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403(b) Prototype and Remedial Amendment Period

By [David Alderson](#)

The moment 403(b) plan sponsors have been waiting for has arrived! The IRS has preapproved 403(b) prototype and volume submitter documents. Along with the preapproved documents comes a March 31, 2020 deadline for restating 403(b) plans.

A 403(b) plan can be sponsored by a tax-exempt 501(c)(3) organization (including a cooperative hospital service organization defined under 501(c) of the Internal Revenue Code), a church or church-related organization, and a government entity (but only for its public school employees).

A brief history

While Section 401(a) qualified retirement plans (such as traditional pension, profit sharing and 401(k) plans) have had a preapproved prototype/volume submitter program for decades, 403(b) plans have not had this compliance-verifying option available to them.

In 2007, the IRS issued final regulations, which, for the first time, require that 403(b) plans be maintained pursuant to a written document adopted before 2010 (prior to 2007, 403(b) plans were not required to have a written plan document). However, the IRS did not have a preapproved document program in place at that time, nor could 403(b) plan sponsors apply for an individual determination letter. This forced 403(b) plan sponsors into the uneasy position of not knowing whether the documents they were signing complied with IRS requirements.

Some peace of mind was offered in 2013, when the IRS announced the opening of the 403(b) preapproved document program, with the first opinion letters and advisory letters finally being issued on March 31, 2017. Since 403(b) plans cannot apply for individual determination letters, a

preapproved document is the only method available to assure that a plan complies in form.

Time to comply

The current remedial amendment period for 403(b) plans began January 1, 2010. The period ends March 31, 2020. A plan will be considered to comply with the IRS 403(b) requirements for a written document if it adopts a preapproved plan on or before that date.

Findley Davies | BPS&M sponsors three different preapproved 403(b) volume submitter documents, depending on whether the eligible employer is a church, government entity or tax-exempt organization. As the volume submitter sponsor, Findley Davies | BPS&M can adopt mandatory amendments on behalf of an employer, meaning the plan document will always be up-to-date with the latest IRS requirements.

To begin your plan's restatement process or for more information, call [David Alderson](#) at 615-665-5366 or david.r.alderson@bpsm.com, or contact [John Lucas](#) at 615-665-5329 or john.e.lucas@bpsm.com.

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