

IRS PRIVATE LETTER RULING

The following text is an excerpt from an IRS Private Letter Ruling issued to Ventura County Employees' Retirement Association (VCERA). While most IRS private letter rulings apply only to the agency or entity to whom the ruling is addressed, VCERA and MCERA are both governed by the County Employees Retirement Law of 1937, commencing with California Government Code section 31450. MCERA provides this excerpt for members and their survivors as background information concerning the taxability of disability payments.

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MCERA DOES NOT OFFER TAX OR LEGAL ADVICE.**

EXCERPT

Internal Revenue Service (IRS) Private Letter Ruling Issued to Ventura County

September 23, 1976

Internal Revenue Code (IRC) Section 104(a)(1)

Based on the applicable law, it is held as follows:

1. The provisions in the County Retirement Law providing for disability retirement in the case of service-connected sickness or injury constitute a statute "in the nature of a workmen's compensation act" within the meaning of section 104(a)(1) of the Code.
2. Disability payments received by members of the retirement fund for service-connected injury or sickness are excludable from gross income under section 104(a)(1) of the Code. Where a member is eligible for either an allowance based on years of service or a service-connected disability allowance, and elects to receive the former because it is higher, then only the portion that does not exceed one-half of his final compensation (as provided by section 31727.4 of the Plan) is excludable under section 104(a)(1). The remainder is excludable from gross income in the extent permitted under section 105(d)* until the members reach their mandatory retirement ages.
3. Payments received by a surviving spouse or children on account of a member who dies of service-connected causes are excludable from gross income under section 104(a)(1) of the Code. Whether the member died before or after retirement is immaterial.

However, under section 31787 of the Plan, where the surviving spouse or children of a deceased member has the right to elect to receive benefits under section 31787 or one of the alternate options under section 31780 of the Plan, only that amount which is equal to one-half of the member's final compensation is regarded in the nature of and in lieu of workmen's compensation and is excludable from gross income under section 104(a)(1) of the Code. Any amount in excess of one-half of the member's final compensation is excludable from gross income only to the extent that it constitutes a death benefit under section 101(b)** of the Code, or a recovery of contributions under section 72 of the Code.

[Continued on reverse.]

[Continued from reverse.]

The amount to which the exclusion of section 101(b)** applies is the amount by which the present value of the annuity exceeds the larger of the amounts contributed by the member or the amounts that he had a nonforfeitable right to receive before his death. (Section 1.101-2(e)(1)(iii)(a) of the regulations.) This excludable amount, valued as of the date of the member's death, is not to exceed \$5,000.00 under section 101(b)(2)(A) of the Code. For purposes of section 72 of the Code, the amount thus determined is treated as consideration paid by the employee in computing the exclusion ratio applicable to each annuity payment. (Sections 1.101-2(e)(1)(iv) and 1.72-8(b) of the regulations.)

4. Disability payments received by members of the retirement fund for disability that is not incurred in the performance of duty are excludable from gross income to the extent provided by section 105(d)* of the Code until such time the members reach their individual mandatory retirement ages. Payments received by a surviving spouse or children on account of a member who dies of nonservice connected causes are excludable to the extent provided by section 101(b)** and 72 of the Code.

The fact that members of the retirement fund may be eligible for benefits under the California Workmen's Compensation Law shall in no way limit the application of section 104(a)(1) of the Code to amounts paid under the County Retirement Law.

* IRC Section 105(d) was repealed in 1983.

** IRC Section 101(b) was repealed in 1996.