

Retirement Plan Update for Tax-Exempts

On Behalf of Penjerdel Employee
Benefits and Compensation Association

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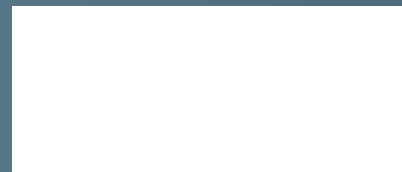
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Today's Agenda

- **Form 5500 Expanded Reporting for ERISA 403(b) Plans**
- **Heightened Focus on Fiduciary and Plan Governance Policies and Procedures**
- **Executive 457(f) Plans**





Form 5500 Expanded Reporting for ERISA 403(b) Plans



Form 5500 Expanded Reporting for ERISA 403(b) Plans

- **ERISA governed plans**
- **Financial reporting similar to 401(k) plans**
- **Audits for plans with 100 or more eligible participants**
 - 80 – 120 Waiver
 - Small plan waiver (5500-SF)
 - Limited scope

Form 5500 Expanded Reporting for ERISA 403(b) Plans

- **Transitional relief offered by
Field Assistance Bulletin 2009-02**
 - Good Faith Efforts
 - Opening Balance Challenges
 - Multiple Vendor Challenges
 - Annuity Contract or Custodial Account disregarded from reporting if:
 - Contract or account was issued to current or former employee before January 1, 2009;

Form 5500 Expanded Reporting for ERISA 403(b) Plans

- **Field Assistance Bulletin 2009-02 (cont.)**
 - Annuity Contract or Custodial Account disregarded if (cont.):
 - No obligation to make contribution (including salary deferrals) and ceased contributions to contract or account before January 1, 2009;
 - All benefits and rights under the contract or account are legally enforceable against insurer or custodian by the individual owner (individual certificates and no employer involvement); and
 - The contract or account is 100% vested.

Form 5500 Expanded Reporting for ERISA 403(b) Plans

- **Field Assistance Bulletin 2009-02 (cont.)**
 - 5500 will not be rejected if “qualified”, “adverse” or disclaimed opinion due to pre-2009 contracts or accounts



Heightened Focus on Fiduciary and Plan Governance Policies and Procedures



Heightened Focus on Fiduciary and Plan Governance Policies and Procedures

- **ERISA regulation of fiduciaries**
 - 403(b) Treasury Regulations did not change the current rules
 - Form 5500 changes highlight administrative and investment responsibilities
 - Fiduciary activities and duties (including 404(c))
- **DOL Regulations and pending legislation**
 - Disclosures to plan sponsors
 - In writing to plan fiduciary
 - Fees paid with plan assets
 - Services
 - How fees received (fiduciary to determine reasonableness)

Heightened Focus on Fiduciary and Plan Governance Policies and Procedures

- **DOL Regulations and pending legislation (cont.)**
 - Participant disclosures
 - Plan information
 - Investments
 - Administrative expenses

Heightened Focus on Fiduciary and Plan Governance Policies and Procedures

- **Best practices to limit liability**
 - Audit plan and review documents
 - Have Board take action
 - Manage, monitor and control plan assets
 - Fiduciary insurance
 - Disclose fees to participants
 - Training

Heightened Focus on Fiduciary and Plan Governance Policies and Procedures

- **Clear written procedures**
 - Investment policy
 - Committees
 - Charter (duties of plan sponsor or fiduciary)
 - Follow through
 - Attorney client privilege



Executive 457(f) Plans



Executive 457(f) Plans

- ***What is a “457(f)” plan?***
 - How can taxation of compensation be deferred for employees of tax exempt employers?
 - Who can participate?
- **How are benefits in a 457(f) plan taxed?**
 - Vesting – What is a substantial risk of forfeiture?
 - Payment methods
 - Code Section 409A concerns – What are they, how can they be avoided? Risk of forfeiture

Questions?





Thank You

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