

Retirement News for Employers

March 18, 2013 Edition

403(b) plans

- Didn't adopt a 403(b) written plan by December 31, 2009? – pay a [reduced](#) fee if you correct by December 31, 2013, under the Voluntary Correction Program
- Use the [VCP submission kit](#) if you missed the 403(b) written plan deadline
- What your organization should do if it has a 403(b) plan but has [lost its tax-exempt status](#)
- Is your organization [ineligible](#) to sponsor a 403(b) plan? Here's how to correct it.
- The new [403\(b\) Fix-It Guide](#) helps you find, fix, and avoid 403(b) plan errors
- [Required minimum distribution FAQs](#) – new Q&A # 5 explains the requirements for pre-1987 contributions to a 403(b) plan

Employee Plans Exam Director discusses audits

- Frozen money purchase pension plans - audits show most plans complied with [rules for these plans](#)
- 403(b) plans - how the new correction revenue procedure affects [current and future audits](#)

Correcting plan errors

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- [Publication 575](#), *Pension and Annuity Income*
- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*
- [Publication 4484](#), *Choose a Retirement Plan*

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

Are You a 403(b) Plan Sponsor That Has Lost Your Tax-Exempt Status?

If your organization lost its tax-exempt status, it's no longer eligible to sponsor a 403(b) plan. You:

- must stop employer and employee contributions to your 403(b) plan,
- may apply for restoration of your organization's tax-exempt status, and
- should correct your eligibility failure through the IRS Voluntary Correction Program (VCP) if you allowed contributions to be made to the 403(b) plan after your organization lost its tax-exempt status.

Common reasons for loss of tax-exempt status

A 501(c)(3) tax-exempt organization may become ineligible to sponsor a 403(b) plan if it loses its tax-exempt status because:

- it's been automatically revoked for not filing an annual Form 990 series information return for three consecutive years, or
- the IRS otherwise revokes or terminates its status.

In addition, a public educational system may no longer qualify as a public educational organization because of a reorganization or some other event.

Reinstatement of tax-exempt status if automatically revoked

Your organization [can apply to the IRS for a reinstatement](#) of its tax-exempt status only if it's been automatically revoked for failing to file Forms 990 in three consecutive years. If the IRS reinstates your tax-exempt status prospectively, but not retroactively, you should make a VCP submission if any type of contributions were made to the 403(b) plan after the organization lost its exempt status. If the IRS retroactively reinstates your tax-exempt status, you don't need to make a VCP submission.

Consequences of plan sponsor ineligibility

If your organization is no longer eligible to sponsor a 403(b) plan and you don't discontinue contributions:

- your organization may have to withhold and pay payroll taxes from the contributions, and
- plan participants may be liable for additional income tax because the contributions aren't tax-deferred.

To avoid these consequences, you can use the IRS Voluntary Correction Program under [Revenue Procedure 2013-12](#).

Eligibility and conditions for using VCP - you can use VCP to protect the tax-favored status of the contributions made during the time you've lost your exempt status if:

- your organization or 403(b) plan isn't "under examination" by the IRS (Revenue Procedure 2013-12 Section 5.09);
- you've determined or received notice from the IRS that your organization's 501(c)(3) exempt status won't be reinstated, or you decided not to apply for reinstatement of your organization's 501(c)(3) tax-exempt status;
- you've stopped making salary reduction and employer contributions to the 403(b) plan. Be sure you've complied with all other 403(b) plan rules, including the written plan requirement, universal availability, 403(b) distribution rules and any other requirement under IRC section 403(b) (Revenue Procedure 2013-12 Section 6.03); and
- you've ensured that the 403(b) contributions made after the organization's lost exemption remain in the issued annuity contracts, or custodial accounts and aren't distributed before one of the applicable distribution events in IRC Section 403(b).

Benefits - making a VCP submission benefits your organization and your 403(b) plan participants because:

- all contributions to the plan after your organization became an ineligible employer can remain in the 403(b) annuities or custodial accounts,
- participants' accounts retain their tax favored status, and

- your organization avoids penalties.

To make a VCP submission - you must submit:

- [Form 8950](#), *Application for Voluntary Correction Program (VCP)*, and [Form 8951](#), *Compliance Fee for Application for Voluntary Correction Program (VCP)*, with the correct compliance fee based on the number of employees eligible to participate in the plan.
- [Appendix C - Part 1 Model Compliance Statement](#) and [Appendix D](#). (Note that you can't use Schedule 6 in Appendix C of Revenue Procedure 2013-12 for this type of employer eligibility failure.)

