HSC OP: 70.45, **Tax Deferred Account Program**

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to define policies and procedures which are applicable to the Tax Deferred Account Program of Texas Tech University Health Sciences Center.

**REVIEW:** This OP will be reviewed by February 1 of each even-numbered year (ENY) by the Assistant Vice President of Human Resources, with recommendations for revisions forwarded to the Executive Vice President for Finance & Administration by February 15.

**POLICY/PROCEDURE:**

1. **General Plan Description.** The Tax Deferred Account (TDA) Program is a 403(b) plan under the Internal Revenue Code and is subject to federal regulation, regulation by the Coordinating Board of the State of Texas, and by Texas Tech. Traditional and Roth accounts are available. The TDA program is a government plan and is not covered by the Employee Retirement Income Security Act of 1974 (ERISA).

   Traditional TDA - the employee’s contributions will be deducted from his/her pay before federal income tax is calculated, so the employee does not pay current income tax on the contribution or on the investment earnings.

   Roth TDA – the employee’s contributions will be deducted from his/her pay after federal income tax is calculated, so the employee pays current income tax on the contributions. The employee does not pay income tax on the investment earnings now or in the future.

   A 403(b) plan, also known as a tax-sheltered annuity (TSA) plan, is a retirement plan for certain employees of public schools and employees of certain tax-exempt organizations.

   Individual accounts in a 403(b) plan can be one of the following types:
   - An annuity contract, which is a contract provided through an insurance company
   - A custodial account, which is an account invested in mutual funds

   Under the TDA Program, employees enter into an agreement with Texas Tech (Attachment A) to reduce gross salary up to specified limits, and to request that Texas Tech apply the proceeds of such reduction to the purchase of a 403(b) fixed annuity, variable annuity or custodial mutual fund account from companies approved by Texas Tech. Contributions made under the TDA Program which are within the prescribed limits, are not subject to income tax until received by the employee unless they are designated Roth contributions. The employee owns and controls all rights to the benefits of the plan selected. The investment values of the plan will accumulate income tax-free until retirement, death, disability, or until such other time as the employee elects to receive the benefit payments, subject to provisions of the IRS Code.

   The Tax Deferred Account Program may be combined with participation in the Teacher Retirement System, the Optional Retirement Program, and/or the TexaSaver plan up to the limits prescribed by law.

   No contract issued under the Tax Deferred Account Program may provide a life insurance feature.

   Participation in the Tax Deferred Account Program is voluntary.

   It is the responsibility of the employee to select and monitor companies and investments. Texas Tech has no fiduciary responsibility for the market value of the investments or for the financial stability of the company.
2. **Eligibility.** All employees, except students performing services described in IRC 3121(b)(10), are eligible to participate in the Tax Deferred Account Program.

3. **Contribution Limits.**
   a. The maximum amount which an employee may contribute to the Tax Deferred Account Program is the lesser of:
      
      (1) 100% of includable income, or
      (2) The IRS regulated limit for the current calendar year.

      This limit is determined annually by federal legislative action.
   b. In addition, participants who are age 50 or older are allowed to make additional catch-up contributions. This limit is determined annually by federal legislative action.
   c. Employees with at least 15 years of service and a history of low contributions may make additional contributions of up to $3,000 per year subject to a $15,000 maximum on aggregate catch-up contributions.
   d. The combination of ORP contributions and TSA contributions may not exceed 100% of compensation or the IRS Code Section 415(c)(1)(a) deferral limits.
   e. A representative of the Human Resources Office is available to assist employees in determining their maximum allowable contribution. The Human Resources Office also makes available a calculation formula which is believed to be within the sheltering limits of the Internal Revenue Code maximum allowable contribution.
   f. Employees are advised that if the Internal Revenue Service rules adversely against the TDA Program or the sheltering of an individual employee, only the employee assumes liability for the payment for all taxes due. If federal income tax laws, state laws, and/or court rulings result in adverse rulings against the taxability of any of these contributions and/or their earnings, the employee will be solely liable for the payment of all taxes due. **Texas Tech assumes no responsibility for the individual's tax liability with respect to the Tax Deferred Account Program.**

