NYS DEFERRED COMPENSATION BOARD

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I am writing to inform you of a number of changes to the New York State Deferred Compensation Plan that take effect on January 1, 2011, with the exception of changes related to Roth contributions and Roth In-Plan Conversions. I want you to be aware of these improvements in the event that employees in your agency ask you about particular Plan features.

The Payroll Services Bureau of the Office of the State Comptroller has informed the Plan that it will be able to implement the Plan changes related to Roth Designated Contributions no later than July 1, 2011. We will inform you if an earlier implementation date will take place.

The Board continually works to provide important investment opportunities to participants in the New York State Deferred Compensation Plan. I hope the following description helps you to become aware of the changes for 2011. Please feel free to call me or David Fischer, Deputy Executive Director, if you have any questions about these changes. Also, please feel free to contact your local Plan Account Executive at 800-422-8463 about these changes.

<u>New Plan Benefits for 2011</u>

Roth Designated Contributions. The Small Business Jobs Act of 2010 authorized public employer sponsored deferred compensation plans to permit plan participants to make Roth (post-tax) contributions. The Board amended the Plan document authorizing the acceptance of Roth designated contributions by Plan participants. As previously noted, the Payroll Services Bureau of the Office of the State Comptroller has informed the Plan that it will be able to implement the Plan changes related to Roth Designated Contributions no later than July 1, 2011.

Roth designated contributions are deducted from paychecks on an after tax basis. The participant will inform the Plan of the total percentage or amount to be deferred from their paycheck and how that amount is allocated between regular pre-tax deferrals and Roth designated deferrals. For example, a participant requests 10% of their paycheck to be deferred to the Plan. The participant may allocate their 10% deferral rate between pre-tax deferrals and Roth contributions any way they wish.

Finally, the combined total of pre-tax deferrals and Roth designated contributions may not exceed the individual contribution limits which are $16,500 for regular deferrals, an additional $5,500 for Age 50 and Over deferrals, and an additional $16,500 for employees participating in the Retirement Catch-Up provision. Participants may not make both Age 50 and Over and Retirement Catch-Up deferrals in the same year. Participants who qualify for both will be permitted to make deferrals under the provision that will permit the greater deferral amount.

NEW YORK STATE DEFERRED COMPENSATION BOARD
ROOM 124, EMPIRE STATE PLAZA CONCOURSE – NORTH
P.O. BOX 2103
ALBANY, NY 12220-2103
(518) 473-6619 Fax: (518) 473-7255

Roth In-Plan Conversions. The Small Business Jobs Act of 2010 also authorizes plan sponsors that permit participants to make Roth contributions during employment to convert some or all of their pre-tax assets to a Roth designated account within the plan. The Board amended the Plan Document to permit In-Plan Roth Conversions. The conversion of pre-tax assets to a Roth account may only occur when the participant is eligible for a distribution that would otherwise qualify as a rollover distribution. Rollover eligible distributions do not include loans, unforeseeable emergency distributions, Required Minimum Distributions, or periodic distributions that are made over a period of ten years or more.

There are a number of important considerations that a participant should understand before making a Roth In-Plan Conversion. We encourage participants to consult with a tax specialist prior to completing a Roth In-Plan Conversion.

Modification of the 45-Day Waiting Period for Distributions. The Plan Document has been amended to modify the 45-day waiting period before distributions can be made due to severance of employment or attainment of age 70½. Participants who have had a severance from employment will be permitted to take a distribution immediately after leaving employment as long as a balance of $500 remains in the account for 45 days after a severance from employment. This will permit an earlier distribution of assets and maintain an open account to accept post-severance deferrals. Participants who are still employed at age 70½ will be permitted to take distributions without a waiting period.

Benefit Payment Minimums. All periodic and lump sum payments will be made at a minimum of $100, or the balance of the participant's account, whichever is less. This will avoid the distribution of small amounts which often remain uncashed.

Loan Limitations. Plan participants may have only one outstanding loan at a time. If a participant defaults on a loan, no new loans will be permitted until the defaulted loan, plus accrued interest, is paid in full.

Spousal Beneficiary Elections. The Plan Document has been amended to permit a spousal beneficiary to name their own beneficiary in the Plan.

Unforeseeable Emergency Withdrawals. Participants will no longer be required to suspend deferrals following an Unforeseeable Emergency withdrawal.

Additional Distribution Option for Beneficiaries. The Plan Document required beneficiaries to begin benefit distributions no later than the year after the date of death of the participant and receive those benefits based on his or her life expectancy. The Plan Document has been amended to permit beneficiaries of participants who died prior to age 70½ to delay receiving benefits provided that the total amount of the participant's account is distributed no later than December 31 of the fifth anniversary of the participant's death.

Beneficiary Rollover to Roth IRA Account. A beneficiary of a deceased participant is now permitted to roll their distribution directly to a Roth IRA.

Rollover Clarification. The Plan Document was also amended to clarify that the Plan will only accept rollovers from Eligible Retirement Plans comprised of pre-tax amounts. Participants may roll account balances out to Eligible Retirement Plans that include post-tax amounts if the receiving plan separately accounts for them.

The Board encourages all State employees to avail themselves to the benefits of saving for their retirement through the New York State Deferred Compensation Plan. We hope that you will help your employees to achieve retirement success.

Sincerely,

Edward J. Lilly
Executive Director