Important attachment filing reminders:

- Write your employer identification number, plan name and number on each attachment.
- Section II attachment - explain how your organization lost its exempt status, and state each year your organization wasn't eligible to sponsor a 403(b) plan, and the amount of contributions that were paid to the plan during each of these years.
- Section III attachment - describe your proposed correction method. (Part of your correction must involve stopping all contributions from going into the 403(b) plan no later than the date you make your VCP submission.) In addition, your correction must indicate that the ineligible contributions will remain within the 403(b) annuity contracts or custodial accounts as discussed above.
- Section IV attachment - state your proposed methods to locate and notify former employees or beneficiaries (or include a statement that the failure didn't affect and the correction won't affect any former employees).
- Section V attachment - explain what changes you'll make to your administrative procedures so that this failure won't happen again.
- Include a separate attachment indicating the type of organization the plan sponsor is now or was previously and a statement that the organization has contacted all entities involved with the plan and has their cooperation to make the correction.
- Mail all documents plus attachments to:

First class mail:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

Express mail or private delivery service:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

Are You an Ineligible 403(b) Plan Sponsor?

If your organization was never eligible to sponsor its 403(b) retirement plan, use the IRS [Employee Plans Compliance Resolution System's](#) Voluntary Correction Program (VCP) to resolve this failure.

Who may sponsor a 403(b) plan?

"Eligible employers" that may sponsor a 403(b) plan are:

- 501(c)(3) tax-exempt organizations,
- public education organizations (Internal Revenue Code Section 170(b)(1)(A)(ii)),
- ministers (defined by IRC Section 414(e)(5)(A)), and
- a state, including a political subdivision of a state, or any agency or instrumentality of a state for its public school employees (IRC Section 170(b)(1)(A)(ii)). (An Indian tribal government is treated as a state (IRC Section 7871(a)(6)(B)).

See:

- Treas. Reg. Section [1.403\(b\)-2](#) for details about employers eligible to sponsor 403(b) plans.
- "[Are you a 403\(b\) plan sponsor that has lost your tax-exempt status?](#)" if you've become ineligible because you lost your tax-exempt status.

Consequences of an ineligible employer adopting a 403(b) plan

If your organization was never eligible to sponsor a 403(b) plan and you don't submit this error under the VCP:

- your organization has to withhold and pay payroll taxes from the contributions to the plan, and
- plan participants are liable for additional income tax because the contributions aren't tax-deferred.

Voluntary Correction Program

Eligibility - you can use VCP if:

- your organization or 403(b) plan is not "under examination" by the IRS (see [Revenue Procedure 2013-12](#) Section 5.09), and
- you immediately stop making salary reduction and employer contributions to the 403(b) plan. Be sure you've complied with all other 403(b) plan rules, including the written plan requirement, universal availability, 403(b) distribution rules and any other requirement under Internal Revenue Code section 403(b) ([Revenue Procedure 2013-12](#) Section 6.03).
- you keep the 403(b) assets in the issued annuity contracts or custodial accounts and don't distribute them before one of the distributable events in IRC Section 403(b).

Benefits - making a VCP submission benefits your organization and your 403(b) plan participants because:

- contributions can remain in the 403(b) annuities or custodial accounts,
- participants' 403(b) annuities and custodial accounts retain their tax favored status, and
- your organization avoids penalties.

Make a VCP submission

- file under the VCP, using [Appendix C part 1 Model Compliance Statement](#), Schedule 6 and Form [8950](#), *Application for Voluntary Correction Program (VCP)*, and Form [8951](#), *Compliance Fee for Application for Voluntary Correction Program (VCP)*
- pay a compliance fee to the IRS based upon the number of employees eligible to participate in the plan
- mail completed documents and any other required documents to:

First class mail:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

Express mail or private delivery service:

201 West Rivercenter Blvd.

Attn: Extracting Stop 312

Covington, KY 41011

Additional Resources

- [403\(b\) Plan Fix-It Guide](#)
- [403\(b\) plans](#) home page
- [Publication 4483](#), *403(b) Tax-Sheltered Annuity Plan for Sponsor*

Potentially Frozen Money Purchase Pension Plans – Audit Results

Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics by emailing her at: RetirementPlanComments@irs.gov.

