



MERS IRA Fee Disclosure Statement

This Financial Disclosure Statement is intended to provide the MERS Individual Retirement Account (IRA) owner with the fees and costs associated with the establishment of, and participation in, the MERS IRA. The value of the MERS IRA will be solely dependent upon the performance of the investment instruments chosen by you, the account owner. Therefore, no projection of the growth in value of the MERS IRA can reasonably be shown or guaranteed at any given time.

1. Total Annual Operating Expense

The Total Annual Operating Expense for each investment menu option is comprised of the Investment Management Cost, which varies by fund, as well as the MERS Operating Cost of 0.24% and Custody and Recordkeeping Cost of 0.09%. The Total Annual Operating Expense for each investment menu option is reflected in the table below.

The MERS IRA does not charge any investment transfer fees or an annual account fee.

2. Earnings

The method for computing and allocating annual earnings (interest, dividends, etc.) on your investments will vary with the nature and issuer of the investment option(s) chosen. Please go to <https://assets.mersofmich.com/forms/FundFeeSummary.pdf>. In that chart, each investment listed has a link to more information regarding that investment, where you can review the method(s) used for computing and allocating annual earnings.

3. Trade Restrictions

The MERS Total Market Portfolio charges 2.00% on amounts withdrawn within 90 days of each contribution.

Before you make any decision to move money into any new retirement plan or IRA, you should research the applicable surrender fees, mortality and expense risk fees, administrative fees and investment management fees, as well as the initial investment requirements.

FUND NAME	TOTAL ANNUAL OPERATING EXPENSE ¹	COST per \$1,000
LifePath Retirement	0.39%	\$3.90
LifePath 2025	0.40%	\$4.00
LifePath 2030	0.40%	\$4.00
LifePath 2035	0.40%	\$4.00
LifePath 2040	0.41%	\$4.10
LifePath 2045	0.41%	\$4.10
LifePath 2050	0.41%	\$4.10
LifePath 2055	0.41%	\$4.10
LifePath 2060	0.41%	\$4.10
LifePath 2065	0.41%	\$4.10
MERS Total Market Portfolio ³	0.70%	\$7.00
MERS Global Stock Portfolio	0.37%	\$3.70
MERS Established Market Portfolio	0.39%	\$3.90
MERS Diversified Bond Portfolio	0.41%	\$4.10
Large Cap Stock Index	0.36%	\$3.60
Mid Cap Stock Index	0.38%	\$3.80
Small Cap Stock Index	0.39%	\$3.90
International Stock Index	0.36%	\$3.60
Emerging Market Stock	0.53%	\$5.30
Real Estate Stock	0.38%	\$3.80
Bond Index	0.35%	\$3.50
High Yield Bond	0.47%	\$4.70
Short-Term Income	0.38%	\$3.80

MERS IRA Disclosure Statement (as of April 27, 2023)

The Municipal Employees' Retirement System of Michigan operates under the authority of the Municipal Employees Retirement Act, MCL 38.1501 et seq. Effective August 15, 1996, the legislature amended the retirement act and granted the Board of the Municipal Employees' Retirement System the power to establish all Retirement System provisions, including additional programs not limited to Defined Benefit and Defined Contribution programs. The MERS Board adopted these Plans, and the 457 Plan pursuant to Sections 401 and 457 of the Internal Revenue Code of 1986, as now in effect or as hereafter amended (the "Code").

MERS adopted a deemed IRA program (the "MERS IRA") under the Defined Benefit and Defined Contribution Plan and the 457 Plan, pursuant to Section 408(q) of the Code, that meets the requirements of a traditional IRA under Section 408 of the Code and a Roth IRA under Section 408A of the Code.

This Disclosure Statement is in accordance with Section 408 of the Code and other federal laws. To acquaint you with the basic rules and tax considerations concerning the MERS IRA, the Plan is providing you with this Disclosure Statement as required by regulations of the Internal Revenue Service. In addition to this Disclosure Statement, the Plan is providing you with (i) the MERS IRA Financial Disclosure Statement and (ii) the Plan provisions governing the MERS IRA.

A. Revocation of Account

You may revoke your MERS IRA within seven (7) days after the account has been established by hand delivering or mailing a written notice to Plan. Your MERS IRA account is established as of the date shown on the written confirmation that we send to you. If you revoke your MERS IRA by mail, the notice must be postmarked by the seventh day after the account has been established. Upon receipt of your revocation, we will refund any amounts you have given us, without adding any earnings or deducting any fees or other charges. If you cancel your MERS IRA within the 7-day period, the Plan's record-keeper is still required to report the contribution on Form 5498 (except for transfers) and the revoked distribution on Form 1099-R. To revoke your IRA, send your written request, using this format, to:

Alerus Retirement and Benefits
3001 Coolidge Rd., Ste 105
East Lansing, MI 48823
Attention: MERS of Michigan IRA

This notice should be signed by you and include the following:

1. The date.
2. A statement that you elect to revoke your IRA.
3. Your IRA account number.
4. The date your IRA was established.
5. Your signature and your name printed or typed.

Mailed notice will be deemed given on the date that it is postmarked, if it is properly addressed and deposited either in the United States mail, first class postage prepaid, or with an IRS approved overnight service. This means that, when you mail your notice, it must be postmarked on or before the seventh day after your IRA was opened.

B. Statutory Requirements and Internal Revenue Service Review

An IRA is a trust account established for the exclusive benefit of you and your beneficiary(ies). The Internal Revenue Code of 1986, as amended, provides for several types of IRAs, including a "Traditional" IRA and a "Roth" IRA. MERS administers both a Traditional IRA and a Roth IRA. The Internal Revenue Code requires that the IRA be governed by a written document. The MERS 401(a) Plan Document and the MERS 457(b) Plan Document incorporates those requirements. An IRA must be established with a qualified trustee or custodian, which must be a bank, trust company, savings and loan association, credit union or a person who is approved to act in such capacity by the Secretary of the Treasury. Alerus Retirement Services is the Directed Bank Trustee of the MERS IRA.

The MERS IRA is a deemed IRA in accordance with Section 408(q) of the Code.

The provisions establishing the MERS IRA are incorporated into the 401(a) Plan Document and the 457 Plan Document, which follows this IRA Disclosure. A copy of the full 401(a) Plan Document and the 457 Plan Document are available on the Plan's website at www.mersofmich.com or by calling 800 767-6377.

The Internal Revenue Service has not reviewed or approved the provisions establishing the MERS IRA. The Internal Revenue Service review considers only the form of IRA provisions, and does not represent a determination of their merits.

C. General information that applies to your MERS IRA

1. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial organizations to obtain, verify, and record information that identifies each person who opens an account. Therefore, when you open an account, you are required to provide your name, residential address, date of birth, and identification number. We may require other information that will allow us to identify you.
2. You may not invest the assets of your IRA in life insurance contracts. You may not invest the assets of any IRA in collectibles within the meaning of Section 408(m) of the Code. A collectible is defined as any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage or any other tangible personal property specified by the IRS. Coins issued by states and certain U.S. gold, silver and platinum coins are permissible investments in an IRA. Gold, silver, platinum and palladium bullion of a specified fineness (as described in Section 408(m)(3) of the Code) also are permissible investments. Failure to satisfy this requirement would result in an amount equal to the cost of the collectible being treated as a distribution from your IRA.
3. Your interest in your IRA must be nonforfeitable.
4. The assets of any IRA may not be commingled with other property except in a common trust fund or common investment fund.
5. In accordance with federal regulations, where an individual is lawfully married to another individual, regardless of gender, both individuals shall be treated as a "spouse" for federal tax purposes. Individuals in a civil union or domestic partnership will not be treated as spouses for federal tax purposes.
6. If you or your beneficiary engages in any prohibited transaction as described in Section 4975(c) of the Code (such as any sale, exchange, borrowing, or leasing of any property between you and your IRA; or any other interference with the independent status of the account), the account will lose its exemption from tax and be treated as having been distributed to you in the tax year in which you or your beneficiary engaged in the prohibited transaction. Effective for years after December 29, 2022, the law was clarified to provide that, if an individual has multiple IRAs, only the IRA with respect to which the prohibited transaction occurred will be disqualified. The distribution may also be subject to additional penalties including a 10% penalty tax if you have not attained age 59½. Please consult a qualified tax professional regarding calculating taxable gain, reporting amounts in income and prohibited transaction penalty taxes. In addition, if you or your beneficiary use (pledge) all or any part of your IRA as security for a loan, then the portion so pledged will be treated as if distributed to you, and will be taxable to you. Your distribution may also be subject to a 10% penalty tax if you have not attained age 59½ during the year which you make such a pledge.
7. Your designation of a beneficiary(ies) to receive distributions from your IRA upon your death will not be considered a transfer of property for federal gift tax purposes. Transfers of your IRA assets to a beneficiary made during your life and at your request may be subject to federal gift tax under Section 2501 of the Code. Generally, amounts remaining in your IRA after your death will be included in your gross estate for federal estate tax purposes. You are encouraged to consult with a qualified tax professional when considering the estate tax consequences of your IRA assets.

8. Please see below, under **“What are the rules regarding distributions from my MERS Traditional IRA?”** regarding federal income tax withholding. State income tax withholding may also apply to distributions from your IRA account when federal income tax is withheld. Please contact a qualified tax professional or state tax authority for information about your state’s income tax withholding requirements.
9. Contributions to your IRA must be reported on your tax return (Form 1040 or 1040A, and Form 8606 for nondeductible traditional IRA contributions) for the taxable year contributed. If you are subject to any of the Federal penalty taxes due to early distributions (either actual early distributions or certain transactions that result in assets being considered early distributions), excess contributions, premature distributions, or missed required minimum distributions, you must file IRS Form 5329. Please contact a qualified tax professional for information about your personal tax requirements.

Who is eligible to establish a MERS IRA?

Any individual who is or was employed by one of the following in the State of Michigan, except as otherwise stated:

- (a) A county, county road commission, city, village, or township;
- (b) A public corporation or instrumentality established by 1 or more counties, cities, villages, or townships;
- (c) A public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages, or townships;
- (d) A political subdivision located in the State of Michigan or located in this and another adjacent state of the United States including, but not limited to, the entities named in (a), (b), or (c), above, or any combination of these units;
- (e) A political subdivision located in the State of Michigan and a metropolitan government borough, or other political subdivision of the province of Ontario, an agency of the United States, or a similar entity of adjacent states of the United States and the province of Ontario;
- (f) A state university, community college, or junior college whose employees are not public school employees who are members under the Public School Employees Retirement Act of 1979, MCL 38.1301 et seq; or
- (g) Any municipal corporation as defined in section 1 of MCL 124.1, or other governmental entity that is eligible to join MERS and participate in any program under the MERS Act, as determined by the Retirement Board;

who is within the modified adjusted gross income limits permitted to make contributions to a MERS IRA.

Your spouse may qualify to establish a MERS Spousal IRA if you, the eligible employee, establish a MERS IRA account (funding is not required), and you and your spouse file a joint tax return. In that case, you or your spouse can make contributions to a separate MERS Spousal IRA as well contributions to your own MERS IRA.

Are there age restrictions on contributing to a MERS IRA?

There is no age restriction on contributing to a MERS Traditional or Roth IRA. Effective as of January 1, 2020, the maximum age of 70½ for traditional IRA contributions was repealed. Beginning in 2020, IRA owners who have reached age 70½ or older may make a contribution, provided they have earned income for the year. This change does not allow owners over the age of 70½ to make a 2019 or prior contribution, however.

What are the compensation rules regarding contributing to a MERS IRA?

You are permitted to make a regular contribution to your MERS IRA for a taxable year until the tax filing deadline of the taxable year (usually, April 15 of the year following the taxable year) if you receive compensation for such taxable year. Compensation includes salaries, wages, tips, commissions,

bonuses, alimony, royalties from creative efforts and “earned income” in the case of self-employment, payments made to individuals pursuing graduate or post-doctoral study or research and Difficulty of Care Payments. Compensation does not include earnings and profits from property, such as interest and dividends, or amounts not includable in gross income. It also does not include pensions or annuities or amounts received as deferred compensation.

