



## IMPORTANT NOTICE TO BENEFIT RETIREES REGARDING DISQUALIFYING EMPLOYMENT

April 2017

Dear Benefit Recipient:

The Sheet Metal Workers' National Pension Fund ("Fund") pays monthly benefits to Participants who are *retired* within the meaning of the Plan Document ("Plan"). In general, you will continue receiving your monthly pension for your lifetime, provided you continue to be retired under the terms of the Plan. Under the Plan, you will **NOT** be considered retired if you work in Disqualifying Employment. Disqualifying Employment is defined differently depending on whether you are under or over Normal Retirement Age (age 65).

When you retired, the Fund provided you with a summary of the rules governing the suspension of benefits. This notice is a reminder. We respectfully suggest you review these rules and your obligations under the Plan should you choose to work after retirement.

### **Disqualifying Employment before Normal Retirement Age**

If you have **not** yet reached Normal Retirement Age (age 65), Disqualifying Employment means **ANY** work (paid or unpaid):

- with a Contributing Employer;
- with an employer that is in the same or related business as a Contributing Employer. It is important to note that the Fund has Contributing Employers whose businesses involve much more than what is traditionally thought of as building trades sheet metal, including but not limited to: project management, residential construction, service work, engineering consulting, energy management, sign manufacturing, plumbing and electrical services, roofing, property or facilities management, windows/skylights repair and installation, and educational services (such as colleges, universities and school districts);
- in the Sheet Metal Industry that is not covered by a Union collective bargaining agreement. This type of work extends to just about any job involving construction whether working with tools or not. It includes any and all types of work covered by a SMWIA collective bargaining agreement, all types of work under the trade jurisdiction of the Union as defined in the SMART SMWIA Constitution, in a related building trade (union or nonunion) which includes but is not limited to residential and commercial electrical, carpentry, plumbing, painting, spackling, plastering, drywall and roofing work or any other the type of residential or commercial work performed by members of the following building trades unions: Asbestos, Boilermakers, Bricklayers, Carpenters, Glazers, International Brotherhood of Electrical Workers (IBEW), Iron Workers, Insulators, Laborers, Millwrights, Operating Engineers, Painters, Plasterers, Roofers, Teamsters (building trades division), or the United Association of Plumbers and Pipefitters. It also includes any other work to which a sheet metal worker has been assigned, referred, or can perform because of his or her skills and training as a sheet metal worker, or
- in self-employment in the same or related business as any Contributing Employer. **As noted**, the business activities of the Fund's Contributing Employers are very broad – sheet metal employers engage in a wide variety of work. Therefore, the definition of "Sheet Metal Industry" Includes many kinds of work. Put another way, employment or self-employment in the "same or related business as any Contributing Employer" or in the Sheet Metal Industry may be much broader than you might think.

Please note: it is critical to check with the Fund, *in writing*, before engaging in any employment or self-employment to confirm whether that work might be considered to be in the “Sheet Metal Industry” or in the “same or related business as any Contributing Employer.”

### **Limited Exceptions**

There are some exceptions to the rules described above. Specifically, Disqualifying Employment does not include work of 40 hours or less per month for any of the following:

- SMART’S Sheet Metal Division, national office,
- a joint apprenticeship training committee that is affiliated with the Union,
- work performed as a picketer for the Union, or
- for any Local on elections for officials within the Union.
  
- **If you are age 62 or older**, Disqualifying Employment does not include work in Covered Employment of 40 hours or less per month.

*Additionally*, the Plan was recently amended to allow a Pensioner to work through December 31, 2020,

- on behalf of a governmental entity in a position that involves monitoring compliance with laws and/or regulations pertaining to construction, building, and facilities codes or the terms and conditions of employment.
  
- for an organization that is exempt from federal income taxation and the Participant works strictly as a volunteer and receives no compensation for such work other than for reimbursement of reasonable expenses. NOTE: A Pensioner must provide sufficient proof of the organization’s tax-exempt status and must be able to verify he is not receiving compensation other than reasonable expense reimbursements.

### **Disqualifying Employment at or after Normal Retirement Age**

If you have reached Normal Retirement Age (age 65), Disqualifying Employment means employment or self-employment:

- in an industry covered by the Fund when your pension payments began,
- in the geographic area covered by the Fund when your pension payments began (note – the Fund’s geographic area includes the continental United States and Puerto Rico), and
- in any trade or craft in which you worked at any time under the Fund.

NOTE: Under the Plan a Participant’s Required Minimum Distribution date (“RMD”) is April 1<sup>st</sup> of the year, following the year, that he attains age 70 ½. As of a Participant’s RMD, he must be in pay status. This means he is able to work without any restrictions under the Plan. For example, let’s say a Participant’s date of birth is June 30, 1946. In this example, he would attain 70 ½ in 2016 and his RMD would be April 1, 2017, which represents the date he would be permitted to work in any capacity without a suspension in benefits.

***REMINDER: Again, if you are not sure whether particular employment (including in a self-employed capacity) would cause your pension to be suspended, you should submit a written request to the Fund Office for determination before you return to work. If the employment is the type which will cause your pension to be suspended and you decide to work anyway, you must notify the Fund Office immediately.***

It is important to note that the Fund from time-to-time performs random reviews of benefit recipient's employment after your retirement. This is being done to ensure that you are not engaged in Disqualifying Employment. The Fund may, for example, at a reasonable frequency, require that you provide it with an authorization to check your employment record maintained by the U.S. Social Security Administration. ***If you fail to comply in a timely manner with the Fund's review process, including returning the signed authorization, your benefits will be suspended.*** If the Fund determines that you are working in Disqualifying Employment while collecting benefits, your benefit will be suspended or terminated and you will be required to reimburse the Fund for any overpayment.