Project background and purpose

Learn, Educate, Self-Correct, Enforce ([LESE](#)) audits are small, quick projects involving Form 5500 returns with pre-identified issues. Unlike other audits, we randomly select returns and don't use statistical sampling for LESE projects. We select approximately 50 returns to determine if the plans complied with retirement plan law. Our most recent LESE project focused on potentially frozen money purchase pension plans.

Our project goal was to determine if problems occurred in money purchase plans with a Form 5500 showing no employer contributions for the plan year.

Results – potentially frozen plans

Most of the plans audited complied with frozen money purchase pension plan rules. For some plans, we obtained delinquent Form 5330s, collected excise taxes and verified that plans with a funding deficiency made additional employer contributions.

Other problems

In about 13% of the plans, the plan sponsor didn't timely [amend](#) the plan to comply with current law. We resolved this issue using [Audit CAP](#), which generally required the plan sponsor to adopt retroactive plan amendments and pay a negotiated sanction.

Other identified issues included:

- Not properly reflecting the trust's assets, income and expenses on the Form 5500 return
- Not making [required minimum distributions](#) (there's a 50% excise tax for not distributing required amounts)
- Not distributing terminated employees' account balances
- Not having an adequate [fidelity bond](#).

Avoiding the errors

Remember these controls for your plan:

- Talk with your plan administrator or benefits professional to determine if your plan is updated for current law changes. Not timely amending your plan can cause it to become [non-qualified](#).
- Set up operating procedures and appropriate [internal controls](#) for the plan. A benefits professional can help you establish a system that works for you and your retirement plan. Having effective practices and procedures in place to prevent compliance problems is a basic requirement to be eligible to use the IRS [Self-Correction Program](#) to fix operational errors.
- Know your plan's terms.
- Conduct a [self-audit](#) of your retirement plan.

Correcting plan errors

If you discover that you haven't operated your plan according to its terms or current law, correct this error through Employee Plans Compliance Resolution System ([EPCRS](#)).

Use the tips in this article and our [Fix-it Guides](#) to find, fix and avoid common plan mistakes.

How the New EPCRS Revenue Procedure Affects 403(b) Plan Audits

Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics by emailing her at: RetirementPlanComments@irs.gov.

Now that we've issued the new EPCRS [Revenue Procedure 2013-12](#), I'm sure you have questions about its effect on 403(b) plans. I've received many questions on how EP Exam will handle 403(b) written plan issues for plans currently under audit, or for new 403(b) plan audits starting before the revenue procedure's effective date of April 1, 2013.

EP Exam and Rulings & Agreements work together

I want to assure the retirement plans community that EP R&A and Exam work holistically to help plans stay compliant, protect plan participants and provide practical solutions to correct plan mistakes.

EPCRS changes for 403(b) plans

First, let's look at how the revenue procedure made changes for 403(b) plans. Generally, 403(b) plan sponsors can now correct:

- Most plan failures in the same way as qualified plans
- The failure to comply with the form and operational requirements of the 403(b) final regulations and other guidance
- The failure of not timely adopting a 403(b) written plan

Plans must use [Revenue Procedure 2008-50](#) definitions for 403(b) plan failures occurring prior to January 1, 2009.

Interim sanction for no written plan prior to new EPCRS revenue procedure

IRS developed an interim approach for Audit Closing Agreement Program (Audit CAP) sanctions for 403(b) plan sponsors that failed to adopt a written plan prior to the issuance of the new EPCRS revenue procedure. In short, we used a Voluntary Correction Program (VCP) or "VC-plus" approach for 403(b) written plan failures. VC-plus means the sanction could be slightly higher than the regular VCP fee under the revenue procedure. Under this approach, sponsors who attempted in good faith to meet the written plan requirement had lower sanctions than those who didn't. Sanction amounts can also vary depending on whether the plan has met the requirements of [Notice 2009-3](#).

The interim sanction only applied to written plan failures. Agents combined the interim sanction with the regular Audit CAP sanctions for operational failures.

Interim sanction for no written plan after new EPCRS revenue procedure

Now that we have the new revenue procedure, sponsors of 403(b) plans failing the written plan requirement should submit an application under the VCP. This approach is consistent with the IRS Correction Program's general principle of graduated fees and sanctions as an incentive to correct promptly.

