

**Connecticut State Employees Retirement Commission**  
**FAQs on IRS Approval of the SAG Award**

**1. When was the private letter ruling filed?**

The IRS private letter ruling ("PLR") request regarding the SAG Award was filed in August 2011.

**2. Why was the PLR request filed?**

The purpose of the PLR request was to obtain a ruling from the IRS that allowing affected Higher Education Employees to make a new election (second election) between SERS and ARP (as required under the SAG Award) would not result in the loss of the pre-tax treatment of employee contributions to SERS and ARP.

**3. Why did it take the IRS so long to respond to the PLR request?**

The PLR request was in a holding pattern at the IRS for a long period of time because of disagreements within the IRS about how to deal with situations concerning the pre-tax treatment of employee contributions especially with respect to second elections. The IRS issued new guidance regarding pre-tax employee contributions in 2006 which significantly curtailed the prior practices regarding second elections. This guidance created some confusion as to how pre-tax employee contributions should operate. The IRS considered issuing regulations that would more precisely describe how pre-tax employee contributions must be structured, but ultimately did not do so. The possible adoption of those regulations, and the differences of opinion regarding the 2006 rules, held up a number of rulings on original elections, as well as second elections.

**4. Will the plan qualification issues ultimately be resolved through the PLR request?**

The IRS does not believe the issues can be resolved through the PLR request. Because of the significant differing viewpoints among IRS personnel with respect to the treatment of pre-tax employee contributions, the IRS is unwilling to issue a PLR in most cases. Note that a PLR is a ruling by the IRS that provides that a prospective action is permissible.

**5. Since we cannot obtain a PLR, what can be done to protect the qualified status of the plan and the tax treatment of employee contributions?**

As the IRS is now aware of these particular problems with respect to SERS and the SAG Award, the IRS has determined that the best and only way to provide a ruling on these issues is through the IRS' Closing Agreement Program ("CAP"). Under CAP, the IRS is will only provide that any issues that have occurred prior to the date of the CAP letter will not adversely impact the tax-qualified status of the plan and the treatment of pre-tax employee contributions.

## **6. When will the closing agreement be completed?**

We have had numerous discussions with the IRS following the PLR request which have gone on over the six plus years since the PLR request was filed. We have worked with multiple attorneys at the IRS to attempt to obtain a favorable resolution with respect to the implementation of the SAG Award.

In August 2017, the IRS indicated it was still willing to issue a closing agreement under the CAP. The IRS and our counsel are still negotiating the specific terms of the closing agreement. It is expected that the terms of the closing agreement will be agreed to in the next several months. However, the closing agreement cannot be executed by us and the IRS until after the SAG Award has been implemented. The reason for this is that unlike a PLR, which is a ruling on a prospective action, a closing agreement is approval of an action that has already occurred and cannot be signed until after implementation of the SAG Award.

Therefore, we are moving forward with the implementation of the SAG Award, with an implementation date of January 18, 2019. The closing agreement is expected to be signed following the implementation of the SAG Award with respect to the election as to whether to participate in SERS or ARP. The transfer of monies from ARP to SERS will not be subject to the closing agreement as the action is a permissible transfer of monies between qualified plans and the IRS does not believe that it needs to take any action to approve such transfers.