

Top Hat and Global Executive Compensation

PLANS FOR TAXABLE EMPLOYERS

Rules for Making Changes to the Time and Form of Payment

Participants in a Top Hat Plan or Global Executive Compensation Plan are required, at the time of enrollment in the plan, to elect the time and form of benefit distribution under the plan. A participant's election to change the time and form of distribution is only effective if:

- 1) The participant is still employed by the co-op and the subsequent election is made in writing and takes effect 12 months or later from the date the election is made.
- 2) The first payment requested in a subsequent election cannot be made less than five years after the date on which the payment otherwise would have been made under the initial election.
- 3) For payments to be made at a specific time or pursuant to a fixed schedule, the change is made at least 12 months before the participant is scheduled to receive the first payment.

IMPORTANT: Making *any* change to the time or form of payments will delay payment for at least five years from the date on which the payment otherwise would have been made under the initial election.

If you have any questions, please contact the Homestead Advisers Deferred Compensation team at deferredcomp@homesteadadvisers.com.

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Any tax information contained in this communication (or in any attachment) was not intended or written to be used or referred to, and cannot be used or referred to (i) for the purpose of avoiding penalties under the Internal Revenue Code, or (ii) in promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment). Nothing contained in this document should be relied on as tax or legal advice. Consult your co-op's attorney or tax advisor before taking any action with respect to your co-op's plan.

EXAMPLES: Rules for Making Changes to the Time and Form of Payment

Below are typical examples of how the subsequent election rules are applied in different circumstances.¹

Example 1: Participant Elects to Change Beneficiary Payment Form at least 12 Months Prior to the Death of the Participant

At the time Pat Smith became a participant in the plan, he initially elected to have his benefits paid to his beneficiary in annual installments over five years in the event of his death. Subsequently, Pat changes his beneficiary payment election to a single sum cash payment. Thirteen months after making the written election for the change, Pat dies while still employed by the cooperative.

Question: What effect will the subsequent election have on the timing and form of payment to Pat's beneficiary?

Answer: Because a subsequent election had been made 12 or more months prior to Pat's death and he was still employed by the co-op, the payment would be made according to the subsequent election. The beneficiary would receive the benefit payment as a single sum cash payment, which would be paid five years from the date of Pat's death.

Example 2: Participant Elects a Change in the Form of Payment

Kim Smith made an initial election to receive benefit payments in the form of annual installments over a period of five years when she began participation in the plan. Subsequently, Kim elected to change the payment form to a single sum cash payment. Her employment terminates 11 months after she elected to change the form of payment.

Question: How will the form of payment be affected by the subsequent election?

Answer: There is no change because fewer than 12 months has elapsed between Kim's subsequent election and her termination of employment; as a result, payments must be made according to the initial election of five annual installments.

Example 3: Participant Elects a Change in the Form of Payment

At the time Jamie Brown began to participate in the plan, he elected to receive benefit payments in annual installments over 10 years. Subsequently, Jamie elects to change the payment period to 15 years. Jamie's employment terminates 18 months after he elects to change the form of payment.

Question: How will the time and form of payment be affected by the subsequent election?

Answer: Because Jamie was employed for 12 months after electing the subsequent deferral, his election is valid and benefit payments will be delayed for a period of five years from his termination date and be paid in annual installments over 15 years.

¹The examples assume the following: The distribution date under the terms of the plan is the date of separation from service (including death). Benefit payments may be received in any form permitted under the terms of the plan. Beneficiary payments may be received as a single lump sum or in two to five annual installments if payments have not begun at the time of the employee's death.

(continued)

Example 4: Participant Elects a Change in the Timing of Payments

At the time she began participating in the plan, Alexa Miller initially elected to receive benefit payments in annual installments over a period of 10 years beginning on January 1 following the last date of her employment. Subsequently, Alexa elects to change the payment start date to the first date possible following her termination of employment. Fifteen months after Alexa elects to change the start date of payment, her employment terminates.

Question: How will the time of payments be affected by the subsequent election?

Answer: Because Alexa was employed for at least 12 months after electing the subsequent deferral, her election is valid. The benefit payments will be delayed for the required five-year period beginning on January 1 of the year following Alexa's separation from employment and be paid in annual installments over a period of 10 years.

Example 5: Participant Elects a Change to Both Time and Form of Payment

At the time Kelly Davis began to participate in the plan, he initially elected to receive benefit payments in annual installments over five years beginning on January 2, 2018. Two years later, Kelly makes a subsequent election to receive a single sum cash payment on January 2, 2020, and is employed for at least 12 months.

Question: How will the time and form of payment be affected by the subsequent election?

Answer: The subsequent election results in a five-year delay in the start date of benefit payments. The earliest the single sum cash payment will be paid to Kelly is January 2, 2023, if he has separated from service (retirement or termination) before that date. If Kelly remains employed beyond that date, the single sum cash payment will be made after Kelly separates from service.