Current audits – sanction for no written plan

What about those 403(b) plans with a written plan failure that are currently under audit or those notified of an audit (which precludes a VCP submission)? IRS doesn't want to place plan sponsors in a "gotcha" situation. We have developed the following transitional plan relief:

- For 403(b) plan sponsors currently under audit or notified of an audit between now and April 1, 2013, IRS may allow plans correcting under Audit CAP the same compliance fee relief for failure to adopt a written plan that IRS affords to plans that submit for VCP under Revenue Procedure 2013-12 (considering all facts and circumstances).
- This relief is only for failure to adopt a 403(b) written plan and does not apply to operational errors.

If you have concerns or other scenarios not covered in this article, please email me at RetirementPlanComments@irs.gov and type "Monika's 403(b) Article" in the subject line.

Correct Your Retirement Plan Errors

A retirement plan helps you and your employees save money for retirement. However, plan errors can jeopardize your plan's tax-favored status. Here are a few things you should know:

1. How do plan errors happen?
2. Why should I correct plan errors?
3. How can I correct plan errors?
4. Are there any resources to help me correct plan errors?

How do plan errors happen?

Despite your best intentions, different plan errors may happen. For example:

- You don't allow eligible employees to participate in the plan on time.
- You don't use the correct plan definition of compensation for certain plan operations (for example, contributions and nondiscrimination testing).
- You miss the deadline to amend your written plan document for tax law changes.

To reduce the likelihood of plan errors, your plan should have [internal controls](#).

Why should I correct plan errors?

Correct plan errors for you and your employees to continue to receive the tax benefits of having a qualified retirement plan, including:

- Your deduction (up to certain limits) for plan contributions
- Your employees' tax deferral of their pre-tax contributions and earnings until distribution

See [Tax Consequences of Plan Disqualification](#) for additional information.

How can I correct plan errors?

Generally, there are two ways you can correct plan errors if your plan isn't being audited and you've discovered the error on your own.

- Use the [Self-Correction Program](#) without paying any fee or notifying the IRS if:
 - your plan has sufficient compliance practices and procedures to avoid errors, and
 - the plan errors are insignificant operational mistakes, or significant operational mistakes that you correct within an IRS specified timeframe.
- For any errors you can't or don't wish to correct under the Self-Correction Program, you can use the [Voluntary Correction Program](#), which allows you to
 - correct qualification failures (errors that affect your plan's tax favored status) with IRS approval, and
 - pay a fee based on the number of plan participants.

Are there any resources to help me correct plan errors?

You can use the [Fix-It Guides](#) to help you find, fix and avoid common mistakes in the following plan types:

- 401(k)
- 403(b)
- SARSEP
- SEP
- SIMPLE IRA

You should also review:

- [Fixing Common Plan Mistakes](#) - articles that describe how to spot problems in your plan and correct mistakes.
- [A Guide to Common Qualified Plan Requirements](#) - list of some important plan requirements to help you apply practices, procedures and internal controls to monitor your plan operations.

Self-Correction of Retirement Plan Errors

You can self-correct many retirement plan errors without contacting the IRS or paying a fee. There are no application or reporting requirements.

Self-correction, also known as the Self-Correction Program or “SCP,” is authorized under [Revenue Procedure 2013-12](#), the revenue procedure that governs the Employee Plans Compliance Resolution Program (ECPRS).

You can self-correct an insignificant operational error at any time to preserve the tax-favored status of your plan. An operational error occurs when you don’t follow the written terms of the plan. Even where the operational error is significant, you may still be able to self-correct if action is taken in a timely manner.

Availability and Timing of Retirement Plan Self Correction

Type of failure	Type of plan	Self-correction available?	When must self-correction be completed?
Insignificant operational	Any	Yes	At any time
Significant operational	<ul style="list-style-type: none"> 401(k), profit-sharing or other qualified plan 403(b) plan 	Yes	<ul style="list-style-type: none"> before the end of the second plan year after the failure occurred, or substantially corrected within a reasonable time
	<ul style="list-style-type: none"> SIMPLE IRA plan SEP plan 	No	N/A – Use VCP
Related to plans acquired in corporate mergers	Special rule	Yes	<ul style="list-style-type: none"> substantially corrected before the end of the plan year beginning after the business transaction allowed even if failure occurred more than two plan years earlier
ADP or ACP test violations	Special rule	Yes	<ul style="list-style-type: none"> substantially corrected before the end of the second plan year following the plan year that includes the last day of the additional period for correction permitted under IRC Sections 401(k)(8) or 401(m)(6)
Egregious	Any	No	N/A – Use VCP

