurance and Annuity Company and its affiliates, employees, agents, and directors (a) are not responsible for determining whether the request satisfies applicable tax or other legal requirements, and (b) have no liability to the Participant or any other person for any adverse consequences resulting from payment of the hardship withdrawal as requested.**

### **Important Plan Trustee Responsibility**

It is your responsibility to verify the information provided by the Participant, then sign and date the form authorizing the hardship benefit.

It is also important for you to maintain written evidence of Participant financial hardship in the event of a plan audit. Examples of proof include:

- Medical and tuition bills
- Sale agreements for a principal residence
- Eviction notices

Transamerica Retirement Services does not need a copy of the written evidence of financial hardship.

***Hardship withdrawals may be subject to a 10% pre-retirement tax penalty if the distribution is made prior to attainment of age 59½.***

***Prior to assisting a Participant with the completion of the Hardship Withdrawal Request, verify that hardships are allowed under your plan. Also verify that the Participant has first utilized the loan feature through your plan, if applicable.***

***You should keep written proof of Participant financial hardship in the event of a plan audit.***

***A sample Hardship Withdrawal Request Form can be found at the back of this guide.***

## 5.4 DISTRIBUTION REQUESTS

### The Withdrawal Process

Following is a list of the types of distributions that may be made and the attachments required for each type. All types of distributions may not be available under your plan. Prior to assisting a Participant with the completion of a Distribution Request form, verify that your plan allows for the type of distribution the Participant is requesting.

#### ► Termination of Employment

- Completed Distribution Request form

#### ► Disability Benefit

- Completed Distribution Request form.
- Letter from the Social Security Administration stating that the Participant has qualified for a permanent disability. This is very important because it is the basis for determining if disability exists and for tax reporting as disability instead of premature distribution if Participant is under the age of 59<sup>1/2</sup>.

#### ► Retirement

- Completed Distribution Request form

#### ► In-Service Distribution

(age 59<sup>1/2</sup> but less than 70<sup>1/2</sup>)

- Completed Distribution Request form.
- Amount of outstanding loan balance, if applicable.
- Amount of non-taxable employee contributions, if applicable.

#### ► Spousal Beneficiary Account

- Completed Distribution Request form.
- Original copy of the **certified** death certificate with raised seal.
- Beneficiary Designation Form or, if applicable, written instructions from the Trustee as to the identification of the beneficiary in accordance with the Plan document.

***You will be charged a \$50 processing fee for each type of Participant withdrawal. This fee cannot be deducted from the Participant's account.***

***It is important that these attachments accompany the Distribution Request form. Transamerica East requires this data to process distributions in a timely manner.***

***All distribution forms can be found at the back of this guide.***

***Distribution checks will be mailed to Participants after you have authorized payment and Transamerica East has verified the forms for eligibility and completeness.***

## 5.4 DISTRIBUTION REQUESTS *Cont.*

### ▶ **Payment of Benefits due to a Qualified Domestic Relations Order (QDRO)**

- Completed Distribution Request form. Section 2 (payee information) must be completed by alternate payee (spouse receiving benefits) and must indicate his/her Social Security Number and date of birth.
- Copy of the Qualified Domestic Relations Order (QDRO) certified by a court.
- If the Participant has an outstanding loan balance and the benefits to be paid represent the entire vested balance of the Participant, the amount of loan outstanding must be provided.
- If the amount to be paid includes voluntary employee after-tax dollars, the pro-rated amount representing the non-taxable employee contribution must be provided.

### ▶ **Withdrawal of Rollover Account or Voluntary Employee Contribution Account**

- Completed Distribution Request form.
- If benefits to be paid are from a Voluntary Employee Contribution account, the amount of the non-taxable employee contribution must be provided.

### **Important Plan Trustee Responsibility**

The Plan Administrator must verify the information provided by the Participant, then sign and date the form authorizing the distribution. Once the fully completed form is received and processed, a check will then be mailed as the Participant has directed on the form.

## 5.4 DISTRIBUTION REQUESTS *Cont.*

### **Plan Sponsor Paid Withdrawal Processing Fee**

A \$50 processing charge will be assessed for each type of withdrawal. Some fees cannot be deducted from the Participant's account, and must be paid by the Plan Sponsor.

