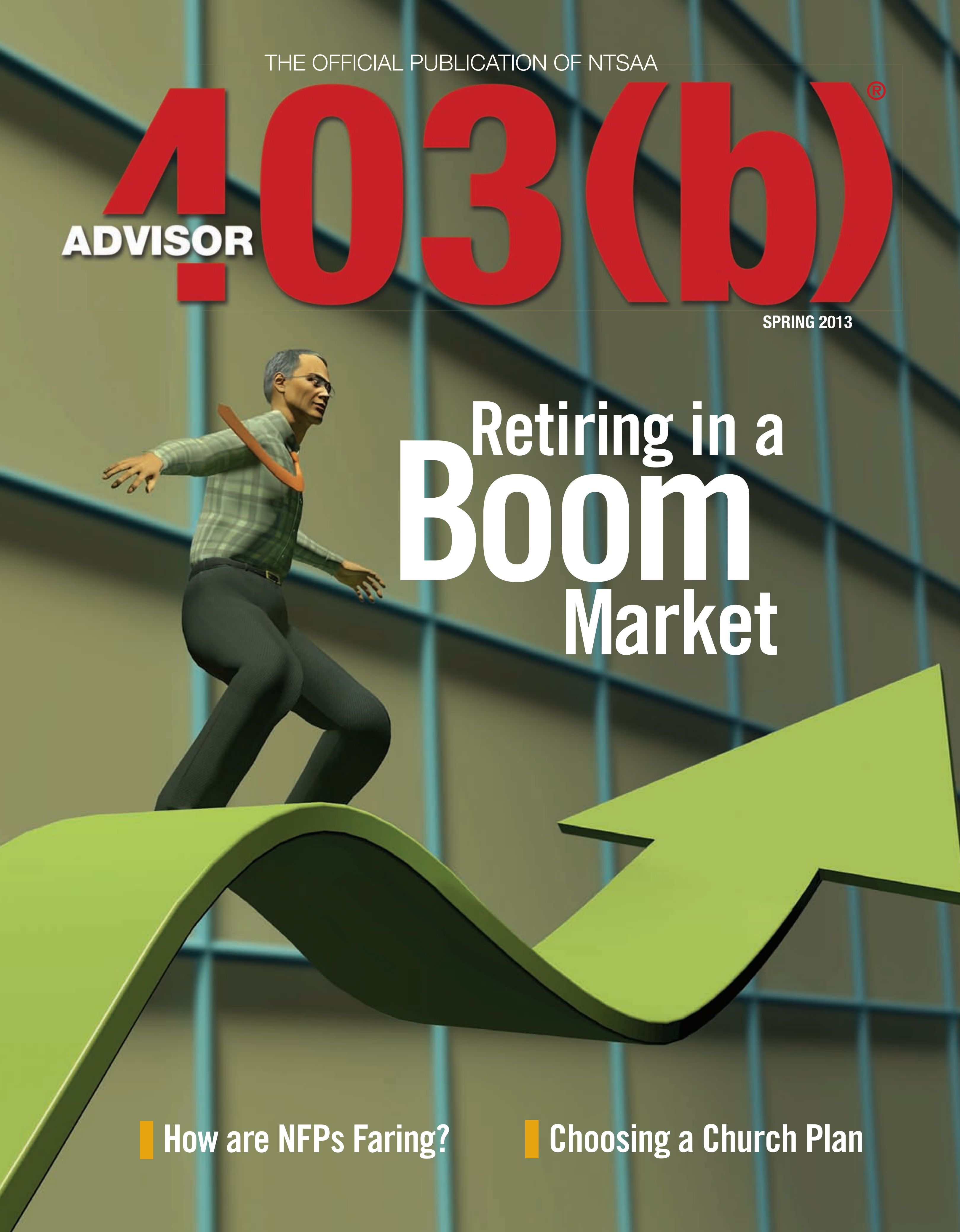
THE OFFICIAL PUBLICATION OF NTSAA
403(b)®
ADVISOR
SPRING 2013
Retiring in a
Boom
Market
How are NFPs Faring?
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com•mit•ment

noun (kə-'mit-mənt)

