

Caroline Burks
GuideStone Financial Resources

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?

In early 2008, GuideStone sent letters to all our clients (including over 30,000 churches) that were customized for the specific client – QCCO, NQCCO, and churches – explaining the regulations and what would be required by January 1, 2009. In particular, we emphasized the new contract exchange and plan-to-plan transfer regime and the need to have an updated plan document in place by January 1, 2009. (GuideStone already provides plan documents for our clients.)

Since then, other letters have gone out to these client groups with other information, including a Q&A booklet that was prepared for the specific client groups. In addition, GuideStone's web site was updated with information, again geared to each specific client type and articles have been included in GuideStone's quarterly publication re:source. Further information has been provided to clients in billing inserts and in targeted phone calls.

In August of this year, about 460 plan documents, trust, recordkeeping service agreements, and explanations were mailed or emailed to institutional clients. We have heard from about 33% and plans are in place for three more contacts to try and make sure we have plan documents in place by January 1, 2009.

Finally, our marketing personnel have been amazing in traveling around the country giving presentations to various groups informing them of the new regulations and the requirements.

Despite all these efforts, we still encounter clients who indicate they haven't heard anything regarding the new regulations. We can only imagine that word is not being shared internally at the client sites.

The areas that causes the most confusion, even internally, are (1) the contract exchange, plan-to-plan transfer, and change of investment movement of money, (2) how and when to share information; (3) the transitional rules under Rev. Proc. 2007-71, and (4) other vendors that insist rollovers can not longer be made between 403(b) plans.

- 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?

GuideStone did try hard to point out the benefits of having a single provide; although, if accumulations cannot be moved because of contract restrictions, the employers still have information sharing responsibility. We did hear that various contracts would not allow

money to be transferred and that the contracts were with individuals so the client could not “force” the money to be moved.

Clients clearly saw the benefit of having one provider, but it was generally their employees who insisted on keeping other vendors. I would say we had more success with our churches indicating they would not support other vendors on their payrolls than we did with institutions.

- 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?

Our marketing department already had a very good idea of the other vendors present at our institutions; with respect to our churches, we do not have such a complete understanding of other vendors that may be present.

We did create an “Authorized Provider List” for our institutions and churches. We asked institutions to return those documents and are using that information to not require employer signatures on loans if GuideStone has been the only vendor since January 1, 2005.

- Are you planning any on-going communication to employers/congregations about the 403(b) rules to make sure they continue to be in compliance?

We will continue to publish re:source (sign-up is voluntary) which will contain information regarding the final regulations and will keep our web site updated with information. Plans are also in place to remind employers subject to retirement plan nondiscrimination testing to send out annual effective opportunity notices. In addition we have a self-audit manual we publish and keep up-to-date.

- Have some employers decided to terminate their plans rather than face the task of compliance.

A few very small employers have decided to terminate. In addition, I know of one church that decided to terminate – although we think that might have been a function of wanting a distribution.

- Do you feel confident that your employers have a clear understanding of their responsibilities regarding orphan contracts and Information Sharing Agreements?

No, not at all; as indicated above, this is one of the areas of greatest confusion. We hope that the efforts of Danny Miller, David Powell and other attorneys will shed light on these topics.

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?

It depends on the employer type. For our churches and QCCOs, since 403(b)(1)s and 403(b)(7)s don't have to be written, we are anticipating that other contracts available at churches will be (b)(1)s and (b)(7)s. As such, we're viewing movement of money as a plan-to-plan transfer, i.e., we consider those contracts to be separate plans. We think this view will help our churches and QCCOs avoid unintended operational errors.

With respect to our NQCCOs, the plan document we prepared will wrap other contracts, so we would consider, in general, that there is one plan (based on our plan document) that wraps contracts. We are concerned; however, that clients may unintentionally adopt other plan documents. However, we do think it is possible to have multiple 403(b) plan documents.

- Are you offering a plan document solution to them? If so, how are you doing that?

Yes, we are offering basically four solutions: (1) a basic plan document with adoption agreements for NQCCOs/QCCOs that "wraps" other contracts for NQCCOs but not QCCOs and that contains contract aggregation for items such as contribution limits, loan limits, etc., (2) a basic plan document and a policies and procedures form for churches that does not wrap but does contain contract aggregation for limits, (3) an individual contract for use by clients that adopt another vendor's plan document, (4) a basic plan document "specially" drafted adoption agreement for self-employed ministers and chaplains, i.e., 414(e)(5)

- 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?

Yes, I believe this is true that churches are reviewing plan documents for the first time. We're making the document available on-line and are mailing packets to churches that have contacted us to let us know they do not have internet access.

Frankly, the biggest issue for churches has been signing off on loans and other distributions for the pastors. Another issue has been documenting policies and procedures related to the definition of compensation, their contribution types (elective deferral, Roth elective deferral, after-tax, employer matching, employer non-matching, etc.), eligibility, and contribution schedules.

- Are colleges and universities dropping their church-plan relationship in favor of or limiting their retirement plan offering to TIAA-CREF alone?

We have had only had one make this decision and GuideStone had only a very small presence at that institution. We do believe that TIAA-CREF will remain on all campuses where they are currently a provider.

Benefit options

- Have you made any benefit changes because of the regulations, like dropping loans or modifying your stance on hardship distributions?

No, we are still allowing loans and hardships in the plan for churches. With respect to institutions, they can choose in their adoption agreements to limit loans, hardships, contract exchanges, etc.

Procedures

- What procedures do you follow to confirm that a hardship distribution can be made?

We are requiring employer sign-off on hardship distributions. We are providing on-line reports where employers can view activity (current as of the previous day) related to the participant requesting the hardship. A team created a special "Information Sharing" system and screen that pulls together information necessary for information sharing – outstanding loan balance, highest 12 month balance, last hardship distribution, etc.

We have also created a method where an employer can simply confirm GuideStone has been the only provider since 12/31/04 and therefore our system can track compliance.

- What procedures have you put into place to communicate with employers when someone asks for a distribution?

As stated above, we are requiring employer signature.

- 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 biggest "problem" is with providers that insist rollovers between 403(b) plans are no longer allowed. We have created a letter outlining the sections in the regulations and in Rev. Proc. 2007-71 that provide rollovers are still allowed and received permission from PlanSponsor to include two articles that indicate that is the case.

We have a generic information sharing agreement on-line with our signature that employers can print and use to provide to vendors demanding an information sharing agreement.

Compliance

- What are 403(b) providers saying or doing that conflicts with your understanding of the regulations, and how are you responding?

Basically, the biggest problem we have is with providers that insist rollovers are no longer allowed. As stated, we have a letter we send that works about 50% of the time.