

Date: May 10, 2010

VAOPGCPREC 2-2010

From: General Counsel (022)

Subj: *Osborn v. Nicholson*, 21 Vet. App. 223 (2007) - Effect on Existing General Counsel Opinions, Application to Other Benefit Programs, and Applicability to Series HH U.S. Savings Bonds and Bonds Issued by Other Political Subdivisions - 38 U.S.C. § 1503(a)(6), 38 C.F.R. 21.3.272(e)

To: Director, Compensation and Pension Service

QUESTIONS PRESENTED:

1. Does the decision of the United States Court of Appeals for Veterans Claims (Veterans Court) in *Osborn v. Nicholson*, 21 Vet. App. 223 (2007), that interest received from the redemption of a Series EE U.S. Savings Bond is excludable from income in determining annual income for improved pension [FN#1] purposes, invalidate or change VAOPGCPREC 4-89 (O.G.C. Prec. 4-89), VAOPGCPREC 23-90 (O.G.C. Prec. 23-90), VAOPGCPREC 1-93 (O.G.C. Prec. 1-93), VAOPGCPREC 1-97, VAOPGCPREC 10-97, or VAOPGCPREC 15-97?
2. Does the holding of *Osborn* apply to annual income determinations for purposes of parents' dependency and indemnity compensation (DIC), [FN#2] section 306 pension, [FN#3] or old-law pension? [FN#4]
3. Does the holding of *Osborn* apply to interest received from Series HH U.S. Savings Bonds, on which interest payments are made semi-annually rather than upon redemption?
4. Does the holding of *Osborn* extend to state, municipal, or other political subdivision investment bonds?

HELD:

1. The holding of *Osborn v. Nicholson*, 21 Vet. App. 223 (2007), that interest received from the redemption of a Series EE U.S. Savings Bond is excludable from annual income computations under 38 U.S.C. § 1503(a)(6) (excluding from income "profit realized from the disposition of real or personal property other than in the course of a business") for improved pension purposes, does not invalidate or change VAOPGCPREC 4-89, VAOPGCPREC 23-90, VAOPGCPREC 1-97, VAOPGCPREC 10-97, or VAOPGCPREC 15-97. However, the *Osborn* holding

conflicts with VAOPGCPREC 1-93, in which we held that: (1) proceeds of a life insurance policy that is surrendered for cash should not be considered income for purposes of determining entitlement to improved pension under title 38, United States Code, to the extent that such proceeds consist of return of sums paid as part of the insurance premiums; but (2) interest on the policy holder's monetary contribution should be considered income. Applying the reasoning of *Osborn*, the interest received from the surrender of a life insurance policy is excluded from income as profit realized from the disposition of personal property other than in the course of a business.

2. *Osborn's* exclusion of interest received from the redemption of Series EE U.S. Savings Bonds from annual income calculations applies also to parents' dependency and indemnity compensation and section 306 pension, but not to annual income calculations for old-law pension.

3. Because a holder of a Series HH U.S. Savings Bond is paid interest semiannually without the redemption of the bond, any profit realized is not from the disposition of real or personal property necessary for the exclusion in 38 U.S.C. § 1503(a)(6) to apply. Therefore, the interest is appropriately counted as income for purposes of improved pension, section 306 pension, old-law pension, and parents' dependency and indemnity compensation.

4. Because debt obligations issued by states, municipalities, or other political entities can vary, it is not possible to provide a single definitive answer as to whether *Osborn* applies to all municipal bonds. However, as a general rule, if a bond requires redemption for the payment of accrued interest, as with a Series EE U.S. Savings Bond, then the statutory exclusion for profit realized from the disposition of real or personal property applies. If accrued interest is payable on the bond without redemption, then it does not qualify for the exclusion.

