

# Special Tax Notice for Plan Distributions

## UNIVERSITY OF CALIFORNIA RETIREMENT PLAN (UCRP)

This notice explains how you can continue to defer federal income tax on your retirement savings in the University of California Retirement Plan (UCRP), including your Capital Accumulation Payment (CAP) balance, if any, and contains important tax information you will need before you decide how to receive your UCRP benefits.

This notice is provided to you by UC Human Resources (Plan Administrator) because all or part of the payment that you receive from UCRP may be eligible for rollover by you or your Plan Administrator to a traditional individual retirement account or annuity (IRA), a Roth IRA, or an eligible employer plan (see "Direct Rollover to an IRA" and "Direct Rollover to a Plan," on pages 2 and 3). A rollover is a payment by you or the Plan Administrator of all or part of your benefit to another plan or IRA that (except in the case of a rollover to a Roth IRA) allows you to continue to postpone taxation of that benefit until it is paid to you.

This notice will help you to determine:

- ▶ whether the distribution is eligible for rollover (see chart on page 5), and, if so,
- ▶ what your choices are, and
- ▶ how your taxes and tax withholding are affected by the choices you make.

### HIGHLIGHTS

If a UCRP or CAP distribution is eligible for rollover, you may have payment made in either of two ways. You can have all or a portion of the distribution either (1) paid in a DIRECT ROLLOVER to a traditional IRA, a Roth IRA or to an eligible employer plan that will accept your rollover; or (2) PAID TO YOU. Your choice will affect the tax withheld, if any, and the amount reported as taxable income.

#### If you choose a DIRECT ROLLOVER:

- ▶ No federal taxes will be withheld from the taxable portion of the distribution, unless you voluntarily agree with the Plan Administrator to have an amount withheld from a distribution that is directly rolled over to a Roth IRA.

- ▶ The taxable portion of the distribution will not be taxed until you withdraw the money from the IRA or eligible employer plan, except if the distribution is rolled over to a Roth IRA. Depending on the type of IRA or employer plan, subsequent distributions from the new IRA or plan may be subject to different rules or tax treatment than those applicable to distributions paid from the UCRP.
- ▶ The distribution check will be payable to your IRA or to the recipient employer plan.
- ▶ In the case of a direct rollover to a Roth IRA, the taxable portion of the distribution will be taxed in the year of distribution. (See page 3 for more details.)

#### If you choose to have your distribution PAID TO YOU:

- ▶ 20 percent federal tax will be withheld from the taxable portion of the distribution, as required by law. No exceptions.
- ▶ You will receive 80 percent of the amount you request as a distribution (California residents—see "California Rules and Tax Laws," on page 7).
- ▶ Any taxable portion of the distribution that you do not roll over within 60 days will be taxable income in the year it is paid (see "60-Day Rollover Option," on page 4).
- ▶ Special rules may allow you to reduce the tax you owe on a distribution from UCRP (see "Additional Tax Information," on page 6).
- ▶ You may have to pay an additional 10 percent tax if you are not yet age 59½.

Note that choosing to have an eligible rollover distribution paid to you rather than deferring receipt, for example by rolling over the eligible rollover distribution to an IRA, could have consequences to you, including the loss of the ability to defer income taxes until a later date (including the early distribution penalty, if applicable) and the reduction of your retirement savings. Therefore, you should carefully consider your decision and consult a professional tax advisor before you make any decision about how you are going to receive your UCRP benefits.

If a distribution is not eligible for rollover, it will be PAID TO YOU.

- ▶ Tax-withholding requirements vary. See “Voluntary Withholding,” on page 4.

If you take a distribution (whether you roll it over or have it paid to you), you must report it on your income tax return for the year in which the money is distributed. You will have to use Form 1040A or 1040; Form 1040EZ cannot be used for distributions from retirement plans.

### Waiver of 30-Day Notice Period

You have 30 days from the date this notice (or a summary of this notice) was provided to decide whether to have a UCRP distribution made payable as a direct rollover to a traditional IRA, Roth IRA or eligible employer plan or made payable to you (generally no UCRP distribution will be issued before the 30-day period expires). If you want to waive the 30-day notice period before your election is processed, contact UC Human Resources (see “Additional Resources and Information,” on page 7).

