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403(b) Plan Audit Update and DOL Acceptance of Audit Reports



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Dear Center Members

403(b) Plan Audit Update and DOL Acceptance of Audit Reports

Based on data from the Department of Labor's (DOL) EFAST 2 electronic filing system it appears that most large 403(b) plans have not yet filed their Form 5500 and audited financial statements (the initial filing deadline was July 31, 2010.) Generally an extension of time up to two and one-half months may be granted provided that the plan requests an extension by filing IRS Form 5558 by the original due date for their Form 5500. With the October 15, 2010 filing extension deadline in mind, this EAlert summarizes important considerations related to the DOL's acceptance of audit reports, and the available resources to plans and their auditors to complete and file their 403(b) plan Form 5500 and financial statement audit report.

DOL Acceptance of Audit Reports

The EBPAQC has heard from many firms that say they anticipate issuing modified reports. DOL Field Assistance Bulletin (FAB) 2009-02, *Annual Reporting Requirements for 403(b) Plans*, states that the DOL will not reject a 403(b) plan Form 5500 on the basis of a qualified, adverse or disclaimed opinion if the accountant expressly states that the sole reason for such an opinion was because such pre-2009 contracts and accounts were not covered by the audit or included in the plan's financial statements. The DOL recognizes the challenges that plan sponsors and auditors are facing with 403(b) plan opening balances, which encompass more than such pre-2009 contracts and accounts. DOL officials have indicated at AICPA and other conferences that it is not their intention to reject filings when appropriate explanation is made in the auditor's report of the reasons for a modified report relating to opening balances. Although the DOL does not intend to reject these filings, the DOL has indicated that the plan may receive an inquiry regarding its good faith efforts to comply with the reporting requirements.

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403(b) Plan Audit Resources

As communicated in EBPAQC Alert #207 (April 28, 2010), the AICPA Audit Risk Alert *Employee Benefit Plans Industry Developments – 2010* (Audit Risk Alert) contains useful information for performing 403(b) retirement plan audits. The Audit Risk Alert includes an overview of 403(b) plans; highlights pertinent Internal Revenue Service (IRS) regulations; discusses the Department of Labor's (DOL) Field Assistance Bulletins related to 403(b) enforcement relief; highlights significant differences between 401(k) plans and 403(b) plans; and discusses client acceptance and continuance,

We welcome any suggestions or questions - please send them by e-mail at EBPAQC@aicpa.org.

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engagement letter, and initial audit considerations. The Audit Risk Alert also discusses the following:

- **403(b) Financial Statements and Disclosures** - 403(b) plans are considered a type of defined contribution plan. Therefore, the Audit Risk Alert notes that the financial statements and disclosures would be similar to those described in chapter 3 (and appendix E) of the AICPA Audit and Accounting Guide Employee Benefit Plans. However, consideration should be given concerning which disclosures may need to be modified or added. For example, the general description of the plan, eligibility requirements, funding, and tax status should reflect the requirements of the 403(b) plan document. Additional or modified disclosures of the accounting policies surrounding the accounting treatment of certain investments may be necessary.
- **Illustrative Auditor Reports** - The Audit Risk Alert discusses the unique challenges of performing an audit of a 403(b) plan and includes Questions and Answers to help the auditor make his or her determination of the type of report to be issued when the plan administrator has chosen to exclude certain contracts and accounts in accordance with DOL Field Assistance Bulletins [\(FAB\) 2009-02](#) and [FAB 2010-01](#). The Audit Risk Alert illustrates three different fact patterns that might occur related to 403(b) plans.

