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Letter Ruling 79-11: Employer Contributions to a Simplified Employee Pension Plan

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May 31, 1979

You request a ruling with respect to the deductibility from Massachusetts Part B adjusted gross income of employer contributions to "simplified pension plans" described in Section 219(a) of the Internal Revenue Code as amended by P.L. 95-600.

You indicate that [Employer] presently contributes to Individual Retirement Accounts ("IRA's") on behalf of its employees. The liberal deduction allowed by Section 219(a) and the opportunity to establish a simplified pension plan, with its flexibility and simplicity, leads the Corporation to prefer to keep IRA's as its form of pension program. However, you indicate that if in the foreseeable future, by statutory change or regulatory interpretation, employer contributions are not deemed non-taxable income to the employee, the Corporation may decide to change to a more formal pension plan which will provide exclusion of employer contributions from employees' gross income.

With that in mind you ask whether in the light of the recent amendment of Section 219, Massachusetts treatment of employer contributions to IRA's will change, and whether the Massachusetts tax result would depend upon the discretion granted an employee to decide how to use the employer's contribution.

Amendment of Section 219 by P.L. 95-600 is of no significance in determining Part B adjusted gross income. Two reasons require that result. Section 2(d)(9) of G.L. c. 62 expressly denies the deduction of employer contributions to IRA's. Even if that were not the case, Section 1(c) of G.L. c. 62 would preclude consideration of an amendment which becomes effective in 1979. That section states that the Internal Revenue Code as amended and in effect on May 23, 1977 shall provide the basis for making tax determinations which are dependent upon the Code.

Even if one could look to the Code as amended on November 6, 1978, the deductions permitted by Section 219 would not be allowed. The basic pattern of 219 has not been changed. Employer contributions are still compensation to the employee, includible in his federal gross income, unless a deduction is allowable after application of 219(b). Section 2(a) of G.L. c. 62 states that Massachusetts gross income shall mean federal gross income and Section 2(b) divides that gross income into two classes "A" and "B". Since under amended I.R.C. Section 219 employer contributions continue to be included in federal gross income, they would also be included in Massachusetts Part B gross income as well.

This Department is aware of no proposed amendments to G.L. c. 62 which would allow 219(a) deductions. Under the present Massachusetts law there is no valid interpretation which could achieve that result. Since that is the case, alternative methods of contribution would be of no avail.

For those reasons it is ruled that contributions by [Employer] to its employees' IRA's are not deductible from their Massachusetts Part B adjusted gross income.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers
Commissioner of Revenue

LJH:LS:FC

LR 79-11