



**ELECTION TO PARTICIPATE IN OPTIONAL RETIREMENT PROGRAM AND/OR REFUND**

Name \_\_\_\_\_ Social Security No. \_\_\_\_\_  
Address: \_\_\_\_\_  
Street Address or Box Number City State Zip Code  
Telephone No. \_\_\_\_\_ Date of Birth \_\_\_\_\_

Have you ever elected the Optional Retirement Program in lieu of TRS?  Yes  No  
If yes, institution name \_\_\_\_\_ dates of employment \_\_\_\_\_  
If yes, you are not eligible to elect ORP a second time.

**MEMBER ELECTION**

I elect to participate in the Optional Retirement Program (ORP) established under Chapter 830, Texas Government Code, in lieu of membership in the Teacher Retirement System of Texas (TRS). I understand that by this election I will not be eligible for membership in TRS unless I cease to be employed by an institution of higher education and become employed by the Texas public school system other than in an institution of higher education. I further understand that by electing ORP, I forfeit all accrued rights to benefits from TRS, if any, including benefits based on TRS service credit accrued prior to this election. I am entitled only to a refund of my TRS accumulated contributions, if any.  
**I understand this election is irrevocable.**

**REFUND ELECTION**

**(do not complete this section if you do not have any TRS contributions)**

Choose only one option: a refund, direct rollover or no refund.

<input type="checkbox"/> <b>Refund</b>	I elect to have my TRS accumulated contributions paid directly to me. I understand that 20% of the taxable amount of my refund will be withheld for federal income taxes.
<input type="checkbox"/> <b>Direct Rollover</b>	I elect to have all or a portion of my TRS accumulated contributions rolled over into an eligible retirement plan. I understand that TRS will provide me with an additional form if this option is selected.
<input type="checkbox"/> <b>No Refund</b>	I elect to leave my accumulated contributions with TRS. I understand that I forfeit all accrued rights to benefits based on my TRS service credit accrued prior to my election to participate in ORP, if any, by electing ORP in lieu of TRS. I understand that I can apply for a refund at a later date.

I acknowledge that I have received a copy of the "Special Tax Notice Regarding Your Rollover Options Under the Teacher Retirement System of Texas" and that I have 30 days from receipt of the notice to consider my decision of whether to elect a direct rollover of my distribution of accumulated contributions. I understand that once I have made an election to rollover and TRS has issued the distribution, my rollover is irrevocable and cannot be changed.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ (date), \_\_\_\_\_ (printed name of person whose signature appears above) acknowledged this document before me a notary public.

\_\_\_\_\_  
Signature of Notary Public

(SEAL)

**EMPLOYER CERTIFICATION**

**This is to certify that the above named individual is eligible and has elected to participate in the Optional Retirement Program in lieu of membership in the Teacher Retirement System of Texas. The election is effective \_\_\_\_\_.**

Name of Institution of Higher Education: \_\_\_\_\_ TRS District No. \_\_\_\_\_

Date First Eligible to Elect ORP: \_\_\_\_\_ Date of ORP Election: \_\_\_\_\_

Report Month/Year for Final Deposit: \_\_\_\_\_

Printed Name of Reporting Official: \_\_\_\_\_ Title: \_\_\_\_\_

Signature of Reporting Official: \_\_\_\_\_ Date: \_\_\_\_\_

## PURPOSE

Use this form to elect to participate in the Optional Retirement Program (ORP) in lieu of membership in the Teacher Retirement System of Texas (TRS) as allowed under Chapter 830, Texas Government Code, and to request a refund of any accumulated contributions maintained by TRS prior to your ORP election. Accumulated contributions include only member contributions and applicable interest.

## IMPORTANT INFORMATION

### ORP Election

- The election of ORP in lieu of membership in TRS is irrevocable.
- All accrued rights to benefits from TRS, if any, are forfeited upon the election of ORP. This includes any benefits associated with TRS service credit you accrued prior to your election to participate in ORP.
- Only one TRS 28 should be filed with TRS for ORP election purposes, as you may elect ORP only once in lieu of participation in TRS. However, if you elect not to withdraw your TRS accumulated contributions at the time you elect to participate in ORP, you may submit a second TRS 28 only for purposes of requesting a refund.

