



Surviving an IRS Audit of Your 403(b) Plan



Part I



Tax Deferred Solutions | 6939 Sunrise Blvd, Suite 250 | Citrus Heights, CA 95610
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4/10/2012

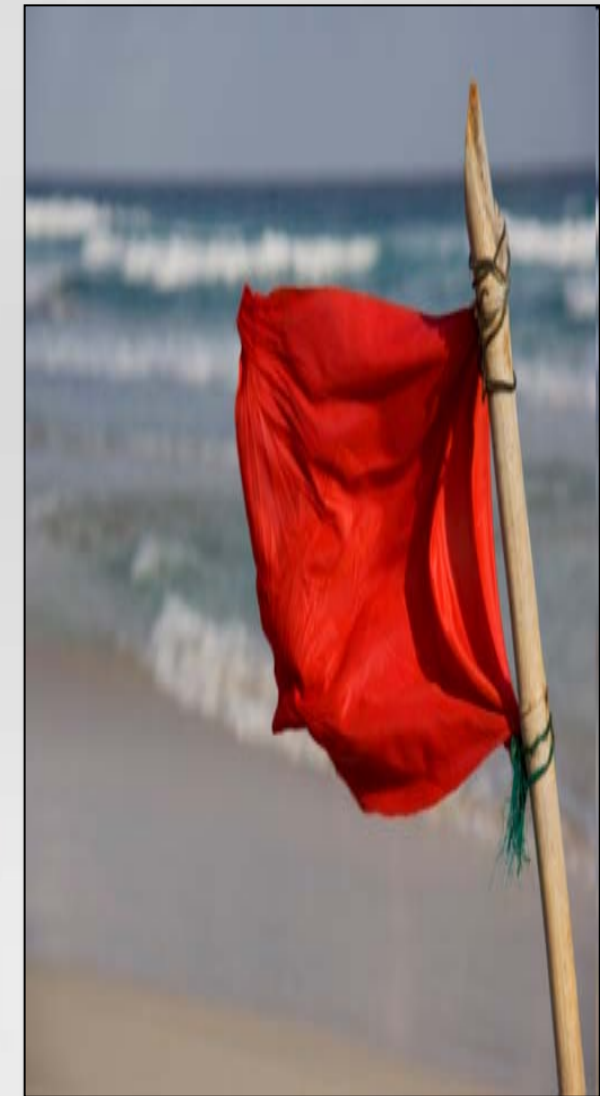
About TDS

- ❖ California's largest independent Third Party Administrator
- ❖ Our priority is education and compliance
- ❖ The only TPA recommended by CSBA



Who will be audited?

- A District that received a questionnaire from the IRS and did not respond.
- ◀ • A District that received a questionnaire and sent responses that indicated compliance issues.
- W-2's reported by employee differ from employer.
- Completely random



The Letter You Don't Want (but might receive)

- Only 2-weeks to prepare
- 8-page letter
- 38 individual items to provide

Internal Revenue Service
Tax Exempt and Government Entities Division
TEGE Employee Plans
9350 Flair Dr. 2nd Floor, El Monte, Ca. 91731

Date: 01/27/2012

Department of the Treasury
95-6000777

Name of Plan:
403(b) & 457 Plan
Plan Year(s) Ended:
12/31/2010
Date of Appointment:
Will call you to set up a date in March 2012.
Time of Appointment:
N/A
Place of Appointment:
Person to Contact/ID Number:
Ann Jitpalima/02-35904
Contact Telephone Number:
818-274-0799

Plan Year 2010!

2 weeks to prepare!

Dear Sir:


We are examining your Internal Revenue Code section 403(b) and 457 plan for the above year(s) and have arranged the appointment shown. The attachment lists documents and information needed to conduct our examination. To help make the examination as brief as possible, please have these items mailed to me by 02/17/2012.

If you would like someone else to represent the plan during this examination, you must submit a written power of attorney. Form 2848, *Power of Attorney and Declaration of Representative*, may be used for this purpose.

If you have any questions, please contact me at the telephone number shown above.

Thank you for your cooperation.

Sincerely,



Who has already received an audit letter?



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CSBA Webinar Series

- How to survive an audit of your 403(b) Plan – Part I
- How to survive an audit of your 403(b) Plan – Part II
- Three common ‘Universal Availability’ errors and how to fix them.
- Plan Participation – Why should you care? Because the IRS does.
- Red Flags regarding contribution amounts and limits.

CSBA Webinar Series

3 Key Operational Errors



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Operational Error #1

Universal Availability

Two components of Universal Availability

- Meaningful Notice
- Eligibility

Operational Error # 1

Universal Availability

Eligibility

- Who is eligible?
 - Substitutes, part-time, seasonal, temporary
- How is it determined?
- Notification to eligible employees.



