

R943-1. Purpose: To describe the tax shelter program available to Commissioner's Office personnel and establish procedures to be followed in setting up an individual program.

R943-2. References

- 2.1. Utah Code [§53B-1-106](#) (Appointment of Commissioner's Staff)
- 2.2. Policy and Procedures [R141](#), Duties of the Commissioner of Higher Education
- 2.3. Policy and Procedures [R962](#), Retirement Programs

R943-3. Definitions

3.1. **"Tax Shelter Program"**: Under regulations of the Internal Revenue Service, educational institutions may establish salary-or-annuity option ("tax sheltered annuity") programs, in addition to their retirement plans. Under these programs, OCHE staff members may, through a properly drawn salary reduction agreement with the institution through which their payroll is handled, divert part of their compensation on a tax-free basis to the purchase of supplemental annuity benefits.

3.2. **"Salary Reduction Agreement"**: A binding contract, as required by Treasury regulations, between the Commissioner's Office and the employee to accept a reduction in salary payments, or to forego receipt of an increase in salary. The unpaid portion of the employee's compensation described in the agreement is then used to purchase supplemental annuity benefits which are tax sheltered, i.e., federal and state taxes on the premiums remitted and on the investment earnings credited to them are deferred until the employee receives them in the form of retirement or annuity benefits. At that time, the payments received are taxed as ordinary income in the year or years in which they are received.

R943-4. Policy

4.1. **Eligibility for Participation in Tax Shelter Program:** Requirements for participation in the Commissioner's Office tax shelter programs are the same as requirements for participation in the Commissioner's Office retirement programs. (See Policy and Procedures [R962](#).)

4.1.1. Employees participating in the Utah State Retirement System may participate in the "Supplemental Retirement Annuity" contract offered by TIAA and CREF without changing to the TIAA-CREF retirement program option.

4.1.2. Eligible employees may also participate in other approved tax shelter programs that may be authorized from time to time by the Commissioner.

4.2. **Salary Reduction Agreement:** To initiate a tax shelter program, an eligible employee must enter into a Salary Reduction Agreement. The agreement shall continue in effect without change until terminated by either party.

¹ Adopted July 19, 1983.

4.2.1. The employee will not be permitted to make more than one Salary Reduction Agreement with the Commissioner's Office during a single calendar year for such employee.

4.2.2. Reduction in salary payments pursuant to the agreement will be implemented only to the extent such amounts are earned by the employee after the agreement becomes effective.

4.2.3. A Salary Reduction Agreement shall become effective at the beginning of the next biweekly Commissioner's Office pay period following the date on which it is signed by the employee, unless a different effective date is expressly stated in the agreement.

4.2.4. The amount of reduction permitted in salary payments is governed by applicable provisions of the Internal Revenue Code, and implementing federal regulations, as amended from time to time.

4.2.5. Participation in the plan will be allowed only through payroll reduction. The amount reduced can be stipulated in the Salary Reduction Agreement as a "stated amount" per pay period, or as a "percentage of salary" per pay period, subject to the limitations described above. If the "percentage of salary" option is selected, an increase in the amount of the salary reduction will result automatically if the participant's salary is increased during the year.

R943-5. Procedure

5.1. **Enrollment Procedures:** A Commissioner's Office staff member interested in participating in the "Supplemental Retirement Annuity" or other approved tax shelter programs should contact the Employee Services Center at the University of Utah. Counselors will assist in completing all necessary forms, including the "Salary Reduction Agreement," will calculate the maximum salary reduction allowable, and will provide counsel as to options available to participants, such as allocation of premiums between TIAA and CREF, designation of beneficiaries, etc.

5.2. **Salary Reduction Agreement Termination:** To terminate a salary reduction agreement, the participant should provide at least thirty days written notice of the date of proposed termination to the Employee Services Center. Following termination of a salary reduction agreement, the employee will not be permitted to enter into another agreement to participate in the tax shelter program until the following calendar year.

5.3. **Employee's Tax Obligation:** Participation in a tax shelter program approved by the Commissioner's Office does not modify or otherwise affect the personal obligation of the participant to discharge all tax liabilities and to file all necessary tax returns as a personal obligation with respect to the Internal Revenue Service or the cognizant taxing authorities.