

Retirement Document




New Documents for 403(b) Plan Sponsors

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Agenda



- 403(b) Regulations, Controls & Requirements
- The Role and Types of Plan Sponsor
- DATAIR's 403(b) Documents
- Things to consider when building a 403(b) Plan
- Questions


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403(b) Requirements




- Final 403(b) Regulations
- IRS Revenue Procedure 2007-71
(Model Plan)
- FAB 2007-02 Non-ERISA Safe Harbor
- IRS Publication 571

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Eligibility


- Universal Availability
 “If one employee All employees”
 Exception - Church Plan

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Contributions


- 402(g) – Elective Deferrals
 - Roth 403(b) Deferrals
 - Age 50 Catch-Up Contributions
 - Special 403(b) Catch-up - 15 yrs of service
- 415(c) Annual Additions
 - 100% of Compensation or
 - \$46,000

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Funding Vehicles


- Annuity Contracts
- Custodial Accounts
- Retirement Income Accounts

- ❖ Single Vendor vs Multiple Vendors
- ❖ Transfers and Contract Exchanges

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Benefit



- Distributions at 59.5
- Hardships
- In-service Distributions
- Loans

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Written Plan Requirement



Written Plan Required
By
January 1, 2009

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Plan Sponsors



- 501(c)3 organizations
 - Any organization organized and operated for:
 - Religious
 - Charitable
 - Scientific
 - Testing for Public Safety
 - Literary
 - Education
 - Prevention of Cruelty



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Plan Sponsors



- ❖ Public Schools, Colleges, Universities
- ❖ Government organization, agencies
- ❖ Church or church related,
- ❖ Ministers
- ❖ Hospitals, Health Agencies
- ❖ Charities



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Plan Sponsors



- Specialties
 - ❖ Governmental Plan
 - ❖ Church Plan*
 - Congregations, Conventions or Associations (3121(w)(A))
 - Church-related organizations (414(e)(3)(A))
 - Qualified Church-controlled organizations (3121(w)(B))

At least 75% of financial support is from a Church

**Church plans may elect to comply with Title 1 of ERISA (sec410(d))*



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403(b) Plan Involves



- Employers – Plan Sponsors
- Insurance Companies
- Investment Companies
- Service Providers



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403(b) Plan Involves

Agreement

Documentation

Maintenance

Administration

Vendor

Vendor

Fiduciary

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Meeting the Written Plan Requirement

- Single Document or
- Incorporate Others


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Funding Vehicle Addendum

- Maintain a List Current or Former Vendors
 - ❖ Receiving Contributions?
 - ❖ Allowing Distributions/Loans/Hardships?
 - ❖ Transfers / Contract Exchanges?

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Types of 403(b) Documents




- IRS Sec. 403(b) Model Salary Deferral Plan
- Non-ERISA Sec. 403(b) Base Plan
- ERISA Sec. 403(b) Base Plan

- ❖ Prototype format with Adoption Agreement
- ❖ Funding Vehicle Addendum
- ❖ Ancillary Document – SPD, Loan Policy, etc.

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IRS Model 403(b)



- Plan Sponsors
 - ❖ Public School
 - ❖ K – 12
 - ❖ Higher Education - Colleges/Universities
 - ❖ Other Tax-Exempt

Elective and Roth Deferrals Only
Optional Features

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Non-ERISA 403(b)



- Plan Sponsors
 - ❖ FAB 2007-02 Safe Harbor
 - ❖ Government & Church Plans

Elective and Roth Deferrals
Automatic Compensation Elections
Matching & Non-Elective Contribution

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ERISA 403(b)



- Plan Sponsors
 - ❖ Any Tax-exempt 501(c)(3) Organization
 - ❖ Church Plan making 410(d) Election

Elective and Roth Deferrals
Automatic Compensation Elections
Matching Contributions
Non-Elective Contribution

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Optional Features



- Automatic Enrollment
- Age 50 and/or Special 15 year Catch-up
- Hardship
- Loans
- Plan To Plan Transfers
- Rollover into Plan

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To BE or Not To BE



Non-ERISA	ERISA
<ul style="list-style-type: none">• No Form 5500 filing requirement• No Reporting & Disclosure requirements• Not subject to ERISA Fiduciary requirements• No Participant SPD requirements• No Minimum Vesting	<ul style="list-style-type: none">• Annual 5500 with Schedule H, Audit, Bonding• Annual Reporting & Disclosure Requirements• Comply with ERISA Fiduciary Standards• Participant SPD• Minimum Vesting