This Distribution Request form can be used in the following circumstances:

- Termination of employment
- Disability Benefit
- Retirement
- In-Service Distribution (age 59<sup>1/2</sup> but less than 70<sup>1/2</sup>)—Please refer to your plan document to determine if this type of distribution is available. If allowed by your plan, a Participant may withdraw all, or a portion of, his/her vested account balance without penalty tax after age 59<sup>1/2</sup>.
- Payment of benefits due to a Qualified Domestic Relations Order (QDRO)
- Withdrawal of Rollover Account or Voluntary Employee Contribution Account

## 5.5 FORCED DISTRIBUTIONS

If an employee leaves the company but chooses to leave their retirement savings in the plan, you may be able to “force the distribution”. Generally, this is allowed for vested account balances of under \$5,000 or less.

### **What is a forced distribution?**

A forced distribution is when the Plan Sponsor instructs Transamerica Retirement Services to distribute the vested balance of a former employee’s account. This type of distribution typically occurs when a former employee does not complete a Distribution Request form upon separation from service indicating what they would like to do with their account balance (i.e. rollover, single sum cash out, etc.). An account continues to be maintained for the former employee until the employee returns the Distribution Request form or Transamerica Retirement Services receives written request from the Plan Sponsor to “force the distribution”.

### **Are forced distributions allowed in your plan?**

Your Plan requires for the distribution of a former employee’s account balance if the value of the Participant’s vested interest is \$5,000 or less. If the value of the former employee’s vested interest exceeds \$5,000, you are required to maintain the account for the former employee until they elect to take a distribution. There is no maximum amount of time that a former employee can leave money in the plan if their vested interest exceeds \$5,000, however, at age 70½ a minimum distribution would be required.

### **How to determine if the value of the former employee’s vested interest exceeds \$5,000?**

Prior to 1/1/02, the determination of the value of the vested interest in the former employee’s account for purposes of forced distributions includes any rollover contribution amount. Effective 1/1/02, the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) allows you to exclude rollover contribution amounts from the calculation. Please refer to your plan document (specifically Amendment E to the Adoption Agreement) to determine if you elected to include or exclude rollover contributions when determining the value of the vested interest of the former employee’s account balance.

**Example:** *A former employee has a vested account balance of \$10,000. Of the \$10,000, \$4,000 represents contributions plus earnings accumulated under your Plan.*

## 5.5 FORCED DISTRIBUTIONS *Cont.*

*The remaining \$6,000 represents a contribution rollover plus earnings that the former employee contributed to your plan. Prior to 1/1/02, you could not automatically force the distribution, because he/she is deemed to have a total vested account balance of \$10,000 for purposes of the force out rules. If however, you amended your plan to exclude rollover amounts, the employee's account balance is deemed to be \$4,000 and you should request a forced distribution of the employee's benefit. Of course, in either situation, the employee would receive all \$10,000.*

### **Steps to follow with forced distributions:**

1. You are required by the IRS to provide written notice to former employees that are subject to forced distributions at least 30 days before you instruct Transamerica Retirement Services to distribute the assets. You must send a letter (see sample on page 30 of this chapter), a Distribution Request form and the accompanying "IRS Special Tax Notice" via priority mail so that you can confirm receipt.
2. Once 30 days have passed, if you have not received back the signed Distribution Request form from the employee you may send a letter (see sample on page 31 of this chapter) to Transamerica Retirement Services requesting the forced distributions. The turn-around time for distributions is 5–10 business days. The letter to Transamerica Retirement Services must include the following:
  - Your contract number and plan ID
  - Your Plan Name
  - Names and Social Security Numbers of the individuals to force out
  - Addresses, if Transamerica Retirement Services does not have a current address
  - Vested Percent of each individual

## 5.5 FORCED DISTRIBUTIONS *Cont.*

If you are unable to locate a former employee, you cannot force the distribution. The employee must confirm receipt of the letter and the “IRS Special Tax Notice” before the distribution can be forced out of the plan (or you may send the letter via U.S. Postal Service return receipt). You may try logging on to [www.anywho.com](http://www.anywho.com) as a free resource sponsored by AT & T for finding former employees. If you are able to locate a former Participant using this or another service, be sure to inform Transamerica Retirement Services of the former employee’s new address. If the Participant was deceased prior to issuance of the forced distribution, you are required to review the beneficiary file and provide instructions for reissuance of payment to Transamerica Retirement Services.