Operational Error # 1

Universal Availability

Meaningful Notice

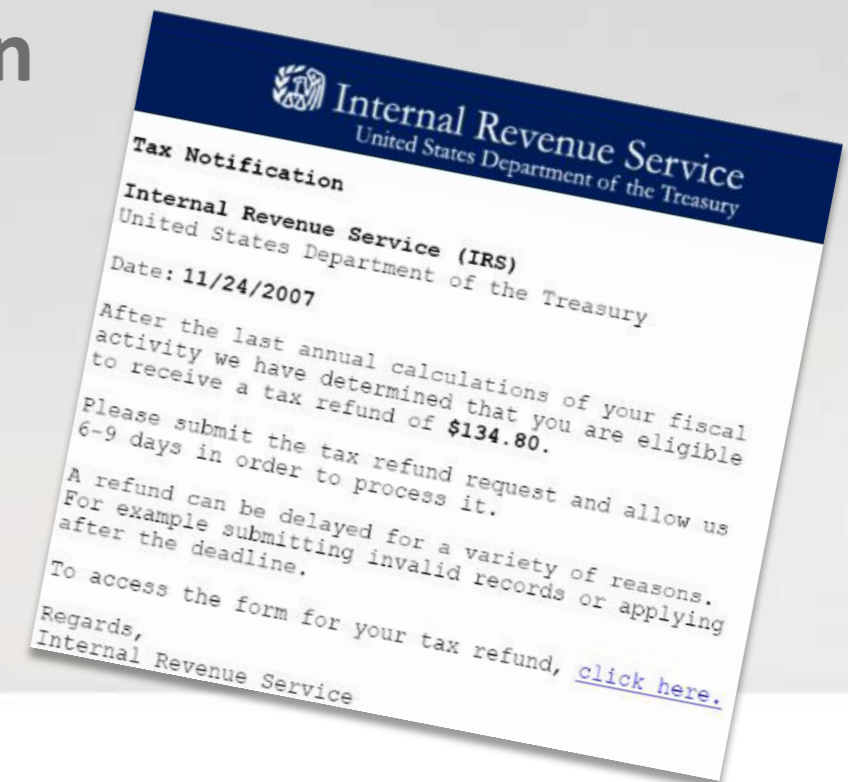
- New regulations require at least annual notifications
 - Effective and meaningful
 - Proper opportunity to satisfy requirements
- Method of delivery
- “The Facts and Circumstances Test”

Operational Error #1

Universal Availability

Actual Audit Requests

- Employee Census Files
 - Excluded groups
 - Review of payroll for actual hours worked
- Demographics of plan participation
- Copies of Meaningful Notices
 - Proof of Delivery
 - Frequency
 - Types of delivery methods



Operational Error #2

Contributions

How far back does your system track contributions?

- a. 1 to 5 years
- b. 5 to 10 years
- c. 15 years or more
- d. Since the beginning
- e. I don't know



Operational Error #2

Contributions

Three types

1. Annual contributions
2. Catch-up contribution
3. Age 50 contribution



Operational Error #2

Contributions

The IRS is interested in contributions
over the normal maximum

New Annual Contribution equals \$17,000 for 2012



Operational Error #2

Contributions

402(g)7

If an employee has 15 or more years of service with their employer, that employee can contribute an extra \$3,000 per year not to exceed \$15,000 over their lifetime.

Operational Error #2

Contributions

If an employee is 50 or over,
they can contribute an
additional \$5,500 per year.



Operational Error #2

Contributions

Annual limit for 2012:	\$17,000
402(g) annual limit:	\$3,000 (\$15,000 lifetime)
Age 50 annual limit:	<u>\$5,500</u>
Max for 2012:	\$25,500

Operational Error #2

Contributions

The IRS is interested in the order in which the excessive contributions have been used.

402(g)7 first - then over 50

Operational Error #2

Contributions

How John Smith & employer calculate

- 20 years of service, age 55
- \$17,000 annual
- \$0 402(g)(7)
- \$5,500 over 50
- \$22,500 total



Operational Error #2

Contributions

How the IRS calculates John Smith

- 20 years of service, age 55
- \$17,000 annual
- \$3,000 402(g)7
- \$2,500 over 50
- \$22,500 total

Operational Error #2

Contributions

Actual Audit Requests

- 402(g)7 worksheet
 - Verification of lifetime participation
- Excess Contributions
 - Proof of 1099
- Arbitrary employee selection
 - Copies of W-2 to match employers electronic payroll file
- Verification of contributions allowances
 - birth date, hire date, re-hire date, termination date

Operational Error #3

Loans

Common transactions that seem straightforward end up being the #3 Operational Error that the IRS will drill down.

Operational Error #3

Loans

- The Plan Document must allow loans if you are granting loans.
- Loans must be repaid timely and properly reported.
 - If the Plan allows loans, it must address in the event of a default
 - Paid back via payroll deduction

Operational Error #3

Loans

Actual Audit Requests

- A list of all participants who received a loan.
- Copies of the loan application form with supporting documents to verify eligibility.
- Procedures used to verify loans across multiple vendors.
- Proof of proper tax reporting in the event of a defaulted loan.

Receive A Free Copy of our Report, *“The 403(b) Audit Survival Guide”*

Special Offer . . .

At the conclusion of this webinar you will receive a link to a brief survey. Please take a few minutes to tell us what you thought of today’s webinar.

As a way of saying thank you, everyone who completes the survey today will receive our free report full of valuable information as well as a link to register for the next webinar.



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The End?

Nope . . .

In two weeks we will present Part 2 of this series where we will address three more Operational Errors.

Please mark your calendars for
Tuesday, April 3, 10 am

