

Important Considerations For Clients Changing Schools

As a result of regulations that went into effect in 2009, 403(b) annuity contracts must be maintained according to an employer's written plan document. Because of this, there are important issues to keep in mind if your client is changing schools.

As a general rule, a new 403(b) contract is necessary if your client switches employment, since a single contract isn't intended to be maintained under more than one plan. Additionally, plan rules may not allow funds from the current employer to mix (commingle) with funds from a previous employer.

Why can't funds be commingled?

Before the 2009 regulations, it didn't matter that funds from multiple employers might be commingled into a single 403(b) annuity contract because the employer had no administrative responsibility. Now, because the 403(b) contract must be maintained and administered according to the employer's plan document, commingling of funds could result in disqualification of the client's contract and the loss of tax deferral.

Under the 2009 regulations, funds can continue to move from one 403(b) annuity contract to another 403(b) annuity contract under the same employer's plan as a contract exchange. However, funds in a 403(b) annuity contract accumulated under one employer's plan may not move to a 403(b) annuity contract another employer's plan unless the transaction qualifies as a rollover or plan-to-plan transfer.

What does this mean?

Great American can accept lump sum deposits into a 403(b) annuity contract only if the annuity contract is maintained under an employer 403(b) plan and the deposit qualifies as a contract exchange, rollover, or plan-to-plan transfer. Each of these three different types of lump sum deposit is subject to different rules under federal tax law and the terms of the employer's 403(b) plan.

1. Contract Exchanges

A contract exchange is a deposit into one 403(b) annuity contract under an employer's 403(b) plan from another 403(b) annuity contract under the same employer's 403(b) plan.

Are there commingling issues?

Generally, funds may be commingled with any other funds from that same employer 403(b) plan. Commingling may not be allowed if the funds in the receiving contract or the funds in the prior contract represent a separate account for rollover contributions.

What does Great American need?

- Confirmation from the plan administrator that the deposit is a contract exchange within the same employer 403(b) plan
- A completed and signed Transfer form

2. Rollovers

If your client does not want to leave the old 403(b) account under the previous employer's plan, your client may choose to roll over the old 403(b) funds into their new employer plan.

Are there commingling issues?

Yes. Following the pattern set by the IRS model plan, many employer's 403(b) plan documents prohibit rollover funds from being commingled with other contributions. Because of this, a separate individual annuity contract or a separate certificate under a group annuity contract is required unless the plan administrator tells us that the employer's plan allows rollover contributions to be commingled with other plan funds. When the plan administrator tells us that the plan allows commingling, it is important for a client who is under age 59½ to understand that new distribution restrictions will apply once the rollover is deposited to a contract that has other 403(b) funds, even though the client has severed employment with the first employer. Under most 403(b) plans, the client may avoid new distribution restrictions if the rollover is held in a separate 403(b) contract.

What does Great American need?

- The plan administrator for the receiving employer's 403(b) plan must consent to the rollover contribution and, if the rollover contribution is to be made into a 403(b) contract that has other funds or that will receive flow, then the plan administrator for the receiving employer's 403(b) plan must tell us that the plan allows commingling. The Rollover Contribution Certification form may be used for that purpose
- A signed and completed Transfer form, together with the consent of the plan administrator of the distributing plan

3. Plan-to-Plan Transfers

A plan-to-plan transfer is a deposit into one employer 403(b) plan from a different employer 403(b) plan, or a transfer of an existing 403(b) annuity contract to one employer 403(b) plan from a different employer 403(b). A plan-to-plan transfer is intended to be used in situations where two employers are merging, or where a number of employees is being transferred as a group from one employer to another.

Are there commingling issues?

No. However, it's important for a client who is under age 59½ to understand that distribution restrictions will continue apply to funds contributed through the former employer, even though your client has severed employment with that employer.

What does Great American need?

- Approval from the administrators of both the transferring and receiving plans that the funds or contract will be moved as a plan-to-plan transfer
- A signed and completed Transfer form

If you have any questions, please contact the 403(b) team at 800-438-3398, ext. 17197. We thank you for your continued support of our company.