

Reproduced with permission from Tax Management Compensation Planning Journal, 47 CPJ 12, 12/06/2019. Copyright © 2019 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

Key Amendment Due Dates for Individually Designed §403(b) Plans

By Marina Vishnepolskaya*

INTRODUCTION

In Rev. Proc. 2019-39, effective September 30, 2019, the IRS designated recurring remedial amendment periods (RAPs) for correcting form defects in plans subject to §403(b).¹ Section 403(b) plans, or simply §403(b) plans are sponsored by certain tax-exempt organizations and governmental employers (“eligible employers”) for their employees.² Rev. Proc. 2019-39 also sets forth the timelines for pre-approved §403(b) plan amendment cycles. Sponsors,

* Marina Vishnepolskaya, Esq., P.C., an international law firm, counsels plan sponsors, administrators, fiduciaries and service providers on a broad range of ERISA, tax planning, compliance and transactional matters. Ms. Vishnepolskaya is a frequent author and speaker on cutting edge issues in international and corporate taxation, employee benefits, executive compensation and exempt organizations.

¹ All section references are to the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury regulations promulgated thereunder, unless otherwise noted.

² §403(b)(1)(A); Reg. §1.403(b)-1 (as amended in 2007) (generally providing that the regulations set forth the rules for tax treatment of annuities purchased for an employee by an employer that is either a tax-exempt organization under §501(c)(3) or a public school, or for a minister described in §414(e)(5)(A)), §1.403(b)-2(b)(8) (as amended in 2007) (defining an eligible employer, including a state but only with respect to an employee of that state performing services for a public school), §1.403(b)-2(b)(9) (defining an employee). See also Vishnepolskaya, *Proposed Tax Bill Would Ease Compliance for §403(b)(9) Plans of Religiously Affiliated Charities*, 47 Comp. Plan. J. 11 (Jan. 4, 2019) (defining scope of religious organizations, which may establish and maintain retirement income accounts subject to §403(b)(9)).

providers and third-party administrators³ of §403(b) plans must monitor and comply with certain plan amendment or IRS filing deadlines imposed by Rev. Proc. 2019-39.⁴

Except for the initial RAP, Rev. Proc. 2019-39 in general does not set forth specific deadlines by which §403(b) plans must be amended.⁵ The guidance utilizes a formulaic approach to determine the beginning and ending dates of extended initial RAPs, recurring RAPs, discretionary or interim plan amendment deadlines and remedial amendment cycles, which may apply, respectively, to individually designed or pre-approved §403(b) plans.⁶

Under Rev. Proc. 2019-39, a pre-approved plan is a prototype or volume submitter plan described in Rev. Proc. 2013-22.⁷ Any other type of a §403(b) plan is an individually designed plan.⁸ This article identifies key compliance due dates for discretionary amendments⁹ to individually designed §403(b) plans sponsored by tax-exempt organizations,¹⁰ and amendments

³ See Reg. §1.403(b)-3(b)(3)(ii) (as amended in 2007) (permitting a §403(b) plan to allocate responsibility for performing administrative functions, including compliance with §403(b) requirements and other tax rules, to third parties other than employees, unless an employee has substantial duties in administering the plan).

⁴ See generally Rev. Proc. 2019-39, §5, §6, §7, §10, §11, §12, §13.

⁵ See generally Rev. Proc. 2019-39, §5, §6, §7, §10, §11, §12, §13.

⁶ See generally Rev. Proc. 2019-39, §5, §6, §7, §10, §11, §12, §13.

⁷ Rev. Proc. 2019-39, §4.06, Rev. Proc. 2013-22, §5, §7. Akin to combining master and prototype and volume submitter qualified plans in Rev. Proc. 2017-41, the IRS anticipates eliminating the distinction between prototype and volume submitter §403(b) pre-approved plans. Rev. Proc. 2019-39, §4.06, n. 5.

