

Form 5500 Reporting and Audit Requirements for 403(b) Plans



Introduction

In 2009, significant changes were made to the 403(b) landscape. Plan sponsors must take on new responsibilities in the administration and oversight of their 403(b) plans. For plan years beginning in 2009, ERISA 403(b) plans are subject to the same audit and reporting requirements as 401(k) plans. These requirements pose new challenges for plan sponsors who must now gather and report certain financial information related to participant accounts, and obtain an unqualified opinion on the plan's financial statements from an independent auditor. The Standard's considerable experience with 403(b) plans means we stand ready to see you through these new challenges.

Questions and Answers

"Is my plan required to file a Form 5500? Do I need to hire someone to complete it for me? Do I need to obtain an auditor's opinion on the accounting of the plan's assets? If so, how do I find an auditor? What information will I need?" This Q&A is intended to help you answer these questions. We're also available to answer your questions in person, via email or on the phone.

Do I need to file a 2009 Form 5500 for my 403(b) plan?

If your 403(b) plan is covered by Title I of ERISA, you are required to file a Form 5500 and related schedules for the 2009 plan year and thereafter.

How do I know if the plan is covered by Title I of ERISA? Generally, 403(b) plans established or maintained by tax-exempt organizations are covered by ERISA Title I. Plans sponsored by governmental entities, like public schools and non-electing church plans, are specifically exempt from ERISA.

When should I file the 5500? Form 5500 is generally due by the last day of the seventh month of the year following the end of the plan year. For calendar-year plans, the 2009 Form 5500 is due July 31, 2010. Prior to the due date, you may request a two-and-a-half-month extension to file.

Do I need to hire someone to complete my plan's Form 5500?

As part of our full service, turnkey administration solution, The Standard will provide you with a signature-ready Form 5500, including all related schedules. If your plan is subject to audit requirements (see column to the right), The Standard will work closely with your auditor to satisfy those requirements. In addition to helping answer questions during the audit, The Standard will proactively provide data files containing relevant financial information to your auditor of record.

Does my 403(b) plan require an audit for 2009?

Along with their Form 5500, large 403(b) plans covered by Title I of ERISA must submit audited financial statements for plan years beginning on or after January 1, 2009. These statements must compare the value of plan assets at the end of the plan year with the value at the end of the prior plan year. For many plans, this will require you to gather asset information as of December 31, 2008, and December 31, 2009.

What is a large plan? For this purpose, a large plan is one that covers 100 or more participants as of the first day of the plan year.

Who do I count as participants? Count active employees covered by the plan, and retired or separated participants with account balances as of the first day of the plan year.

For the 2009 plan year, participants (and their account balances) in the following categories may also be excluded from the count, provided that:

- the contract or account was issued to a current or former employee before January 1, 2009
- the employer ceased to have an obligation to make contributions to the contract or account (including elective salary deferrals) and, in fact, ceased to make contributions before January 1, 2009
- all of the rights and benefits under the contract or account are legally enforceable by the individual participant against the custodian without any involvement by the employer
- participants are fully vested in their entire contract or account balance

How can I get the plan's asset values from the 2008 plan year? Gathering 2008 plan-year information may be a significant challenge since providers and plan sponsors were not required to provide this information in previous years. To help overcome this challenge, the Department of Labor provided transitional relief (Field Assistance Bulletin (FAB) Number 2009-02, <http://www.dol.gov/ebsa/regs/fab2009-02.html>) for plan sponsors making a good faith effort to gather the required information. For purposes of transitioning into the new reporting requirements, plan sponsors do not need to treat annuity contracts or custodial accounts as plan assets if the contracts or accounts are excludable under the four conditions mentioned above in the question *Who do I count as participants?*

How do I select an auditor for my plan?

The plan sponsor is responsible for hiring an independent certified public accountant to conduct the plan's audit. The Department of Labor has suggestions about how to choose an auditor on its website, <http://dol.gov/ebsa/publications/selectinganauditor.html>. In general, you should look for a licensed or certified public accountant who has experience with employee benefit plans.

What questions should I expect from my plan's auditor?

Your auditor will ask whether your plan has been amended or undergone operational changes during the year and whether there have been any significant plan events, such as merger or partial termination. Your auditor will want to know who creates, approves, gathers and reports certain financial information and what accounting processes, protocols and controls are in place. You will be asked to provide information about the services provided by The Standard. Other questions may seek to ensure that the plan operates in the absence of fraud. For a more complete list of questions to expect, visit <http://ebpaqc.aicpa.org>.

What if my 403(b) plan assets are held with multiple service providers?

With the new reporting requirements, individual 403(b) accounts held with multiple providers create some complications. The Standard's single vendor service model makes plan administration easier, but we recognize that many of our customers come from a multiple vendor environment. We will provide you our information-sharing agreement to use with former vendors to obtain financial information for the Form 5500.

What information do I need to obtain from prior 403(b) service providers?

A review of payroll records for the last several years should show the companies to which you sent 403(b) contributions on behalf of your employees. Request information from these companies about amounts invested, transferred and contributed for the 2009 plan year, as well as account balance information from the end of the 2008 and 2009 plan years.

Can The Standard gather the information for me?

As the plan sponsor, you will need to request and gather this information, and provide it to The Standard. We are happy to support you in this effort by providing consultation along the way, but we cannot initiate conversations with your prior vendors. Since we are unable to verify accuracy of the data you receive from prior vendors, you must be actively involved in the transfer of data.

What if I can't get the information I need from a prior 403(b) service provider?

The Internal Revenue Service has issued transitional relief for situations when data from plan years prior to January 1, 2009, proves to be unavailable or especially costly to obtain. See the question on the previous page, *How can I get the plan's asset values from the 2008 plan year?* for more information.

While the 403(b) landscape has undergone a significant change, this type of retirement plan remains an important benefit for your employees. We at The Standard are ready to help you move forward with the new requirements. Contact your pension consultant for more information.

403(b) Plan Form 5500 Checklist

Use this list of 403(b) reporting changes to help navigate the steps you need to take now.

WHO SHOULD FILE

My 403(b) plan is covered by Title I of ERISA

Please see the question, *Does my 403(b) plan require an audit for 2009?* If yes, you must file a Form 5500 and any associated schedules.

WHAT TO FILE

My plan has 100 or more participants

File a Form 5500, along with the plan's financial information, audited by a qualified professional.

My plan has fewer than 100 participants

File a Form 5500 without an auditor's opinion.

WHEN TO FILE

File Form 5500 by the end of the seventh month following the end of the plan year.

If necessary, request a two-and-a-half-month extension for filing prior to the deadline.

DATA TO COLLECT

From each firm holding contributions made by or on behalf of your employees, request:

- Name and account balance at year end for each employee.
- Transactional information for the plan year for each employee.

CONTACT AN AUDITOR

- Hire an independent auditor, if required.

FORMS TO COMPLETE

- Request Information Sharing Agreement for each former provider.
- Approve and file signature-ready Form 5500 and related schedules provided by The Standard.



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