

EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION INFORMATION MEMO

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Reminder: April 15 Deadline for 457(b) Plan Corrections Looms

Sponsors and administrators of nongovernmental Section 457(b) plans are reminded that the April 15 deadline to distribute excess deferrals under such plans is fast approaching.

A Section 457(b) plan is a type of nonqualified deferred compensation plan that permits employees of tax-exempt employers (governmental entities and nonprofit organizations) to defer a portion of their compensation on a pretax basis. Pretax deferrals and employer contributions are subject to a combined annual limit; for 2025, this “basic” limit was \$23,500. Certain older participants may be able to make “catch-up contributions” in excess of the basic annual limit. There are two different types of catch-up contributions; one is available to participants age 50 or older, and the second applies to participants during the three years preceding their normal retirement age under the plan.

Contributions that exceed the applicable annual limit – whether the basic limit or one of two catch-up contribution limits – must be corrected or they will not qualify for pretax treatment under Section 457(b). Excess contributions sometimes result from misapplication of the rules that govern the second type of catch-up contribution, which permits contributions over the regular limit during the three years preceding normal retirement age. Specifically, the increased limit that applies to qualifying participants during the three years is equal to the lesser of: (1) twice the regular dollar limit for the year; or (2) the participant’s “underutilized limitation” (i.e., the difference between the annual dollar limit in prior years and the participant’s contributions in prior years).

The Internal Revenue Service permits a Section 457(b) plan to correct excess deferrals by distributing the excess amount (plus earnings) no later than April 15 of the year following the year of the excess deferral. The amount of the excess deferral that is timely distributed is taxable to the participant in the year of the deferral; any earnings included in the distribution are taxed in the year of distribution. However, correction permits the plan to continue to be treated as a 457(b) plan. Failure to timely distribute an excess deferral (plus earnings) by the April 15 deadline will convert the 457(b) plan to a 457(f) plan, resulting in, among other things, immediate taxation for all years for all participants of all amounts deferred and vested under such 457 plan.

What plan sponsors and administrators should do now: To avoid these adverse consequences, plan sponsors and administrators are encouraged to consult their plan recordkeepers to see if any excess deferrals for the 2025 tax year occurred. If they did, sponsors and administrators are advised to work with their recordkeepers and, no later than April 15, distribute such excess contributions (plus earnings) to affected plan participants.

If you have any questions on correcting excess deferrals under a 457(b) plan or any questions on the proper administration of a 457(b) plan, please contact [Devin M. Karas](#), any attorney in our [employee benefits and executive compensation practice](#), or the attorney at Bond with whom you are regularly in contact.

