

**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

- WHEREAS**, the Tribal Council of the White Mountain Apache Tribe, by Resolution No. 03-97-052, authorized certain changes to the White Mountain Apache Tribe Retirement Savings Plan (Plan 3) to allow employees to save on a pre-tax basis, as now expressly permitted by the Small Business Job Protection Act of 1996; and
- WHEREAS**, the Tribal Council of the White Mountain Apache Tribe, by Resolution No. 03-97-052, also authorized the merger of the White Mountain Apache Tribe Discretionary Contribution Plan (Plan 2) into Plan 3 in order to simplify plan administration and allow employees greater control of their plan investments; and
- WHEREAS**, in order to ensure that the Tribe's accounting and internal record-keeping procedures were modified as necessary to accommodate these changes, the Tribal Council of the White Mountain Apache Tribe, through Resolution No. 04-97-080, authorized these changes to be implemented over two regularly scheduled enrollment periods (May 1, 1997 and November 1, 1997); and
- WHEREAS**, the first stage of this process was implemented following the May 1, 1997 enrollment in accordance with Resolution No. 04-97-080 by adoption of the Seventh Amendment to Plan 3 which converted employee basic contributions (first 2.5%) to pre-tax contributions in accordance with Internal Revenue Code Section 401 (k); and
- WHEREAS**, the Tribal Retirement Savings Department has worked with the Tribe's internal accounting and record keeping departments to coordinate the second stage of plan changes as authorized by Resolution No. 04-97-080, and has met with the Tribe's Budget Committee, pension consultants and Council representatives concerning the specific changes and alternatives available under current tax laws in order to implement these final changes; and
- WHEREAS**, the Tribal Retirement Savings Department hereby presents to the Tribal Council the specific plan changes proposed in connection with implementing Resolution No. 04-97-080.
- BE IT RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe, that the Chairman of the Tribal Council be, and hereby is, authorized and directed to execute such plan and trust documents as may be needed in order to implement Resolution No. 04-97-080 with the following specific plan changes approved hereby:

**Resolution No. 09-97-291**

1. Employees will be permitted to continue making voluntary contributions on a post-tax basis if they so choose, under the prior rules and procedures.

2. As required by the Internal Revenue Code, the early withdrawal of pre-tax voluntary contributions (prior to termination or retirement) will be restricted to "hardship" reasons. Given the Tribe's sovereign status and the unique needs of its members, however, the Plan shall supplement the U.S. Treasury Regulations hardship criteria with hardship criteria which are tailored to meet the needs of the Tribe and are consistent with the following:

- a. Death in the immediate family (e.g., funeral expenses)
- b. Severe illness, for self or immediate family member (e.g., travel, meals, and lodging when a family member must be transported out of town for medical care)
- c. Payment for post secondary education expenses for self or immediate family member (college/trade school)
- d. Financial obligations for religion / tradition (e.g., the cost of sponsoring a sunrise dance)
- e. Payment of financial obligations to prevent the loss, through foreclosure or repossession, of property necessary for an employee to hold or maintain gainful employment.

3. The waiting period for participation in the retirement plan will be shortened to make it consistent with the current Tribal Employee Health Plan requirements (91 days), provided that eligibility for Tribal matching contributions will remain under the prior rules (first enrollment date following one year of service).

4. Employees may be permitted to change investment directions on a quarterly basis rather than only twice per year, provided that implementation of this change may be postponed for sufficient time to develop forms and procedures for employees to use in making these changes.

5. Death benefits payable to minors will be retained in the plan and invested for the benefit of such minors until the minor reaches age 18 or, if earlier, until such benefits must be distributed by law or Tribal Court Order.

Resolution No. 09-97-291

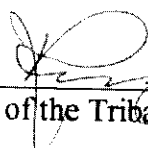
6. The Tribe's legal staff and pension attorney shall develop uniform Court Orders for the division of pension benefits upon divorce and the distribution of benefits to minors. In this regard, benefits payable to a former spouse pursuant to a divorce may be paid prior to the date they would otherwise be payable to the employee-participant, if so provided under a Court Order.

7. The plan may now accept rollover contributions from other employer plans or IRAs to the extent permitted by the Internal Revenue Code when new employees transfer employment to the Tribe.

**BE IT FURTHER RESOLVED**, that the Chairman of the Tribal Council is hereby authorized and directed to execute such applications, schedules, and powers of attorney as may be required to obtain approval by the United States Secretary of the Treasury for the changes called for herein, along with any technical amendments as may be requested in order to obtain such approval, provided that such changes do not significantly increase the cost of the plans or seriously detract from the benefits provided to employees.

**BE IT FURTHER RESOLVED**, that the acts and deeds of the members of the Tribal Council necessary to carry out the intent and purpose of these Resolutions be, and the same hereby are, ratified, confirmed and adopted as the acts and deeds of the Tribe.

The foregoing resolution was on September 10, 1997 duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (h), (i), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council