There are compensation rules that can affect how much of your contribution to a Traditional IRA is deductible – see below under **Is my contribution to my MERS IRA tax-deductible?**. There are also compensation rules that affect how much you can contribute to a Roth IRA – see below under **What is the maximum amount I can contribute to my MERS IRA?**.

What kind of contributions can I make to my MERS IRA?

A regular contribution is a contribution to an IRA for a tax year that is made from your assets.

A rollover contribution is a contribution to an IRA of any or all assets that you direct to be paid from another of your retirement plans. A rollover contribution is not tax-deductible, but it does continue the tax deferral on the retirement plan assets deposited into the IRA (unless rolled over to a Roth IRA, which results in taxation as ordinary income).

A conversion contribution is a contribution to a Roth IRA of any or all assets received from a traditional IRA. A conversion contribution is taxable as ordinary income.

Contributions, transfers and rollovers may be made only in cash by check, draft, or other form acceptable to the Directed Bank Trustee, Alerus. Contributions in stock certificates are not allowed.

What is the maximum amount I can contribute to my MERS IRA?

For 2023, the maximum allowable regular contribution to your individual retirement accounts (deductible, non-deductible, and Roth) is the lesser of (a) \$6,500 or (b) 100% of your earned income. If you are submitting a contribution for 2022, the limit under (a) above was \$6,000. For those who have attained the age of 50 before the close of the taxable year, there is a catch-up amount permitted, which increases the annual IRA contribution limit by \$1,000. Effective for taxable years beginning after December 31, 2023, this catch-up amount shall begin to be indexed by IRS. These limits do not apply to rollover or conversion contributions.

Allowable contributions to a Roth IRA are subject to a reduction - a “phase-out” - that is determined based on modified adjusted gross income. For 2023, the income phase-out range for making contributions to a Roth IRA is between \$138,000 and \$153,000 for people filing tax as singles and heads of household; for married couples filing jointly, the income phase-out range is between \$218,000 and \$228,000; for a married individual filing a separate return, the income phase-out range is between \$0 and \$10,000. These limits do not apply to rollover or conversion contributions. Please see IRS Publication 590-A, Contributions to Individual Retirement Arrangements for information on calculating the phase-out reduction.

For tax years after 2023, the above limits may be subject to Internal Revenue Service (“IRS”) cost-of-living adjustments, if any.

In any tax year in which you make a regular contribution to any other IRA, or make a regular contribution to a Roth IRA, that contribution must be used to reduce the regular contribution that you can make to your MERS IRA for that year. **You are responsible for making sure you do not exceed the contribution limit among all of your IRAs.** Excess contributions must be reported to IRS on Form 5329.

If you have earned income, are married and file a joint federal income tax return, you may make an IRA contribution on behalf of your working or nonworking spouse. The total annual contribution limit for both IRAs may not exceed the lesser of (1) the combined compensation of both spouses or (2) the annual IRA contribution limits as set forth by the IRS. Contributions made on behalf of a spouse must be made to a separate IRA account established by your spouse.

Please consult in IRS Publication 590-A, Contributions to Individual Retirement Arrangements, or a qualified tax professional for more information about eligibility requirements and contribution restrictions. Always be sure to use the IRS publication applicable to the right year, and check for updates.

Is my contribution to my MERS IRA tax-deductible?

Your contribution to your MERS Roth IRA is not deductible on your federal income tax return.

Your contribution to your MERS Traditional IRA may be tax-deductible on your federal income tax return, and you do not have to itemize deductions for this. However, there is a reduction – a “phase-out” - of the IRA tax-deduction available for an IRA contribution if you are an active participant in an employer-sponsored retirement plan. The tax-deductible amount of an IRA contribution is reduced proportionately as your modified adjusted gross income increases. The modified adjusted gross income levels are subject to IRS cost-of-living changes each year. If, during the taxable year, either you or your spouse was covered by a retirement plan at work, the deduction may be reduced, or phased out, until it is eliminated, depending on your filing status and income. Here are the deductibility phase out ranges for 2023 contributions to traditional IRAs:

- If neither you nor your spouse is covered by a retirement plan at work, the phase-outs of traditional IRA tax deductions do not apply.
- For a single individual covered by a workplace retirement plan, the phase-out range is between \$73,000 and \$83,000.
- For a married couple filing jointly, if the spouse making the IRA contribution is covered by a workplace retirement plan, the phase-out range is between \$116,000 and \$136,000.
- For married couple filing jointly, if the spouse making the IRA contribution is not covered by a workplace retirement plan and is married to someone who is covered, the phase-out range is between \$218,000 and \$228,000.
- For a married individual filing a separate return who is covered by a workplace retirement plan, the phase-out range is between \$0 and \$10,000.

For tax years after 2023, the above limits may be subject to Internal Revenue Service (“IRS”) cost-of-living adjustments, if any.

You may designate a portion or all of your IRA contribution as a “nondeductible contribution” if amounts contributed do not exceed the lesser of (1) 100% of compensation or (2) the Traditional IRA contribution limit. If the deductible IRA contribution is limited because of active participation in an employer-maintained retirement plan and your modified adjusted gross income exceeds the amount set forth in Section 219 of the Code, you may make a nondeductible contribution. You are required to designate on IRS Form 8606 how much of your IRA contribution is nondeductible (you should attach this form to your Federal income tax return). Therefore, your designation must be made by the due date (including extensions) for filing your tax return. Nondeductible contributions receive tax-deferred accumulation of income until withdrawn.

What is the deadline for contributing to my MERS IRA?

You may contribute to your MERS IRA for a tax year at any time during that year or any time up until your federal income tax filing deadline (usually April 15th) for that year without regard to extensions. Assets contributed to the MERS Traditional IRA must be received by MERS prior to the tax-filing deadline.

Any contribution made to your IRA will be treated as a contribution for the year it is received, unless the contribution is made between January 1 and the April 15th postmark deadline and you have identified the contribution as a prior year contribution.

What if I make contributions in excess of the allowable limit?

To the extent that your total regular contribution to your IRAs for a tax year exceeds the maximum amount you are permitted to contribute, it is an “excess contribution.”

Amounts contributed to your IRAs in excess of the allowable limit will be

subject to a non-deductible excise tax of 6% for each year until the excess is either (1) used up as an allowable contribution in a subsequent year, or (2) returned to you. The 6% excise tax will not apply if the excess contribution and earnings allocable to it are distributed by your federal income tax return due date, including extensions. If such a distribution is made, the earnings on the excess contributions are considered taxable income for the tax year in which the excess was contributed to the IRA.

Earnings will be removed with the excess contribution, if corrected before your federal income tax return due date (including extensions), pursuant to Section 408(d)(4) of the Code. Alerus will issue an IRS Form 1099-R for the year in which the distribution of the excess contributions occurred, not the year in which the excess contribution was made. Always be sure to use the IRS publication applicable to the right year, and check for updates. Recent legislation exempts the excess contribution and earnings allocable to the excess contribution from the 10% additional tax on early distributions, and is effective for any determination of, or affecting, liability for taxes, interest, or penalties which is made on or after December 29, 2022, without regard to whether the act (or failure to act) upon which the determination is based occurred before such date.

For the purpose of determining the earnings on an excess contribution, MERS will calculate the net income attributable (“NIA”) to that contribution, using the method provided for in the IRS Final Regulations for Earnings Calculation for Returned or Recharacterized Contributions. This method calculates the NIA based on the actual earnings and losses of the IRA during the time it held the excess contribution. Please note that a negative NIA is possible, and, if applicable, will be deducted from the amount of the excess contribution.

Please consult IRS Publication 590-A, **Contributions to Individual Retirement Arrangements**, or a qualified tax professional for more information pertaining to excess contributions.

How do I make a rollover contribution to my MERS IRA?

If you have assets in another retirement plan, you may roll over all or part of them to your MERS Traditional IRA. The retirement plan from which you may roll over assets can either be an employer’s retirement plan, such as a 457 plan or 401(k) plan or an IRA with another financial institution. You can find the forms and other information you will need to make your rollover contributions through your myMERS account at www.mersofmich.com, or by calling the MERS Service Center at 800.767.6377.

A direct rollover of pre-tax assets from an outside IRA or an employer’s retirement plan, such as a 457 plan, or 401(k) plan to the MERS Traditional IRA can be made at any time (subject to meeting the eligibility requirements of an employer’s retirement plan), and is not included in your gross income as long as you do not receive any of it (unless rolled over to a Roth IRA).

An indirect rollover from an IRA or an employer’s retirement plan to the MERS Traditional IRA occurs when a distribution is paid to you from an outside IRA or an employer’s retirement plan, as long as you pay those assets to the MERS IRA within 60 days of receiving them. If a distribution is rolled over (that is, deposited in your IRA within 60 calendar days), the amount rolled over is not taxable. The IRS strictly enforces the 60-day time limit. You may rollover a portion of a distribution, in which case the remainder will be subject to tax. The IRS requires 20% of any distribution from your employer’s plan to be withheld for federal income tax unless your distribution is transferred (as a direct rollover) to an eligible retirement plan such as another qualified plan or IRA. So if the assets are paid to you, you will only receive 80% of your distribution, and if you wish to make an indirect rollover of 100% of your distribution, you will have to add the additional 20% from your assets to the indirect rollover to make up for the withheld amount.

The IRS will permit you to deposit a late rollover contribution (exceeding the 60-day time limit), if you meet certain qualifications. All late rollover contribution deposits must be accompanied by a late rollover self-certification form. It is important to know that self-certification does not constitute an automatic waiver of the 60-day time limit. The IRS may, during the course of an examination, determine that your contribution does not meet the requirements for a waiver. If it is determined that you do not meet the

requirements, you could be subject to additional income, income taxes and penalties. MERS is required to report all late rollover contribution deposits on IRS Form 5498. For more information and a list of qualifying circumstances, please visit the Internal Revenue Service's web site www.irs.gov using the search term "Revenue Procedure 2020-46".

Amounts attributable to a participant's designated Roth contribution account under an employer's 401(k) plan, 403(b) plan or governmental 457(b) plan are eligible to roll over into a MERS Roth IRA as either a direct rollover or an indirect rollover. Once the amount is rolled over to a Roth IRA, it may not be rolled back to an employer's plan. The rules regarding designated Roth rollovers to Roth IRAs are complex and you should consult a qualified tax professional prior to initiating a designated Roth rollover.

An IRA participant is allowed only one rollover from one IRA to another (or the same IRA) across all IRAs (Traditional, Rollover, Roth, SEP, SARSEP and SIMPLE) in aggregate that a taxpayer owns in any 12-month or 365-day period. Also, you cannot, for a 12-month or 365-day period, roll over the distributions from the IRA receiving the rollover. An IRA owner can make an unlimited number of trustee-to-trustee transfers where the full account balance is transferred directly to a new financial institution, successor custodian or trustee. You must contact the receiving institution to initiate a trustee-to-trustee transfer. For more information, please visit the Internal Revenue Service's web site www.irs.gov using the search term "IRA One-Rollover-Per-Year Rule".

If you received a military death gratuity or Service Members Group Life Insurance (SGLI) payment, you may contribute all or part of the amount received to your MERS Roth IRA. The contribution is treated as a rollover, except that this type of rollover does not count when figuring the annual limit on the number of rollovers allowed. The amount you can contribute to a Roth IRA under this provision cannot exceed the total amount of such payments that you received because of the death of a person, reduced by any part of the amount so received that you have already contributed to a Roth IRA.

Note: The rules regarding rollovers are complex and subject to frequent change; you should consult a qualified tax professional if you are considering a rollover, because rollovers are irrevocable.

What are the rollover and conversion rules that apply to IRAs?

Your IRA may be rolled over to another IRA in your name, may receive rollover contributions and, if it is a Traditional IRA, it may be converted to a Roth IRA, provided that all of the applicable rollover and conversion rules are followed. The term "rollover" means a tax-free movement of cash or other property to your IRA from another IRA, or from your employer's qualified retirement plan, 403(a) annuity plan, 403(b) tax-sheltered annuity, or 457(b) eligible governmental deferred compensation plan. An IRA "conversion" is the movement of Traditional IRA assets to a Roth IRA. A conversion is generally a taxable event. The rollover and conversion rules are summarized below. These transactions are often complex. If you have any questions regarding a rollover or conversion, please see a qualified tax professional.