## UCRP Distributions Paid to Plan Members Eligible/Ineligible for Direct Rollover

### ELIGIBLE DISTRIBUTIONS

A UCRP distribution is eligible for direct rollover if it is one of the following:

#### Nonperiodic Distributions

A Lump Sum Cashout is generally eligible for direct rollover—with exceptions as noted below (see “Ineligible Distributions”). The UCRP Capital Accumulation Payment (CAP) is eligible for direct rollover.

#### Group Insurance Contract Annuities

If you buy a commercial annuity through UC’s group insurance contract that is not based on life expectancy and is paid in installments over a period of less than 10 years, the payments are eligible for direct rollover. Your election to make or not make a direct rollover for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

### INELIGIBLE DISTRIBUTIONS

A distribution is not eligible for direct rollover if it is one of the following:

#### Monthly Income

You cannot roll over a payment that is part of a series of substantially equal payments made at least once a year over a period of:

- ▶ your lifetime/life expectancy,
- ▶ your and your beneficiary’s lifetimes/life expectancies, or
- ▶ 10 years or more.

The following distributions from UCRP are not eligible for direct rollover:

- ▶ monthly retirement/disability income
- ▶ monthly preretirement survivor income
- ▶ monthly postretirement survivor continuance

### Minimum Required Distributions

Beginning April 1 of the year following the year you reach age 70½ (or leave University employment, if later), you are required to receive distributions from UCRP in a certain minimum amount. These distributions may not be rolled over. Minimum required distributions are taxable income in the year you receive them. (Any taxable amount paid to you that exceeds the required minimum amount will be subject to the 20 percent federal withholding unless directly rolled over.) Note—if you are subject to the minimum distribution requirements and request a direct rollover of your total UCRP balance, UC will issue a check for your minimum required distribution (payable to you), before processing the direct rollover of your remaining UCRP balance.

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

## Making a Direct Rollover

### DIRECT ROLLOVER TO AN IRA

You will need to establish an IRA, Simplified Employee Pension (SEP) IRA, or a Roth IRA to receive the direct rollover. Distributions cannot be rolled over to SIMPLE IRAs or to Coverdell Education Savings Accounts (formerly known as education IRAs). Before you request payment, you must contact the IRA trustee (usually a bank, mutual fund, or other financial institution) and ask

how the check should be drawn to make a direct rollover to an IRA at that institution. UC will issue the check to your IRA trustee and mail it to your home address.

It is your responsibility to deposit the rollover check promptly with the IRA trustee.

A direct rollover may be made to an existing or separate IRA.

If you are unsure how to invest your money, you can temporarily establish an IRA to receive the payment until you decide. In this case, you will want to consider whether the IRA you choose will allow you to move all or part of the taxable portion of your money to another IRA or employer plan at a later date without penalties or other limitations. Also see IRS Publication 590, *Individual Retirement Arrangements*, for more information on IRAs, including limits on how often you can roll over between IRAs.

If your rollover includes any after-tax contributions, you are responsible for keeping track of these contributions and for reporting them to the IRS (UC Human Resources can tell you the amount of any after-tax contributions included in your distribution request). This will ensure you will not be subject to income taxes on the nontaxable amount of any future distributions you take from your IRA. Also, note that after-tax contributions cannot later be rolled over from your IRA to an employer plan.

In the case of a direct rollover to a Roth IRA, the taxable portion of the distribution will be taxed in the year of distribution, except that in the case of a direct rollover to a Roth IRA in 2010, one-half of the taxable portion of the distribution will be taxed in 2011 and one-half of the taxable portion of the distribution will be taxed in 2012, unless you elect to have it all taxed in 2010. Like other direct rollovers, the mandatory 20 percent federal income tax withholding does not apply to direct rollovers of eligible rollover distributions to a Roth IRA. However, you may voluntarily agree with the Plan Administrator to have an amount withheld from an eligible rollover distribution that you elect to directly roll over to a Roth IRA.

If you roll over your distribution to a Roth IRA, later payments from the Roth IRA (including earnings after the rollover) will not be taxed *if* the payments are “qualified distributions.”

A qualified distribution from a Roth IRA is a payment made after you reach age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least five years. In applying this five-

year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA.

If you receive a payment from a Roth IRA that is not a qualified distribution, any earnings that accrued after the rollover on the amount distributed will be taxable and will be subject to the 10 percent early withdrawal tax (unless an exception applies). The minimum required distributions rules do not apply to your Roth IRA during your lifetime.