1. The state or quality of being dedicated to a person, activity or cause; see also **National Life Group**

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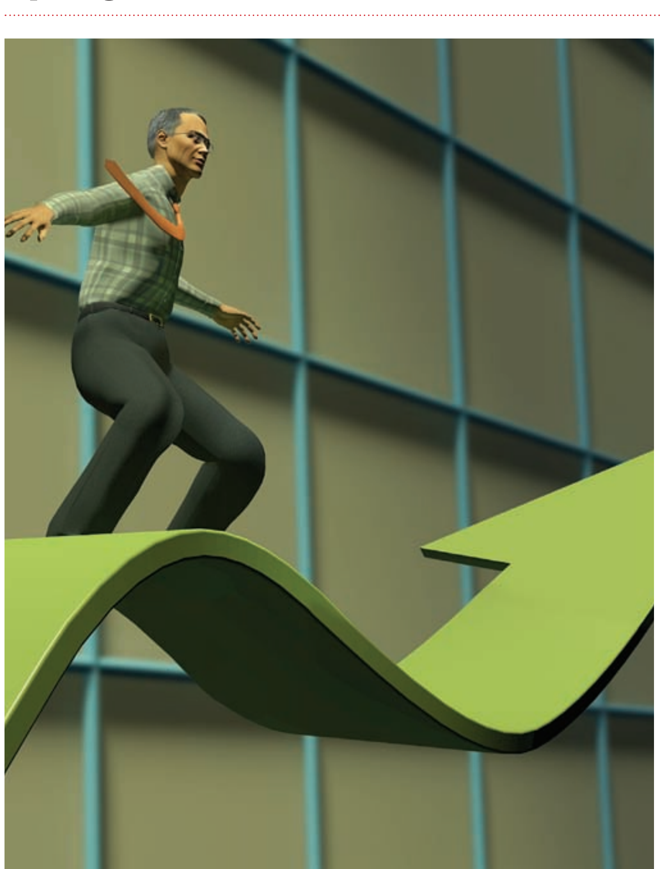
The Exclusive Magazine for 403(b) and 457 Investment Professionals

Spring 2013



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ADVANCE LOOK

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Please Advise Us

BY THE 403(b) ADVISOR EDITORIAL BOARD

In 2011 NTSAA launched *403(b) Advisor* magazine to inform and educate financial professionals who work in the 403(b) market, attract more advisors to our association and improve our position and voice in the 403(b) marketplace. As the editorial board, we were given the task to source articles and writers on a wide variety of related topics, edit submitted content and suggest new articles designed to meet the needs of advisors in our marketplace.

The publication is received by more than 12,000 people every quarter, surpassing our expectations by any number of metrics. While we are pleased with our distribution numbers so far, we are still in our infancy and we want to make sure we are meeting and exceeding the expectations of our readership.

So as we begin our third year of publishing *403(b) Advisor*, the magazine's editorial board is asking our readership to help us look at areas where we can improve and any suggestions you may have to improve the quality of the publication.

Additionally, many of our readers have interests and passions that might be suited to contributing to the continued success of the magazine. Are you an English or journalism major and looking for ways to put those dusty skills to work? Are you using something in your practice that would benefit our readers and they could adapt to their own practices? Do you see a trend developing for our industry to address or at least play a significant role?

If there is one lesson we should have learned by now it is that we cannot sit by and watch this industry be changed. Instead we need to be the agents of change and help determine the retirement security for our clients and also the next generation of advisors and their clients. We want you to join us on this endeavor and help us shape the journey by contributing your thought leadership.

Please email the editor, John Ortman, at jortman@asppa.org and let him know how we are doing, what type of articles you would like to see and whether you would like to contribute a future article. We welcome your feedback and thank you in advance for taking the time to respond. ■

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NTSAA's Growth Comes as Adversity Looms

BY DAVID R. BLASK, CPC, TGPC, AIF

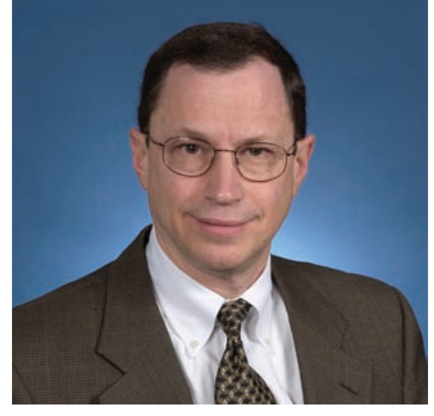
> "NTSAA is poised for dramatic growth, thanks to the support of our Strategic Partners. We'll need that support—and yours—as we face challenges in state capitals around the country."

The eve of the NTSAA 403(b) Summit in June seems like a good time to review what has been going on at the National Tax Sheltered Accounts Association (NTSAA). In the more than six months that I've been president, two major developments have occurred.

The first is structural. In November 2012, NTSAA modified our membership structure to include corporate Strategic Partners. These Partners, each of which has made a major financial commitment, now number 14, with several more in active discussions. But just as important as their financial support is the boost they have provided to our membership rolls. In a dramatic burst of growth, we expect to have around 2,000 members by the end of the summer.

This growth in membership is key to our success. If you are a member of NTSAA, you now belong to an organization with the strength to influence legislation at the state and federal level. And NTSAA's affiliation with ASPPA, with more than 11,000 members, makes that influence even greater. So far, the change we made last November is proving to be a great success! (For a current list of NTSAA's Strategic Partners, go to www.asppa.org/NTSAAStrategicPartners.)

The other major area of activity has been the onslaught of bills introduced in



state legislatures that either promote a state-sponsored 403(b) plan, or contemplate reducing pension plan benefits and replacing them with some form of defined contribution plan. The NTSAA has an important message in both cases.

In the first instance, we need legislators to understand that a state-sponsored 403(b) program, particularly if coupled with a single provider, should not be mandated. An educator's right to choose from a range of providers with differing products and levels of service is an important benefit. Yes, fees are important and must be fully disclosed. Having a low cost, low service option is important for those employees who want a do-it-yourself approach. Those needing more personal service must also be accommodated. These are decisions best made at the local level, particularly in light of the distrust that exists among many public school employees following the pension underfunding crisis.

