



## Section 403(b) Retirement Plans

### Getting Started: Meeting the New Form 5500 Reporting and Audit Requirements

Beginning with 2009 Form 5500 filings, employee benefit plans under section 403(b) of the Internal Revenue Code that are sponsored by charitable organizations and covered under the Employee Retirement Income Security Act of 1974 (ERISA) will be subject to the same reporting and audit requirements that currently exist for section 401(k) plans. Many plans face significant challenges in establishing plan accounting records and proper controls, identifying all participant accounts to be included as plan assets, determining beginning account balances (i.e. - comparative balances are also required as of December 31, 2008 for calendar year plans), obtaining other financial information to be included in the plan's financial statements, and obtaining an unqualified opinion on the plan's financial statements from the independent auditor.

Below are steps that you, as a plan sponsor or administrator, can take now to help your plan meet the new requirements.

#### **1. Understand how the Department of Labor's (DOL) new financial reporting and audit requirements will affect your plan.**

You should become familiar with the DOL's new reporting and independent audit requirements for ERISA-covered 403(b) plans, including the DOL "safe harbor" rules for annuity contracts or custodial accounts in 29 C.F.R. § 2510.3-2(f), and determine your plan's Form 5500 reporting and audit requirements. Is your plan eligible to use the new simplified Short Form 5500? Short Form filers will need to report the total value of plan assets and the number of plan participants. *(In determining the number of plan participants, the number of employees who are eligible to participate in the plan but decline participation and former employees/beneficiaries who have balances remaining in the plan must be included.)* If your plan is not eligible to use the simplified Short Form 5500, how will your plan meet the Form 5500 reporting and independent audit requirements? Will the plan's financial statements and Form 5500 be prepared by in-house personnel or by an external service provider? Do you have a CPA firm with the proper experience and qualifications to perform the plan audit?

#### **2. Establish responsibility for the plan's financial reporting function.**

Designate an individual at the plan or plan sponsor to be responsible for ensuring that the plan meets its reporting responsibilities. This individual should have knowledge and expertise in financial accounting and reporting and an understanding of GAAP for employee benefit plans. This could be an individual in the sponsor's financial accounting department.



### **3. Hire a qualified independent auditor for your plan.**

If your plan must have an independent audit, select an auditor that has prior experience with employee benefit plans and can perform a quality audit. A quality audit helps ensure the financial integrity of a plan and protect plan assets. A quality audit also will help the plan administrator carry out its legal responsibility to file a complete and accurate annual return/report for the plan each year. Discuss with your auditor whether there will be any scope restrictions on the plan audit (i.e.- limited scope exemption) and whether the requisite conditions are met. To find CPA firms that are members of the Employee Benefit Plan Audit Quality Center, visit the EBPAQC Web site at [www.aicpa.org/EBPAQC](http://www.aicpa.org/EBPAQC).



### **4. Communicate with your service provider on the plan's information needs.**

Identify all plan service providers and ask them whether they will be able to provide you with the information that you will need for your plan's financial statement audit and Form 5500. Your service provider should be able to identify and match all individual participant contracts and account balances to your plan. Make sure the plan has current contracts with its service providers that provide for this information. Also ask your service provider if they will be making available a "SAS 70" report on the internal controls established to process your plan's transactions.



### **5. Determine what 2008 comparative financial information the plan will need.**

Even though the new Form 5500 reporting and independent financial statement audit requirements are not effective until the 2009 Form 5500 filing, if your plan meets the requirement to have an independent audit for the plan year ended December 31, 2009, then the plan's financial statements will also need to include certain comparative financial information as of the 2008 plan year end (i.e. - December 31, 2008 for calendar year plans). This comparative year information is required by the DOL to be included in the plan's financial statements, even in the initial reporting year. Required information includes the current value of plan investments, and the amounts of employer's contributions owed to the plan, accounts payable and accrued expenses as of the end of the plan year.

### **6. Make sure plan participant records are complete and accurate.**

Plan participants may include former employees for which the plan has no current records. You may need to take steps to find these "missing" participants and determine their account balances so that they can be properly included in the plan records. [Tip: You can use the IRS's Letter Forwarding Program (see IRS Policy Statement P-1-187) or Social Security Administration Letter Forwarding.]





## **7. Get your plan's books and records in shape.**

Make sure your plan establishes a proper set of financial books and records to support the preparation of the plan's financial statements. These records should include contribution and disbursements records, individual participant account balance records, investment schedules, a general ledger and trial balance. Identify all participant mutual fund and custodial accounts holding plan assets, including any transfers to another 403(b) account or contract outside the plan. Determine which insurance annuity contracts should be reported as plan assets on Schedule H of Form 5500 and in the plan's financial statements ("fully allocated" annuity contracts are not included as plan assets). If the plan previously changed service providers, identify any old accounts and contracts that were not transferred to the new service provider (referred to as "orphan contracts").



## **8. Establish proper internal controls over the plan's financial reporting process.**

Establish policies and processes to ensure proper authorization and recordkeeping of plan transactions, including investments, contributions, benefit payments, participant data and administrative expenses. This includes controls at all service providers used by the plan, and ongoing monitoring of those controls. Effective controls reduce the risk of asset loss, and help ensure that plan information is complete and accurate, financial statements are reliable, and laws and regulations are complied with. Your plan auditor is required to communicate to you — and others in your organization charged with governance — certain deficiencies or weaknesses in internal controls over your plan's financial reporting. [Tip: Refer to the *EBPAQC Plan Advisories: The Importance of Internal Controls in Financial Reporting and Safeguarding Plan Assets*; and *Effective Monitoring of Outsourced Plan Recordkeeping Functions*.]

## **9. Ensure that the plan has an up-to-date written plan document and an investment policy.**

Make sure the plan has a current, written plan document that includes basic provisions relating to eligibility, benefits, distribution availability and other limitations, and information relating to the annuity contracts or custodial agreements used by the plan. The plan should also have a written investment policy describing what types of investments the plan can make and the appropriate authorizations for investment transactions.

## **10. Ensure that the plan is in compliance with the plan's tax exemption.**

Review the plan's exempt status and compliance with requisite IRS rules, including salary deferrals, contributions, universal availability and coverage, nondiscrimination, compensation testing, controlled group/affiliated service group analysis, minimum required distribution calculations, and transfers to an IRA or other eligible plan.

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