(SAMPLE)

## FORCED DISTRIBUTION LETTER

---

[Date]

[Former Employee]

[Home Address]

[State, City Zip]

Dear [Mr./Mrs.] [Last Name]

As a former employee and current Participant in our retirement plan, you are eligible to receive a full distribution of the funds in your retirement savings account.

Please read the enclosed notice regarding distributions. This notice includes important information about income tax withholding and tax-free rollover rules. You should then complete the enclosed Distribution Form making your election regarding payment directions and tax withholding and return it to my attention, as soon as possible. A trustee signature is necessary to release your funds. We must receive your completed Distribution Form no later than 30 days from the date of this letter.

***If we do not receive your completed form within 30 days of the date of this letter, we will make a distribution of the value of your vested account balance payable directly to you.*** You will receive only 80% of the payment, as we are required to withhold 20% for the IRS as income tax withholding. In addition, your payment will be taxed in the current year unless you roll it over to an IRA or another qualified plan. You can expect to receive your distribution check five to ten business days after Transamerica Retirement Services obtains the notice from our office.

If you have any questions about distributions, please contact us.

Sincerely,

[Plan Trustee]

Enclosures

(SAMPLE)

# FORCED DISTRIBUTION LETTER TO TRANSAMERICA

---

[Date]

Transamerica East  
100-G Executive Dr.  
Edgewood, NY 11717-8331

Re: Forced Distributions  
[Plan Name]  
[Contract Number and Plan ID]

Dear Transamerica Account Representative:

Please force distributions for the following former employees:

<b><u>NAME</u></b>	<b><u>SOCIAL</u></b>	<b><u>ADDRESS</u></b>	<b><u>VESTING %</u></b>
--------------------	----------------------	-----------------------	-------------------------

(if different than what Transamerica Retirement Services has)

It has been at least 30 days since I sent written notice to these former employees along with the "IRS Special Tax Notice". Since I have not heard back from these former employees, I am requesting that Transamerica Retirement Services force the distribution of their vested account balance.

If you have any questions about distributions, please contact me.

Sincerely,

[Plan Trustee]

## 5.6 ROLLING OVER FUNDS TO A TRANSAMERICA IRA

To roll over balances to a Transamerica IRA, follow these instructions:

**Step 1.** Visit [www.TA-Retirement.com](http://www.TA-Retirement.com) to print the IRA Rollover Application or call Transamerica Premier Funds at 1-800-331-2858 to request a Direct Rollover IRA kit. (The kit will be mailed by the next business day.)

**Step 2: Your Distribution Request Form**

- If you have already completed a Distribution Request form, proceed directly to Step 3.
- If you have not yet completed a Distribution Request form, you must obtain a copy of the form from your employer and complete the form.
- Each IRA Rollover Application must be accompanied by a Distribution Request form or it cannot be processed.

**Step 3: Your IRA Rollover Application**

- Complete the IRA Rollover Application. Be sure to follow the instructions preceding each step of the application.
- If you have questions on completing the application, please call 1-800-331-2858.

**Step 4: Submission of Your IRA Rollover Application**

- Submit your IRA Rollover Application together with your completed Distribution Request form to your employer for your employer's signature.
- Your employer will forward your completed and signed IRA Application and Distribution Request form to the recordkeeper. Once your forms are received and processed, a check to the Transamerica Premier Funds will be issued and your total balance will be transferred to your IRA Rollover account.
- Note: Your IRA Rollover Application and Distribution Request form will not be processed without proper signatures.

**Step 5: What's Next**

- Once your completed IRA Rollover Application and Distribution Request form have been received and processed, your Rollover IRA account will be established. At that time, you will receive a confirmation statement detailing your account.

## 5.7 MINIMUM REQUIRED DISTRIBUTIONS

IRS regulations require that minimum distributions for Participants' qualified retirement plans begin by a prescribed date.

### **How We Calculate Minimum Distributions**

The minimum distribution is calculated by Transamerica Retirement Services according to a specific formula and must commence no later than April 1 of the year following the later of: (a) the calendar year in which the Participant attains age 70<sup>1/2</sup>, or (b) the calendar year in which the Participant retires. However, if the Participant is a 5% owner, the minimum distribution must commence by April 1 following the calendar year in which a Participant attains age 70<sup>1/2</sup>, regardless of employment status. Participants who are non-5% owners may be entitled to defer payment until retirement if they are still employed at age 70<sup>1/2</sup>. Please refer to your Plan Document for more details including transitional rules for 1996 through 1998, including prior rules that permit Participants (including 5% owners) to defer distributions to a date later than stated above.