Over the past few months we've heard of discussions including these:

- **Arizona:** possible replacement of 403(b) plans with a state-run DC plan
- **Connecticut:** caps on retirement plan fees and pension reform
- **Florida:** reduction of pension funding obligations using a new DC option for future public school employees
- **Illinois:** state-mandated cap on fees and elimination of any sales charges and imposition of new legal liabilities on school districts; lower cap on pension benefits

- **Iowa:** allowing greater flexibility for local school district to select 403(b) providers
- **Kansas:** reduction of pension funding obligations using a new DC option for future public school employees
- **Michigan:** moving to a hybrid DB/DC plan
- **New York:** reduction of pension funding obligations using a new DC option for future public school employees
- **Oregon:** state-run DC plan for the private sector
- **Pennsylvania:** reduction of pension funding obligations using a DC option for future public school employees (might include switching to a 401(a) plan as a replacement for 403(b) plans)
- **Virginia:** creation of a hybrid retirement plan using a state-run 457 plan.

Chris DeGrassi, NTSAA's Executive Director, has been traveling to state capitals, having discussions with legislators, governors and other persons of influence, and explaining our point of view. In the past six months, NTSAA business has taken Chris to Arizona, California, Florida, Illinois, Iowa, Kansas, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Texas, and Virginia.

What can you do to help? If you're not already a member of NTSAA, join online now at http://www.asppa.org/ntsaa-enroll. We need as much support as possible across all 50 states. Keep informed of activities at your state capital that affect retirement plans. Be willing, when asked by NTSAA, to contact your local state representatives and express your point of view. And let colleagues and competitors know about the NTSAA and the importance of becoming a member. Suggest they take a look at the website of NTSAA's "Save My 403b" campaign, www.savemy403b.org.

Thanks to all of you who are supporters of our organization. I look forward to seeing you at the NTSAA 403(b) Summit next month in Chicago!

David Blask is the president of NTSAA. He is a senior pension consultant at Lincoln Investment Planning in Wyncote, PA.

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GOVERNMENT IMPACT

5 Myths About Retirement

BY BRIAN H. GRAFF, ESQ., APM

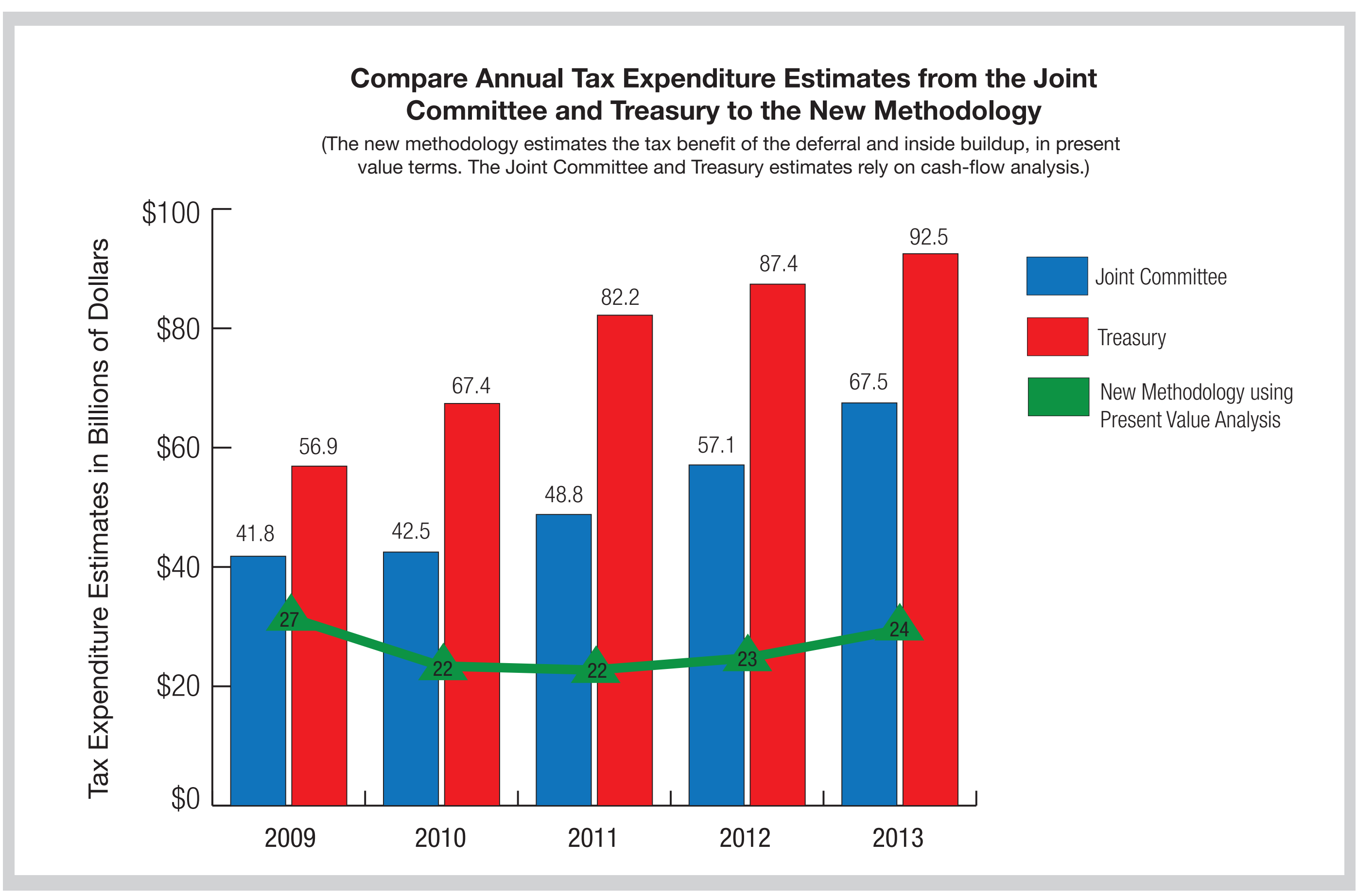
Policymakers won't be able to improve America's retirement system if they base their decisions on these five misconceptions.

