

## **403(b) Panel Discussion – 2008 CBA PreConference Session**

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### Communication

- Talk about the steps your denomination took to communicate the 403(b) regulations to your congregations, employer groups. What has the response been? What areas seem to cause the most confusion?
  - We made an initial announcement to our employers in late 2007, just advising that the new regulations would require changes and briefly covering a few of the changes. After more thorough research and attending Danny Miller's workshop in the spring, we then:
    - Hosted a webinar for the business managers of the denomination's 35 district offices in early August 2008.
    - Presented a PowerPoint presentation to the human resource officers of the 10 universities and colleges in our denomination in August 2008.
    - Mailed an 8-page newsletter with full details about the changes and suggestions for action needed to all employers in August 2008.
    - Posted a Q&A sheet for workers on our Web site in September 2008.
    - Mailed a letter with a copy of the employer newsletter to all pastors in October 2008.
    - Included an article about the 403(b) changes in the denomination's monthly newsletter mailed to all professional church workers and employers in October 2008.
    - Mailed various reminders about the changes with billing invoices to the employers and member's 403(b) statements during the fall of 2008.
    - Assisted the ELCA Board of Pensions in hosting 4 webinars for social service organizations during the fall of 2008.
    - Updated the homepage of our Web site with a direct link to the 403(b) regulations, our recordkeeper's Web site, and our communication materials.
  - We received positive feedback regarding the thoroughness of our communication efforts. We are receiving a lot of phone calls from employers, which tells us the materials are being read. Unfortunately, many of the congregations are receiving misleading information from the local agent of one particular provider and are confused about the mixed messages they are hearing.
  - The most confusion is in the area of orphan contracts and Information Sharing Agreements. Also, there has been confusion regarding how employers can continue with Thrivent Financial for Lutherans, a fraternal organization that offers 403(b) mutual funds but will not assist with administration or compliance after this year.
- Did you use this opportunity to try to convince those offering multiple providers to use your plan as the only provider? How successful were you? Is it your impression that most groups are cutting down on the number of providers?
  - We tried to offer a balanced view of the challenges of maintaining multiple providers and offered the statement that participating in only the denomination

plan after this year will remove much of the responsibilities and compliance issues from the employer.

- We have the distinct impression that most employers are cutting back on the number of providers. Over 80% of our large employers have decided to use only the denomination's plan after 2008. We don't know what small employers (e.g., congregations and schools) are doing because we have not surveyed them.
- Did your denomination try and gather information about what providers each employer/congregation would offer in 2009. How do you plan to use that information?
  - No, we did not do this.
- Are you planning any on-going communication to employers/congregations about the 403(b) rules to make sure they continue to be in compliance?
  - Yes. We plan to follow up in 2009 with continued reminders in our normal quarterly newsletters and monthly billing invoices. We will also be mailing a new plan document and SPD for the denomination's plan next year.
- Have some employers decided to terminate their plans rather than face the task of compliance.
  - We have had a couple employers ask about the ramifications of doing this, but we are not aware of any actually taking action.
- Do you feel confident that your employers have a clear understanding of their responsibilities regarding orphan contracts and Information Sharing Agreements?
  - No, we believe this is still an area of confusion as to what is meant by the IRS to make a good faith effort to collect information about orphan contracts versus actually completing an Information Sharing Agreement. Many are just taking the approach to use the ISA in all situations for any orphan contract, regardless of the date the last contribution was made.

#### Plan doc

- If you have employers using vendors other than your plan, are you viewing all of those vendor relationships as being under one employer plan, or as separate plans? Are you offering a plan document solution to them? If so, how are you doing that?
  - We have advised employers that if they offer multiple vendors (providers), they need to create an umbrella plan document. Our plan document applies only to the denomination's plan. We are not offering a plan document solution.
- Among churches, some of these employers are actually reviewing plan documents for the first-time (no longer serving as a contribution remitting agent alone). What "other issues" are being raised as a result of their becoming more involved in their retirement plan offering?
  - Many do not realize the fiduciary responsibility they are assuming, including the requirements for selecting investment options and diversification of those fund options.
- Are colleges and universities dropping their church-plan relationship in favor of or limiting their retirement plan offering to TIAA-CREF alone?
  - Of the 20 colleges and universities in our denomination, 7 have decided to offer the denomination's plan only, 2 are not eligible to participate in the

denomination's plan, and one has not advised us of their decision yet. Both seminaries have also decided to offer the denomination's plan only.

#### Benefit options

- Have you made any benefit changes because of the regulations, like dropping loans or modifying your stance on hardship distributions?
  - No, we have made no changes. We allow loans, but not hardship distributions.

#### Procedures

- What procedures do you follow to confirm that a hardship distribution can be made?
  - Not applicable for our plan.
- What procedures have you put into place to communicate with employers when someone asks for a distribution?
  - Our recordkeeper will not process a loan distribution without consultation with us. We will then contact the employer and ask if there are other 403(b) providers in place and if any outstanding loans are in existence. Standard distributions such as 59½ in-service and other payouts will be handled as per the distribution provisions in the plan document with no direct involvement with the employer.
- Have your plan members encountered delays or non-action in their requests for rollovers, transfers, or exchanges from a 403(b) provider that is not included in their employer's 403(b) plan? If yes, how are you assisting your members?
  - Yes. Our members have encountered such delays and roadblocks with rollovers from one provider. We are contacting the provider on the member's behalf, and have even had our plan's legal counsel make contact on the member's behalf. This particular provider seems to have a lack of understanding of the difference between a rollover and a transfer or exchange.
  - Transfers and exchanges into our plan have been delayed pending an acceptance letter from the plan's vendor and confirmation of an ISA being in place. To help our members, we have put into place an "approved vendor letter." This letter is sent to vendors affirming that the denominational plan's vendor is an approved vendor under the denominational plan and asks for expedience in processing the transfer or exchange.

#### Compliance

- What are 403(b) providers saying or doing that conflicts with your understanding of the regulations, and how are you responding?
  - There is some misunderstanding regarding when Information Sharing Agreements are needed. We also have one provider in particular whose local agents are advising congregations that basically that can continue as in the past and make no changes in how they are handling multiple providers.
  - We also have local agents advising congregations that since they are a church they do not need a written plan document. We explain that while this may technically be correct, the congregation is accepting administrative, compliance, and fiduciary responsibilities that we strongly recommend be documented via a written plan document.