# Office of Personnel Management

**Retirement and Insurance Service**

CSRS Civil Service Retirement System 1920 — FEGLI Federal Employees Group Life Insurance 1954 — FEHB Federal Employees Health Benefits Program 1959 — FERS Federal Employees Retirement System 1986

## Benefits Administration Letter

*Number:* 96-101 *Date:* February 1, 1996

**SUBJECT:** **Public Law 104-95: An Act "to limit State taxation of certain pension income."**

This is to advise you of the enactment of Public Law 104-95, an Act which prohibits the taxation of Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) annuity benefits by State governments under "source tax" laws.

A number of States have laws levying income tax on the annuities of retired individuals who live in other States, but whose annuities are based on prior employment in the taxing State. Public Law 104-95 prospectively prohibits this practice, providing that "No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State)." The law applies only to retirement income received by an individual after December 31, 1995.

Public Law 104-95 includes CSRS and FERS annuities in the definition of "retirement income" within the coverage of the law. Therefore, the new law may be of interest to employees planning to retire from a State that has a "source tax" law.

However, the new law has no effect on either the right to receive, or the amount of, a CSRS or FERS annuity. As you know, OPM withholds State income taxes from annuity payments only if an annuitant voluntarily participates in a State tax withholding program, which OPM provides as a service for the several States that have a memorandum of understanding for this purpose with OPM. OPM has never had any role in enforcing "source tax" laws, and the new law requires no notification or other action by OPM.

We understand, on the basis of the House of Representatives Report on Public Law 104-95, that the following States have some form of "source tax" legislation: California, Colorado, Connecticut, Delaware, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, New York, Oregon, Pennsylvania, Vermont, and Wisconsin.

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