> *"The first step in securing future retirement security is to do no harm to what has been working very well."*

Our goal as retirement professionals should be to increase the number of workers saving for retirement and the amount these workers are saving. The question is: How do we get there in the most efficient and effective way? An enhanced Saver's Credit would help lower-income workers who are already participating save more, but by itself it won't substantially benefit those workers who aren't covered by a plan and not saving in the first place.

What we know works is automatic enrollment in a workplace retirement plan. Moderate-income workers are 15 times more likely to save when covered by a 401(k) plan than when their only option is to save on their own in an IRA. So the policy objective should be how to increase the availability of retirement savings plans at work.

The current tax incentives encourage employers to adopt a retirement plan such as a 401(k) plan and encourage employees to save in these plans. Congress saw fit to provide certainty about the availability of these tax incentives when it overwhelmingly passed the Pension



Protection Act in 2006 with bipartisan support. These incentives have been extremely effective at providing retirement savings to tens of millions of American workers.

The first step in securing future retirement security is to do no harm to what has been working very well. Some proposals that have been raised in the context of deficit reduction or tax reform would seriously hurt coverage and reduce the level of retirement savings across income groups. Small businesses would be hurt the worst. Proposals currently under discussion—whether slashing the contribution limits, reducing tax incentives or turning the current year's exclusion into a credit — would discourage small-business owners from setting up or maintaining a workplace retirement plan. That's the exact opposite of what needs to be done.

There are some persistent, I would say dangerous, myths that fuel these misguided proposals.

Myth #1: Incentives for Retirement Savings are Tax Expenditures

Incentives for retirement savings don't belong in the same category as most other deductions or exclusions classified as "tax expenditures." Unlike deductions for mortgage interest or charitable contributions, which are permanent deductions, the incentives for retirement savings are just a deferral. Contributions (and earnings) are taxed at ordinary income rates when they're distributed from the plan.

By ignoring the present value of future taxes paid on those distributions, the revenue that appears to be gained in the budget window from cutting retirement savings incentives is an illusion. In fact, a study by two former Joint Committee on Taxation staffers showed the true present-value cost of 401(k) incentives to be close to a third of the cost reported by Treasury. Reduced contributions today mean lower revenue outside the budget window, when there will be less retirement savings to be withdrawn and taxed. In other words, bad math leads to bad retirement policy.

> *Reduced incentives will mean fewer plans and lower employer contributions for those remaining plans.*

Myth #2: Current Tax Incentives Haven't Worked to Encourage Workplace Savings

Coverage statistics based on all workers are used to allege that current tax incentives have failed, but the relevant facts show otherwise. The current incentives under the Code and ERISA are targeted at full-time workers, and have been very successful at extending coverage to the full-time

Estimated Distribution of Federal Tax Expenditures for Defined Contribution Plans and Federal Income Taxes Paid by Adjusted Gross Income for 2010

60%
50%
40%
30%
20%
10%
0%

Under $50,000: 30% / 8%
$50,000 under $100,000: 32% / 18%
$100,000 under $150,000: 13% / 10%
$150,000 under $200,000: 14% / 13%
$200,000 or more: 11% / 52%

Share of Estimated Federal DC Plan Tax Expenditures for Participants

Share of Federal Income Taxes (after credits) Paid

Participation Rates by Moderate Income ($30,000–$50,000) Workers—IRA Only vs Employer Plan

80
70
60
50
40
30
20
10
0

No Employer Plan—IRA Only (4.6) Covered by an Employer Plan (71.5%)

Source: Employee Benefit Research Institute (2010) estimate using 2008 Panel of SIPP (Covered by an Employer Plan) and EBRI estimate (Not Covered by an Employer Plan—IRA only).

workforce. Bureau of Labor Statistics data shows 78% of all full-time workers have access to a workplace retirement plan, with 84% of those workers participating.

