

Return/Rank 4-wk	Mutual F
+0.5	12
0.2	-5.6
0.6	-6.9
3	+5.0/D
	+13.3/B
	-0.7/A
	-1.3/C
	-6.2/D
	-13.7/B
	+12.2/B
	4.6/B
	5/B
	8/B

New 403(b) Requirements

Sammy Tyndall, QPA, QKA

Today

- ▶ 403(b) plan requirements:
 - Documentation
 - Form 5500
 - CPA Audits.



Who Can Start a 403(b) Plan?

- ▶ Charitable organizations.
- ▶ Churches.
- ▶ Public Schools.



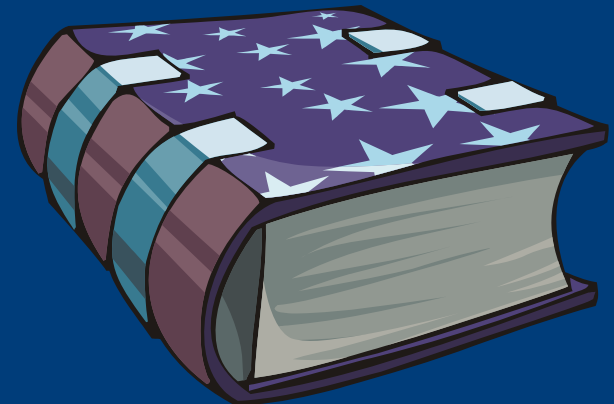


403(b) Changes

- ▶ Plan sponsors must take responsibility for administration & oversight of plans.
- ▶ No financial reporting pre-2009.

Changes Post-2009

- ▶ From 2009 plan year forward:
 - ERISA-covered must file a Form 5500 annually, including audit.
 - ERISA-exempt plans are not required to file Form 5500.





Is My Plan Exempt?

- ▶ Generally, 403(b) plans established by a tax-exempt organization are covered by Title 1 of ERISA .
- ▶ Plans sponsored by government entities are exempt.



Is My Plan Exempt?

- ▶ Plan must be funded by salary deferrals only.
- ▶ Participation: voluntary and offered to all.
- ▶ Employees' rights are enforceable solely by employees (employer has no control).



Is My Plan Exempt?

▶ Employer may:

- Permit multiple vendors to publicize products.
- Summarize information about vendors.
- Collect salary reductions & remit to vendors.
- Hold group annuity contracts in employer's name.



Loss of ERISA Exemption

- ▶ Plan becomes an ERISA plan if employer:
 - Authorizes plan-to-plan transfers.
 - Negotiates fees/contract provisions.
 - Processes distributions.
 - Determines hardship distributions or loan eligibility.



I Lost My Exemption! What Now?

- ▶ The plan must file Form 5500.
- ▶ Large 403(b) Plans must submit audited financial statements beginning in 2009.
 - Need financial data as of December 31, 2008 and December 31, 2009.

Other Common Questions

- ▶ Formal document needed?
- ▶ Form 5500 needed?
- ▶ Who completes the 5500?
- ▶ Auditor's opinion on the accounting for plan's assets needed?



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Plan Document Requirements

- ▶ **ERISA-exempt:** Built into the group or individual annuity contract—but check.
- ▶ **ERISA-covered:** ER contributions require a comprehensive plan document



403(b)

VS

401(k)

- ▶ **Universal eligibility**
May impose minimum age/ service requirements for ER contributions.
- ▶ **No ADP/Top Heavy Test Requirement.**
- ▶ **15-year catch-up contribution (in addition to 50 year old catch-up).**

- ▶ **Can impose minimum age and service requirements.**
- ▶ **Subject to ADP/Top Heavy Tests**

FAQs

- ▶ Can a plan go from ERISA covered to non-ERISA covered?
- ▶ Where can I get a plan document?
- ▶ 401(a), 403(b) combos?
- ▶ What if I didn't comply...

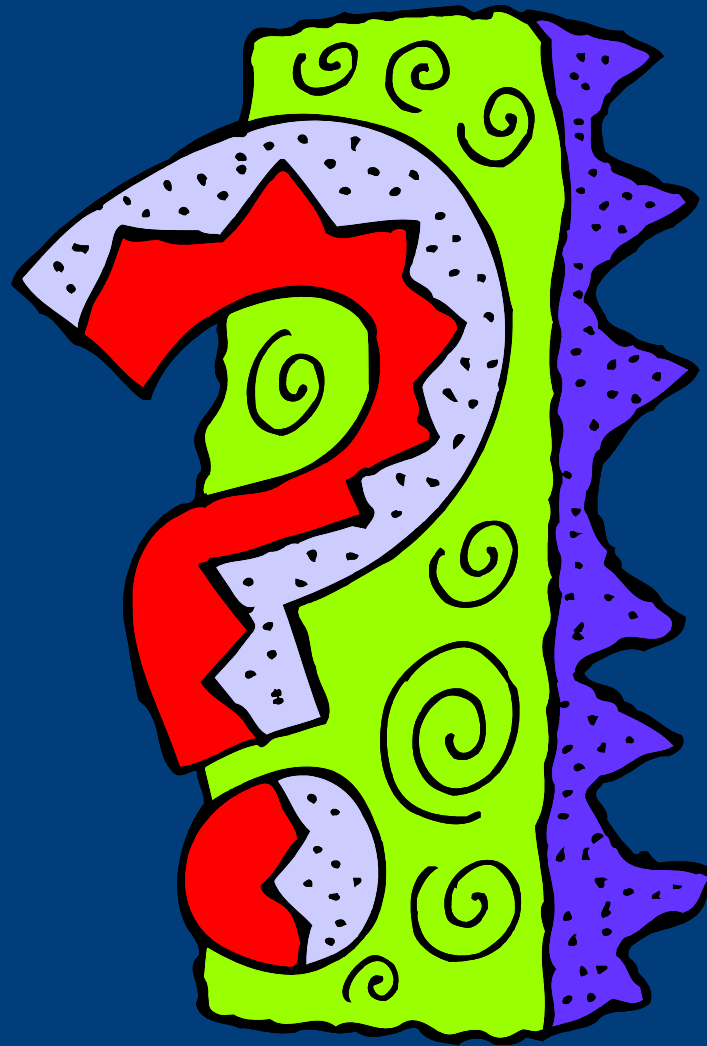


IRS Relief

- ▶ Notice 2009-3: transitional relief.
- ▶ Reasonable and appropriate correction
- ▶ “Best efforts.”



Questions?



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Contact Information

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