⁸ Rev. Proc. 2019-39, §4.05.

⁹ Rev. Proc. 2019-39, §6.02.

¹⁰ See §414(d) (defining a governmental plan generally as a plan sponsored for its employees by the federal government, a state government or a political subdivision, or an agency or instrumentality of the federal or a state government or a political subdivision), §501(a), §501(c)(3) (exemption from federal income tax

to such plans under the initial, extended and recurring RAPs in Rev. Proc. 2019-39.¹¹

Rev. Proc. 2019-39 similarly sets forth the plan amendment due dates for governmental individually designed §403(b) plans. In addition, Rev. Proc. 2019-39 specifies the timelines for plan remedial amendment cycles and related interim amendments for pre-approved §403(b) plans. Nonprofit plan providers and fiduciaries should consult with counsel regarding procedures for amending a §403(b) plan or establishing a pre-approved §403(b) plan.¹²

BACKGROUND

Section 403(b) plans generally are retirement plans, under which an eligible employer purchases annuity contracts or contributes to custodial accounts for employees of the eligible employer.¹³ Section 403(b) plans may be funded through employee pre-tax salary reduction arrangements, employer contributions, or by both methods,¹⁴ subject to annual contribution limits.¹⁵ Under 2007 final Treasury regulations, effective January 1, 2009,¹⁶ 403(b) plans became subject to a requirement for a written plan to be in place on or before December 31, 2009, in order to maintain tax-deferred status¹⁷ of contributions and earnings.¹⁸

In 2013, the IRS announced it would issue opinion or advisory letters for 403(b) plans, which would con-

for certain religious, charitable, scientific, and other types of not-for-profit organizations); Rev. Proc. 2019-39, §5.03(1), §6.02(1), §7 (applicability of RAP requirements to individually designed §403(b) plans that are not governmental plans).

¹¹ Rev. Proc. 2019-39, §5, §7.

¹² The IRS distinguishes between opinion or advisory letters for pre-approved plans, on the one hand, and individual determination letters for qualified plans, on the other hand. See Rev. Proc. 2013-22, §4.01(3).

¹³ See I.R.C. §403(b)(1)(A), §403(b)(7); Reg. §1.403(b)-2(b)(2) (as amended in 2007) (defining an annuity contract), §1.403(b)-8(d)(2) (2007) (defining a custodial account treated as a §403(b) contract). Certain religious organizations that qualify as “churches” within the meaning of §3121(w)(3) may establish or maintain a retirement income account under §403(b)(9), which qualifies as a contract under §403(b)(1), subject to certain special requirements. See generally §403(b)(9) (retirement income account general rules), §3121(w)(3) (definition of a “church” as a sponsor of an §403(b)(9) plan); Reg. §1.403(b)-9 (2007) (retirement income account requirements).

¹⁴ See Reg. §1.403(b)-8(b) (2007).

¹⁵ §403(b)(1), §415(c)(1)(A); Notice 2018-83 (setting forth contribution limits for 2019 as \$19,000 and additional \$ 6,000 in catch-up contributions for employees over 50), Notice 2019-59 (2020 limit is \$19,500 and additional \$6,500 in catch up contributions).

¹⁶ Reg. §1.403(b)-11(a) (as amended in 2007).

¹⁷ §72(a)(1), §72(b)(1), §72(c)(1), §403(b)(1), §403(b)(11) (general rule for timing of distributions, which may not begin until attainment by employee of age 59½, death, disability or severance from employment); Reg. §1.403(b)-3(a) (as amended in 2007) (tax-deferred treatment of contributions); §1.403(b)-7(a) (as

firm that a plan document submitted to the IRS satisfied the requirements of §403(b) and Treasury regulations.¹⁹ The opinion or advisory letter would not address compliance with the Employee Retirement Income Security Act of 1974, as amended (ERISA).²⁰ In 2017, the IRS began issuing opinion and advisory letters for 403(b) pre-approved plans.²¹

