

2008: Changes To Consider For Your Governmental 457(b) Plan

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If your public agency currently maintains an eligible deferred compensation plan pursuant to Code section 457(b), we recommend that you consider the items listed below, in order to comply with, or take advantage of, recent law changes.

REQUIRED CHANGES

- Revise the definition of "includible compensation" in accordance with the revised Treasury regulations under Code section 457 to include sick, vacation, or back pay payable within 2-1/2 months after the participant's severance from employment.
- Update the definition of "dependent" for purposes of distribution upon an unforeseeable emergency, and specifically reference the payment of funeral expenses and casualty losses as qualifying emergencies.
- Make sure that the provisions regarding the distribution of excess deferrals indicate the due date of such a distribution and the gap period interest calculation.
- Add provisions regarding the ability to give notices via telephonic and electronic media.
- Revise the definitions of "eligible rollover distribution" and "eligible retirement plan" to include the option to transfer a distribution to a Roth IRA under Code section 408A (effective for distributions after December 31, 2007).
- For purposes of making a tax-free rollover, a "distributee" may include a participant's non-spouse beneficiary. Although this is optional currently, we believe will become mandatory after Congress enacts technical corrections to the Pension Protection Act of 2006.

RECOMMENDED CHANGES

- Amend your plan to indicate that it will exclude a worker who the employer did not treat as an employee but who is subsequently determined to be an employee by a local State or federal governmental entity or by a court of competent jurisdiction.

- Revise the definition of "beneficiary" to delete the references to a participant's or alternate payee's "estate," and revise it to refer to the participant's or alternate payee's spouse, children, surviving parents, or heirs.
- Include provisions regarding the recommended corrections if an eligible employee is erroneously omitted from plan participation or if an ineligible employee is erroneously included in the plan.

Editor's Note: We did the best we could to make sure the information and advice in this article were current as of the date of posting to the web site. Because the laws and the government's rules are changing all the time, you should check with us if you are unsure whether this material is still current. Of course, none of our articles are meant to serve as specific legal advice to you. If you would like that, please call us at (916) 357-5660 or email us at contactus@seethebenefits.com.