1. **Traditional IRA to Traditional IRA Rollovers:** Assets distributed from your Traditional IRA may be rolled over to the same Traditional IRA or another Traditional IRA of yours, subject to the requirements and limitations set out in Section 408(d)(3) of the Code.

An IRA-to-IRA rollover is completed if all or part of the distribution is rolled over not later than 60 days after the distribution is received. In the case of a distribution for a first-time homebuyer where there was a delay or cancellation of the purchase, the 60-day rollover period may be extended to 120 days.

You are permitted to roll over only one distribution from an IRA (Traditional, Roth, or SIMPLE) in a 12-month period, regardless of the number of IRAs you own. A distribution may be rolled over to the same IRA or to another IRA that is eligible to receive the rollover. For more information on rollover limitations, you may wish to obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov.

Assets in inherited IRAs may not be rolled over, unless the person who inherited the IRA was the spouse of the IRA owner.

2. **SIMPLE IRA to Traditional IRA Rollovers:** Assets distributed from your SIMPLE IRA may be rolled over to your IRA without IRS penalty tax provided two years have passed since you first participated in a SIMPLE IRA plan sponsored by your employer. As with Traditional IRA to Traditional IRA rollovers, the requirements of Section 408(d)(3) of the Code must be met. A SIMPLE IRA to IRA rollover is completed if all or part of the distribution is rolled over not later than 60 days after the distribution is received.

You are permitted to roll over only one distribution from an IRA (Traditional, Roth, or SIMPLE) in a 12-month period, regardless of the number of IRAs you own. A distribution may be rolled over to the same IRA or to another IRA that is eligible to receive the rollover. For more information on rollover limitations, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov.

3. **Employer-Sponsored Retirement Plan to Traditional IRA Rollovers:** You may roll over, directly or indirectly, any eligible rollover distribution from an eligible employer-sponsored retirement plan. An eligible rollover distribution is defined generally as any distribution from a qualified retirement plan, 403(a) annuity, 403(b) tax-sheltered annuity, 457(b) eligible governmental deferred compensation plan, or federal Thrift Savings Plan unless it is a required minimum distribution, hardship distribution, part of a certain series of substantially equal periodic payments, corrective distributions of excess contributions, excess deferrals, excess annual additions and any income allocable to the excess, deemed loan distribution, dividends on employer securities, the cost of life insurance coverage, or a distribution of Roth elective deferrals from a 401(k), 403(b), governmental 457(b), or federal Thrift Savings Plan. If you elect to receive your rollover distribution prior to placing it in an IRA, thereby conducting an indirect rollover, your plan administrator will generally be required to withhold 20% of your distribution as a payment of income taxes. When completing the rollover, you may make up the amount withheld from other assets, and roll over the full amount distributed from your employer-sponsored retirement plan. To qualify as a rollover, your eligible rollover distribution must be rolled over to your IRA not later than 60 days after you receive distribution. In the case of a plan loan offset due to plan termination or severance from employment, the deadline for completing the rollover is your tax return due date (including extensions) for the year in which the offset occurs. Alternatively, you may claim the withheld amount as income, and pay the applicable income tax, and if you are under age 59½, the 10% early distribution penalty tax (unless an exception to the penalty applies).

As an alternative to the indirect rollover, your employer generally must give you the option to directly roll over your employer-sponsored retirement plan balance to an IRA. If you elect the direct rollover option, your eligible rollover distribution will be paid directly to the IRA (or other eligible employer-sponsored retirement plan) that you designate. The 20% withholding requirements do not apply to direct rollovers.

A spouse or former spouse receiving an eligible rollover distribution from an employer-sponsored retirement plan has the same rollover rights as an employee. A nonspouse beneficiary may only do a direct rollover to an inherited IRA.

4. **Traditional IRA to SIMPLE IRA Rollovers:** Assets distributed from your Traditional IRA may be rolled over to a SIMPLE IRA if the requirements of IRC Sec. 408(d)(3) are met and two years have passed since you first participated in a SIMPLE IRA plan sponsored by your employer. A Traditional IRA-to-SIMPLE IRA rollover is completed if all or part of the distribution is rolled over not later than 60 days after the distribution is received. In the case of a distribution for a first-time homebuyer where there was a delay or cancellation of the purchase, the 60-day rollover period may be extended to 120 days.

You are permitted to roll over only one distribution from an IRA

(Traditional, Roth, or SIMPLE) in a 12-month period, regardless of the number of IRAs you own. A distribution may be rolled over to the same IRA or to another IRA that is eligible to receive the rollover. For more information on rollover limitations, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov.

5. **Traditional IRA to Employer-Sponsored Retirement Plan Rollovers:** You may roll over, directly or indirectly, any taxable eligible rollover distribution from an IRA to your qualified retirement plan, 403(a) annuity, 403(b) tax- sheltered annuity, or 457(b) eligible governmental deferred compensation plan if the employer-sponsored retirement plan accepts such rollover contributions.
6. **Traditional IRA to Roth IRA Conversions:** If you convert to a Roth IRA, the amount of the conversion from your Traditional IRA to your Roth IRA will be treated as a distribution for income tax purposes and is includible in your gross income (except for any nondeductible contributions). Although the conversion amount generally is included in income, the 10% early distribution penalty tax will not apply to conversions from a Traditional IRA to a Roth IRA, regardless of whether you qualify for any exceptions to the 10% penalty tax unless an amount attributable to a conversion is distributed from the Roth IRA prior to five years from the date of the conversion. If you are required to take a required minimum distribution for the year, you must remove your required minimum distribution before converting your Traditional IRA. You may not convert any portion of a required minimum distribution. Your traditional IRA may be converted to a Roth IRA by means of an in-house direct transfer (within the same financial institution) or as a direct transfer between two different financial institutions.

A conversion is reported as a distribution from your traditional IRA (IRS Form 1099-R) and a conversion contribution to your Roth IRA (IRS Form 5498). The rules regarding conversions to Roth IRAs are complex and you should consult a qualified tax professional prior to a conversion.

Effective January 1, 2018, a conversion to a Roth IRA cannot be recharacterized back to a traditional IRA, SEP or SIMPLE IRA. In addition, amounts contributed to an employer sponsored qualified plan that were converted to a Roth IRA cannot be recharacterized back to the employer plan. A conversion to a Roth IRA is now deemed an irrevocable election and cannot be "reversed" or "corrected". For more information, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov.

A conversion is reported as a distribution from your traditional IRA (IRS Form 1099-R) and a conversion contribution to your Roth IRA (IRS Form 5498). The rules regarding conversions to Roth IRAs are complex and you should consult a qualified tax professional prior to a conversion.

Conversion rollovers from employer-sponsored plans, such as qualified plans and 403(b) plans, to a Roth IRA are permitted.

7. **Qualified HSA Funding Distribution:** If you are eligible to contribute to a health savings account (HSA), you may be eligible to take a one-time tax-free qualified HSA funding distribution from your IRA and directly deposit it to your HSA. The amount of the qualified HSA funding distribution may not exceed the maximum HSA contribution limit in effect for the type of high deductible health plan coverage (i.e., single or family coverage) that you have at the time of the deposit, and counts toward your HSA contribution limit for that year. For further detailed information, you may obtain IRS Publication 969, **Health Savings Accounts and Other Tax-Favored Health Plans**, from the IRS website at www.irs.gov.
8. **Rollover of IRS Levy:** If you receive a refund of eligible retirement plan assets that had been wrongfully levied, you may roll over the amount returned up until your tax return due date (not including extensions) for the year in which the money was returned.
9. **Repayment of Qualified Birth and Adoption Distribution:** If you have taken a qualified birth and adoption distribution, you may generally repay all or a portion of the aggregate amount of such distribution to an IRA, as

permitted by the IRS. For distributions made after December 29, 2022, the repayment period for qualified birth and adoption expense distributions is limited to the three-year period beginning on the date of distribution. For further information, you may obtain IRS Publication 590-A, **Contributions to Individual Retirement Arrangements (IRAs)**, from the IRS website www.irs.gov.

10. **Rollovers from a Roth IRA:** A Roth IRA can only be rolled over to another Roth IRA, and only one rollover can be made in any 12-month period.
11. **Rollover from a designated Roth account to a Roth IRA.** You may do a rollover from a designated Roth Account to a Roth IRA. If the distribution from the designated Roth account is not a "qualified distribution", you still will not have to currently pay taxes on the earnings if you do a rollover to a Roth IRA. However, the five (5) year period for being a "qualified distribution" will be based your Roth IRA(s), not your prior designated Roth account. The IRS considers a partial rollover of a nonqualified distribution to consist first of the untaxed portion. These rules are complex, and you should consult a qualified tax professional tax regarding your actual situation.
12. **Rollover from long-term qualified tuition programs to Roth IRAs.** Effective for distributions after December 31, 2023, the Internal Revenue Code will allow for tax and penalty free rollovers (via direct trustee-to-trustee transfer only) to Roth IRAs, under certain conditions. Beneficiaries of 529 college savings accounts would be permitted to rollover up to \$35,000 over the course of their lifetime from any 529 account in their name to their Roth IRA. These rollovers are also subject to Roth IRA annual contribution limits, and the 529 account must have been open for more than 15 years.

Written Election: At the time you make a rollover to an IRA, you must designate in writing to us your election to treat that contribution as a rollover. **Once made, the rollover election is irrevocable.**

Can I recharacterize contributions I make to one type of IRA as a contribution to the other type?

All or part of a contribution you make to your Roth IRA, along with any allocable earnings or losses, may be recharacterized and treated as if made to your traditional IRA on the date the contribution was originally made to your Roth IRA.

All or part of a contribution you make to your traditional IRA may be recharacterized and treated as if made to your Roth IRA on the date the contribution was originally made to your traditional IRA.

A recharacterized contribution is reported as a distribution from the first IRA (IRS Form 1099-R) and a recharacterization contribution to the second IRA (IRS Form 5498) for the tax year in which the recharacterization occurs. The rules regarding recharacterization are complex and you should consult a qualified tax professional prior to any recharacterization.

Recharacterization of a contribution is irrevocable and must be completed on or before the due date, including extensions, for filing your federal income tax return for the tax year for which the contribution was originally made. You should consult a qualified tax professional for guidance and more information.

The above recharacterization rules do not apply to any conversion of a traditional IRA to a Roth IRA, or a rollover from an eligible retirement plan to Roth IRA, made after December 31, 2017.

What are the rules regarding distributions from my MERS Roth IRA?

Any distribution, or portion of any distribution, which consists **only of the return of contributions** you made to your Roth IRA, is not subject to federal income tax. For federal income tax purposes, contributions are presumed to be withdrawn first, then conversion contributions, then earnings.

Any distribution of the earnings on your contributions will not be subject to federal income tax or penalty **provided** the distribution is made after the five (5) year period beginning with the first tax year in which your initial contribution, including rollover or conversion contributions, was made to the

Roth IRA, **and** one of the following applies:

1. you have attained age 59½, or
2. it is used toward the expenses of a first time home purchase up to a lifetime limit of \$10,000, or
3. it was made because you are disabled, or
4. it was made due to your death.

The earnings portion of a distribution made prior to the end of the five-year holding period, regardless of the reason, is considered a non-qualified distribution and is subject to ordinary income tax. Taxable distributions from your Roth IRA are subject to 10% income tax withholding. The amount withheld is remitted to the IRS toward your federal income tax liability.

You can elect in writing to reduce or waive withholding by completing and submitting IRS Form W-4R, in which case MERS will not withhold taxes from your distribution, except you are not permitted to elect to have federal income tax withheld at a rate other than 10% on any payments to be delivered outside the United States and its possessions. If you don't complete and provide to MERS a dated and signed IRS Form W-4R, if you don't provide a Social Security Number, or if IRS notifies MERS that you gave an incorrect SSN, then MERS must withhold 10% of the payment for federal income tax and MERS cannot honor requests to have a lower (or no) amount withheld.

The earnings may also be subject to a 10% penalty tax if you are under age 59½, unless an early distribution exception applies. The distribution of amounts attributable to conversion contributions (prior to five years from the tax year of conversion) may be subject to a 10% penalty tax if you are under age 59½, unless an early distribution exception applies. Information regarding the 10% penalty tax on early distributions are described in the section titled **How does the additional early distribution penalty tax affect IRA distributions?**

The above is general information on Roth IRA distributions. For further detailed information, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov. If you have questions about whether a distribution includes any amount subject to federal income or the 10% early distribution tax, please speak with a qualified tax professional.

