



SOCIAL SECURITY

Office of Retirement and Disability Policy

January 6, 2009

The Honorable Claire McCaskill
United States Senate
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your December 17, 2008, letter regarding your questions resulting from the December 12 briefing that the Social Security Administration (SSA) and the Internal Revenue Service (IRS) provided to your staff on the State of Missouri's Section 218 agreement. You are concerned that at this point in time there is no way of knowing how many public school employees may be affected, "by the change in interpretation."

We first would like to emphasize that there has not been a change in the Federal interpretation of the coverage laws. The issues we now face resulted instead from a misunderstanding of the absolute coverage agreement and the complexities of the varied positions in the numerous school districts. You requested a response on two specific topics: first, you asked the IRS for a statement on how tax compliance and enforcement actions would be handled; and second, you asked that the SSA and IRS "eliminate any set implementation deadline."

In response to your first request, the IRS has committed to prospective enforcement of the provisions of the Missouri Section 218 agreement relevant to participants in the Missouri Public School Retirement System. As noted in our discussions on December 12, this commitment is predicated on the school districts becoming compliant by an agreed upon date.

Regarding your second question, while it looks at this time as though the July 1, 2009, date may slip, we will be working diligently together with the State through the Federal Section 218 Task Force for Missouri School Districts to resolve the issues as expeditiously as possible. Circumstances may change, however, so that we may be able to resolve the issues before July 1, 2010, and start collecting FICA taxes sooner. As we informed the Missouri state administrator, and as noted in your December 17 letter, we will be in a better position to shape implementation plans and timelines after our current 60-day evaluation. Nevertheless, we must resolve the issues no later than July 1, 2010, so that we can begin collecting FICA taxes at that time ensuring that qualifying State employees receive Social Security coverage.

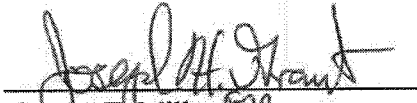
After the task force has had an adequate opportunity to assess both the Federal and State issues surrounding compliance we will provide a briefing for the Missouri congressional delegation. As requested, we will schedule this briefing through your office.

We are committed to working with officials in Missouri to resolve these issues in a fair and reasonable manner. Please contact us if we can be of further assistance, or have your staff contact Margaret A. Hostetler, SSA's Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030 or Floyd L. Williams III, IRS's National Director, Legislative Affairs at (202) 622-3720.

We have sent a similar letter to everyone who signed the December 17 inquiry.



David A. Rust
Deputy Commissioner
For Retirement & Disability Policy



Steven T. Miller FOR
Commissioner
Tax Exempt and Government Entities
Internal Revenue Service

cc: Thomas Sadowski
Michael Grochowski

Roger

From: Garza, Melissa (McCaskill) [Melissa_Garza@mccaskill.senate.gov]
Sent: Thursday, January 08, 2009 9:13 AM
To: Garza, Melissa (McCaskill)
Cc: angela.arnett@ssa.gov; Floyd.Williams@irs.gov
Attachments: SSA 1.16 response.pdf

Tuesday, The Missouri delegation received a response from the Social Security Administration (SSA) and the IRS to our December 17th inquiry into the handling of issues regarding Missouri's section 218 agreements and their application to Missouri educators. The delegation asked the agencies to confirm in writing that any enforcement would be prospective and that the compliance date of July 1, 2009 would be dropped. Their response is attached.

The agencies agreed that the enforcement would be prospective and that the July 1, 2009 date would not be adhered to. Although the specific language of the letter suggests the July 1, 2009 date may still be in effect – we received verbal confirmation from both agencies that there will not be any enforcement actions taken on July 1, 2009. We are hopeful this provides relief to districts that are currently negotiating contracts.

The agencies also stated their desire to resolve the situation by July 1, 2010, but would be in a better position to advise the delegation after the 60 day evaluation. Based on the current positive and collaborative work environment in the State, including the IRS, SSA, Missouri Office of Administration and the Public School Retirement System as well as various stakeholders in the education community, the delegation believes the situation is on the right path to a resolution that is fair and reasonable, and appreciates the agencies commitment for such a resolution. We are looking forward to our briefing on the findings of the 60 day evaluation team, now on the ground in Missouri.

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