COMMENTS:

1. In *Osborn*, the Veterans Court held that accrued interest received from the redemption of a Series EE U.S. Savings Bond was "profit realized from the disposition of . . . personal property other than in the course of a business" within the meaning of 38 U.S.C. § 1503(a)(6) and 38 C.F.R. § 3.272(e) and therefore must be excluded from income for purposes of determining entitlement to VA improved pension. 21 Vet. App. at 231. The Veterans Court rejected the rationale of the Board of Veterans' Appeals that the bonds were not personal property that could be sold for profit but instead "an investment that increases in value by accruing interest." *Id.* at 225.

2. In reaching its conclusion, the Veterans Court relied on four major principles. First, it determined that the plain meaning of the term "personal property" in sections 1503(a)(6) and 3.272(e) includes savings bonds. *Id.* at 227. Second, it determined that the scope of the exclusion provided by sections 1503(a)(6) and 3.272(e) is not limited to the "sale" of personal property; rather, both provisions apply to the "disposition" of property, which encompasses more than just sales. *Id.* at 228. Third, the Veterans Court determined

that, by excepting from the exclusion “interest on deferred sales,” the regulation generally includes interest as a component of “profit.” *Id.* Fourth, the Veterans Court found that these meanings of the terms “personal property,” “disposition,” and “profit” are consistent with the purpose for the exclusion, which is to safeguard family income from one-time payments resulting from the disposition of personal property otherwise included as part of a veteran’s estate. *Id.* at 229. In elaborating on the purpose of the exclusion, the court contrasted the interest received when a savings bond is redeemed with the interest paid on a savings account, noting that, unlike a savings account, a savings bond pays interest only upon its disposition. *Id.* at 230.

***Osborn* Conflicts with VAOPGCPREC 1-93 (O.G.C. Prec. 1-93).**

3. In VAOPGCPREC 1-93, we held:

Proceeds of a life insurance policy that is surrendered for cash should not be considered income for purposes of determining entitlement to improved pension under title 38, United States Code, to the extent that such proceeds consist of return of sums paid as part of the insurance premiums. Interest on the policy holder’s monetary contribution should be considered income.

Because under *Osborn* the surrender of a life insurance policy is a disposition of personal property and the interest received upon cash surrender of the policy is profit realized from the disposition of such property, all of the elements required for the statutory exclusion of section 1503(a)(6) to apply are present in the surrender of a life insurance policy. Accordingly, *Osborn* conflicts with the holding of VAOPGCPREC 1-93 with respect to interest on the policy holder’s monetary contribution and must be considered controlling as to that issue.

4. VAOPGCPREC 1-93 concluded that the exclusion in section 1503(a)(6) did not apply to the surrender of a life insurance policy for two reasons: (1) the term “profit” in section 1503(a)(6) suggests that Congress intended to cover proceeds from the sale or barter of marketable goods, but life insurance policies are not typically marketable, VAOPGCPREC 1-93, para. 3; and (2) although surrender of a life insurance policy might be considered a “disposition” under a broad interpretation of the term, the nature of life insurance suggests that a surrender should not be considered a disposition, *id.* at para. 4. The opinion noted that, “[i]n receiving accumulated savings and interest upon cash surrender of a life insurance policy, the policy holder is essentially claiming his or her own money rather than alienating property and receiving different property in return. Thus, a disposition of property does not occur.” *Id.* at para. 5.

5. The rationale of the conclusions reached in VAOPGCPREC 1-93 is no longer valid in light of *Osborn* and other developments. To the extent we expressed doubt in VAOPGCPREC 1-93 as to whether the profit exclusion could be extended to life insurance because of concerns with the unmarketability of life insurance, such concerns are no longer valid. Today, life insurance policies are considered marketable, as demonstrated by the existence of a billion dollar market for viatical settlements involving

