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Correspondence Memorandum

Date: September 30, 2019

To: Deferred Compensation Board

From: Shelly Schueller, Director
 Wisconsin Deferred Compensation Program

Dan Hayes, Attorney
 Office of Legal Services

Subject: Plan and Trust Revisions

The Department of Employee Trust Funds (ETF) recommends the Deferred Compensation Board (Board) revise the Wisconsin Deferred Compensation Program (WDC) Plan and Trust document as shown in the attached draft.

The attached document contains revisions to the WDC Plan and Trust recommended by ETF. The changes would allow the WDC to 1) accept SIMPLE IRA roll-ins; and 2) provide more flexibility for participants to choose the three years in which they make special catch-up contributions.

SIMPLE IRA Roll-ins

A “savings incentive match plan for employees” IRA or “SIMPLE” IRA is a retirement savings plan for small businesses and self-employed individuals. Like traditional IRAs, SIMPLE IRAs are portable between qualified retirement savings plans.

The WDC has received inquiries related to rolling SIMPLE IRAs into the WDC. After reviewing the Plan and Trust document, ETF is recommending expanding the definition of “ELIGIBLE RETIREMENT PLAN” in Paragraph 1.01 k. as shown in the attached draft. This expansion is allowed by the IRS and would enable plan participants to roll SIMPLE IRAs to their WDC accounts.

Normal Retirement Age (NRA) for Special Catch-Up Contributions

457(b) governmental deferred compensation plans may permit participants to defer amounts above the annual deferral limit in one or more of the three calendar years prior to the attainment of normal retirement age, as defined in the plan document. The

Reviewed and approved by David Nispel, General Counsel, Legal Services

David A. Nispel Electronically Signed 10/8/19

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purpose of the final 3-year catch-up is to allow participants who didn't fully fund contributions to the plan in prior years to make additional deferrals to the plan.

Currently, the WDC Plan and Trust defines NRA by referencing the definition of normal retirement date found at Wis. Stat. § 40.02 (42), which is usually age 65 for general employees and teachers, and age 53 or 54 for protective occupation employees, depending on their years of creditable service. So, for general employees, for example, catch-up contributions are generally limited to the years they attain age 62–64. ETF has received inquiries from a large county and some members who were interested in making special catch-up contributions but were unable to because of the WDC's restrictive definition of NRA.

ETF is recommending that the definition of NRA in Paragraph 1.01 p. of the WDC Plan and Trust be revised to provide more flexibility for participants by allowing them to designate their NRA as any age that falls within a range of ages that is allowed by the Internal Revenue Code. The range begins with the age at which the participant has the right to retire and receive a Wisconsin Retirement System annuity without actuarial or similar reduction because of retirement prior to the normal retirement date under Wis. Stat. § 40.02 (42). It ends with age 70 ½.

In addition, Section 10.06, which is the only other section in the WDC Plan and Trust that references the definition of NRA in Section 1.01, would be amended to remove that reference to NRA because the new definition in Section 1.01 would not be appropriate. Instead it references the normal retirement date, as defined at Wis. Stat. § 40.02 (42).

The proposed changes to NRA for special catch-up contributions are shown in the attached draft.

Staff will be at the meeting to answer any questions.

Attachment: WDC Proposed Plan & Trust Amendments

Attachment
WDC Proposed Plan & Trust Amendments
September 30, 2019

Section 1.01 k.

ELIGIBLE RETIREMENT PLAN means an eligible retirement plan as defined in IRC Section 402(c)(8)(B) as well as a Roth IRA as described in IRC Section 408A and a Simple IRA as described in IRC Section 408(p).

Section 1.01 p. – Replace current language with:

NORMAL RETIREMENT AGE means, for purposes of making Special Catch-Up Contributions under Section 2.06, the date the PARTICIPANT designates that falls within the age at which the PARTICIPANT has the right to retire and receive, under the Wisconsin Retirement System's defined benefit pension plan, an immediate annuity without actuarial or similar reduction because of retirement prior to the normal retirement date under WIS. STAT. § 40.02 (42) and age 70 ½. If the PARTICIPANT is not eligible to receive benefits under the Employer's pension plan, the PARTICIPANT may designate a Normal Retirement Age that is not earlier than age 65 nor later than age 70 ½. In the event that the PARTICIPANT is a qualified police officer or firefighter, the PARTICIPANT may designate a Normal Retirement Age that is not earlier than age 40 nor later than age 70 ½.

Current language:

NORMAL RETIREMENT AGE means the normal retirement date under WIS. STAT. § 40.02 (42) applicable to the PARTICIPANT based on the category of employment from which the PARTICIPANT retired.

Section 2.06 (intro. – just adding a title)

Special Catch-Up Contributions

If the applicable year is one of a PARTICIPANT'S last 3 calendar years ending before the year in which the PARTICIPANT attains NORMAL RETIREMENT AGE and the amount deferred under this Section exceeds the amount computed under Sections 2.04 and 2.05, then the maximum deferral under this Section shall be the lesser of:

Section 10.06

10.06. Special Rules Regarding Distributions to Retired Public Safety Officers for Insurance Premium Payments: Subject to the requirements and limitations of 26 USC 402(l), a PARTICIPANT who, by reason of disability or attainment of ~~NORMAL RETIREMENT AGE~~ normal retirement date as defined in Wis. Stat. § 40.02 (42), is separated from service as a PUBLIC SAFETY OFFICER for the State of Wisconsin, may elect to have distributions made directly from the PLAN to an insurer to pay qualified health insurance premiums for coverage for such eligible retired PUBLIC SAFETY OFFICER, his spouse and their dependents, by an accident or health insurance plan or qualified long-term care insurance contract as defined in IRC Section 7703B(b). Before such distributions may be made, the PARTICIPANT must file with the ADMINISTRATOR a written election for such distributions on the form provided for the purpose by the ADMINISTRATOR, identifying the insurer and

specifying the premium amount. In addition, the individual must provide information sufficient to establish to the satisfaction of the ADMINISTRATOR that the PARTICIPANT is a PUBLIC SAFETY OFFICER and that the premiums are for qualified health insurance premiums within the meaning of 26 USC 402(l)(4)(D).