

Deferred Compensation Plan BOARD REPORT 10-41

Date: December 6, 2010
To: Board of Deferred Compensation Administration
From: Staff
Subject: Roth 457 Update

*Board of Deferred
Compensation Administration
Eugene K. Canzano, Chairperson
Richard Kraus, Vice-Chairperson
Sangeeta Bhatia
Cliff Cannon
Tom Moutes
John R. Mumma
Michael Perez
Robert Schoonover
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Recommendation:

That the Board of Deferred Compensation Administration receive and file information contained within this report regarding implementation of a Roth 457 savings option within the Deferred Compensation Plan.

Discussion:

At the Board's October 19, 2010, meeting, staff reported that on September 27, 2010, President Obama signed into law the Small Business Jobs Act of 2010, within which were contained provisions for permitting Roth contributions into Internal Revenue Code Section 457 plans. "Roth contributions" refers to a tax-advantaged savings approach currently available through "Roth IRAs," in which contributions are made on an after-tax basis but tax is not owed on distributions. This differs from our current Section 457 rules, which provide for contributions on a pre-tax basis with tax owed on distributions.

Staff indicated that this legislation permits Roth 457 contributions beginning January 1, 2011. The Board acted to approve the addition of Roth contributions as a savings option within the Deferred Compensation Plan, and directed staff to work with Board counsel to draft language amending the Plan Document, and if necessary the City's governing Administrative Code provisions, to provide for Roth contributions. The Board also approved communications from the Board Chairperson to the City Controller and the Department of Water and Power (DWP) to implement the necessary programming changes to allow for Roth contributions.

At the October 19 meeting staff indicated that it had become aware of a potential roadblock to implementation relating to the fact that the State of California may be required to first enact legislation to conform the State tax code to the new Federal rules permitting Roth contributions. Staff met with the Board's consultant, Mercer Investment Consulting, on October 20, to discuss this matter. Mercer verified that conforming legislation was necessary in order to bring the State tax code in alignment with the Federal tax code with respect to Roth contributions. Staff asked if it was possible to implement a Roth savings option with the Federal tax benefit only, and Mercer replied

that this may be possible but more research would need to be done with the Board's legal counsel regarding the tax and other consequences of doing so.

Staff held a telephonic meeting with members of the California Large Plans group (including the State of California, CalPERS, County of Los Angeles, City/County of San Francisco, CalSTRS, and City/County of San Diego) on October 27 to review this matter further. A few of these entities had received conflicting preliminary information from counsel regarding the ability to implement prior to enactment of conforming legislation. Those members who had received the preliminary information indicated they would attempt to obtain more definitive responses but to date none of these entities have done so.

On December 2, members of the California Large Plans group exchanged some communications regarding the timing of conforming legislation being enacted. Members of the group with legislative representatives in the State Capitol indicated they would reach out to those representatives to see if/when a bill might be pending. No responses to this set of inquiries were received as of the time of writing this report. Additional updates may be available by the date of the Board meeting.

Staff has held preliminary discussions with the City Controller and DWP Payroll regarding creating the payroll deduction codes for Roth savings. Staff will address Plan Document changes once there is more clarity on the State legislation issue.

Submitted by: _____
Steven Montagna

Approved by: _____
Alejandrina Basquez