Current law provides for the exclusion of part-time workers and it's simply unfair to judge the 401(k) system for what current law provides; 80% coverage of full-time workers is a success story.

Myth #3: The Current Tax Incentive is 'Upside Down'

This myth arises from a failure to understand how the incentives for workplace retirement plans really work. Nondiscrimination rules require plans to satisfy proportionality tests to make sure that retirement plan benefits don't discriminate in favor of the highly paid. Further, current law already has a $250,000 cap on the amount of compensation that can be considered in determining benefits.

I'm not suggesting that the mortgage deduction should be available only to highly compensated taxpayers if they can prove non-highly compensated people in their office also benefit. But that's what would happen if you applied the same retirement plan nondiscrimination standards to those other tax incentives.

The result of these nondiscrimination rules is that the current tax incentive for defined contribution plans is more progressive than the current income tax system itself. Based on an analysis by a former JCT economist, taxpayers making less than $50,000 pay only 8% of income taxes, but receive 30% of the tax incentives for defined contribution plans. Households making less than $100,000 pay 26% of income taxes, but get more than 60% of the benefit of this tax incentive. By contrast, households making more than $200,000 pay 52% of all income taxes, but receive only 11% of retirement plan tax incentives.

More than 60% of a tax incentive going to workers who pay less than 30% of income taxes is not upside down. It is very much right side up.

Myth #4: Small Businesses Will Sponsor Retirement Plans Without an Appropriate Tax Incentive

The current year's tax savings is a critical factor — often the only factor — supporting a small-business owner's decision to put in a plan. That's not to say that small-business owners are selfish, or don't want to help their employees save for retirement. However, most small-business owners are short on cash. To put in a plan, they need to figure out how to pay for it. Especially these days, they use the savings generated from the retirement plan tax incentives to help pay for contributions (such as a match) required by the nondiscrimination rules. Reducing the incentive literally reduces the cash the small-business owner has to work with. Reduced incentives will mean fewer plans and lower employer contributions for those remaining plans.

Myth #5: It Doesn't Matter if a New Tax Structure Causes Employers to Terminate Plans Because 'Re-engineering the Tax Incentive Will Lead More Workers to Save on their Own'

The truth is, the only way we've ever gotten working Americans to save for retirement is through employer-sponsored retirement plans. More than 70% of workers making $30,000 to $50,000 contribute when covered by a plan at work. By comparison, less than 5% of workers at the same income levels save on their own in an IRA when there is no workplace plan.

Changing the exclusion to a credit will never make up this dramatic difference in savings rates. Increasing plan coverage is a much simpler task with more certain results.

The key to promoting retirement security is expanded workplace savings. Reduced incentives for small-business owners to sponsor retirement plans would be a big step in the wrong direction, and would not produce the long-term savings needed to balance the nation's budget. We need to focus on proposals like the auto-IRA bill offered by Rep. Richard E. Neal (D-Mass.) to bring workers into the workplace saving system. The deferral nature of the current tax incentives means today's tax break is tomorrow's tax revenue. Let's build the system up, not tear it down. **b**

Brian H. Graff, Esq., APM, is executive director and CEO of the American Society of Pension Professionals & Actuaries in Arlington, Va.

Save My 401k—Pass it On!

With the prospect of comprehensive tax reform legislation looming, ASPPA is leading an advocacy effort on behalf of plan sponsors and plan participants. The goal: to talk to key members of Congress about the way Americans save for retirement, and educate them about the importance of preserving the existing incentives for retirement, including 401(k) plans.

That's why ASPPA launched the **"Save my 401k" campaign** last November. The campaign's message is forthright and clear—to send a simple message to Congress: "Stay away from my 401(k)!"

Anyone can go to the Save My 401k website **(http://www.savemy401k.com/)** and use the automated system to send an email to individual members of Congress. As of mid-April, more than 66,000 emails had been sent. The ultimate goal is to inundate Congress with as many as 250,000 emails.

The campaign is using the power and emotion of social media to raise awareness and action on the part of employers and plan participants. To be successful, the involvement of the entire retirement plan industry and those who benefits from it—especially plan sponsors and plan participants—is critical in driving people to the website.

Taking the Pulse of the Nonprofit Sector

BY JOHN ORTMAN

SS&G's Teresa J. Schaffer outlines how nonprofits are adapting in today's economy, and offers her take on what's keeping NFP execs up at night—and how innovative thinking is helping nonprofits' bottom line.

Recently, 403(b) Advisor sat down with Teresa J. Schaffer, CPA, the Director of Assurance Services at SS&G, in Cleveland, OH, and head of the firm's not-for-profit sector, to discuss how nonprofits are faring these days — both generally, and more specifically, with respect to retirement plan issues they are facing.

Q: How is the economy impacting nonprofits generally?

Today I see more organizations trying to do more with less. They're concerned about where future funding might come from. Since 2008 or 2009, most nonprofits have seen decreases both in their investment accounts and in their funding. The donors aren't giving as much—we still haven't recovered enough to get back to pre-2008 levels —and endowments are not yet kicking off as much income for organizations to supplement their operations. So both of those factors are squeezing revenue for nonprofits.

