

MARCH 31, 2020 DEADLINE FOR AMENDING 403(B) PLANS

Hodgson Russ Newsletter
February 28, 2017

Practices & Industries

Employee Benefits

When the Internal Revenue Service (IRS) issued comprehensive regulations covering the operation of Internal Revenue Code Section 403(b) tax deferred annuity plans (403(b) plans), the IRS also required employers with 403(b) plans to have and maintain written plan documents that reflect good faith plan document provisions. The deadline for the good faith plan documents was December 31, 2009. The IRS has been working on a program requiring more complete and fulsome plan document provisions for 403(b) plans. In 2013, the IRS announced that it would create a program for pre-approved 403(b) plans such as prototype plans. That program has been ongoing and the IRS has been reviewing those submissions.

Currently, the IRS has not yet issued opinion letters for these documents. However, in an indication that opinion letters may be coming soon, the IRS announced the date by which all 403(b) plans must be retroactively amended. In Revenue Procedure 2017-18, the IRS announced that the remedial amendment period for 403(b) plans would end on March 31, 2020. By that date all 403(b) plans must adopt a plan document that complies with all required terms effective back to January 1, 2010. The IRS has proposed a program for individual determination letters on 403(b) plans. Given that the IRS is phasing out the individual determination letter program for qualified plans under Section 401(a), we do not expect there to be a program for individual determination letters for 403(b) plans. Sponsors of 403(b) plans should be on the look-out for when the IRS issues opinion letters for pre-approved plans and take steps to adopt a new plan document within the next three years. IRS Rev. Proc. 2017-18