



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building*

*100 Cambridge Street, Boston 02204*

January 31, 1985

You request a ruling on whether amounts contributed by your agency to a tax-sheltered annuity contract ("TSA") by way of a salary reduction agreement are subject to Massachusetts income taxation. Your agency, \_\_\_\_\_, is a tax-exempt organization under the Internal Revenue Code Section 501(c)(3).

Section 403(b)(1) of the Internal Revenue Code provides that amounts contributed by a Section 501(c)(3) employer to an annuity contract "shall be excluded from the gross income of the employee...to the extent that the aggregate of such amounts does not exceed the exclusion allowance for the taxable year."

Massachusetts gross income is federal gross income with certain modifications. (G.L. c. 62, § 2). Contributions for annuity contracts excluded under Code Section 403(b) to the extent that they are made pursuant to a salary reduction agreement and not required under a retirement program of the employer are to be included in the employee's Massachusetts gross income. (G.L. c. 62, § 2(a)(1)(D)).

Therefore, Massachusetts gross income includes any amount your Agency contributed to the TSA pursuant to a salary reduction agreement which was beyond the amount required under your retirement program. Only the amount of contribution required under your Agency's retirement plan is excluded from Massachusetts gross income.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ira A. Jackson".

Commissioner of Revenue

IAJ:VGS:mf

LR 85-14