

May 24, 2006

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Via Electronic Mail

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RE: Federal Tax Status of PERS Tier 4 and TRS Tier 3

Dear Mike:

BACKGROUND

You have asked us to confirm our understanding of the federal tax status of the newly created plans in Alaska: PERS Tier 4 and TRS Tier 3 (the "Plans").

We understand that the Department of Revenue is preparing to sign agreements with vendors that represent the Plans are qualified plans within the meaning of Sections 401(a) and 414(d) of the Internal Revenue Code of 1986, as amended ("Code"). These agreements (in large part) go to the investment structure being contemplated. We also understand that the Department of Administration is establishing accounts, recordkeeping mechanisms, tax reporting structures, and employee communication and education materials that are based on the same premise.

POSITION/EXECUTIVE SUMMARY

This letter details what we believe is a reasonable position for both Departments. We believe it is reasonable for the Departments to proceed on the basis that the Plans are qualified under Code Sections 401(a) and 414(d).

SUPPORT FOR POSITION

The support for this position arises from the following sources:

State Law. As the Department of Law has noted, the Alaska legislature intended this to be the Plans' status, by a specific statement. See Alaska Statutes §§ 14.25.320(c) and 39.35.710(c), which sections state that the Plans are intended to qualify under U.S.C. 401(a) and 414(d) as qualified plans. These sections also provide for participation in the Plans by employees of the state and other governmental employers.

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Federal Law. Federal law does contain an extensive set of document and operational requirements for a qualified governmental plan. We have addressed many of those requirements in detail with the Department of Administration. We will not repeat those in this letter. Suffice it to say that there is essentially no way to achieve the legislative directions as to benefits, investments, and taxation unless the Plans are qualified governmental plans under the Code.

We have thus recommended a series of steps to conform the Plans' documents to the Code. We realize both Departments are diligently working on those recommendations. We have also recommended that the Plans' operations conform to the Code. That conformance is currently being developed.

In the meantime, the Departments must administer and invest the Plans as qualified governmental plans. The Plans both have determination letter applications pending with the Internal Revenue Service. This is a critical point, since those filings protect Alaska's right to retroactively amend any nonconforming Plan terms. That protection extends for the Plans' "remedial amendment period," which run until January 31, 2008. Thus, we believe the Plans are entitled to operate and hold themselves out as qualified governmental plans during this period.

We hope this is helpful to both Departments. Please let us know if there are any questions.

Very truly yours,

ICE MILLER LLP



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