If the plan administrator elects to exclude some or all of the contracts or accounts meeting the conditions of Field Assistance Bulletin (FAB) 2009-02, *Annual Reporting Requirements*, from the plan's financial statements or instructs the auditor not to perform procedures on certain or all pre-2009 contracts, or both, the auditor will need to consider the effect of the exclusions on the completeness of the financial statement presentation and restrictions on the scope of the audit. The auditor may be faced with both a U.S. GAAP departure for failure to report on the plan as a whole and a scope limitation on the audit. In many cases, this could result in the independent auditor issuing a qualified, adverse, or disclaimer of opinion. When some or all of the pre-2009 contracts are not specifically scoped out of the audit by the plan administrator, the auditor could still have difficulty in obtaining sufficient appropriate audit evidence for prior periods to evaluate completeness, as well as the valuation of opening balances and whether assets have been properly included or excluded, which could also result in the auditor modifying his or her opinion or issuing a disclaimer of opinion.

- *AICPA Audit Risk Alert Employee Benefit Plans Industry Developments – 2010*

http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/IndustryspecificGuidance/EmployeeBenefitPlans/PRDOVR~PC-022415/PC-022415.jsp

AICPA Audit and Accounting Guide *Employee Benefit Plans*

http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/IndustryspecificGuidance/EmployeeBenefitPlans/PRDOVR~PC-012595/PC-012595.jsp

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403(b) Retirement Plan Audits-Frequently Asked Questions (FAQs)

The AICPA 403(b) Plan Audit Task Force prepared the *403(b) Retirement Plan Audits-Frequently Asked Questions (FAQs)* to assist plan auditors and plan administrators in complying with the new reporting requirements (and subsequent DOL enforcement relief) for ERISA-covered section 403 (b) retirement plans (see previous EAlert #s 200 and 197.) DOL Field Assistance Bulletin [\(FAB\) 2009-02, Annual Reporting Requirements for 403\(b\) Plans](#), and [FAB 2010-01, Annual Reporting and ERISA Coverage for 403\(b\) Plans](#), provide enforcement relief for plan administrators that make good faith efforts to transition to the new annual financial reporting requirements. A copy of the AICPA 403(b) Plan Audit FAQs is available under the [403\(b\) Plan Resource Center](#) on the EBPAQC website.

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Use the EBPAQC Member-to-Member Discussion Forum to Share your 403(b) Plan Audit Experiences

The EBPAQC Member-to-Member Discussion Forum has a 403(b) Plan Audit discussion forum to help you network and discuss issues and exchange information with other members. The Forum is easy to use and can provide you with a wealth of information.

Share your 403(b) plan audit experiences with other Center members on the Member-to-Member Discussion Forum. [Click here](#) to visit the Forum.

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AICPA EBPAQC 403(b) Plan Resource Center

Click on the following:

- [403\(b\) Filing and Audit Requirements](#)
- [403\(b\) Getting Started: Meeting the New Form 5500 Reporting and Audit Requirements](#)
- [403\(b\) Questions to Expect from Your Plan Auditor](#)
- [403\(b\) Sample Auditor Request List for Plan Information](#)

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DOL 403(b) Plan Audit Resources

DOL Employee Benefit Security Administration's (EBSA) 403(b) Website - www.dol.gov/ebsa/403b.html

The DOL EBSA toll-free Form 5500 help desk is available from 8:00 am to 8:00 pm, Eastern Time, at 1-866-GO-EFAST (866-463-3278).

Questions concerning the information contained in the Field Assistance Bulletins may be directed to the DOL's Division of Coverage, Reporting and Disclosure at 202-693-8523.

Questions concerning individual plans facing specific transition issues should be directed to EBSA's Office of the Chief Accountant at 202-693-8360.

IRS 403(b) Resources-

www.irs.gov/retirement/article/0,,id=172430,00.html.

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AICPA Training Available on 403(b) Plan Audits

The AICPA has developed the following training program to help you perform 403(b) plan audits:

Audits of 403(b) Plans: A Challenging New Audit Area - This self-study text and/or video course is designed to build upon what you already know about auditing benefit plans. This course provides a background on the tax rules applicable to a 403(b) plan, enabling the auditor to develop a better understanding of how these plans are different and how the audit procedures must be modified. This course is recommended for 8 CPE credit hours.

www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/Accounting/PRDOVR~PC-745760/PC-745760.jsp

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Sincerely,
AICPA Employee Benefit Plan Audit Quality Center