**Private Letter Ruling**

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| **Ruling Number:** | **P-2016-010** |

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| **Tax Type:** | **Individual Income Tax** |
| **Brief Description:** | **Taxation of 403(b) Accounts Held by Public School and University Employees** |
| **Keywords:** |  |
| **Effective Date:** | **08/05/2016** |
| **Approval Date:** | **08/05/2016** |

**Body:**

August 5, 2016

XXXXXXXXXX  
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XXXXXXXXXX  
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XXXXXXXXXX  
  
Re: Kansas Income Tax  
  
Dear XXXXX  
  
Your correspondence of July 21, 2016, has been referred to me for response. Thank you for your inquiry.  
  
By your e-mail you have requested our advice regarding Kansas income tax. Specifically, your e-mail states:

Are 403(b)’s for k-12 employees excluded from state taxes when they take income? What about university employees?  
  
Can you move a 403(b) into a Traditional IRA and still get the state tax exemption?

As you may be aware, Kansas law requires the use of federal adjusted gross income as the starting point for computing the Kansas income tax. Then certain modifications, either additions or subtractions, may be required in accordance with K.S.A. 79-32,117. In the absence of a specific modification under K.S.A. 79-32,117 those items which are subject to federal tax will be subject to Kansas tax and those items which are exempt from federal tax will be exempt from Kansas tax.  
  
K.S.A. 79-32,117 provides a subtraction modification for benefits paid under KPERS, which covers most school district employees. In addition, rollovers of lump-sum distributions from KPERS retain their tax exempt status. [See our Notice 07-05.] However, there is no subtraction modification for 403(b) accounts held by school district employees. And, if a 403(b) account held by a university employee under the auspices of the Board of Regents is moved to a private account not under the auspices of the Board of Regents those funds loss their tax exempt status. [Again, see our Notice 07-05.]  
  
Please note you can access Notice 07-05 through our web site at:  
<http://rvpolicy.kdor.ks.gov/Pilots/Ntrntpil/IPILv1x0.NSF/ae2ee39f7748055f8625655b004e9335/0a792dd6fa7e4ceb862573280061471b?OpenDocument>  
  
I trust this information is of assistance. If I can be of further service, please feel free to contact me.  
  
  
JW:jw  
  
*NOTE: This opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.*  
  
  
  
**Date Composed: 09/16/2016 Date Modified: 09/16/2016**