

## IRS Issues Guidance on Section 403(b) Plan Terminations

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The Internal Revenue Service recently issued Revenue Ruling 2011-7, which clarified how Section 403(b) plans can be terminated and whether the distributions made in connection with such termination are includable in gross income. The revenue ruling identifies four situations in which Section 403(b) plans that are funded in different ways terminate (e.g., individual annuity contracts, group annuity contracts, and custodial accounts treated as annuity contracts). The guidance identifies the following framework for a Section 403(b) plan to be considered terminated: (1) the plan permits distributions upon termination; (2) the employer approves a binding resolution to cease contributions to the Section 403(b) plan, approves the termination, and fully vests participants upon termination; (3) the participants and beneficiaries are notified of the plan termination, including notice of rollover rights to another retirement plan or IRA; (4) all plan assets are distributed as soon as administratively practicable following the termination date, but within 12 months following termination; and (5) the employer does not make any contributions to any other Section 403(b) plan during the period beginning on the date of termination and ending 12 months after distribution of all assets from the terminated plan. The delivery of a fully paid individual annuity contract (or an individual certificate indicating fully paid benefits under a group annuity contract) is treated as a distribution, and such distribution is not included in the participants' gross income until amounts are actually paid out of the contract, so long as the contract maintains status as a Section 403(b) contract. Any other distribution is includable in gross income except to the extent rolled over to an IRA or other eligible retirement plan within 60 days after the distribution. A copy of Revenue Ruling 2011-7 can be found [here](#).