



June 2011

Pension Division Newsletter

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IRS Notice Regarding Tax-Exempt Status Revocations

The Internal Revenue Service (IRS) recently announced that approximately 275,000 organizations nation-wide have automatically lost their tax-exempt status because they did not file required annual reports for three consecutive years. Preliminarily, it appears that about 60 volunteer fire relief associations in Minnesota are included on the revocation list. A listing of organizations that lost their tax-exempt status is posted on the IRS website at:

<http://www.irs.gov/charities/article/0,,id=240099,00.html>.

Senator Franken's office has been working to identify a process for Minnesota relief associations that have lost their tax-exempt status to obtain reinstatement. Senator Franken's office has provided us with the following information:

- Relief associations that have lost their tax-exempt status should receive a notice by U.S. Mail from the IRS. The notice provides a 1-877-829-5500 telephone number that will connect you with IRS staff in Cincinnati who are handling these automatic revocations. Relief association trustees should call the telephone number provided on the notice for assistance and identify yourself as a Minnesota volunteer fire relief association.
- If a relief association believes that its tax-exempt status was revoked in error, the association should call the 1-877-829-5500 number and say that "You revoked me in error." The IRS may request that your relief association provide copies of documentation or other relevant materials that support your position.
- It appears that relief associations will be required to file the necessary IRS forms (Form 1023 or 1024) to become reinstated. Step-by-step instructions for completing these forms can be viewed at: <http://www.stayexempt.org/Mini-Courses/Applying for Tax Exempt-An Overview/applying-for-tax-exempt-organizations.aspx>.
- It will take some time for the IRS to process your forms once they are filed. If a relief association that submits the necessary forms receives a negative judgment from the IRS (i.e., your application for reinstatement of tax-exempt status is denied), a federal

Taxpayer Advocate, Eric San Juan, has been identified who can provide Minnesota volunteer fire relief associations with assistance. If you receive a negative judgment, please contact Mr. Eric San Juan at Eric.A.SanJuan@irs.gov.

In addition, a coalition has been formed to work with relief associations and the IRS to seek clarity and work towards resolving these federal tax issues. The coalition is comprised of the Minnesota State Fire Chiefs Association, the Minnesota State Fire Department Association, and the Minnesota Area Relief Association Coalition. In addition, the League of Minnesota Cities and the Office of the State Auditor are providing the coalition with technical assistance. The coalition has retained a law firm to provide general guidance to coalition members, including template letters for responding to penalty assessments and revocation letters. The coalition recently released an informational document that explains the tax status of relief associations in Minnesota, steps that relief associations should take to address tax status issues, and the goals and role of the coalition. The document can be viewed at: <http://msfda.org/irs990.aspx>.

Finally, the IRS has issued guidance on how organizations can apply for reinstatement of their tax-exempt status, including retroactive reinstatement, and other informational materials.

Information about reinstatement is available on the IRS website at: <http://www.irs.gov/charities/article/0,,id=240101,00.html?portlet=7>.

Answers to frequently asked questions about the automatic revocation can be viewed at: http://www.irs.gov/pub/newsroom/automatic_exemption_revocation_for_non-filing_faqs.pdf.

A two-page fact sheet prepared by the IRS is available at: http://www.irs.gov/pub/irs-tege/auto_revocation_fs_060811.pdf.

Potential State Government Shutdown

An e-mail was sent to relief association representatives on June 15 that provided information about a potential State government shutdown. A summary of that e-mail is provided here for those who may not have received the information.

As you have probably heard, the Minnesota Legislature and Governor did not reach an agreement on the State budget during the regular legislative session. Therefore, there is a potential government shutdown that may occur on July 1 if a budget agreement is not reached by June 30. Because you report to and/or interact with the Office of the State Auditor, we wanted to let you know what to expect if a government shutdown were to occur so that you can plan accordingly.

- In the event of a State government shutdown, the Office of the State Auditor's website will shutdown at 4:30 p.m. on June 30 and remain down until State government reopens. You will not be able to access reporting forms, online training sessions, the Legal Compliance Audit Guide, or educational materials like Statements of Position and our Pension Newsletter. The State Auditor's Form Entry System (SAFES), our web application for downloading and submitting reporting forms, will also shutdown at 4:30 p.m. on June 30. To prepare for this scenario, we strongly urge you to download, print and/or save any documents that you may need.

