

City Joins Plea On Tax-Free Disability Status

Supplemental Pension
Benefits Could Be Taxed by IRS
By Reuven Blau

The Bloomberg administration and local unions have asked the Internal Revenue Service to keep the disability pension for civil servants injured on the job completely tax-free. The issue arose after a question about the retirement fund's tax-free status was raised by a retired Teacher several months ago.

Could Cost Disabled

The potential problem, which could reduce payouts to thousands of injured retirees living on fixed incomes, appears to primarily affect three supplemental aspects of the benefit that some receive in conjunction with the disability pension. The central component of the pension—payments worth 75 percent of a worker's final average salary—will likely remain tax-free, city and union officials maintain. The extra benefits that may be taxable include the annuity fund and increased take home pay (ITHP). Retirees who served beyond the minimum retirement age and who now are receiving pensions that are based on an added 1.67 percent of salary for each additional year they worked past the basic service requirement could also have to pay taxes on that supplement. Initial reviews conducted by tax attorneys indicate that some of those parts of the pension will likely be taxable, union officials said. "The way the IRS law works is that it says that any payment 'in the nature of Workers Comp' could be tax-free," an insider said. But an IRS 2006 tax book let states: "The rest of your pension, based on years of service, is taxable as pension or annuity income." Ed Mullins, president of the Sergeants Benevolent Association expressed concern. "I just think it's kind of sad," he said. "We are looking at a small tax aspect of it that is somewhat unfair to implement, especially at this point in time to people who have already been disabled."

50 Years Tax-Free

Since its conception more than a half-century ago, the benefit, known as a three-quarter disability pension, has been completely exempt from city, state, and Federal taxes. A conference call took place between the city and union attorneys, who reached out to IRS representatives on July 26. But the parties declined to discuss details of that preliminary conversation, noting that the issue is still being reviewed. "They said they are going to get back to us," one union official said. "There were many issues that were brought forth. The membership is keeping a watchful eye on what's happening and hoping that this comes to a positive resolution." The issue of liability is extremely complicated, and many details remain murky, pension experts said. Most officials involved in the matter spoke on condition of anonymity.

Covers 300,000

The disability pension, which covers practically all the city's more-than 300,000 employees, has been touted as a tax-free benefit for more than 70 years. One labor leader said he recently researched the issue and discovered that there are various practices concerning similar public-employee pensions throughout the nation. "I found that it's even different within state and local pension systems," the source said. It remains unclear if any of the possible tax obligations will be retroactive, but the IRS can only go back three years, according to regulations.

The IRS has traditionally not required individuals to make retroactive payments in similar liability situations that suddenly arose "In the past, they usually go from this point forward; that's what we're asking," said one union official. By all accounts, only five or 10 percent of the benefit will likely be taxable depending on various factors. But any added costs could create a significant burden for disabled retirees. Most city and union officials believe the IRS will decide the issue after reviewing how much money is actually at stake before the start of the upcoming tax season.

Will Know Soon

"I think we'll be hearing some more on this within the next month or two," said one city pension official. "I'm sure they want to get this figured out before the year is out because this way you'll have a decision and the members will have an idea what to do when they file their taxes. I can't

see the IRS looking to drag this out.” IRS spokesman Kevin Mc Keon declined to comment “The disclosure rules in the Internal Revenue Code don’t allow us to discuss specific tax issues of taxpayers, he said in an e-mail