

NORTHERN CALIFORNIA PIPE TRADES TRUST FUNDS FOR UA LOCAL 342

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February 2015

IMPORTANT REMINDER AND NOTICE TO RETIREES **SUSPENSION OF RETIREMENT BENEFITS**

Dear Plan Participant:

We enclose a Suspension of Retirement Benefits Notice which explains how your Retirement Benefits can be suspended if you return to any work in Prohibited Employment after retirement. If you are considering returning to work after retirement you need to consider the Plan's Suspension of Benefits rules.

The Board of Trustees of the Northern California Pipe Trades Pension Plan ("Plan") would like to remind you of the following:

- If you are considering returning to work, you must submit a written request for a determination to the Trust Fund Office on whether your contemplated employment will be prohibited under Plan rules.
- The Board of Trustees of the Plan has always intended "Canada" to be part of the "Pipe Trades Industry" definition of Prohibited Employment in as much as the UA's jurisdiction includes Canada. As a result, your Retirement Benefits will be suspended if you return to work after retiring in the Pipe Trades Industry in the **United States** or **Canada** unless your work qualifies for an exception under the Plan rules.
- It is your obligation to notify the Trust Fund Office in writing before you start any type of work. Furthermore, if you return to work, you must also notify the Trust Fund Office in writing when your employment ends. If you return to work in Prohibited Employment the Plan has the right to withhold your Retirement Benefit payments until such written notice is received.
- Failure to comply with Plan rules, including notifying the Trust Fund Office of your intent to return to work, **may result in the loss of your rights to Retiree Health and Welfare Benefits**. Please be aware that **if you work in Prohibited Employment more than once, you will permanently be ineligible for Retiree Health and Welfare Benefits**.

For more details, please refer to the attached Summary of Rules governing the Suspension of Benefits or Article XI of your Summary Plan Description.

If you have any questions, please contact the Trust Fund Office at 925/356-8921 ext. 246 or toll free at 800/780-8984 ext. 246.

Sincerely,

The Board of Trustees

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IMPORTANT NOTICE TO RETIREES – SUSPENSION OF RETIREMENT BENEFITS

This notice does not apply to Surviving Dependents or Alternate Payees.

SUMMARY OF RULES IF YOU RETURN TO WORK AFTER RETIREMENT

You Are Prohibited from Working in Most Positions in the Pipe Trades Industry

And

You Must Immediately Provide Written Advance Notice to the Trust Fund Office if You Intend to Perform Such Work or Are Performing Such Work Now

HOW DOES THIS APPLY TO ME? If you are receiving a monthly Retirement Benefit or any other form of payment from the Northern California Pipe Trades Pension Plan, **your Retirement Benefits will be suspended if you return to work in the Pipe Trades Industry in Canada and/or the United States** in accordance with the Plan Document under the rules summarized below. Your Retirement Benefits will also be suspended if you continue to work past the Normal Retirement Age (Age 65) in the Pipe Trades Industry for 40 hours or more per month, subject to exceptions. However, if you returned to work and have attained Age 70½, your Retirement Benefits will not be suspended as of the first of April following the year you attained Age 70½.

WARNING – Retirement Benefits will be delayed until Normal Retirement Age (Age 65) if you return to work and later retire again, and returning to Covered Employment more than once, will result in your permanent ineligibility for Retiree Health and Welfare Benefits (see page 3, Item 5).

1. **Prohibited Employment**

a. No Industry Work Prior to Age 65

If you are retired and are under Age 65 and you return to **any** work in the Pipe Trades Industry in the United States or Canada, your Retirement Benefit will be suspended, unless the work qualifies for one of the exceptions listed in section (c).

The term "Pipe Trades Industry" includes all work, public or private, covered, or if not actually covered, of the type covered by any Collective Bargaining Agreement of the UA or any Local Union of the UA, as well as any other kind of work performed for any business engaged in the Pipe Trades Industry.

Such work, which is also known as "Prohibited Employment," includes without limitation: (1) work in employment of the type performed by Participants covered by the Plan, known as "Covered Employment;" (2) work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan on the effective date of your retirement; (3) work in employment for compensation or wages of any kind or for profit in the Pipe Trades Industry; (4) work for profit as an owner or partner in any business directly or indirectly connected with the Pipe Trades Industry; (5) work where you supervise Participants, except for Project Managers and Above-General Foremen, in the same trade or craft or directly or indirectly use the same skills as Participants covered by the Plan on the date you retired. The minimal **exceptions** to these restrictions are summarized in section (c).

