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Suggestions for managing risk in 403(b) plans

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Since the July 2007 release of Internal Revenue Service regulations affecting the status of 403(b) plans, many plan sponsors have yet to get their arms around the changes that go into effect beginning in 2009.

For those plans subject to ERISA, the change in the regulatory environment provides a timely opportunity for plan sponsors to determine how they can better manage the risk associated with their plans.

Reducing number of plan providers

As part of the new regulations, all plan sponsors must have a written plan document in place by January 1, 2009, that describes the investment options available in the plan. Likewise, this document must outline plan features that include eligibility, benefits, contribution limits and rollovers. Plans must also identify which party will be responsible for coordinating loan and hardship withdrawal compliance with IRS regulations to avoid potential violations.

For plans that offer multiple investment providers, coordinating this information is not simple. An ideal solution would be to reduce the number of plan providers; however, organizations need to consider whether deferred sales charges, surrender charges or restrictions on fixed interest type accounts would have a significant negative impact on plan participants.

Develop an investment policy statement

While developing an Investment Policy Statement is not mandated by the IRS regulations, organizations and their investment committees can benefit from preparing and reviewing this document on a regular basis. An IPS helps organizations to meet their fiduciary responsibilities by documenting guidelines for conducting prudent reviews, selecting and monitoring investment options, increasing the likelihood of sound decision-making and timely action. For organizations interested in actively choosing and monitoring investment options for their participants, the IPS can identify what factors may result in an investment replacement, such as poor investment performance or relatively high expenses.

The IPS also should outline the duties of the parties responsible for the plan's investments and related services. As service providers to the plan may change over time, the IPS may need to be updated to adequately capture the roles and responsibilities of these entities, including any plan fiduciaries.

Consider fiduciary liability coverage

Fiduciary liability policies provide coverage for claims stemming from violations of ERISA, as well as administrative errors and omissions in the areas of advising, records handling and plan participant enrollment. Insurance cost may be an issue for smaller organizations, however, regardless of your organization's size, you need to understand what liability you may be exposed to and whether insurance may be a cost-effective solution to mitigating the risk.

The new IRS regulations present a challenge to nonprofit organizations seeking to understand and comply with the new requirements. The next six months provides an opportunity to review the potential risks and inefficiencies that may be present in your plan and move toward a solution that mitigates your risk, while improving employee satisfaction with your plan.

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