Also, organizations are still looking to alleviate costs, evaluating their cost structures—everything from how much are their investment management fees, their accounting fees, the real need for external legal advice, etc. They're looking to the community to really support them on a pro bono or a reduced-fee basis in a greater manner than they used to. Of course, they're also looking at staffing levels and asking whether they can continue to hire, compensate and train the staff levels of the past.

At the same time, need for services has increased in the past few years. When the economy turned down, the need for certain mental health counseling increased, the need for transitional or emergency housing for people who suddenly found themselves homeless increased, and people who had never considered themselves "needy" found themselves in need of basic food assistance. The need is up and revenue is down. So nonprofits are asking, "how can we make all this work?"

Q: And if the economy doesn't get much better?

I think there are solutions being put in place that are working. For example, more organizations are collaborating, and getting creative with for-profit sources of revenue that feed back into the non-profit's bottom line. For example, because the cost of hay and feed has gone up so much, some zoos have purchased land and are generating their own hay at a lower cost than paying a vendor.

Then there's what I like to call the "Sesame Street model." If you look at Sesame Street, they've got a nonprofit with a mission to educate children in low-income households, but they also have all the licensing and all the products that generate for-profit revenue to push back into the nonprofit mission.

Now nobody can be as big as Sesame Street, but a lot of organizations are looking at what a for-profit "companion" can do for them—whether it's licensing, subleasing unused facilities space, joint ventures, or partnering with for-profits. Think of a medical research nonprofit that spins off a new company to bring that research to the marketplace, for example. All of these nontraditional sources of revenue can add to the nonprofit's bottom line.

Q: How can an organization structure its benefit plans in this environment?

This is a really good question to ask in the nonprofit community. I don't know that benefit plans get this type of analysis. Benefits can be an effective recruitment tool or for retention in the nonprofit arena, where salaries tend to be lower. Creative benefit planning pays off in being able to attract and retain high-quality employees, which helps with succession planning as well.

Also, we've seen a lot of deferred comp plans put in place in the last few years. That's something that can be funded over time, and at the end there's something financially rewarding for the top executives. We've implemented these for several clients in the last two years. They're another good tool for retention of key leadership.

> *"The need is up and revenue is down. So nonprofits are asking, 'how can we make all this work?'"*

Q: What's the impact of the economy specifically on nonprofits as retirement plan sponsors?

Organizations that have pension plans and facing future funding requirements are definitely feeling it in this economy. Market rates and returns are low, while their projected liabilities are high. Lenders do look at these commitments, and borrowing capability can certainly be impacted.

I do see organizations putting in 401(k)s or 403(b)s with discretionary matches instead of pension plans. And I have seen a lot of organizations suspending their match in the last couple of years, as in the private sector.

Also, there are organizations that implemented a pension plan back in

> Organizations that have pension plans and facing future funding requirements are definitely feeling it in this economy.

2007 or 2008, thinking it was a good idea at the time for executives to save more for retirement. When there were positive cash flows from operations, it made sense. However, when funding for operations decreased, and the commitment still is present to fund the plan, the idea isn't quite as attractive.

Q: What trends do you see in the 401(k) and 403(b) markets?

Most organizations that had 403(b)s, now that they're subject to the audit requirements, have stayed with the original 403(b)'s design. I've definitely seen an increase in 401(k)s versus 403(b)s for those organizations implementing completely new plans. I haven't really seen a movement from one design to another, though.

Now that 403(b)s are subject to the same reporting requirements as 401(k)s, people choosing to start a new plan are going to 401(k)s because they're more standardized, I think.

Q: Do you find that plan sponsors are following the new compliance requirements?

I think they're trying to. I do think that some of the smaller plans that may not have an external audit requirement may be having a more difficult time just being aware of the rules they should be following even though they're not a large plan. They are subject to the same rules requiring segregation of employee contributions, for example. Some smaller organizations don't have the same awareness of what the compliance requirements are because no one monitors them as readily as they do for large clients.

It's not an overt intent to not be in compliance; it's just a matter of how much education they have about running the plan.

Q: How do you help with that?

Just as background, our clients run the gamut in terms of size. We deal with nonprofits that have between $200,000 or so in revenue to ones with half a billion. When we come across a smaller organization that may have, say, 10 to 20 employees, we'll ask them about all the benefit plans they have in place, and how they're treating payroll deductions, are they auto-enrolling people, are they allowing people to enroll at will, how do they get rate increases into their system, who has the ability to do that—just so we have a general understanding of control. And that oftentimes identifies areas where they may need more education or where they might have some compliance issues.

If we do find them, we get our specialists involved in those areas. So we have plenty of opportunities to educate clients.

Q: What else are people worried about?

One area that keeps coming up is succession planning. When you look at who's leaving nonprofits today, they're people who are from their mid-50s to early 60s. This includes board members too. When you have that level of stewardship and, as an organization, you look for who's going to be the successor, who's going to lead the nonprofits—both internally and who'll volunteer their time as board members—you find a different type of person.