REV. PROC. 2013-22: INITIAL REMEDIAL AMENDMENT PERIOD

Rev. Proc. 2013-22 provides that a sponsor would comply with the §403(b) written plan requirement by adopting a pre-approved plan or amending an individually designed plan.²² Rev. Proc. 2013-22 established a RAP beginning **January 1, 2010**, or if later, the effective date of a 403(b) plan.²³ This grace period permitted an eligible employer to correct retroactively²⁴ certain “form defects” in a 403(b) plan that was not a pre-approved plan.²⁵ Under Rev. Proc. 2017-18, the last day of the initial RAP was **March 31, 2020**.²⁶

amended in 2010) (general rule for taxation of distributions under §72 relating to annuities, generally requiring inclusion in gross income of an amount received under the annuity, reduced by the pro-rata portion of investment in the contract, defined under §72(c)).

¹⁸ §403(b)(1)(D) (“plan” requirement); Reg. §1.403(b)-2(b)(13) (as amended in 2007) (definition of a “plan”), §1.403(b)-3(b)(3) (as amended in 2007) (“written plan” requirement).

¹⁹ Rev. Proc. 2013-22, §1 (announcing the IRS would accept applications for opinion and advisory letters for 403(b) prototype and volume submitter plans starting June 28, 2013).

²⁰ Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 88 Stat. 829 §1 et seq. (1976); Rev. Proc. 2013-22, §13.03.

²¹ Rev. Proc. 2019-39, §2.03 (stating the IRS began issuing pre-approved plan opinion or advisory letters beginning in March 2017). See Rev. Proc. 2013-22, §22.01, §22.02 (opinion letters applicable to form of 403(b) prototype plan and issued to prototype plan sponsors; advisory letters applicable to form of a 403(b) specimen plan and issued to volume submitter practitioners).

²² Rev. Proc. 2013-22, §1.02, §21.03 (providing the requirements of §403(b) would be satisfied automatically effective retroactively to the first day of the initial RAP if the eligible employer adopted a pre-approved plan with an opinion or advisory letter on or before the last day of the initial RAP, thus obviating the need for a corrective amendment, except to the extent of any incorporated plan documents that had to be amended).

²³ Rev. Proc. 2013-22, §21.02, *modified by* Rev. Proc. 2014-28 and Rev. Proc. 2015-22, *clarified by* Rev. Proc. 2017-18.

²⁴ Rev. Proc. 2013-22, §21.03 (correction, resulting in treatment of 403(b) plan as being in compliance with the requirements of §403(b), effective retroactively to the first day of the initial RAP, or if later, the effective date of the plan). See Rev. Proc. 2019-39, §1.05.

²⁵ See Rev. Proc. 2013-22, §21.02.

²⁶ Reg. §1.401(b)-1(a) (as amended in 2000) (establishing a

REV. PROC. 2019-39: REMEDIAL AMENDMENT PERIODS AND PRE-APPROVED PLAN CYCLES

Rev. Proc. 2019-39, based on similar guidance for qualified plans under §401(a) in Rev. Proc. 2016-37,²⁷ accomplishes four objectives for 403(b) plan compliance.²⁸ First, Rev. Proc. 2019-39 establishes a system of recurring RAPs for 403(b) plans.²⁹ Second, Rev. Proc. 2019-39 extends the initial RAP for some form defects past March 31, 2020.³⁰ Third, Rev. Proc. 2019-39 establishes pre-approved plan cycles for submitting a proposed 403(b) plan for review and approval by the IRS.³¹ Fourth, Rev. Proc. 2019-39 sets forth deadlines for sponsors of individually designed or pre-approved 403(b) plans to correct form defects by plan amendment.³²

Form Defects

Form defects under Rev. Proc. 2019-39 are provisions or absence of provisions in a 403(b) plan docu-

