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# Year-end review of new 403(b) regulations

As we approach the end of 2009, 403(b) plan sponsors should review their plans and the way in which they operate. The following chart highlights the major provisions of the new 403(b) rules and provides useful references for plan sponsors.

| New provision | Summary | Reference document |
|---|---|---|
| Written plan | All 403(b) plans must have a written plan in place by December 31, 2009 and be operationally compliant with its terms retroactive to January 1, 2009 (including any retroactive corrections). | IRS delays written plan deadline for 403(b) plans |
| Universal availability | All employees must be allowed to make salary reduction contributions into the 403(b) plan (including Roth), with the following exceptions:<br>• Non resident aliens;<br>• Employees who normally work less than 20 hours per week;<br>• Student employees; and<br>• Employees who are eligible to make elective deferrals to another plan of the same employer. | A New World for 403(b) Arrangements |
| Effective opportunity | Eligible employees must be given an opportunity, on an annual basis, to make elective deferrals into the 403(b) plan. | A New World for 403(b) Arrangements |
| Due dates for contributions | Contributions and loan repayments must be transferred to the provider as soon as the funds can be reasonably segregated from employer assets. | A New World for 403(b) Arrangements |
| Data sharing | For 403(b) sponsors with multiple providers, data from all providers under the plan generally must be aggregated for purposes of processing loans and hardship withdrawals. | Data Sharing Guidelines |
| 5500 rules | ERISA 403(b) plans must include more information in their 5500 filings. This may include the need to secure a preparer of Form 5500 able to gather information on all investment vehicles available under the plan. Large plans must also include an independent audit. | Federal agencies expand 5500 rules for 403(b) plans |
| Nondiscrimination testing | 403(b) plans must generally follow the qualified plan rules for testing of employer non-elective contributions and after-tax employee contributions. | A New World for 403(b) Arrangements |
| Controlled group rules | Certain related employers must be treated as a single employer if at least 80% of the trustees or directors are controlled by another organization. | New Rules for Identifying Controlled Groups of Tax-Exempt Organizations |

## Next steps

Sponsors of both ERISA and non-ERISA 403(b) plans should review their written plans, which must in place by December 31, 2009, as well as the procedures they have put in place to operate in accordance with the terms of those plans. If operational corrections are needed, they should also be made by year-end.

Prudential can assist plan sponsors in understanding and complying with the new regulations. If you have questions, or need assistance, please contact your Prudential Representative.

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