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January 4, 2024

Jessica Baker, Assistant Vice President
University of Missouri Office of Human Resources
1105 Carrie Francke Dr., Suite 108
Columbia, MO 65211

Dear Ms. Baker:

This is a letter ruling issued by the Director of Revenue under Section 536.021.10, RSMo, and Missouri Code of State Regulations 12 CSR 10-1.020, in response to your letter dated September 21, 2023.

The facts as presented in your letter ruling request and your subsequent answers to the Department of Revenue's follow-up questions are summarized as follows:

The University of Missouri ("Applicant") is a public university that was created by the laws of the State of Missouri. It pays benefits from two plans relevant to this letter ruling: Applicant's Retirement, Disability, and Death Benefit Plan and Applicant's Supplemental Retirement Plan.

For the Retirement, Disability, and Death Benefit Plan:

1. The plan is a federally qualified pension plan.
2. The plan is categorized as a "government" plan by the Internal Revenue Service.
3. The plan is considered a "hybrid" plan as it contains characteristics of both a defined benefit plan and a defined contribution plan.
4. The plan is funded from employer contributions by Applicant.
5. There are employee contributions to the plan.

6. Applicant is a public university that was created by the Constitution of the State of Missouri.
7. Sources of revenue for Applicant's contributions to the plan include federal appropriations, State of Missouri appropriations, tuition, fees, grants, contracts, and gifts. All such sources of revenue are represented in the form of employer contributions to the Plan.
8. Participants in the plan cannot rollover or transfer amounts from private sources into the plan.

For the Supplemental Retirement Plan:

1. The plan is a federally qualified pension plan.
2. The plan is categorized as a "government" plan by the Internal Revenue Service.
3. The plan is considered a defined contribution plan.
4. The plan is funded from both employer and employee contributions.
5. Applicant is a public university that was created by the Constitution of the State of Missouri.
6. Sources of revenue for Applicant's contributions to the plan include federal appropriations, State of Missouri appropriations, tuition, fees, grants, contracts, and gifts. All such sources of revenue are represented in the form of employer contributions to the Plan.
7. Rollovers or transfers from private retirement sources to the plan are allowed under the terms of the plan.

ISSUE 1:

Do benefits paid from Applicant's Retirement, Disability, and Death Benefit Plan qualify under Section 143.124.5, RSMo, as "retirement benefits received from sources other than privately funded sources"?

RESPONSE 1:

Yes. Benefits paid from Applicant's Retirement, Disability, and Death Benefit Plan are "retirement benefits received from sources other than privately funded sources," for purposes of Section 143.124.5, RSMo.

Section 143.124, RSMo, prescribes when certain retirement benefits or allowances may be subtracted from an individual income taxpayer's Missouri adjusted gross income. This statute identifies retirement benefits or allowances as either "from any privately funded sources" or "from

sources other than privately funded sources." Subsection 3 of Section 143.124 describes the circumstances under which a taxpayer may subtract "any retirement allowance received from any privately funded sources," for tax years beginning on or after January 1, 2002, and subsection 5 describes the circumstances under which "retirement benefits received from sources other than privately funded sources" may be subtracted for tax years beginning on or after January 1, 2012.

Applicant is an entity created by the State of Missouri pursuant to state law. Applicant's Retirement, Disability, and Death Benefit Plan is a "governmental plan" under federal law. IRC Section 414(d) defines this term and reads, in part, as follows:

For purposes of this part, the term "governmental plan" means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Although Applicant's Retirement, Disability, and Death Benefit Plan is funded, in part, by employee contributions, Applicant established and maintains the plan and Applicant is the payor of the benefits. Benefits paid by this plan are not from privately funded sources, but are from sources other than privately funded sources, for purposes of Section 143.124.5, RSMo.

ISSUE 2:

Do benefits paid from Applicant's Supplemental Retirement Plan qualify under Section 143.124.5, RSMo, as "retirement benefits received from sources other than privately funded sources"?

RESPONSE 2:

Yes. Benefits paid from Applicant's Supplemental Retirement Plan are "retirement benefits received from sources other than privately funded sources," for purposes of Section 143.124.5, RSMo. This is with the exception of the portion of any retirement benefits paid under Applicant's Supplemental Retirement Plan that is attributable to funds transferred or rolled over from privately funded retirement sources, such as IRAs. *See* Mo. Dept. of Rev. Letter Ruling 8197 (June 17, 2022).

The analysis of these payments is much the same as the analysis in Response 1. Applicant is an entity created by the State of Missouri pursuant to state law, and its Supplemental Retirement Plan is a "governmental plan" under federal law. Although Applicant's Supplemental Retirement Plan is funded, in part, by employee contributions, Applicant established and maintains the plan and Applicant is the payor of the benefits. Benefits paid by this plan are generally not from privately funded sources, but are from sources other than privately funded sources, for purposes of Section 143.124.5, RSMo.

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However, the Supplement Retirement Plan is able to accept transfers and rollovers from private retirement sources. Despite being rolled over or transferred into the Plan, these funds do not lose their character as a private source of retirement benefits. The portion of a payment from the Supplemental Retirement Plan to a participant is "from any privately funded sources" to the extent the payment amount is attributable to funds from the private retirement source. Please see Letter Ruling 8197 for more information on the treatment of transfers or rollovers from a private source of retirement funding to a governmental plan.

This letter ruling is binding upon the Department of Revenue with respect to the Applicant for three (3) years from the date of this letter and is subject only to statutory changes by the General Assembly and to changes in the interpretation of law by the courts or administrative tribunals. This letter ruling is not binding upon the Department of Revenue with respect to any other taxpayers, including, but not limited to, Applicant's current or former employees. If a change occurs, the taxpayer who relies upon an outdated interpretation may be subject to additional taxes, interest and penalties, which may be imposed prospectively from the date of the change. For this reason, the interpretation set forth above should be reviewed on a regular basis. Please note that any change in or deviation from the facts as presented will render this ruling inapplicable.

Should additional information be needed, please contact Legal Counsel, Vickie Adiele, General Counsel's Office, Post Office Box 475, Jefferson City, Missouri 65105-0475, phone (573) 751-0961.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Wallingford", with a stylized flourish at the end.

Wayne Wallingford

WW:DWF:RCB:OVA:nw

LR 8273