### **Your Notification Obligation**

You should report to the Fund Office in writing within 21 days of starting any work in Disqualifying Employment. It is your responsibility to make a written request to the Fund Office for a determination as to whether any employment or self-employment will be considered Disqualifying Employment. The best practice is to notify the Fund **before** engaging **in any work** after you retire or if at the time of retirement you are thinking about doing some kind of work. You are responsible for notifying the Fund Office in writing when you stop working in Disqualifying Employment. If you work in Disqualifying Employment, your pension benefits will stop, or remain suspended, until you file the written notice that you have stopped. If you are receiving a pension benefit and you work in Disqualifying Employment in any month after you reach Normal Retirement Age and have failed to give timely notice to the Fund Office of such employment, the Fund will presume that you worked more than 40 hours in such month and any subsequent month before you give notice that you have ceased Disqualifying Employment. In addition, if, after you retire, you work in Disqualifying Employment for any number of hours after Normal Retirement Age for a contractor at a building or construction site and fail to give timely notice to the Fund Office of such employment, the Fund will presume that you engaged in such work for as long as the contractor has been and remains actively engaged at that site. You will have the right to overcome these presumptions by establishing to the satisfaction of the Trustees that your work was not in fact an appropriate basis under the Plan for suspension of benefits.

### **Suspension of Pension Payments**

If you are under Normal Retirement Age (65) and you perform Disqualifying Employment, your monthly pension benefit will be suspended. **Note:** In addition to any other applicable suspension periods, your pension will be suspended for an additional six months for every calendar quarter in which you work one hour or more, in the Sheet Metal Industry for an employer that is not signed to a Union collective bargaining agreement. Note also that if you failed to inform the Fund of work in Disqualifying Employment that you were doing at the time your benefit became effective, you will not be considered retired and you will have to reimburse the Fund for any payments received since retirement.

If you are age 65 or older and you perform Disqualifying Employment, your monthly pension benefit will be suspended for any month or months in which you are paid for more than 40 hours in Disqualifying Employment. If you have attained Normal Retirement Age (65) and you perform Disqualifying Employment, your monthly pension benefit will be suspended for each month that you work in this employment.

If your benefits are suspended, the Fund Office will notify you in writing of the reasons for the suspension. You may file a written request for review of the suspension within 180 days of receipt of the notice.

### **Resuming Pension Payments**

You must notify the Fund Office in writing when you stop working in Disqualifying Employment. Your benefits will then resume, subject to any additional months of suspension. Your monthly benefit amount will be recomputed based on your age at the time benefits resume, reduced by the number of months you previously received benefits. If you returned to work without notifying the Fund, the Fund will expect repayment of monthly amounts paid, plus interest, while you worked and may recoup those amounts from future benefit payments after you stop working.

You may have your original benefit increased by the amount of benefits you accrued during your period of reemployment if any were earned. However, if you had a One-Year Break in Service (generally, less than 435 hours of work in Covered Employment during a calendar year) before you returned to Covered Employment, you must complete 1 Year of Service (generally, 870 hours in Covered Employment during a calendar year) following your return to Covered Employment to receive the additional credit.

If you do not have a One-Year Break in Service between the date you retired and the date you returned to Covered Employment, you will accrue benefits based on your Contribution Hours following your return to work. When you resume benefits after the suspension of benefits, your original monthly benefit will be offset by the actuarial value of the additional pension benefits earned following your return to Covered Employment.

If your pension began before you reached Normal Retirement Age and you complete 60 months of Future Service Credit (a Participant earns 1 month of Future Service Credit for every 100 hours he/she works in Covered Employment with a maximum of 12 Future Service Credits earned per year) upon your return to work, you will be given the opportunity to make a new election when you retire again.

### **Effect of Suspension on Joint and Survivor Annuity Option**

If you were receiving a Joint and Survivor Annuity option (formerly referred to as a Husband and Wife Pension) before the suspension of your benefits, it will remain effective if you die while your benefits are suspended. However, if your pension began before you reached Normal Retirement Age and if you are not married to the same spouse on the date of your death as you were when your pension began, the additional benefits you earned following your return to Covered Employment will be paid at your death:

- To your current spouse as a Pre-Retirement Surviving Spouse Annuity, or
- Your beneficiary **may** be entitled to a Lump Sum Death Benefit if you are not married at the time of your death.

If your pension began before you reached Normal Retirement Age and you complete 60 months of Future Service Credit (a Participant earns 1 month of Future Service Credit for every 100 hours worked in Covered Employment with a maximum of 12 Future Service Credits earned per year) upon your return to work, you will be given the opportunity to make a new election when you retire again.

If you do not earn 60 months of Future Service Credit and provided you earn a minimum of one Year of Service (870-hours in a calendar year) upon your return to work, your new elections are limited to the additional benefits you accrue between your return to work and your re-retirement as either a:

- Joint and Survivor Annuity option if you are married, or
- Lifetime Pension if you are not married.

If your pension began on or after Normal Retirement Age and you then returned to work and earned 60 months of Future Service Credit, you will be offered a new election as to the form of pension payments when your benefits resume.

If you have any questions concerning work after retirement you should contact the Fund Office in writing at Sheet Metal Workers' National Pension Fund, 8403 Arlington Blvd., Suite 300, Fairfax, VA 22031 or by e-mail at [info@smwnpf.org](mailto:info@smwnpf.org). Please be sure to include your name and your local union in all correspondence.

Sincerely,

Board of Trustees

cc: Local Unions