the sale of life insurance policies to unrelated third parties and the creation of State laws regulating such sales. See *Life Partners, Inc. v. Morrison*, 484 F.3d 284, 287-88 (4th Cir. 2007). Further, the Veterans Court in *Osborn* rejected the rationale for concluding that, because in surrendering a life insurance policy the policy owner is claiming his or her own money rather than alienating property and receiving different property in return, cash surrender of an insurance policy is not a disposition of property. Logically, the same could be said for the redemption of a savings bond. In redeeming a bond, the bond holder is claiming his or her own money, the price he or she paid for the bond, plus interest accrued on that amount. In *Osborn*, the Veterans Court (citing VAOPGCPREC 1-93) held that a bond redemption is a conversion of assets from one form to another, from a bond to cash, and therefore is a disposition of property for purposes of section 1503(a)(6). 21 Vet. App. at 227-28. Accordingly, it follows that the conversion of a contract for life insurance to cash, a conversion of assets from one form to another, is also a disposition of personal property for purposes of section 1503(a)(6).

6. Considering the historical underpinnings of the section 1503(a)(6) exclusion, VAOPGCPREC 1-93 concluded that “proceeds from life insurance surrendered for cash should not be considered income to the extent that such proceeds consist of sums originally paid as part of the insurance premiums, since such sums represent the recovery by the policy holder of funds invested in the policy.” VAOPGCPREC 1-93, para. 6. However, because “interest accumulated on the funds held by the insurance company represents a gain derived from the investment” and the section 1503(a)(6) exclusion did not apply to payment of such sums, the opinion concluded that payments of interest “must be considered income when paid.” *Id.* at para. 7. As will be explained, the former conclusion is consistent with *Osborn*, but the latter conclusion is no longer valid.

7. In *Osborn*, the Veterans Court cited VAOPGCPREC 1-93 for the proposition that 38 C.F.R. § 3.272(e) is a liberalizing regulation “intended to exclude from income the return on investment paid upon the disposition of property.” 21 Vet. App. at 230 (noting that Congress’ enactment of the profit exclusion in 38 U.S.C. § 1503(a)(6) was an implicit endorsement of VA’s policy of excluding from income the return on an investment). Neither the holding in *Osborn* nor the rationale changes the conclusion that the return on investment should be excluded from income. However, the rationale employed by the Veterans Court to conclude that accrued interest received upon redemption of a Series EE U.S. Savings Bond is “profit realized” from the disposition of personal property applies also to accrued interest received upon cash surrender of a life insurance policy. The court reasoned that, because section 3.272(e) expressly excepts from its exclusion “interest on deferred sales,” interest is generally included in the exclusion section 3.272(e) provides for profit realized from the disposition of property. *Id.* at 228. The court also found that the regulation’s inclusion of interest as a component of “profit realized from the disposition of real or personal property” is reasonable. *Id.* We find the receipt of accrued interest upon surrender of a life insurance policy to be sufficiently analogous to interest paid upon the redemption of a savings bond to conclude that the interest received upon surrender of a life insurance policy can be considered “profit realized from the disposition of . . . personal property”

within the meaning of sections 1503(a)(6) and 3.272(e) such that such interest is excludable from income for improved pension purposes. Because Osborn alters the analysis underlying VAOPGCPREC 1-93 in that the surrender of a life insurance policy is a disposition that would otherwise trigger the exclusions from countable income in 38 U.S.C. § 1503(a)(6) and 38 C.F.R. § 3.272(e), the holding of Osborn conflicts with and supersedes VAOPGCPREC 1-93 regarding interest received upon surrender of a life insurance policy.

Consistency of *Osborn* with General Counsel Precedent Opinions 4-89, 23-90, 1-97, 10-97, and 15-97

8. VAOPGCPREC 4-89 (O.G.C. Prec. 4-89) is consistent with the Veterans Court's holding in *Osborn*. In VAOPGCPREC 4-89 we held that, for purposes of improved pension, the cash value of a savings bond received by a claimant as a gift is includable in the claimant's income when received or when the bond first becomes redeemable. We reached this conclusion based on two considerations: First, neither former 38 U.S.C. § 503(a) (now § 1503(a)) nor 38 C.F.R. § 3.272 specifically excluded a gift or an inheritance from income calculations. Second, the savings bond could be redeemed without substantial penalty to the owner (i.e., the bond could be readily converted into cash without substantial sacrifice in its value to the claimant), as opposed to an item that was not marketable or the value of which was not available to the claimant without significant sacrifice in its value. We held that these same two considerations applied to other gifts and inheritances. Unless a gift or inheritance fell into one of the explicit exceptions enumerated in 38 C.F.R. § 3.272, it was includable in calculating income for purposes of improved pension if the value of the gift or inheritance was available to the recipient without substantial sacrifice in value.

