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Washington, DC 20224

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Date:
September 11, 2006

Legend:

State M =
Employer=
EIN=
Plan=

Dear :

This is in response to a letter of January 31, 2006, and subsequent correspondence requesting a ruling on the federal income tax consequences of Employer's Deferred Compensation Plan which Employer intends to be an eligible deferred compensation plan under section 457 of the Internal Revenue Code.

Employer, a political subdivision of State M, originally established the Plan effective as of April 5, 1979, to strengthen its human resources and its ability to attract and retain competent individuals. The Plan previously requested and received a favorable ruling dated December 9, 1993; the Plan was amended and restated, effective as of January 1, 2005, for compliance with recent changes in the law including, but not limited to, the Small Business Job Protection Act of 1986, Taxpayer Relief Act of 1997, and Economic Growth and Tax Relief Reconciliation Act of 2001.

Full-time employees and certain part-time employees are eligible to participate in the Plan. The Plan excludes from participation part-time noneligible employees, leased employees, individuals whose employment is governed by the terms of a collective bargaining agreement between the individual's representatives and Employer under which such benefits were the subject of good faith bargaining, nonresident aliens with no United States source income and individuals classified by Employer as independent contractors.

Participants may elect to defer to the Plan, on a pre-tax basis, compensation that they would have otherwise received for services to Employer. An election to defer compensation must be made prior to the period for which the compensation is earned. The Plan provides for a maximum amount that may be deferred by a participant in any taxable year. This maximum amount includes the catchup provisions of sections 457(b)(3) and 457(e)(18) of the Code. Participant elective deferrals are the only contributions allowed to be made to the Plan.

Elective deferral contributions and other transfers to the Plan are credited to a separate account established for each participant. Participants, subject to procedures established and applied in a uniform, nondiscriminatory manner, are permitted to self-direct the investment of their account balance. In the absence of a participant self-direction election, accounts are invested in an "age-based" lifestyle fund selected in the sole absolute discretion of the Board of the Plan on behalf of Employer.

The Plan provides that upon separation from employment with Employer, participants are entitled to receive a distribution of their account balances. Participants are permitted to elect to receive their distribution as follows: (a) lump sum payment, (b) installment payments, or (c) any other option designated by the Plan administrator. The Plan contains language to ensure compliance with the applicable provisions of Code section 401(a)(9). The Plan permits participants to roll over their distribution to an individual retirement account, individual retirement annuity, 401(a) trust, 403(a) Plan, 403(b) annuity or 457(e)(1)(A) eligible plan.

Participants are permitted to request in-service withdrawals of their account balance if they incur an unforeseeable emergency. The Plan defines an unforeseeable emergency as: (a) an illness or accident of the participant, the participant's spouse, or the participant's dependent (as defined by Section 152(a) of the Code), (b) the loss of the participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by insurance), (c) the need to pay for the funeral expenses of the participant's spouse or dependents (as defined by section 152(a) of the Code), or (d) any other similar extraordinary and unforeseeable circumstance arising as a result of events beyond the control of the participant.

An unforeseeable emergency does not include a distribution to the extent that such distributed amount may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of a participant's assets (to the extent that liquidation of such assets would not itself cause severe financial hardship) or by the cessation of deferrals under the Plan. The Plan also limits emergency distributions to the amount reasonably necessary to satisfy the emergency need, including any amounts necessary to pay for any federal, state or local income taxes or penalties reasonably anticipated from the distribution.

The Plan permits participants to request a loan from their account balance. Loans to a participant may not exceed the lesser of (a) \$50,000, reduced by the greater of (i) the outstanding balance of any loan from the Plan on the date the loan is made; or (ii) the highest outstanding balance on loans from the plan to participant during the one year period ending on the day before the date the loan was approved, not taking into account any payments made during such one year period or one half of the value of the participant's account balance. Participants are allowed to have up to two loans outstanding at any time. For purposes of the above limits, Plan loans are aggregated with any outstanding loans of any qualified retirement plan sponsored by the Employer.

All contributions and transfers to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held and invested in the Plan's trust. The trust was established by the employer and constitutes a valid trust under the laws of State M. The trust's provisions ensure that all investment amounts, property and other assets are held for the exclusive benefit of the participants and their beneficiaries and to defray any reasonable Plan expenses, and prohibit, prior to the satisfaction of all liabilities with respect to the participants and the beneficiaries, for any part of the assets (and income thereon) to be used for, or diverted to, purposes other than the exclusive benefit of the participants and their beneficiaries.

The account balance of each participant or beneficiary under the Plan is not subject to claims of the participant's or beneficiary's creditors, and each participant or beneficiary does not have the right to sell, assign, transfer, or otherwise convey the rights to receive any payments under the plan or interest under the Plan.

Section 457 of the Code provides rules for the deferral of compensation by an individual participating in an eligible deferred compensation plan as defined in section 457(b). Section 457(a)(1)(A) of the Code provides that in the case of a participant in an eligible governmental deferred compensation plan, any amount of compensation deferred under the plan and any income attributable to the amounts so deferred shall be includible in gross income only for the taxable year in which such compensation or other income is paid to the participant or beneficiary.

Section 457(b)(5) of the Code prescribes that an eligible deferred compensation plan must meet the distribution requirements of section 457 (d).

Section 457(d)(1)(A) of the Code provides that for a section 457 plan to be an eligible plan, the plan must have distribution requirements providing that under the plan amounts will not be made available to participants or beneficiaries earlier than: (i) the calendar year in which the participant attains age 70 ½, (ii) when the participant has a severance from employment with the employer, or (iii) when the participant is faced with an unforeseeable emergency as determined under Treasury regulations.

Section 457 (g) of the Code provides that a plan maintained by an eligible governmental employer shall not be treated as an eligible deferred compensation plan unless all assets and rights purchased with such deferred compensation amounts and all income attributable to such amounts, property, or rights of the plan are held in trust for the exclusive benefit of participants and their beneficiaries. Section 457(g)(2)(A) provides that a trust described in section 457(g)(1) shall be treated as an organization exempt from tax under section 501(a). Section 457(g)(3) provides that for purposes of section 457(g), custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).

Based upon the provisions of the Plan and the representations summarized above, we conclude as follows:

1. The Plan is an eligible deferred compensation plan as described in section 457(b) of the Internal Revenue Code of 1986, as amended by EGTRRA, and the Treasury Regulations thereunder.
2. Amounts of compensation deferred in accordance with the Plan, including any income attributable to the deferred compensation, will be includible under section 457(a)(1)(A) in the recipient's gross income for the taxable year or years in which amounts are paid to a participant or beneficiary in accordance with the terms of the Plan.

Except as specifically ruled upon above, no opinion is expressed as to the federal tax consequences of the Plan under any other provision of the Code. If the Plan is significantly modified, this ruling will not necessarily remain applicable.

This ruling is directed only to Employer and applies only to the plan submitted January 31, 2006, as revised by amendments dated August 29, 2006. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to your power of attorney submitted, a copy of this letter is being sent to your authorized representative.

Sincerely,

Robert D. Patchell
Branch Chief, Qualified Plans Branch 2 (Employee
Benefits)
(Tax Exempt & Government Entities)