

## What do the new 403(b) Regulations mean to you?



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In July, 2007, the Internal Revenue Service issued final regulations for 403(b) plans. Since the first 403(b) regulations were issued by the IRS back in 1964, these new regulations were over 40 years in the making. As you might expect, these final regulations provide for significant changes in the way 403(b) plans must be maintained and administered. The final regulations are generally effective for plan years beginning on or after January 1, 2009. The intended effect of these regulations is to make the rules governing 403(b) plans similar to the rules governing other qualified plans, such as 401(k) and 457(b) plans. The following summary of the new requirements is intended to cover the most important points and is not intended to be an exhaustive analysis:

William Gallagher Associates, a leading provider of insurance brokerage, risk management and employee benefits services to firms with complex risks, within industries that include high technology, life sciences, financial risks, healthcare services, energy, and environmental services. WGA has offices in Boston, MA; New York, NY; Hartford, CT; Princeton, NJ; Columbia, MD; Atlanta, GA; and Paris, France.

- **Written Plan Document** – All 403(b) plans must be maintained pursuant to a written plan document. The document must provide the terms and conditions for eligibility, benefits, applicable limits, loans, the time & form of benefit distributions, and other important plan details. The term ‘plan document’ is generic and might include any or all of the following:
  - 403(b) contracts with investment providers
  - Employee handbooks and communications
  - Administrative procedures
  - Administrative Service agreements
  - Collective bargaining agreements
- **Plan Administration** – In the present environment, the majority of existing 403(b) plans allow participants to invest their money with multiple investment providers. The Plan Sponsor (employer) assumes the role of a passive conduit, sending deferral contributions wherever instructed by the participant. However, the new regulations require the Plan Sponsor to assume a fiduciary obligation to oversee the operation of the plan and ensure that the chosen plan administrator coordinates contributions, distributions, hardship withdrawals, and loans.
- **Fiduciary Responsibility** – As a fiduciary, the Plan Sponsor must act prudently regarding the plan’s investments. The employer may want to establish some type of Plan Investment Committee, deciding on who the key-decision makers will be and educating them on their fiduciary responsibilities. As fiduciaries, the committee will be responsible for monitoring the investment funds available under the plan. An Investment Policy Statement should be developed to establish the procedural framework for monitoring the plan investments.

In summary, the new 403(b) regulations usher in a ‘good news, bad news’ scenario. The bad news is that Plan Sponsors will now have increased monitoring responsibility and increased fiduciary responsibility. The good news is that employees will benefit from a better, more cost-efficient retirement vehicle.

Contact your WGA Account Executive for more information regarding these fast approaching changes to the 403(b) market and how non-profits will be impacted.