More on self-correcting plan errors:

- [Retirement plan errors eligible for self-correction](#)
- [Steps to self-correct plan errors](#)
- [Timing of retirement plan self-correction](#)
- [Special rules for self-correction of retirement plan errors](#)
- [FAQs regarding the self-correction program](#)

Additional resources

- [Learn more about how to correct plan errors](#)

New Phone Number to Check the Status of VCP Submissions

The new telephone number to check the status of your Voluntary Correction Program submission is:

(626) 927-2011 (not a toll-free number)

Please continue to use the previous phone number, (626) 312-4921, until the new number is operational.

[Appendix D](#), *Acknowledgement Letter*, has been updated to reflect the new number. If you have saved an older copy of Appendix D (or Appendix E, for submissions under Revenue Procedure 2008-50), please update your file.

To inquire about the status of your case, call the number above and leave a message with:

- the plan name
- your name
- your phone number
- the control number listed in the acknowledgment letter (if received)

Additional Resource

- [Employee Plans Customer Account Services](#)
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Can SEP Contributions be Deposited into a Traditional IRA?

Can my employer deposit the SEP contribution from my work plan into my existing traditional IRA or must I set up a separate SEP-IRA?

Your employer may be able to deposit SEP contributions into your traditional IRA depending on the:

- requirements that apply to your traditional IRA, and
- terms of your employer's SEP plan document.

Terms of the traditional IRA

The financial institution where you have your IRA may restrict the type of contributions that can be made to your IRA. Ask your financial institution if it will accept your employer's SEP contributions for deposit into your existing traditional IRA.

SEP plan document

Your SEP plan document may require your employer to deposit SEP contributions into a SEP-IRA at a specific financial institution. Review your SEP plan document to see where your SEP contributions can be deposited.

Additional Resources

- [SEP plan](#) Web pages
- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*
- [Publication 560](#), *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*

Saver's Credit – Contribute to Your IRA by April 15 to Reduce Your Tax Bill

You may qualify for the Saver's Credit of up to \$1,000 (\$2,000 if filing jointly) for contributions you make to an IRA, and you have until April 15, 2013, to make IRA contributions for 2012. Unlike a deduction, a credit is a dollar-for-dollar reduction of your federal income tax liability and this credit can reduce the amount you owe or increase your refund for taxes already paid.

Are you eligible for the credit?

To claim the Saver's Credit for 2012, you must be:

1. Age 18 or older,
2. Not a full-time student,
3. Not claimed as a dependent on another person's return, and
4. With an adjusted gross income of not more than:
 - \$57,500 if your filing status is married filing jointly;
 - \$43,125 if your filing status is head of household; or
 - \$28,750 if your filing status is single, married filing separately or qualifying widow(er).

Are your 2012 contributions eligible for the credit?

Eligible contributions include:

1. contributions to a traditional or Roth IRA, and
2. salary reduction contributions (including voluntary after-tax and designated Roth contributions) to your employer-sponsored 401(k), SIMPLE IRA, SARSEP, 403(b), 501(c)(18) and governmental 457(b) plans.

Rollover contributions aren't eligible for the Saver's Credit. Your eligible contributions for the credit may be reduced by any recent distributions you received from an employer-sponsored retirement plan or an IRA.

Amount of the credit

The amount of the credit you can get is based on the contributions you make and your credit rate. Your credit rate can be as low as 10% or as high as 50%, depending on your income and your filing status.

Use the 2012 Form 8880, *Credit for Qualified Retirement Savings Contributions*, to calculate and claim your credit.

Additional Resources

- [Publication 4703](#), *Retirement Savings Contributions Credit*.
- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*

Leaving Your Job? What Can You Do With Your Retirement Plan Balance?

If you're leaving your job and you have a retirement plan (other than a defined benefit (pension) plan), you generally have four options for your account balance:

1. Leave your money in the plan

You may want to keep the balance in your old plan, especially if:

- you like the plan's investment options,
- the plan has low fees, or
- you want to move the balance to a new employer's plan later.