9. In *Osborn*, the Veterans Court held that accrued interest received from the redemption of a savings bond was profit realized from the disposition of personal property and therefore excluded from income for purposes of improved pension under 38 C.F.R. § 3.272(e). 21 Vet. App. at 230-31. For this exclusion to apply, however, there must be a disposition of property by the owner, a situation not presented in VAOPGCPREC 4-89. Nothing in *Osborn* alters the analysis in VAOPGCPREC 4-89 regarding the treatment of gifts received for purposes of calculating income for improved pension. Accordingly, *Osborn* is not inconsistent with the holding of VAOPGCPREC 4-89.^{1[5]}

10. In VAOPGCPREC 23-90 (O.G.C. Prec. 23-90), we held that payments received from a pensioner's withdrawal of his or her own contributions to his or her retirement fund should be considered income for purposes of improved pension whether or not the payments include interest and whether they are made in installments or a lump sum. We reached this conclusion based in part on the language of former 38 U.S.C. § 503(a), which included "all payments of any kind or from any source" in determining annual income for purposes of improved pension and was without an exception for refunds of contributions to retirement plans. We also found support for our conclusion in the

legislative history of former 38 U.S.C. § 503(a), which indicated that Congress expressly intended to eliminate the partial exclusion of payments made under retirement plans.

11. Nothing in the Osborn opinion changes the basis for the conclusion we reached in VAOPGCPREC 23-90. The Osborn holding concerns the receipt of accrued interest upon the redemption of a savings bond, but VAOPGCPREC 23-90 concerns the extent to which a pensioner's withdrawal of his or her contributions to a retirement fund should be considered income for pension purposes.

12. Further, to the extent that retirement payments may include interest or other gains beyond the amount contributed, extending the holding of Osborn to exclude payments received from a pensioner's retirement fund would be inconsistent with Congress' intent, as evidenced in the legislative history regarding treatment of retirement payments for pension purposes. In the Veterans Pension Act of 1959, Congress expressly provided an exclusion from income of payments from a pensioner's retirement plan equal to the pensioner's contributions to the plan. Pub. L. No. 86-211, § 2a, 73 Stat. 432 (excluding from annual income for purposes of pension "payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs equal to his contributions thereto"). In 1964, Congress modified the exclusion for such payments to an across-the-board exclusion of 10 percent of all payments under a retirement plan without regard to the amount contributed and introduced a separate exclusion for profit realized from the disposition of real or personal property other than in the course of a business. Pub. L. No. 88-664, § 1, 78 Stat. 1094 (1964). Thus, there were separate statutory exclusions for payments from retirement plans and for profit realized from the disposition of property. Congress completely eliminated the statutory exclusion for payments from retirement plans in 1978. Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. No. 95-588, § 102(a)(4), 92 Stat. 2497. The simultaneous existence of two separate exclusions for retirement payments and profit realized from the disposition of property and Congress' elimination in 1978 of any exclusion for retirement payments are clear evidence of Congress' intent to include in income the full amount of all types of retirement payments and that Congress did not view the exclusion of profit realized from the disposition of property as applying to retirement payments. See also the discussion in VAOPGCPREC 23-90 of the "Analysis and Evaluation of the Non-Service Connected Pension Program," Senate Committee Print No. 13, 95 Cong., 2d Sess., 341, and S. Rep. No. 95-1016, indicating Congress' intent to eliminate inequalities created by income exclusions such as the retirement exclusion. Consequently, the Veterans Court's Osborn decision does not alter our conclusion in VAOPGCPREC 23-90 that excluding payments received as a withdrawal of contributions from a retirement fund would be contrary to Congress' intentional elimination of such exclusion in its 1978 restructuring of VA pension programs. As a result, Osborn is not inconsistent with VAOPGCPREC 23-90.

