
403(b) DOCUMENT UPDATE

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Regional Conference

403(b) Documents

- New IRS pre-approved documents now available
- Restatement deadline to get retroactive reliance is March 31, 2020
- Retroactive effective dates as early as 1/1/2010 can be used
- Custom effective date and custom language attachments with retroactive effective dates



403(b) Documents

- New service provider attachment
 - Approved vendors
 - Un-approved vendors
 - Service providers
 - Plan sponsor duties



403(b) Documents

- Restatement Deadline
 - March 31, 2020
 - If document was amended timely for final regulations then plan may have retroactive reliance back to 2010.
 - All provisions must be documented in some form
 - Interim amendments
 - Special effective date addendum



403(b) Documents

5 types

- ERISA for 501(c)(3) Organizations
- Non-ERISA Deferral Only for 501(c)(3) Organizations
- Non-ERISA for Governmental Organizations
- Non-ERISA for Churches without RIA
- Non-ERISA for Churches with RIA



403(b) Documents

ERISA for 501(c)(3) Organizations

- Robust document intended to provide maximum flexibility
- Contribution Types Included
 - deferrals – pre-tax and Roth
 - voluntary after-tax
 - mandatory - after-tax and pre-tax
 - matching contributions
 - non-elective contributions
 - rollover contributions



403(b) Documents

ERISA for 501(c)(3) Organizations

- Other Provisions
 - ACP Safe Harbor
 - Auto-Enrollment – ACA, EACA, QACA
 - Integrated, Age Weighted, and Cross-Tested Non-Elective Contributions



403(b) Documents

ERISA for 501(c)(3) Organizations

- Testing Provisions
 - Designed to be Universal Availability compliant
 - All ERISA language included
 - ACP testing elections included
 - 410(b) failure language included



403(b) Documents

Non-ERISA 403(b) Deferral Only for 501(c)(3) Organizations

- Designed to be used by a 501(c)(3) organization that intends to meet the DOL safe harbor of limited employer involvement under 29 C.F.R. section 2510.3-2(f)
- Contributions Types include
 - Deferrals – pre-tax and Roth
 - Voluntary after-tax
 - rollover contributions



403(b) Documents

Non-ERISA 403(b) Deferral Only for 501(c)(3) Organizations

- Does not include
 - Matching or non-elective contributions
 - Safe harbor provisions
 - Automatic enrollment
 - Vesting provisions



403(b) Documents

Non-ERISA for Governmental and Church Employers

- Robust document intended to provide maximum flexibility
- Contribution Types Included
 - deferrals – pre-tax and Roth
 - voluntary after-tax
 - mandatory - after-tax and pre-tax
 - matching contributions
 - non-elective contributions
 - rollover contributions



403(b) Documents

Non-ERISA for Governmental and Church Employers

- Other Provisions
 - Auto-Enrollment – ACA
 - Integrated Non-Elective Contributions
- Not Included
 - Safe Harbor
 - Auto-Enrollment – EACA, QACA
 - Age-Weighted and Cross-Tested Non-Elective Contributions



403(b) Documents

- Non-ERISA for Church Employers
 - Steeple Church
 - Qualified Church Controlled Employers
- Retirement Income Account
- Not subject to Universal Availability