4. **Election to Participate and Effective Date of Participation.**
   a. Employees may elect to participate in the Tax Deferred Account Program effective the first day of any month by enrolling through the Texas Tech Retirement Manager system at [https://www.myretirementmanager.com/?ttu](https://www.myretirementmanager.com/?ttu) It is the responsibility of each employee to have all company required forms completed and submitted to the company. Employees may submit a TDA Salary Reduction Agreement form to Human Resources as an alternative to enrolling through Retirement Manager.
   b. An employee’s TDA Program contributions are deducted from the employee’s regular pay on either a nine (9) month basis or a twelve (12) month basis, depending on the employee’s basic appointment period. For example, faculty on nine (9) month contracts who do not have their salary spread over twelve (12) months, as well as other eligible employees whose basic appointment period is less than twelve (12) months, will have their contributions deducted from their regular pay over a nine (9) month period. Faculty on nine (9) month contracts who do have their salary spread over twelve (12) months, as well as other eligible employees whose basic appointment period is equal to twelve (12) months, will have their contributions deducted from their regular pay over a twelve (12) month period. TDA Program contributions cannot be taken from summer school or other temporary salary payments.
   c. Employees must make their own determination as to whether or not to participate in TSA and must select the company and annuity contract or mutual fund which best fits their individual retirement objectives. Texas Tech assumes no liability or responsibility for the federal income tax consequences of participating in TSA or the terms or provisions of any annuity contract or mutual fund option selected under TSA.
5. **Income Tax Deferral of Contributions.**
   
a. Multiple 403(b) Salary Reduction Agreements may be executed during a calendar year. For the purposes of this subsection, a change in an employee’s salary reduction agreement means a change in the amount that an employee authorizes the institution to withhold from salary and remit to a tax deferred account program company. Texas Tech will continue the Salary Reduction Agreement from one tax year to the next tax year unless a change is received.
   
b. The tax year for Texas Tech is defined as the period reported on each employee's W-2 form for tax purposes. Since December earnings for monthly salaried employees are reported in the next tax year, the tax year for monthly salaried employees is December of one calendar year through November of the next calendar year.

6. **Approval of Companies and Representatives.**
   
a. Only companies approved by Texas Tech may provide Tax Deferred Account products to Texas Tech employees.
   
b. Only representatives authorized in writing by an officer of the company and approved by Texas Tech may conduct business for employees of Texas Tech. The company is responsible for the actions of its representatives and for ensuring that they are informed of and abide by all Texas Tech rules and regulations, federal laws, and Coordinating Board rules.
   
c. A list of currently approved companies and representatives may be obtained from the Human Resources Office, the Human Resources website at [www.ttuhsc.edu/hr](http://www.ttuhsc.edu/hr), or from Retirement Manager at [https://www.myretirementmanager.ttu](https://www.myretirementmanager.ttu).
   
d. Employees are requested to notify the Human Resources Office of any violations of Texas Tech rules and regulations by companies or representatives.

7. **Solicitation Regulations.**
   
a. Only authorized representatives from approved companies are permitted to conduct business with eligible employees.
   
b. Representatives of approved companies are not authorized to initiate contact with Texas Tech employees. Employees interested in the TDA Program should contact one of the approved representatives of the company of their choice to obtain information about an annuity and to secure forms to apply for the program of their choice.
   
c. Company representatives are not to initiate contact with Texas Tech employees under the guise of marketing a non TDA product and then make a TDA sales presentation to an employee.
   
d. Authorized representatives are permitted to make sales presentations to eligible employees on Texas Tech premises only at the employee's request and may not solicit business with any employee unless contacted first by the employee.
   
e. Representatives of companies are permitted on Texas Tech facilities as guests of Texas Tech and are expected to comply with all applicable rules and regulations.
   
f. No campus mailings or telephone campaigns are permitted to campus offices.
   
g. The providing of gifts or monetary rewards in exchange for information on newly hired employees is strictly prohibited.
   
h. All company representatives are expected to abide by the parking regulations in effect at the various campus locations.
i. Approved companies are responsible for supplying administrative service to Texas Tech.

j. Company forms are the responsibility of the company and the employee. A Texas Tech Salary Reduction Agreement must be submitted to the Human Resources Office. Any Salary Reduction Agreement submitted which is incorrect or incomplete will be returned to the employee. It is the responsibility of the employee to resubmit a corrected Salary Reduction Agreement within the eligibility period. The final Salary Reduction Agreement submitted will determine the effective date of the participation.

k. Company representatives must be familiar with the benefits provided under the Teacher Retirement System and with applicable Texas laws, Coordinating Board rules and regulations, and Internal Revenue Service Codes.

l. Texas Tech reserves the right to limit or revoke the solicitation privileges of any representative or company at its discretion.

8. Transmittal of Funds to Companies.

a. All Tax Deferred Account contributions will be transmitted to companies through the Texas Tech Retirement Manager system following each payroll processing.

b. It is the company's responsibility to promptly credit each employee's account and to distribute the funds among the various product options as may have been selected by the employee.

c. Accountability for funds transmitted to companies in accordance with the above procedure becomes the responsibility of the company.

