

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

READING FILE

August 12, 2008

FOR YOUR INFORMATION

1. Letter from Virginia Retirement System (VRS) regarding Revenue Ruling 2006-43
For Agenda Item No. F-6, Affirmation of Authorization to Pick-Up the Employees' Contribution to the Virginia Retirement System (VRS) for James City County, 5514, under §414(h) of the Internal Revenue Code – James City County

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Virginia
Retirement
System

P.O. Box 2500, Richmond, Virginia 23218-2500
Toll free: 1-888-VARETIRE (827-3847)
Web site: www.varetire.org
E-mail: vrs@varetire.org

July 11, 2008

JAMES CITY COUNTY
SANFORD WANNER, COUNTY ADMINISTRATOR
101 F MOUNTS BAY RD
WILLIAMSBURG, VA 23187

RECEIVED

JUL 15 2008

COUNTY ADMINISTRATION

Dear SANFORD WANNER:

Recently, the Internal Revenue Service (IRS) issued Revenue Ruling 2006-43 giving governmental employers until January 1, 2009 to demonstrate "formal authorization" of their pick-up plans. A pick-up plan allows the Virginia Retirement System (VRS) member contribution (5%) to be treated on a pre-tax basis.

Regrettably, the ruling requires VRS to conduct a full audit of pick-up plan resolutions and obtain a formal resolution from each VRS employer receiving this letter. While you may have enacted such a resolution in the past, you still must formally reaffirm your pick-up plan to meet the requirements of the new ruling. Such a reaffirmation will bring VRS records up to date and ensure that all employers have on file with VRS an executed resolution in proper form.

Among other things, this Revenue Ruling requires:

- The pick-up plan to be established pursuant to a formal action by a person authorized to act on behalf of the employer. Generally, any decision by the employer's governing body will satisfy this requirement.
- That such action be evidenced in the form of a written resolution containing all the elements required by the IRS. VRS has furnished such a resolution for use by your governing body (see enclosure).

What does the employer need to do?

Your governing body must pass the resolution in the form provided with this letter and return the signed original to VRS at your earliest convenience, but by no means any later than September 30, 2008.

Why this is important?

VRS is required to ensure all employer pick-up plans are compliant with this ruling. With your help, we can account for all employers' pick-up plans by the Internal Revenue Service's due date of January 1, 2009.

What if we don't do this? Can we discontinue our pick-up plan?

No. As a VRS employer, you are already required by state law to "pick up" your employees' retirement contributions, whether or not you submit a proper resolution. However, failure to submit a resolution could reverse the favorable tax treatment of your employees' member contributions, which could impose significant additional multi-year reporting and recordkeeping burdens on you as the employer and subject your employees to additional tax liabilities.

Who can the employer contact for more information?

If, after you review this letter, you have additional questions, you may refer them to Ben Howard at VRS, by telephone at (888) 827-3847, extension 6686, or by email at bhoward@varetire.org.

I sincerely apologize for this inconvenience. However, VRS and its participating employers must strive to maintain continuous compliance with IRS regulations and rulings. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert P. Schultze". The signature is fluid and cursive, with the first name "Robert" and last name "Schultze" clearly legible.

Robert P. Schultze
Director, Virginia Retirement System

Enclosure (Resolution)

RESOLUTION
Affirmation of Authorization to Pick-up the Employee's Contribution to
VRS for JAMES CITY COUNTY, 55147
Under § 414(h) of the Internal Revenue Code

WHEREAS, the JAMES CITY COUNTY provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS;

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009.

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the JAMES CITY COUNTY desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and it is further

RESOLVED that effective the first pay day on or after _____, the _____ shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the JAMES CITY COUNTY in lieu of member contributions; and it is further

RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED that member contributions made by the JAMES CITY COUNTY under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the JAMES CITY COUNTY directly instead of having them paid to VRS; and it is further

RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the JAMES CITY COUNTY shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the JAMES CITY COUNTY on behalf of such employee pursuant to the foregoing resolutions.

Adopted in WILLIAMSBURG, Virginia this _____ day of _____, _____.

Name & Title Printed

Authorized Signature- Title