Employee Plans News

Issue 2013-7, November 12, 2013

Reporting for hard-to-value IRA investments is optional for 2014 – New information reporting requirements proposed for IRA investments with no readily available fair market value have a delayed reporting effective date

Reduced fee to correct failures to adopt a written 403(b) plan ends soon – You get a 50% discount on your compliance fee if you make Voluntary Correction Program submission by December 31, 2013

Reporting for Hard-to-Value IRA Investments is Optional for 2014

New information reporting requirements are proposed to apply to certain IRA investments with no readily available fair market value. Reportable investments may include:

- non-publicly traded stock,
- partnership or LLC interests,
- real estate, options, and
- other hard-to-value investments.

This will affect issuers of:

- **Form 5498**, *IRA Contribution Information*, and
- **Form 1099-R**, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

To give financial institutions reasonable time to fully implement the new requirements, the additional reporting for hard-to-value IRA investments will be optional for 2014.

The new reporting requirements will be described in the 2014 Instructions for Forms 1099-R and 5498, which are expected to be issued around the end of the year.

Reduced Fee for Correcting a Failure to Adopt a Written 403(b) Plan

If you failed to adopt a written plan reflecting a good faith attempt to comply with Internal Revenue Code Section 403(b) and the 403(b) final regulations by December 31, 2009, your 403(b) plan is no longer a qualified tax-deferred retirement plan as of January 1, 2009.

Reduced compliance fee

To encourage 403(b) plan sponsors to correct this failure voluntarily, we're reducing the Voluntary Correction Program compliance fee by 50% if you mail your VCP submission to IRS by December 31, 2013. For example, you pay $2,500 instead of $5,000 if your plan has 101-500 participants.

Voluntary Correction Program submission

You may correct this error under the IRS's VCP if your organization or 403(b) plan is not under audit (Revenue Procedure 2013-12 Section 5.09). Your organization must:

- Adopt a written plan that complies with Treas.Reg. Section 1.403(b)-3(a)(3) (consult your organization's benefits adviser if necessary),
- Make a VCP submission to the IRS (you may use the 403(b) VCP Submission Kit), and
- Pay a compliance fee based on the number of employees eligible to participate in the plan.

As part of your VCP submission, complete and mail:

- Form 8950, *Application for Voluntary Correction Program (VCP)* (instructions)
- Form 8951, *Compliance Fee for Application for Voluntary Correction Program (VCP)*
- Appendix C - Part 1 Model Compliance Statement
- Appendix F - Schedule 2, *Nonamender Failures (other than those to which Schedule 1 applies)*
- copy of signed and dated written 403(b) plan
- required 403(b) statements
- any other attachments

Benefits of correcting the failure

- All money that has been contributed to the 403(b) plan will remain tax-deferred.
- Plan participants' annuity contracts and custodial accounts will retain their tax-favored status (Revenue Procedure 2013-12 Section 6.10).

Consequences of not correcting

Unless you correct this error under VCP:

- The organization has to withhold and pay payroll taxes from any plan contributions made after January 1, 2009, and
- Plan participants are liable for additional income tax because the funds in the 403(b) plan are generally not tax-deferred and don't receive favorable tax treatment under the Internal Revenue Code.

Additional resources

- 403(b) Plan Fix-It Guide
- 403(b) plans home page