

Retirement Management Services, LLC

301 Townepark Circle
Louisville, KY 40243
(502) 429-0767
www.consultRMS.com

ROUTE TO:

To: Friends of RMS

BENCHMARKS, BENEFITS & MORE

National Save for Retirement Week

October 21 – 27 has been designated as National Save for Retirement Week. This national event formally calls on employers to promote the benefits of saving for retirement and encourage employees to take full advantage of their company retirement program.

We encourage you to participate in this important event by promoting retirement plan awareness in your organization. As year-end is approaching, now is a good time to remind employees to update their beneficiary forms, consider deferring part of any year-end bonus your organization pays and consider starting or increasing their employee contributions for 2008.

The Department of Labor has available on their website a number of brochures which you could print and provide to employees or to which you could refer employees:

<http://www.dol.gov/ebsa/pdf/wyskgreenbook.pdf>

<http://www.dol.gov/ebsa/pdf/top10ways.pdf>

<http://www.dol.gov/ebsa/publications/NRTOC.html>

You may want to consider planning fun activities for each day of the week to promote the retirement program. Some suggestions:

- ◆ Coordinate a brown bag lunch session with the human resource department or your financial adviser to discuss the retirement program and the long term prospect of the social security system.
- ◆ Decorate your office with materials that contain statistics about saving.
- ◆ Have a chili cookoff with a prize for the winner. Have a table set up with information about National Save for Retirement Week.

Be creative! The idea is to raise awareness about the need to save for retirement and to provide your employees with specific information about your company plan and the valuable benefit it provides.

If RMS can be of any service to you in your efforts, please contact your Account Executive.

October, 2007

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REMEMBER

It's not too late to add 401(k) and Safe Harbor for calendar year plans!!!

Deadline - 12/1/2007!

For more information of interest to employers, plan participants, and other retirement advisers, visit our website at:

<http://www.consultRMS.com>



MUTUAL FUND PERFORMANCE FIGURES

Periods Ending: **September 30, 2007**

Taken from the New York Times, Sunday 10/7/2007

Data source: Morningstar

Fund Type	Quarterly Returns			12-Month Returns			5-Year Returns		
	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter
Domestic General Stock Funds									
Large Growth	3.4 %	5.4 %	7.1 %	17.5 %	20.4 %	23.3 %	12.5 %	14.1 %	16.2 %
Mid-Cap Growth	0.9	4.4	6.3	21.4	25.5	28.3	16.3	18.7	20.6
Small Growth	-1.4	0.8	2.6	16.6	19.5	24.9	16.8	18.2	20.3
Large Blend	0.7	1.8	2.6	14.7	16.2	18.3	13.9	15.1	16.3
Mid-Cap Blend	-3.2	-1.0	0.0	14.6	17.5	21.7	16.4	18.1	20.3
Small Blend	-5.2	-3.4	-2.0	10.2	13.2	16.0	17.0	18.1	19.8
Large Value	-1.6	-0.2	1.3	12.5	14.9	16.5	15.1	16.1	17.4
Mid-Cap Value	-4.4	-3.1	-1.3	12.6	15.6	18.6	16.6	18.5	20.1
Small Value	-7.2	-5.6	-3.8	7.5	9.9	13.5	16.9	17.9	19.0
Moderate Allocation	0.7	1.9	2.8	11.0	12.9	14.6	10.8	12.0	13.4
Conservative Allocation	1.1	1.9	2.4	7.2	9.1	10.5	7.1	8.6	9.7
Target-Date 2000-2014	1.6	1.9	2.4	7.5	8.8	11.9	7.9	9.4	10.7
Target-Date 2015-2029	1.3	2.2	2.4	12.8	14.1	15.8	11.9	12.7	13.1
Target-Date 2030+	1.0	2.1	2.4	15.3	17.4	18.1	13.8	14.6	15.6
Total	-1.0	1.5	3.2	12.8	16.1	20.1	13.6	15.7	18.0
Domestic Specialized Stock Funds									
Communication	0.0 %	3.8 %	6.3 %	21.0 %	31.5 %	40.1 %	20.5 %	26.0 %	27.8 %
Financial	-6.3	-3.9	-3.1	-1.9	3.0	6.3	11.1	12.9	15.2
Health	2.3	3.2	5.7	10.9	12.4	17.5	11.4	14.7	16.8
Natural Res	7.4	8.6	10.0	35.0	42.9	48.1	29.0	31.5	34.3
Precious Metals	16.2	17.9	20.4	34.4	36.5	41.9	25.1	28.9	30.9
Real Estate	0.4	2.5	3.3	3.1	4.9	9.0	19.7	22.1	23.0
Technology	5.5	7.2	9.0	22.3	25.4	30.4	18.0	20.0	22.6
Utilities	1.1	1.8	2.5	21.0	25.5	27.8	19.2	22.1	26.2
Bear Market	-6.4	-3.0	3.1	-19.4	-8.8	0.7	-34.8	-16.8	-3.5
Long-Short	-2.6	-0.9	2.1	2.3	7.2	11.7	4.9	7.5	10.2
Total	1.0	3.2	7.5	5.6	16.4	29.2	15.5	21.1	25.3
International Stock Funds									
Foreign Large Value	-0.2 %	1.1 %	2.2 %	19.8 %	23.7 %	25.8 %	21.7 %	24.1 %	25.5 %
Foreign Large Blend	1.7	2.8	4.6	23.7	25.9	29.1	21.0	22.8	24.0
Foreign Large Growth	3.6	4.3	7.4	27.5	31.1	32.4	20.5	23.1	25.7
Foreign Small/Mid Value	-2.0	-0.3	0.6	18.9	25.2	33.7	24.7	27.4	28.8
Foreign Small/Mid Growth	-0.6	1.8	4.1	27.3	36.5	42.7	27.0	30.2	32.3
World Stock	0.2	2.4	4.9	18.7	22.4	27.8	18.2	20.3	23.6
Europe Stock	0.1	1.3	2.1	25.1	28.7	32.3	23.3	26.1	32.6
Divers. Pacific Asia	5.3	5.6	8.3	25.6	39.3	40.4	20.6	25.2	27.9
Pacific Asia ex-Japan	13.3	22.4	28.5	53.9	81.4	102.7	31.2	35.5	38.6
Japan Stock	-4.0	-0.8	2.9	-2.8	6.7	8.4	14.7	15.6	19.4
Divers. Emerg. Mkt	9.5	11.8	13.7	48.8	54.8	59.5	34.2	37.6	39.3
Latin America Stock	9.8	10.5	11.5	62.0	65.5	74.5	48.3	53.7	54.3
World Allocation	2.0	3.1	5.3	13.2	18.3	20.5	14.6	16.0	18.9
Total	1.2	3.0	6.0	21.9	26.9	34.9	20.5	23.7	28.1

