

Employer/Client Information Release

March 5, 2018

### **New IRS Rules for 403(b) Retirement Plans**

The President signed into effect the Tax Cuts and Jobs Act (TCJA) on December 22, 2017. This is one of the most comprehensive tax bills signed since 1986 and will impact the tax code in many significant ways. In this bill, there are a few items that will affect the 403(b)/457 Retirement Plans that you are currently sponsoring for your employees. TSA Consulting Group (TSACG) has been following this legislation since its inception in November of 2017 and is prepared to make all the appropriate system and document changes to make sure your plans continue to operate in compliance with these regulatory changes. This general release is intended to highlight the most important area of concern and to state the position of TSACG on appropriate measures to ensure compliance.

In addition to the TCJA, an additional piece of legislation was passed on February 9, 2018, that will affect your plans as well. The Bipartisan Budget Act of 2018 will affect how future Hardship Withdrawals will be administered starting January 1, 2019. Changes are outlined below, and TSACG will send a reminder notification closer to the January 1, 2019, effective date.

Before discussing the TCJA change that will impact the retirement plan arena, we would like to address some of the provisions that were eliminated from the final bill. Many articles were written about the drastic changes this bill may have on retirement plans. To alleviate some of those concerns, here are the more drastic proposed changes that **were not** in the final legislation:

- The initial discussion involved a contribution cap of \$2,400 pre-tax, which is a major reduction from the current cap of \$18,000.
- A single aggregate limit to contributions for an employee in a governmental Section 457(b) plan and elective deferrals for the same employee under a Section 403(b) plan of the same employer was considered. The limit for governmental Section 457(b) plans would have been coordinated with the limit for Section 403(b) plans in the same manner as limits are coordinated under present law for elective deferrals to Section 401(k) and Section 403(b) plans.

**The following changes were included in the final bill:**

**The most significant change to retirement plans that will affect the 403(b)/457 retirement plan arena – Effective Immediately:**

- The Act amends Section 165 of the Code to provide that personal casualty losses are deductible only to the extent such losses are attributable to a federally declared disaster, thereby narrowing the qualifying circumstances for a 403(b) Hardship Withdrawal under the “safe-harbor” rules. This change applies to losses incurred in tax years beginning after December 31, 2017, and before January 1, 2026.

**The changes in the Hardship Distribution rules in the Bipartisan Budget Act of 2018 – Effective January 1, 2019:**

- Employees who take a Hardship Withdrawal from the plan will no longer be subject to the 6-month prohibition on contributions.
- The Internal Revenue Code is amended to allow that not only can employees take a Hardship from their employee deferrals to a 403(b) plan, but they can also withdraw the earnings from those accounts. Under current rules, employees are only allowed to withdraw their accumulated contributions but not the earnings on the account.
- The requirement that the employee must first obtain all nontaxable loans available under the plan (and any other plans maintained by the employer) before requesting a Hardship Withdrawal has been removed.

If you have a question about the above information or the potential impact these legislative changes may have on your Plan(s), please contact your TSACG Program Consultant.