



OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

November 16, 2020

W. Alan Wilk
Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933

VIA FACSIMILE: (855) 256-1485

RE: Michigan Public Schools Closing Agreement (CLAG-117897-19)

Dear Mr. Wilk:

The following is a summary of the closing agreement that is intended to be made available to those Michigan Public School districts that would like a determination from the Internal Revenue Service on their tax obligations with respect to employees who did not exercise the one-time irrevocable election to opt out of the future right to receive retiree health benefits under the Michigan Public School Employees Retirement System and who continue to be subject to a 3 percent reduction in their compensation.

The closing agreement contains three operative paragraphs, which are applicable with respect to employees who did not opt out of the future right to receive retiree health benefits under the Plan and who continue to be subject to a 3 percent reduction in compensation (affected employees):

- Amounts deducted from the affected employees' compensation are treated as employer contributions and are not treated as income under section 106 of the Internal Revenue Code (Code).
- Amounts deducted from the affected employees' compensation are not treated as "wages" for purposes of FICA taxes under section 3121(a) of the Code, or for purposes of income tax withholding under section 3401(a) of the Code.
- In connection with signing the agreement, school districts must file Forms W-2c (Corrected Wage and Tax Statement) for each affected employee for taxable years for which the period of limitations on claims of credit or refund has not expired to reflect that the amounts deducted from the affected employees' compensation are not treated as income or wages. School districts must also inform the affected employees that they may file Forms 1040-X (Amended U.S. Individual Income Tax Return) to obtain a refund of the income taxes withheld on the 3 percent contributions.

In order for a Michigan Public School district to obtain the closing agreement, the school district must execute a Form 2848 and submit a \$3,000 user fee. We will contact you separately to discuss the proper procedures to submit the additional forms and user fees.

Sincerely,

(Digitally Signed)

Denise Trujillo
Branch Chief, Health and Welfare Branch
Office of Associate Chief Counsel (Employee
Benefits, Exempt Organizations, and Employment
Taxes)