### **Failure to Meet Minimum Distribution Requirements**

A plan that fails to operationally meet the minimum distribution requirements is technically subject to disqualification, unless a correction is made through the Employee Plans Compliance Resolution System (EPCRS).

If a Participant requests an amount in excess of their minimum required distribution, they must be provided with the **IRS Special Tax Notice**. This notice will explain options available to them, since such amounts may be eligible for rollover.

***If a Participant requests an amount in excess of their Minimum Required Distribution, they must be provided with the IRS Special Tax Notice. This notice will explain options available to them, since such amounts may be eligible for rollover.***

## 5.7 MINIMUM REQUIRED DISTRIBUTIONS *Cont.*

### **Annual MRD Communication**

During the last quarter of the year, Transamerica Retirement Services will send an annual mailing to the Plan Sponsor indicating which Participants, according to the information in Transamerica Retirement Services' recordkeeping system, are required to receive minimum distributions for that calendar year.

### **Important Plan Trustee Responsibility**

It is your responsibility to provide those Participants with the Minimum Required Distribution forms for completion. Instructions will be provided in the mailing. Upon timely receipt of completed forms signed by the Trustee, Participant, and spouse, if applicable (may require notarization), Transamerica Retirement Services will process the Minimum Required Distribution by the end of the calendar year.

Minimum Required Distributions will not be processed for Participants for whom completed, signed, and notarized (if applicable) forms are not returned to Transamerica Retirement Services.

It is your responsibility to verify the information provided by the Participant, then sign and date the form authorizing the distribution request.

***Minimum Required Distributions will not be processed for Participants for whom completed, signed, and notarized forms are not returned to Transamerica Retirement Services.***

***A sample Minimum Required Distribution Form can be found at the back of this guide.***

## 5.8 DEATH BENEFIT CLAIMS

Whether an individual is a spousal or non-spousal Beneficiary, Beneficiaries have varied options when a retirement account becomes theirs. Below, we have listed the options that Beneficiaries have upon receiving an account balance in a retirement plan.

Action	Who Is Eligible	Form to Fill Out
Leave money in plan	Spouse	Death Benefit Claim form
Distribution in cash	Spouse & Non-Spouse	Death Benefit Claim form
Rollover to IRA or other Qualified Retirement Plan	Spouse	Death Benefit Claim form

Following is a list of the attachments required for a Death Benefit Claim. Prior to assisting a Beneficiary with the completion of the Death Benefit Claim form, please make sure that you have reviewed the Guidelines listed on page 1 of the Death Benefit Claim form.

- Completed Death Benefit Claim form—  
The identification of the beneficiary should be determined from a valid Beneficiary Designation Form, or lacking a valid form, determined in accordance with the plan document.
- Original copy of the **certified** death certificate.
- Beneficiary Designation Form, or if applicable, written instructions from the Trustee as to the identification of the beneficiary in accordance with the Plan document.
- Tax consent form (if required by the state where the Participant resided). This requirement can be secured from the State Inheritance Division of that state.

Please note that distribution checks will be mailed to the Beneficiary after you have authorized payment and Transamerica East has verified the forms for eligibility and completeness.

***The Beneficiary must provide an original copy of the certified death certificate with the Death Benefit Claim form.***

## 5.8 DEATH BENEFIT CLAIMS *Cont.*

If your plan has life insurance policies, the Trustee is the owner and Beneficiary under the policies. Upon the death of the Participant, the Trustee will direct the Insurance Company to pay the proceeds, in accordance with the terms of the policies, to the Beneficiary determined under the Plan.

Here are some helpful reminders:

1. The Beneficiary must provide an original copy of the **certified** death certificate with the Death Benefit Claim form.
2. The Spouse has the option to leave the funds in the plan (Spousal Beneficiary account).
3. The Spouse has the option of rolling over the funds to an IRA. (If you'd like information on a Transamerica IRA , visit [www.TA-Retirement.com](http://www.TA-Retirement.com) or call 1-800-331-2858 to request a Direct Rollover IRA kit.)