- In the event of a State government shutdown, the Office of the State Auditor's staff will not be working, and therefore, will not be available to provide assistance and support by phone or e-mail. Therefore, please do not send e-mails to our office if a shutdown occurs. Our e-mail system will shutdown at 4:30 p.m. on June 30. E-mails sent to the Office of the State Auditor during a government shutdown may be lost and not be received even when the State reopens.
- In the event of a shutdown, anything that you send to the Office of the State Auditor by U.S. Mail that does not arrive by June 30 will be held at the Post Office until State government reopens.
- Many relief associations have a June 30 reporting deadline with our office. Early reporting is recommended so that you can upload your reporting forms and access Office of the State Auditor staff support through June 30 at 4:30 p.m.
- Relief associations with a lump-sum plan are required to certify their 2011 Schedule Form to the affiliated municipality or independent nonprofit firefighting corporation by August 1. Lump-sum plans should download their Schedule Form before June 30 so that you have it in the event a government shutdown occurs. Relief associations with a lump-sum, monthly, or monthly/lump-sum combination plan are required to complete the 2011 Maximum Benefit Worksheet by August 1. These relief associations should download the Maximum Benefit Worksheet before June 30.
- You will not be able to upload your reporting forms using our SAFES website until State government reopens, and our website and databases are back up and running. If you complete a reporting form during the shutdown, please save it on your computer until the State reopens, and the SAFES website is available again for you to upload your form.
- We have received numerous questions about the effect that a government shutdown could have on the distribution of state fire aid. The Office of the State Auditor does not know what impact a shutdown would have on state aid distributions. Relief association trustees should contact their local State Representative and State Senator with questions regarding state fire aid.

Reporting Reminder

The 2010 reporting-year forms are due by June 30, 2011, for volunteer fire relief associations with assets or liabilities of at least \$200,000. Relief associations with the June 30 reporting deadline are required to submit audited financial statements in addition to the reporting forms. Please note that, once a relief association's assets or liabilities exceed \$200,000, the relief association maintains the June 30 reporting deadline and audit requirement, even if the association's assets and liabilities subsequently drop below the \$200,000 threshold.

Reporting forms for relief associations with assets and liabilities less than the \$200,000 statutory threshold were due by March 31. E-mail notices were sent on May 13 to relief association trustees, municipal officials, and auditors notifying them that reporting forms for their affiliated relief association are past due. Letters that detailed the specific forms that must be submitted were also sent to each relief association. If you have any questions regarding your relief

association's reporting requirements, please contact Gail Richie at (651) 282-6110 or at Gail.Richie@osa.state.mn.us.

New Online Training Sessions

The Pension Division has released two new recorded online training sessions. The new online training sessions provide instructions on how to complete the Investment Disclosure Report Form (SID Form) and the Investment Disclosure Waiver Form (ID Waiver Form). Click on the links below to view the new online training sessions.

Completing the Investment Disclosure Report Form (approximately 22 minutes)
<https://www2.gotomeeting.com/register/761093603>

Completing the Investment Disclosure Waiver Form (approximately 17 minutes)
<https://www2.gotomeeting.com/register/686385987>

Internal Controls for Special Events

Many relief associations hold special events during the summer. For a relief association hosting a special event, written policies and procedures documenting internal controls for the handling of funds at the event are important. Approval of the policies and procedures by the relief association's board of trustees emphasizes their importance and authority.

Documentation of the policies and procedures will help people working at the event understand their role in the internal control system. Documentation will also improve the efficiency and consistency of transaction processing and support management's risk identification, evaluation, and mitigation. The documentation should:

- Describe procedures as they are intended to be performed;
- Indicate who is responsible for performing each procedure; and
- Explain the design and purpose of control-related procedures.

Investment Basics – Mutual Funds

A document is attached entitled "Investment Basics – Mutual Funds." This is another installment in our ongoing series to provide education on investment topics. This document offers an overview of mutual fund investment authority and explains the differences between the authorities for relief associations investing under the limited and expanded lists of authorized investment securities.

Note Our New E-mail Addresses

E-mail addresses have changed for employees of the Office of the State Auditor. Please make note of the new e-mail addresses for our Pension Team members, which are listed below.

If you have questions please contact us:

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June 2011

Investment Basics

Mutual Funds

Relief association trustees and brokers occasionally have questions about portfolio limitations for mutual fund investments. Mutual fund investment authority depends on whether a relief association is investing under the limited list or the expanded list of authorized investment securities.

