

# Impact of Final 403(b) Regulations on Public School Districts



## CARRUTH COMPLIANCE CONSULTING

Carruth Compliance Consulting, Inc., (CCC) provides indemnified compliance assurance and plan administration services to sponsors of 403(b) Tax Sheltered Annuity and 457(b) Deferred Compensation Plans.

CCC does not sell, resell, nor promote any investment products.

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### Current Situation

**Transfers:** Rev. Rul. 90-24 allows in-service under age 59½ transfers into 403(b) account of any Vendor in the universe, irrespective of whether the target Vendor is authorized in the District.

### Effective September 25, 2007

**Rev. Rul. 90-24 is strengthened:** Transfers are allowed only when the District and the target Vendor enter into an Information Sharing Agreement (ISA) designed to ensure compliance with various rules.

### Current Situation

**Administration:** Districts take a “hands-off” approach to administration of their 403(b) Programs. Basically all Districts do is provide Payroll slots and remit contributions to Vendors.

### Effective January 1, 2009

**Districts must have Written Plans** that carefully describe all features of the plan, including eligibility, benefits, applicable limitations, the contracts available under the plan, and the time and form under which benefit distributions would be made. Moreover, each annuity contract and custodial account must be issued pursuant to the District’s written plan which, in both form and operation, satisfies the requirements of Section 403(b) and the new Regulations.

### Current Situation

**Loans:** Loan transactions are handled between Participants and Vendors, with no District involvement. Vendors rely on Participant Certification of loan eligibility.

### Effective January 1, 2009

**Districts (or their designees) must be involved in monitoring loans** to ensure that they are in compliance with the complex rules specified in Internal Revenue Code Section 72(p) by sharing enough information with the Vendor about other Vendor accounts to allow the Vendor to which the loan request has been made to ensure compliance.

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**Current Situation**

**Hardship Distributions:**

Hardship distribution transactions are handled between Participants and Vendors, with no District involvement. Vendors rely on Participant Certification of hardship distribution eligibility and amounts requested.

**Effective January 1, 2009**

**Districts (or their designees) must be involved in monitoring hardship distributions** to ensure that they are in compliance with the complex rules specified in Treas. Reg. §1.401(k)-1(d)(3) by sharing enough information with the Vendor to allow the Vendor to which the hardship distribution request has been made to ensure compliance.

*Dreaded  
403(b) Regulations  
Syndrome*

*Symptoms: Anxiety, confusion, disorientation, hyperventilation, fatigue, and insomnia*

*Diagnosis: Compliance Deficit Disorder (CDD)*

*Rx: Let Harvey Do It*

*Prognosis: Excellent when prescribed Rx instructions are carefully followed*

*Side Effects: Euphoria and giddiness once responsibility for compliance has been outsourced to CCC*

# Options for Dealing with the New Federal Regulations:

Develop in-house the necessary expertise to implement the new requirements, administer the plan, and keep the District written plan updated as laws change and regulations, revenue rulings, and revenue procedures are issued.



**Question: Do you really want to add such responsibilities to an already overloaded workforce?**

Adopt "free" compliance services offered by a Vendor. Almost certainly you have already received numerous overtures from various Vendors.



**Questions: Is anything really free? Do you want one Vendor that markets 403(b) products to have access to all District Payroll information, including contributions to other Vendors?**

Adopt compliance assurance services of an independent Third Party Administrator (TPA).



**Observations: There are a few such companies in the country, but to our knowledge only one of them currently provides services to Oregon School Districts. That company is Carruth Compliance Consulting, Inc., and currently it has 28 School Districts and 5 ESDs as clients. Harvey Carruth is President and is widely known as an expert in all aspects of 403(b) Tax Sheltered Annuity Programs and 457(b) Deferred Compensation Plans.**



**That Was Easy!**