

EMPLOYEE BENEFITS LAW INFORMATION MEMO

MAY 3, 2022

IRS Issues Updated Language for Section 403(b) Plans

The Internal Revenue Service recently issued its List of Required Modifications (LRMs) for pre-approved plan documents that are commonly used by employers that offer and/or contribute to Internal Revenue Code section 403(b) plans. Insurance companies, recordkeepers and other providers of such pre-approved documents must now update their documents to incorporate changes reflected in the LRMs and must submit the updated documents to the Internal Revenue Service for approval during the one-year period that begins on May 2, 2022.

Issuance of the LRMs does not require employers that rely on such pre-approved plan documents to take any action at this time. The document provider will likely contact affected employers after the provider's updated document has been approved by the Internal Revenue Service. That may not happen until spring 2023.

However, an employer that uses an individually-designed plan document (i.e., a document that was not pre-approved) likely faces an amendment deadline or amendment deadlines in 2022. Amendments that may have to be executed before the end of 2022 include amendments to reflect applicable changes enacted or adopted pursuant to the Setting Every Community Up for Retirement Enhancement (SECURE) Act, the Coronavirus Aid, Relief and Economic Security (CARES) Act, and the Consolidated Appropriations Act of 2021.

While the applicable LRMs are not characterized as providing "model" or "safe harbor" language, LRM language is a good starting point from which an employer could begin drafting applicable amendments to its individually-designed plan document. Also, while the recently-issued LRMs apply to pre-approved Internal Revenue Code section 403(b) plans, language in many of the new LRMs can be used to draft applicable amendments to other individually-designed plans. A redlined version of the new LRMs (highlighting changes to the 2013 LRMs) [can be found here](#).

If you have questions, please contact [John C. Godsoe](#), any attorney in our [Employee Benefits and Executive Compensation practice](#) or the attorney at the firm with whom you are regularly in contact.