**MUTUAL FUND PERFORMANCE FIGURES**Periods Ending: **September 30, 2007**

Taken from the New York Times, Sunday 10/7/2007

Data source: Morningstar

Fund Type	Quarterly Returns			12-Month Returns			5-Year Returns		
	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter
General Bond Funds									
Long-Term Bond	1.1 %	1.8 %	3.5 %	3.1 %	3.7 %	4.0 %	3.9 %	5.2 %	7.8 %
Interm-Term Bond	1.8	2.3	2.8	4.1	4.6	5.1	3.7	4.2	4.8
Short-Term Bond	1.0	1.7	2.1	4.0	4.8	5.2	2.7	3.0	3.3
Total	1.6	2.2	2.7	4.0	4.6	5.1	3.3	3.9	4.7
Government Bond Funds									
Long Government	4.6 %	5.4 %	5.4 %	3.2 %	3.5 %	4.0 %	3.9 %	4.3 %	4.8 %
Interm. Government	2.4	2.7	3.0	4.2	4.6	5.1	2.8	3.2	3.4
Short Government	2.0	2.2	2.6	4.8	5.1	5.4	2.4	2.6	2.9
Inflation-Protected Bond	3.6	4.4	4.5	3.4	4.2	4.5	4.2	4.8	5.2
Total	2.3	2.7	3.3	4.1	4.6	5.1	2.6	3.1	3.5
Specialized Bond Funds									
Convertibles	0.6 %	2.0 %	4.1 %	12.4 %	13.7 %	15.2 %	11.6 %	12.8 %	14.5 %
Ultrashort Bond	-0.6	0.8	1.2	3.2	4.3	4.9	2.5	2.8	3.0
High Yield Bond	-0.5	0.1	0.7	6.6	7.3	8.0	10.3	11.4	12.5
Multisector Bond	1.3	2.0	2.3	5.1	6.4	8.4	8.3	9.4	10.2
World Bond	3.6	4.7	6.8	6.4	8.7	10.1	5.7	7.5	9.4
Emerging Market Bond	0.7	2.1	2.5	7.5	9.3	10.5	16.0	16.7	17.7
Bank Loan	-1.9	-1.6	-1.3	3.3	3.8	4.1	4.7	5.3	7.4
Total	-0.4	0.8	2.1	5.1	7.1	8.5	7.2	10.0	12.2
Municipal Bond Funds									
Muni National Long	0.7 %	1.3 %	1.6 %	1.7 %	2.3 %	2.7 %	3.4 %	3.7 %	4.0 %
Muni National Int.	1.4	1.8	2.1	2.3	2.8	3.1	2.8	3.1	3.4
Muni Single St. Long	1.1	1.4	1.5	2.1	2.4	2.7	3.4	3.6	3.9
Muni Single St. Int.	1.3	1.7	1.9	2.2	2.5	2.9	2.9	3.2	3.5
Muni Single St. Shrt.	0.0	1.6	1.8	0.0	2.7	2.8	NA	NA	NA
Muni National Shrt.	0.9	1.3	1.6	2.9	3.3	3.5	2.0	2.3	2.5
Muni New York Long	0.2	1.3	1.5	1.5	2.2	2.7	3.3	3.6	3.9
Muni California Long	0.4	1.0	1.4	1.6	2.2	2.5	3.3	3.6	3.9
Muni New York Int/Sh	1.0	1.6	2.1	2.1	2.5	2.8	2.7	2.9	3.1
Muni California Int/Sh	0.5	1.6	1.9	1.6	2.5	3.0	2.6	2.7	3.1
Muni Florida	0.9	1.3	1.5	1.9	2.3	2.8	3.4	3.7	3.9
Muni Pennsylvania	0.7	1.3	1.7	1.8	2.5	2.7	3.3	3.7	3.9
Muni Massachusetts	1.3	1.4	1.7	2.0	2.5	2.9	3.3	3.6	3.9
Muni New Jersey	0.0	1.4	1.7	1.6	2.4	2.8	3.2	3.7	4.1
Muni Ohio	1.5	1.7	1.9	2.4	2.7	2.9	2.8	3.4	3.8
Muni Minnesota	0.4	1.3	1.6	1.8	2.3	2.7	3.2	3.8	3.8
High Yield Muni	-2.5	-1.3	-0.4	-0.5	1.0	1.8	4.6	5.2	5.6
Total	0.8	1.4	1.7	1.9	2.5	2.9	3.0	3.5	3.9

The tables include Nasdaq funds with at least \$30 million in assets. Return figures assume the reinvestment of all dividends. Figures for five-year returns are annualized. The top-quarter figures show the return needed for a fund to rank in the top 25% of similar funds. The median figures show the return needed to rank in the top half, and the bottom quarter figures show the return needed to rank in the top 75% of similar funds. By comparing a given fund's returns, a reader can determine how that fund performed relative to similar funds.



RMS --- BEHIND THE SCENES

October, 2007

Here is an update on some of what's been happening at Retirement Management Services, LLC.

Lauren Klueber, CPA, joined RMS early in September of this year. She is a graduate of the University of Kentucky with a Bachelor of Science in Accounting. Lauren has over 20 years of experience in accounting, auditing, and taxation. She is the current treasurer for her daughters' high school booster club and provides accounting assistance to a local non-profit theater group.

September 25, Anne Keehn, QKA, one of our Account Executives, spoke to the LEBC Sub-Council on the topic of Automatic Enrollments. Anne joined RMS in May of this year.

October 25, RMS is once again sponsoring a Qualified Retirement Plan Workshop for CPAs. Topics will include IRS and DOL examinations of qualified plans; the new 403(b) regulations; accountant audits of plans with over 100 participants; and updates on the 2006 Pension Protection Act. **FILLED UP. NO MORE SEATS AVAILABLE.**

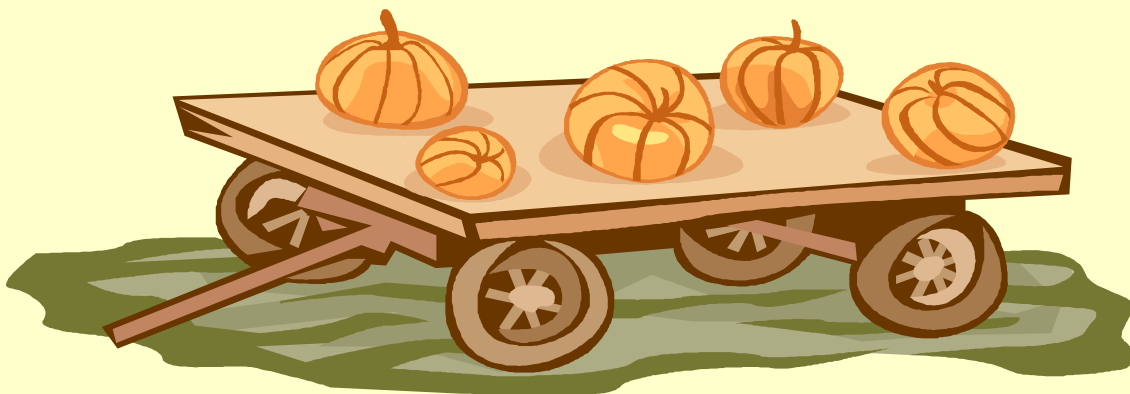




RETIREMENT PLANNING TIDBITS FOR EMPLOYERS

October, 2007

- 1) Don't forget that if you sponsor a SIMPLE, you need to give notice to your employees by November 1 of this year as to whether you will sponsor the plan again next year. And, you must also indicate whether the company contribution will be the 3% matching contribution or the 2% non-matching contribution.
- 2) Employees may need to be reminded that if working for two employers in the same calendar year, the \$15,500 limit on what they can contribute to a 401(k) or 403(b) plan (plus \$5,000 if over age 50 by the last day of the year) is a "global limit". In other words, the employee's deferrals into both types of plans, and all employers combined, must stay within the annual limit.
- 3) Don't forget that if you sponsor a calendar year 401(k) plan, you must give employees a written notice by December 1, if you want to invoke safe-harbor rules for 2008.
- 4) Employers are always searching for new ways to excite employees about saving for retirement. Consider sharing one or both of the two charts on the following page with your staff.
- 5) According to a survey by Alliance Bernstein Investments, only 37% of retirees said they currently work with a financial adviser. (Source: Plan Sponsor Magazine --- http://www.plansponsor.com/pi_type10/?RECORD_ID=38825)
- 6) Our experience has been that when employees are offered a one-time special deferral election on annual bonus checks, the average percent of the bonus deferred into the 401(k) plan is far higher than what is deferred out of regular paychecks.
- 7) A study by John Hancock Insurance Company showed that 84% of 401(k) participants in its funds would have had better results over the last 10 years if they had invested solely in pre-selected portfolios geared to their risk tolerance.





YOUR FIRST \$25,000 IS THE TOUGHEST!

If you are saving for retirement, especially if you've just *started* saving, it's hard to realize how much easier it gets down the road. The following statistics show how long it takes to accumulate certain assets. However, you can see that once the ball is rolling, it gains speed!

8.00%	Annual Investment Yield		
52	Pay periods per year		
\$25	Savings per pay check	Savings per year:	\$1,300
\$25,000	The accumulation step to focus on		

RESULTS

The first	\$25,000	is achieved in just	11.8	years.		
The <i>next</i>	\$25,000	is achieved in just	6.1	years, meaning	\$50,000	in 17.9 years
The <i>next</i>	\$25,000	is achieved in just	4.1	years, meaning	\$75,000	in 22.0 years
The <i>next</i>	\$25,000	is achieved in just	3.1	years, meaning	\$100,000	in 25.2 years
The <i>next</i>	\$25,000	is achieved in just	2.5	years, meaning	\$125,000	in 27.7 years
The <i>next</i>	\$25,000	is achieved in just	2.1	years, meaning	\$150,000	in 29.8 years
The <i>next</i>	\$25,000	is achieved in just	1.8	years, meaning	\$175,000	in 31.6 years
The <i>next</i>	\$25,000	is achieved in just	1.6	years, meaning	\$200,000	in 33.2 years
The <i>next</i>	\$25,000	is achieved in just	1.4	years, meaning	\$225,000	in 34.6 years
The <i>next</i>	\$25,000	is achieved in just	1.3	years, meaning	\$250,000	in 35.9 years

Notes

- 1 Interest is assumed to compound each pay period.
- 2 Money is assumed to be invested in a tax-deferred account.

YOUR FIRST \$100,000 IS THE TOUGHEST!

