Mandatory 403(b) plan annual notice

Employer guidelines on payroll contributions

Mennonite
Retirement
Trust

If your organization offers a 403(b) plan to your employees through Mennonite Retirement Trust or any other provider – and your organization is not a church or church-controlled organization[1] – your plan must meet the following nondiscrimination requirements. These requirements apply to plans of retirement communities, hospitals, colleges and other nonprofit organizations.

In general, if you allow any employee to contribute to your 403(b) plan through a payroll contribution agreement, then:

1. All employees must be allowed to make these contributions.
2. You must provide an effective opportunity to all eligible employees to actually enroll in your plan and begin making those contributions.

Eligibility

You may exclude in your plan's adoption agreement certain employees from participation, including:

- nonresident aliens with no U.S.-source income.
- student employees who are exempt from FICA tax withholding.
- employees whose contributions to the plan would be $200 or less annually.
- employees participating in another plan you maintain.
- those who work less than 20 hours per week.

How does the 20-hour rule work?

Under this rule, the employer may exclude employees from participating in the 403(b) plan during their first 12 months of employment if the employer reasonably expects these employees to work less than 1,000 hours during that period.

In subsequent years, the employer can exclude employees only if they did in fact work fewer than 1,000 hours during the previous 12-month period. Once employees become eligible by satisfying the 1,000-hour requirement, they will always be eligible to make salary reduction contributions regardless of the number of hours that they actually worked. This is different from eligibility requirements for employer contributions.

Please make sure you are complying with this rule if you exclude employees working less than 20 hours per week from making these contributions. If you prefer not having to track hours worked, remove the 20-hour rule exclusion and allow all employees to contribute.

Defining an effective opportunity

The IRS requires you to notify all eligible employees at least once a year, including new employees upon hiring, about their eligibility to make payroll contributions. The annual notice may be sent to employees at any time, although we suggest you provide it at the same time you distribute other benefit-related notices. And we hope you consistently communicate to non-participating employees throughout the year, encouraging them to set aside their own money for their future retirement needs.

Sample notice and documentation

We have created a sample notice you can send to your employees. Please:

- adapt it to reflect how your plan operates.
- print and distribute it to employees.
- document how you distributed the notice for your legal records. (The IRS is increasingly monitoring how organizations are encouraging employees to save for retirement.)

Exemption

Churches and qualified church-controlled organizations are not subject to these eligibility or effective opportunity rules. We encourage you, however, to provide this notice anyway. It's a good opportunity to share information about the benefits you offer and encourage employees to set aside their own money for their future retirement needs.

[1] The term "church" means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches. The term "qualified church-controlled organization" means any church-controlled, tax-exempt organization described in Internal Revenue Code section 501(c)(3), that receives the majority of its support from donations. Church-controlled organizations that (1) offer goods, services, or facilities for sale to the general public, and (2) normally receive more than 25% of their support from either (a) governmental source, or (b) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, are not considered qualified church-controlled organizations.