

MidAmerica 403(b)ulletin

THURSDAY, NOVEMBER 8, 2012 – VOL. XXIV

NEW IRS CONTRIBUTION LIMITS

Tax Year	Basic Salary Deferral Limit for all employees.	Annual limit if you qualify for the full amount of the Lifetime Catch-up (15 Years of Service). Total Lifetime Catch-up Max of \$15,000	Annual limit if you qualify for the Age 50+ Catch-Up.	Maximum Annual contribution if you qualify for both the Age 50+ and Lifetime Catch-ups.
2013	\$17,500	\$20,500	\$23,000	\$26,000

HEART-WRERA AMENDMENT

IRS Regulations require that we keep a signed HEART-WRERA Amendment on file for your plan. If you have not already done so, please be sure to return the executed amendment by December 31st to remain in compliance.

UNIVERSAL AVAILABILITY NOTICE

It's that time of year again to send a notice to every eligible employee notifying them that they are eligible to contribute in the 403(b) Plan. There are 2 versions of the Universal Availability Notice:

1. No Exclusions – this version is for plans which include all employees. For this purpose, **substitute teachers are eligible under these plans.**
2. Limited Eligibility – this version is for plans which exclude certain employees

Please follow [this link](#) to access the templates that you may edit with your Employer name, logo, letterhead, etc... and distribute to all eligible employees.

It is very important to note that Monika Templeman, Director of Employee Plan Examinations with the IRS, has indicated they will be increasing the number of plan audits with a specific focus on Universal Availability. For tips on ensuring plan compliance, please read the following:

IRS rules for providing adequate notice

Please note that there is no one given way to provide notice. Rather, compliance must be shown on a “facts and circumstances” basis. The following are some guidelines and best practices based on analysis provided by our outside counsel:

Under the final 403(b) Regulations, the Universal Availability requirement states that “at least once during each year, the plan provides an employee with an effective opportunity to make (or change) a cash or deferred election... between cash or a contribution to the plan.” Treas. Reg. section 1.403(b)-5(b)(2). “Whether an employee has an effective opportunity is determined based on all the facts and circumstances, including notice of the availability of the election...” Id.

Clear guidelines have not been released by the IRS, but because a failure to comply with Universal Availability could disqualify the entire plan, the “best practice” is to follow the other clearer IRS and DOL rules that have been enacted for other types of retirement programs.

The following options are acceptable for distributing the Universal Availability Notice:

1. **Mailing**
2. **Giving by hand**
3. **Certain electronic means**

The electronic means has a number of limitations intended to insure that the participant has actual access to the electronic version of the notice. For example, just posting on a website is not enough, nor is sending around an email if everyone does not have a computer. The regulations permit electronic delivery of materials only to participants who can access those documents at work and for whom access to the relevant electronic information system is an integral part of their job duties, and participants and beneficiaries who have consented to receipt of documents through electronic media and have not withdrawn such consent. This means that providing electronic notices has become something Employers do as back-up in addition to mailing or giving them by hand, not as a replacement for it.

In summary, there are multiple ways to give “effective notice” once a year. However, if you can't prove that everyone received it, then you may have disqualified the plan. So mailing, hand-delivering, or meeting the strict electronic notice rules for other types of notices remains favored for that reason. Some Employers try to make sure that every employee who shows up to work for the first time in a year gets a notice in their box, plus puts out a notice in everyone's box at the beginning of the year, and has them posted in the lounge as well. In addition, an email blast is sent every year on top of that. The goal is to have a system that, if followed, should not allow anyone to fall between the cracks.

MINIMUM REQUIRED DISTRIBUTION NOTICES

As part of MidAmerica's TPA service offering, we notify all affected 403(b) plan participants in writing of their annual Minimum Distribution Requirements.



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