

SECTION 1. PURPOSE

This revenue procedure provides that the last day of the remedial amendment period for § 403(b) plans, for purposes of section 21 of Rev. Proc. 2013-22, 2013-18 I.R.B. 985, is March 31, 2020. The selection of the last day of the remedial amendment period for § 403(b) plans was reserved in section 21 of Rev. Proc. 2013-22 (setting forth the procedures for issuing opinion and advisory letters for § 403(b) pre-approved plans).

SECTION 2. BACKGROUND

.01 Contributions for an annuity contract purchased for an employee by an eligible employer are generally excluded from the employee's gross income if the requirements described in § 403(b) of the Internal Revenue Code are met. Amounts paid by an eligible employer to a custodial account that satisfies the requirements of § 401(f)(2) are treated as contributed to an annuity contract for an employee if the requirements of § 403(b)(7)(A)(i) and (ii) are met. For purposes of this revenue procedure, an eligible employer is a public school, an employer described in § 501(c)(3) that is exempt from tax under § 501(a), an employer of a minister described in § 414(e)(5)(A) with respect to the minister, or a minister described in § 414(e)(5)(A) with respect to a retirement income account under § 403(b)(9) established for the minister.

.02 Final regulations under § 403(b) (§§ 1.403(b)-1 through 1.403(b)-11) were published on July 26, 2007 (T.D. 9340, 72 FR 41128) (the "§ 403(b) regulations").

.03 Revenue Procedure 2013-22 sets forth the procedures and establishes a program for issuing opinion and advisory letters for § 403(b) pre-approved plans (that is, § 403(b) prototype plans and § 403(b) volume submitter plans). Under the program established by Rev. Proc. 2013-22, the Internal Revenue Service (IRS) began accepting applications for opinion and advisory letters regarding the acceptability under § 403(b) of the form of prototype plans and volume submitter plans, respectively, starting June 28, 2013.

.04 Section 21.02 of Rev. Proc. 2013-22 provides for a remedial amendment period to allow an eligible employer to retroactively correct defects in the form of its written § 403(b) plan in order to satisfy the written plan requirements in the § 403(b) regulations either by timely adopting a § 403(b) pre-approved plan or by otherwise timely amending its written § 403(b) plan. Section 21.02 also provides that the first day of the remedial amendment period is the later of January 1, 2010, or the plan's effective date. Section 21.03 provides, in general, that the remedial amendment period is

available only if an employer adopts a written plan intended to satisfy the § 403(b) requirements on or before the first day of the remedial amendment period.

.05 Section 21.02 of Rev. Proc. 2013-22 defines a defect in the form of a plan as a provision, or the absence of a required provision, that causes the plan to fail to satisfy the requirements of § 403(b). Section 21.03 provides that any defect in the form of a plan must be corrected on or before the last day of the remedial amendment period. Section 21.05 provides that the IRS “will announce, in subsequent guidance, the date that will be the last day of the remedial amendment period for all eligible employers for purposes of this section 21.”

SECTION 3. SECTION 403(b) REMEDIAL AMENDMENT PERIOD

The last day of the remedial amendment period described in section 2 of this revenue procedure and in section 21 of Rev. Proc. 2013-22 is March 31, 2020. A plan that does not satisfy the requirements of § 403(b) in form on any day during the remedial amendment period (that is, the period beginning on the later of January 1, 2010, or the plan’s effective date, and ending on March 31, 2020) will be considered to have satisfied those requirements if, on or before March 31, 2020, all provisions of the plan that are necessary to satisfy § 403(b) have been adopted and made effective in form and operation from the beginning of the remedial amendment period.

SECTION 4. FUTURE GUIDANCE

The Department of the Treasury and the IRS intend to issue guidance in the future with respect to the timing of § 403(b) plan amendments made after March 31, 2020.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2013-22 is clarified by this revenue procedure.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective on January 13, 2017.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Patrick Gutierrez of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure contact Patrick Gutierrez on (202) 317-4148 (not a toll-free number).