



**Revenue Ruling
No. 06-005
May 10, 2006**

Individual Income Tax

Implications of Acts 50 and 61 of the 2005 1st Extraordinary Session on the Tax Exempt Status of Early Distributions from Deferred Retirement Option Plans Due to Hurricane Katrina

Acts 50 and 61 of the 2005 1st Extraordinary Session concerning Deferred Retirement Option Plans (DROP) of public retirement systems in the state were enacted to allow certain participants who have not withdrawn from service to withdraw money from their plan accounts to help cover losses due to Hurricane Katrina. Both Acts 50 and 61 provided that “if...an individual receives a qualified Hurricane Katrina distribution the amount of the distribution shall be included in income by the retirement system, generally ratable over the year of the distribution and the following two years in accordance with the Katrina Emergency Tax Relief Act of 2005 ...unless the individual elects in writing not to have the ratable distribution apply for any taxable year.”

The above language could be construed to mean that because the qualified Hurricane Katrina distributions are included in income, that income is taxable. However, Section 11:405 of the Louisiana Revised Statutes provides for a state tax exemption for benefits paid under the provisions of Chapter 1, Title 11.

§ 405 Exemption from execution; exception. Any annuity, retirement allowance or benefit, or refund of contributions, or any optional benefit or any other benefit paid or paid to any person under the provisions of this Chapter is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever, except as provided in R.S. 11:292, and is unassignable.

Thus, despite the fact that the qualified Hurricane Katrina DROP distributions are includable in federal adjusted gross income, they remain tax exempt for Louisiana income tax purposes.

A Revenue Ruling is issued under the authority of LAC 61.III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.