

AIRCONDITIONING AND REFRIGERATION INDUSTRY RETIREMENT TRUST

NOTICE TO PARTICIPANTS AND BENEFICIARIES

This Notice will advise you of important changes to the Airconditioning and Refrigeration Industry Retirement Trust Fund (the "Plan").

Effective January 1, 2010 **Section V** of the rules of the Trust entitled **SUSPENSION OF PAYMENTS FOR CERTAIN EMPLOYMENT AFTER RETIREMENT** has been eliminated in its entirety and replaced with the following:

SECTION 5.1 SUSPENSION OF BENEFITS.

- (a) If a retiree has 40 or more hours of Suspendible Service (as defined below) in any calendar month before the Required Beginning Date, pension payments shall be suspended for such calendar month. After such Suspendible Service has ceased, the pension shall again become payable, as provided in Section 5.3. If the retiree's Suspendible Service is for an Employer required to make contributions to the Plan, the retiree shall continue to earn Credited Service for each month pension benefits are suspended as provided in Section 2.2. No pension payments shall be suspended after the Required Beginning Date.
- (b) If a retiree remains or becomes employed in Suspendible Service, the retiree must notify the Board of Trustees, in writing, within 21 days following the commencement of such employment. If the Board becomes aware of employment in Suspendible Service, it will be presumed, unless and until the retiree provides evidence to the contrary, that the employment was in excess of 40 hours for that month.
- (c) A retiree shall provide the Board of Trustees with such information as it may request in order to establish the nature and extent of any employment after the retiree's Annuity Starting Date. Any pension payments otherwise due may be withheld pending adequate response by the retiree to such request.
- (d) A retiree whose pension has been suspended shall advise the Board of Trustees, in writing, when disqualifying employment has ended. Benefit payments shall be held back until such notice is filed with the Board of Trustees, but in no event will benefit payments be held back after the Participant's Required Beginning Date.
- (e) A retiree, or, as applicable, a Participant eligible to receive a pension, may submit a written request to the Board of Trustees for a determination whether contemplated employment will be Suspendible Service and the Board of Trustees shall provide the retiree or Participant with its determination within 60 days after receipt of such request. Notice of such determination shall include the specific reasons for the determination, a description and a copy of the relevant plan provisions, reference to the applicable regulations of the U.S. Department of Labor Regulation 2530.203-3, and a description of the appeal procedures set forth in Section 6.3.
- (f) The Board of Trustees shall inform a retiree of any suspension of benefits under this Section by notice given by personal delivery or first class mail during the first calendar month in which the retiree's benefits are withheld. Such notice shall

include a description of the specific reasons for the suspension, a description and a copy of the relevant plan provisions, reference to the applicable regulations of the U.S. Department of Labor Regulation 2530.203-3, and a description of the appeal procedures set forth in Section 6.3.

- (g) A retiree, or, as applicable, a Participant eligible to receive a pension, shall be entitled to a review of a determination suspending his or her benefits or a determination that contemplated employment will be Suspendible Service. Such requests for review must be filed with the Board of Trustees not later than 60 days following retiree's or Participant's receipt of the applicable notice, and shall be governed by the appeal procedures set forth in Section 6.3.
- (h) Notwithstanding anything in this Section to the contrary, benefits accrued prior to January 1, 2010, shall not be subject to suspension if such benefits would not have been subject to suspension under the terms of the Plan as in effect prior to such date.

SECTION 5.2 SUSPENDIBLE SERVICE.

For purposes of this Article V, Suspendible Service means employment in the same industry, the same trade or craft and in the same geographic area covered by the Plan, whether or not such employment is with an Employer. For this purpose:

- (a) The term "same industry" means the business activities of the type engaged in by the Employers.
- (b) The term "same trade or craft" means an occupation in which a Participant was employed at any time under the coverage of the Plan, any occupation utilizing the same skill(s), and any other self-employment or supervisory employment related to the same skill(s) as were involved in such occupation(s).
- (c) Notwithstanding the foregoing, the following will not be considered Suspendible Service:
 - (1) an ownership interest in a Employer so long as the following conditions are met:
 - (A) The retiree does not perform bargaining unit work as described in the Collective Bargaining Agreement.
 - (B) The Employer in which the retiree has an ownership interest has Employee(s), other than owners, for which the combined total hours of all Employees is 110 or more per month, and all contributions for said hours are timely reported and paid to the Airconditioning and Refrigeration Industry Retirement Trust.
 - (C) The Employer in which the retiree has an ownership interest does not engage in any arrangement whereby work that would require contributions to the Airconditioning and Refrigeration Industry Retirement Trust is performed by a person or entity that is not an Employer.
 - (2) Teaching at a United Association Training Center.