The folks who are in their mid-20s and early 30s are a different generation. They make decisions quickly on the fly, electronically via email, and don't congregate face to face anymore. So the whole look and feel of an organization—having board meetings, having finance meetings monthly and people sitting around a table—that's all going to change in the future. How this will affect the leadership in nonprofit organizations is an important issue. b

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Our industry should not only be part of the debate over what to do about Social Security, it should be part of the solution.

Is Our Industry Ready for the Entitlement Debate?

BY FRANK OWEN III

We have a huge entitlement crisis in this country, and now that the election is over we continue to debate what to do about it. I believe the one industry that can respond is the insurance industry and, as an advisor for more than 30 years, I wonder why we don't set the tone of the debate instead of responding to all the noise and rhetoric.

A recent article on reforming Social Security by the AARP (http://www.aarp.org/work/social-security/info-05-2012/future-of-social-security-proposals.print.

If we wait for someone to make our argument for us, we'll be forced to live with the consequences of that decision.

html) presented 12 proposals we should know about and the pros and cons of each proposal.

I think we all have to agree that Social Security needs to be altered. After 75 years it seems that the "pay as you go" approach to funding isn't as solid a base for long-term stability as it once was. Many experts say that we'll need to reduce benefits by 2033 or sooner if we stay the current course. Regardless of the accuracy of the prediction, the possibility of such a situation is a major flaw in the Social Security program.

Why would we wait for that to happen? We all know that many people retiring today will live longer in retirement than they worked. When Social Security was implemented that was far from the case; most workers worked longer than those retiring today and life expectancy after retirement was far less than it is today.

Some of the proposals in the AARP article make sense and some don't. For example, should we increase the retirement age for those receiving Social Security benefits? Probably. But the question is what age and who should be affected by it.

Another proposal would increase or eliminate the payroll tax cap, which in my opinion is really a huge tax increase for those making in excess of $110,000 per year. According to the study, eliminating the cap would affect 6% percent of the workforce today. Does that really solve the issue of the Social Security shortfall? Along the same lines was a proposal to increase the percentage of the tax rate—another increase in taxes for all working Americans.

Or perhaps we should expand the base by requiring the 25% of state and local government employees not currently in the system to participate in the Social Security program. But the program gets only a short-term revenue boost with this proposal, and it also inherits the long-term problem of paying out benefits. Unless we structurally change the program, this isn't a good solution either.

The one that really got me thinking was the proposal to tax all flexible spending accounts the same way we tax 401(k), 457 and 403(b) plans. Why not make all contributions to Social Security tax deductible and all payments from it taxable? In other words, if it's a retirement plan, let's tax it like one.

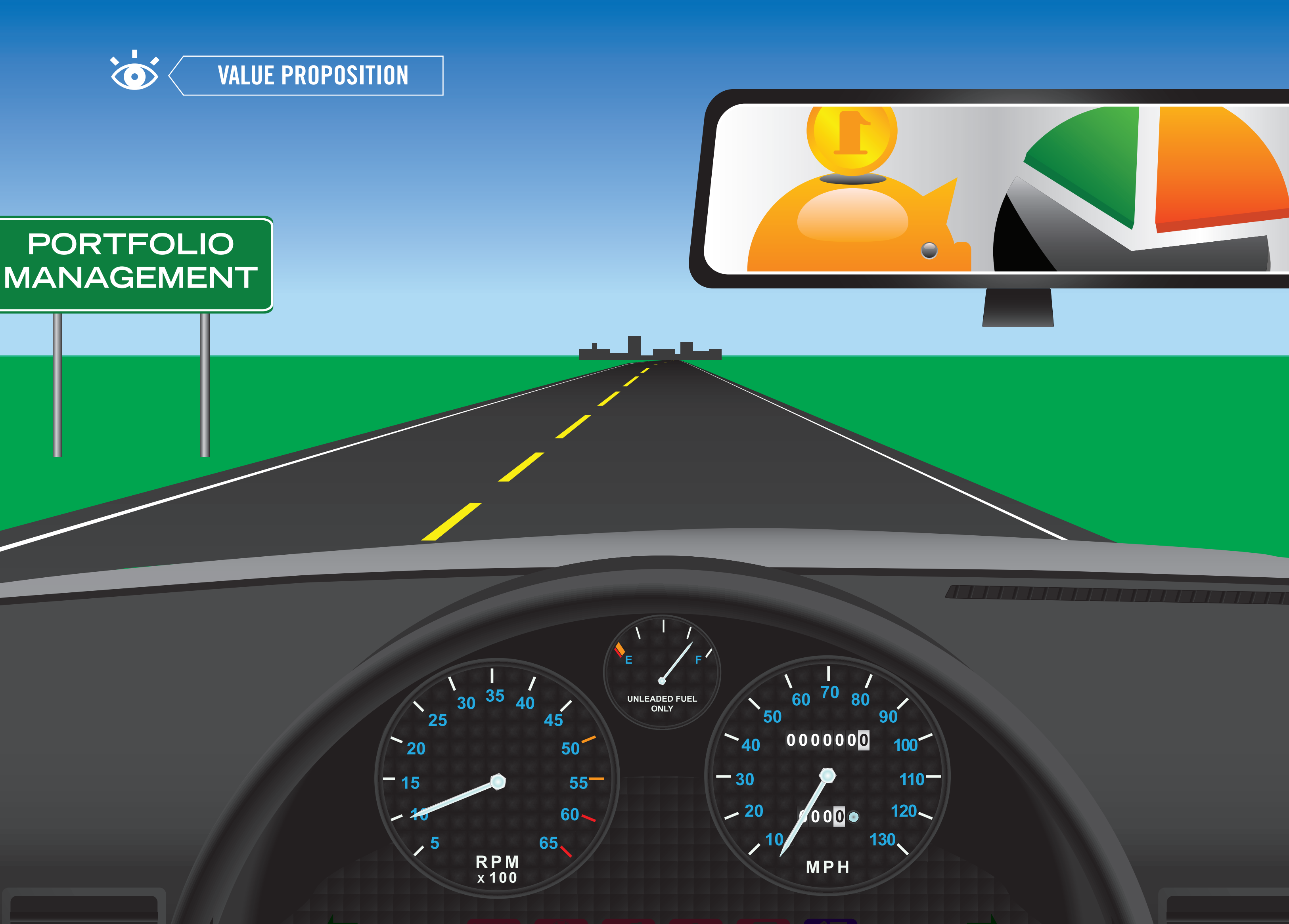
But what really perplexes me is why our industry isn't coming up with ideas and proposals to make the program financially solvent. Who knows about helping people take 7.65% of their pay and invest it over a working career to provide a stable and predictable lifetime income: the federal government or the insurance industry?