13. Based on the rationale that individual retirement accounts (IRA) are equivalent to private retirement, annuity, and endowment plans, and that the legislative history of Pub. L. No. 95-588 made clear that Congress intended that payments from such plans be counted as income in the improved pension program, we held in VAOPGCPREC 1-

97 that “[d]istributions from an [IRA] are fully countable as income for purposes of the improved pension program.” Although VAOPGCPREC 1-97 discussed VAOPGCPREC 1-93, the General Counsel rejected the view that withdrawal from an IRA is analogous to surrender of a life insurance policy. VAOPGCPREC 1-97, paras. 2 and 3. The Osborn holding did not address IRAs, and the court’s rationale did not undermine the basis for our opinion in VAOPGCPREC 1-97. Consequently, that opinion remains valid.

14. The key issue in VAOPGCPREC 10-97 was whether section 506 of Pub. L. No. 103-446, 108 Stat. 4645, 4664 (1994), operated retroactively to pension income calculations for periods before its enactment on November 2, 1994. Under section 506, the first \$2,000 of cash distributions received by an individual in a given year derived from revenues earned by an Alaska Native Corporation was exempt from improved-pension income calculations. See 38 C.F.R. § 3.272(t) (implementing regulation). We held that section 506 did not operate retroactively and, as a result, the law in effect before its enactment as interpreted by VAOPGCPREC 12-89 (O.G.C. Prec. 12-89) and VAOPGCPREC 4-93 (O.G.C. Prec. 4-93) governed improved pension income calculations for periods prior to that date. Under that prior law, the taxable portion of a cash distribution derived from revenues earned by an Alaska Native Corporation was to be included as income because such distributions were not compensation for the relinquishment of land claims. Nothing in the holding of Osborn addressed such issues, and the court’s rationale does not undermine the basis for concluding that taxable cash distributions derived from revenues earned by a Native Corporation are not compensation for the relinquishment of land claims and therefore not excludable under section 503(a)(6) from income calculations. Accordingly, Osborn is not inconsistent with the holding of VAOPGCPREC 10-97.

15. In VAOPGCPREC 15-97, we held that “[i]nterest payments received by individuals based on their status as holders of bonds issued by Menominee Enterprises, Inc., a corporation formed upon termination of Federal supervision of the Menominee Indian Tribe, must be included in annual income for purposes of determining eligibility for improved pension.” We reached this conclusion based in part upon a determination that the interest received from Menominee bonds was not “profit realized from the disposition of real or personal property” within the meaning of section 1503(a)(6) because interest paid on Menominee bonds represents tribal earnings rather than proceeds of a relinquishment of a property interest. In this regard, the payments were in the nature of profits received from exploitation of a renewable resource (timber) rather than proceeds from the conversion of assets. Because the recurrent interest payments considered in VAOPGCPREC 15-97 are not based on the disposition of a bond or any other relinquishment of a property interest, as was the case in Osborn, that decision is not inconsistent with our holding in VAOPGCPREC 15-97.

Osborn Applies to Section 306 Pension and Parents’ DIC, But Not to Old-Law Pension

16. You also asked whether the holding of Osborn was limited to calculating income for purposes of improved pension or also applies to section 306 pension, parents’ DIC, and

old-law pension. For reasons explained below, we conclude that Osborn applies to income calculations for section 306 pension and parents' DIC purposes, but not to income calculations for old-law pension purposes.