- (3) Teaching air conditioning and refrigeration in high school, junior college, public or private occupational school, provided the retiree:
 - (A) is age 55 or older, and
 - (B) has a minimum of 25 years of Future Service credits.
- (4) City and/or civil service work performing air conditioning or refrigeration work, provided the retiree:
 - (A) is age 55 or older, and
 - (B) has a minimum of 25 years of Future Service credits.
- (5) Sales, dispatcher, estimator, or a similar job for an Employer, provided the retiree:
 - (A) is age 55 or older,
 - (B) has a minimum of 25 years of Future Service credits, and
 - (C) does not perform Covered Employment.

SECTION 5.3 RESUMPTION OF BENEFIT PAYMENTS FOLLOWING SUSPENSION.

- (a) Benefit payments to a retiree or Participant who has ended Suspendible Service shall be resumed beginning no later than the third month after the last calendar month for which the retiree's or Participant's benefit was suspended, provided the retiree or Participant has complied with the notification requirements of Section 5.1(d). The initial payment shall equal (i) the payment for the month in which payment resumes, plus (ii) payments due for prior months occurring since the last month for which benefits were suspended, plus (iii) any additional benefits accrued under the Plan for work in Covered Employment during the period benefits payment were suspended, and minus (iii) offsets permitted pursuant to Subsection (b), below.
- (b) If a retiree receives any pension payment to which he was not entitled under the provisions of this Article, the Board of Trustees may recover the amount of such overpayment(s) by deducting the amount of the overpayment(s) from the retiree's future monthly payments until such overpayment is fully recovered. The amount of such offset shall be limited to 100% of the amount due to the retiree for the first payment upon resumption of benefits and 25% of the monthly benefit amount thereafter, until all overpayments are fully recovered. This provision shall not limit the right of the Board of Trustees to recover an overpayment by means other than deduction from the pension, including any method otherwise provided for under the Plan.

SECTION 5.4 SUSPENSION OF BENEFITS DUE TO PLUMBING AND PIPEFITTING WORK.

- (a) Effective June 7, 2004, if a Participant performs plumbing or pipefitting work, the Participant's benefits that had accrued before June 1, 2003, will not be suspended. Engagement in plumbing or pipefitting work will, however, result in the suspension of benefits accruing on or after June 1, 2003.

- (b) Any Participant who (1) commenced receipt of benefits and whose benefits were subsequently suspended due to the Participant's engagement in plumbing or pipefitting work, or (2) applied for benefits and whose application was approved, but whose benefits, due to the engagement in plumbing or pipefitting work, were suspended before payments commenced, shall be paid amounts representing those benefits accrued before June 1, 2003, retroactive to the later of June 7, 2004, or the date the Participant was eligible to commence receipt of benefits. Such retroactive payments shall include any appropriate interest or actuarial increase, and shall be made no later than January 1, 2007.
- (c) Any Participant who, at any time on or after June 1, 2003, was (1) eligible to commence the receipt of benefits without regard to this Section 5.4, (2) was engaged in plumbing or pipefitting work, and (3) did not apply for benefits, shall be given the opportunity to elect to begin receiving those benefits accrued before June 1, 2003, retroactive to the later of June 7, 2004, or the date the Participant was eligible to commence receipt of benefits. Notice of the opportunity to make such election shall be sent on or before January 1, 2007. The election period shall end seven months after such notification is sent. Any retroactive benefits paid pursuant to this paragraph shall be subject to Treasury Regulation Section 1.417(e)-1.

SECTION 5.5 SUSPENSION OF BENEFITS DUE TO WORK AS A STATIONARY ENGINEER.

In the case of a retiree who works as a physical plant and/or stationary engineer or hospital engineer, only those benefits accrued after November 22, 2005, may be suspended.

SECTION 5.6 SUSPENSION OF BENEFITS DUE TO WORK FOR AN EMPLOYER BY A RETIREE AGE 62 OR OLDER.

Prior to January 1, 2010, a retiree age 62 or older was allowed to work in Covered Employment for a maximum of 16 hours per week while continuing to receive pension benefits. Effective January 1, 2010, and subject to Section 5.1(h), retirees age 62 or older are subject to the rules set forth in this Article V.

SECTION 5.7 PENSION CREDIT UPON RETURN TO COVERED EMPLOYMENT.

If the retiree returns to Covered Employment, the retiree may be entitled to a higher pension amount when the retiree stops working in Covered Employment than the retiree was previously receiving based on any additional Pension Credit earned. However, the retiree will not be entitled to apply (1) any hours worked in excess of 1,260 during any year prior to retirement to any Pension Credit or hours earned after retirement and return to Covered Employment, or (2) any hours worked in excess of 1,260 in a year after the retiree returns to Covered Employment to any years prior to the earlier retirement.

SECTION 5.8 FORM OF BENEFIT PAYMENT UPON RETURN TO COVERED EMPLOYMENT.

Effective January 1, 2000, if a retiree returns to Covered Employment and earns a minimum of one Pension Credit, total, within two consecutive Plan years, he or she shall be eligible to reelect the form of pension for payments made subsequent to the re-retirement (i.e., single life versus husband and wife/ joint and survivor benefits), with adjustments to the total benefit amount determined pursuant to the Plan.