

403(b) Rescue

Our 403(b) Fix-It Series

403(b) Rescue, the Ekon Benefits 403(b) Fix-It Series, describes the most common mistakes in 403(b) plans as determined by the IRS. We provide explanation of common mistakes, suggested prevention methods, and options for correction.

Does your 403(b) Plan need to be rescued?

Common Mistake #3— Hardship Distributions

For a distribution to be considered a hardship distribution by the IRS, it must:

- be used to satisfy an “immediate and heavy financial need”, and
- not be in excess of the amount required to satisfy the “immediate and heavy financial need”

Prior to 2009, 403(b) Plans were not required to have a formal Plan Document. If hardship distributions are permitted in the Plan, the Plan Document must now contain language regarding their availability. Any information used in determining the necessity of a hardship distribution, as well as processes followed and the amount distributed, should be maintained in Plan records.

IRS preapproved or Safe Harbor reasons for taking a hardship distribution include:

- Previously incurred, unreimbursed medical expenses for the employee, employee’s spouse, or dependents
- Purchase of the employee’s primary residence or to prevent eviction or foreclosure on an employee’s primary residence
- Certain expenses relating to the repair of damage to the employee’s primary residence caused by casualty
- Post-secondary tuition and related educational fees for the employee, employee’s spouse, or dependents
- Funeral expenses for the employee’s deceased parent, spouse, or dependent

This list is not all-inclusive; other situations may warrant a hardship distribution. Hardship distributions in an amount in excess of what is required to satisfy the financial need are not permitted. Also, if the financial need could be fulfilled by a resource reasonably available to the participant this is not permissible. These resources may include:

- Reimbursement by insurance
- Liquidation of assets
- Cessation of personal contributions to the Plan
- Nontaxable loans

The Employee Plans Compliance Resolution System is available to correct errors regarding hardship distributions in 403(b) Plans. If the Plan Document does not contain language regarding hardship distributions but, in operation, they have occurred, a retroactive amendment may be necessary. If hardship distributions are allowed in the Plan but plan procedures and/or applicable laws are not being followed, repayment of the distribution may be required and additional taxation will likely occur.

For a complete listing of the most common 403(b) mistakes, please view the [IRS 403\(b\) Plan Fix-It Guide](#)
For assistance in correcting a plan error, please contact Ekon Benefits at (314)367.6555 or info@ekonbenefits.com