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Person To Contact:
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Telephone Number:

Refer Reply To:
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PLR-102334-26

Date:
August 5, 2026

LEGEND

Plan =
State S =
County C =

Dear :

This responds to your letter of December 19, 2025, supplemented on July 23, 2026, requesting a ruling concerning the Plan, which County C intends to be an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code (the Code).

The following facts and representations have been submitted under penalties of perjury in support of your request:

County C is a political subdivision of State S and an eligible employer within the meaning of section 457(e)(1)(A). The Plan is a nonqualified deferred compensation plan and related trust adopted by County C for the benefit of its employees and their beneficiaries.

Under the Plan, an employee may become a participant by executing a deferral agreement to defer compensation into the Plan. The deferral agreement may include a designation that all or a portion of the annual deferral consisting of salary reduction contributions elected by the participant shall be treated as Roth contributions in accordance with section 402A. The election must be made before the compensation is currently available to the employee.

The Plan provides for a maximum amount that may be deferred by a participant in any taxable year. It also provides for a catch-up contribution for amounts deferred for one or

more of the participant's last three taxable years ending before the participant attains normal retirement age under the Plan. In addition, the Plan provides for age fifty-plus catch-up contributions described in section 457(e)(18). The amounts that may be deferred under the annual maximum limitation and the catch-up provisions are within the limitations of section 457(c).

Upon separation from service, a participant may elect a form of distribution of benefits from that participant's account. Benefits under the Plan will commence no later than the later of: April 1 of the year following the calendar year in which the participant attains age 73 or April 1 of the year following the calendar year in which the participant has a separation from service. The Plan provides that the manner and time of benefit payout must meet the distribution requirements of section 401(a)(9).

Under the Plan, a participant (upon severance from employment) or beneficiary may elect to have any portion of benefits deferred under the Plan that constitutes an eligible rollover distribution described in section 402(c)(4) paid directly to another eligible retirement plan described in section 402(c)(8)(B), such as an individual retirement account (IRA), in a direct rollover, with nonspouse beneficiaries subject to certain limitations set forth in section 402(c)(11). However, a direct rollover of an eligible rollover distribution from a Roth contribution account may only be made to another designated Roth account under an applicable retirement plan described in section 402A(e)(1) or to a Roth IRA described in section 408A, and only to the extent the rollover is permitted under section 402(c).

The Plan provides that a distribution may be made upon a participant's severance from employment or the calendar year in which the participant attains age 59 ½. The Plan also provides for a distribution due to an unforeseeable emergency that is a severe financial hardship resulting from extraordinary and unforeseeable circumstances beyond the control of the participant or their beneficiary, under section 457(d)(1)(A)(iii) and § 1.457-6(c).

The Plan provides for acceptance of transfers of a participant's account balance from another eligible deferred compensation plan. The Plan provides for permissive plan-to-plan transfers of all or a portion of a participant's account to another eligible governmental plan if the participant has terminated service and, in the case of a plan-to-plan transfer, is a participant of the other eligible plan.

The Plan provides that amounts that a participant may elect to defer accumulated sick pay and accumulated vacation pay, as described in § 1.457-4(d).

The Plan provides that amounts of compensation deferred under the Plan are to be invested in a trust as described in section 457(g)(1) for the exclusive benefit of the participants and their beneficiaries. Each participant shall direct the investment of their benefit amount.

Section 457 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) 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) provides that the term "eligible deferred compensation plan" means a plan established and maintained by an eligible employer in which only individuals who perform service for the employer may be participants and which meet the deferral limitations described in section 457(c); which meets the distribution requirements described in section 457(d); which provides for deferral elections described in section 457(b)(4); and, in the case of a governmental plan, which requires the plan assets and income to be held in trust for the exclusive benefit of participants and beneficiaries as described in section 457(g).

Section 457(e)(1) provides that the term "eligible employer" means a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State, and any other organization (other than a governmental unit) exempt from income tax.

Section 457(b)(4) provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the compensation is currently available to the individual. An eligible plan may provide that if a participant enters into an agreement providing for deferral by salary reduction under the plan, the agreement will remain in effect until the participant revokes or alters the terms of the agreement.

Under section 402A(a), applicable retirement plans may include a qualified Roth contribution program. Section 402A(e)(1) provides that eligible governmental deferred compensation plans are applicable retirement plans. Section 402A(a)(1) provides that elective deferrals of compensation which are designated Roth contributions under qualified Roth contribution programs are not excluded from income in the year of deferral. Section 402A(d)(1) provides that qualified distributions from designated Roth accounts are not includible in gross income.

Section 457(b)(2) provides the basic limits on the amount of eligible annual deferrals. However, a catch-up amount described in section 457(b)(3) may be added to this amount for participants that are within three years of the normal retirement age or, for participants age 50 or older, a catch-up amount may be added as described in section 457(e)(18). A participant eligible for both catch-up provisions is entitled to use the higher limit of the two. The total annual eligible deferral amount is limited by section 457(c).

