

**IRS TO RULE FAVORABLY RELATED TO 3% CONTRIBUTIONS
TO THE MPSERS HEALTH CARE TRUST**

This provides an update from the State of Michigan (through the Office of Retirement Services, “ORS”) related to the current status of the federal tax treatment of the 3% contributions to the MPSERS Health Care Trust, and also provides the opportunity for each Reporting Unit to participate in and be covered by a Closing Agreement with the Internal Revenue Service (IRS) that favorably resolves the tax treatment of these contributions.

As you may know, ORS has for many years been attempting to obtain a system-wide answer from the IRS on the proper tax treatment of employer and employee contributions made to the MPSERS Health Care Trust.

Since at least 2016, ORS confirmed that multiple Reporting Units received consistent favorable guidance from the IRS as to refund claims that had been submitted relative to federal income and FICA taxes that had been reported, deducted, and remitted under 2012 PA 300. ORS, along with the supporting efforts of Dewitt Public Schools, the Michigan School Business Officials and other constituencies, has been working with the IRS to secure a ruling of favorable tax treatment.

ORS is pleased to report that the IRS has recently indicated that they will conclude in a Closing Agreement—relative to the specific claims at issue—that the retiree healthcare contributions are exempt from federal income and FICA taxes. A draft copy of the relevant rulings is attached.

In order to finalize this Closing Agreement, ORS is facilitating the process that will allow each Reporting Unit that wishes to be covered by the Closing Agreement to be a part of that final Agreement. To do so, each Reporting Unit will need to execute a Form 2848 (Power of Attorney) and pay a reduced user fee of \$3,000. ORS is coordinating with MPSERS to make payments on behalf of each Reporting Unit as an administrative expense for each Reporting Unit that elects to be part of the Closing Agreement.

The partially drafted Form 2848 is attached and needs to be completed to include the Reporting Unit name, address, phone, EIN and signature of authorized official. It can then be scanned and sent to ORS-Contract-Review@michigan.gov with a subject line of Form 2848. This will allow the Closing Agreement to be signed on behalf of and then apply to that Reporting Unit. If you wish to be part of the Closing Agreement, please return the Form 2848 as soon as possible, but no later than February 5, 2021.

Reporting Units are not required to be part of the Closing Agreement. Reporting Units are encouraged to consult with their own legal, tax and accounting professionals to form their own conclusions based on their own facts and circumstances. Neither ORS nor the Dykema Law Firm are providing any legal counsel to any Reporting Unit regarding whether to be part of the Closing Agreement or any other matters related to the proper tax treatment of employer and employee contributions made to the MPSERS Health Care Trust.

If you have any questions, please contact ORS_Web_Reporting@michigan.gov.

