To Whom It May Concern:

The State and Local Government Committee (the Committee) of the Florida Institute of Certified Public Accountants (FICPA) respectfully submits its comments on the proposed statement, *Internal Revenue Code Section 457 Deferred Compensation Plans that Meet the Definition of a Pension Plan and Suspension of GASB Statement 32*. The Committee is a technical committee of the FICPA and has reviewed and discussed the proposed statement.

After much discussion, the Committee concluded that the proposed statement readdresses an issue long considered properly addressed by GASB Statement 32, which acknowledged the fact that Plan assets were not subject to governmental creditors. The goal of the proposed statement appears to require a governmental entity to include assets that are required to be held in trust and, by IRC definition itself, are not assets available to governmental creditors. As we know, most Section 457 plans are comprised of participant deferral dollars that, once contributed to the trust, are in control of the individual participants, not in the control of the employer (government). As such, the recording of these assets could only be logically offset by a liability. Therefore, the reporting of the trust as a fiduciary activity adds no valuable information to the financial statements or to their users.

In addition, the proposed statement calls for such application of the statement provisions to apply to those Section 457 plans that meet the definition of “Pension Plans” per para 51 of GASB Statement 67. Upon reading that definition in para 51, you’ll note that it is extremely vague leaving it open to inconsistent application. It is also unclear to the members of this Committee why the reporting proposed standards are attempting to create divergence in the reporting of participation in Section 457 plans based solely on whether or not the government or another non-employer entity is contributing to the employee accounts.

It is a common understanding by government employers and their employees that IRC deferred compensation plans such as those organized under Sections 457, 401, 403, etc. are not pension plans by GASB definition and hence the move to these types plans and away from traditional pension plans. Pension plans have historically been defined benefit plans or defined contribution plans for which the government retained control over the investment and/or allocation of the plan assets and great effort has been made over the last two decades to encourage savings in IRC Section 457, 401, 403, etc. plans with the full understanding that these plans are NOT pension plans but retirement plans funded by savings.
Further, such savings plans are NOT assets of the employer and NOT subject to the employer’s creditors. We believe, therefore, this proposed statement will add to the confusion to an already overly complex financial statement. In fact, we believe this proposed statement will potentially mislead the user and the 457 plan participant into believing that the government is now attempting to take fiduciary responsibility for monies contributed to the plan or, in fact, the participant’s own contributions. We also believe that requiring such assets be recorded will likewise incur additional audit costs, actuary and/or legal costs that would have to be funded by the government or more likely the plan itself. We believe this to be an unnecessary cost in dollars and effort.

Lastly, the pension standards of late have already required a large increase in effort and dollars as well as disclosure. It is important to keep in mind that the auditee (government) is required to acknowledge responsibility for their financial statement as well as to their understanding of such. We believe the overwhelming majority of employer governments currently understand an IRC 457 is not a pension plan and are not assets of the respective government. The discussion amongst the Committee did include consideration of the unlikely event of a contributing employer government overfunding a plan. This was resolved by the conclusion that any overfunded amount would not be legally reclaimed by the employer but rather used to reduce future contributions, pay plan fees or distributed to participants.

In summary, we ask for your consideration to the fact that the IRC 457 assets are required to held in trust, are not available to such employer’s creditors, and are not in the control reporting government. Therefore, we do not believe the government recording assets they have no claim over to be proper accounting treatment. Nevertheless, should the Board decide to move forward with this proposed statement, we respectfully request a delay in implementation to allow much education on the subject.

We appreciate this opportunity to comment on this proposed standard and ask that you please consider our suggestions during your deliberations.

Please contact me or FICPA’s Director of Governmental Affairs Justin Thames at justin@ficpa.org

Sincerely,

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Chair – FICPA State and Local Government Committee

cc: Deborah Curry, CPA, CGMA, FICPA President/CEO
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