9. Change of Companies and In-Service Exchanges.

a. Employees may change Tax Deferred Account Program companies without transferring deposits with the prior company. However, a nontaxable transfer, In-Service Exchange, is permitted between Texas Tech approved companies. To transfer prior contributions to the new company, the employee must access the Texas Tech Retirement Manager system at https://www.myretirementmanager.com/?ttu and print an In-service Exchange certificate to accompany required company forms.

b. IRS Ruling 90-24 authorizes partial and full transfers to and from 403(b)(7) mutual fund accounts and/or 403(b)(1) annuity accounts and states that such transfers are nontaxable if the following conditions are met:

(1) A direct transfer from the "old" company to the "new" company is made; and

(2) The transferred funds continue to be subject to the same or more stringent early distribution restrictions.

c. The following procedures have been adopted by Texas Tech and apply to partial transfers (In-service Exchanges), mutual funds to annuity transfers, or vice versa, and full transfers (In-service Exchanges):

(1) The receiving company completes its forms which indicate the contract number, address to which funds should be sent, and other information appropriate for the company.

(2) The employee accesses their account in the Retirement Manager system and prints an In-service Exchange Certificate.

(3) The employee submits all forms to the surrendering company.

   (a) In-service Exchanges from any TDA account, current or prior, must be to a Texas Tech approved company.
(b) Exchanges of the full balance from the company to which the employee is currently contributing can only be made if the employee changes their current deduction so that contributions are directed to the receiving company or to another approved company.

(4) Upon receipt of the proper company transfer forms and In-service Exchange Certificate, the surrendering company will transfer the funds directly to the receiving company within 10 business days of the legal availability of funds.

If a full transfer is completed by the surrendering company (i.e., the total funds are transferred to the receiving company), any additional funds subsequently received by the surrendering company will be subsequently surrendered directly to the receiving company.

This situation may occur if the full transfer request is processed prior to receipt or posting of the final deposit.

10. Cancellation. Employees may stop Tax Deferred Account participation effective with the first day of any month by accessing their account in the Texas Tech Retirement Manager system at https://www.myretirementmanager.com/?ttu by the monthly cut-off date. A Tax Deferred Account form may also be submitted to the Human Resources Office.


a. The total value of a Tax Deferred Account on December 31, 1988, is available for withdrawal without restrictions; however, such accounts are subject to income tax and may be subject to an additional penalty tax.

b. Withdrawal of amounts attributable to contributions made after December 31, 1988, and to earnings credited after December 31, 1988 on all contributions may not be made prior to age 59 ½, unless a qualifying event occurs. Qualifying events are:

(1) Separation from service;
(2) Disability; and
(3) Hardship.

"Separation from Service" is defined as removal from the payroll of Texas Tech for one full calendar month without any expectation of returning to employment with any Texas public institution of higher education.

"Disability" is defined in Internal Revenue Code section 72(m)(7) as being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.

"Hardship" withdrawals may consist of contributions only; earnings may not be withdrawn. Hardship withdrawals are allowed only if there are no other resources reasonably available to meet the need and only for:

(1) Medical expenses incurred by the employee, spouse or dependents;
(2) Purchase of a principal residence of the employee;
(3) Payment of tuition for the next semester or quarter of post-secondary education for the participant, spouse, or dependents;
(4) Payments to prevent eviction from or foreclosure on the principal residence of the participant;
(5) Funeral expenses for the employee, spouse, dependents, or beneficiary of the employee; or
c. Contributions and earnings are taxable in the year withdrawn and may be subject to a tax penalty for early withdrawal.

d. A 20 percent additional tax is imposed on withdrawals made before age 59 ½ regardless of when the contributions to which the accumulations are attributable. The 20 percent additional tax does not apply to distributions made prior to age 59 ½ if the distribution is:

1. Made after the employee separates from employment and is part of a scheduled series of substantially equal periodic payments for the life expectancy of the employee or the joint lives or life expectancies of the employee and a beneficiary;
2. Made to an employee because of early retirement under a retirement plan of Texas Tech after attainment of age 55;
3. Made to an employee who has separated from service and used to pay medical expenses to the extent that they are tax deductible under the Internal Revenue Code;
4. A result of a disability retirement;
5. Made to a beneficiary of the employee’s estate after death; or
6. Subject to a special exception that applies to payments to an alternate payee, not to the employee, according to a qualified domestic relations order.

e. Tax Deferred Account companies are prohibited from releasing funds for withdrawal without written verification of employee’s termination from an authorized Texas Tech representative.

f. It is the company's responsibility to process all withdrawals of contributions in compliance with federal regulations, to make required tax withholdings, and to provide employees with any required notices describing the taxation of distributions, rollover rights, and withholding rules, including the 20 percent withholding on the taxable portion of a distribution made to the participant.