## **DIRECT ROLLOVER TO A PLAN**

You may roll over your eligible distribution to an eligible employer plan. An “eligible employer plan” includes plans qualified under §401(a) of the Internal Revenue Code (IRC), including IRC §401(k) plans, profit-sharing plans, stock bonus plans, money purchase plans, and defined benefit plans; IRC §403(a) annuity plans; IRC §403(b) tax-sheltered annuities; and eligible governmental IRC §457(b) deferred compensation plans. However, you cannot roll over a payment from UCRP to a designated Roth account in an employer plan.

Before you roll over your distribution to an eligible employer plan, you will have to verify that the administrator of the new plan will accept your rollover and, if so, the types of distributions it accepts (for example, distributions that include after-tax contributions). An eligible employer plan is not legally required to accept a direct rollover. You should also find out about any documents that are required to be completed before the receiving plan will accept a rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to a traditional IRA or split your rollover amount between the employer plan in which you will participate and a traditional IRA. Note that if the new eligible employer plan accepts distributions that include after-tax contributions, it must provide separate accounting for the after-tax contributions, as well as any earnings on those contributions. After-tax contributions cannot be rolled over to IRC §403(a) annuities or eligible governmental IRC §457(b) deferred compensation plans.

You should be aware that money rolled over to the new employer-sponsored plan will generally be subject to the provisions of that plan; for example, the plan’s provisions may restrict subsequent distributions or require your spouse’s consent for a distribution

request. Subsequent distributions may also be subject to different tax treatment. For these reasons, you may want to verify the distribution provisions with the administrator of the new plan before you roll over your money.

## PART DIRECT ROLLOVER

If you choose to have part of your distribution paid as a direct rollover and part paid to you, the direct rollover amount must be at least \$500.

## Distributions Paid to You

### MANDATORY WITHHOLDING

If a distribution is eligible for direct rollover and you have it paid to you, 20 percent federal income tax must be withheld from the taxable portion of the distribution. (You may also ask to have an additional flat-dollar amount withheld.) For example, if you want \$10,000 paid to you, you must request a distribution of 125 percent of that amount, or \$12,500. UCRP will send you and the IRS a Form 1099-R, which will report the full \$12,500 as a taxable distribution from UCRP. Unless you make a rollover within 60 days (see “60-Day Rollover Option,” at right), you must report the entire \$12,500 as a taxable distribution from the UCRP on your income tax return for the year. The \$2,500 will be credited against any income tax that you owe for the year. There will be no income tax withholding if your payments for the year are less than \$200.

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, 30 percent (instead of 20 percent) of the payment must generally be withheld for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

### VOLUNTARY WITHHOLDING

The 20 percent mandatory withholding rule does not apply to any part of a distribution that is ineligible for

rollover, even though that part is taxable. Instead, federal income tax will be withheld as follows:

- ▶ nonperiodic distributions: 10 percent, unless you elect no or different withholding (including flat-dollar amounts).
- ▶ periodic distributions: An amount based on the tax table for a married individual claiming three allowances, unless you elect different (or no) withholding.

If you wish to have an amount other than 10 percent withheld, you must file a completed IRS Form W-4P with the Plan Administrator before the distribution. If you do not file a completed Form W-4P with the Plan Administrator prior to the distribution, the Plan Administrator will automatically withhold 10 percent. (Note—you may not elect to have no withholding if your distribution is being mailed outside the United States or if you are a nonresident alien.)

### 60-DAY ROLLOVER OPTION

If a distribution is eligible for direct rollover and you have it paid to you, you can still decide to roll over all or any part of the money to a traditional IRA, a Roth IRA, or an eligible employer plan that accepts rollovers within 60 days after you receive payment. Note—you cannot use the 60-day rollover option to roll over after-tax contributions to an employer plan.

Except in the case of a rollover to a Roth IRA, the amount rolled over will not be taxed until you take it out of the IRA or eligible employer plan.

If you want to roll over the entire amount of the distribution you requested, you must obtain from your personal savings or other sources an amount equal to the 20 percent (30 percent if nonresident alien) that was withheld and contribute that amount to the IRA or eligible employer plan within the 60-day period.

If you roll over only the 80 percent that you received, you must pay taxes on the remaining 20 percent. Note—tax penalties or special tax rules may also apply. See page 6.

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling

requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, *Individual Retirement Arrangements*.

