



MEMORANDUM

TO: NC Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: December 3, 2020

SUBJECT: Amendments to the plan documents for the NC 401(k) and NC 457 Plans

Mandatory Distributions of De Minimis Accounts (NC 401(k) Plan)

Section 9.04(a) of the plan document requires the distribution of a small account (i.e., \$1,000 or less) when the participant is no longer employed by a participating employer in the NC 401(k) Plan. However, small accounts in the NC 401(k) Plan are not automatically distributed upon severance from employment; instead, small accounts would be forced out only upon the direction of the Department and the Board. Therefore, the proposed revision to Section 9.04(a) in Attachment 1 makes distribution of small accounts discretionary instead of mandatory.

In addition, the revisions in Attachment 1 include the correction of two minor errors in Section 9.03(d) and 9.08.

Normal Retirement Age (NC 457 Plan)

The SECURE Act raised the beginning age for required minimum distributions (RMDs) from 70½ to 72, and this change was incorporated into the plan documents for the NC 401(k) and NC 457 Plans at the August Board meeting. In August, staff also recommended, and the Board approved, incorporating this age increase into the definition of “normal retirement age” in the NC 457 Plan. The normal retirement age is used solely to determine the period for which a participant can make special “catch-up” contributions above the normal annual limit. However, the SECURE Act, in fact, does not permit the maximum “normal retirement age” in a Code section 457(b) plan to be increased from 70½ to 72. Therefore, as shown in Attachment 2, the revised definition of “normal retirement age” in the NC 457 Plan returns the maximum “normal retirement age” to 70½.

Recommendation

Staff recommends that the Board approve the amendments in Attachments 1 and 2

Attachment 1 – Amendments to the Plan Document for the NC 401(k) Plan

9.03 Commencement of Payments

- (a) Except as otherwise provided in this Article, distribution of a Member's Accounts shall commence as soon as administratively practicable following the later of (i) the Member's termination of employment or (ii) the 65th anniversary of the Member's date of birth (but not more than 60 days after the close of the Plan Year in which the later of (i) or (ii) occurs).
- (b) In lieu of a distribution as described in paragraph (a) above, a Member may elect to have the distribution of his Accounts commence as of any Valuation Date coincident with or following his termination of employment, provided that such date is not later than the date described in paragraph (d) below.
- (c) Notwithstanding the above provisions of Article 9, if a Member dies in active service or terminates employment and dies before distribution of his Accounts has commenced, distribution of the Member's Accounts to his designated Beneficiary shall not commence later than one year after the Member's death; provided, however, if the designated Beneficiary is the Member's surviving spouse, distribution shall commence not later than the date on which the Member would have attained age 72.
- (d) In no event, however, shall the provisions of this Section operate so as to allow the distribution of a Member's Accounts to begin later than the April 1 following the calendar year in which he attains age 72 or retires, if later.

9.04 Mandatory Distribution of De Minimis Accounts

- (a) Notwithstanding any provision of the Plan to the contrary, if a Member has a termination of employment and the value of the Member's Accounts amounts to \$1,000 or less, the Primary Administrator may ~~shall~~ distribute the Member's entire account in a lump sum payment ~~as soon as administratively practicable~~ following notification to the Plan's recordkeeper of the Member's termination of employment; provided that the Member is not reemployed by an Employer as of the date of distribution and the value of the Member's Accounts remains less than \$1,000 as of the date of the distribution.
- (b) Notwithstanding the above, in the event that the Member's account is deemed to be Bailey Vested, the Member's account will not be subject to a mandatory distribution under Section 9.04(a). For the purposes of this section 9.04(b), "Bailey Vested" shall mean a Member who had contributed or contracted to contribute to the Plan prior to August 12, 1989.

9.08 Direct Rollover of Certain Distributions

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Notwithstanding any provision of this Section to the contrary, effective as of January 1, 2007, the non-spouse Beneficiary of a deceased Member may elect, at the time and in the manner prescribed by the Primary Administrator~~Committee~~, to directly rollover any portion of his distribution from the Plan to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code ("IRA") that is established on behalf of the designated Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Code.

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Attachment 2 – Amendments to the Plan Document for the NC 457 Plan

Section 2.18 Normal Retirement Age

- (a) **General Rule.** The Normal Retirement Age is the date that the Participant would be eligible to retire with an unreduced service retirement from the defined benefit or money purchase retirement system in which the Participant currently participates (“Age of Unreduced Benefit”), but not later than age ~~70½~~⁷². If a Participant does not participate in a defined benefit or money purchase retirement system, then the Participant’s Normal Retirement Age is 65. Once a Participant has to any extent utilized the catch-up limitation of Section 4.2(b), his or her Normal Retirement Age may not be changed.
- (b) **Election by Participant.** Notwithstanding subsection (a), a Participant may designate his or her Normal Retirement Age, provided that such age is between 65 (or Age of Unreduced Benefit, if younger than 65) and ~~70½~~⁷².
- (c) **Qualified Police and Firefighters.** Notwithstanding subsection (a), a Participant that is a qualified police or firefighter (as defined in Code § 415(b)(2)(H)(ii)(I)) may designate his or her Normal Retirement Age, provided that such age is between 40 and ~~70½~~⁷².
- (d) **Limitation.** Notwithstanding subsection (a)-(c), the Normal Retirement Age may not be earlier than the earliest age or later than the latest age permitted under Code § 457(b) and Treasury Regulations.