MICHIGAN DEPARTMENT OF TREASURY
REVENUE ADMINISTRATIVE BULLETIN 1988-30
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INDIVIDUAL INCOME TAX - TAXABILITY OF TEACHERS INSURANCE AND ASSOCIATION OF AMERICA AND COLLEGE RETIREMENT EQUITIES FUND (TIAA/CREF) ANNUITY PLANS

(Replaces Income Tax Bulletin 1984-1)

RAB-88-30. This Bulletin clarifies the Michigan Income Tax treatment of contributions made to the Teachers Insurance and Association of America/College Retirement Equities Fund (TIAA/CREF) and subsequent distributions of these amounts. This Bulletin supersedes Income Tax - Bulletin 1984-1, dated January 10, 1984.

Federal Treatment

The Internal Revenue Code, Section 403(b), provides that amounts contributed by an employee of an educational organization described in Section 170(b)(1)(ii) to a tax-sheltered retirement annuity contract purchased by the employer which is a state or governmental entity of the State are excluded from the taxable gross income of the employee.

Private educational institutions do not qualify under this provision. Any subsequent distribution of these amounts are included in gross income of the employee in the year received.

An employee may contribute additional amounts to the annuity contract through a salary reduction plan. These payments, like other contributions, are not taxed until distributed. Although the subsequent distribution of these amounts is treated identically for Federal income tax purposes, there are two distinct types of income. Specifically, the two distinct types of income are: (1) distributions from a retirement annuity, and (2) distributions from a deferred compensation plan. Therefore, a determination of the income character of the distribution must be made for Michigan income tax purposes.

For example, an employee agrees to a salary reduction of 5% which is added to the college or university contribution of 10% of the employee's wages. The total contribution of 15% of the employee's wages is accumulated under the basic retirement plan. The fund also provides that the employee may contribute additional payments to the annuity plan. These payments are made on a salary reduction basis and are considered deferred compensation.

Michigan Income Tax Treatment

Contributions to the Annuity Contract

The Michigan Income Tax Act, MCL 206.30(l), provides that taxable income is defined under the Internal Revenue Code subject to certain adjustments.

In the case of a resident or nonresident, the exclusion of contributions made to the TIAA/CREF Annuity Plan is allowed to the extent excluded from the Federal adjusted gross income.

Distributions from the Annuity Contract

A distribution from a TIAA/CREF annuity contract is considered a public retirement plan for Michigan income tax purposes. The Michigan Income Tax Act, MCL 206.30(l)(f)(i), provides that an individual may take a deduction, to the extent included in adjusted gross income, retirement or pension benefits received from a public retirement system of or created by an act of this State or a political subdivision of this State.

MCL 206.30(l)(f)(ii) provides that the maximum deduction of retirement or pension benefits received from a public retirement system of another state is allowable to the extent the other state permits a similar deduction or exemption or a reciprocal deduction or exemption of a retirement or pension benefit received from a public retirement system of or created by this State or any of the political subdivisions of this State.

For more information regarding the maximum deduction allowed for retirement or pension benefits received from a public retirement system of or created by another state, see Revenue Administrative Bulletin 1988-25 issued May 27, 1988.

Premature Distributions

The deduction described in the Michigan Income Tax Act, MCL 206.30(l)(h)(iv), does not include any amount received from a plan that allows an employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service, pursuant to Department of Treasury Income Tax Rules, 1979 AC, R 206.11(4).

Therefore, the portion of the distribution attributable to the additional payments is considered deferred compensation and is taxable to a Michigan resident to the extent included in his or her adjusted gross income. Whereas for a nonresident the portion of the distribution attributable to the additional payments is taxable to the extent the income was earned for services performed in this State and included in adjusted gross income.

A distribution from the retirement plan portion of a TIAA/CREF Annuity Plan is attributable to Michigan if the taxpayer is a resident of this State, pursuant to Department of Treasury Income Tax Rules, 1979 AC, R 206.12(15)(f).

Supplemental Annuity Contributions

The portion of the contributions that represent supplemental annuity contributions are clearly deferred compensation and do not contribute to the basic benefits of the retirement plan. Therefore, subsequent distributions of these amounts are: (1) taxable to a Michigan resident, and (2) taxable to a nonresident to the extent that the compensation was earned, received, or acquired for the rendition of personal services in Michigan.

See Revenue Administrative Bulletin 1987-1, dated ___________ for additional information on the taxability of deferred compensation received by a resident or nonresident of Michigan.

Calculation of the Benefit

A prospective retiree from a Michigan public college or university must determine that portion of his or her TIAA/CREF benefits attributable to the exempt plan by multiplying the annual benefits by a fraction, the denominator of which is total contributions, and the numerator of which is contributions by the employer and employee as required by the plan.

The following illustration shows how to allocate a distribution of TIAA/CREF benefits of $10,000 from a Michigan public college or university.

	Amount
Employer contribution required by plan	$40,000
Employee contribution required by plan	20,000
Employee additional payments	30,000
Total contributions	$90,000
Percent of benefits deductible ($60,000 divided by $90,000)	66.67%
Deductible retirement benefits ($10,000 multiplied by 66.67%)	$6,667
Tax deferred compensation	$3,333

Household Income

For purposes of computing a property tax credit, farmland preservation tax credit, or home heating credit, a distribution from a TIAA/CREF Annuity Plan is includable in its entirety in a taxpayer's household income