

May 31, 2012

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VIA FACSIMILE (410-962-0867)

Mr. Sylvan J. Oppenheimer
Employee Plans Specialist, ID #1000274496
Internal Revenue Service
TE/GE Division – EP Group 7532
31 Hopkins Plaza, Room 1440
Baltimore, MD 21201

RE: Montana Public Employees' Retirement System Defined Benefit Plan ("PERS DB"), EIN: 81-6001666, PN: 001, DLN: 17007-282-07501-8

Dear Sylvan:

This letter is intended to respond to your request for additional information in your facsimile dated May 17, 2012 (copy enclosed), for PERS DB. As indicated in your facsimile, we are not sending a copy of this response to you at the Covington, Kentucky address.

Following are your questions and our answers:

Q&A-1. With regard to your questions regarding the Normal Retirement Age, please consider the following:

1. Under 19-3-401, MCA, a PERS DB member who has completed at least 5 years of service and leaves covered employment becomes an inactive vested member. Such an inactive vested member continues to be eligible for a service retirement upon reaching eligibility age for a pension, unless the member withdraws his/her accumulated contributions. Such a withdrawal results in a forfeiture of the pension. Therefore, a member who has at least 5 years of service will be eligible for a reduced pension at age 50 (if hired before July 2, 2011) or age 55 (if hired on or after July 1, 2011) (19-3-902, MCA) or an unreduced pension at age 60 for those hired before July 1, 2011, and at age 65 for those hired on or after July 1, 2011 (normal retirement age) (19-3-901, MCA).
2. Additionally, unreduced benefits are provided:
 - a. For a member who leaves work at age 65 (for those hired before July 1, 2011) or at age 70 (for those hired on or after July 1, 2011) regardless of years of service will qualify for a pension. 19-3-901, MCA.

Internal Revenue Service
Attention: Mr. Sylvan J. Oppenheimer
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- b. For a member who leaves work with 30 years of service (for those hired before July 1, 2011). 19-3-901, MCA.
3. With regard to your specific question regarding vesting at a specific normal retirement age, please consider the attached amendment.

Q&A-2. None of the previous proposed amendments to the PERS DB Plan are still to be treated as proposed. We have addressed the adoption or rejection of each of the proposed amendments submitted to the service with this filing under previous cover letter.

It is our understanding that after you have considered this letter and approved the approach taken herein, we will turn our attention to the Montana Police Officers' Retirement System ("MPORS"), EIN 81-6001666, Plan #7.

If you have any questions regarding the above or need any additional information, please contact one of us pursuant to the Power of Attorney included in the original submission package.

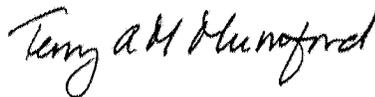
We appreciate very much your attention and your assistance on this matter.

Very truly yours,

ICE MILLER LLP



Mary Beth Braitman



Terry A.M. Mumford

MBB/TAMM/GW

Enclosures

IRS request for additional information dated May 17, 2012
Proposed Amendment regarding NRA

PROPOSED AMENDMENT

19-3-901. Eligibility for service retirement.

(1) A member hired prior to July 1, 2011, who has:

(a) attained age 60 and has 5 years of membership service is eligible for service retirement;

(b) attained at least age 65 before or while employed in a position covered by the public employees' retirement system is eligible for service retirement regardless of the member's years of membership service; or

(c) 30 years or more of membership service is eligible for service retirement regardless of the member's age.

(2) A member hired on or after July 1, 2011, who has:

(a) attained age 65 and has 5 years of membership service is eligible for service retirement; or

(b) attained age 70 before or while employed in a position covered by the public employees' retirement system is eligible for service retirement regardless of the member's years of membership service.

(3) In each of the circumstances described in subsections (1)(a) and (b) and (2), the member is treated as having ~~has~~ attained normal retirement age and has a nonforfeitable right to the normal retirement benefit accrued and payable under the provisions of this chapter, subject to the member's right to withdraw the member's accumulated contributions.

These vesting rights are in addition to any other vesting provisions under state law.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: *May 17, 2012*

MONTANA PUBLIC EMPLOYEES RETIREMENT
BOARD
C/O ICE MILLER LLP
MARY BETH BRAITMAN
ONE AMERICAN SQUARE STE 3100
INDIANAPOLIS, IN 46282-0200

Employer Identification Number:
81-6001666
DLN:
17007282075018
Person to Contact:
SYLVAN OPPENHEIMER ID# 52729
Contact Telephone Number:
(410) 962-9479
Plan Name:
MONTANA PUBLIC EMPLOYEES RETIREMENT
SYSTEM
Plan Number: 001

Refer Reply to:
TEGE:EP Grp 7532:SJO
Response Date:
June 1, 2012

Dear Applicant:

Thank you for the information you recently furnished about the plan identified above. Unfortunately, we need additional information before we can complete the processing of your request for a determination letter. Please furnish the information or amendments indicated on the enclosed list.

