



The Honorable Orrin G. Hatch
Chairman, Finance Committee
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Finance Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Ranking Member Wyden:

On behalf of the National Association of State Retirement Administrators (NASRA), the National Conference on Public Employee Retirement Systems (NCPERS), and the National Council on Teacher Retirement (NCTR), we are writing to relay serious concerns our memberships are expressing to us regarding a provision in the House tax reform legislation. We urge you to please continue to exclude this provision from Senate legislation, as well as any final compromise with the House.

The provision of concern is Section 5001 of the House Tax Cuts and Jobs Act (H.R. 1), which could subject certain investments of state and local government retirement systems to the unrelated business income tax (UBIT). State agencies are Constitutionally exempt from taxation and application of UBIT to public pension plans erodes the immunity states and the federal government each enjoy from taxation by the other.

In addition to the revenue loss from the tax itself, the provision imposes significant, complex compliance costs that could impact portfolio construction and diversification of public funds. It could force the consideration of alternative and more costly investment structures in order to avoid being negatively impacted by the UBIT and may diminish investment earnings, which are critical to pension funding. Furthermore, Section 5001 is currently scheduled to go into effect for tax years beginning January 1, 2018, which will impact many existing investments that cannot be restructured prior to this effective date.

Investment earnings pay for approximately two-thirds of state and local government pension benefits, which are taxed when distributed to participants across virtually every state, city and town in the nation. Subjecting public plans to UBIT undermines critically important investment returns, sets a dangerous precedent for taxation of state entities, and will ultimately increase costs to taxpayers.

We understand that a number of changes to the underlying legislation are under consideration as the tax reform process moves forward. We ask that you please continue to exclude this provision, as well as any others that could negatively impact the tax treatment of state and local government retirement systems. We greatly appreciate your time and consideration. If there is any additional information we can provide that would assist you, please do not hesitate to contact our representatives listed below:

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CC: The Honorable Mitch McConnell
The Honorable John Cornyn
The Honorable Charles E. Schumer
The Honorable Richard J. Durbin