



## Should You Discontinue Your Retirement Plan?

*Is offering a 403(b) plan worth the risk?*

**Q:**

I am the executive director of a small nonprofit organization. We offer our employees a voluntary 403(b) retirement program, which they see as a big benefit. However, I've read several items in *Nonprofit World* that make me uneasy, such as the fact that the IRS is cracking down hard on nonprofits, fining them up to \$750,000 for incorrectly administering their 403(b) plans.

If the IRS is going to make things so tough for us when we are simply making a pre-tax savings plan available to our people, I wonder if we should just stop making it available. Does it make sense for us to discontinue offering our voluntary 403(b) plan?

**A:**

The response to this question deserves a resounding no! You and your employees need the ability to accumulate

savings in the best possible way—and for you a 403(b) program is absolutely the best way.

There is no cause for panic. Remember, what is happening now is simply a much publicized IRS review of the 403(b) market motivated by the fact that it has never reviewed 403(b) plans in the past. In short, the IRS is playing catch-up.

This would be a good time for you to do a self-audit of your 403(b) program to see if it has any defects. There are important reasons to discover whether your program has problems. By correcting defects, even if they are not widespread, you will put your plan in total compliance

and avoid having to worry about the possibility of an IRS audit. Here are the main questions to ask yourself:

- Is your organization eligible to have a 403(b) plan? You must be either a 501(c)(3) organization or a public education institution.
- Do you allow all eligible employees to participate in your plan? Do you have written evidence that you've told all your employees about the program and given them a chance to enroll?
- Do you satisfy the rules under employer-funded matching programs?
- Do you have a written agreement on file for each employee, specifying the amount to be withheld?
- Do you run annual tests for all employees to be sure they meet the contribution limits?
- Do you comply with required minimum distributions? Do you provide a direct rollover option? And do you send out the required rollover notices?
- Do you follow the one-per-year rule for salary reduction agreements? Do you have the agreements signed in advance of the salary reduction?
- Are you careful not to permit contributions in excess of the allowable limits?
- Have you filed form 550?

**IN SHORT,  
THE IRS  
IS PLAYING  
CATCH-UP.**



- Does your plan consist solely of salary reduction agreements, with no employer-funded portion?
- Is participation in your plan completely voluntary?
- Do you limit your involvement to making investment options available to your employees?
- Do you offer enough investment options to provide employees with

“a reasonable choice in light of all relevant circumstances”?

You should be able to answer “yes” to all these questions. If not, you should come forward to the IRS, identify the defects you have found, and tell the IRS how you plan to correct those problems. You may have to pay a penalty, but it will be far less than the high tax you’ll have to pay if you wait for the IRS to find the defects.

Following proper procedures and requesting help when you need it virtually guarantee a good plan. And a good plan for your employees is one of the best things you can do for yourself and for them.

For details, see *The Nonprofit Guide to 403(b) Plans* by Eleanor A. Lowder, Aspen Publishers, available from the Society for Nonprofit Organizations’ Resource Center (800-424-7367).

## Is It O.K. for Board Members to Vote by Proxy?

**Q:**

I am interested in information on board members voting by proxy. We are revising our bylaws and want to include a provision allowing proxy votes. Is it O.K. for us to do so? Any information you have will be appreciated.

*Bill Mathis  
SOS Children’s Village Illinois  
(billmathis@ameritech.net)*

**A:**

There is no problem using proxies for votes *if* doing so is spelled out in your by-laws as a recognized practice. Remember, you are morally, legally, and financially

liable for what goes on in the board room. Choose carefully when you give someone else the right to make decisions on your behalf.

*Carol Weisman  
Board Builders  
49 Granada Way  
St. Louis, Missouri 63124*

**REMEMBER, YOU ARE LIABLE FOR WHAT GOES ON IN THE BOARD ROOM.**

### Learn More About It

Looking for more keys to board effectiveness? You’ll find them in Carol Weisman’s unique, entertaining, and helpful book *Secrets of Successful Boards: The Best from the Non-Profit Pros* (see page 22).

Interactive Multi-Media  
Video production  
meeting production

**Creating Visions that Reach, Inform, and Educate.**

The art of electronic communication starts as all communications do - with the need to share information, ideas, news.

Electronic communication moves, captivates, entertains and educates. It invites conversation and relationships because it takes your information, ideas, and news, and brings them to life.

At IVM we know through experience, passion, and creativity how to use technology to help others.

*Shaping the art of Communication*

18110 W. Bluemound Road •  
Brookfield, WI 53045-2917  
Tel# 414.785.1110  
Fax# 414.785.9827