403b Plan Document Restatement

Presented by
Paige McNeal, VP, Educators Benefit Consultants
&
Jim Westrum, Executive Director Finance & Business Services, Wayzata Public Schools

403b Plan Document

Agenda
• Discuss reason for the Plan Document update
• Discuss what “approved” Plan Document means
• Common components of a 403(b) Plan Document
• Restatement timeline
• How to prepare yourself for the restatement process
  – What to review and think about before you work on your documents
• Fiduciary role?
• Vendor lists-how to manage

403b Plan Document Update

• Changes may be made to a plan document under a few different circumstances:
  – A voluntary amendment
  – A mandatory amendment
  – A restatement

May 2019

May 2019
Voluntary Amendment

- A voluntary amendment (i.e., adding a Roth 403b, adding loan or hardship withdrawal options, or changing other plan features)

Mandatory amendment

- A mandatory amendment generally required by the IRS (i.e., the Heart Act amendment). A mandatory amendment will generally have a deadline

Restatement

- A restatement is updating the old plan document with a new document that has been revised to include all the changes and issued guidance that has occurred over a specified period of time.
Restatement

• The IRS will establish a time period when a plan must be restated. The restatement document must include all amendments made during that time period. This is referred to as the Remedial Amendment Period or RAP

• 403b Plans fall under a six-year RAP cycle, which means we need to restate our plans before 3/31/2020.

PRE-APPROVED PLANS

Question: Are you required to adopt an “approved” plan document?
Answer: No, but the advantages to do so are significant

Model Plan Documents are not approved plan documents

• The model plan document that most school districts adopted in 2009 was not an “approved” plan document
• The IRS provided us with a “model plan document”. The model plan document did not address “match dollars” or “severance payouts”
• ASBO and others revised the document to accommodate for school district issues
Approved Plan Document

- An approved document assures you, the employer, that the document addresses all the provisions outlined in the 403b regulations
  - No further IRS submission is required by you
  - As long as the plan is administered as written we are safeguarding that all dollars remain tax-favored in the plan

Pre-Approved Plan

- An approved Plan Document is one that is approved by the IRS as to form.
- Common components of a Plan Document may include:
  - Adoption Agreement
  - Plan Document
  - Appendix (i.e., list of responsibilities/duties, vendor lists)
- Along with the Plan Document you will receive a copy of the IRS approval letter officially referred to as the “advisory letter” to keep on file

Approved Plan Document

- In an audit the IRS focuses heavily on documents
- In short, the an approved document has been vetted by the IRS it will save an auditor from having to actually read the document to verify that it is compliant
- The IRS does not review custodial agreements or annuity contracts
Restatement

• This first restatement provides us the opportunity to clean up past defects and be forgiven by the IRS for those defects
  – 2010 until restatement date
• If you do not restate your plans by 3/31/2020 and an issue is found there could be tax consequences and you would need to submit a correction through the IRS Correction Program
  – Caveat: Plan had to be adopted by January 1, 2010
• The restatement is required by the IRS

How to prepare

 Revising an old ASBO or model plan document does not give you the same assurances or legal reliance that an approved plan document will—make decision on what route you want to go
 Review your current plan document adoption agreement
 Do you want to add or remove some plan features
 Review your current vendor list (active and inactive vendors)
 Do you offer a special pay plan funded via a 403b account?
 Review your current collective bargaining agreements and employment policies

Fiduciary responsibility

• 403(b) Plans sponsored by School Districts are not subject to ERISA; hence, are not subject to the same fiduciary rules applied to ERISA 403(b) or 401(k) Plans

School Districts are responsible for the following:
  – Establishing a Plan Document
  – Tracking 403(b) Transactions
  – Ensuring Contribution Limits are Met
  – Selecting Vendors
Vendor Lists-How to Manage

- NTSA Report-Handout
- How Many Vendors?
- Vendor Policy-is that right for you?
- Determine a strategy that is purposeful and aligned with your organizations values

Questions