12. Loans.

Certain companies will process a loan to the employee from their Tax Deferred Account. An employee may execute a loan which cannot exceed the lesser of:

1. $50,000; or
2. 50 percent of the present value of the accrued benefit under the plan.

All outstanding loan balances are considered when a new loan is initiated.

a. The employee must access their account in Retirement Manager and print a Loan Certificate.
b. Companies may also require the submission of company forms for loan processing
c. Interest rates and pay back schedules are determined by the company.

13. Required Distributions.

a. Distribution of an employee’s account balance must commence no later than April 1 of
the calendar year following the year in which age 70 ½ is attained regardless of the actual retirement date. One exception is if the employee turned age 70 ½ after December 31, 1987 and is still employed at a public institution of higher education. Then, distributions must begin no later than April 1 following the year in which employment with that institution is terminated. Distributions that do not begin by this deadline will be subject to an additional tax equal to 50 percent of the amount of the minimum amount that should have been distributed.

b. If the entire account balance is not totally distributed to the participant pursuant to the above provisions, the account balance must be distributed over one of the following periods:

(1) The life of the employee,

(2) The lives of the employee and a designated beneficiary,

(3) A period not extending beyond the life expectancy of the employee, or

(4) A period not extending beyond the life expectancy of the employee and a designated beneficiary.

14. **Program Subject to Change.** The Employee Retirement Income Security Act of 1974 (ERISA), the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Federal Deficit Reduction Act of 1984 (DEFRA), the Retirement Equity Act of 1984 (REACT), the Tax Reform Act of 1986 (TRA), Unemployment Compensation Amendments Act of 1992, the Small Business Protection Act of 1996 and the 1997 Tax Relief Act¹, all imposed new and/or revised federal regulations on employee benefit plans. Future laws may change the provisions, tax status, and/or benefits available from individual Tax Deferred Account Program contracts. The Texas Tech Board of Regents and/or administration also reserve the right to make changes in Texas Tech regulations governing the Tax Deferred Account Program.

15. **Forms/Processes.** All forms and Retirement Manager access information may be obtained from the Human Resources Office or the HR website at [www.ttuhscc.edu/hr](http://www.ttuhscc.edu/hr). Company forms are the responsibility of the company and/or its representatives.

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<tr>
<th>ACTION</th>
<th>PROCESS/FORM</th>
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<tbody>
<tr>
<td>Enroll</td>
<td>Access Retirement Manager <a href="https://www.myretirementmanager.com/?ttu">https://www.myretirementmanager.com/?ttu</a> or TDA Salary Reduction Agreement (submit to Human Resources) Company Application (submit to company)</td>
</tr>
<tr>
<td>Increase Amount</td>
<td>Access Retirement Manager <a href="https://www.myretirementmanager.com/?ttu">https://www.myretirementmanager.com/?ttu</a> or TDA Salary Reduction Agreement (submit to Human Resources)</td>
</tr>
<tr>
<td>Decrease Amount</td>
<td>Access Retirement Manager <a href="https://www.myretirementmanager.com/?ttu">https://www.myretirementmanager.com/?ttu</a> or TDA Salary Reduction Agreement (submit to Human Resources)</td>
</tr>
<tr>
<td>Change Companies</td>
<td>Access Retirement Manager <a href="https://www.myretirementmanager.com/?ttu">https://www.myretirementmanager.com/?ttu</a> or TDA Salary Reduction Agreement (submit to Human Resources)</td>
</tr>
<tr>
<td>In-service Exchange (while employed)</td>
<td>In-Service Exchange Certificate from Retirement Manager <a href="https://www.myretirementmanager.com/?ttu">https://www.myretirementmanager.com/?ttu</a> Company forms (submitted to company)</td>
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¹The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)
16. **TDA Company Liability.** Each company must certify that as a company it will be primarily responsible for the defense of any suit against Texas Tech resulting from the actions of the company or from the actions of the design of the company's program. Such responsibility includes any awards, court costs, attorney's fees, damages or other expenses required as a result of the suit and/or suits against Texas Tech. Such suits may include, but are not limited to, tax issues, sex or age discrimination issues resulting from the design of the company's program, the misplacement of funds sent to the company by Texas Tech but not properly credited, misinformation or misrepresentation by the company or any representative of the company, or any other issue arising from the company's program.

17. **Right to Change Policy.** Texas Tech reserves the right to interpret, change, modify, amend, or rescind this policy in whole or in part at any time without the consent of employees.