Please submit the requested information or amendments by the response date. If we do not hear from you by that date we may either (1) close your case as incomplete, or (2) process your application on the basis of the information available, which could result in a determination that your plan is not qualified for favorable tax treatment.

If you have any questions concerning this matter, or cannot meet the response date, please contact the person whose name and telephone number are shown above. When you send any information we requested or if you write to us with questions about this letter, please provide your telephone number and the most convenient time for us to call if we need to contact you.

Please mail the information requested in this letter to the following address:
Internal Revenue Service
TE/GE Division - EP Group 7532 ; *SJO*
31 Hopkins Plaza - Room 1440
Baltimore, MD 21201

If you wish to fax your response to me, address the material to Group 7532 and to my attention and fax the response to my fax number at 410-962-0867. If the fax will consist of more than 15 pages, do not fax them without first discussing the matter with me! If more than 25 pages, then please mail them.

Letter 1955 (DC/PL)

MONTANA PUBLIC EMPLOYEES RETIREMENT

Thank you for your cooperation.

Sincerely yours,

A handwritten signature in cursive script that reads "Sylvan Oppenheimer".

Employee Plans Specialist

Enclosure:
List of Data Needed

Letter 1955 (DC/PL)

MONTANA PUBLIC EMPLOYEES RETIREMENT SYSTEM # 001

List of Noted Items regarding the Form 5300 application

We have sent a copy of this letter to each of your 1st two representatives as indicated in the power of attorney that accompanied the Form 5300 application.

1. Section 19-3-401 MCA or wherever of the Plan should be amended to provide that an employee's right to his or her normal retirement benefit is nonforfeitable on attainment of normal retirement age (NRA), as defined in Code section 411(a)(8) and in accordance with Rev. Rul. 66-11. IRC sections 411(a), 411(a)(8) and Regs. section 1.411(a)-7(b). For other than Qualified Public Safety Employees, the current safe harbor maximum vesting requirement would be a 15 year cliff or a 5 to 20 graded schedule. Anything else would have to be considered on a case by case basis and will require more discussion and review. While Section 19-3-401 MCA provides a 5 cliff vesting schedule, the Plan doesn't clearly provide that an employee's right to his or her normal retirement benefit is nonforfeitable on attainment of the NRA. If this interpretation is not accurate, please explain and cite the appropriate plan provision. Otherwise, please justify the provisions so that we may properly consider them or else provide an appropriate amendment in accordance with Rev. Rul. 66-11 & IRC 411(e)(2) [which indicates that Plans must comply with vesting requirements resulting from the application of sections 401(a)(4) and 401(a)(7) as in effect on 9/1/74.] & pre-ERISA regulations of 1.401-1(b); Rev. Rul. 66-11 & IRC 411(e)(2). IRC sections 401(a)(7) as in effect on 9/1/74 & pre-ERISA regulations of 1.401-1(b). The Normal Retirement Age (NRA) really doesn't matter except for how it relates to vesting. Since the Plan has a separate 5 year cliff schedule per Section 19-3-401 MCA, and the plan is clear that if you terminate after 5 Years of Service (YOS) and thus vested, the Participant would get his vested benefit, the Plan would meet pre ERISA vesting. However, the question remains as to whether everyone is fully vested at NRA. Any Participant retiring under the 30 YOS [per Section 19-3-401 MCA] would obviously be fully vested, as the Participant vested after 5 YOS.

But what about a Participant retiring at age 67? What if the Participant had been hired at age 63? NRA is the earlier of age 60 with 5 YOS, 30 YOS, or age 65 [per Section 19-3-401 MCA]. It would appear he could retire after 3 years [or earlier at age 65]. If the plan provides for full vesting at NRA, the IRS could favorable close the case. Otherwise, the Plan needs to provide for the "magical words" as under the plan terms not everyone would be vested at NRA. The Plan would not need the "Magical words" [that "Participants will be 100% vested upon attaining Normal Retirement Age"] if the Plan clearly provides that, in all cases, all Participants will be 100% vested by the time the Participant reaches NRA, such if the Plan provides full vesting, or if the plan defined NRA as the later of age 65 and 5 YOS, the requirements would obviously be ok in this plan as all Participants are vested after 5 YOS. But since the plan only requires age 65 (as 1 of the alternative NRA Requirements), the Plan needs to make sure that it provides that all Participants are fully vested at NRA.

Or else, the Plan will not satisfy any safe harbor. Under those circumstances, the Form 5300 application case will need to either be set aside and/or receive special review by the coordinators and await further discussion and decision making.

2. Also, please verify whether or not any of the previous proposed amendments to this Plan are still to be treated as proposed. If any of those proposals have been enacted, please indicate that that is the case. If any have been defeated, rejected or otherwise canceled, please indicate that that is the case and why the change is no longer needed.