# Louisiana Sheriffs' Pension & Relief Fund

1225 Nicholson Drive • Baton Rouge, Louisiana 70802
Phone: (225) 219-0500 • (800) 586-9049 • FAX: (225) 219-0521
www.lsprf.com

**DATE:** March 31, 2009

**TO:** Pension Recipients

**FROM:** Osey McGee, Jr., Executive Director

**SUBJECT:** Changes in Federal Income Tax Withholding
American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act of 2009 required the implementation of new income tax withholding percentage and wage bracket method tables. The IRS has confirmed that pension plans must implement the new withholding tables no later than April 1, 2009.

The new tables reflect the Making Work Pay Credit and other changes resulting from the American Recovery and Reinvestment Act of 2009. As a result of this new legislation, the amount of your withholding may decrease, resulting in an increase in your net monthly pension distribution for 2009. However, this change in withholding will not affect or reduce the tax liability associated with your total income for tax year 2009. Therefore, depending on your overall tax status and total income for the year, you could see an increase in the amount payable when filing your tax return for 2009.

You do not have to submit any forms to get the automatic withholding change. However, if you do not want to have your withholding reduced a new Form W-4P, *Withholding Certificate for Pension or Annuity Payments* must be submitted. To obtain an interactive Form W-4P click here. You may also request Form W-4P from the Sheriffs' Pension and Relief Fund by calling or writing us at the telephone numbers or address listed above.

As is always the case, if you choose not to withhold taxes from your pension/benefit payment, or if you do not have enough federal income tax withheld from your benefit, you may be responsible for payment of estimated tax. Additionally, you may incur penalties under the estimated tax rules if your withholding or estimated tax payments do not meet IRS requirements. Withholding only applies to the taxable portion of your benefit payment.

A comprehensive explanation of The American Recovery and Reinvestment Act of 2009 and the Making Work Pay Credit is available beginning on page two of this notice. Please do not hesitate to contact Keith Duplechain, Steve Caldwell, or Roselyn Pitarro at 1-800-586-9049 with any questions you may have concerning your change in withholdings.

To view and download the revised IRS Publication 15-T which contains the new withholding percentage and wage bracket tables click here.

Whatever your situation, we strongly recommend that you seek advice from your accountant or other tax professional concerning this and other tax matters.

Klausner & Kaufman
PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

# MEMORANDUM

**TO:** ALL PLAN ADMINISTRATORS

**FROM:** KLAUSNER & KAUFMAN, P.A.

**RE:** NEW IRS WITHHOLDING TABLES (Publication 15-T)

**DATE:** MARCH 19, 2009

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Pension plan administrators should begin using new IRS withholding tables by April 1:

Attached is IRS Publication15-T, "Wage Withholding and Advance Earned Income Credit Payment Tables (For Wages Paid Through December 2009)". Plan administrators are advised in this IRS Publication to use the new enclosed tables to calculate income tax withholding on pension distributions. The new tables can be downloaded from the IRS website using the following link: (www.irs.gov/pub/irs-pdf/p15t.pdf).

Publication 15-T contains new wage-bracket and percentage method withholding tables. The tables are to be implemented as soon as possible, *but no later than April 1, 2009.* The tables are effective through December 31, 2009. The revised tables are the result of the tax credits contained in the American Recovery and Reinvestment Act (P.L. 111-5). A sample notice to employees/retirees is set forth on page 73 of Publication 15-T.

Plan administrators should determine withholding by using the recipient's Form W-4P, and the federal income tax withholding tables and methods described in Pub. 15, Circular E, Employer's Tax Guide.

Background:

The American Recovery and Reinvestment Act of 2009 required the development of new income tax withholding percentage and wage bracket method tables. The IRS asked employers to use these new tables in lieu of the applicable previously published tables as soon as possible. The new tables reflect the Making Work Pay Credit and other changes resulting from the American Recovery and Reinvestment Act of 2009. As a result, the new withholding tables may reduce the amount of tax

10059 NORTHWEST 1ST COURT, PLANTATION, FLORIDA 33324

PHONE: (954) 916-1202 • FAX: (954) 916-1232
www.robertdklausner.com

withheld from an employee's wages. Employees do not have to submit any forms as the changes are automatic.

The IRS has confirmed that pension plans must use these new withholding tables for pension distributions, and therefore a retired member in pay status may receive higher pension distributions. However, the IRS stated that pension plan distributions are not earned income for the purposes of the Making Work Pay Credit. Since pension distributions would not qualify for the Making Work Pay Credit, and the new withholding tables would automatically increase a retiree's distribution amount, a retiree may incur an increased tax liability. The IRS requires employers to provide the form Notice to Employees. The IRS has not decided whether a pension plan must issue this form to its members. A suggestion has been made that a revised version of the Notice to Employees be compiled in order to prevent retirees from incurring additional tax liabilities. Pension recipients may not want to have their withholdings reduced and they may submit a new Form W-4 to their pension administrator.

## Law and Conclusion

Under Internal Revenue Code Section 3405, pension funds must generally withhold from their recipients on the same basis as employers withhold from employees. However, in a pension plan, the recipient can elect on the form W-4P to have additional withholding apply or to have no withholding apply from periodic distributions. Special rules apply if no form W-4P is received, if the form W-4P has a false tax i.d. number, or if the pension payment is being mailed to a foreign address. In general, though, a pension fund uses the same withholding tables as an employer. So, as the IRS changes the withholding tables for employees, the tables automatically change for pension recipients.

In this particular case, the withholding tables are being changed because certain tax credits are being made available to employees. These tax credits will not be available to pension recipients as the law is currently written. As a result, even though pension funds must use the new withholding tables, the end result may be that your participants are under-withheld next April.

Finally, pension funds must withhold a flat 10% on some distributions and 20% on other distributions. These flat percentages are not affected by the change in the law.