"Prohibited Employment" is interpreted in the broadest manner. "Hours" includes all hours for which compensation is paid or payable to you. Prohibited Employment includes work in which a salary is paid (including hourly, daily, weekly, bi-weekly, bi-monthly, monthly, annually, or any other rate), work for which you are considered an "Independent Contractor," work for which you will be entitled to receive deferred Retirement Benefits, or work in which you are due or actually receive anything of value in exchange for the services rendered.

b. Limited Work Allowed After Age 65 (prior to attaining Age 70 1/2)

After your Normal Retirement Date (the first of the month after attainment of Age 65), your Retirement Benefits will be suspended if you work in the Pipe Trades Industry in California for 40 or more hours per month as follows, subject to the exceptions in section (c):

- i. The type of work performed by Participants covered by the Plan as of your Date of Retirement or after; **or**
- ii. Work which requires directly or indirectly the use of the same skills employed by Participants as of your Date of Retirement; **or**
- iii. Any supervision of Participants in the same trade or craft or directly or indirectly using the same skills as Participants covered by the Plan as of your Date of Retirement. This includes, without limitation, self-employment, salaried, hourly, and independent contract employment.

Upon the attainment of Age 65, there are no limits on the number of hours you may work out of the State of California.

c. Exceptions to Industry Service Definition

The Board of Trustees has total and absolute discretion to determine whether your anticipated or actual employment is Prohibited Employment. The following specific and limited categories are currently excluded from the "Pipe Trades" Prohibited Employment definition. Thus, you may perform such work while receiving Retirement Benefits, subject to approval of the Board of Trustees prior to beginning such work:

- i. **Government Work.** Employment directly for the Government of the United States or for a political sub-division of the State of California. This exception does not apply to any employment in a job category which would be deemed Collective Bargaining work for a City, County, or School District.
- ii. **Estimator.** Employment as an Estimator for any contributing or participating employer. For this purpose, the term "Estimator" is an individual who spends all of his working time doing estimating and related work and who does not perform work which is otherwise covered under a Collective Bargaining Agreement, whether as a Foreman or Journeyman, to which his employer is party with UA Local 342.
- iii. **Project Manager.** Employment as a Project Manager for any contributing or participating employer. For this purpose, the term "Project Manager" means an individual who spends all of his working time on project management, supervising one or more crafts, on projects upon which another person is performing supervisory work, as defined in a Collective Bargaining Agreement with UA Local 342, but who himself does not perform work, as a Foreman or Journeyman, which is covered by any Collective Bargaining Agreement to which his employer is party with UA Local 342.
- iv. **In-House Maintenance.** General in-house maintenance work at one or more fixed locations for a non-contributing employer as approved by the Board.
- v. **Certain Above Foremen Classification.** Employment in a classification above the General Foremen status or level for a contributing employer or an employer in the Pipe Trades Industry that, when hiring, either directly or indirectly, Participants to perform work over which the employer has the "right to control" and which would qualify as bargaining unit work, hires only such Participants on whose behalf contributions are required to be made to this Plan or another Plan in the Pipe Trades Industry.
- vi. **Work Deemed to be Beneficial to Industry.** Employment deemed by the Trustees, in their sole discretion, to be beneficial to the Plan and/or Plan Participants. Such employment may be deemed not to constitute Prohibited Employment when a Participant makes a written request to the Trustees for a determination and the Trustees determine that:
 - a. Such employment is not covered by a Collective Bargaining Agreement; therefore, no employer contributions can be made to the Plan on your behalf for any of these approved positions; **or**
 - b. Such employment does not directly or indirectly replace the employment of a bargaining unit Participant; **or**
 - c. Such employment will not impinge upon the jurisdictional claims of the Union that sponsors this Plan; **or**
 - d. Such employment provides enhanced opportunities for the promotion of the multi-employer group(s) associated with the Plan which includes expansion of work opportunities for current or future Participants in the Plan; **or**
 - e. Such employment is with an employer specifically approved by the Trustees; **or**
 - f. Such employment is otherwise deemed by the Trustees to be employment beneficial to the segment of the Pipe Trades Industry served by the Plan.

Note: Continued proof may be requested

Initial and continuing qualification of such employment as non-prohibited employment is determined solely by the Trustees and continued proof that such employment meets the criteria may be required at any time. Failure to provide requested information regarding your employment or any other matter is grounds for suspension of your Retirement Benefits.

Presumption Regarding No Disability

If you are a Participant who retired on a Disability Pension and you return to work, the Plan will assume you are no longer eligible to receive a Disability Retirement Benefit. However, in rare situations, for good cause, an exception may apply. You must submit a written request to the Trust Fund Office for review.

Temporary Return to Work Program (Full Employment-Disabled Retirees not eligible)

When there is Full Employment, or Full Employment in certain designated positions and the Board of Trustees establishes a Temporary Retiree Return to Work Program, Retirees who are Disabled are **not** eligible to return to work.

2. **Written Request for Determination**

Prior to beginning work, you should request a determination from the Trust Fund Office (1855 Gateway Blvd, Suite 350, Concord CA 94520-8445) on whether contemplated employment will be prohibited under the Plan. The Trust Fund Office will notify you with the determination of the Board of Trustees within a reasonable time, not to exceed ninety (90) days, unless the Board has not been provided with sufficient information to make such a determination or unless special circumstances exist.