What are the rules regarding distributions from my MERS Traditional IRA?

An amount paid to you or to those you name as beneficiaries to receive the balance in your MERS IRA after your death is called a "distribution."

You may at any time take a distribution of any or all of the balance in your MERS Traditional IRA.

A taxable distribution from the MERS Traditional IRA is taxed as ordinary income. A distribution to you must be included in your gross income on your federal income tax return for the tax year you receive it and is taxable as ordinary income unless it is a non-taxable withdrawal. Taxable distributions from your IRA are subject to default 10% income tax withholding. The amount withheld is remitted to the IRS in prepayment of your federal income tax liability. You can elect in writing to have no federal tax withholding, or to select a different amount of federal tax withholding, by completing and submitting IRS Form W-4R. If you submit a completed Form W-4R, MERS will follow your withholding instructions. However, you are not permitted to elect to have federal income tax withheld at a rate other than 10% on any payments to be delivered outside the United States and its possessions. If you don't give MERS a completed, signed and dated IRS Form W-4R, if you don't provide a Social Security Number, or if the IRS notifies MERS that you gave an incorrect SSN, then MERS must withhold 10% of the payment for federal income tax and MERS cannot honor requests to have a lower (or no) amount withheld.

If you are under age 59½ and receive a Traditional IRA distribution, an additional early distribution penalty tax of 10% generally will apply to the amount includible in income in the year of the distribution. See below, **"How does the additional early distribution penalty tax work affect distributions?"** for information on the operation of this additional penalty tax and exceptions.

Distributions \$10 and over will be reported to the IRS on Form 1099-R. Distributions under \$10 will not be reported to the IRS on Form 1099-R (as allowed under IRS regulations). However, you must still report these distributions to the IRS on your Form 1040 (as well as other forms that may be required to properly file your tax return).

The above is general information on Traditional IRA distributions. For further detailed information, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov. If you have questions about whether a distribution includes any amount subject to federal income or the 10% early distribution tax, please speak with a qualified tax professional.

How does the additional early distribution penalty tax affect IRA distributions?

If you are under age 59½ and receive a traditional IRA distribution, an additional early distribution penalty tax of 10% generally will apply to the amount includible in income in the year of the distribution.

If you are under age 59½ and receive a nonqualified Roth IRA distribution, an additional early distribution penalty tax of 10% generally will apply to the amount includible in income in the year of the distribution. If you are under age 59½ and receive a distribution from a Roth IRA of conversion amounts or employer-sponsored retirement plan rollover amounts within the five-year period beginning with the year in which the conversion or employer-sponsored retirement plan rollover occurred, an additional early distribution penalty tax of 10% generally will apply to the amount of the distribution.

The 10% penalty tax is in addition to any federal income tax that is owed at distribution.

The additional early distribution penalty tax of 10% generally will not apply if one of the following exceptions apply:

- (1) **Death** - After your death, distributions made to your beneficiary.
- (2) **Disability** - If at the time of distribution, you are disabled (within the meaning of Section 72(m)(7) of the Code)
- (3) **Substantially equal periodic payments** - You are not subject to the additional 10% early distribution penalty tax if you are taking a series of substantially equal periodic payments (at least annual payments) over your life expectancy or the joint life expectancy of you and your beneficiary.
- (4) **Unreimbursed medical expenses** - If you take payments to pay for unreimbursed medical expenses that exceed a specified percentage of your adjusted gross income. The medical expenses may be for you, your spouse, or any dependent listed on your tax return.
- (5) **Health insurance premiums** - If you are unemployed and have received unemployment compensation for 12 consecutive weeks under a federal or state program, you may take payments from your Traditional IRA to pay for health insurance premiums.
- (6) **Higher education expenses** - Payments taken for certain qualified higher education expenses for you, your spouse, or the children or grandchildren of you or your spouse.
- (7) **First-time homebuyer** - You may take payments from your Traditional IRA to use toward qualified acquisition costs of buying or building a principal residence. The amount you may take for this reason may not exceed a lifetime maximum of \$10,000. The payment must be used for qualified acquisition costs within 120 days of receiving the distribution.
- (8) **IRS levy** - Payments from your Traditional IRA made to the U.S. government in response to a federal tax levy.
- (9) **Qualified reservist distributions** - If you are a qualified reservist member called to active duty for more than 179 days or an indefinite period, the payments you take from your Traditional IRA during the active duty period. If you are an eligible qualified reservist who has taken penalty-free qualified reservist distributions from your IRA or retirement plan, you may recontribute those amounts to an IRA generally within a

two-year period from your date of return.

- (10) **Qualified birth or adoption** – Payments from your Traditional IRA for the birth of your child or the adoption of an eligible adoptee will not be subject to the 10% early distribution penalty tax if the distribution is taken during the one-year period beginning on the date of birth of your child or the date on which your legal adoption of an eligible adoptee is finalized. An eligible adoptee means any individual (other than your spouse's child) who has not attained age 18 or is physically or mentally incapable of self-support. The aggregate amount you may take for this reason may not exceed \$5,000 for each birth or adoption.

You must file IRS Form 5329 along with your income tax return to the IRS to report and remit any additional taxes if you are under age 59½ and your distribution is not for one of the above reasons. Neither MERS nor Alerus reports distributions for these exceptions on IRS Form 1099-R as exempt from the early distribution penalty. It is your responsibility to file IRS Form 5329 along with your income tax return to the IRS, where you may claim a penalty tax exception.

If you have questions about whether a distribution includes any amount subject to federal income or the 10% early distribution tax, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov, or speak to a qualified tax professional.

When must distributions from my MERS Traditional IRA begin?

You are required to begin receiving minimum distributions from your MERS Traditional IRA by your "required beginning date" which is defined as:

- (a) April 1 of the year following the year in which you attain age 70½, if you attained age 70½ on or before December 31, 2019 (those owners born on or prior to June 30, 1949), or
- (b) April 1 of the year following the year in which you attain age 72, if you attain age 70½ after December 31, 2019 (those owners born on or after July 1, 1949), or
- (c) April 1 of the year following the year in which you attain age 73, if you attain age 72 between January 1, 2023, and December 31, 2032, or
- (d) April 1 of the year following the year in which you attain age 75, if you attain age 74 after December 31, 2032.

If the amount distributed during a taxable year is less than the minimum amount required to be distributed, you will be subject to an excise tax equal to 50% of the difference between the amount distributed and the amount required to be distributed. For years after December 29, 2022, this penalty has been reduced from 50% to 25%. Further, for years after December 29, 2022, if a failure to take a required minimum distribution from an IRA is corrected in a timely manner, as defined under this Act, the excise tax on the failure is further reduced from 25% to 10%. You are responsible for monitoring this schedule from year to year to make sure that you are withdrawing the required minimum amount. If you are subject to a federal excise tax due to a missed required minimum distribution, you must file IRS Form 5329.

However, no distribution will be made from your IRA until you provide MERS or Alerus with a distribution request on a form provided by them. A required minimum distribution election form is available from Alerus.

The required minimum distribution rules are complex. If you have questions about required minimum distributions, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov, or speak to a qualified tax professional.

When must distributions from my MERS Roth IRA begin?

You are not required to take distributions from your Roth IRA during your lifetime. After your death, the required minimum distribution rules described above as though the Roth IRA owner died before his or her required beginning date.

The required minimum distribution rules are complex. If you have questions about required minimum distributions, you may obtain IRS Publication 590-B,

Distributions from Individual Retirement Arrangements (IRAs), from the IRS website at www.irs.gov, or speak to a qualified tax professional.

What effect does a divorce have on my MERS IRA?

Your MERS IRA may be considered marital property and your spouse may be entitled to a portion of your account assets in a divorce or legal separation. If all or any portion of your IRA is awarded to a former spouse or spouse by the Court pursuant to divorce or legal separation, that portion can be transferred to an IRA or employer-sponsored plan in the receiving spouse's name. This transaction can be processed without any tax implications to you if a judgment of divorce or legal separation executed by a court that meets the requirements of Section 408(d)(6) of the Code is received by MERS and specifically directs the transfer. That document must specify whether it applies to your MERS Traditional IRA or to your MERS Roth IRA and provide the exact dollar amount or percentage of the account being awarded as of a specified date. In addition, you must also provide MERS with a Letter of Instruction and account number of the IRA maintained by the receiving spouse. If any transfer of an IRA in the course of a divorce results in a change in the tax basis of the traditional IRA of either spouse, both spouses must file IRS Form 8606 and follow the directions in the instructions for that form.

You should consult a qualified tax professional for advice on this.

In the event of a divorce or legal separation, MERS does not automatically remove a spouse or former spouse as the designated beneficiary for a MERS IRA without a court order to do so. If your life circumstances have changed, we strongly suggest you submit an IRA Beneficiary Designation Form. The current IRA beneficiary designation on file with MERS will be deemed valid and in full force until such date as MERS receives a signed IRA Beneficiary Designation Form, in good order.

How are the assets of my MERS IRA invested?

The assets in your IRA will be invested in accordance with instructions communicated by you (or following your death, by your beneficiary) or by your (or following your death, your beneficiary's) authorized agent to the Directed Bank Trustee, Alerus. Account contributions may be invested in of one or more investment options made available to you (the "Investment Options").

Detailed information about each Investment Option available to you for investment of your IRA contributions can be found in each Investment Option's Fund Fact Sheet. The Fund Fact Sheet also sets forth the costs and expenses you incur by being invested in a particular Investment Option; such costs and expenses reduce any yield you might obtain from the Investment Option. (See the section of the Fund Fact Sheet "Expense Table" and the sections referred to therein).

The value of the MERS IRA will be solely dependent upon the performance of the investment instruments chosen by you. Therefore, no projection of the growth in value of the MERS IRA can reasonably be shown or guaranteed at any given time.

Who are my beneficiaries?

Upon establishment of a MERS IRA, you have the opportunity to choose both primary beneficiaries and contingent beneficiaries. Upon your death, any amount payable from the MERS IRA shall be paid only to the primary beneficiary(ies) who survive you. If any of the primary beneficiaries predecease you, their share will be distributed proportionately among the remaining primary beneficiaries. Only if all the primary beneficiaries predecease you will the contingent beneficiary(ies) be entitled to any amount of the MERS IRA. If any of the contingent beneficiaries predecease you, their share will be distributed proportionately among the remaining contingent beneficiaries.

You may change your beneficiaries at any time on a form provided by MERS in the manner required by MERS. If you do not designate a beneficiary, or if all designated beneficiaries predecease you, your beneficiaries shall be determined under the terms of the Plan. If a trust is designated as a beneficiary, you must provide a full copy of the trust and the name(s) and contact information of the trustee(s).

Where do I go for more information?

This Disclosure Statement is for general information and guidance – it cannot help with every situation and may not cover your particular situation or question. If you have questions regarding your IRAs, you should consult a qualified tax professional. You may obtain additional information regarding IRAs from any District Office of the Internal Revenue Service, or the IRS’s website at www.irs.gov.

Other information

Tax Refund Direct Deposit IRA Contributions Taxpayers who qualify for a tax refund may elect to directly deposit their refund into their IRA account. The amount of the refund deposited to your IRA cannot exceed annual IRA limits as set forth by the Internal Revenue Service. You must contact the Custodian in advance of completing IRS Form 8888 to obtain the proper routing instructions. All tax refund contributions will be recorded as current year contributions for the year received.

Saver’s Tax Credit The Saver’s Tax Credit rewards low to moderate income taxpayers who contribute toward their retirement savings with a non-refundable dollar for dollar tax credit that could reduce their federal income tax liability. Eligibility to participate in the program is based on your filing status and adjusted gross income. For years after December 31, 2026, this program will be change to a Saver’s Match, changing it from a credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer’s IRA or retirement plan. For more information about the Saver’s Credit, check the IRS website www.irs.gov under the term “Retirement Savings Contributions Credit” or “Saver’s Credit”.