RAP, which permitted amending a plan to comply with certain changes in plan qualification requirements retroactively to the beginning of the RAP and retain tax-qualified plan status, so long as the amendment with respect to a disqualifying provision was made by the end of the RAP), §1.401(b)-1(b) (definition a “disqualifying provision”, basis for defining a form defect in Rev. Proc. 2019-39, §4.02); Rev. Proc. 2017-18, §3. The initial RAP applies to both individually designed and pre-approved 403(b) plans. Rev. Proc. 2019-39, §4.03. Cf. Rev. Proc. 2016-37, §2.09(2) (providing that, unlike the amendments to reflect the changes in the RA List for individually designed plans, for pre-approved qualified plans subject to remedial amendment cycles, an interim amendment generally would be required to incorporate Cumulative List changes in plan qualification requirements that impact compliance of the plan document), §15.04(1) (interim amendment of pre-approved qualified plan to be made not later than the end of the RAP for qualified plans), §3.01, §3.02 (elimination of remedial amendment cycles and related interim amendment requirements for individually designed plans as of January 1, 2017). See also Rev. Proc. 2019-39, §11, §12 (recurring RAPs and deadlines for interim and discretionary plan amendments for correcting retroactively pre-approved 403(b) plan form defects, conforming in timing to a remedial amendment cycle).

²⁷ See Rev. Proc. 2016-37, §1.01, §3.01(1), §4.01, §4.02, §5.01, modified by Rev. Proc. 2017-41 (modifying the determination letter program for individually designed qualified plans by, *inter alia*, eliminating the five-year remedial amendment cycle as of January 1, 2017 and the interim amendment requirement, permitting a sponsor of an individually designed qualified plan to apply for a determination letter only for initial plan qualification, qualification upon termination and certain other special circumstances; extending the RAP for individually designed plans, implementing a Required Amendments (RA) List and Operational Compliance (OC) List), Rev. Proc. 2019-39, §3. See generally §401(a) (plan qualification requirements).

²⁸ See Rev. Proc. 2019-39, §1.02.

²⁹ See Rev. Proc. 2019-39, §1.02, §5.

³⁰ See Rev. Proc. 2019-39, §1.02, §7, §13.

³¹ See Rev. Proc. 2019-39, §1.02, §10.

³² See Rev. Proc. 2019-39, §1.02, §6, §12.

ment that cause the plan to fail to satisfy the requirements under §403(b), Treasury regulations and IRS guidance.³³ Alternatively, a form defect may be a provision that is integral to a §403(b) requirement that has been changed by statute, Treasury regulations or IRS guidance.³⁴ The fourth type of a form defect is the absence from the plan document of a provision, which is either required by a statutory or administrative change to the §403(b) requirements, or is integral to such change.³⁵

Required Amendments List and Operational Compliance List

Beginning in 2019, the IRS will include changes in §403(b) requirements in the annually published Required Amendments List for §401(a) plan qualification requirements.³⁶ The IRS also will include changes in §403(b) requirements in the Operational Compliance List published on the IRS website for sponsors of qualified plans to assist plan sponsors with §403(b) compliance.³⁷

EPCRS for Noncorrected Form Defects Under Rev. Proc. 2019-19

Form defects are distinguished from plan document failures subject to correction procedures under the Employee Plans Compliance Resolution System (EPCRS) set forth in the updated Rev. Proc. 2019-19.³⁸ If a plan has not been timely or properly amended during an applicable RAP period to comply

³³ Rev. Proc. 2019-39, §4.02(1), §4.02(2), §4.10; see generally §403(b); Reg. §1.403(b)-1 - §1.403(b)-11 (rules for income tax treatment of an annuity contract under §403(b) and applicable effective dates).

³⁴ Rev. Proc. 2019-39, §4.02(3).

³⁵ Rev. Proc. 2019-39, §4.02(4).