### Refund Election

A person who is a participant in ORP may withdraw their accumulated contributions from TRS; however, you are not required to withdraw your accumulated contributions at this time. To apply for a refund at a later date, you must submit a second TRS 28. Please review the instructions below.

Please review the "Special Tax Notice Regarding Your Rollover Options Under The Teacher Retirement System of Texas" before requesting a refund or direct rollover of your TRS account balance. This notice also includes information regarding the applicability of the 10% early withdrawal penalty on early distributions.

Your refund will be reported to the IRS and will be taxed in the year in which you receive it. An IRS Form 1099R will be mailed to your mailing address by January 31 of the year following your refund. Please notify TRS if your mailing address changes.

### TRS Will Not Accept

- Alterations without initials
- An incomplete form or any attempt to change its printed provisions
- Faxed documents

**Additional information regarding ORP may be obtained from your employer's benefits office.**

## INSTRUCTIONS

If you are electing ORP participation and requesting a refund of your TRS accumulated contributions:

1. Read the "Special Tax Notice Regarding Your Rollover Options Under The Teacher Retirement System of Texas".
2. Complete the form in its entirety, including your name, Social Security number, mailing address, telephone number, date of birth, and ORP election information.
3. Complete the "Member Election" section.
4. Complete the "Refund Election" section.
5. Sign the form in the presence of a notary public.
6. Have your employer complete the "Employer Certification" section.
7. Mail the form to TRS.

If you previously elected ORP participation but you did not withdraw your TRS accumulated contributions at the time you elected ORP and you are now applying for a refund of your TRS accumulated contributions:

1. Read the "Special Tax Notice Regarding Your Rollover Options Under The Teacher Retirement System of Texas".
2. Provide your name, Social Security number, mailing address, telephone number, date of birth, and check the "Yes" box for the following question: "Have you ever elected the Optional Retirement Program in lieu of TRS?"
3. Do not complete the "Member Election" section.
4. Complete the "Refund Election" section.
5. Sign the form in the presence of a notary public.
6. Do not have your employer complete the "Employer Certification" section.
7. Mail the form to TRS.

# **SPECIAL TAX NOTICE REGARDING YOUR ROLLOVER OPTIONS UNDER THE TEACHER RETIREMENT SYSTEM OF TEXAS**

You are receiving this notice because all or a portion of a payment you are receiving from the Teacher Retirement System of Texas ("TRS"), a governmental 401(a) pension plan, is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover. **IF YOU RECEIVE OR ACCESS THIS NOTICE ELECTRONICALLY, YOU MAY REQUEST A PAPER COPY OF THIS NOTICE FROM TRS AT NO CHARGE TO YOU.**

Rules that apply to most payments from a retirement plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

## **GENERAL INFORMATION ABOUT ROLLOVERS**

### **How can a rollover affect my taxes?**

You will be taxed on a payment from TRS if you do not roll it over. If you are under age 59 1/2 and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies, as determined under federal tax laws by the IRS).

If you do a rollover to a traditional IRA or an eligible employer plan, you will not have to pay tax until you receive payments later from the IRA or plan, and the 10% additional income tax will not apply if those payments are made after you are age 59 1/2 (or if an exception applies).

If you do a rollover to a Roth IRA, you will be taxed on the amount rolled over (reduced by any after-tax amount). However, if you are under age 59 1/2 at the time of the rollover, the 10% additional income tax will not apply. See the section below titled "If you roll over your payment to a Roth IRA" for more details.

### **Where may I roll over the payment?**

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified section 401(a) plan, section 403(b) plan, or governmental section 457(b) deferred compensation plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment of the rolled over amount in the future. Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

### **How do I do a rollover?**

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, TRS will make the check payable directly to your IRA or an employer plan. TRS then will mail the check to you for you to deposit it with your IRA or employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, TRS is required to withhold 20% of the payment for federal income taxes. If you do not do a direct rollover, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to 10% additional income tax on early distributions if you are under age 59 1/2 (unless an exception applies, as determined under federal tax laws by the IRS).

### **How much may I roll over?**

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from TRS is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary) (This means that your lifetime monthly benefits are not eligible for rollover.)
- Required minimum distributions after age 70 1/2 (or after death)
- Corrective distributions of contributions that exceed tax law limitations

TRS can tell you what portion of a payment is eligible for rollover.

If any portion of your payment is taxable but cannot be rolled over, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, an amount will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask TRS for the election form and related information.