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Plans considered Non-ERISA



- Employee Salary Deferrals only
 - ❖ Employee's participation is completely voluntary
 - ❖ All rights under the Funding Vehicles are enforceable solely by the participant
- Limited Employer Involvement
 - ❖ Employer receives no direct or indirect consideration, compensation or reimbursement
 - ❖ Employer flexibility in the delegation of plan administration

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Plans considered Non-ERISA



- Limited Employer Involvement
 - ❖ No Discretionary Action or Responsibility
 - ❖ Permitted to Delegate Discretionary Authority
 - ❖ Permitted to conduct Administrative Review
 - ❖ Permitted to hold group annuity contracts
 - ❖ Permitted to limit number of Vendors

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Plan Considered to be ERISA



- Employer Contributions
- Employer Involvement
 - Authorizing , Processing , Determining
 - Plan-to-Plan Transfers
 - Annual additions
 - Loans
 - Hardship
 - Distributions
 - QJSA and Pre-SA
 - QDRO
 - Eligibility

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Limited Employer Involvement

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Can Do	Can not
<ul style="list-style-type: none">• Handle payroll function• Permit Vendor (s) access to employees• Transmit info within Employer knowledge or records• Conduct administrative review of the plan structure and operation	<ul style="list-style-type: none">• Make Discretionary decisions• Determine whether limitations are met or exceeded• Authorize loans or hardship based on eligibility

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Meeting the Written Plan Requirement

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- Single Document or
- Incorporate Others



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Meeting the Written Plan Requirement


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•403(b) Documents Webinar

403(b) Documents



- IRS Sec. 403(b) Model Salary Deferral Plan

- ❖ Prototype format with Adoption Agreement
- ❖ Funding Vehicle Addendum
- ❖ Summary Plan Description, Loan Policy

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IRS Model 403(b) Plan



ADOPTION AGREEMENT
FOR THE DATAIR
IRS SECTION 403(b) MODEL SALARY DEFERRAL PLAN

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IRS Model 403(b) Plan



- Two types of Users: - Public Schools

10. - Legal Organization of Employer:

- i. - Public School Grades K-12
- ii. - Public College - Junior
- iii. - Public University
- iv. - Other

(Must be a State-sponsored educational organization or a tax exempt organization, recognized under Code Section 501(c)(3))

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IRS Model 403(b) Plan

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- Other 501(c)(3) Organizations:

10. - Legal Organization of Employer: *
1
 1. - Public School Grades K-12 *
 2. - Public College -- Junior *
 3. - Public University *
 4. - Other *
* Must be a State-sponsored educational organization or a tax exempt organization, recognized under Code Section 501(c)(3) *
*

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IRS Model 403(b) Plan

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- Public Schools Model Plan Reliance
- Others Sample Plan No Reliance

OPTIONAL FEATURES
NO Reliance
Roth 403(b) Deferrals
Rollover of Roth
Distribution of Roth

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IRS Model 403(b) Plan

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- ✓ Type of Users – changes the Base Plan
 - ✓ Introduction
 - ✓ Definition of Employee
 - ✓ Definition of Employer/Related Employer
 - ✓ Severance from Employment
 - ✓ QDRO provisions

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IRS Model 403(b) Plan



- Plan Sponsor can delegate Plan Administration

Plan-Administrator:	
<input type="checkbox"/>	The-Employer
<input type="checkbox"/>	Person
<input type="checkbox"/>	Committee
<input type="checkbox"/>	Organization
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	Vendors-with-Information-Sharing/Exchange-Agreements-with-Employer

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Non-ERISA 403(b)




- Plan Sponsors
 - ❖ FAB 2007-02 Safe Harbor
 - ❖ Government & Church Plans

Elective and Roth Deferrals
Automatic Compensation Elections
Matching & Non-Elective Contribution

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Non-ERISA 403(b)



- 414(s) Options for Plan Compensation
- No Employer Contributions allowed if FAB 2007-02 Safe Harbor elected.
- QACA
- ACP Safe Harbor – mirrors 401(k)
- Separate Eligibility Requirement for Employer Contributions

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ERISA 403(b)




- Plan Sponsors
 - ❖ Any Tax-exempt 501(c)(3) Organization
 - ❖ Church Plan making 410(d) Election

Elective and Roth Deferrals
Automatic Compensation Elections
Matching Contributions
Non-Elective Contribution

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ERISA 403(b)




- 414(s) Options for Plan Compensation
- Expanded Options for Employer Contributions (*cross-testing allowed*)
- QACA
- ACP Safe Harbor – mirrors 401(k)
- Separate Eligibility Requirement for Employer Contributions

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Funding Vehicle Addendum



- Maintain a List Current or Former Vendors
 - ❖ Receiving Contributions?
 - ❖ Allowing Distributions/Loans/Hardships?
 - ❖ Transfers / Contract Exchanges?



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