Section 1.457-4(c)(3)(v)(A) provides that a plan may define the normal retirement age for purposes of the last-three-years catch-up provision as any age that is on or after the

earlier of age 65 or the age at which participants have the right to retire and receive, under the basic defined benefit pension plan of the State or tax-exempt entity (or a money purchase pension plan in which the participant also participates if the participant is not eligible to participate in a defined benefit plan), immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age, and that is not later than age 70 ½. Alternatively, a plan may provide that a participant is allowed to designate a normal retirement age within these ages. For purposes of the last-three-years catch-up provision, an entity sponsoring more than one eligible plan may not permit a participant to have more than one normal retirement age under the eligible plans it sponsors. Section 1.457-4(c)(3)(v)(B) provides a special exception for qualified police and firefighters to retire as early as age forty for purposes of the three-year catch-up provision.

Section 1.457-5 provides that the section 457(c) eligible-deferral amount limitation is applied to all eligible plans in which a participant participates in a tax year and is determined on an aggregate basis. If a participant has annual deferrals under more than one eligible plan and the applicable catch-up amount is not the same for each such eligible plan for the taxable year, section 457(c) is applied using the catch-up amount under whichever plan has the largest catch-up amount applicable to the participant. To the extent that the combined annual deferral amount exceeds the maximum deferral limitation, the amount is treated as an excess deferral under §1.457-4(e). For purposes of determining whether there is an excess deferral resulting from a failure of a plan to apply the deferral limitations, all plans under which an individual participates by virtue of their relationship with a single employer are treated as a single plan (without regard to any differences in funding).

Section 457(d)(1)(A) provides in part that amounts distributed under an eligible governmental plan will not be made available to participants or beneficiaries earlier than (i) the calendar year in which the participant attains age 59 ½, (ii) when the participant has a severance from employment with the employer, or (iii) when the participant is faced with an unforeseeable emergency.

Section 1.457-6(c)(2) provides the requirements for an unforeseeable emergency distribution. An unforeseeable emergency must be defined in the plan as a severe financial hardship of the participant or beneficiary resulting from an illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent; loss of the participant's or beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or the beneficiary. Whether a participant or beneficiary is faced with an unforeseeable emergency is determined based on the relevant facts and circumstances of each case. However, a distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise,

by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the plan. Further, distributions because of an unforeseeable emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

Section 457(d)(2) requires a plan to meet the minimum distribution requirements of section 401(a)(9). These requirements are described in §§ 1.401(a)(9)-1 through 1.401(a)(9)-9.

Section 457(e)(10) provides that a participant shall not be required to include in gross income any portion of the entire amount payable to such participant solely by reason of the transfer of such portion from one eligible deferred compensation plan to another eligible deferred compensation plan. Section 1.457-10(b)(1) provides that an eligible government plan may transfer amounts to, and receive amounts from, an eligible government plan if certain conditions are met.

With regard to transfers from an eligible governmental plan to another eligible governmental plan, § 1.457-10(b)(2) provides that a transfer from an eligible governmental plan to another eligible governmental plan is permitted if the following conditions are met: (i) the transferor plan provides for transfers; (ii) the receiving plan provides for the receipt of transfers; (iii) the participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and (iv) in the case of a transfer for a participant, the participant has had a severance from employment with the transferring employer and is performing services for the entity maintaining the receiving plan.

Section 457(e)(16) provides that, with regard to rollover distributions, for an eligible deferred compensation plan if (i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4)), (ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and (iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(11) provides that nonspousal beneficiaries may elect to have an eligible rollover distribution paid directly to an inherited IRA.

Under § 1.457-10(e), an eligible governmental plan that permits eligible rollover distributions made from another eligible retirement plan to be paid into the eligible governmental plan is required to provide that it will separately account for any eligible rollover distributions it receives. Amounts contributed to an eligible governmental plan as eligible rollover distributions are not taken into account for purposes of the annual

limit on annual deferrals by a participant but are otherwise treated in the same manner as amounts deferred under the plan.

Consistent with section 414(p)(10), § 1.457-10(c) provides for distributions made pursuant to a qualified domestic relations order. If a distribution or payment is made from an eligible plan to an alternate payee pursuant to a qualified domestic relations order, rules similar to the rules of section 402(e)(1)(A) apply to the distribution. Section 414(p)(8) provides that the term “alternate payee” means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

Section 457(g) 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).

Based upon the information submitted and the representations made, we conclude as follows:

1. The Plan is an eligible deferred compensation plan as defined in section 457(b).

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 expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter. If the Plan is significantly modified, this ruling will not necessarily remain applicable.

This ruling does not address the validity of any Plan provisions under the laws of State S.
The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2026-1, 2026-1 I.R.B. 1, section 7.01(16)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation

retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2026-1, section 11.05.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter ruling.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter has been sent to your authorized representatives in accordance with a power of attorney on file in this office.

Sincerely,

Cheryl Press
Senior Counsel, Qualified Plans Branch 4
(Employee Benefits, Exempt Organizations, and Employment Taxes)

cc: