

# Final Internal Revenue Code 403(b) Regulations

Rev. 9/21/07

## Overview

- Effective date
  - Generally, provisions effective January 1, 2009
  - Select provisions effective September 25, 2007
- Regulations intended to
  - Increase employer attention, active role
  - Enhance plan compliance
  - Reflect increasing similarities with 401(k) plans

## Effective September 25, 2007

- Information Exchange Agreement required - NEW
  - Providers must sign agreement to exchange information with the UH
  - No agreement = cannot participate in UH 403(b) program
  - Required for IRC compliance
  - Providers not required to sign until January 1, 2009

## Effective September 25, 2007

- Monitoring Distributions - NEW
  - Exchanges between 403(b) providers (formerly called 90-24 transfers)
  - Transfers to another 403(b) plan
  - Loans – requires coordination across providers
  - Hardship – more stringent 401k rules will apply
  - Limits on participant provided data – can't assign compliance responsibility to participant

## Risks between 9/25/07 - 01/01/09

- Any distribution in this period = unknown risk for 403(b) participant
  - If provider does not to sign = taxable distribution, possible penalties & interest on taxes owed
  - If UH decides not to allow optional distributions = taxable distribution, possible penalties & interest on taxes owed

## Effective January 1, 2009

- Universal Availability - MEETS
  - Current program allows any employee (including Student Employees) to participate
  - Participation Requirement: deferral of \$200/year

## Effective January 1, 2009

- Meaningful communication – NEED ENHANCEMENT
  - General program information
    - Annual notice to all eligible employees
    - Flyer in new hire packet
  - Listserv emails informational sessions
  - May have individual campus responsibilities for notice, clarification pending

## Effective January 1, 2009

- Written Plan – NEW
  - Requires decisions on option provisions
    - Exchanges/Transfers
    - Loans
    - Hardship distributions
  - Specify allocation of responsibilities - new
    - ≠ Employee
    - TPA
    - Provider
    - UH

## Effective January 1, 2009

- Connect all contracts to the plan – NEW
  - Need to track all
    - Current employee contracts (active and inactive contributors)
    - Former employees contracts where funds have not been distributed
  - Assistance Required
    - Please ensure that OHR has all SRAs
    - Any TDA documents, forward to OHR
    - We may need to obtain addresses for former employees

## Effective January 1, 2009

- Information sharing/exchange agreements with each current and former service provider – NEW
  - Name
  - Contribution provider history
  - Age
  - Outstanding loan balances, if any
  - Hardship withdrawals, if any
  - Current employment/severance date
  - Any other pertinent information

## Effective January 1, 2009

- Over deferrals must be corrected timely or separately accounted for or contract loses its 403(b) status – NEW

## Failures after January 1, 2009

- Exchanges to, loans from and/or hardship withdrawals from companies without Information Exchange Agreements = taxable distribution for participant
- Other contract failures may result in individual contracts losing 403(b) status
- Universal Availability failure = total plan failure
  - All contracts lose 403(b) status and are immediately taxable