



Post-Severance Contributions for 403(b) plans:

A money saving alternative for all

Over the course of employment, for some employers, vacation and sick time can accrue. Once employment has terminated, the unused time must be paid to the employee. If the participant takes the funds as a lump sum, they are subject to ordinary income and FICA taxes. As a result, many employees find themselves in a higher tax bracket that year. Employees who had been looking forward to receiving the benefit of their unused time become disappointed to pay a significant amount of taxes.

If the employer's plan allows post-severance contributions, the employer may make non-elective post-severance contributions into a former employee's 403(b) account and taxes are deferred until the employee takes the money out, as long as the former employee has not been given a choice to receive the money in cash or to have it deferred.

Employers are given up to five years following the end of the year in which the employee separated service to make non-elective post-severance contributions, unless the former employee dies and then all contributions must stop. (Continue on page 2)

ERISA Fee Disclosure Rule to go Live July 1, 2012

The Department of Labor Regulation, ERISA §408(b)(2), requires service providers, including TPAs, to ERISA covered plans to disclose in writing fiduciary information about their services and compensation. Letters to our ERISA plans were mailed the last week in June, please expect yours shortly.

Additionally, plan sponsors have the later of August 30, 2012 or 60 days after the end of the plan year, for years starting November, 2011, to disclose "Plan Related" and "Investment Related" fees to employees, participant, and beneficiaries under the §404(a)(5) regulations.

PlanConnect will be offering a service to assist you with fee disclosure responsibilities. If you are interested in assistance, please feel free to contact us for further information.

Important Dates for the Year:

January

- Universal Eligibility/Meaningful Notice e-mail to employees
- Notify employees of new contribution limits
- Advise participants to take a Required Minimum Distribution (RMD)

September

- Universal Availability/Meaningful Notice letters mailed to employees
- Yearly contribution limit review and employees at risk of exceeding the limits are notified

October

- End of year RMD reminder provided to impacted employees

ERISA Plans – At least 6 months prior to filing your Form 5500, start gathering information you'll need in order to complete the form and applicable schedules. If you're considered a large plan (**100 or more eligible participants**) this includes working with an independent auditor.

Contact Us!

If you have any questions about any of the articles you have seen here, or if you have a question or topic you would like to see addressed in future editions, please contact us toll free at (800)-923-6669 Monday-Friday from 9am to 5pm ET.

You may also email us at info@planconnect.com.

Post-Severance Contributions for 403(b) plans:

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Post-severance non-elective employer contributions must not exceed the lesser of the dollar amount in Section 415(c)(1)(A) or the former employees annual includible compensation based on the former compensation based on the former employee's average monthly compensation during his or her most recent year of service. The amount of the monthly includible compensation is equal to one twelfth of the former employee's includible compensation during the former employee's most recent year of service. (Post-severance contributions made by 501(c)(3) organizations are also permitted. However, nondiscrimination rules and ERISA coverage will apply to them; thus the post-severance contribution plan must be carefully constructed to meet those requirements.)

If the employer's plan does not allow post-severance contributions, the employee may defer (up to the annual deferral limit) regular, accrued vacation and sick pay into their 403(b) accounts. The funds must be received no later than 2 ½ months from their severance date, or the end of the limitation year (in most cases, calendar year) in which the severance occurred.

Q & A's From the IRS Website:

The IRS is constantly receiving questions from Retirement Plan Employers. Here is a common question and answer from the IRS website.

Does an employer have to contribute to a 403(b) plan for employees?

No. An employer has the option of making a contribution for the benefit of their employees, however, they are not required to contribute to the 403(b) program.

For more questions and answers from the IRS, please visit their website at www.IRS.gov.

This newsletter is provided for informational purposes only and is not intended as legal, tax or investment advice. Readers of the PlanConnect® Newsletter should consult their attorneys or tax advisors before making decisions on any matter discussed in this Newsletter.

Fixing 403(b) Plan Mistakes What is an auditor looking for?

In a recent conference, Colleen Shull (403(b)/457 coordinator with the Internal Revenue Service) gave attendees a list of things to locate, if the plan sponsor is given notice that their 403(b) plan will be audited. That list includes:

- Finding and reviewing their Plan Document,
- The board resolution adopting the written plan,
- Annuity contracts and contracts for custodial accounts,
- Good faith notices to former vendors,
- Information sharing agreement with vendors,
- Employee handbook and enrollment materials, and
- Collective bargaining agreements.

Ms. Shull was also able to share with attendees a list of the most common errors the IRS is finding from 403(b) plan audits. Those errors include:

- Universal availability violations – Does the plan exclude employees in operation from making elective deferrals and are exclusions being monitored?
- Excess elective deferrals – Does the plan provide for the 15-years-of-service catch up contribution, and does the plan sponsor follow the ordering rules for the 15-year catch up and the age-50 catch up?
- Employer five-year post—severance contribution violations – The plan must provide for these conditions, and plan sponsors should watch the treatment of vacation and sick leave,
- IRC 415 limit violations – All employer plans must be aggregated for this limit,
- Plan loan limitation violations,
- Hardship distribution rule violations, and
- Late deposits of employee elective deferrals.