

Are you ready?

Preparing for new 403(b) plan requirements

A 403(b) is a tax-qualified retirement plan that is offered by nonprofit organizations, churches and public school systems. Plan assets are invested in annuity contracts or custodial accounts held by the participants directly versus a 401(k) plan in which assets are invested in a tax-exempt trust.

New rules for 403(b) plans become effective in plan years beginning on or after Jan. 1, 2009, requiring not-for-profits to fill out Form 5500, providing to the government the in-depth information similar to what for-profits must provide for their 401(k) plan.

Smart Business learned more from AnneMarie Scully, CPA, a senior audit manager with Habif, Arogeti & Wynne LLP, about how not-for-profits can prepare to comply with the new rules.



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What are the most significant new rules for 403(b) plans?

Plan sponsors require nonprofits to have a written plan that contains terms and conditions for eligibility, benefits, applicable limitations, contracts available under the plan, and time and form under which benefit distributions will be made. 403(b) plans that are covered by Title I or ERISA are subject to the same reporting requirements with the DOL as other tax-qualified retirement plans. This will include an audit of the plan's financial statements beginning with plan years ending in 2009 for certain 403(b) plans.

Which plans will require an annual audit?

Generally plans with more than 100 participants as of the beginning of the plan year. If your plan is eligible for a 'limited scope audit' this will result in significant audit cost savings. In a limited scope audit, certain information relating to investments that are certified by a bank or other financial institution, a state or federally insured insurance carrier, or a 103-12 investment entity does not have to be audited. A special opinion is rendered by the auditor excluding this information. The DOL accepts this type of audit and significantly less work is performed than in a 'full scope audit.'

What does this mean for not-for-profits' 403(b) plans?

If you find that your plan will be required to have an annual audit for 2009 you will need to begin looking for an auditor sooner rather than later. Discuss with prospective auditors whether they have experience in auditing retirement plans. Retirement plan auditing is a specialized area with specific regulations and challenges that experienced auditors will be able to address. Your plan audit is required to be filed with Form 5500 and is subject to DOL scrutiny. It may cost a bit more to make sure that your audit is done correctly, but that certainly beats the cost of having to revisit an audit that was filed and found to be deficient.

How can I get ready for an audit if I have never needed one before?

The biggest difficulty with this situation is that participant balances will need to be tested back to the inception of the plan. Here are some tips:

- Sit down with the auditor well in ad-

vance of the audit to determine exactly what items he or she will be requesting for the audit procedures.

- Designate someone within the organization to be the liaison between the auditors and the trustee and to facilitate the audit requests.

- Request an 'auditor's package' from your trustee. Your trustee should be aware of the basic information that the auditor will need to perform his or her audit.

- Ensure that you have an accurate employee listing and that you can provide a listing of employee information that agrees to the information used by your plan trustee (you can request this from your plan trustee if it is the one who prepares).

- Perform an internal employee file review to determine that each employee file contains supporting information for the following: employee's date of birth, date of hire, sex, social security number, beneficiary information and, if applicable, date of termination. Keep in mind that if you have never had an audit before you will need this information for terminated employees who participate in the plan as well as active employees.

- If employees complete participation election forms that are returned to you rather than through your trustee, ensure that you have a copy of all election forms. (Some plans allow for participants to select from several trustees, which adds to the complexity of gathering this information.)

- Make sure that you have a copy of your written plan document and any subsequent amendments available as well as the summary plan description, determination letter and any ACP and ADP testing that was completed for the plan.

- For all benefit payments, ensure that you have a copy of the benefit election form showing whether the amount was paid out or rolled over into another retirement account and how taxes were treated.

As a plan sponsor you have a fiduciary duty to comply with regulations and to make sure that your plan remains qualified. Do not get caught unprepared as these new rules take effect. <<

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