



“The Keys to Plan Compliance, Know the Pitfalls and How to Avoid Them”

SAVING : INVESTING : PLANNING

Bob Architect

Vice President, Compliance and Market Strategy

VALIC

The Main Governmental Plans

401(a)

- Defined Contribution Plans
- Defined Benefit Plans

457(b) – Governmental Eligible Plans

403(b) – Tax-Sheltered Annuities

Where does IRS Concentrate Examinations?

With the Supplemental Plans

- 457(b)
- 403(b)

To Begin

401(a) Plans Both Defined Benefit and Defined Contribution

Biggest Compliance issues for Governments

1.) Not operating in accordance with the plan terms.

How to avoid – Know the plan terms and regularly review the plan's operation to assure consistency.

2.) Keeping the plan terms in timely conformity with changes in the law.

What to do – Have your legal advisor regularly review plan language to comply with statutory and regulatory updates.

457(b) - Governmental Eligible Plans

Biggest Compliance Issues

1.) Improperly Using the “Double the Applicable Dollar Amount Catch Up”

How to avoid

- Assure the use is within 3 years of the year prior to the Plan’s normal retirement date
- Assure that supportive records of past contributions exist
- Assure that the age 50 catch up (\$5,500) is not used in the same year.

457(b) Continued

2.) Improper Administration of “Unforeseeable Emergency” Distributions

How to avoid

- Don't be a “Rubber Stamp” – Ask for and evaluate proof
- Don't look to 403(b)'s or 401(k)'s Financial Hardship Approach

3.) Exceeding the \$17,500 Contribution Limit

How to avoid

- Affirmatively monitor contributions
- Be aware that the limit includes both employee and employer contributions and that FICA taxes are applicable to all contributions.

403(b)s

A Plan for the Employees of Governmental Educational Entities

403(b) Compliance Issues

1. Exceeding the Dollar Limits

Overall Limits for 2014: \$52,000

- Includes Elective Deferrals (\$17,500)
- Includes Elective Deferrals for Long-Term(15 years+)
Employee Catch-Up (Up to \$3,000)
- Enhanced by Age 50 Catch-Up (\$5,500)

403(b)s - Continued

How to Avoid

- Affirmatively monitor contributions and cut them off when limits are reached
- Assure that supportive records exist to calculate the long term employee Catch-Up (past contributions)

403(b)s - Continued

New compliance issues (beginning 1/1/10)

- Timely Written Plan Adoption
 - Not later than 12/31/09
 - Correctible under the IRS Correction program
- Document compliance
 - Form of the Plan (The Wording)
 - Correctible using future IRS pre-approved plans
 - Correctible under the IRS Correction program
- Operating in accordance with Plan Terms
 - Correctible by Plan Amendment

403(b)s - Continued

Reconciling Plan & Investment Products to Operate in Accordance with Plan Terms

With 403(b)s all funding contracts are part of the plan

Example 1 -

Plan says No Loans

Some investments Permit Loans

Answer: No Loans

Example 2 -

Plan silent on Loans, incorporates Investments

Some investments Permit Loans

Answer: Loans Permitted

How to avoid faulty Operation – Assure that the plan language and operation are in sync with the Funding Contracts.

403(b)s - Continued

Main IRS Compliance Issue: Universal Availability

Who can be included

- All common law employees can be eligible

Who can be excluded

- Employees who work < 20 hours/week
- Students may be excluded
 - Avoid Pitfalls of Misclassification
- Leased Employees & Independent Contractors are never eligible

How to avoid – Be careful who you exclude

403(b)s - Continued

Effective Communication and opportunity to participate (A part of Universal Availability) might be insufficient.

How to Avoid

- 1.) Use and Document reasonable communication efforts to employees
- 2.) Let Eligible employees make salary reduction contributions to the plan as soon as possible.

QUESTIONS ?



THANK YOU

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