

AMENDATORY SECTION (Amending WSR 10-24-099, filed 12/1/10, effective 1/1/11)

**WAC 415-02-751 How does the department comply with Internal Revenue Code rollover rules?** (1) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to section 401 (a)(31) of the federal Internal Revenue Code.

(2) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the distributee with the following exceptions:

(a) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) Any distribution to the extent such distribution is required under section 401 (a)(9) of the Internal Revenue Code;

(c) The portion of any distribution that is not includible in gross income; and

(d) Any other distribution that is reasonably expected to total less than two hundred dollars during the year.

Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408 (a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible, or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code or to an annuity contract described in section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.

(3) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the Internal Revenue Code;

(b) An individual retirement annuity described in section 408(b) of the Internal Revenue Code;

(c) An annuity plan described in section 403(a) of the Internal Revenue Code;

(d) A qualified trust described in section 401(a) of the Internal Revenue Code;

(e) Effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code;

(f) Effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into such 457(b) plan from this plan; or

(g) Effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code.

(4) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401 (a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(5) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.