



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Mark Pocan
Member, U.S. House of Representatives
10 East Doty Street, Suite 405
Madison, WI 53703

Attention:

Dear Congressman Pocan:

I am responding to your inquiry dated May 20, 2014, which you wrote on behalf of your constituent, . wanted to know if he can offset his excess deferral to his section 457(b) plan in 2012 by the amount that he underutilized his section 403(b) plan in the several years prior to 2002.

Internal Revenue Code (IRC) section 457(b)(2)(A) limits the amount a participant may contribute to a section 457(b) plan in a particular year. The limit is periodically adjusted for inflation (IRC section 457(e)(15)(B)). For 2012, the limit was generally \$17,000 (Notice 2011-90, 2011-47 Internal Revenue Bulletin 971). This limit is not defined with reference to prior years; each year's limit stands on its own. Accordingly, cannot exceed the 2012 limit to his section 457(b) plan by the amount he underutilized his section 403(b) plan in years prior to 2002.

I am sorry my response is not more favorable, but I hope this information is helpful. If you have any questions, please contact me, _____, or _____ at _____ (_____) .

Sincerely,

John T. Ricotta
Branch Chief, Qualified Plans Branch 2,
Employee Benefits,
Tax Exempt and Government Entities