

**Revenue Ruling
No. 08- 005
February 11, 2008
Individual Income Tax**

Army and Air Force Exchange Service Retirement Benefits

Purpose: The purpose of this Revenue Ruling is to address whether or not retirement benefits from the Army and Air Force Exchange Service qualify as a federal government pension that is exempt from Louisiana state income tax.

Analysis/Discussion: La. R.S. 47:44.2 provides an exemption from taxation for federal retirement income. Specifically, La. R.S. 47:44.2 states that "... any income received by an individual pursuant to a retirement system for retirees of the United States Government ... shall be exempt from the state income tax."

The Army and Air Force Exchange Service is organized as a joint major command of the United States Army and the United States Air Force. The Army and Air Force Exchange Service provides retail services to soldiers, airmen, and their families through a network of stores principally located in the United States, Europe, the Pacific Rim, and the Middle East.

The Army and Air Force Exchange Service has a contributory defined benefit pension plan, the Retirement Annuity Plan, covering regular full time civilian employees who are citizens of the United States. Benefits are based on years of service and the employees' highest three year average compensation.

In *Standard Oil Co. of California v. Johnson*, the Supreme Court of the United States held that the United States Army Post Exchanges, which are now part of and under the administration of the Army and Air Force Exchange Service, are an arm of the United States. The Supreme Court's decision was based, in part, on the fact that Army Post Exchanges were established in accordance with War Department regulations. The Department of Defense is the successor to the War Department and the Army and Air Force Exchange Service stands in the same position in relation to the Department of Defense as the Army Post Exchanges stood in relation to the War Department. As such, a pension system established by the Army and Air Force Exchange Service is established by the United States government.

Conclusion: The Army and Air Force Exchange Service is an instrumentality of the United States. As such, a pension system established by the Army and Air Force Exchange Service is a retirement system for retirees of the United States government and is thereby exempt from Louisiana state income tax.

Cynthia Bridges

Secretary

A Revenue Ruling is issued under the authority of LAC 61III.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.