Notice

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KANSAS DEPARTMENT OF REVENUE

NOTICE 08-04

Kansas Income Tax Treatment of Certain Washburn University Retirement Benefits

Advice has been requested concerning the income tax treatment of certain payments received from the Washburn University retirement plan.

Generally

The process of calculating an individual's Kansas income tax starts with the person's federal adjusted gross income. Under Kansas law, those items which are subject to federal tax will be subject to Kansas tax unless there is a specific modification provided for by the Kansas income tax act.

House Substitute for Substitute for Senate Bill 309 was passed during the 2008 Legislative Session. Section 25 of the Bill amends that part of K.S.A. 79-32,117 which permits taxpayers to make certain subtraction modifications in calculating their Kansas income tax. Specifically, the amendment allows a subtraction modification for:

> (c)(xx) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university retirement plan.

According to information published by Washburn University, their basic retirement plan is a defined contribution plan operating under Section 403(b) of the Internal Revenue Code. As a rule, amounts received from a 403(b) account are included in an individual's federal adjusted gross income and, as a result, are subject to Kansas income tax. Because of the amendment made by the Bill, however, retirement and pension benefits received by retired employees of Washburn University under the university retirement plan generally will not be subject to Kansas income tax.

Benefits Received Before January 1, 2008

The new language in the Bill is effective July 1, 2008, but will apply for all of tax year 2008. A subtraction modification will not be allowed for retirement benefits received before January 1, 2008, regardless of the manner in which the benefits were paid. As a result, these benefits will be subject to Kansas income tax.

Benefits Received On or After January 1, 2008

Generally. A subtraction modification will be allowed for retirement benefits received on or after January 1, 2008 which are included in the recipient's federal adjusted gross income. As a result, these benefits will not be subject to Kansas income tax. This is true whether the benefits are taken in a lump sum or paid out over time.

Rollovers. Federal law generally permits rollovers of funds accumulated in a 403(b) plan into a variety of qualified retirement accounts. Because these transfers are not included in federal adjusted gross income no

modification is made on the Kansas income tax return.

In some cases the funds which are rolled over may be placed into a segregated account, such as a traditional IRA. In many cases, however, rollovers from a 403(b) plan are deposited into qualified accounts where they will be commingled with other retirement funds. By way of example, the receiving account for Washburn University retirement plan distributions may be another employer retirement plan. Once funds paid out of the Washburn University retirement plan are rolled over into a qualified account they lose their characterization as Washburn University retirement plan payments and become assets of the qualified account.

Payments from rollover accounts are received in a variety of ways, including as a lump sum and as annuitized payments (periodic or monthly payments), such as a monthly payment from an annuity. When a payment is received, it will be included in federal adjusted gross income. However, none of the payments made from a rollover account are paid directly by or from the Washburn University retirement plan.

Because a rollover of a Washburn University retirement plan payment deposited into a qualified retirement account is not included in federal adjusted gross income in the tax year when the Washburn University retirement plan payment was made and it has lost its characterization as a Washburn University retirement plan payment, payments from that account are not exempt from Kansas income tax. Therefore, no modification is made on the Kansas income tax return for a payment from a rollover account.

Taxpayer Assistance

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Return to KSA Listing