



Some Colleges and Universities to Receive 403(b) Plan Questionnaires from IRS

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By Daniel R. Salemi

The Internal Revenue Service has announced that it is sending 403(b) compliance questionnaires to a random selection of approximately 300 colleges and universities (both public and private) as part of an increased effort to enforce certain rules that apply to these institutions' 403(b) retirement plan arrangements. The questionnaire focuses heavily on the "universal availability" requirement, under which all employees (with limited exception) must be able to make elective deferrals into their retirement accounts within the plan. The questionnaire is designed to identify plans that are improperly excluding certain employees from making elective deferrals. More information on this IRS initiative, including a link to the questionnaire, may be found on the [IRS website](#).

Institutions that receive a questionnaire will generally have only 25 days to respond, although extensions will be available upon request. Responding in a timely and effective manner is critical. Based on recent, similar IRS initiatives, the IRS may decide to audit any institution that fails to respond. Importantly, the IRS will not consider those schools that receive a questionnaire to be "under examination," which means that such institutions will continue to have the opportunity to voluntarily correct certain types of compliance errors until the IRS initiates an audit. The requirements that apply to voluntary correction are far more favorable than those that apply to correction while under audit.

It is therefore in every institution's best interests to identify potential compliance issues relating to their 403(b) plans and to consider beginning the voluntary correction process in advance of responding to the questionnaire. Even for institutions that do not receive a questionnaire, it would be prudent for senior administrators to understand the IRS initiative and review their 403(b) plans for this same purpose. Because of the high potential for further IRS involvement with respect to these issues, institutions should work with counsel to assess their current level of compliance and formulate a strategy for dealing with possible IRS scrutiny.

More Information

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