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## Five Steps to a Better 403(b) Plan

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The Pension Protection Act of 2006 acknowledged that employer-sponsored defined contribution plans will be critical to the American workforce's ability to live comfortably in retirement. In the not-for-profit world, 403(b) plans will often be that plan.

On July 26, the Internal Revenue Service (IRS) published final regulations governing 403(b) plans for the first time since 1964. The final rules apply to all 403(b) plans, including government, church, and non-ERISA tax-deferred annuity plans. The regulations are effective for taxable years beginning after December 31, 2008, and include the following requirements:

**Written Plan Document** - Employers must adopt a single plan document stating the eligibility requirements and coordinating the administration of the plan(s) among multiple 403(b) vendors.

**Exchanges and Transfers** - Exchanges are permitted only when certain requirements are met, including those stipulating that the plan provide for the exchange and that the employer enters into an information sharing agreement with the issuer of the new 403(b) contract.

**Universal Availability** - The final regulations include clarifications related to the universal availability requirement, including eliminating several exemptions from the requirement and providing guidance on the treatment of part-time employees.

**ERISA** - The Department of Labor published Field Assistance bulletin 2007-02 in connection with the final regulation, which generally provides that a plan of a tax-exempt employer may satisfy the requirements of the final 403(b) regulations and remain exempt from ERISA.

**In-Service Distributions** - The regulations restrict in-service distributions to amounts attributed to employer contributions to a 403(b) annuity contract issued by an insurance company. Contracts issued before January 1, 2009, are grandfathered into previous rules.

**Plan Termination** - The final regulations officially allow an employer to terminate a 403(b) plan. An employer is immediately able to replace a terminated 403(b) plan with a 401(k) plan or a 457(b) plan.

## Responding to the New Regulations

By applying the new regulations, the IRS intends to make 403(b) plans look and act much more like their 401(k) counterparts. Overall, these regulations will require much more employer involvement than in the past. Employers must not only offer 403(b) programs but create guidelines for management and oversight of the plans.

Here are five steps that will ease the burdens of the new regulations and, more importantly, improve your existing 403(b) plan and the benefits it offers participants.

- 1. Plan Committee and Goal Setting**

Designate a 403(b) Committee charged with decision-making and formal oversight of all Plan aspects. Initially, the Committee should establish initiatives and well-defined objectives. Longer-term, the Committee's responsibilities include overseeing plan providers, monitoring investment performance and coordinating education initiatives.

- 2. Streamline Administration**

The multi-provider model is not an optimal solution. It creates administration complexity and greater confusion among participants. Creating and issuing a formal Request for Proposal to qualified 403(b) providers will allow for an in-depth comparison of administrative capabilities, technology, education services and investment offerings. At the end of the process, you will likely find that a single provider model makes great sense for a number of reasons.

- 3. Enhance Investment Offerings**

Historically, 403(b) plans offered participants all available options from their providers. Unfortunately this is quite confusing for participants and likely results in poor asset allocation decisions and weaker long-term investment performance. We suggest an investment menu with "best-in-class" investment options within selected asset classes. This typically results in an investment menu of 10 to 14 options. In today's marketplace, most providers can offer significant investment flexibility including the use of non-proprietary investments. Thus, you can feel confident selecting a single provider for administrative but retain the ability to incorporate funds across multiple investment firms.

- 4. Improve Participant Education**

Working with a single provider offering a defined investment menu will allow you to better communicate with participants. Education programs should include a plan and administrative overview and "how-to" information on asset allocation and selecting the appropriate investment options. Your provider can provide a multi-dimensional program to include hardcopy education materials, internet-based tools and in-person meetings.

- 5. Fiduciary Oversight**

A procedural process will reduce your exposure as a plan fiduciary. An important practice is to adopt a plan investment policy statement that will serve as a blueprint for oversight. The statement should include specific investment benchmarks that investment funds are expected to achieve. The plan committee should meet no less than quarterly to discuss plan issues and investment options. Documentation is critical and should include meeting minutes.

The new regulations go into effect on January 1, 2009. While the prospect of change may seem overwhelming, this is an opportunity to improve your 403(b) plan and to improve your participants' ability to retire comfortably.

DiMeo Schneider & Associates, L.L.C. has years of experience working with 403(b) plans and 401(k) plans. Please e-mail Doug Balsam at [dbalsam@dimeoschneider.com](mailto:dbalsam@dimeoschneider.com) for more information.