



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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UIL: 36A.00-00

The Honorable Herb Kohl
United States Senator
14 West Mifflin Street, Suite 207
Madison, Wisconsin 53703

Attention:

Dear Senator Kohl:

I am responding to your inquiry dated February 1, 2010, on behalf of your constituent, a retired school teacher. He asked if he is eligible to take the \$250 government retiree credit in 2009. Your constituent is 59 years old, receives a state pension, and will receive social security benefits at a later age.

Certain government retirees can take a special credit (section 2202 of the American Recovery and Reinvestment Tax Act of 2009 (P.L. 111-5)). The credit is available for individuals who receive a government pension or annuity from work that social security does not cover. (House of Representatives Report Number 111-16, at 710 (2009)). Individuals can take the credit on Form 1040 Schedule M, Making Work Pay and Government Retiree Credits. I have enclosed a Schedule M and instructions for your information. The Schedule M instructions provide: "You can take a credit of \$250 ... if you ... received a pension or annuity payment in 2009 for service performed for the U.S. Government or any U.S. state or local government (or any agency of one or more of these) and the service was not covered by social security."

A retiree is eligible for the government retiree credit if the retiree is receiving a pension for government service not covered by social security. Thus, for example, if your constituent paid social security taxes on the wages he received from his governmental employer during all of his years of government service, he cannot claim the government retiree credit.

I hope this information is helpful. If we may be of further assistance, please contact me
or of my staff at

Sincerely,

Lynne Camillo
Branch Chief, Employment Tax Branch 2 (Exempt
Organizations/Employment Tax/Government
Entities)
(Tax Exempt & Government Entities)

Enclosures (2):