Qualified Charitable Distributions (“QCDs”) If you are age 70½ or older, you may be eligible to take tax-free IRA distributions of up to \$100,000 (indexed for inflation for years after December 29, 2022) per year and have these distributions paid directly to certain charitable organizations. Also, the law allows for a one-time, \$50,000 distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts, effective for distributions made in taxable years beginning after December 29, 2022. Special tax rules and limitations apply. For further detailed information, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS or the IRS website at www.irs.gov, or consult a qualified tax professional.

Disaster Related Relief If you qualify (for example, you sustained an economic loss due to, or are otherwise considered affected by, certain disasters designated by Congress), you may be eligible for favorable tax treatment on distributions, rollovers, and other transactions involving your IRA, up to specified limits. Qualified disaster relief may include penalty-tax free early distributions made during specified timeframes for each disaster, the ability to include distributions in your gross income ratably over multiple years, the ability to roll over distributions to an eligible retirement plan without regard to the 60-day rollover rule, and more. For additional information on specific disasters, including a complete listing of disaster areas, qualification requirements for relief, and allowable disaster-related IRA transactions, you may obtain IRS Publication 590-B, **Distributions from Individual Retirement Arrangements (IRAs)**, from the IRS website at www.irs.gov.

Withdrawals for Certain Emergency Expenses Generally, an additional 10 percent tax applies to early distributions from IRAs, unless an exception applies. Effective for distributions made after December 31, 2023, the law provides an exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses. Only one distribution is permissible per year of up to \$1,000, and a taxpayer has the option to repay the distribution within 3 years. No further emergency distributions are permissible during the 3-year repayment period unless repayment occurs.

401(a) Plan Document Provisions (as of April 27, 2023)

ARTICLE VIII – ESTABLISHMENT OF DEEMED IRAS.

Sec. 94. Establishment of Accounts.

- (1) The System shall establish Deemed IRAs on behalf of participants who choose to make voluntary employee contributions and/or rollover contributions pursuant to this Article. The System shall establish a separate account for the voluntary employee contributions and rollover contributions to a Deemed Traditional IRA and/or Deemed Roth IRA of a participant and any earnings properly allocable to such contributions, and maintain separate recordkeeping with respect to each such Deemed IRA. Each Deemed IRA is established for the exclusive benefit of the participant and/or his or her beneficiaries.
- (2) In accordance with IRC 408 and 408A, a participant may also establish a Deemed IRA for the benefit of his or her spouse (a "spousal IRA"), provided that the participant and his or her spouse file a joint tax return. The spousal IRA will be a Deemed IRA that is established in the name of the spouse. The employee or former employee who is eligible to be a participant in the Deemed IRAs must establish a Deemed IRA in his or her own name prior to the establishment of a spousal IRA. Once established by the participant, the spouse's rights and benefits under the spousal IRA will be subject to the terms of this Article in the same way as a Deemed IRA established in the name of a participant.

Sec. 95. Trust; Trustee.

- (1) Separate Trust. Deemed IRAs established pursuant to this Article shall be held in a trust separate from the trust established under the System to hold contributions other than Deemed IRA contributions. In any event, the trust shall satisfy the applicable requirements of IRC 408 and IRC 408A, which requirements are set forth in sections 99 and 100.
- (2) Trustee. The System shall designate a trustee for the Deemed IRAs, which shall be a bank as defined in IRC 408(n), or an entity that has received approval to serve as a nonbank trustee or nonbank custodian pursuant to Treasury Regulation 1.408-2(e).

Sec. 96. Procedures for Deemed IRAs.

Except as specifically provided by this Article or by IRC 408 or IRC 408A or by applicable Treasury Regulations, all procedural provisions of this Plan Document shall apply to the Deemed IRAs.

Sec. 97. Reporting Duties.

The trustee shall be subject to the reporting requirements of IRC 408(i) with respect to all Deemed IRAs that are established and maintained by the System.

Sec. 98. Qualified Reservist Distributions.

A participant who receives a qualified reservist distribution as defined in IRC 72(t)(2)(G)(iii) may, at any time during the two-year period beginning on the day after the end of his active duty period, make one or more contributions to a Deemed Traditional IRA or Deemed Roth IRA under this Article in an aggregate amount not to exceed the amount of his qualified reservist distribution, provided the contribution otherwise meets the requirements to be a voluntary employee contribution. The annual dollar limitations otherwise applicable to Deemed Traditional IRAs or Deemed Roth IRAs shall not apply to any contribution made pursuant to the preceding sentence.

Sec. 99. Deemed Traditional IRA Requirements.

- (1) Maximum Annual Contributions.
 - (a) The System will accept voluntary employee contributions as cash contributions only. Such contributions are limited to \$5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. For a participant who will reach the age of 50 before the close of the Plan Year, this contribution limit is increased to \$6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. Voluntary employee contributions may be further limited by IRC 219. These contribution limits do not apply in the case of a

rollover contribution as described in IRC 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an employer contribution to a "simplified employee pension plan" as described in IRC 408(k), or a recharacterized contribution as described in IRC 408A(d)(6).

- (b) If this is an inherited IRA within the meaning of IRC 408(d)(3)(C), no contributions will be accepted.
- (2) Investment Limitations.
 - (a) No part of the trust funds allocable to a Deemed Traditional IRA may be invested in collectibles (within the meaning of IRC 408(m)) except as otherwise permitted by IRC 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.
 - (b) No part of the trust funds will be invested in life insurance contracts.
 - (c) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to IRC 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.
- (3) Minimum Required Distributions.
 - (a) Notwithstanding any provision of this Plan Document to the contrary, the distribution of the participant's interest in the account shall be made in accordance with the requirements of IRC 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference. The required minimum distributions calculated for this Deemed Traditional IRA may be withdrawn from another traditional IRA of the participant in accordance with Q&A-9 of Treasury Regulation 1.408-8. For an inherited IRA within the meaning of IRC 408(d)(3)(C), the preceding sentence and paragraphs (b), (c) and (d) below do not apply.
 - (b) The entire value of the Deemed IRA of the participant for whose benefit the Deemed IRA is maintained will commence to be distributed no later than the first day of April following the calendar year in which such participant attains age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951) (the "required beginning date") over (i) the life of such participant or the lives of such participant and his or her designated beneficiary, or (ii) a period certain not extending beyond the life expectancy of such participant, or the joint and last survivor expectancy of such participant and his or her designated beneficiary.
 - (c) The amount to be distributed each year, beginning with the calendar year in which the participant attains age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951) and continuing through the year of death, shall not be less than the quotient obtained by dividing the value of the Deemed IRA (as determined under subsection (g)) as of the end of the preceding year by the distribution period in the Uniform Lifetime Table in Q&A-2 of Treas. Reg. § 1.401(a)(9)-9 of the Income Tax Regulations, using the participant's age as of his or her birthday in the year. However, if the participant's sole designated beneficiary is his or her surviving spouse and such spouse is more than 10 years younger than the participant, then the distribution period is determined under the Joint and Last Survivor Table in Q&A-3 of Treas. Reg. § 1.401(a)(9)-9, using the ages as of the participant's and spouse's birthdays in the year.
 - (d) The required minimum distribution for the year the participant attains age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January

- 1, 1951), or age 73 (if the participant was born on or after January 1, 1951) can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.
- (e) **Death On or After Required Beginning Date.** For a participant who dies before January 1, 2022, if the participant dies on or after the required beginning date, the remaining portion of his or her interest will be distributed at least as rapidly as follows:
- (i) If the designated beneficiary is someone other than the participant's surviving spouse, the remaining interest will be distributed over the remaining life expectancy of the designated beneficiary, with such life expectancy determined using the beneficiary's age as of his or her birthday in the year following the year of the participant's death, or over the period described in subsection (iii) below if longer.
 - (ii) If the participant's sole designated beneficiary is the participant's surviving spouse, the remaining interest will be distributed over such spouse's life expectancy or over the period described in subsection (iii) below if longer. Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death, or, if the distributions are being made over the period described in subsection (iii) below, over such period.
 - (iii) If there is no designated beneficiary, or if applicable by operation of subsections (i) or (ii) above, the remaining interest will be distributed over the participant's remaining life expectancy determined in the year of the participant's death.
 - (iv) The amount to be distributed each year under subsections (i), (ii), and (iii) above, beginning with the calendar year following the calendar year of the participant's death, is the quotient obtained by dividing the value of the Deemed IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. § 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the beneficiary's or participant's age in the year specified in subsections (i), (ii), and (iii) above and reduced by 1 for each subsequent year.
- (f) **Death Before Required Beginning Date.** For a participant who dies before January 1, 2022, if the participant dies before the required beginning date, his or her entire interest will be distributed at least as rapidly as follows:
- (i) If the designated beneficiary is someone other than the participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the participant's death, over the remaining life expectancy of the designated beneficiary, with such life expectancy determined using the age of the beneficiary as of his or her birthday in the year following the year of the participant's death, or, if elected, in accordance with subsection (iii) below. If this is an inherited IRA within the meaning of IRC 408(d)(3)(C) established for the benefit of a nonspouse designated beneficiary by a direct trustee-to-trustee transfer from a retirement plan of a deceased individual under IRC 402(c)(11), then, notwithstanding any election made by the deceased individual pursuant to the preceding sentence, the nonspouse designated beneficiary may elect to have distributions made under this subsection (i) if the transfer is made no later than the end of the year following the year of death.
 - (ii) If the participant's sole designated beneficiary is the participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the participant's death (or by the end of the calendar year in which the participant would have attained age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951), if later), over such spouse's life expectancy, or, if elected, in accordance with subsection (iii) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's designated beneficiary's remaining life expectancy determined using such beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with subsection (iii) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.
 - (iii) If there is no designated beneficiary, or if applicable by operation of subsections (i) or (ii) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under subsection (ii) above).
 - (iv) The amount to be distributed each year under subsections (i) and (ii) above is the quotient obtained by dividing the value of the Deemed IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. § 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the beneficiary's age in the year specified in subsections (i) and (ii) above, and reduced by 1 for each subsequent year.
- (g) **Death Before Entire Interest Distributed.** For a participant who dies on or after January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
- (i) If to a beneficiary who is not a designated beneficiary, the participant's entire interest must be distributed by the end of the fifth calendar year following the year of the participant's death.
 - (ii) If to a designated beneficiary, the participant's entire interest must be distributed by the end of the tenth calendar year following the year of the participant's death.
 - (iii) If to an eligible designated beneficiary, the participant's entire interest may be paid over life or life expectancy of such eligible designated beneficiary beginning in the year following the year of the participant's death, except that, if the eligible designated beneficiary is the surviving spouse of the participant:
 - (A) the date on which the distributions are required to begin hereunder shall not be earlier than the date on which the participant would have attained age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951), if later), and
 - (B) Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy

determined using the spouse's age as of his or her birthday in the year of the spouse's death or, if the distributions are being made over the spouse's life expectancy, over such period.

- (iv) An eligible designated beneficiary who is a child of the participant who has not reached the age of majority shall cease to be an eligible designated beneficiary as of the date the individual reaches majority, and any remainder of the portion of the individual's interest to which subsection (iii) applied shall be distributed within 10 years after such date.
- (v) After the death of an eligible designated beneficiary, any remaining interest must be distributed by the end of the tenth calendar year following the year of the death of the eligible designated beneficiary.
- (vi) The term "designated beneficiary" means any individual designated as a beneficiary by the participant. The term "eligible designated beneficiary" means, with respect to any participant, any designated beneficiary who is:
 - (A) the surviving spouse of the participant,
 - (B) subject to subsection (C) below, a child of the participant who has not reached majority (within the meaning of IRC 401(a)(9)(F)),
 - (C) disabled (within the meaning of IRC 72(m)(7)),
 - (D) a chronically ill individual (within the meaning of IRC 7702B(c)(2), except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature), or
 - (E) an individual not described in any of the preceding subclauses who is not more than 10 years younger than the participant.

