

IRS Releases Memo Addressing Hardship Withdrawal Substantiation Requirements for 403(b) Plans

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The IRS recently released a memorandum (the "**403(b) Memo**") directed to its Employee Plan Examinations agents regarding the documentation they should obtain from plan administrators in order to determine whether distributions from 403(b) plans were made on account of an immediate and heavy financial need. The 403(b) Memo follows a similar memorandum that was recently released by the IRS that related to hardship substantiation requirements for 401(k) plans (the "**401(k) Memo**"). The 403(b) Memo states that since hardship distributions from a 403(b) plan are subject to the same rules that apply to such distributions from a 401(k) plan, 403(b) plan administrators and recordkeepers should follow the same steps as outlined in the 401(k) Memo to substantiate a participant's claimed hardship, namely the plan administrator or recordkeeper should, prior to making the distribution, (1) obtain source documents from the employee substantiating the hardship or (2) obtain a summary of the information contained in such source documents, provided that if a summary is used, a notice containing certain information prescribed in the memos must be provided to the participant. Plan administrators should consult with their plans' recordkeepers regarding whether their process for requesting and retaining hardship withdrawal documentation complies with the guidelines set forth in the memos. [View the 403\(b\) Memo. View our prior post regarding the 401\(k\) Memo.](#)