



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
DELAWARE STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE
TAX RULING 79-1

April 18, 1979

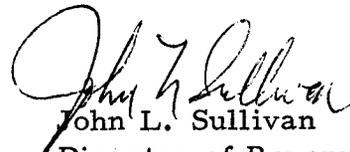
- House Bill No. 129, 130th General Assembly
- Treatment of Lump-Sum Distributions From Qualified Pension Plans

House Bill No. 129, 130th General Assembly, (Vol. 62, Chap. 23, Laws of Delaware, 1979), approved April 10, 1979, adds a new subsection (b) to Section 1102, to impose a separate tax on the ordinary income portion of lump-sum distributions received from qualified pension, profit-sharing or stock bonus plans under a ten-year averaging rule, substantially in the same manner as such distributions are taxed for Federal income tax purposes. Under this amendment, in general such lump-sum distributions will be taxed separately as ordinary income in the year of receipt, but the tax liability will be computed as if such distributions were received in equal installments over a ten-year period.

Under Section 1106 (a) (3) of current law, adopted December 30, 1977, for purposes of computing Delaware taxable income, recipients of lump-sum distributions would have been required to add back to Federal adjusted gross income the entire amount of the ordinary income portion of a lump-sum distribution. This would result in taxing such distributions at the highest bracket rate of the taxpayer in the year of receipt. House Bill No. 129 repeals retroactively Section 1106 (a) (3), and provides for taxing such lump-sum distributions separately under the new averaging method. Under the amendment, the definitions and special rules applicable to the taxation of lump-sum distributions for Federal income tax purposes (as set forth in Section 402, I. R. C.) are made applicable for Delaware tax purposes. Such rules include the so called "roll over" provisions under which recipients of lump-sum distributions have 60 days from the date of receipt to reinvest the proceeds in an individual retirement account or other qualified pension plan without being subjected to tax.

The tax treatment provided by this amendment applies to any lump-sum distribution received from a qualified plan (as determined

under Federal law) after December 30, 1977. Hence, any such distributions received in calendar year 1978 would be includible in the 1978 tax return due April 30, 1979, and be subject to tax under this amendment. The Division of Revenue will issue a new Form 329, to be completed and filed with your income tax return to compute the separate tax on the ordinary income portion of the distributions under the special ten-year averaging method. Taxpayers requiring additional time to complete their returns may file Form 1027, Application for Automatic Extension of Time to File Delaware Income Tax Return.


John L. Sullivan
Director of Revenue

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