If you are saving for retirement, especially if you've just *started* saving, it's hard to realize how much easier it gets down the road. The following statistics show how long it takes to accumulate certain assets. However, you can see that once the ball is rolling, it gains speed!

8.00%	Annual Investment Yield		
52	Pay periods per year		
\$100	Savings per pay check	Savings per year:	\$5,200
\$100,000	The accumulation step to focus on		

RESULTS

The first	\$100,000	is achieved in just	11.8	years.		
The <i>next</i>	\$100,000	is achieved in just	6.1	years, meaning	\$200,000	in 17.9 years
The <i>next</i>	\$100,000	is achieved in just	4.1	years, meaning	\$300,000	in 22.0 years
The <i>next</i>	\$100,000	is achieved in just	3.1	years, meaning	\$400,000	in 25.2 years
The <i>next</i>	\$100,000	is achieved in just	2.5	years, meaning	\$500,000	in 27.7 years
The <i>next</i>	\$100,000	is achieved in just	2.1	years, meaning	\$600,000	in 29.8 years
The <i>next</i>	\$100,000	is achieved in just	1.8	years, meaning	\$700,000	in 31.6 years
The <i>next</i>	\$100,000	is achieved in just	1.6	years, meaning	\$800,000	in 33.2 years
The <i>next</i>	\$100,000	is achieved in just	1.4	years, meaning	\$900,000	in 34.6 years
The <i>next</i>	\$100,000	is achieved in just	1.3	years, meaning	\$1,000,000	in 35.9 years

Notes

- 1 Interest is assumed to compound each pay period.
- 2 Money is assumed to be invested in a tax-deferred account.



Final 403(b) Regulations

October, 2007

In July of this year, the IRS issued its final 403(b) regulations, governing the retirement programs sponsored by many non-profit organizations. This outline touches on the major provisions contained in those lengthy regulations.

A) Major themes:

- 1) The IRS and DOL are coordinating efforts to provide comprehensive guidance that has not existed in the past.
- 2) These 403(b) plans will become much more like 401(k) and 457(b) plans, especially in the areas like eligibility, nondiscrimination testing (not applicable to governmental plans), coverage rules, hardship withdrawal rules, allowing Roth deferrals, compensation limits, and minimum required distributions after age 70 ½.

B) Two types of 403(b) plans --- Keep in mind that there have basically been two types of 403(b) plans:

- 1) ERISA 403(b) plans --- those subject to Title I of ERISA
- 2) Non-ERISA 403(b) plans
 - a) Governmental plans and church plans are generally excluded from coverage under Title I of ERISA.
 - b) The new DOL Field Assistance Bulletin (FAB) 2007-02 makes it clear that complying with the new 403(b) regulations does not, by itself, make the plan subject to Title I of ERISA. The DOL regulations continue to provide a “safe-harbor” plan which is not subject to Title I of ERISA. To qualify for the safe-harbor treatment, the plan must meet a number of requirements, including
 - i) The plan must only allow employee deferrals, and no company contributions.
 - ii) The employer must not have responsibility in administering the plan, by authorizing plan-to-plan transfers, processing distributions, satisfying applicable qualified joint and survivor annuity requirements, and making determinations regarding hardship distributions, qualified domestic relations orders, and eligibility for or enforcement of loans.
 - iii) Participation of employees is completely voluntary.
 - iv) All rights under the annuity contract or custodial account are enforceable solely by the employee or beneficiary of such employee.
 - v) Involvement of the employer is limited to certain optional specified activities.
 - vi) The employer receives no direct or indirect consideration or compensation in cash or otherwise other than reasonable reimbursement to cover expenses properly and actually incurred in performing the employer's duties pursuant to the salary reduction agreements.
 - vii) However, the employer may limit the number of providers.

C) Different types of employers --- The rules have varied somewhat depending on the type of employer, and some of these differences will continue to exist under the final regulations. The types of employers for which there can be distinct differences in the rules are: public schools, hospitals, Code Section 501(c)(3) tax exempt organizations, governmental entities, churches, and certain ministers.