### AUTOMATIC ROLLOVER

If your distribution is a refund of accumulations that is more than \$1,000 but less than \$5,000, and you fail to elect either a direct rollover or payment to you, the refund will be directly rolled over to an IRA selected by the Plan Administrator and held for your benefit. The same action will be taken if your CAP balance is more than \$1,000 but less than \$5,000 and you fail to make a distribution election – unless you elect Inactive Membership in UCRP. In that event the CAP balance will remain in UCRP unless you request a distribution.

## Distributions Paid to Surviving Spouses, Other Beneficiaries, and Alternate Payees

In general, the rules summarized above that apply to distributions to UCRP members also apply to distributions to members' surviving spouses and to spouses or former spouses who are "alternate payees." You are an alternate payee if your interest in UCRP results from a "qualified domestic relations order" (QDRO), which is an order issued by a court, usually in connection with a divorce or legal separation. (Under these rules, the federal definition of "spouse" applies.)

### UCRP DISTRIBUTIONS ELIGIBLE/INELIGIBLE FOR ROLLOVER

	Eligible	Ineligible
<b>University of California Retirement Plan:</b>		
Monthly retirement/disability income		◆
Monthly preretirement survivor income*		◆
Monthly postretirement survivor continuance*		◆
Refund of accumulations	◆	
CAP balance	◆	
Lump sum cashout	◆	
Lump sum death payments:		
to surviving spouse	◆	
to non-spouse beneficiary**	◆	
QDRO distribution—monthly income		◆
QDRO distribution—cashout/refund/CAP:		
to spouse/former spouse	◆	
to non-spouse		◆

\* Distributions to eligible child(ren) or eligible dependent parents for fewer than 10 years may be eligible for rollover.

\*\* Distributions to non-spouse beneficiaries paid on or after January 1, 2007 are eligible for a direct rollover to an inherited IRA only.

## DISTRIBUTION TO A SURVIVING SPOUSE OR ALTERNATE PAYEE

If you are a surviving spouse or an alternate payee who is the spouse or former spouse of a UCRP member, you may choose to have an eligible rollover distribution either:

- ▶ paid in a DIRECT ROLLOVER to a traditional IRA, Roth IRA, or eligible employer plan that will accept your rollover; or
- ▶ PAID TO YOU.

If paid to you, the taxable portion of the distribution is subject to 20 percent withholding. You can roll over the money yourself (within 60 days) to an IRA or to an employer plan that will accept your rollover.

The 10 percent penalty tax on early distributions does not apply to distributions attributable to the death of the member or distributions to an alternate payee pursuant to a QDRO.

You may be able to use the special tax treatment for lump sum distributions if the UCRP member met the appropriate age requirements (see “If You Were Born on or Before January 1, 1936” on page 7).

## DISTRIBUTION TO A NONSPOUSE BENEFICIARY

If you are a beneficiary of a UCRP member, other than a surviving spouse, you may choose to have an eligible rollover distribution either:

- ▶ paid in a DIRECT ROLLOVER to a traditional or Roth IRA or
- ▶ PAID TO YOU.

You may NOT roll over the distribution to an eligible employer plan and you may NOT use the 60-day rollover option to roll over the distribution to an IRA. The IRA that receives the distribution will be treated as an “inherited IRA.”

The 10 percent penalty tax on early distributions does not apply to the distribution because the distribution is being made to you after the death of the member. However, for distributions made after December 31, 2009 the 20 percent withholding rule described above will apply if you choose to have the distribution paid to you.

You may be able to use the special tax treatment for lump sum distributions if the UCRP member met the appropriate age requirements (see “If You Were Born on or Before January 1, 1936” on page 7).

## Service In The Armed Forces

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, *Armed Forces’ Tax Guide*.

## Additional Tax Information

### PENALTY TAX ON EARLY DISTRIBUTIONS

If you receive a taxable distribution before you reach age 59½ and you do not roll it over, you must pay a 10 percent federal penalty tax (plus a 2½ percent California state penalty tax, if applicable), in addition to regular income tax, unless you qualify for an exception. These exceptions include:

- ▶ you leave UC employment during or after the year you reach 55,
- ▶ you are a UC public safety employee and you leave UC employment during or after the year you reach age 50. A public safety employee is an employee who provides police, firefighting or emergency medical services for UC. (This exception applies because UCRP is a governmental defined benefit plan.)
- ▶ you are permanently disabled, based on IRS rules,
- ▶ you are the beneficiary of a deceased UCRP member,
- ▶ you receive a series of substantially equal distributions over your life/life expectancy (or your and your beneficiary’s lives/life expectancies),
- ▶ the distribution does not exceed deductible medical expenses,
- ▶ the distribution is paid to an alternate payee under a QDRO, or
- ▶ the distribution is paid directly to the government to satisfy a federal tax levy.