The determination of whether a designated beneficiary is an eligible designated beneficiary shall be made as of the date of death of the participant.
- (h) The "value" of the IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Treas. Reg. § 1.408-8.
- (i) To the extent permitted under IRC 408(q) and the Treasury Regulations, if the sole designated beneficiary is the participant's surviving spouse, the spouse may elect to treat the Deemed IRA as his or her own Deemed IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the Deemed IRA or fails to take required distributions as a beneficiary.
- (j) Notwithstanding anything herein to the contrary, the minimum distribution requirements are waived for calendar year 2020, pursuant to Section 2203 of the Coronavirus Aid, Relief and Economic Security Act of 2020. This waiver applies to 2019 required minimum distribution that were required to be made by April 1, 2020 (if not already made in 2019), and to 2020 required minimum distributions that are required to be made by April 1, 2021. For purposes of determining the amount of required minimum distributions made after 2020, an individual's required beginning date shall be determined without regard to this 2020 waiver. If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under IRC 408(a)(6) had applied during 2020, such distribution shall not be treated as an eligible rollover distribution any purpose.
- (4) **Nonforfeitable.** The interest of a participant or beneficiary in the balance

in his or her Deemed Traditional IRA is nonforfeitable at all times.

- (5) **No commingling.** The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of IRC 408(a)(5).

Sec. 100. Deemed Roth IRA Requirements.

(1) Maximum Annual Contributions.

- (a) **Maximum Permissible Amount.** Except in the case of a qualified rollover contribution (as defined in subsection (g) below) or a recharacterization (as defined in subsection (f) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the participant's Roth IRAs for a taxable year does not exceed the applicable amount (as defined in subsection (b) below), or the participant's compensation (as defined in subsection (h) below), if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the participant's compensation is referred to as a "regular contribution." Contributions may be limited under subsections (b) through (d) below.
- (b) **Applicable Amount.** The applicable amount is determined below, unless otherwise limited by IRC 219:
 - (i) If the participant is under age 50, the applicable amount is \$5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.
 - (ii) If the participant is age 50 or older or will reach the age of 50 by the close of the Plan Year, the applicable amount is \$6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.
- (c) **Regular Contribution Limit.** If subsections (b)(i) and/or (ii) apply, the maximum regular contribution that can be made to all the participant's Roth IRAs, including a Deemed Roth IRA, for a taxable year is the lesser amount determined under (i) or (ii) below.
 - (i) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," as defined in IRC 408A(c)(3)(C)(i)). If the participant's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined by the applicable table published by the IRS for that taxable year is rounded up to the next multiple of \$10 and is not reduced below \$200.
 - (ii) If the participant makes regular contributions to both Roth IRAs and traditional IRAs for a taxable year, the maximum regular contribution that can be made to all the participant's Roth IRAs (including a Deemed Roth IRA) for that taxable year is reduced by the regular contributions made to the participant's traditional IRAs for the taxable year.
- (d) **SIMPLE IRA Limits.** No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to IRC 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.
- (e) **Inherited IRA.** If this is an inherited IRA within the meaning of IRC 408(d)(3)(C), no contributions will be accepted.
- (f) **Recharacterization.** A regular contribution to a traditional IRA may be recharacterized pursuant to Treas. Reg. § 1.408A-5 as a regular contribution to this Deemed Roth IRA, subject to the limits in subsection (c) above.
- (g) **Qualified Rollover Contribution.** A "qualified rollover contribution" is a rollover contribution of a distribution from an eligible retirement plan described in IRC 402(c)(8)(B). If the distribution is from an IRA,

the rollover must meet the requirements of IRC 408(d)(3), except the one-rollover-per-year rule of IRC 408(d)(3)(B) does not apply if the distribution is from a traditional IRA. If the distribution is from an eligible retirement plan other than an IRA, the rollover must meet the requirements of IRC 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 403(b)(10), 408(d)(3) or 457(e)(16), as applicable. A qualified rollover contribution also includes (i) and (ii) below.

- (i) All or part of a military death gratuity or service members' group life insurance ("SGLI") payment may be contributed if the contribution is made within 1 year of receiving the gratuity or payment. Such contributions are disregarded for purposes of the one-rollover-per-year rule under IRC 408(d)(3)(B).
 - (ii) All or part of an airline payment (as defined in § 125 of the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), Pub. L. 110-458) received by certain airline employees may be contributed if the contribution is made within 180 days of receiving the payment.
- (h) **Compensation.** For purposes of subsection (a) above, compensation is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in IRC 401(c)(2) (reduced by the deduction the self-employed individual takes for contributions made to a self-employed retirement plan) or such other income as set forth in IRC 219(f). For purposes of this definition, IRC 401(c)(2) shall be applied as if the term trade or business for purposes of IRC 1402(c)(6) included service. Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income (determined without regard to IRC 112). Compensation also does not include any amount received as a pension or annuity or as deferred compensation. In the case of a married individual filing a joint return, the greater compensation of his or her spouse is treated as his or her own compensation, but only to the extent that such spouse's compensation is not being used for purposes of the spouse making an IRA contribution. The term "compensation" also includes any differential wage payments as defined in IRC 3401(h)(2).

(2) Investment Limitations.

- (a) No part of the trust funds allocable to a Deemed Roth IRA may be invested in collectibles (within the meaning of IRC 408(m)) except as otherwise permitted by IRC 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.
- (b) No part of the trust funds will be invested in life insurance contracts.

(3) Distributions Before Death. No amount is required to be distributed prior to the death of the participant for whose benefit the account was originally established. If this is an inherited IRA within the meaning of IRC 408(d)(3)(C), this paragraph does not apply.

(4) Distribution Upon Death.

- (a) Notwithstanding any provision of this Deemed Roth IRA to the contrary, the distribution of the participant's interest in the account shall be made in accordance with the requirements of IRC 408(a)(6), as modified by IRC 408A(c)(5), and the regulations thereunder, the provisions of which are herein incorporated by reference.
- (b) For a participant who dies before January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
 - (i) If the designated beneficiary is someone other than the participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the participant's death, over the remaining

life expectancy of the designated beneficiary, with such life expectancy determined using the age of the beneficiary as of his or her birthday in the year following the year of the participant's death, or, if elected, in accordance with subsection (iii) below. If this is an inherited IRA within the meaning of IRC 408(d)(3)(C) established for the benefit of a nonspouse designated beneficiary by a direct trustee-to-trustee transfer from a retirement plan of a deceased individual under IRC 402(c)(11), then, notwithstanding any election made by the deceased individual pursuant to the preceding sentence, the nonspouse designated beneficiary may elect to have distributions made under this subsection (i) if the transfer is made no later than the end of the year following the year of death.

- (ii) If the participant's sole designated beneficiary is the participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the participant's death (or by the end of the calendar year in which the participant would have attained age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951), over such spouse's life expectancy, or, if elected, in accordance with subsection (iii) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's designated beneficiary's remaining life expectancy determined using such beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with subsection (iii) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.
 - (iii) If there is no designated beneficiary, or if applicable by operation of subsections (i) or (ii) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the participant's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under subsection (ii) above).
 - (iv) The amount to be distributed each year under subsections (i) and (ii) is the quotient obtained by dividing the value of the Deemed Roth IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. § 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the beneficiary's age in the year specified in subsections (i) and (ii) and reduced by 1 for each subsequent year.
- (c) For a participant who dies on or after January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
- (i) If to a beneficiary who is not a designated beneficiary, the participant's entire interest must be distributed by the end of the fifth calendar year following the year of the participant's death.
 - (ii) If to a designated beneficiary, the participant's entire interest must be distributed by the end of the tenth calendar year following the year of the participant's death.
 - (iii) If to an eligible designated beneficiary, the participant's entire interest may be paid over life or life expectancy of such eligible designated beneficiary beginning in the year following the year

of the participant's death, except that, if the eligible designated beneficiary is the surviving spouse of the participant:

- (A) the date on which the distributions are required to begin hereunder shall not be earlier than the date on which the participant would have attained age 70½ (if the participant was born before July 1, 1949), age 72 (if the participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the participant was born on or after January 1, 1951), and
 - (B) Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death or, if the distributions are being made over the spouse's life expectancy, over such period.
- (iv) An eligible designated beneficiary who is a child of the participant who has not reached the age of majority shall cease to be an eligible designated beneficiary as of the date the individual reaches majority, and any remainder of the portion of the individual's interest to which subsection (iii) applied shall be distributed within 10 years after such date.
 - (v) After the death of an eligible designated beneficiary, any remaining interest must be distributed by the end of the tenth calendar year following the year of the death of the eligible designated beneficiary.
 - (vi) The term "designated beneficiary" means any individual designated as a beneficiary by the participant. The term "eligible designated beneficiary" means, with respect to any participant, any designated beneficiary who is:
 - (A) the surviving spouse of the participant,
 - (B) subject to subsection (C) below, a child of the participant who has not reached majority (within the meaning of IRC 401(a)(9)(F)),
 - (C) disabled (within the meaning of IRC 72(m)(7)),
 - (D) a chronically ill individual (within the meaning of IRC 7702B(c)(2), except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature), or
 - (E) an individual not described in any of the preceding subclauses who is not more than 10 years younger than the participant.
- The determination of whether a designated beneficiary is an eligible designated beneficiary shall be made as of the date of death of the participant.
- (d) The "value" of the Deemed Roth IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Treas. Reg. § 1.408-8.
 - (e) If the sole designated beneficiary is the participant's surviving spouse, the spouse may elect to treat the Deemed Roth IRA as his or her own Deemed Roth IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the Deemed Roth IRA or fails to take required distributions as a beneficiary.
 - (f) The required minimum distributions payable to a designated beneficiary from this Deemed Roth IRA may be withdrawn from another IRA the beneficiary holds from the same decedent in accordance with Q&A-9 of Treas. Reg. § 1.408-8.
 - (g) Notwithstanding anything herein to the contrary, the minimum

distribution requirements are waived for calendar year 2020, pursuant to Section 2203 of the Coronavirus Aid, Relief and Economic Security Act of 2020. This waiver applies to 2019 required minimum distribution that were required to be made by April 1, 2020 (if not already made in 2019), and to 2020 required minimum distributions that are required to be made by April 1, 2021. For purposes of determining the amount of required minimum distributions made after 2020, an individual's required beginning date shall be determined without regard to this 2020 waiver. If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under IRC 408(a)(6) (as modified by 408A(c)(5)) had applied during 2020, such distribution shall not be treated as an eligible rollover distribution any purpose.

- (5) **Rollovers Into Deemed Roth IRA.** Upon any distribution event pursuant to which a participant, a spouse beneficiary, or a spousal alternate payee would be permitted to have all or any portion of the participant's account that qualifies as an eligible rollover distribution rolled over into another eligible retirement plan, such participant, spouse beneficiary, or spousal alternate payee may elect to have the portion of such eligible rollover distribution that is not attributable to contributions to the Deemed Roth IRA directly rolled over into a separately maintained account within his or her Deemed Roth IRA. Any such amounts will be included in gross income as if the distribution had been made to such participant, surviving spouse beneficiary, or spousal alternate payee.
- (6) **Nonforfeitable.** The interest of a participant or beneficiary in the balance in his or her Deemed Roth IRA is nonforfeitable at all times.
- (7) **No Commingling.** The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of IRC 408(a)(5).

Sec. 101. Distribution Rights.

- (1) A participant may elect to receive a distribution of his or her Deemed IRA(s) at any time, subject to the minimum distribution requirements applicable to a Deemed Traditional IRA before the participant's death under section 101(3).
- (2) A participant may elect to receive a distribution in any form of payment permitted under section 58 of the Plan Document.

Sec. 102. Beneficiaries.

- (1) Upon the death of a participant, the primary beneficiary(ies) or contingent beneficiary(ies), if any, nominated by the participant may apply for and receive the accumulated balance of the deceased participant's Deemed IRA(s), on forms prescribed by the System with all documentation that the System may require.
- (2) To designate a beneficiary or beneficiaries, a participant shall file a written designation form provided by the System with the System based on procedures established by the Retirement Board.
- (3) If the participant dies without a designated beneficiary, the benefit shall be paid in the following order of priority:
 - (a) The surviving spouse of the participant.
 - (b) If none, the individual designated by the participant with respect to another benefit provided by this Plan with respect to benefits accrued by the deceased participant with the same participating employer.
 - (c) If none, the individual designated by the participant with respect to another Plan benefit administered by MERS with respect to benefits accrued by the deceased participant with the same participating employer.
 - (d) If none, surviving children of the participant in equal shares.
 - (e) If none, surviving parents of the participant in equal shares.
 - (f) If none, the participant's estate.