If your account balance is less than \$5,000, your employer may require you to move it. In this case, consider rolling it over to your new employer's plan or to an IRA.

2. Rollover to a new employer's plan

Check if your new employer's retirement plan allows you to move the balance from your old plan into the new plan. However, you should consider the following:

- Does the new plan have better investment options?
- How do the new plan's fees compare to the old plan's?
- Is it better for you to consolidate your retirement savings into one plan so you have fewer accounts to track?

3. Withdraw the balance

You can withdraw your balance by requesting a lump-sum distribution. However, you:

- will likely have to pay income tax on any previously untaxed amount that you receive, and
- may have to pay an additional [10% early distribution tax](#) if you aren't at least age 55 (59½, if from a SEP or SIMPLE IRA plan). If your withdrawal is from a SIMPLE IRA plan within two years of your first participation in the plan, the additional early distribution tax is 25%.

If you withdraw your balance, you can always decide to roll it over to a new employer's plan or to an IRA within 60 days of receiving the distribution.

4. Rollover to an IRA

You can roll over the old plan's balance to a traditional or a Roth IRA. Most IRAs offer a wide range of low-cost investment options. By rolling over your plan balance to an IRA, you can consolidate all your investments into one account and track them more easily.

If you roll over to a Roth IRA, you must include the untaxed amount in your gross income for the year in which you do the rollover. Withdrawals from a Roth IRA could eventually be tax-free if you meet [certain conditions](#).

How to roll over the balance to a new plan or an IRA?

There are two ways to move your old plan's balance to a new plan or to an IRA. You can:

- ask the old plan's trustee to directly transfer the balance to your new plan or an IRA, or
- request a lump-sum distribution of the balance from the old plan and then deposit it into the new plan or IRA within 60 days.

The old plan usually withholds 20% for federal income taxes from the distributed amount, so unless you make up the withheld amount when you deposit the distribution into the new plan or IRA, you:

- must include the withheld amount in your gross income in the year the distribution was made, and
- may owe an additional early distribution tax on the withheld amount.

If your distribution includes property, you can either roll over the property to the new plan or IRA or sell the property and roll over the proceeds. In either case, you must deposit into the new plan or IRA within 60 days of receiving the distribution.

Additional resources

- [Rollover chart](#)
 - [Exception to the 10% additional tax](#)
 - [Traditional IRA vs. Roth IRA chart](#)
 - [Retirement Plans FAQs](#)
 - [Publication 560, Retirement Plans for Small Business \(SEP, SIMPLE, and Qualified Plans\)](#)
 - [Publication 590, Individual Retirement Arrangements \(IRAs\)](#)
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Mark Your Calendar

Stay on top of your retirement plan's deadlines! Here are some important dates to remember in the upcoming months. Most of these dates are for calendar-year plans; non-calendar year plans must adjust some of these dates.

March 31:

- Have a single-employer defined benefit plan actuary certify Accumulated Funding Target Attainment Percentage for 2013 to avoid potential 10% decrease in presumed AFTAP effective April 1

April 1:

- Pay required minimum distributions to participants who either retired in 2012 after age 70½ or turned 70½ in 2012 and didn't receive their first RMD in 2012. See plan terms to determine which employees must start receiving required minimum distributions at age 70½.
- Electronically file Form 1099-R with the IRS for 2012 distributions
- Implement any changes in benefit restrictions under Internal Revenue Code Section 436 that may result from a decrease in the plan's presumed AFTAP

April 15:

- Return 2012 participant salary deferrals, with earnings, in excess of \$17,000 (\$22,500, if age 50 or older)
 - Make first quarterly contribution installment for single-employer defined benefit plans for the 2013 plan year
 - Make 2012 self-employed individual and partnership employer contributions to be eligible to take a tax deduction for 2012 (if no tax return filing extension)
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DOL News

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance as featured below. You can subscribe to [DOL/EBSA's](#) homepage for updates.

New annual funding notice requirements

On March 8, 2013, DOL/EBSA issued [Field Assistance Bulletin 2013-01](#) concerning new disclosure requirements mandated by the Moving Ahead for Progress in the 21st Century Act.

