B. General principle of taxation of UNJSPF benefits

11. UNJSPF is a "qualified" employees' trust under IRC section 401(a). A copy of the most recent IRS determination letter in which this is recognized (dated 28 April 1977 and bearing the symbol E:EO:7103:O.Resnick) is set out in the annex to the present guide.

12. As a qualified trust, UNJSPF benefits are taxed by the United States in the same way as those of any other such trust - with the single exception that for a non-resident alien these benefits are considered to be from a non-United States source and thus not subject to United States taxation (see para. 8 (b) above). In securing advice or assistance from any lawyer, accountant, tax service or IRS agent, it should be made clear that UNJSPF is "qualified" and that there are no special exemptions or immunities relating to the taxation of the benefits it pays to United States citizens or resident aliens.

13. The general principle by which benefits from qualified pension plans are taxed is that the participant, or his or her beneficiaries, are entitled to recover tax- free the participant's own "investment" in the pension, which generally speaking amounts to his or her own actual contributions to the plan, while any benefits in excess of that investment are subject to taxation (at regular or capital gains rates). The portion of each benefit payment that is subject to tax depends on how that "investment" is calculated and how it is allocated to each benefit payment; an indication of how this is done is given in parts C-H below, and in section VIII, examples A-D, F and I. It should, however, be noted that the taxable portion of the benefit is not merely the sum of the employing organization's contributions plus the interest credited thereon and on the participant's contributions; rather, it is, in the first instance, the difference between the total actuarial value of all elements of the pension (called the "expected return" by IRS and calculated according to IRS rules rather than the UNJSPF tables) and the participant's investment and ultimately the difference between the total amount of all payments received from UNJSPF and the participant's investment.

14. IRS annually issues its publications No. 575, entitled "Pension and Annuity Income (Including Simplified General Rule)", and No. 939, entitled "Pension General Rule (Nonsimplified Method)", which contain full descriptions of the taxation of pensions, particularly those paid by qualified plans, as well as numerous actuarial tables required to make the necessary calculations. (Briefer descriptions appear in publication No. 17, entitled "Your Federal Income Tax", as well as in the instructions for completing line 17 on form 1040 (for 1993).) The remainder of the present section III of the guide refers as far as possible to those official documents, to which retirees and other beneficiaries should turn for additional explanations, detailed instructions and further illustrative examples. An attempt has been made to indicate how various features and provisions of UNJSPF relate to the descriptions and definitions in the IRS instructions.

15. The calculations described below only determine what portion of each UNJSPF benefit is tax-exempt and how much is taxable and, if so, on what basis (i.e., at regular rates, or as a long-term capital gain, or subject to income-averaging rules). The actual amount of the tax payable will depend on the taxpayer's gross taxable income (which also includes any other taxable income) and on the exemptions, deductions and tax credits available.