³⁶ §401(b) (RAP for tax-qualified plans under §401(a)); Rev. Proc. 2016-37, §5.05(3), §9 (with respect to individually designed qualified plans, extending the RAP for a disqualifying provision in a non-governmental plan with respect to a change in qualification requirements to the end of the second calendar year following the close of the calendar year in which the RA containing the change was issued), Rev. Proc. 2019-39, §8 (application of RA List to 403(b) plans); Notice 2018-91 (2018 RA List for qualified plans, including amendment deadlines for individually designed qualified plans with a general December 31, 2020 amendment deadline).

³⁷ Rev. Proc. 2019-39, §9 (application of OC List to 403(b) plans), Rev. Proc. 2016-37, §10 (discussion of OC List to assist plan sponsors in achieving operational compliance with plan qualification requirements, including changes in qualification requirements on a RA List); I.R.S. Operational Compliance List, <https://www.irs.gov/retirement-plans/operational-compliance-list>.

³⁸ See Rev. Proc. 2019-19, §5.02(2)(a) (defining a plan document failure in a 403(b) plan).

by its terms with §403(b), the retirement program has a plan document failure.³⁹

A plan document failure outside of an audit generally may be corrected by filing a submission under the voluntary correction program (VCP) in Rev. Proc. 2019-19.⁴⁰ The issuance of a VCP compliance statement for failure to adopt a written 403(b) plan timely would allow the plan to be brought into compliance with the §403(b) written plan requirements within the “extended” RAP initially set forth in Rev. Proc. 2017-18.⁴¹ Rev. Proc. 2019-39 was issued after the updated EPCRS guidance.⁴² Therefore, a VCP compliance statement possibly would allow the plan to comply with the further extension of the initial remedial amendment period provided in Rev. Proc. 2019-39 and described below.⁴³

Key Amendment Due Dates Under Rev. Proc. 2019-39

The following key compliance dates apply for individually designed non-governmental 403(b) plans, unless otherwise provided in the Code, Treasury regulations or IRS guidance.⁴⁴

April 1, 2020:

First possible beginning date of a **recurring RAP**.⁴⁵ Depending on the effective date of the plan and the type of form defect, the recurring RAP may begin on the first date (i) the plan or a plan amendment first was approved or effective,⁴⁶ (ii) a change in §403(b) requirements became effective with respect to

the plan⁴⁷ or (iii) the plan was operated in accordance with a plan provision integral to a §403(b) requirement that had been changed.⁴⁸

For example, under the initial RAP, an individually designed 403(b) plan might be in existence as of January 1, 2010.⁴⁹ The tax-exempt organization sponsoring the plan purchased the form document from a third-party plan provider. The plan provider does not apply for an opinion or advisory letter for the plan by March 31, 2020.⁵⁰ As of April 1, 2020, the plan will remain an individually designed plan. Therefore, with respect to form defects that do not result from changes in §403(b) requirements or are not provisions that would be integral to such change, the 403(b) plan must be amended to comply with §403(b) requirements not later than March 31, 2020.⁵¹

December 31, 2020:

First possible deadline for a **discretionary amendment** (403(b) plan amendment not made with respect to a form defect).⁵² For plan years beginning on or after January 1, 2020, the deadline is the last date of the plan year, in which the discretionary amendment, such as a plan loan provision,⁵³ was made operational in compliance with §403(b)⁵⁴ (otherwise, the discretion-

tion from the beginning), §5.02(2) (for an existing plan, RAP beginning generally when the amendment to correct a form defect other than a rule change was approved or effected, whichever date is earlier).

³⁹ Rev. Proc. 2019-19, §5.02(2)(a).

