



BOARD REPORT 18-16

Date: April 17, 2018

To: Board of Deferred Compensation Administration

From: Staff

Subject: Deemed IRA

Board of Deferred Compensation Administration

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Recommendation:

That the Board of Deferred Compensation Administration direct staff to work with the City Attorney and outside tax counsel to conduct a full review of the regulatory requirements and implications of offering a Deemed IRA and develop recommendations for Board action.

Discussion:

A. Background

At the Board's March 2017 meeting, staff presented information and sought direction from the Board regarding the potential for offering a Deemed Individual Retirement Account (IRA) option to the City's Deferred Compensation Plan (the Plan). The Board indicated its interest but agreed with staff that the matter should be deferred until after the conclusion of the change in the Plan's Third-Party Administrator (TPA).

At its meeting held on January 16, 2018, the Board reviewed Board Report 18-04, which identified certain strategic initiatives for the Plan for 2018. Among these initiatives was a review of the merits and feasibility of adding a Deemed IRA to the City's Plan.

The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") amended Section 408(q) of the Internal Revenue Code (IRC) to allow Plan sponsors to issue Deemed IRAs alongside their defined contribution plans. Some of the benefits of offering a Deemed IRA include providing competitive investment management fees, familiar and plan-vetted investment choices, and an additional contribution option for those who are already contributing the maximum amount under IRC Section 457 limits. Both Traditional and Roth IRAs can be established. Although presently participants can roll in fully pre-tax Traditional IRAs to the City's Plan, neither a Roth IRA, nor a Traditional IRA with a mixture of pre-tax and after-tax dollars, can be rolled in to the Plan. A summary overview of the benefits, features, and considerations of offering Deemed IRAs is provided as **Attachment A**.

B. Regulatory Requirements and Considerations

Staff's research determined that Deemed IRA accounts must meet the requirements under IRC Section 408 and related U.S. Treasury Department regulations (published July 2004). Pursuant to these regulations, the trustee or custodian of an individual retirement account must be a bank or another entity that has received approval from the Internal Revenue Service (IRS) to serve as a nonbank trustee or nonbank custodian. Furthermore, under the IRS regulations, Deemed IRAs may be held in: (a) separate individual trusts; (b) a single trust separate from the trust for the employer plan; or (c) a single trust that includes the employer plan.

Wendy Young-Carter, the Plan's consultant from Segal Consulting, indicated that few governmental Plans have adopted Deemed IRAs, primarily because of the additional administrative and communications responsibilities associated with doing so. Some exceptions include the State of Kentucky, New York City Deferred Compensation Plan (NYCDCP), and the Sacramento Metropolitan Fire District.

In December of 2008, the Board sought and obtained a modification to Los Angeles Administrative Code Division 4, Chapter 14, adding a new Section 4.1411 providing the Plan with the authority to administer a Deemed IRA. The rules and operational requirements for offering a Deemed IRA, however, require amendments to the City's Plan Document.

C. TPA Capabilities

The Plan's TPA, Voya Financial (Voya) confirmed that although they do not have any current clients that offer a Deemed IRA, they are fully capable of administering one for the City, and can:

- 1) Offer a Traditional IRA and/or Roth IRA option
- 2) Maintain separate recordkeeping for IRA accounts
- 3) Administer and accept rollovers to and from other IRAs
- 4) Accept contributions via payroll deduction or via check (although the latter approach may be preferable on the part of the City due to the administrative challenges and burdens involved with establishing payroll deductions)
- 5) Maintain IRA assets in either a single or separate trust (which would involve either an amendment to the current trust agreement or a creation of a new trust agreement between the City and Voya)

D. Next Step

The next step would involve conducting a more thorough legal review of the regulatory requirements and implications. Staff therefore recommends that the Board direct staff to work with the City Attorney and outside tax counsel to conduct a full review of the regulatory

requirements and implications of offering a Deemed IRA and develop recommendations for Board action.

Submitted by: _____
Matthew Vong

Approved by: _____
Steven Montagna