

Employee Plans Examination Guidelines Handbook

December 3, 1999

Ms. Carol D. Gold
Internal Revenue Service
POB 7604, Room 5228
Ben Franklin Station
Washington, D.C. 20004

Re: Employee Plans Examination Guidelines Handbook
IRM 7.7.1, Chapter 13 403(b) Plans

Dear Ms. Gold:

ASPPA is a national organization of approximately 3,700 members who provide actuarial, consulting, administrative, legal and other professional services for about one-third of the qualified retirement plans in the United States, the majority of which are maintained by small businesses. ASPPA's mission is to educate pension actuaries, consultants, administrators, and other benefits professionals and to preserve and enhance the private retirement system as part of the development of a cohesive and coherent national retirement income policy.

ASPPA commends the service for finalizing Chapter 13 of the Employee Plans Examination Guidelines. ASPPA believes the final guidelines will serve as a useful tool for education and compliance for those who sponsor or work with 403(b) plans.

ASPPA recommends that the catchup provision elections A-B-C be clarified by example in IRS Publication 571. Treas. Reg. Section 1.415 -6(c)(2)(iv) states that any election made under the alternative limitation paragraph is irrevocable. Section 13.5.2.1 of the final audit guidelines, paragraph (3) states that the special elections under section 415(c) (4) are irrevocable only with respect to one employer. The paragraph indicates that if an employee leaves and goes to work for another eligible employer, the employee may choose another election while with the new employer. The regulations, on the other hand, provide that the election is a "lifetime" election, which cannot be changed even if a new eligible employer is involved. Since the audit guidelines may not be relied upon as authority, ASPPA recommends this point be clarified in IRS Publication 571.

We appreciate the opportunity to provide these comments, and we look forward to discussing this matter with you further.

Very truly yours,

Theresa Lensander, C.P.C., Q.P.A.,
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cc: Robert J. Architect
Ms. Rosamond Ferber