

Current Status: *Pending*

PolicyStat ID: 9431745



San Bernardino County Employees'  
Retirement Association

Origination: 5/3/2018  
Effective: Upon Approval  
Last Approved: N/A  
Last Revised: 5/3/2018  
Next Review: 3 years after approval  
Area: Investments  
References:  
Applicability: SBCERA systemwide

## Alternative Investment Structures

POLICY NO. 017

### Background

The Board is aware that reviewing tax treatment is a highly fact specific activity, and as a result directs Staff to select the most favorable tax treatment in consultation with tax counsel and advisors. The Board is also aware of unresolved IRS issues dealing with unrelated business income tax and the myriad of legal opinions addressing the subject. Under IRS section 115, income derived from the exercise of an essential governmental function and accruing to a state or any political subdivision thereof is excluded from gross income for federal tax purposes. This policy codifies the Board's July 5, 2012 criteria to use on shore alternative investment structures if using an off shore structure will create for SBCERA Adverse Tax Consequences (ATC), examples of which include, but are not limited to 'effectively connected income' (ECI), any upfront withholding tax collected by a counter party, or loss of United States treaty protections. In addition, this policy clarifies the Board's tax exemption position.

### Policy

The Board directs staff to invest in on shore alternative investment structures, unless, after a fact specific evaluation was completed, using an off shore alternative investment structure was tax advantageous for SBCERA.

In addition, SBCERA asserts that it is an essential government function, and is tax-exempt under IRS section 115.

### Attachments

No Attachments

### Approval Signatures

Step Description	Approver	Date
HR Final Review & Distribution	Iliana Torres	pending

## Exhibit A: Page 2

Step Description	Approver	Date
Board Approval & Quality Assurance Review	Erin Calicchio: Sr Executive Secretary	4/7/2021
Board Approval & Quality Assurance Review	Donald Pierce: Chief Investment Officer	4/7/2021
Investment Committee	Erin Calicchio: Sr Executive Secretary	4/7/2021
Investment Committee	Donald Pierce: Chief Investment Officer	4/7/2021
Chief Executive Officer Review	Debby Cherney: Chief Executive Officer	4/7/2021
Chief Counsel Review	Barbara Hannah: Chief Counsel	3/22/2021
Investment Services Review	Eydie Cox: Sr Investment Analyst	3/10/2021
Investment Services Review	Donald Pierce: Chief Investment Officer	3/10/2021
Investment Services Review	Erin Calicchio: Sr Executive Secretary	3/10/2021

**Applicability**

---

SBCERA, SBCERA Internal

COPY