MAP-21 amended ERISA Section 101(f) to require plan administrators of single-employer defined benefit plans to provide participants and others additional information regarding the impact of MAP-21's interest rate stabilization rules on the plan's funding status. An estimated 12,000 single-employer plans covering approximately 33.5 million participants and beneficiaries are subject to the new disclosure requirements. Many of these plans must furnish their first annual funding notice under the new law no later than April 30, 2013.

The FAB addresses a need for interim guidance pending adoption of regulations or other guidance under ERISA Section 101(f) as amended by MAP-21. The FAB sets forth technical questions and answers, and

provides a model supplement that plan administrators may use to discharge their MAP-21 disclosure obligations.

Cleared swap transactions

On February 7, 2013, DOL/EBSA issued [Advisory Opinion 2013-01A](#) concerning the application of the fiduciary and prohibited transaction provisions of ERISA to certain “cleared swap” transactions conducted pursuant to provisions of the Dodd-Frank Act.

Amendments to Abandoned Plan Program

On December 12, 2012, DOL/EBSA published in the Federal Register a [proposed rule](#) and [related class exemption](#) that will make it easier for Chapter 7 bankruptcy trustees to distribute assets from bankrupt companies’ retirement plans. The proposal would allow such trustees to use EBSA’s existing Abandoned Plan Program to terminate, wind up and distribute benefits from such plans.

The existing Abandoned Plan Program provides streamlined termination and distribution procedures for abandoned individual account plans, including 401(k) plans. Under the Program, benefits may be distributed in a manner that can substantially reduce fees charged to participants’ accounts for, among other things, annual reporting, legal compliance and other administrative services, including termination costs. By making this streamlined process available to Chapter 7 bankruptcy trustees, the time and resources required to “wind up” a bankrupt company’s retirement plan can be significantly reduced.

Under amendments in 2005 to federal bankruptcy law, if a company in liquidation administered an individual account plan, the company’s Chapter 7 bankruptcy trustee must perform those functions. The Abandoned Plan Program, established in 2006, provides specific guidance on when a plan may be considered abandoned, who may make that determination, and exactly how to terminate the affairs of the plan and make benefit distributions. The program also limits potential fiduciary liability of financial institutions that step in to terminate and wind up plans that have been abandoned by their sponsors.

[Comments](#) on the proposed rule are available on DOL/EBSA’s website.

2012 Form 5500 Annual Report

On December 4, 2012, DOL/EBSA, the Internal Revenue Service and the Pension Benefit Guaranty Corporation released advance [informational copies](#) of the 2012 Form 5500 annual return/report and related instructions. These copies are for informational purposes only and cannot be used to file.

Pension and welfare benefit plans that are required to file electronically an annual return/report regarding their financial conditions, investments and operations each year generally satisfy that requirement by filing the Form 5500 or Form 5500-SF and any required attachments.

Modifications to the Form 5500 and Form 5500-SF for plan year 2012 are described under “Changes to Note” in the 2012 instructions, including:

- Optional Paid Preparer Information
- Optional Trust Information in Schedule H and Schedule I
- Schedule SB instructions updated to advise that additional detail is requested for the prior year’s excess contributions to be added to the prefunding balance
- Multiemployer actuarial information reporting clarified for changes in adjustable benefits and for amortization charges under the funding standard account statement for this plan year

The official electronic versions for filing are now available on the EFAST2 website.

Compliance guidance for those impacted by Hurricane Sandy

On November 20, 2012, DOL/EBSA provided [guidance](#) about compliance with employee benefit plan rules for those adversely impacted by Hurricane Sandy.

The guidance applies to employee benefit plans, plan sponsors, as well as service providers to such employers, located on October 26, 2012, in one of the counties or Tribal Nations that have been identified

as covered disaster areas because of the devastation caused by Hurricane Sandy. Covered disaster areas are identified as federally declared disaster areas in the [IRS News Releases](#) for Victims of Hurricane Sandy.

The relief provided in this guidance is in addition to the Form 5500 Annual Return/Report filing relief already provided by the IRS. The relief provided in this guidance includes verification procedures for plan loans and distributions, participant contributions and loan repayments, blackout notices and ERISA group health plans.

Outreach and education

For notice of upcoming events as they are scheduled, subscribe on [DOL/EBSA's](#) homepage. DOL/EBSA also conducts seminars for small businesses sponsoring health benefits plans. Information on these events is also available on DOL/EBSA's homepage.