

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

December 26, 2000

Dear _____ :

This letter responds to your recent letter to Lawrence H. Summers, Secretary of the United States Department of the Treasury regarding section 403(b) of the Internal Revenue Code (the "Code"). Due to its subject matter, your letter was forwarded to our office for response. Your letter noted that the IRS publication regarding section 403(b) plans is titled "Tax-Sheltered Annuity Programs for Employees of Public Schools and Certain Tax-Exempt Organizations", and suggested that this title is misleading in light of the IRC section 6111 requirement for registration of certain tax shelters. We are pleased to provide the following general information concerning this subject matter.

The term, "tax-sheltered annuity," has been in long-standing widespread usage by customers, administrators, sponsors and sellers of certain annuity contracts and custodial accounts described in section 403(b) of the Internal Revenue Code. For example, section 414(u)(6) of the Code, enacted by Congress, refers to "any tax-sheltered annuity plan under section 403(b)." Also, as indicated in the enclosed LEXIS printout, Congressional committee reports mentioned the term "tax-sheltered annuity" in connection with section 403(b) arrangements at least 18 times between 1967 and 1979, long before section 6111 was enacted. This tends to indicate that the long-standing popular description of section 403(b) arrangements as "tax-sheltered annuities" does not have any implication for the possible application of the later-enacted section 6111 tax shelter registration requirements. Another LEXIS search indicates that numerous Congressional committee reports used this term more than 200 times after 1979. In addition, the West's Tax Law Dictionary contains an entry defining "Tax-Sheltered Annuity" as "qualified annuity purchased and offered to employees by a charitable organization or public schools."

In light of its widespread usage in, among other places, Congressional deliberations and numerous tax publications such as J.K. Lasser's *Your Income Tax*, the Internal Revenue Service believes that avoiding the use of this term in discussions of section 403(b) arrangements could cause greater public confusion than might its continued usage in Publication 571.

I hope this general information letter is helpful. If you need further information, please contact John Tolleris of my staff at (202) 622-6060.

Sincerely,

ROBERT D. PATCHELL
Acting Chief, Qualified Plan Branch #2
Office of the Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure (1):