

IRS issues new guidelines regarding §403(b) plans Fall 2007

On July 23, 2007, the IRS issued sweeping new rules regarding the administration of 403(b) plans. The new rules are the first significant revisions in over 40 years. The IRS has stated its preference to have 403(b) plans mirror many of the aspects of the 401(k) plans that are offered to a majority of American workers. While these broad new changes primarily affect employers' involvement in administering the plans, there are changes for the employees as well.

A majority of the changes are effective no later than December 31, 2008, although employers may incorporate the changes at an earlier date. MCPS plans to implement changes at the end of 2008.

Here is a brief review of the changes impacting the MCPS plan:

- The IRS requires a plan documentation to be adopted and maintained by the employer that details in writing eligibility requirements and plan provisions such as the availability of loans, hardship withdrawals, and catch-up provisions. The document must also include a listing of companies and investment products available under the plan. **MCPS adopted plan documentation in February 2006, in anticipation of this requirement.** MCPS will comply with any IRS regulations for notifying employees upon implementation.
- The IRS will require employers to provide an annual notice of eligibility to all those employees permitted to make contributions to the 403(b) plan. MCPS permits anyone (including substitute teachers and temporary employees) to contribute to the plan.
- The IRS requires employers to enter into “information sharing agreements” with approved vendors to monitor loan limits, hardship withdrawals, and the subsequent suspension of all defined contribution plan contributions for six months, in addition to verifying employment status when distributions are requested. MCPS is entering into these agreements with all nine of our approved vendors.
- The IRS has eliminated “self certification” from employees where the employee has an interest in the final outcome. Vendors may no longer rely on the employee to confirm employment status, aggregate outstanding loan balances, eligibility to make a hardship withdrawal, or eligibility to utilize the 15 years of service catch-up provision.
- IRS clarified the sequencing rule regarding employees using both the age 50 catch-up and 15 years of service catch-up provision. Any employee that is eligible for both catch-ups will use the 15 Years of Service catch-up first.
- The IRS eliminated the “90-24” rule. This rule allowed an employee to transfer his/her existing 403(b) account balance to any other company offering a 403(b) plan. “Exchanges” are now permitted between investments offered by approved vendors. **MCPS put this rule into effect on September 24, 2007.** The Board of Education

adopted an amendment to the tax-sheltered savings plan document that restricts exchanges only to vendors/products eligible to receive payroll contributions (i.e., our nine approved vendors).

The new regulations are expected to affect the vendors offering 403(b) plans, as well as reduce the number of vendors made available to employees. The administrative burden placed on employers, while not unexpected, is significant. MCPS will also investigate administrative efficiency opportunities. MCPS will be working with its approved vendors during the next 15 months to ensure compliance with the regulations.

No action is required at this time, but it is important that employees are aware of these upcoming 403(b) plan guideline changes.

ERSC staff is available to assist you with any questions regarding the new 403(b) rules. ERSC staff can be reached 7:30am-5:00pm Monday through Friday or via e-mail at ERSC@mcpsmd.org.