

WHAT'S NEW!

Final 403(b) Regulations – Effective January 1, 2009

- All 403(b) plans will be required to have a written plan document.
- 403(b) plan terminations are now possible.
- New requirements must be satisfied for a contract exchange or transfer to be tax-free.
- Complying with the regulations will not automatically subject a Tax-Sheltered Annuity (TSA) program to ERISA.

Proposed Cafeteria Regulations

The new proposed regulations for cafeteria plans clarify:

- the plan document requirements,
- what benefits may be offered,
- the timing of elections,
- nondiscrimination testing,
- claims substantiation, and
- pre-tax payment for individual insurance and COBRA payments.

Automatic Contribution Arrangements

Beginning in 2008, new incentives exist to add automatic enrollment to your 401(k) plan. If certain contribution, vesting and notice requirements are met, nondiscrimination testing may be avoided. Even if all the requirements are not met, there may still be some advantage to using an automatic contribution arrangement in your plan.

Qualified Default Investment Alternatives (QDIAs)

Using a QDIA gives a fiduciary protection in a participant-directed plan if the participant does not make an investment election. The new regulations add two QDIAs (money market funds and stable value funds) that may be used under limited situations in addition to the three main types of QDIAs (life-cycle funds, balanced funds and managed accounts).

For more information on these changes and how they affect your plan, contact your EBR plan consultant.

LIMITS	2008	2007
401(k)/403(b)/457 Deferrals	\$15,500	\$15,500
401(k)/403(b)/457 Catch Up Contributions	\$5,000	\$5,000
Maximum Annual Addition (Under Age 50)	\$46,000	\$45,000
Maximum Annual Addition (Age 50 or Older)	\$51,000	\$50,000
Highly Compensated Employee Income Limit	\$105,000	\$100,000
Social Security Wage Base	\$102,000	\$97,500
Annual Compensation Limit	\$230,000	\$225,000

IMPORTANT LIMITS AND DEADLINES FOR QUALIFIED PLANS

DEDUCTION LIMIT

The deduction limit is 25% of covered compensation, plus elective deferrals under a 401(k) plan.

CONTRIBUTION DEPOSIT DUE DATES

Employee deferrals – Under Department of Labor (DOL) deadlines, employee deferrals must be deposited to the trust as soon as administratively feasible, but no later than the 15th business day of the month following the month they are withheld from the employees' pay. The DOL has been very clear in defining their policy and interprets "as soon as administratively feasible" to be as soon as the contributions can be reasonably segregated from the employer's general assets. This means that the deposit of employee deferrals and loan payments withheld should coincide with the employer's remittance of FICA and FIT withholding to the appropriate agencies, i.e., within two to three days after the pay date.

Employer contributions (pension, profit sharing and matching) – Unless otherwise dictated by the plan document, employer contributions must be deposited to the trust by the due date of the employer's tax return, including extensions. For pension plans subject to minimum funding requirements, the contribution must generally be paid within 8½ months after the close of the plan year. Safe harbor matching contributions to a 401(k) plan that are calculated on a payroll period basis must be deposited at least quarterly.

401(k) SAFE HARBOR PLAN NOTICES

Annual written notice of the safe harbor provisions must be provided to eligible employees within a reasonable time, 30 - 90 days, before the first day of the plan year. For calendar year plans, the 2008 notice must be posted by December 1, 2007.

ANNUAL 401(k)/401(m) DISCRIMINATION TESTING

The required annual nondiscrimination testing for salary deferrals and matching contribution in 401(k) plans must be completed within 2½ months after the end of the plan year to avoid the 10% excise tax assessed by the IRS on excess contributions. Excess contributions distributed within the first 2½ months following the end of the plan year are taxable to the recipient in the year of deferral. Excess contributions distributed after 2½ months following the end of the plan year are taxable to the recipient in the year distributed. Excess contributions are contributions returned to highly compensated employees to correct a failed discrimination test.

Excess elective deferrals (deferrals in excess of the 402(g) dollar limit) must be distributed by April 15 following the close of the participant's taxable year to avoid double taxation. If the excess elective deferrals are distributed by April 15th, the excess is taxable to the recipient in the year of deferral. If the excess is distributed after April 15th, the excess is taxable to the recipient in both the year of deferral and the year of distribution.

5500 FILINGS

The 5500 filing is due 7 months after the end of the plan year, or 9½ months if an extension, Form 5558, is filed.



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