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Internal Revenue Service

Summer Edition of *Employee Plan News* Published

The IRS recently published the Summer Edition of *Employee Plan News*. <http://www.irs.gov/pub/irs-tege/sum09.pdf>. Following are featured articles:

Monitoring IRAs for Required Minimum Distributions – The Employee Plans Compliance Unit (EPCU) is continuing to monitor required minimum distributions (RMDs) from IRAs. While the Worker, Retiree and Employer Recovery Act for 2008 suspended the RMD rule for the 2009 tax year from IRAs as well as from 401(a), 401(k), 403(a), 403(b) and governmental 457(b) plans, the EPCU is focusing on RMDs from IRAs for tax years 2006, 2007 and 2008.

Distinguishing Income Limits for Contributions to Roth IRAs and Rollovers to Roth IRAs – An article explains the 2009 income limits for making a regular contribution to a Roth IRA versus rolling over to a Roth IRA.

IRS Phone Forums on EPCRS and 401(k) – Instructions for registering for the July 27, 2009 phone forum overview of the Employee Plans Compliance Resolution System (EPCRS) and the August 6, 2009 phone forum on 401(k) plans are included. The 401(k) forum will discuss the final regulations on automatic contribution arrangements and the recently proposed regulations on the suspension or reduction of nonelective contributions under a safe harbor plan.

State Legislation

Texas Law Establishes Requirements for Third Party Administrators for Schools' 403(b) Plans

The Texas Legislature has provided qualification requirements and investment product marketing rules for entities providing plan administrative services to a school district's 403(b) plan. On June 19, 2009, Governor Rick Perry signed House Bill 3480 into law. The new law goes into effect on September 1, 2009.

Current Need for Assistance in Running School 403(b) Plans

More school districts have been seeking the support of plan administrative service providers now that the Internal Revenue Service's final 403(b) regulations have become effective. Under these new federal tax regulations, a school district is responsible for coordinating participant information with the plan's investment providers to ensure compliance with the IRS rules, determining hardship distributions, authorizing loans, and other disbursements permitted under the 403(b) plan.

No part of this document is intended to provide tax or legal advice. Any questions involving tax or legal matters should be referred to your plan's legal counsel or tax advisor.

The Texas Attorney General provided guidance last year to assist school districts in the selection of a plan administrative service provider for their 403(b) plans. Texas Attorney General Opinion GAO-633 <http://www.oag.state.tx.us/opinions/opinions/50abbott/op/2008/htm/ga-0633.htm>, issued on May 30, 2008, stressed the importance of fair competition and freedom of choice in that selection, concluding that 403(b) administrative services could be provided by an entity affiliated with an investment product provider.

New Texas Rules Set Criteria for Plan Administrative Services

House Bill 3480 preserves the twin objectives of fair competition and freedom of choice in enabling a school district to retain an entity providing 403(b) plan administrative services. The bill requires a 403(b) plan administrative service provider to be:

- (1) licensed or holding a certificated of authority issued by the Texas Department of Insurance,
- (2) registered as a securities dealer, agent or investment advisor with the States Securities Board, or
- (3) a financial institution authorized under state or federal law to exercise fiduciary powers and has its main, branch or trust office in Texas.

To ensure full and fair discussion of all available qualified investment products, a 403(b) plan administrative service provider holding a meeting for the school's employees where qualified investment products under the school's 403(b) plan will be marketed must also extend to representatives of all other companies offering qualified investment products the opportunity for those representatives to attend the meeting as well.

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