See IRS Form 5329 for more information on the 10 percent penalty tax.

If you roll over your distribution to an IRA and then receive a payment from an IRA when you are under age 59½, you must pay the 10 percent early distribution penalty on the IRA distribution, unless an exception applies. In general, the exceptions to the penalty for early distributions from an IRA are the same as the exceptions listed above for early distributions from the UCRP. However, there are a few differences for payments from an IRA, including:

- ▶ There is no exception for payments after separation from service that are made after age 55.
- ▶ The exception for QDROs does not apply, although a special rule may apply under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse.
- ▶ The exception for payments made at least annually in substantially equal amounts over a specified period applies without regard to whether you have had a separation from service.
- ▶ There are additional exceptions for: payments for qualified higher education expenses; payments up to \$10,000 used in a qualified first-time home purchase; and payments after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

### **IF YOU WERE BORN ON OR BEFORE JANUARY 1, 1936**

If you were born on or before January 1, 1936, and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

### **CALIFORNIA RULES AND TAX LAWS**

In this notice, only federal rollover rules and tax considerations are described in detail (not state or local). Generally, California state tax is withheld at 10 percent of the federal rate (i.e., if 20 percent federal tax is withheld, 2 percent California state tax is

withheld; if 10 percent federal tax, then 1 percent California tax). However, even when federal withholding is mandatory, you may elect to have no withholding for California tax.

If your distribution is mailed to an address outside California, you will generally still owe California taxes if you are a resident of California. See your tax advisor or contact your local state tax agency about your state tax liability.

### **ADDITIONAL RESOURCES AND INFORMATION**

Because the rules described in this notice are complex and conditions and exceptions may apply that are not included in this notice, we recommend that you consult a professional tax advisor before you request a distribution from the UCRP. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590, *Individual Retirement Arrangements (IRAs)*; and Form 4972, *Tax on Lump Sum Distributions*. These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM.

#### **UC Human Resources**

If you have additional questions after reading this notice or want specific information about your account in the UC plans, call the UC Customer Service Center at:

1-800-888-8267

Hours: 8:30 a.m.–4:30 p.m., Monday–Friday

Written correspondence should be sent to:

UC Human Resources

P.O. Box 24570

Oakland CA 94623-1570

You can also obtain helpful information about UC's retirement savings and investment plans by visiting UC's benefits website: [atyourservice.ucop.edu](http://atyourservice.ucop.edu).

By authority of the Regents, University of California Human Resources, located in Oakland, administers all benefit plans in accordance with applicable plan documents and regulations, custodial agreements, University of California Group Insurance Regulations, group insurance contracts, and state and federal laws. No person is authorized to provide benefits information not contained in these source documents, and information not contained in these source documents cannot be relied upon as having been authorized by the Regents. Source documents are available for inspection upon request (1-800-888-8267). What is written here does not constitute a guarantee of plan coverage or benefits—particular rules and eligibility requirements must be met before benefits can be received. The University of California intends to continue the benefits described here indefinitely; however, the benefits of all employees, retirees, and plan beneficiaries are subject to change or termination at the time of contract renewal or at any other time by the University or other governing authorities. The University also reserves the right to determine new premiums, employer contributions and monthly costs at any time. Health and welfare benefits are not accrued or vested benefit entitlements. UC's contribution toward the monthly cost of the coverage is determined by UC and may change or stop altogether, and may be affected by the state of California's annual budget appropriation. If you belong to an exclusively represented bargaining unit, some of your benefits may differ from the ones described here. Contact your Human Resources Office for more information.

In conformance with applicable law and University policy, the University is an affirmative action/equal opportunity employer. Please send inquiries regarding the University's affirmative action and equal opportunity policies for staff to Director of Diversity and Employee Programs, University of California Office of the President, 300 Lakeside Drive, Oakland, CA 94612 and for faculty to Director of Academic Affirmative Action, University of California Office of the President, 1111 Franklin Street, Oakland, CA 94607.

Website address: [atyourservice.ucop.edu](http://atyourservice.ucop.edu)



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