

## **Coordination of the 15-year Rule and Age 50 Catch-ups, Attachment #2**

IRS Regulation 1.403(b)-4(c)(3)(ii) allows 403(b) plans that are eligible to permit employees to make the special Section 403(b) catch-up limitation for employee with 15 years of service. If the plan permits, employees who will attain age 50 or more by the end of the calendar year can also make the age 50 catch-up under IRC 414(v). These two catch-ups need to be coordinated. Deferrals in excess of the basic annual limitation for employees deferrals under IRC 403(g)(1)(B) will first be applied to the special 403(b) catch-up under IRC 402(g)(7) and next as an age 50 catch-up under IRC 414(v). In no event can the amount of the elective deferrals for a year be more than the participant's compensation for the year.

### **Employee Deferrals:**

#### **Basic Annual Limitation:**

The maximum amount of the elective deferral under the plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the participant's includible compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is \$16,500 for 2009 and 2010.

#### **Special 403(b) Catch-up Limitation for Employees with 15 Years of Service:**

If you have at least 15 years of service with an educational organization (such as a public or private school), hospital, home health service agency, health and welfare service agency, church, or convention or association of churches (or associated organization), the limit on elective deferrals to your 403(b) account is increased by the least of:

1. \$ 3,000,
2. \$ 15,000, reduced by the sum of:
  - a. The additional pre-tax elective deferrals made in prior years because of this rule, plus
  - b. The aggregate amount of designated Roth contributions permitted for prior tax years because of this rule, or
3. \$ 5,000 times the number of your years of service for the organization, minus the total elective deferrals made by your employer on your behalf for earlier years.

### **Age 50 Catch-up:**

An employee who is a participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of elective deferrals, up to the maximum age 50 elective deferrals' for the year. For 2009 and 2010, the deferral is \$5,500.

When figuring the allowable age 50 catch-up contributions, combine all catch-up contributions made by the employer on behalf of the employee to the following plans:

- 1) Qualified plans
- 2) 403(b) plans
- 3) Simplified employee pension (SEP) plans
- 4) SIMPLE plans

### **Coordination of the Catch-ups under the 15-Year Rule and Age 50:**

If an employee is eligible for both catch-ups under the 15-year rule and age 50 catch-up, allocate amounts first under the 15 year rule and next as an age 50 catch-up.

### **Correction of Excess Deferrals during the Year:**

If an employee has excess deferrals for a year, a correction distribution may be made only if both of the following conditions are satisfied.

- Employee or employer designate the distribution as an excess deferral to the extent the employee has excess deferrals for the year.
- The correcting distribution is made after the date on which the excess deferral was made.

### **Correction of Excess Deferrals after the Year:**

If an employee has excess deferrals for a year, the employee may receive a corrective distribution of the excess deferral no later than April 15 of the following year. The plan can distribute the excess deferral (and any income allocable to the excess) no later than April 15 of the year following the year the excess was made.

### **Correction of Excess Deferrals not made by April 15 of the following year:**

The Employee Plans Compliance Resolution System (EPCRS) is a program that permits plan sponsors to correct plan mistakes and thereby continue to provide employees with retirement benefits on a tax-favored basis. EPCRS is outlined in Revenue Procedure 2008-50. If you go to [www.irs.gov/ep](http://www.irs.gov/ep), you will find Correcting Plan Errors as one of the options. Under Correction Plan Errors, the Service provides an HTML and PDF version of Revenue Procedure 2008-50 along with a Fix-It Guide for 403(b) Plans.