

## New 403(b) Plan Regulations

The Internal Revenue Service (IRS) released the final 403(b) regulations (the “regulations”) on July 26, 2007. These regulations are the first comprehensive rewrite of the rules affecting Section 403(b) arrangements in 43 years.

The primary intent of the regulations is to reduce the difference between Section 403(b) plans, Section 401(k) and Section 457(b) plans; to enhance 403(b) plan compliance; and to establish a more structured retirement program for employees in the tax-exempt sector. The regulations will dramatically change the manner in which 403(b) plans have been managed historically. Under the regulations, employers have been allocated increased responsibilities as plan sponsors and are going to be required to take a more active role in administering their 403(b) plans.

The regulations incorporate numerous changes to 403(b) arrangements, including changes in the Employee Retirement Income Security Act of 1974 (ERISA), the Tax Reform Act of 1986, the Tax Reform Act of 1996, the Small Business Job Protection Act of 1996 (SBJPA), the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and the Pension Protection Act of 2006 (PPA).

***The regulations apply to all types of 403(b) plans, including, but not limited to, higher education, governmental and non-ERISA plans.***

The following is a list of some of the more significant changes within the final 403(b) regulations:

- Written Plan Document Requirement;
- Contract Exchange Restrictions;
- Coordination of Catch-Up Contributions;
- Participant Loan and Hardship Distribution Monitoring;
- Universal Availability and Participant Notification; and
- Promptness of Contributions.

The majority of the changes under the final regulations do not go into effect until **January 1, 2009**. However, there is one significant change concerning “**contract exchanges**” (previously referred to as 90-24 transfers) that is effective **September 25, 2007**. Contract exchanges occur when a participant transfers their 403(b) account from one provider to another within a 403(b) plan. Under the regulations, contract exchanges are only permitted to providers that are a part of the employer’s 403(b) plan either as an approved provide or through an information sharing agreement.

Participant **contract exchanges**, which **occur after September 24, 2007**, that do not meet the above referenced requirements are at **risk of becoming taxable on January 1, 2009**. In response to this particular change in the regulations, **the University’s 403(b) plan has restricted contract exchanges to the University’s three primary 403(b) providers: AIG VALIC, Fidelity and TIAA-CREF**. On September 10, 2007, the University sent correspondence to all of the 403(b) providers that are currently receiving contributions from the University through payroll deduction and instructed them to immediately restrict contract exchanges.

The University is in the process of carefully reviewing the regulations for the purpose of developing a strategy to bring the University’s 403(b) plan into compliance with the new regulations. Once the University’s plan of compliance has been developed, additional information concerning the impact of the regulations on the University’s 403(b) plan and its participants will be posted on this website.