⁴⁰ Rev. Proc. 2019-19, §4.01(2), §4.05(1), §4.10(1), §6.10 (availability of VCP for 403(b) plan document failures by plan amendment, subject to certain exceptions), §10.01 (VCP requirements), §11.01 (general rules for submission procedures). *But see* Rev. Proc. 2019-19, §2.02(2), §4.01(1), §7.01(2), §9.01 (availability of Self-Correction Program (SCP) for correcting certain eligible plan document failures in 403(b) plans), §4.03(1) (SCP eligibility requirements for plan documents, applicable to 403(b) plans), §4.05(2)(c), §4.10(2) (availability of SCP for correction of a 403(b) plan document failure by plan amendment, subject to certain exceptions).

⁴¹ Rev. Proc. 2019-19, §6.10(3).

⁴² *See* Rev. Proc. 2019-39, §16 (effective date of September 30, 2019), Rev. Proc. 2019-19, §16 (effective date of April 19, 2019).

⁴³ *Compare* Rev. Proc. 2019-39, §7 (initially extended RAP for individually designed 403(b) plans extended further to March 31, 2020, subject to potential further extension with respect to certain form defects) *with* Rev. Proc. 2017-18, §3 (March 31, 2020, as the initial extended due date for correcting 403(b) plan form defects).

⁴⁴ *See* Rev. Proc. 2019-39, §5, §6, §7.

⁴⁵ Rev. Proc. 2019-39, §5.02.

⁴⁶ Rev. Proc. 2019-39, §5.02(1) (for a new plan, generally, RAP beginning on the date the plan is put into effect, so there would be limited time for a corrective amendment; essentially, the new individually designed plan should be compliant in form and opera-

⁴⁷ Rev. Proc. 2019-39, §5.02(3).

⁴⁸ Rev. Proc. 2019-39, §5.02(4).

⁴⁹ The recurring RAP for an individually designed non-governmental 403(b) plan made effective after March 31, 2020, ends on the last day of the second calendar year following the year in which the plan was made effective. Rev. Proc. 2019-19, §5.03(1)(a).

⁵⁰ Rev. Proc. 2019-39, §4.04, Rev. Proc. 2017-18, §2.04, Rev. Proc. 2013-22, §21.02.

⁵¹ *See* Rev. Proc. 2019-39, §6.01 (stating plan amendment deadline for a form defect in an individually designed 403(b) plan after March 31, 2020, generally is the date on which the recurring RAP ends). Annual changes in the requirements are published in the RA List and the OC List, but the OC List is not an exhaustive list of all requirements, with which a 403(b) plan must comply operationally. *See* Rev. Proc. 2019-39, §8, §9.

⁵² Rev. Proc. 2019-39, §6.02 (discretionary amendment defined as an amendment that is made with respect to a plan provision other than a form defect).

⁵³ *See* Rev. Proc. 2019-39, §6.03.

⁵⁴ Rev. Proc. 2019-39, §6.02(1) (a discretionary amendment made operational generally meaning the plan was administered in a manner consistent with the plan amendment); *see* Reg. §1.403(b)-3(b)(3)(ii) (as amended in 2007) (requiring a 403(b) plan to satisfy the requirements in the Treasury regulations under §403(b) in both form and operation in order for plan contributions to be excluded from gross income of participating employee, and for amounts contributed pursuant to salary deferral arrangements not to be includible currently in gross income of the employee).

ary amendment would result in a form defect).⁵⁵ Prior guidance did not specify a deadline for discretionary amendments to individually designed 403(b) plans, or distinguish between discretionary amendments and form defects.⁵⁶ Thus, discretionary amendments to individually designed 403(b) plans in plan years beginning before January 1, 2020, appear to be subject solely to the EPCRS requirements.⁵⁷

For example, an individually designed non-governmental 403(b) plan existed as of January 1, 2010. The plan has a calendar plan year. In March 2020, the compensation committee of the board of the nonprofit sponsoring the plan authorized plan loans for participating employees. But the plan was not amended to include a clause permitting participant loans. In March 2021, the sponsor made the first plan loan to an employee. The disbursement of the plan loan triggered operational noncompliance with Section 403(b) requirements in March 2021. Accordingly, the plan sponsor may make the corrective amendment until December 31, 2021, to include the required plan loan provision in the plan document consistent with operation of the plan.