17. The laws governing section 306 pension and parents' DIC provide an exclusion for "profit realized from the disposition of real or personal property other than in the course of a business." See Pub. L. No. 88-664, § 1(b), 78 Stat. 1094 (establishing in section 306 pension such exclusion), and 38 U.S.C. § 1315(f)(1)(K) (parents' DIC). However, the law governing old-law pension does not provide a similar exclusion. We reach this conclusion based on two observations. First, when Congress established the profit exclusion in 1964, it did not make the exclusion applicable to old-law pension, unlike the exclusion for 10 percent of payments made to an individual from retirement or annuity accounts. See Pub. L. No. 88-664, § 10, 78 Stat. at 1096 (expressly stating that the 10-percent exclusion for payments from retirement plans applied to income calculations for recipients of old-law pension). Further, we find no evidence of any subsequent amendments to change the law in this regard. Second, VA's interpretation of the relevant statutes as reflected in its pension regulations does not provide a profit exclusion for old-law pension, 38 C.F.R. § 3.262(k)(3) (profit from the sale of property is counted as income for purposes of old-law pension), but does for section 306 pension and DIC, 38 C.F.R. § 3.262(k)(5) (profit received from the sale of property is not counted as income for purposes of section 306 pension and DIC). Therefore, Osborn does not apply to income determinations for old-law pension. See VAOPGCPREC 4-93, para. 8 (concluding that the profit exclusion established by Pub. L. No. 88-664 did not apply to old law-pension eligibility).

18. Section 3.262(k)(5) of title 38, Code of Federal Regulations, implements the statutory exclusion for section 306 pension and parent's DIC purposes, but phrases the exclusion in terms of "profit from the sale of real or personal property." 38 C.F.R. § 2.262(k)(5) (emphasis added). As explained in Osborn, 38 C.F.R. § 3.272(e) implements the statutory exclusion for improved pension using the same language found in the statute. 21 Vet. App. at 227, 228. In Osborn, the Veterans Court found error in the attempt of the Board of Veterans' Appeals to limit the scope of the exclusion in 38 C.F.R. § 3.272(e) to profit realized from the sale—as opposed to the disposition—of personal property. *Id.* at 228. VA's use of the term "sale" in 38 C.F.R. § 3.262(k)(5), however, does not require that it be read differently than 38 C.F.R. § 3.272(e). Both regulations implement identical statutory language for the same purpose. Further, "[d]ue to the similarity of the income-computation provisions applicable to improved and section 306 pension, these rules are interpreted and applied in the same manner under both programs." VAOPGCPREC 81-90 (O.G.C. Prec. 81-90); see also VAOPGCPREC 4-93 (O.G.C. Prec. 4-93) (concluding that the extent of the statutory exclusion under improved pension law for "profit realized from the disposition of real or personal property" is equally applicable to section 306 pension). Accordingly, 38 C.F.R. § 3.262(k)(5) excludes from income the accrued interest received from the redemption of a savings bond for purposes of section 306 pension and parents' DIC to the same extent as 38 C.F.R. § 3.272(e) excludes such interest from income in the improved-pension program.

***Osborn* Does Not Apply to Interest Paid on United States Series HH Savings Bonds**

19. You also asked for our view as to how to treat interest received from Series HH U.S. Savings Bonds. Because the applicability of the exclusion in section 1503(a)(6) requires a realization of profit from the disposition of property, but accrued interest is not paid upon the redemption of a Series HH U.S. Savings Bond, the Veterans Court's decision in *Osborn* is not controlling with regard to interest paid on Series HH bonds.

20. Interest on Series HH savings bonds is paid semiannually beginning six months after the issue date. 31 C.F.R. §§ 352.2(f), 353.31(a). Furthermore, the accrual of interest ceases at maturity or, if a bond is redeemed before final maturity, as of the end of the interest period preceding the date of redemption. 31 C.F.R. §§ 352.2(f), 353.31(a). Thus, the receipt of accrued interest on a Series HH bond is not "realized from the disposition of real or personal property," as required for the exclusion in section 1503(a)(6) to apply. If the redemption date falls on an interest payment date, the accrual of interest ceases on that date. 31 C.F.R. §§ 352.2(f), 353.31(a). Nevertheless, we conclude that the last interest payment in such a situation, as with any preceding interest payments, occurs not from the redemption of the bond, but because of the arrival of that interest payment date. Because owners of Series HH savings bonds are paid interest without disposing of any property, interest payments received are appropriately counted as income for purposes of improved pension, section 306 pension, and parents' DIC. Interest payments on Series HH U.S. Savings Bonds are also countable as income for purposes of old-law pension as statutes governing old-law pension have no statutory exclusion comparable to that in section 1503(a)(6).

