

## Part 7 Allowance Increase

### **49-11-701 Allowance increase to offset tax liability -- Administration.**

- (1) This section applies to members of any system administered by the board under this title, whose retirement allowance remained exempt from the tax imposed under Title 59, Chapter 10, Individual Income Tax Act, pursuant to Laws of Utah 1988, Chapter 195, Section 2, but whose allowance has subsequently become subject to that tax.
- (2) Any member who meets the conditions established under Subsection (1) shall receive the following:
  - (a) the administrator shall calculate the member's retirement allowance pursuant to the formula governing the system from which the member retired;
  - (b) the administrator shall then increase the allowance calculated under Subsection (2)(a) by 3%; and
  - (c) the adjusted retirement allowance under Subsection (2)(b) is the new basis upon which any future adjustments to benefits are made.
- (3)
  - (a) For all members who retire or are receiving retirement allowances in calendar year 1989, the administrator shall apply the 3% adjustment under Subsection (2) to all retirement allowances received in 1989, so that the period for which the allowance becomes subject to the tax under Title 59, Chapter 10, Individual Income Tax Act, and the period for which the 3% adjustment is given are the same.
  - (b) For all members who retire after December 31, 1989, and who meet the requirements of Subsection (1), the administrator shall apply the 3% adjustment under Subsection (2) beginning on the effective date of retirement.
- (4) Any penalty or interest for underpayment of taxes under Title 59, Chapter 1, General Taxation Policies, or Chapter 10, Individual Income Tax Act, shall be waived for members whose noncompliance is attributable to Section 49-11-611 and this section. This only applies to tax year 1989.
- (5) The administrator shall comply with Title 59, Chapter 10, Part 4, Withholding of Tax, with respect to withholding of taxes.
- (6)
  - (a) The retirement board shall annually certify the contribution rate necessary for each system to comply with this section and may adopt rules to administer this section.
  - (b) This contribution rate shall be reported separately from the total contribution rate necessary to fund the systems on an actuarially sound basis and may not be used in comparative studies of public employee benefits.

Amended by Chapter 250, 2008 General Session