



Illinois Department of Financial and Professional Regulation
Division of Insurance

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Governor

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Secretary

December 31, 2008

MICHAEL T. McRAITH
Director
Division of Insurance

TO: Article 3 Police Pension Fund Boards and Article 4 Firefighter Pension Fund Boards
FROM: Scott J. Brandt, Acting Chief Administrator, IDFPD-DOI-Public Pension Division
RE: IRS Determination Letter Filings

Dear Article 3 and Article 4 Pension Fund Trustees:

The Illinois Department of Financial and Professional Regulation-Division of Insurance-Public Pension Division is in support of an effort to obtain determination letters from the IRS, the Internal Revenue Service, for the purpose of obtaining qualified status for the municipal police and firefighter pension funds established under the Illinois Pension Code. The Public Pension Division is working in cooperation with a coalition of entities representing Article 3 police and Article 4 firefighter pension funds on this project.

The enclosed letter from the coalition further explains this project and requests that each Article 3 and Article 4 pension fund make a financial contribution to this project. The Public Pension Division has been asked for an advisory opinion pursuant to Section 1A-106 of the Pension Code (40 ILCS 5/1A-106) regarding the authority of the police and firefighter pension funds to make a contribution toward this project. It is the Public Pension Division's opinion that such a contribution to the specified project of obtaining a determination letter from the IRS would be considered a necessary expense of the pension fund in accordance with the applicable section of the Illinois Pension Code, 40 ILCS 5/3-138, or 40 ILCS 5/4-127.

For additional information regarding this project you may contact the Public Pension Division at (217)782-7542, or any of the coalition members listed on the enclosed letter from the Coalition for Qualified Status.

Sincerely,

Scott J. Brandt
Acting Chief Administrator
Public Pension Division
Division of Insurance
IL Department of Financial and Professional Regulation

COALITION FOR QUALIFIED PLAN STATUS

for Illinois Article 3 Police Pension Funds & Article 4 Firefighter Pension Funds

AFFI * IGFOA * ILFOP * IMTA * IPFA * IPPFA * MAP

The Internal Revenue Service ("IRS") has raised concerns about whether Illinois Article 3 and Article 4 funds are in compliance with federal tax law and has strongly encouraged the funds to obtain qualified plan determination letters. It is recognition as a qualified plan that allows pension plans to maintain pretax status. To be recognized as a qualified plan the plan document (the Illinois Statutes and Division of Insurance Administrative Code) must incorporate federal tax law changes as they are adopted. The plan document for Illinois Article 3 and Article 4 funds has not kept pace with changes in federal tax law. As a result, a coalition of interested organizations has formed (including AFFI, IGFOA, ILFOP, IMTA, IPFA, IPPFA and MAP) to work with Scott Brandt of the Illinois Department of Financial and Professional Regulation, Division of Insurance, Ice Miller LLP (a law firm that represents a number of governmental pension plans) and Lauterbach & Amen, LLP to address compliance issues for the plans as a group.

Overview of Determination Letter Project

The first step will be to obtain determination letters for the plans. (A determination letter is issued by the IRS, and is the IRS's opinion that the plan document complies with federal tax law.) Ice Miller is proposing to the IRS that we request one letter for all of the Article 3 plans and one letter for all of the Article 4 plans. Because each group operates under one set of statutes, and based upon Ice Miller's preliminary meetings with the IRS we are confident the IRS will approve this approach. This will present a consistent, detailed submission to the IRS and will reduce the filing fees required (one for each group of plans rather than one for each plan).

Ice Miller is preparing the applications for the determination letters. If any additional compliance language is needed in the plans, the Coalition will draft and sponsor the proposed legislation changes required to ensure consistency. The Division of Insurance will serve as the entity requesting the determination letters for all of the plans. This approach will require very little effort on the part of each individual plan. When the IRS issues determination letters, the Division of Insurance will hold the determination letters and provide copies to all Article 3 and Article 4 plans.

We believe that this approach will serve your plan very well. Each plan will be able to rely upon the determination letter obtained for the relevant group of plans, with a minimum of cost and effort.

Contribution to Fund Project

Each plan is being asked to contribute \$400 to this effort in order to cover the filings fees and legal and accounting expenses involved. Please note that each plan would have to pay a \$1,000 filing fee in order to receive an individual determination letter plus each plan would have to pay additional fees and expenses for professional assistance in applying for an individual determination letter. Therefore, this approach is very cost-effective. In addition, it includes an annual review and update of the plans for each of the next five years to be sure that the plans remain in compliance. The funds will be held in a designated account administered by Lauterbach & Amen, LLP, to be used exclusively for current and ongoing IRS compliance issues. Approval by a majority of the members of the Coalition will be required before any funds are disbursed. Lauterbach and Amen, LLP will provide a full accounting of all of the pension funds that have contributed as well as a detailed listing of all funds disbursed and remaining. [This information can be obtained by contacting their office via phone (630-393-1483) or via the internet (www.lauterbachamen.com).] Any excess funds available in the account after obtaining the initial determination letters will be applied to annual updates to maintain compliance and the renewal of the determination letters in five years.

We encourage you to send your check in as soon as possible. We must have significant participation in order to ensure the success of this venture. The IRS has already asked about our plans and our compliance efforts. We think it is very important to be proactive and address these issues ourselves in order to avoid further IRS action. Please send your contribution as indicated below:

Amount of Check: \$400
Payable to: Coalition for Qualified Plan Status
Send to: Coalition for Qualified Plan Status
P.O. Box 1486
Warrenville, IL 60555-1486

Thank you for your prompt response. We must fund and complete this project quickly, as the deadline for requesting a determination letter for these plans is January 31, 2009. If you have questions or concerns please contact any of the Coalition members.

COALITION FOR QUALIFIED PLAN STATUS

AFFI (Associated Firefighters of Illinois)
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