- (g) If none, the individual(s) identified as entitled to a share of the participant's property in a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the participant, in accordance with MCL §§ 700.3983-700.3984, in proportion to the shares identified on that form.
- (4) Notwithstanding anything in this Plan Document to the contrary, distributions to participants and beneficiaries shall not commence later nor in an amount that is less than required by IRC Section 401(a)(9).
- (5) With respect to a spouse for whom a participant has established a spousal IRA, the beneficiary provisions of this section (with the exception of subsections (3)(b) and (3)(c)) shall apply to the spouse with respect to the spousal IRA as if the spouse were the participant.

Sec. 103. Transfers of Deemed IRAs Pursuant to Divorce.

Pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree, the plan administrator may approve a direct transfer of all or a portion of a participant's interest in his or her Deemed IRA to a separate individual retirement account or individual retirement annuity owned by such participant's spouse or former spouse. The plan administrator shall establish reasonable procedures for determining the status of any such decree or written instrument and for effectuating transfer in accordance with IRC 408(d)(6).

Sec. 104. Construction.

Notwithstanding any other sections which may be added or incorporated, the provisions of this Article and this sentence will be controlling with respect to each Deemed Traditional IRA and Deemed Roth IRA created under the System. Any additional sections inconsistent with the Internal Revenue Code, the Treasury Regulations, and other published guidance will be invalid.

457 Plan Document Provisions (as of December 1, 2022)

Article XXV – Deemed IRA

25.1. Applicability and effective date. This Article XXV shall be effective June 1, 2018.

25.2. Deemed IRAs.

- (a) Participant may make Voluntary Employee Contributions and Rollover Contributions to a Deemed IRA under the Plan. The Plan shall establish a separate Account for the Voluntary Employee Contributions to a Deemed Traditional IRA and/or Deemed Roth IRA of a Participant and any earnings properly allocable to such contributions, and maintain separate recordkeeping with respect to each such Deemed IRA. Each Deemed IRA is established for the exclusive benefit of the Participant and/or his or her Beneficiaries.
- (b) In accordance with Code §§ 408 and 408A, a Participant may also establish a Deemed IRA for the benefit of his or her spouse (a “spousal IRA”), provided that the Participant and his or her spouse file a joint tax return. The spousal IRA will be a Deemed IRA that is established in the name of the spouse. The Employee or former Employee who is eligible to be a Participant in the Deemed IRAs must establish a Deemed IRA in his or her own name prior to the establishment of a spousal IRA. Once established by the Participant, the spouse’s rights and benefits under the spousal IRA will be subject to the terms of this Article in the same way as a Deemed IRA established in the name of a Participant.

25.3. Procedures for Deemed IRAs. Except as specifically provided by this Article XXV or by Code §§ 408 or 408A or by applicable Treasury Regulations, all procedural provisions of this Plan shall apply to the Deemed IRAs.

25.4. Reporting Duties. The Trustee shall be subject to the reporting requirements of Code § 408(i) with respect to all Deemed IRAs that are established and maintained under the Plan.

25.5. Qualified Reservist Distributions. A Participant who receives a qualified reservist distribution as defined in Code § 72(t)(2)(G)(iii) may, at any time during the two-year period beginning on the day after the end of his active duty period, make one or more contributions to a Deemed Traditional IRA or Deemed Roth IRA under this Article in an aggregate amount not to exceed the amount of his qualified reservist distribution, provided the contribution otherwise meets the requirements to be a voluntary employee contribution. The annual dollar limitations otherwise applicable to Deemed Traditional IRAs or Deemed Roth IRAs shall not apply to any contribution made pursuant to the preceding sentence.

25.6. Establishment of Deemed IRAs. Deemed IRAs established pursuant to this Article shall be held in a trust separate from the Trust established under the Plan to hold contributions other than Deemed IRA contributions. In any event, the Trust shall satisfy the applicable requirements of Code §§ 408 and 408A, which requirements are set forth in subsections 25.7 and 25.8.

25.7. Deemed Traditional IRA Requirements.

- (a) **Maximum Annual Contributions.**
 - (1) The Administrator will accept Voluntary Employee Contributions as cash contributions only. Such contributions are limited to \$5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. For a Participant who will reach the age of 50 before the close of the Plan Year, this contribution limit is increased to \$6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases. Voluntary Employee Contributions may be further limited by Code § 219. These contribution limits do not apply in the case of a rollover contribution as described in Code §§ 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), an Employer contribution to a “simplified employee pension plan” as described in Code § 408(k) or a recharacterized contribution as described in Code § 408A(d)(6).
- (2) If this is an inherited IRA within the meaning of §408(d)(3)(C), no contributions will be accepted.
- (b) **Investment Limitations.**
 - (1) No part of the trust funds allocable to a Deemed Traditional IRA may be invested in collectibles (within the meaning of Code § 408(m)) except as otherwise permitted by Code § 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.
 - (2) No part of the trust funds will be invested in life insurance contracts.
 - (3) No contributions will be accepted under a SIMPLE IRA plan established by any Employer pursuant to Code § 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular Employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that Employer’s SIMPLE IRA plan.
- (c) **Minimum Required Distributions.**
 - (1) Notwithstanding any provision of this Plan to the contrary, the distribution of the Participant’s interest in the account shall be made in accordance with the requirements of Code § 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference. The required minimum distributions calculated for this Deemed Traditional IRA may be withdrawn from another traditional IRA of the Participant in accordance with Q&A-9 of Treas. Reg. § 1.408-8. For an inherited IRA within the meaning of Code § 408(d)(3)(C), the preceding sentence and paragraphs (2), (3) and (4) below do not apply.
 - (2) The entire value of the Deemed IRA of the Participant for whose benefit the Deemed IRA is maintained will commence to be distributed no later than the first day of April following the calendar year in which such Participant or Beneficiary attains age 70½ (if the Participant or Beneficiary was born before July 1, 1949), age 72 (if the Participant or Beneficiary was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant or Beneficiary was born on or after January 1, 1951) (the “required beginning date”) over (a) the life of such Participant or the lives of such Participant and his or her designated Beneficiary, or (b) a period certain not extending beyond the life expectancy of such Participant, or the joint and last survivor expectancy of such Participant and his or her designated Beneficiary.
 - (3) The amount to be distributed each year, beginning with the calendar year in which the Participant attains age 70½ (if the Participant was born before July 1, 1949), age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951) and continuing through the year of death, shall not be less than the quotient obtained by dividing the value of the Deemed IRA (as determined under subsection 25.7(c)(7)) as of the end of the preceding year by the distribution period in the Uniform Lifetime Table in Q&A-2 of Treas. Reg. § 1.401(a)(9)-9 of the Income Tax Regulations, using the Participant’s age as of his or her birthday in the year. However, if the Participant’s sole designated Beneficiary is his or her surviving spouse and such spouse is more than 10 years younger than the Participant, then the distribution period is determined under the Joint and Last Survivor Table in Q&A-3 of Treas. Reg. § 1.401(a)(9)-9, using the ages as of the Participant’s and spouse’s birthdays in the year.
 - (4) The required minimum distribution for the year the Participant attains age 70½ (if the Participant was born before July 1, 1949),

age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951) can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by the end of such year.

- (5) Death On or After Required Beginning Date. For a Participant who dies before January 1, 2022, if the Participant dies on or after the required beginning date, the remaining portion of his or her interest will be distributed at least as rapidly as follows:
- (A) If the designated Beneficiary is someone other than the Participant's surviving spouse, the remaining interest will be distributed over the remaining life expectancy of the designated Beneficiary, with such life expectancy determined using the Beneficiary's age as of his or her birthday in the year following the year of the Participant's death, or over the period described in subsection 25.7(c)(5)(C) below if longer.
 - (B) If the Participant's sole designated Beneficiary is the Participant's surviving spouse, the remaining interest will be distributed over such spouse's life expectancy or over the period described in subsection 25.7(c)(5)(C) below if longer. Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death, or, if the distributions are being made over the period described in subsection 25.7(c)(5)(C) below, over such period.
 - (C) If there is no designated Beneficiary, or if applicable by operation of subsections 25.7(c)(5)(A) or (B) above, the remaining interest will be distributed over the Participant's remaining life expectancy determined in the year of the Participant's death.
 - (D) The amount to be distributed each year under subsections 25.7(c)(5)(A), (B), and (C), beginning with the calendar year following the calendar year of the Participant's death, is the quotient obtained by dividing the value of the Deemed IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. §1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's or Participant's age in the year specified in subsections 25.7(c)(5)(A), (B), and (C) and reduced by 1 for each subsequent year.
- (6) Death Before Required Beginning Date. For a Participant who dies before January 1, 2022, if the Participant dies before the required beginning date, his or her entire interest will be distributed at least as rapidly as follows:
- (A) If the designated Beneficiary is someone other than the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the designated Beneficiary, with such life expectancy determined using the age of the Beneficiary as of his or her birthday in the year following the year of the Participant's death, or, if elected, in accordance with subsection 25.7(c)(6)(C) below. If this is an inherited IRA within the meaning of Code § 408(d)(3)(C) established for the benefit of a nonspouse designated beneficiary by a direct trustee-to-trustee transfer from a retirement plan of a deceased individual under §402(c)(11), then, notwithstanding any election made by the deceased individual pursuant to the preceding sentence, the nonspouse designated beneficiary may elect to have distributions made under this subsection 25.7(c)(6)(A) if the transfer is made no later than the end of the year following the year of death.
- (B) If the Participant's sole designated beneficiary is the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70½ (if the Participant was born before July 1, 1949), age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951), if later), over such spouse's life expectancy, or, if elected, in accordance with subsection 25.7(c)(6)(C) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's designated beneficiary's remaining life expectancy determined using such beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with subsection 25.7(c)(6)(C) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.
- (C) If there is no designated Beneficiary, or if applicable by operation of subsections 25.7(c)(6)(A) or (B) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under subsection 25.7(c)(6)(B) above).
- (D) The amount to be distributed each year under subsections 25.7(c)(6)(A) and (B) is the quotient obtained by dividing the value of the Deemed IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. § 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the beneficiary's age in the year specified in subsections 25.7(c)(6)(A) and (B) and reduced by 1 for each subsequent year.
- (7) Death Before Entire Interest Distributed. For a Participant who dies on or after January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
- (A) If to a beneficiary who is not a Designated Beneficiary, the Participant's entire interest must be distributed by the end of the fifth Calendar Year following the year of the Participant's death.
 - (B) If to a Designated Beneficiary, the Participant's entire interest must be distributed by the end of the tenth Calendar Year following the year of the Participant's death.
 - (C) If to an Eligible Designated Beneficiary, the Participant's entire interest may be paid over life or Life Expectancy of

such Eligible Designated Beneficiary beginning in the year following the year of the Participant's death, except that, if the Eligible Designated Beneficiary is the surviving spouse of the Participant:

- (i) the date on which the distributions are required to begin hereunder shall not be earlier than the date on which the Participant would have attained age 70½ (if the Participant was born before July 1, 1949), age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951), and
 - (ii) Any interest remaining after such spouse's death will be distributed over such spouse's remaining Life Expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death or, if the distributions are being made over the spouse's Life Expectancy, over such period.
- (D) An Eligible Designated Beneficiary who is a child of the Participant who has not reached the age of majority shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches majority, and any remainder of the portion of the individual's interest to which subsection (C) applied shall be distributed within 10 years after such date.
- (E) After the death of an Eligible Designated Beneficiary, any remaining interest must be distributed by the end of the tenth Calendar Year following the year of the death of the Eligible Designated Beneficiary.
- (F) The term "Designated Beneficiary" means any individual designated as a beneficiary by the Participant. The term "Eligible Designated Beneficiary" means, with respect to any Participant, any Designated Beneficiary who is:
- (i) the surviving spouse of the Participant,
 - (ii) subject to subsection (iii) below, a child of the Participant who has not reached majority (within the meaning of IRC 401(a)(9)(F)),
 - (iii) disabled (within the meaning of IRC 72(m)(7)),
 - (iv) a chronically ill individual (within the meaning of IRC 7702B(c)(2), except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature), or
 - (v) an individual not described in any of the preceding subclauses who is not more than 10 years younger than the Participant.
- The determination of whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be made as of the date of death of the Participant.
- (7) The "value" of the IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Treas. Reg. § 1.408-8.
- (8) To the extent permitted under Code § 408(q) and the Treasury Regulations, if the sole designated beneficiary is the Participant's surviving spouse, the spouse may elect to treat the Deemed IRA as his or her own Deemed IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the Deemed IRA or fails to take required distributions as a Beneficiary.
- (9) Notwithstanding anything herein to the contrary, the minimum distribution requirements are waived for calendar year 2020, pursuant to § 2203 of the Coronavirus Aid, Relief and Economic

Security Act of 2020. This waiver applies to 2019 required minimum distribution that were required to be made by April 1, 2020 (if not already made in 2019), and to 2020 required minimum distributions that are required to be made by April 1, 2021. For purposes of determining the amount of required minimum distributions made after 2020, an individual's required beginning date shall be determined without regard to this 2020 waiver. If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code § 408(a)(6) had applied during 2020, such distribution shall not be treated as an eligible rollover distribution any purpose.