**Final 403(b) Regulations**

October, 2007

(cont'd)

- D) Funding arrangements --- The types of funding arrangements to which Section 403(b) applies continue to be:
- 1) Insurance annuity contracts,
 - 2) Custodial accounts limited to mutual funds, or
 - 3) Church retirement income accounts.
- E) Written plan document requirements:
- 1) The plan must have written provisions that not only comply with the regulations, but also spell out the allocation of responsibilities between the employer, outside advisors, and the participants.
 - 2) These documents must contain all the provisions related to eligibility, limitations, plan benefits, investments and financial vendors available under the plan, and the time and form under which distributions will be made. The documents would also address certain other optional provisions, if the employer wishes to permit them – e.g., hardship withdrawals, loans, the acceptance of rollovers.
 - 3) The document is permitted to cross-reference related materials – e.g., annuity contracts.
 - 4) Model plan language is to be issued soon for educational institutions – presumably prior to 12/31/07.
 - 5) Putting a “non-ERISA” plan into a written document will not, by itself, cause the plan to become an ERISA covered plan. (This was specifically dealt with in the DOL Field Assistance Bulletin NO. 2007-02.)
 - 6) Governmental plans continue not to be subject to ERISA.
- F) Coordinated compliance:
- 1) One of the main aspects of the new regulations is that where two or more outside parties (custodians, third party administrators, etc.) are used, the employer has the responsibility to see to it that data is coordinated so that the various limits and tests can be completed on an aggregated basis.
 - 2) This affects compliance with annual contribution limits, maximum loan amounts, coordination of hardship withdrawals, determining whether a termination of employment has occurred, etc.
- G) Universal eligibility --- There are tougher rules on universal eligibility of elective deferrals:

**Final 403(b) Regulations**

October, 2007

(cont'd)

- 1) Generally all employees must have access to a 403(b) plan if *any* employee does.

The plan is now required to give eligible employees an annual notice of their right to make elective deferrals.

- 2) Only a matching contribution can be conditioned upon the participant making elective deferrals.
- 3) The employer can require deferrals of at least \$200 per year, before allowing any deferrals.
- 4) The list of employees who may be excluded has been reduced to the following:
 - a) Employees eligible under a separate 403(b), 401(k), or 457(b) plan
 - b) Non-resident aliens with no U.S. income
 - c) Certain students under a work study program
Employees normally working fewer than 20 hours per week.
- 5) However, if, on 7/26/07, any of the following categories of employees were being excluded, the exclusion may continue until the first day of the first taxable year that begins after 12/31/09:
 - a) Employees who make a one-time election to participate in a 414(d) governmental plan that is not a 403(b) plan.
 - b) Certain professors working on a temporary basis for another educational organization, where contributions are being made on behalf of the professor, at a rate no greater than the rate each such professor would receive with the first educational organization.
 - c) Employees, affiliated with a religious order, who have taken a vow of poverty, where the order provides for the retirement support of the individual.

H) Control groups that include tax-exempt entities:

- 1) We now have definitive rules describing what constitutes a control group, even when one entity is for-profit and one is not. This affects the handling of several matters, including
 - a) Nondiscrimination rules,
 - b) Individual contribution limits,
 - c) Catch-up contributions,
 - d) Permissive aggregation (Some tax-exempt organizations that would otherwise *not* be treated as in a control group, can choose to be aggregated as a single employer.)
 - e) Permissive *dis*aggregation, and
 - f) Minimum distribution rules.
- 2) The 80% common control test is applied to trustees and directors as if they had equal “ownership” of the tax exempt entities they control.

**Final 403(b) Regulations**

October, 2007

(cont'd)

- 3) These rules generally do not apply to certain church entities or governmental entities.
- 4) Exception regarding severance of employment.

I) Transfers between plans and contracts:

- 1) Previously, participants in some 403(b) plans could choose to make a (Revenue Ruling) 90-24 exchange, by moving funds from one 403(b) contract to another. This would generally be done with little or no employer involvement. Consequently, there was no way for the employer, or the IRS, to know if the transfer was properly transacted. Effective 9/24/07, such transfers are no longer allowed, if the assets are not kept within the same plan.
- 2) In the future, in-service transfers between funds, contracts, and financial institutions will be allowed only if
 - a) The assets stay within the plan itself;
 - b) The employer and plan document permit these transfers;
 - c) The participant's benefit is not reduced as a result of the transfer;
 - d) The new contract has no more distribution restrictions than the previous one; and
 - e) The employer and custodian enter into an agreement to share information so that the custodian can monitor such things as loan limits (which apply to all contracts and plans sponsored by the same employer).
- 3) Certain transfers from a 403(b) plan into a governmental 401(a) defined benefit plan will be permitted for the purchases of past service credits.
- 4) And certain transfers between the 403(b) plans of unrelated employers will be allowed, as long as the account owner has become an employee of the employer sponsoring the recipient 403(b) plan.
- 5) It is still not permitted for an employer to transfers assets between its 403(b), 457(b), and 401(a) plans.

