Academic Appointee Summer Salary Benefit
Moving Prospective Contributions from the DC Plan to the 403(b) Plan

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Summary:
This document summarizes the necessity of transferring, prospectively, the Academic Appointee Summer Salary Benefit from UC's Defined Contribution Plan ("DC Plan") to UC's Tax Deferred 403(b) Plan ("403(b) Plan"), effective November 1, 2016. This change would be applicable to future contributions only; existing summer salary benefit amounts will remain in the DC Plan. Future summer salary retirement contributions for all faculty eligible for summer salary will be affected by this transfer.

These changes have been recommended by the Office of General Counsel to support compliance with tax code requirements and are necessary due to the implementation of the Retirement Choice Program on July 1, 2016.

Background

The Summer Salary Benefit ("SSB") provides for a required contribution of 7% of eligible summer salary (3.5% each from both UC/employer and for the employee, on a pre-tax basis). The SSB was originally approved by the Regents to augment the UCRP benefit for eligible faculty on academic year appointments, since compensation that many academic appointees receive for summer session teaching or summer research (which may represent a significant portion of an academic appointee's annual earnings) is not Covered Compensation for determining UCRP benefits.

Expanded eligibility to include Savings Choice Participants

Summer salary is also not eligible for retirement contributions under either of the new retirement options, Pension Choice or Savings Choice, but faculty in these plans remain eligible for the SSB so APM – 190, Appendix G, is being amended to make this explicit. The amended APM – 190, Appendix G, will also allow new academic appointees who have not yet chosen either Pension Choice or Savings Choice to participate in the SSB (a new employee has 90 days to make this choice and may be drawing summer salary before the choice is made).

Analysis of Applicable IRC Limits

The impact of the 2016 Retirement Choice Program on the DC Plan (where all current summer salary retirement contributions currently go) and SSB was reviewed in regard to benefit and compensation limitations. Compliance with the IRC 401(a)(17) compensation limit and IRC defined contribution plan limits is required to maintain the DC Plan's tax-qualified status.

It was determined that

- the Covered Compensation of newly hired eligible faculty who are also eligible for the SSB could reach the DC Plan annual compensation limit (currently $265,000) before all DC Plan contributions under either Pension Choice or Savings Choice are made for a year, with the possible effect of having to cut back DC Plan contributions; once the plan compensation limit is reached, contributions to the DC Plan must stop. Because of the higher contributions going into the DC Plan under either new option, application of the compensation limit is anticipated to have a larger impact for some faculty than in previous years.

It was also determined that

- the compensation of re-hired eligible faculty who are also eligible for the SSB could reach the DC Plan IRC compensation limit sooner under the Savings Choice option than under the Pension Choice option/UCRP, which affects UC's ability to offer choice to rehires, as described below, under the new Retirement Choice Program.

  In order for UC to offer employees a choice between the 2016 Retirement Choice Program options (Pension Choice or Savings Choice), each option must produce equal mandatory employee pre-tax contribution amounts, requiring the compensation used for calculating contributions to be the same (since the employee contribution rate is fixed). Once the applicable compensation limit is reached, contributions must stop.

  - For rehires, the compensation base for the UCRP/Pension Choice and Savings Choice options differs. The UCRP compensation base includes only regular pay, but the DC Plan must apply both summer salary pay and regular pay to the Savings Choice option compensation limit. For faculty with summer salary, the DC Plan compensation limit would therefore be reached sooner than under UCRP (as summer salary also counts against the DC Plan compensation limit), and Savings Choice/DC Plan contributions would have to stop sooner than under UCRP.

    The IRS maintains that this type of situation could result in a "cash or deferred arrangement" under which the employee has been allowed, impermissibly under a governmental plan, to voluntarily make an election that affects his/her current cash compensation: contributions that stop earlier under one option will put more take-home pay in the employee's paycheck.

    Using the 403(b) Plan for summer salary contributions will resolve this situation since the 403(b) Plan has a separate 401(a)(17) compensation limit and the 403(b) SSB will not affect DC Plan contributions.

When the University makes the change to transfer the SSB retirement contributions from the DC Plan to the 403 (b) Plan, the following will be in effect and will allow faculty a fuller opportunity to save for retirement:

- SSB contributions will go into to the 403(b) Plan, which maintains its own separate 401(a)(17) compensation limit and does not have any other mandatory pay-based contributions; thus, summer salary would no longer count against the DC Plan compensation limit, or limit summer salary contributions to the 403(b) Plan.
- Summer salary contributions to the 403(b) will not affect the ability to defer the maximum $18,000 ($24,000 for age 50+) in pre-tax deferrals to the 403(b) plan since the annual limit on contributions is currently $53,000.
- Making the summer salary contributions to the 403(b) Plan rather than the DC Plan gives maximum room in the DC Plan for contributions based on the academic-year salary under either Pension Choice or Savings Choice.