Relief associations that meet *at least one* of four statutory conditions may invest under an expanded list of authorized investment securities. The four conditions are:

- Having assets with a book value in excess of \$1,000,000;
- Using the services of an investment advisor for the investment of at least 60 percent of the relief association's assets, calculated on book value;
- Using the services of the State Board of Investment for the investment of at least 60 percent of the relief association's assets, calculated on book value; or
- Using a combination of the services of an investment advisor and the services of the State Board of Investment for the investment of at least 75 percent of the relief association's assets, calculated on book value.¹

Relief associations that do not meet any of the four conditions above are restricted to a limited list of authorized investment securities. Permissible investments for a limited list plan are identified and described in Minn. Stat. § 356A.06, subd. 6. Permissible investments for an expanded list plan are identified and described in Minn. Stat. § 356A.06, subd. 7.

Limited List Investment Authority

Relief associations that are restricted to the limited list have two ways in which they may invest in mutual funds. First, limited list relief associations have authority under Minn. Stat. § 356A.06, subdivision 6(b)(5) to invest in shares of open-end investment companies, provided that the investments comply with paragraphs (1) to (4) of that subdivision.

In effect, this means that relief associations investing under the limited list have authority to invest 100 percent of their portfolio in mutual funds, provided that the underlying assets of the

¹ The investment advisor must be registered with the Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940, or registered as an investment advisor in accordance with sections 80A.58, and 80A.60. See Minn. Stat. § 356A.06, subd. 6.

funds are solely invested in directly-permissible limited list investments. This means that a relief association could invest 100 percent of its portfolio in mutual funds as long as the underlying assets of the mutual funds consist of investment grade bonds, government debt, and insured certificates of deposit and savings accounts.

Second, relief associations investing under the limited list have additional authority under Minn. Stat. § 69.775 to invest up to 75 percent of their portfolio in mutual funds as long as the underlying assets of the mutual funds consist of investments authorized under paragraphs (c) through (k) of the expanded list. This statute allows limited list relief associations to invest in certain types of expanded-list investments, through mutual funds, that they otherwise would be prohibited from investing in. Therefore, relief associations investing under the limited list may invest in mutual funds with underlying assets consisting of investment grade bonds, government debt, domestic and developed market corporate stock, real estate investment trusts, and any other investment as authorized and restricted by Minn. Stat. § 356A.06, subds. 7(c-k).

Expanded List Investment Authority

Relief associations meeting the requirements to invest under the expanded list of authorized investment securities have authority under Minn. Stat. § 356A.06, subdivision 7(h), to invest in mutual investments, provided that the investments comply with paragraphs (c) to (j) of that subdivision.

In effect, this means that relief associations investing under the expanded list have authority to invest 100 percent of their portfolio in mutual funds, provided that the underlying assets of the funds are directly-permissible investments in paragraphs (c) to (j) and don't include any "other investments" (which are authorized under paragraph (k)).

Relief associations using the expanded list also have authority under Minn. Stat. § 356A.06, subd. 7(k) (the "other investments" section) to invest in any mutual fund regardless of the mutual fund's underlying assets. However, like those investments authorized in the "other investments" section, there is an overall cap of 20 percent on the relief association's portfolio. That is, all investments authorized by the "other investments" section when added together cannot be more than 20 percent of the relief association's entire special fund portfolio.

Many mutual funds contain investments that are authorized at least in part by the "other investments" section of the expanded list. Therefore, the investment portfolio of each mutual fund must be examined and any portion that isn't directly permissible under paragraphs (c) to (j) will be considered "other investments" that count toward the 20 percent limitation on "other investments." In addition, the relief association's investment in mutual funds containing corporate stock must comply with the 85 percent limitation on the combination of stock and "other investments" for the relief association's entire special fund portfolio.

For example, an expanded list relief association may invest 100 percent of its portfolio in mutual funds, but only if less than 20 percent of the underlying assets of the mutual funds are invested in "other investments," and only if less than 85 percent of the underlying assets of the mutual funds are invested in a combination of stock and "other investments."

Additional Resources

Additional information on relief association investment authority and investment policies is available on the Office of the State Auditor's website at the links provided below.

Statement of Position on Relief Association Investment Authority:

<http://www.auditor.state.mn.us/default.aspx?page=20110527.006>

Statement of Position on Relief Association Investment Policies

<http://www.auditor.state.mn.us/default.aspx?page=20110527.007>

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