Applicability of *Osborn* to Bonds Issued by Other Political Entities

21. The fact that the United States issued the bond involved in *Osborn* was not critical to the Veterans Court's holding that the interest paid upon its redemption is excludable under section 1503(a)(6) from annual income calculations as profit realized from the disposition of personal property. The holding depended not on what political entity issued the bond, but rather on the facts that: (1) a savings bond is a form of personal property; (2) redemption of a bond is a disposition of property; and (3) accrued interest paid upon redemption is profit realized from the disposition of personal property. Accordingly, whether the *Osborn* holding applies to a bond issued by a political entity other than the United States depends on how closely the terms of the bond in question approximate the terms of a Series EE U.S. Savings bond. [FN#6]

22. Like U.S. Savings Bonds, bonds issued by states and other political entities are forms of "public securities," in which a "governmental entity promises to pay the bondholders a specified amount of interest for a specified length of time, and to repay the loan on the expiration date." 64 Am. Jur. 2d Public Securities and Obligations § 2 (2008); Black's Law Dictionary 121 (6th ed. 1991). As noted above, Series EE U.S. Savings Bonds pay interest only at redemption, 31 C.F.R. § 353.30, and Series HH U.S. Savings Bonds pay interest semiannually without redemption, 31 C.F.R. § 353.31(a).

Municipal bonds generally pay interest semiannually. U.S. Securities and Exchange Commission, Municipal Bond Fact Sheet, <http://www.sec.gov/answers/bondmun.htm>. For the same reason we conclude that Osborn does not apply to Series HH U.S. Savings Bonds, Osborn would not apply to bonds issued by another political entity for which interest is paid at specified intervals and for which only the principal amount is returned to the bondholder at maturity. Such interest would be counted as income for purposes of old-law pension, section 306 pension, improved pension, and parents' DIC. If, however, accrued interest were payable only upon redemption of a municipal bond, then the reasoning of Osborn would apply, and the exclusion for profit realized from the disposition of real or personal property would be applicable.

FN 1 - Improved pension refers to the disability and death pension programs that became effective January 1, 1979, established by the Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. No. 95-588, 92 Stat. 2497. 38 C.F.R. § 3.1(w).

FN 2 -Parent's DIC is a needs-based benefit paid to the parents of an eligible veteran who dies from a service-connected or compensable disability. 38 U.S.C. §§ 1310; 1315.

FN 3 -Section 306 pension refers to "disability and death pension programs in effect on December 31, 1978 which arose out of Pub. L. No. 86-211, 73 Stat. 432." 38 C.F.R. § 3.1(u).

FN 4 - Old-law pension refers to the "disability and death pension programs that were in effect on June 30, 1960," eligibility for which is protected under section 9(b) of the Veterans' Pension Act of 1959, Pub. L. No. 86-211, § 9(b), 73 Stat. 432, 436. 38 C.F.R. § 3.1(v).

FN 5- When a savings bond received as a gift is redeemed, the exclusion in 38 U.S.C. § 1503(a)(6) will apply to the accrued interest received notwithstanding the fact that the savings bond was received as a gift.

FN 6- The term "[m]unicipal bond" is commonly defined as a "debt obligation of a state or local government entity." Dep't of Revenue of Ky. v. Davis, 128 S. Ct. 1801, 1805 n.2 (2008) (quoting J. Downes & J. Goodman, Dictionary of Finance and Investment Terms 439 (7th ed. 2006)).

1.