



403(b) Plan Bulletin

May 2010

ERISA vs. non-ERISA Plans

ERISA plans are required to file an Annual Return/Report (Form 5500) with the Department of Labor (EBSA). 403(b) plans may or may not be ERISA plans. Plans that include employer contributions are ERISA plans. Plans that have only employee salary reduction contributions may or may not be ERISA plans depending on the level of involvement by the employer or plan sponsor.

New Form 5500 Requirements

ERISA 403(b) plans are now required to complete a full Form 5500. Prior to 2009 filings, there were only limited reporting requirements. The 2009 Form 5500 must be submitted electronically using the EFAST2 system. Be sure to coordinate with your 5500 preparer regarding the new electronic filing requirements. For the first time, many 403(b) plans – generally plans with more than 100 participants – will also be required to submit audited financial statements for the plan as part of the 2009 Form 5500 submission. The Form 5500, with all attachments, is due on July 31, 2010 for plans with a December 31, 2009 year end. An extension of time to file until October 15, 2010 is available. For additional information on the new EFAST2 system, go to:

http://www.efast.dol.gov/about/about_efast2.html

Plan Compliance

Trustees and fiduciaries of plans that do not meet the new audit requirement based on their size may want to consider a compliance “check-up” or similar procedures to verify that the plan is being operated in compliance with the plan document as well as applicable DOL and Internal Revenue Service rules and regulations.

Please contact Barbara M. Kromer, Director of our ERISA Audit Group, at 301-652-6700.

Snyder Cohn has a dedicated ERISA audit practice whose members have managed and overseen hundreds of retirement plan audits. The practice is led by Barbara Murphy Kromer, Andrew Platou, and Kristin Papa. Snyder Cohn is a member of the AICPA Employee Benefit Plan Audit Quality Center.