Georgia Department of Revenue
Informational Bulletin IT 2010-06-15
Teachers Retirement System Recovery Adjustment

1) *Purpose/Subject:* To announce how the Georgia Department of Revenue administers the recovery adjustment for employee contributions made to the Teachers Retirement System of Georgia for the period of July 1, 1987 thru December 31, 1989.

2) *Effective Date:* All open tax years.

3) *Supersedes:* All previous documents and any oral directives in conflict herewith.

4) *Authority:*

   O.C.G.A. § 48-7-27(a)(9) provides for an exclusion from individual federal adjusted gross income as follows:

   An amount equal to the amount of contributions to the Teachers Retirement System of Georgia made by a taxpayer between July 1, 1987, and December 31, 1989, which contributions were not subject to federal income taxation but were subject to Georgia income taxation. The purpose of the exclusion provided for in this paragraph is to allow a taxpayer a recovery adjustment for such amount after commencement of distributions by such retirement system to such taxpayer and to establish the same basis for federal and state income tax purposes;

5) *Scope:* An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

6) *Issue:* How will the Georgia Department of Revenue administer the recovery adjustment for employee contributions made to the Teachers Retirement System of Georgia for the period of July 1, 1987 thru December 31, 1989.

Discussion of Issues: The Teachers Retirement System of Georgia provides its retirees with individual statements specifying the amount of retirement contributions made by any retiree of the Teachers Retirement System of Georgia (TRS) during the period of July 1, 1987 through December 31, 1989. Contributions made by such retirees during the specified period were not taxable at the federal level but were taxable for Georgia income tax purposes. The retirees should have made adjustments to their Georgia individual income tax returns during tax years 1987 - 1989, by adding back such contributions to correctly reflect Georgia taxable income.

Whereas a retiree did not recover the adjustment in the initial year and/or in any subsequent year of distribution of retirement benefits, such retiree may now adjust the distribution received from the Teachers Retirement System to exclude the amount of the contributions made during the period of July 1, 1987 through December 31, 1989 as provided by 48-7-27(a)(9).

Below is a list of questions and procedures that will serve as a guide in the administration of filed returns claiming the recovery amount.

1. Is this recovery adjustment new?

Answer: This is not new, which means many taxpayers may have already excluded this income.

2. Is the adjustment available to retired teachers as well as working teachers?

Answer: The adjustment is available to retirees currently receiving distributions and future retirees who properly filed their 1987 – 1989 Georgia income tax returns to reflect that such contributions were added back to income ***and*** who have not taken the recovery adjustment in any prior year beginning with the year of the first retirement distribution.

3. May a retiree choose whether to amend a prior return or apply the adjustment to the next year's return?

Answer: Yes, a retiree may choose whether to amend a prior return (but only a prior year return currently open under the applicable statute of limitations for claiming a refund) or apply the adjustment to the next year's tax return.

4. Is the adjustment refundable?

Answer: No, the adjustment is not the same as a refundable credit. The adjustment may only be applied against TRS distributions. If a retiree pays no Georgia tax because of the normal retirement exclusion or because of other deductions or exemptions, no refund will be paid.

5. May the adjustment be used in multiple years if the entire overpayment is not absorbed in one year by the TRS distributed income?

Answer: Yes, the adjustment may be used in multiple years if the entire contribution amount is not absorbed in one year by the TRS distributed income.

GENERAL PROCEDURES

With any claim for the recovery adjustment, TRS taxpayers should provide the following if requested by the Department: 1) copies of returns filed for the 1987 – 1989 tax years to verify the "add back" of contributions in computing Georgia taxable income; 2) a copy of the return for the year of retirement to show that the exclusion was not already taken; and 3) the letter from the Teachers Retirement System of Georgia which states the amount of the exclusion.

(Last updated: June 15, 2010)

FOR MORE INFORMATION

For more information on this subject, contact the Taxpayer Services Division at 1-877-GADOR11 (1-877-423-6711) from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays.

*Persons with hearing or speech impairments may call our TDD number at 404-417-4302. For forms and other information, visit our website (*www.dor.ga.gov*).*