



February 1, 2008

Dear Plan Sponsor

As you are aware, the 403(b) regulations issued by the Internal Revenue Service (“IRS”) have changed how 403(b) plans operate. It is now a requirement that meaningful notice be given annually to all employees eligible to participate in your 403(b) plan to satisfy the IRS’ the “Universal Availability” rule.

The Universal Availability rule requires that if an employer permits any one employee to defer salary into a 403(b) plan, they must extend this offer to all employees of the organization (with very few, limited exceptions). The regulations further require that at least once a year the employer inform employees that they are eligible to participate in the 403(b) plan, the period of time during which this election may be made and any other conditions on elections. If employees are not made aware that they are eligible, the 403(b) plan could violate "universal availability" and potentially be disqualified.

The final 403(b) regulations will require an employer to have “proof” that employees who were eligible to participate knew that they could participate by providing "meaningful notice" to the employees. According to the IRS, this "meaningful notice" needs to be an affirmative action by the employer (or on their behalf) to employees that they have the right to contribute to the 403(b).

To help our plan sponsors meet this requirement, ING has developed specimen universal availability notices (in both English and Spanish). These notices can be sent to your employees in any form you like – postcard, payroll statement, mailbox stuffer – but it is our understanding that you should maintain a record of when and how notices were provided to each employee. Please review the enclosed notices with your legal counsel, and decide if they will meet your needs.

It is our pleasure to provide you with this type of support for your 403(b) plan. ING is committed to helping you adapt your 403(b) plan to the new IRS regulations. Remember to use ING for a broad range of services in support of the new 403(b) regulations including: a) specimen plan documents; b) plan administration and/or common remitter services; c) general information and tools to help you comply with the new regulations. Please visit our website at: www.ing.com/us/403bregs for the latest information on the regulations and dates for informational Webinars, and/or contact your ING representative. Should you have technical questions about the 403(b) regulations, feel free to call us at 800-238-6231.

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