

## MEMORANDUM

TO: ALL SCHOOL DISTRICTS  
FROM: JOHN M. IZZO OF HAUSER, IZZO, DeTELLA & PETRARCA, LLC  
RE: NEW LIMIT ON INTEREST TRANSFERS  
DATE: JULY 8, 2008

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The Illinois State Board of Education has just implemented a new rule limiting the power to transfer interest between school district funds.

Section 10-22.44 of the School Code allows school boards to freely transfer interest accruing on any district fund (except Tort Immunity, IMRF, Life Safety, and Capital Improvements) to any other district fund. But newly adopted ISBE rule 100.50 of Title 23 of the Illinois Administrative Code provides:

*“Unless otherwise provided by statute or specified by board resolution adopted prior to June 30 of a fiscal year, interest earnings shall be added to and become part of principal as of June 30 of the fiscal year.”*

This rule first went into effect for the 2008-09 fiscal year. Therefore, beginning now, in order to preserve your option to transfer interest accrued on one fund to another fund, the Board will have to act **at least once a year** by doing one or both of the following: (1) pass a resolution transferring interest; or (2) pass a resolution designating interest accruing during the current fiscal year and all interest from prior years to still be interest going into the next fiscal year.

The ISBE, while promulgating this new rule, has declined to offer any explanation or details on how it is to be interpreted or enforced. We can certainly anticipate what is going to happen: you will see a lot more tax rate objections alleging that you have improperly transferred interest and asking for substantial tax refunds based on the theory that the improper transfers resulted in excess tax levies. Objectors have already made this argument from time to time; now they will have something substantial upon which to base their arguments.

We can help you with the form for the annual resolutions transferring interest and designating interest for the next year. But whatever form your Board's action takes, it must be a formal resolution and must be done before June 30 of each year. We recommend that you make a habit of putting these resolutions on your May or June agenda just like you do now with the annual Prevailing Wage Act resolution.

Please call us with any questions you might have or let us know if we can assist you in dealing with this new unwarranted State mandate.