- (d) Nonforfeitable. The interest of a Participant or Beneficiary in the balance in his or her Deemed Traditional IRA is nonforfeitable at all times.
- (e) No Commingling. The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of Code § 408(a)(5).

25.8. Deemed Roth IRA Requirements.

- (a) Maximum Annual Contributions.
 - (1) Maximum Permissible Amount. Except in the case of a qualified rollover contribution (as defined in subsection 25.8(a)(7) below) or a recharacterization (as defined in 25.8(a)(6) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the Participant's Roth IRAs for a taxable year does not exceed the applicable amount (as defined in 25.8(a)(2) below), or the Participant's compensation (as defined in 25.8(a)(8) below), if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the Participant's compensation is referred to as a "regular contribution." Contributions may be limited under subsections (2) through (6) below.
 - (2) Applicable Amount. The applicable amount is determined below, unless otherwise limited by Code § 219:
 - (A) If the Participant is under age 50, the applicable amount is \$5,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.
 - (B) If the Participant is age 50 or older or will reach the age of 50 by the close of the Plan Year, the applicable amount is \$6,500 for the 2018 tax year, adjusted annually thereafter for cost-of-living increases.
 - (3) Regular Contribution Limit. If subsections 25.8(a)(3)(A) and/or (B) apply, the maximum regular contribution that can be made to all the Participant's Roth IRAs, including a Deemed Roth IRA, for a taxable year is the lesser amount determined under (A) or (B) below.
 - (A) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," as defined in Code § 408A(c)(3)(C)(i)). If the Participant's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined by the applicable table published by the IRS for that taxable year is rounded up to the next multiple of \$10 and is not reduced below \$200.
 - (B) If the Participant makes regular contributions to both Roth IRAs and traditional IRAs for a taxable year, the maximum regular contribution that can be made to all the Participant's Roth IRAs (including a Deemed Roth IRA) for that taxable year is reduced by the regular contributions made to the Participant's traditional IRAs for the taxable year.
 - (4) SIMPLE IRA Limits. No contributions will be accepted under a SIMPLE IRA plan established by any Employer pursuant to Code § 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular Employer under its SIMPLE

IRA plan will be accepted from a SIMPLE IRA, that is, a traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that Employer's SIMPLE IRA plan.

- (5) Inherited IRA. If this is an inherited IRA within the meaning of Code § 408(d)(3)(C), no contributions will be accepted.
 - (6) Recharacterization. A regular contribution to a traditional IRA may be recharacterized pursuant to Treas. Reg. § 1.408A-5 as a regular contribution to this Deemed Roth IRA, subject to the limits in subsection 25.8(a)(3) above.
 - (7) Qualified Rollover Contribution. A "qualified rollover contribution" is a rollover contribution of a distribution from an eligible retirement plan described in Code § 402(c)(8)(B). If the distribution is from an IRA, the rollover must meet the requirements of Code § 408(d)(3), except the one-rollover-per-year rule of Code § 408(d)(3)(B) does not apply if the distribution is from a traditional IRA. If the distribution is from an eligible retirement plan other than an IRA, the rollover must meet the requirements of Code §§ 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 403(b)(10), 408(d)(3) or 457(e)(16), as applicable. A qualified rollover contribution also includes (A) and (B) below.
 - (A) All or part of a military death gratuity or service members' group life insurance ("SGLI") payment may be contributed if the contribution is made within 1 year of receiving the gratuity or payment. Such contributions are disregarded for purposes of the one-rollover-per-year rule under Code § 408(d)(3)(B).
 - (B) All or part of an airline payment (as defined in §125 of the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), Pub. L. 110-458) received by certain airline employees may be contributed if the contribution is made within 180 days of receiving the payment.
 - (8) Compensation. For purposes of subsection (1) above, compensation is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in Code § 401(c)(2) (reduced by the deduction the self-employed individual takes for contributions made to a self-employed retirement plan) or such other income as set forth in IRC 219(f). For purposes of this definition, Code § 401(c) (2) shall be applied as if the term trade or business for purposes of Code § 1402(c)(6) included service. Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income (determined without regard to Code § 112). Compensation also does not include any amount received as a pension or annuity or as deferred compensation. In the case of a married individual filing a joint return, the greater compensation of his or her spouse is treated as his or her own compensation, but only to the extent that such spouse's compensation is not being used for purposes of the spouse making an IRA contribution. The term "compensation" also includes any differential wage payments as defined in Code § 3401(h)(2).
- (b) Investment Limitations.
 - (1) No part of the trust funds allocable to a Deemed Roth IRA may be invested in collectibles (within the meaning of Code § 408(m)) except as otherwise permitted by Code § 408(m)(3), which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.
 - (2) No part of the trust funds will be invested in life insurance contracts.
- (c) Distributions Before Death. No amount is required to be distributed prior to the death of the Participant for whose benefit the account was originally established. If this is an inherited IRA within the meaning of Code § 408(d)(3)(C), this paragraph does not apply.
 - (d) Distribution Upon Death.
 - (1) Notwithstanding any provision of this Deemed Roth IRA to the contrary, the distribution of the Participant's interest in the Account shall be made in accordance with the requirements of Code § 408(a) (6), as modified by § 408A(c)(5), and the regulations thereunder, the provisions of which are herein incorporated by reference.
 - (2) For a Participant who dies before January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
 - (A) If the designated Beneficiary is someone other than the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the designated Beneficiary, with such life expectancy determined using the age of the Beneficiary as of his or her birthday in the year following the year of the Participant's death, or, if elected, in accordance with subsection 25.8(d) (2)(C) below. If this is an inherited IRA within the meaning of Code § 408(d)(3) (C) established for the benefit of a nonspouse designated beneficiary by a direct trustee-to-trustee transfer from a retirement plan of a deceased individual under Code § 402(c)(11), then, notwithstanding any election made by the deceased individual pursuant to the preceding sentence, the nonspouse designated Beneficiary may elect to have distributions made under this subsection 25.8(d)(2)(A) if the transfer is made no later than the end of the year following the year of death.
 - (B) If the Participant's sole designated beneficiary is the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70½ (if the Participant was born before July 1, 1949), age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951), if later), over such spouse's life expectancy, or, if elected, in accordance with subsection 25.8(d)(2)(C) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's designated beneficiary's remaining life expectancy determined using such beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with subsection 25.8(d)(2)(C) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.
 - (C) If there is no designated Beneficiary, or if applicable by operation of subsections 25.8(d)(2)(A) or (B) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under subsection 25.8(d)(2)(B) above).
 - (D) The amount to be distributed each year under subsections 25.8(d)(2)(A) and (B) is the quotient obtained by dividing

the value of the Deemed Roth IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. § 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole designated beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the beneficiary's age in the year specified in subsections 25.8(d)(2) (A) and (B) and reduced by 1 for each subsequent year.

- (3) For a Participant who dies on or after January 1, 2022, his or her entire interest will be distributed at least as rapidly as follows:
 - (A) If to a beneficiary who is not a Designated Beneficiary, the Participant's entire interest must be distributed by the end of the fifth Calendar Year following the year of the Participant's death.
 - (B) If to a Designated Beneficiary, the Participant's entire interest must be distributed by the end of the tenth Calendar Year following the year of the Participant's death.
 - (C) If to an Eligible Designated Beneficiary, the Participant's entire interest may be paid over life or Life Expectancy of such Eligible Designated Beneficiary beginning in the year following the year of the Participant's death, except that, if the Eligible Designated Beneficiary is the surviving spouse of the Participant:
 - (i) the date on which the distributions are required to begin hereunder shall not be earlier than the date on which the Participant would have attained age 70½ (if the Participant was born before July 1, 1949), age 72 (if the Participant was born on or after July 1, 1949 but before January 1, 1951), or age 73 (if the Participant was born on or after January 1, 1951), and
 - (ii) Any interest remaining after such spouse's death will be distributed over such spouse's remaining Life Expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death or, if the distributions are being made over the spouse's Life Expectancy, over such period.
 - (D) An Eligible Designated Beneficiary who is a child of the Participant who has not reached the age of majority shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches majority, and any remainder of the portion of the individual's interest to which subsection (iii) applied shall be distributed within 10 years after such date.
 - (E) After the death of an Eligible Designated Beneficiary, any remaining interest must be distributed by the end of the tenth Calendar Year following the year of the death of the Eligible Designated Beneficiary.
 - (F) The term "Designated Beneficiary" means any individual designated as a beneficiary by the participant. The term "eligible designated beneficiary" means, with respect to any Participant, any designated beneficiary who is:
 - (i) the surviving spouse of the Participant,
 - (ii) subject to subsection (iii) below, a child of the Participant who has not reached majority (within the meaning of IRC 401(a)(9)(F)),
 - (iii) disabled (within the meaning of IRC 72(m)(7)),
 - (iv) a chronically ill individual (within the meaning of IRC 7702B(c)(2), except that the requirements of

subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature), or

- (v) an individual not described in any of the preceding subclauses who is not more than 10 years younger than the participant.

The determination of whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be made as of the date of death of the Participant.

- (4) The "value" of the Deemed Roth IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&A-7 and -8 of Treas. Reg. § 1.408-8.
- (5) If the sole designated Beneficiary is the Participant's surviving spouse, the spouse may elect to treat the Deemed Roth IRA as his or her own Deemed Roth IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the Deemed Roth IRA or fails to take required distributions as a Beneficiary.
- (6) The required minimum distributions payable to a designated Beneficiary from this Deemed Roth IRA may be withdrawn from another IRA the Beneficiary holds from the same decedent in accordance with Q&A-9 of Treas. Reg. § 1.408-8.
- (7) Notwithstanding anything herein to the contrary, the minimum distribution requirements are waived for calendar year 2020, pursuant to § 2203 of the Coronavirus Aid, Relief and Economic Security Act of 2020. This waiver applies to 2019 required minimum distribution that were required to be made by April 1, 2020 (if not already made in 2019), and to 2020 required minimum distributions that are required to be made by April 1, 2021. For purposes of determining the amount of required minimum distributions made after 2020, an individual's required beginning date shall be determined without regard to this 2020 waiver. If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code § 408(a)(6) (as modified by Code § 408A(c)(5)) had applied during 2020, such distribution shall not be treated as an eligible rollover distribution any purpose.
- (e) Rollovers Into Deemed Roth IRA. Upon any distribution event pursuant to which a Participant, a spouse Beneficiary, or a spousal alternate payee would be permitted to have all or any portion of the Participant's Account that qualifies as an Eligible Rollover Distribution rolled over into another Eligible Retirement Plan, such Participant, spouse Beneficiary, or spousal alternate payee may elect to have the portion of such Eligible Rollover Distribution that is not attributable to contributions to the Deemed Roth IRA directly rolled over into a separately maintained Account within his or her Deemed Roth IRA. Any such amounts will be included in gross income as if the distribution had been made to such Participant, surviving spouse Beneficiary, or spousal alternate payee.
- (f) Nonforfeitable. The interest of a Participant or Beneficiary in the balance in his or her Deemed Roth IRA is nonforfeitable at all times.
- (g) No Commingling. The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund within the meaning of Code § 408(a)(5).

25.9 Construction. Notwithstanding any other sections which may be added or incorporated, the provisions of this Article XXV and this sentence will be controlling with respect to each Deemed Traditional IRA and Deemed Roth IRA created under the Plan. Any additional sections inconsistent with the Code, the Treasury Regulations, and other published guidance will be invalid.