

## **IMPORTANT NOTICE REGARDING TAXATION**

If you have a dependent child or same-sex domestic partner (or same-sex spouse) who is eligible for coverage under the terms of the ILWU-PMA Welfare Plan but who does not qualify as a dependent under Section 152 of the Internal Revenue Code (i.e., is a "non-exempt" dependent)<sup>1</sup>, the fair market value of the dependent coverage under the Plan will be reported as taxable income for federal tax purposes. If you are an active employee, you can (i) elect to either pay to the Benefit Plans Office (BPO), in installments, federal income and payroll taxes on the fair market value of the dependent coverage or (ii) have such taxes withheld from your regular paycheck. If you are not an active employee you will be required to pay such taxes, in installments, to the BPO. In addition, if you work in a state that treats your same-sex domestic partner (or same-sex spouse) and his or her children as non-exempt dependents, the fair market value of the dependent coverage for your same-sex domestic partner (or same-sex spouse) and his or her children under the Plan will be reported as taxable income for state tax purposes. If you are an active employee, you can (i) elect to either pay to the BPO, in installments, state income and payroll taxes on the fair market value of such coverage or (ii) have such taxes withheld from your regular paycheck. If you are not an active employee you will be required to pay such taxes, in installments, to the BPO.

Effective March 30, 2010, the Patient Protection and Affordable Care Act has mandated group health coverage for certain over-age children who would have otherwise been deemed non-exempt dependents. The Internal Revenue Code and some state laws have consequently allowed such coverage to be provided without requiring participants to pay taxes on the value of that dependent coverage, even if the participant does not claim the dependent as a tax dependent on his or her tax return. The favorable tax treatment for such coverage depends on the nature of the relationship between the participant and the over-age child and would apply to a child (under the age of 27 for the entire calendar year) who is your natural child, legally adopted child, step child or eligible foster child.

Participants are not required to include in taxable income or pay income or payroll taxes on the value of dependent coverage for any otherwise eligible dependent who qualifies as a dependent under Section 152 (modified as described in footnote 1), who is the participant's opposite sex spouse, or who is an over-age child who qualifies for the favorable tax treatment described in the preceding paragraph (each, an "exempt dependent").

A child of a same-sex domestic partner (or same-sex spouse) or a child who is not your natural child, legally adopted child, step child, or eligible foster child will qualify as a dependent under Section 152 for federal tax purposes if the child:

- (1) is a citizen, resident, or national of the United States;
- (2) resides with you as a member of your household;
- (3) receives the majority of his or her annual support (food, clothing, housing, and medical care) from you; and
- (4) is not a "qualifying child" (as defined in Section 152) of another taxpayer.<sup>2</sup>

A same-sex domestic partner (or same-sex spouse) will qualify as a dependent under Section 152 for federal tax purposes if he or she:

- (1) is a citizen, resident, or national of the United States;
- (2) resides with you as a member of your household;
- (3) receives the majority of his or her annual support (food, clothing, housing, and medical care) from you; and
- (4) is not a "qualifying child" (as defined in Section 152) of another taxpayer.

<sup>1</sup> Note, however, that if a dependent child, same-sex domestic partner or same-sex spouse does not qualify as a dependent under Section 152 only because his or her gross income exceeds the gross income limitation under Section 152(d)(1)(B) and/or he or she filed a joint federal income tax return with his or her spouse, then such person will be considered to be an "exempt" dependent for purposes of determining if the value of coverage for such person under the Plan is taxable income (i.e., the coverage will not be taxable).

<sup>2</sup> A child of a same-sex domestic partner in a domestic partnership registered in California, Oregon or Washington who is not your legally adopted child, step child or eligible foster child is treated, for purposes of the tax laws of the state of registration, as your natural child, and the rules for determining if such child qualifies as a Section 152 dependent are the same as the rules that would apply to your natural child. Also, special rules may apply to same-sex spouses and children of same-sex spouses. Please contact your tax advisor if you have any questions concerning the taxation of coverage for a same-sex spouse or the children of a same-sex spouse.

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A same-sex domestic partner will qualify as a dependent for California, Oregon or Washington state tax purposes if you and your domestic partner are registered domestic partners in such state. A same-sex spouse will generally be treated the same as an opposite-sex spouse for state tax purposes in those states that recognize the marriage.

***The rules governing who qualifies as a "dependent" for purposes of determining the tax treatment of coverage provided under the terms of the ILWU-PMA Welfare Plan can be complex. You are therefore strongly advised to consult with your own tax advisor should you have any questions about such tax treatment.***

***Please use the form on the bottom of this page of this Notice to indicate whether the exemption criteria listed in this Notice are met for the dependent(s) you wish to add (or were previously enrolled) to your ILWU-PMA Welfare Plan coverage.***

### **Certification Form**

Employee's Name \_\_\_\_\_ Local/Reg No \_\_\_\_\_

Please list the dependents you are adding to your ILWU-PMA Welfare Plan coverage and indicate by checking "YES" which dependents are "exempt dependents" as described above. If they do not meet the criteria, check "NO". If you mark "NO" in this section, the dependent coverage will be reported as taxable income for federal and state tax purposes as described above, unless the dependent is your natural child, legally adopted child, step child or eligible foster child or you provide proof that the dependent is your same-sex spouse, registered domestic partner, the child of your same-sex spouse or the child of your registered domestic partner, in which case the dependent coverage will be reported as taxable income for federal tax purposes and may be reported as taxable income for state tax purposes.

Dependent Name:	Relationship:	Date of Birth:	YES	NO
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#### **DOCUMENTATION REQUIRED:**

You will need to submit Worksheet 1, IRS Publication 501, for each dependent you marked "YES" who is any of the following: (1) a same-sex domestic partner or same-sex spouse, (2) a same-sex domestic partner's or same-sex spouse's child, (3) a dependent child over the age of 26 that is permanently and totally disabled, (4) an individual that is not your natural child, legally adopted child, step child or eligible foster child, or (5) any child for whom you submit a notarized Dependent Child Certification Form. If any dependent listed above is your registered same-sex domestic partner, same-sex spouse, the child of your registered same-sex domestic partner or the child of your same-sex spouse, you will need to submit valid state or county documentation proving that you and your domestic partner or spouse are registered or married.

**CERTIFICATION:** I certify that all information on this form is true and correct, and agree to provide any additional information the Trustees may request. *I understand that if I misstate or misrepresent any information on this form, my dependents and I may each lose eligibility for benefits under the ILWU-PMA Welfare Plan.*

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_