December 31, 2022:

- Earliest ending date of a **recurring RAP** for a non-terminating plan based on the general rule that the end of a recurring RAP is the end of the second calendar year following the calendar⁵⁸ year, in which a plan or plan amendment was approved or made effective, whichever is the later.⁵⁹ The end date of a recurring RAP for form defects relating or integral to changes in §403(b) requirements depends on issuance of the RA List.⁶⁰

- Latest end date for an **extended initial RAP**. If a change in Section 403(b) requirements, to which the

form defect related or was integral, was published in 2019, the plan would have the benefit of an extended initial RAP to correct the form defect.⁶¹ An extended initial RAP allows a plan to make the corrective amendment for a form defect occurring on or before March 31, 2020, after that date.⁶² The plan sponsor would apply the same rule for a recurring RAP, but without regard to the March 31, 2020, deadline for the initial RAP.⁶³ Thus, the end of the extended initial RAP would be the latest of the end of the initial RAP, or March 31, 2020, and the extended initial RAP, which would be the end of the second year following the year in which the form defect occurred. Accordingly, the earliest end date of the extended initial RAP would be December 31, 2020.

Notice 2019-64, published on December 4, 2019, includes the RA List with changes in §403(b) requirements for 2019. With respect to a form defect that is a provision relating or integral to a change in §403(b) requirements, the extended initial RAP would start to run on the date the change was published in the RA List. In this case, the earliest end date of a recurring RAP would be the later of March 31, 2020, and the end of the second year following 2019, or December 31, 2021.⁶⁴ In 2018, the IRS did not include any changes in §403(b) requirements in the RA List.⁶⁵ Therefore, the extended initial RAP does not apply to form defects relating or integral to changes in §403(b) requirements prior to 2019.⁶⁶

FUTURE GUIDANCE AND CURRENT ACTION ITEMS

Revenue Procedure 2019-39 notes additional guidance on the new remedial amendment periods and pre-approved plan cycles for 403(b) plans would be forthcoming before the next deadline for submitting a proposed 403(b) plan for IRS approval.⁶⁷ Sponsors, providers and TPAs must take timely steps to comply with statutory and administrative requirements under the new RAPs, discretionary amendment deadlines and pre-approved plan cycle system for 403(b) plans.

⁵⁵ See Reg. §1.403(b)-3(b)(3) (as amended in 2007); Rev. Proc. 2019-39, §6.03.

⁵⁶ See Rev. Proc. 2017-18, §2.04, Rev. Proc. 2013-22, §21.02.

⁵⁷ See Rev. Proc. 2019-19, §4.01(2), §4.05(1), §4.10(1), §6.10.

⁵⁸ Cf. Rev. Proc. 2019-39, §6.02(1) (deadline for discretionary amendment is the end of the *plan* year, rather than the end of the second calendar year following the *calendar* year, in which the plan was put into effect, as under the rule for the end of a recurring RAP for a new plan).

⁵⁹ Rev. Proc. 2019-39, §5.03(1)(a), §5.03(1)(b) (for new or amendments to existing individually designed non-governmental 403(b) plans).

⁶⁰ See Rev. Proc. 2019-39, §7. On December 4, 2019, Treasury and the IRS published the 2019 RA List for qualified and 403(b) plans. See Notice 2019-64, §IV.A.

⁶¹ Rev. Proc. 2019-39, §5.01, §7.

⁶² Rev. Proc. 2019-39, §5.01, §7.

⁶³ Rev. Proc. 2019-39, §5.01, §7.

⁶⁴ See Rev. Proc. 2019-39, §5.01, §7.

⁶⁵ See Rev. Proc. 2019-39, §7; Notice 2018-91.

⁶⁶ Rev. Proc. 2019-39, §7.

⁶⁷ Rev. Proc. 2019-39, §1.03.