### **If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**

If you are under age 59 1/2, you will have to pay the 10% additional income tax on early distributions for any payment from TRS (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from TRS:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Payments from TRS made after you separate from service if you are a public safety employee and you are at least age 50 in the year of separation
- Payments made due to disability
- Payments after your death
- Corrective distributions of contributions that exceed tax law limitations
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under a qualified domestic relations order (QDRO)
- Payments up to the amount of your deductible medical expenses

### **If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?**

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. 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 qualified domestic relations orders (QDROs) does not apply (although a special rule applies 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 equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) 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).

### **Will I owe State income taxes?**

This notice does not describe any State or local income tax rules (including withholding rules).

## **SPECIAL RULES AND OPTIONS**

### **If your payment includes after-tax contributions**

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is generally included in the payment. If you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in a payment.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from TRS and a portion is paid to you, each of the payments will include an allocable portion of the after-tax contributions. If you do a 60-day rollover to an IRA of only a portion of the payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a complete distribution of your benefit which totals \$12,000, of which \$2,000 is after-tax contributions. In this case, if you roll over \$10,000 to an IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

### **If you miss the 60-day rollover deadline**

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 (IRAs).

### **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.

### **If you roll over your payment to a Roth IRA**

You can roll over a payment from TRS made before January 1, 2010 to a Roth IRA only if your modified adjusted gross income is not more than \$100,000 for the year the payment is made to you and, if married, you file a joint return. These limitations do not apply to payments made to you from TRS after 2009. If you wish to roll over the payment to a Roth IRA, but you are not eligible to do a rollover to a Roth IRA until after 2009, you can do a rollover to a traditional IRA and then, after 2009, elect to convert the traditional IRA into a Roth IRA. TRS is not responsible for verifying your eligibility to make a rollover to a Roth IRA. (IRS Notice 2008-30)

If you roll over the payment to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover). For payments from TRS during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are 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 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime.

You cannot roll over a payment from TRS to a designated Roth account in an employer plan.

For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs). You should consult your tax advisor if you are interested in rolling over your distribution to a Roth IRA.

### **If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance**

If you retired as a public safety officer and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of \$3,000 annually. For the purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

The Form 1099-R that you receive from TRS will report the deducted insurance premium as taxable. If you want to take advantage of this \$3,000 exclusion, you must report the amount claimed on Form 1040. The instructions to Form 1040 explain that the taxable amount received from the retirement plan, reduced by the amount of qualified premiums deducted and paid by the retirement plan (not to exceed \$3,000), must be entered on line 16b of the Form 1040. Next to the entry, in the margin, you must write the letters "PSO." This is an annual election - you will need to report the exclusion for each year in which you want to claim the exclusion.

### **If you are not a TRS member, or if you are a member but are receiving a TRS payment as a beneficiary or alternate payee of another member**

Payments after death of the member. If you receive a distribution after the member's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the member was born on or before January 1, 1936.

**If you are a surviving spouse.** If you receive a payment from TRS as the surviving spouse of a deceased member, you have the same rollover options that the member would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the member had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the member had not started taking required minimum distributions from TRS, you will not have to start receiving required minimum distributions from the inherited IRA until the year the member would have been age 70½.

**If you are a surviving beneficiary other than a spouse.** If you receive a payment from TRS because of the member's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the member who receives a payment from TRS under a qualified domestic relations order (QDRO), you generally have the same options the member would have (for example, you may roll over the payment to your own IRA or another eligible employer plan that will accept it). If you are an alternate payee other than the spouse or former spouse of the member, you generally have the same options as a surviving beneficiary other than the spouse, so that the only rollover option you have is to do a direct rollover to an inherited IRA. Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

### **If you are a nonresident alien**

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, TRS is generally required to withhold 30% of the payment 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.

### **Other Special Rules**

If a payment is one in a series or payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than \$200, TRS is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.

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.

### **NOTICE PERIOD**

Generally, payment cannot be made from TRS until at least 30 days after you receive this notice. Thus, you have at least 30 days to consider whether or not to have your payment rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your payment will then be processed in accordance with your election as soon as practical after it is received by TRS.

### **FOR MORE INFORMATION**

You may wish to consult with TRS, or a professional tax advisor, before taking a payment from TRS. 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 IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). 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.