

# The Proposed IRS 403(b) Regulations

## New Year 2007 Update



Happy New Year from Great American Financial Resources®.

We understand that as a school business official, you have many responsibilities and we want to help make the administration of your retirement plans easier this year and into the future. You have probably heard about the proposed new federal tax regulations for 403(b) plans. While the IRS has indicated several dates for when the regulations will take effect, we want to make sure that you are ready for them.

### **I keep hearing about proposed 403(b) Regulations but do not know what it means. Can you tell me the basics?**

First proposed in 2004, the IRS is looking at new rules that may change how 403(b) plans are run. The anticipated changes are in an effort to make the rules a closer match to those that govern 401(k) plans. They would include written guidelines inclusive of information on product providers, loan provisions and more.

During the drafting phase, Great American Financial Resources worked with the Committee of Annuity Insurers, a group of industry partners, to make recommendations regarding the proposed changes and to develop a prototype plan document for the IRS. After several adjusted dates, the final decision and release has been halted again. This allows time for various government agencies and industry groups to continue discussions and review of proposed standardized plan documents. The last effective date reported was January 1, 2008. The final effective date may depend on the actual release date.

### **What has Great American Financial Resources done to prepare?**

We have created drafts of the following:

- ✓ Model documents
- ✓ Webinars
- ✓ Web page
- ✓ 403(b) Regulations E-mail
- ✓ Several ongoing communications pieces

### **Plus, we have strong support alliances with:**

- ✓ Plan administration services through Great American Plan Administrators<sup>SM</sup>, Inc.
- ✓ Outside legal counsel, Davis & Harman LLP

### **Great American Plan Administrators makes it easy for you!**

Our third-party administrator, Great American Plan Administrators, has more than 150 years of cumulative management team experience in the financial services industry, Non-ERISA 403(b) and 457(b) plan administration. They offer:

- ✓ Common remitting;
- ✓ Interactive Internet access;
- ✓ Contribution limit monitoring;
- ✓ Qualified Domestic Relations Order (QDRO) review;
- ✓ Hardship distribution review;
- ✓ Loan request review; and
- ✓ Compliance and regulatory updates.

### **Expert Partners**

Providing us with expert guidance and advice is Davis & Harman LLP, based in Washington, D.C. Founded in 1985, they have built a strong reputation with government entities in Washington and our industry partners as experts in areas of life insurance, annuities, retirement savings vehicles, ERISA, employee benefits, and corporate tax matters. Additionally, they have provided significant support to financial institutions by advising on treatment of tax-exempt organizations in addition to development of regulatory and legislative solutions. Davis & Harman LLP is providing GAFRI with consultative services regarding the proposed 403(b) regulations. Together, we developed a webinar that we invite you to attend when scheduled. It will help guide you from the basics of the regulations to steps for transition to implementation.

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**To join the webinar when scheduled, or if you have any questions, please contact Carol Dedischew, Director of Industry and Government Relations, at (800) 789-6771, ext. 12311 or 403bregs@gafri.com.**

### What is the status of the proposed regulations?

Currently, the IRS has not released final regulations. In the meantime, the Treasury and IRS have stated that the public should not act upon what they have seen in the *proposed* regulations. We agree with this recommendation.

### When and how will I know what to do?

GAFRI will communicate with you via e-mail, fax, and our web site over upcoming months. We have created rough drafts of model documents, various communication pieces in addition to an informative web site. Once final regulations are released, we want to ease the transition by initially hosting a webinar and would like to ensure that you are contacted and invited to attend. The invitation will arrive via e-mail or fax so it is critical that we have up-to-date information for contact. Please forward contact information to Carol Dedischew at [403bregs@gafri.com](mailto:403bregs@gafri.com) or by calling (800) 789-6771, ext. 12311.

### What should I be doing now?

- ✓ Do not adopt a plan document yet.
- ✓ Do your homework. Review the requirements of your 403(b) program, and be ready to communicate with those who are eligible to participate in your program.
- ✓ Review your current 403(b) materials, as they may need to be updated to ensure they are in line with the requirements of the final regulations. These materials may include: employee handbooks, 403(b) contracts, administrative procedures, service agreements and collective bargaining agreements.

### New regulations may require 403(b) plans to be maintained and operated with a written plan document. Should I adopt one now?

Any plan document implemented before final regulations are published may actually cause more trouble after the regulations are finalized. It may create rules that are inconsistent with the final regulations, generate unnecessary compliance problems and counteract the possible benefit of transition rules.

During the drafting of the regulations, GAFRI worked with the Committee of Annuity Insurers, a group of industry partners, to make recommendations regarding the proposed changes and to develop a prototype plan document for the IRS. We felt it was vitally important to coordinate work on a standardized plan document and avoid risk of conflicts between multiple plan documents and annuity contracts. Should the IRS not adopt a prototype plan document, GAFRI will offer a standard plan document that you can easily adopt if you maintain a simple 403(b) plan that only allows contributions through a salary reduction agreement.

### What if we already adopted a plan document?

If for some reason you chose to adopt a plan document prior to the finalization of the regulations, we strongly encourage you to consult experienced tax counsel.

### Will transfers be eliminated?

Currently, we believe final regulations may modify the transfer rules but might not restrict transfers to the extent originally proposed. We anticipate the new regulations will add requirements to facilitate the monitoring of hardship withdrawals and loans.

*This information is not intended or written to be used as legal or tax advice. It was written solely to support the sale of annuity products. As a taxpayer, you cannot use it for the purpose of avoiding penalties that may be imposed under the tax laws. You should seek advice on legal or tax questions based on your particular circumstances from an independent attorney or tax advisor.*