

## BAC LOCAL UNION 15 PENSION FUND

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December 28, 2006

Dear Participant:

To abide by a recent Supreme Court ruling, you may be eligible to receive retroactive pension payments, plus interest, if:

- You have earned a right to receive a pension benefit for work in covered employment; and
- During any month since June 2004, your pension was suspended, (or you did not apply for pension benefits) due to work **before age 65** in disqualifying employment, as described below.

To receive retroactive payments, you must complete the enclosed *Application for Retroactive Pension Payments*.

In 2004, the U.S. Supreme Court rendered a decision in the case of *Central Laborers' Pension Fund v. Thomas E. Heinz*.

The Court in the Heinz case ruled that suspension of benefit rules could not be tightened for benefits already accrued. The IRS previously had not considered a tightening of suspension of benefit rules to be an improper cut-back of benefits. Now, after the Heinz case, the IRS in Rev. Proc. 2005-23 stated that plans must restore any benefits erroneously suspended by making retroactive payments, with interest, but only back to June 7, 2004 (the date of the Heinz decision). The Heinz case, and the IRS current position, still allows plans to tighten suspension of benefit rules for future benefits to be earned.

### **Suspension of Pension Payments When Working in Disqualifying Employment**

Once you retire and begin receiving pension payments, if you work in certain types of employment (known as disqualifying employment), your pension benefits are suspended; this is known as the Plan's suspension of benefit provisions. Generally, if you work in disqualifying employment, your pension payments are suspended until you stop working in such employment. This has been a long-standing practice of this Plan.

However, in February 2001, the rules regarding “disqualifying employment” **before age 65** were changed. The change in these rules regarding disqualifying employment is the key factor.

“Disqualifying Employment” generally means work in the industry covered by the plan when you retire in the trade or craft you worked in to accrue benefits, and in the geographic area covered by the plan. Prior to the 2001 change, a participant under age 65 could work or be paid for up to 400 hours of disqualifying employment during a calendar year, and benefits would be suspended for any remaining months of the calendar year if the participant worked or was paid for 40 or more hours of disqualifying employment during any such month. The 2001 change provided for suspension of benefits for any months remaining in a calendar year after the month in which a participant under age 65 accumulated 400 or more hours of disqualifying employment, whether or not he worked 40 or more hours of disqualifying employment during those months.

## **What This Means to You**

Under the new legal requirements, whatever rules relating to disqualifying employment and suspension of benefits are in place when a benefit (or a portion of a benefit) is earned are the rules that will apply to that benefit (or to that portion of the benefit) when a participant retires. This may subject benefits to two or more sets of rules.

You may apply for retroactive payments, plus an interest adjustment, if you have accrued a benefit, and:

- Your benefits were suspended on or after June 1, 2004 **before age 65** because you performed or were paid for at least 400 hours of disqualifying employment during a calendar year, but did not perform and were not paid for at least 40 hours of disqualifying employment during any month for the remainder of the calendar year; or
- You were eligible for benefits **before age 65**, but did not apply for benefits at any time after June 1, 2004 because you performed or were paid for at least 400 hours of disqualifying employment during a calendar year, but did not perform and were not paid for at least 40 hours of disqualifying employment during any month for the remainder of the calendar year.

### ***To Apply for Retroactive Pension Payments***

If you think you might be eligible for retroactive pension payments, follow these steps:

Step 1: Complete the enclosed *Application for Retroactive Pension Payments*.

Step 2: Provide written proof (such as IRS Form W-2 or pay stubs) proving that at any time after June 1, 2004, during a calendar year, you worked or were paid for at least 400 hours of disqualifying employment, but did not work and were not paid for 40 or more hours of disqualifying employment during any month after the month in the calendar year you reached the 400 hour threshold.

Step 3: Submit the completed form and supporting documentation within six months from the date that you received this notice.

If you have any questions about this announcement, please feel contact the Fund Office.

Sincerely,  
*The Board of Trustees*

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