

“BAILEY” RETIREMENT

Personal Income Tax Deduction for amounts
received from Government Retirement Plans
G.S. 105-153.5(b)(5)

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Supplemental Retirement Plans



- 1998
 - Court order designated NC Supplemental Retirement Plan as a qualifying retirement plan
- 2002
 - Federal law changes with respect to pension portability
 - Distributions from most types of retirement plans may be rolled over into another retirement plan or into an IRA

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- Address consequences of rollover distributions
 - Order Regarding the Optional Retirement Program for Institutions of Higher Education, November 19, 1999
 - Participant moves from one institution of higher education in the U.S. to another
- Benefits exempt only if, and to the extent, the ORP contributions and earnings retain their character as ORP contributions and earnings
 - Transfer the ORP account into another benefit plan, lose their character and not exempt
 - Not transferred and receive separate check, fully exempt
 - Not transferred, but combines accounts for payment, prorated exemption
 - Not transferred, and contributions of new employer added to existing ORP account, prorated exemption

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- All benefits from state-created and state-administered plans should be treated as tax-exempt, without regard to source of funds
 - Acknowledged that state and federal laws have enhanced the benefits available through *Bailey* accounts
 - Rollover distributions lose their character upon rollover
 - Principle of *Bailey* decision is that State entered into contract with members
 - Nothing in *Bailey* suggests that exemption limited to specific benefits contained in statutes or plan documents as of August 12, 1989
 - Directive in place for more than 10 years
 - Retirees have made investment decisions based on this directive for 10 years
 - Total Bailey-vested rollover from all years = \$190 million

Policy Considerations

- Do nothing
- Prohibit future rollovers into tax-exempt *Bailey* account from a *non-Bailey* account
 - Pension policy concerns
- Statutorily provide that the *Bailey* tax exemption does not apply to funds rolled into a *Bailey* account from a non-qualifying retirement plan
 - Concerns?
 - Accounting issues?
 - Fiscal impact?
 - Guidance as to how to determine what portion of the retirement distribution is taxable?
 - Effective date?