Failure to request an advance determination from the Board of Trustees may result in a suspension of your Retirement Benefits until such time as a review of the information can be made.

3. **Plan Presumptions Allowed By Department of Labor (DOL) Regulations**

If you do not report your work in the Pipe Trades Industry and Plan representatives learn that you have performed or are performing such work, the Plan will act on the basis of a **rebuttable presumption** that you have worked 40 hours per month in such employment. Moreover, if representatives of the Plan learn that you have performed or are performing such work at a construction site, the Plan will act on a rebuttable presumption that you have been employed at that job site with the same employer for at least as long as that employer has worked at the job site. You will, however, have the opportunity to rebut these presumptions.

4. **Access to Information**

If requested, you must provide the Plan with access to reasonable information for the purpose of verifying employment, such as time sheets, logs or records, income tax returns (including attachments), W-2 forms, and any other employment or income-related records. You may also be required to provide written authorization for the Trust Fund Office to obtain access to your Social Security records, which will assist the Plan in determining your work history.

You must also comply with any request of the Plan that you request information from your employer, contractor, subcontractor, union, government agency, or any other person or entity relating to post-retirement employment.

5. **Notices/DOL Regulation/Appeal**

The Plan will notify you by first class mail if your Retirement Benefits are suspended. The notice will include the reason for the suspension and a general description of the Plan's benefit suspension provisions. Plan Rules state that **if you are eligible for Retiree Health and Welfare Benefits, and your Retirement Benefits are suspended for Prohibited Employment, you will lose your Retiree Health and Welfare Benefits indefinitely.**

However, the Plan permits a Retiree to return to Covered Employment once and not forfeit his Retiree Health and Welfare Benefits. This means that upon reinstatement of the Retiree's Retirement Benefits, the Plan will allow a one-time only reinstatement of Retiree Health and Welfare Benefits.

Any subsequent termination of a Retiree's Health and Welfare Benefits due to return to Covered Employment will result in a permanent termination of Retiree Health and Welfare Benefits.

IF YOU RETURN TO NON-COVERED EMPLOYMENT IN THE PIPE TRADES INDUSTRY YOU LOSE YOUR RIGHTS TO RETIREE HEALTH AND WELFARE BENEFITS.

In addition, failure to comply with all Plan rules, including notifying the Trust Fund Office of employment or obtaining approval from the Board of Trustees prior to beginning work, may result in the loss of your rights to Retiree Health and Welfare Benefits.

The applicable DOL regulation allowing the suspension of your Retirement Benefits may be found in the Code of Federal Regulations. A copy of that regulation (29 C.F.R. § 2530.203-3) is available from the Trust Fund Office upon written request.

You are entitled to a review of the Plan's decision to suspend your Retirement Benefits by a written request filed with the Plan within 60 days of the date of the suspension notice. The Plan's claims and appeal procedure applies to a Suspension of Retirement Benefits.

If your monthly Retirement Benefits have been suspended, you should notify the Plan when your Prohibited Employment has ended. The Trustees have the right to withhold benefit payments until such notice is received by the Trust Fund Office and Trust representatives determine that the notice is accurate.

However, Retirement Benefits will not be resumed until you attain Normal Retirement Age (65) except for Participants who qualify for Disability Retirement after returning to Industry Service, or Disability Retirees who return to Industry Service after recovering from the disability and subsequently qualify for Early or Disability Retirement, or Retirees who meet the waiver requirements during Journeymen shortages.

6. Payment Resumption/Offset Amounts Owed to Plans

If you are employed in Prohibited Employment, your Retirement Benefits will be suspended for a period equal to the number of months during which you were employed in Prohibited Employment. However, when you stop working and want to retire again, you must notify the Trust Fund Office in writing. Failure to give such notice will delay the payment resumption of your Retirement Benefits.

If the Plan has paid you a monthly Retirement Benefit for any month in which you engaged in Prohibited Employment prior to Normal Retirement Age, the Plan may offset all such amounts from future Retirement Benefits before reinstating your Retirement Benefit and paying you any Retirement Benefits. If the Plan paid you any Retirement Benefits for any month in which you engaged in Prohibited Employment on or after you attained Age 65, the Plan may reduce your future Retirement Benefits by 100% for the first three months of any Retirement Benefit payment to which you would otherwise be entitled and up to 25% of future monthly payments until the full amount of overpayment is recovered. Any overpayments not recovered at the time of your death may be offset against any death benefits or survivor benefits that may be payable.

7. Innocence is Not Defense Warning

WARNING – The DOL regulations allow the offset of benefits owed to the Plan, regardless of whether you know or did not know of your entitlement to the payments.

If you have any questions, please contact the Trust Fund Office at 925/356-8921 ext. 246 or toll free at 800/780-8984 ext. 246.

Sincerely,

The Board of Trustees