

NOTE – TB-18 DOES NOT REFLECT CURRENT LAW

TAX: ACT 60 TAX REDUCTION

TB-18

**SUBJECT: TREATMENT OF RETIREMENT
PLAN TRANSFERS IN HOUSEHOLD
INCOME**

Issued 3/3/00

A. General. "Household Income" Title 32 VSA §6061 begins with the inclusion of adjusted gross income of all members of the household in a calendar year. In addition there are specific items that must be added to the adjusted gross income in order to arrive at "modified adjusted gross income", which is spelled out in 32 VSA §6061(5)(B). One of these items is the gross amount of any pension or annuity received by a member of the household. **This bulletin discusses when the transfer of retirement plan assets must be included in household income.**

32 VSA § 6061 defines as follows:

(4) "Household income" means modified adjusted gross income received in a calendar year by

(A) all persons of a household while members of that household; and

(B) the spouse of the claimant who is not a member of that household and who is not legally separated from the claimant, unless the spouse is at least 62 years of age and has moved to a nursing home or other care facility with no reasonable prospect of returning to the homestead.

(5) "Modified adjusted gross income" means the sum of "**adjusted gross income**" as defined in section 5811 of this title

(A) before the deduction of any trade or business loss, loss from a partnership, loss from a small business or "subchapter S" corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain;

(B) with the addition of alimony, support money, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, **the gross amount of any pension or annuity** (including railroad retirement benefits, all payments received under the federal Social Security Act, and all benefits under Veterans' Acts),

nontaxable interest received from the state or federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the commissioner may require; and

(C) without the inclusion of gifts from nongovernmental sources, surplus food or other relief in kind supplied by a governmental agency, or the first \$4,000.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code, or the first \$4,000.00 of income received by a parent who qualifies as a dependent of the claimant under the Internal Revenue Code, or payments made by the state for foster care or to a family for the support of an eligible person with a developmental disability as defined in subdivision 8722(2) of Title 18. If the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in section 6321 of Title 33) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a certificate in a form satisfactory to the commissioner be submitted which supports the claim. (*Emphasis added.*)

B. Rollover from traditional IRA to Roth IRA. Taxpayers who roll over amounts from a traditional IRA to a Roth IRA must include these amounts in adjusted gross income. They **must also include** these amounts in household income. Section 6061(5), Title 32, Vermont Statutes Annotated, bases household income on adjusted gross income and makes no exception for transfers from traditional to Roth IRAs.

C. Trustee-to-Trustee Transfers. A transfer of funds in a traditional IRA from one trustee directly to another trustee is not a rollover. There is no distribution to the taxpayer, the transfer is tax free and the amount **does not** have to be included in adjusted gross income nor counted as the amount of gross pension or annuities in household income for Act 60 tax reduction purposes. _

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D. Rollover to a traditional IRA. Taxpayers who withdraw assets from one traditional IRA and transfer them within 60 days to another traditional IRA are entitled to a tax free rollover under the Internal Revenue Code if the transfer meets all the federal requirements. These tax-free rollovers **do not** have to be included in household income for Act 60 tax reduction purposes.

E. **Rollover from an employee's plan into an IRA.** Taxpayer's who receive an eligible rollover distribution from an employee plan and transfer that amount into a traditional IRA **do not** have to include the transferred amount in household income for Act 60 tax reduction purposes, to the extent the transferred amount is not included in their adjusted gross income under the Internal Revenue Code.

Robert A. Gross
Tax Policy Analyst

Approved:

Sean P. Campbell
Commissioner of Taxes