



## Happy New Year? Not for some

**ROBERT POWELL**

403(b) plans will have fewer investment options, more restrictions in 2009

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**BOSTON (MarketWatch) -- Come Jan. 1, more than 10 million American workers who save for retirement in 403(b) plans may not be so eager to hear the phrase "Happy New Year."**

As a result of a government regulation that becomes effective next year, many employers who sponsor 403(b) plans will likely reduce the number of providers and investment choices in their plans, as well as put in place restrictions on loans and hardship withdrawals.

That could be a headache for the workers at many hospitals, schools and nonprofit organizations affected by the new Internal Revenue Service regulation.

To be fair, the new IRS rule, the first of its kind in 40 years, is designed to make 403(b) plans look more like 401(k) plans. Up until now, 403(b) plan participants had in some ways much better deals than those with 401(k) plans: They could invest their money with many different vendors and they could take out loans and withdrawals without having to go through their employer. It was, to some observers, a Wild West atmosphere, with some employees essentially managing their own plans.

But now the Wild West is getting tamed. To be in compliance with the new IRS regulations, 403(b) plan sponsors need to have several documents and agreements in place just like employers who sponsor 401(k) plans. Employers will need a written document that provides a summary of its 403(b) plan and identifies the approved list of vendors, eligibility rules, contribution limits, loan rules and limits, and distribution and withdrawal rules, among other things.

Some financial advisers say employers may not have the expertise in place to create such documents. Still, many existing 403(b) providers, including TIAA-CREF, the nation's largest 403(b) plan provider, are giving employers model plan documents to use.

Employers also need recordkeeping and information-sharing agreements in place with their 403(b) vendors. As part of their new fiduciary responsibilities, employers must keep track of their workers' money inside the 403(b) plan. With the information-sharing agreement, employers will be assured that vendors are sharing information among themselves about participants' hardship withdrawals, loans, and transfers.

But some 403(b) firms are not able or willing to meet the terms of the information-sharing agreements that employers plan to use, said Aaron Skloff, chief executive officer of Skloff Financial Group. And that could result in some 403(b) providers exiting the business or reducing their presence, leaving workers to re-arrange their contributions into different funds and products. "Thousands will lose their choices," Skloff said.

### **Fewer low-cost options?**

To be fair, not all 403(b) plan participants will be scurrying. "The changes will be transparent," said Angie Kyle, a vice president at TIAA-CREF.

But Skloff and other advisers foresee big disruptions in the 403(b) world.

"These new regulations do not benefit anyone, at least in the short term," said Scott Dauenhauer, co-author of "The 403(b) Wise Guide" and owner of Meridian Wealth Management. "They hurt employers, employees and vendors."

Dauenhauer said employers don't have the time, expertise or money to implement the new regulations, employees face the possibility of losing low-cost and no-load investment options in their plans, and the vendors are spending "a lot of money trying to interface with district and third-party administration's information-sharing systems."

Given all the turmoil and confusion, employers and associations are pelting the government with requests to delay the effective date. The IRS may announce its plan early next month and many are hopeful they will get relief. But no matter whether the new regulation goes into effect Jan. 1 or some later date, many 403(b) plan participants will ultimately have to make some decisions about their retirement plan.

What should 403(b) plan participants do when the time comes?

### **1. Pay attention**

Participants should read closely the summary plan document, Skloff said. Participants should "pay close attention to the new 'approved vendor' list and look for a low-cost vendor," Dauenhauer said. "In all likelihood there will not be one," he said. "If there is not, sometimes the high-cost vendors have a [low-cost] product that they don't like to talk about, but will offer if asked."

For instance, he suggested that participants in the National Education Association's endorsed 403(b) plans should ask for the Valuebuilder Direct from Security Benefit or the similar low-cost product from AIG, two of the approved vendors.

For her part, Kyle noted that many plan sponsors are attempting to choose low-cost vendors, but that it's important for employee and employer to look at the "whole picture" and compare the breadth of services to the cost.

### **2. Switch only if necessary**

Though many third-party administrators (TPAs) will suggest otherwise, 403(b) plan participants don't have to transfer their existing balances to a new provider. "There is no requirement to do this," said Dauenhauer. "Agents that work for TPAs that are really product sales organizations may attempt this ploy. If, however, a plan participant does decide to move their assets [for the right reasons], it has to be to a newly approved vendor."

### **3. Be wary of high-pressure sales tactics**

Those TPAs that are just "product sales organizations in disguise," Dauenhauer said, may give compliance services for free to employers in exchange for access to the employees to sell their high-cost, high-commissioned products. "These TPA's should be avoided by (school) districts."

### **4. Make your voice heard**

Plan participants should be active in helping the employer make the right decision, but should be careful that they don't end up promoting a union product that is expensive, Dauenhauer said.

### **5. Do your research**

Check out Web sites such as 403bwise. That site has a discussion board with access to 403(b) experts, among other features. [Visit the site.](#)

Also, visit the IRS' 403(b) site which contains the regulation. [Visit the site.](#) ■

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