J) Distributions:

- 1) In-service distributions of funds attributed to employer contributions are now more restricted than in the past -- much along the lines of what apply to 401(k) plans. However, some grandfather rules apply to contracts issued before 1/1/09.
- 2) Severance of employment is defined differently from the rules applicable to for-profit companies. And severance from employment will include the situation in which the employee ceases to be employed by an eligible employer, even though he may continue to be employed by a part of the same controlled group.

K) Increase in fiduciary responsibility of employers sponsoring 403(b) plans subject to ERISA:

- 1) The employer must act in the best interests of the participants.



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- 2) The employer will take on more responsibility as it relates to due diligence, investment fees, performance, Compliance, oversight, investment policy statements, and participant communication.
- 3) For all practical purposes, the employer's fiduciary responsibilities and liabilities for ERISA 403(b) plans should be considered the same as those of employers sponsoring 401(k) plans.

L) Catch-up rules:

- 1) For 403(b) plans, there will continue to be two types of catch-up contributions:
 - a) The rule permitting additional contributions after the participant has at least 15 years of service (the so called "403(b) catch-up" rule). (This is only available where the employer is a school, hospital, health and welfare service agency, or a church-related organization).
 - b) The rule that allows additional contributions for years containing the participant's 50th birthday and years after that year (the so called "age 50 catch-up" rule).
- 2) The new regulations establish a priority sequence as to what type of catch-up the participant is making when he is eligible for both. It will be a 403(b) catch-up until that limit is exhausted; and then it will be an age 50 catch-up.
- 3) The special 403(b) catch-up is only available to schools, churches, hospitals, certain health and welfare agencies, 501(c)(3) organizations focused on the prevention of animal cruelty, and agencies providing services to the needy such as home health service agencies.

M) 403(b) plan terminations:

- 1) Previously, the sponsor of a 403(b) plan could discontinue contributions to a 403(b) plan; but the plan itself could not be terminated. In other words, the plan existed as long as there were participants with balances.
- 2) New rules will permit employers to terminate 403(b) plans and distribute assets, or roll them over into another plan, as long as there is not a successor 403(b) plan in the next 12 months.
- 3) An employer may terminate a 403(b) plan and *immediately* replace it with a 401(k) plan or a 457(b) plan, if the employer is eligible to sponsor either of those types of plans.

N) Expected changes in annual reporting – especially Form 5500:

- 1) Expected for plan years beginning after 12/31/08.
- 2) But the non-ERISA 403(b) plans are still exempt from this filing.

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O) Effective Dates:

- 1) Generally effective for participant tax years starting after 12/31/08.
- 2) Because individuals will almost uniformly be on a calendar tax year, these regulations will generally apply on 1/1/09.
- 3) Some church-related plans will not have to comply until years starting after 12/31/09.
- 4) Plans that were in effect 7/26/07 and subject to union negotiation need not comply until the earlier of 7/26/10 or the date the collective bargaining agreement terminates.
- 5) Earlier adoption is permitted, as long as the new rules are applied on a consistent and reasonable basis.
- 6) Effective for contracts issued on or after 9/24/07, the following are not permitted:
 - a) Life insurance contracts
 - b) Endowment contracts
 - c) Health or accident insurance contracts
 - d) Property, casualty, or liability insurance contracts.
- 7) There are delayed effective dates for certain provisions
 - a) The removal of certain permissively excluded groups for purposes of the universal availability rules
 - b) Certain governmental employers have a later effective date for purposes of the limited universal availability exclusions.

P) Remaining peculiarities and distinctions between an ERISA 403(b) plan and a 401(k) plan:.

- 1) Some failures to comply might only affecting the participants involved, and not necessarily the entire plan.
- 2) 403(b) plans continue *not* to be subject to a nondiscrimination test for participant elective deferrals.
- 3) There continues to be no nondiscrimination test on the elective deferrals in a 403(b) plan.
- 4) Post-severance employer contributions are permitted in 403(b) plans for up to five years after the participant's termination of employment, but not after the year of death.
- 5) Some 403(b) plans continue to be permitted the special 403(b) catch-up, in addition to the age 50 catch-up deferral.

