

IRS Issues Guidance on Remedial Amendment Periods for 403(b) Plans

November 14, 2019

In Revenue Procedure 2013-22, as modified by Revenue Procedure 2017-18, the IRS previously established an initial remedial amendment period for correcting form defects in a 403(b) plan that ends on March 31, 2020. In Revenue Procedure 2019-39, the IRS has now established a system of ongoing remedial amendment periods for correcting form defects in 403(b) plans that occur after March 31, 2020, as well as extending the deadline for certain defects that occur before March 31, 2020. In addition, to assist plan sponsors, the IRS will begin including changes to 403(b) plan requirements on its Required Amendments List and Operational Compliance List. The IRS also introduced a cycle program for pre-approved plans during which Section 403(b) prototype plans and volume submitter plans can request to receive a pre-approved plan letter from the IRS.

Under this new guidance, the remedial amendment period for non-governmental Section 403(b) individually-designed plans will end on the last day of the second calendar year following the calendar year in which (i) the plan is put into effect (for form defects in the initial plan document), (ii) the amendment is adopted or effective, whichever is later (for form defects relating to an amendment to a plan that does not relate to a change in Section 403(b) requirements), or (iii) the Required Amendments List containing the required change is issued (for form defects relating to a change in Section 403(b) requirements). With respect to defects that occur before March 1, 2020, the remedial amendment period ends on the later of the date that would apply under the previous sentence or March 31, 2020 (except with respect to form defects relating to a change in 403(b) requirements that occurred before 2019, for which the remedial amendment period ends on March 31, 2020). Additionally, the deadline to adopt a discretionary amendment for a non-governmental 403(b) plan is the last day of the plan year in which the amendment takes effect.

Rev. Proc. 2019-39 is available [here](#).

The Operational Compliance List is available [here](#).

The Required Amendments List is available [here](#).