

**ICMA RETIREMENT CORPORATION**  
**GOVERNMENTAL 457 DEFERRED COMPENSATION PLAN & TRUST**  
**AMENDMENT TO ADD ROTH PROVISIONS**  
*(UPDATED JANUARY 2013)*

Pursuant to Article XII of the ICMA Retirement Corporation 457 Governmental Deferred Compensation Plan & Trust (the "Plan"), the Plan is hereby amended to add a new Article X regarding Roth contributions. If the Employer affirmatively elects to allow Roth Elective Deferrals and In-Plan Roth Conversions, the provisions of this Amendment shall be effective for Participants as of the date specified by the Employer in the *Statement of Intent to Add Roth Provisions to a ICMA-RC 457 Governmental Deferred Compensation Plan & Trust*. If no election is made by the Employer, the provisions of this section will not be available to Participants.

**FIRST**

The following is hereby added as a new Article X to the Plan document as follows:

**X. ROTH PROVISIONS – This Article X has no effect unless and until the Employer affirmatively elects to permit Roth Elective Deferrals.**

**10.01 Definitions**

- (a) **Designated Roth Account.** A bookkeeping account established and maintained to record the Participant's Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth accounts under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Designated Roth Account.
- (b) **In-Plan Roth Conversion.** (1) A distribution from a Participant's Pre-Tax Account that is rolled over to the Participant's Designated Roth Account under the Plan, as described in Code section 402A(c)(4)(B); or (2) a transfer from an amount in the Participant's Pre-Tax Account not otherwise distributable from the Plan to the Participant's Designated Roth Account under the Plan, as described in Code section 402A(c)(4)(E). Notwithstanding anything herein to the contrary, an amount is only eligible for an In-Plan Roth Conversion to the extent permitted under applicable IRS guidance interpreting Code section 402A(c)(4).
- (c) **Pre-Tax Account.** A bookkeeping account established and maintained to record the portion of the Participant's Account attributable to amounts other than Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth accounts under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Pre-Tax Account.
- (d) **Qualified Roth Contribution Program.** A program described in paragraph (1) of Code section 402A(b), under which a Participant may make Roth Elective Deferrals in lieu of all or a portion of the elective deferrals the Participant is otherwise eligible to make under the Plan.
- (e) **Roth Elective Deferral.** Deferred Compensation contributed pursuant to Section 10.02 by a Participant, which amounts are:
  - (i) designated irrevocably by the Participant at the time of the deferral as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax elective deferrals the Participant is otherwise eligible to make under the Plan; and
  - (ii) treated by the Employer as includible in the Participant's income at the time the Participant otherwise would have received that amount as Includible Compensation.

**10.02 Permitted Roth Elective Deferrals**

- (a) As of the effective date of this Article, a Participant shall be permitted to make Roth Elective Deferrals from his or her Includible Compensation in such amount or percentage as may be specified in the Joinder Agreement. A Participant's Roth Elective Deferrals will be allocated to a Designated Roth Account maintained for such deferrals.
- (b) Unless specifically stated otherwise, Roth Elective Deferrals will be treated as Deferred Compensation for all purposes under the Plan.

### **10.03 Separate Accounting**

- (a) Contributions and withdrawals of Roth Elective Deferrals, In-Plan Roth Conversions and rollovers from a designated Roth account under an eligible retirement plan will be credited and debited to a Participant's Designated Roth Account.
- (b) The Plan will maintain a record of the amount of Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan in each Participant's Designated Roth Account.
- (c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Designated Roth Account and the Pre-Tax Account under the Plan.
- (d) No contributions other than Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan and properly attributable income gains and losses thereon will be credited to a Participant's Designated Roth Account.

### **10.04 Direct Rollovers**

- (a) Notwithstanding anything to the contrary in the Plan, a direct rollover of a distribution from a Designated Roth Account under the Plan shall be made only to another designated Roth account under an eligible retirement plan or to a Roth IRA described in section 408A of the Code, and only to the extent the rollover is permitted under the rules of section 402(c) of the Code.
- (b) Notwithstanding anything to the contrary in the Plan, the Plan will accept a rollover contribution to a Designated Roth Account only if it is a direct rollover from another designated Roth account under an eligible retirement plan, or if the rollover is an In-Plan Roth Conversion defined in section 10.05 of this document.
- (c) Eligible rollover distributions from a Participant's Designated Roth Account are taken into account in determining whether the total amount of the Participant's Account under the Plan exceeds \$1,000 for purposes of mandatory distributions from the Plan.

### **10.05 In-Plan Roth Conversion. Unless otherwise elected by the Employer, as of the effective date of this Article the Plan shall allow for In-Plan Roth Conversions.**

- (a) Tax Treatment. The amount of an In-Plan Roth Conversion shall be includible in the Participant's gross income, as though it were not part of a qualified rollover contribution.
- (b) Irrevocability. Any election made by the Participant pursuant to Section 10.05(a) shall be irrevocable.
- (c) Treatment of Loans. Outstanding plan loans shall be excluded from In-Plan Roth Conversions. Notwithstanding anything herein to the contrary, an In-Plan Roth Conversion shall not accelerate or otherwise cause a Participant to default on an outstanding plan loan.

### **10.06 Availability of Loans from Designated Roth Accounts.** A participant's Designated Roth Account balance can be included to determine a Participant loan amount under Article VIII. However, unless the Employer elects otherwise, Designated Roth Accounts will not be available as a source for loans under the Plan.

## **SECOND**

Former Articles X through XIV of the Plan document are hereby re-numbered XI through XV to reflect the addition of the Roth Provisions.