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- 6) Final regulations clarify that (non-Roth) after-tax contributions are not subject to any IRS in-service distribution restrictions. (However, the plan can be more restrictive.)
- Q) Reasons to seriously consider a single service provider --- making it easier to comply with plan document rules that require a list of investment options, and approved vendors for intra-plan transfers:
- 1) Coordination of new catch-up rules --- special 15-year rule and age 50 rule.
 - 2) Expanded Form 5500 reporting is expected.
 - 3) Investment policy statement
 - 4) Easier to facilitate employee communication and education.
 - 5) Coordination of all rules related to limits, hardship withdrawals, in-service withdrawals, QDROs, loans, severance from employment, etc.
 - 6) Coordinating compliance with increased fiduciary responsibilities, ongoing monitoring of vendors, etc.
 - 7) Economies of scale --- greater purchasing power, reduced internal expense ratios, reduced administration expenses.
- R) Should sponsors of non-ERISA plans take on more responsibility than legally required?:
- 1) After analysis, many employers will decide that the right thing to do is to take on the monitoring that the average participant cannot do.
 - 2) Members of management will also benefit since they are often the biggest users of these plans.
 - 3) Some advisors point out that a move from the average annuity contract to the average mutual fund should lower the expense ratios.

If you would like help from RMS on the analysis of an existing or proposed 403(b) plan, please don't hesitate to contact us.

2008 EMPLOYEE BENEFIT INDEXED LIMITATIONS

	<u>FOR PLAN YEARS BEGINNING IN</u>					<u>Code Section</u>
	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	
1) 401(k) Elective Deferrals (calendar year limit)	15,500	15,500	15,000	14,000	13,000	402(g)(1)
2) 403(b) Elective Deferrals (calendar year limit)	15,500	15,500	15,000	14,000	13,000	403(b)
3) 401(k) Catch Up Contributions (calendar year limit)	5,000	5,000	5,000	4,000	3,000	414(v)(2)(B)(i)
4) Compensation Cap	230,000	225,000	220,000	210,000	205,000	401(a)(17)
5) Defined Contribution Plans – Contribution	**46,000	45,000	44,000	42,000	41,000	415(c)(1)(A)
6) Highly Compensated Employee Definition Employees owning over 5% or having Prior year Compensation exceeding	105,000	100,000	95,000	90,000	90,000	414(g)
7) Key Employee Definition Officer making over	150,000	145,000	140,000	135,000	130,000	416(i)
More than 1% owner, making over	150,000	150,000	150,000	150,000	150,000	
More than 5% owner, regardless of pay level						
8) Social Security Taxable Wage Base	102,000	97,500	94,200	90,000	87,900	
9) FICA (Employee) Tax Rate:						
Social Security (OASDI)	6.20%	6.20%	6.20%	6.20%	6.20%	
Medicare (HI)	1.45%	1.45%	1.45%	1.45%	1.45%	
Total	7.65%	7.65%	7.65%	7.65%	7.65%	
10) SECA (Self-employed) Tax rate, total	15.30%	15.30%	15.30%	15.30%	15.30%	
11) SIMPLE Deferrals	10,500	10,500	10,000	10,000	9,000	408(p)(2)(A)
12) SIMPLE Catch-up Limit	2,500	2,500	2,500	2,000	1,500	414(v)(2)(B)(ii)
13) SEP Coverage	500	500	450	450	450	408(k)(2)(C)
14) IRA Maximum Deductible Amount	5,000	4,000	4,000	4,000	3,000	219(b)(1)(A)
15) IRA Catch-up Limit	1,000	1,000	1,000	500	500	219(b)(1)(B)
16) Social Security Exempt Amounts – ages						
Under 65	13,560	12,960	12,480	12,000	11,640	
65-69	N/A	N/A	N/A	N/A	N/A	
17) Eligible 457(b) Plan Deferral Limit (calendar year limit)	15,500	15,500	15,000	14,000	13,000	457(b)(2)
18) Maximum ESOP Balance for 5-year installments	935,000	915,000	885,000	850,000	830,000	409(o)(1)(C)
Amount for Lengthening of 5-year ESOP distribution	185,000	180,000	175,000	170,000	165,000	
19) Defined Benefit Plans - Annual Benefit	185,000	180,000	175,000	170,000	165,000	415(b)(1)(A)

**The limitation is effective for plan years ending in the designated calendar year.