Continued changes in our marketplace and the tax code will undoubtedly have an impact on our business. Our industry faced change in 2007 and we saw the results of not offering alternatives and proposals. Remember, in Washington D.C. they view retirement contributions as a deduction from taxable revenues, just like mortgage interest deductions, rather than what we know it to be: a tax deferral and a great future revenue producer when people retire.

If we wait for someone to make our argument for us, we'll be forced to live with the consequences of that decision. Let's encourage our industry and those affiliated with it to get proactive and sponsor a campaign to offer a true retirement security plan that every American would want to be a part of and that no one can take from them.

I can live with consequences if we're part of the solution. How about you? **b**

Frank Owen III is president of FR Owen & Associates in Charlotte, N.C. He is a member of the editorial board of 403(b) Advisor magazine.



Portfolio Monitoring + Portfolio Management = 403(b) Success

BY CLARK KENDALL

Knowing the distinction between portfolio monitoring and portfolio management is one of the keys to ensuring investment success for your clients.

Imagine that you're driving down the road. Looking ahead through your car's windshield, you keep your eyes on the road to avoid traffic hazards and to make sure you don't make any wrong turns. Occasionally, you glance at the rear view mirror to see what's behind you. Both views, forward and to the rear, are needed to ensure a safe arrival at your destination.

This illustration captures the difference between portfolio monitoring and portfolio management. For financial professionals and registered representatives who specialize in the ever-changing 403(b) and 457 retirement plan marketplace, and the school district officials and plan participants they serve, knowing the distinction between portfolio monitoring and portfolio management is one of the keys to ensuring investment success for your clients.

Portfolio monitoring tends to take the rearward view, looking at where the client's portfolio has been in terms of investment performance and results. These monitoring results provide the information on which portfolio management is based.

Portfolio management, on the other hand, is always looking forward to spot possible speed bumps and curves in the retirement planning road and, possibly, find the on-ramp to a financial route that will get a particular client to his or her investment goals more quickly.

When you're driving a car, you look in the rear view mirror from time to time. But you spend most of your time looking out the windshield at the road ahead. Similarly, 403(b) and 457 financial advisors need to focus most of their time and attention on portfolio management.

Portfolio management is defined as the professional management of various securities (*e.g.,* shares, bonds, cash, mutual funds and other securities) and assets (*e.g.,* real estate) in order to meet specified investment goals of an investor. It embodies the art and science of making decisions about investment mix and policy, matching investments to objectives and balancing risk against performance.

The portfolio manager presents the best investment plan based on the client's income, budget, age and ability to undertake risks. The portfolio manager must consider strengths, weaknesses, opportunities and threats in the choice of debt vs. equity, domestic vs. international, growth vs. safety, and many other tradeoffs encountered in the attempt to maximize return at a given appetite for risk. The goal is to develop the right investment strategy that minimizes the risks involved in investing and also increases the chance of making profits.

In the long run, portfolio management enables 403(b) and 457 advisors to provide customized investment solutions to clients according to their needs and requirements. The portfolio manager must understand the client's financial goals and objectives and offer an investment solution tailored just for him or her. That's because, as any experienced 403(b) and 457 pro knows, no two clients have the same financial needs.

At the same time, the portfolio manager is a fiduciary who is looking out for the client's best interest. A fiduciary standard means that the financial advisor is putting the client's interests first. A financial advisor who is a fiduciary provides the best advice that he or she can give, without any influence from outside interests. At the same time, a fiduciary advisor has the discretionary authority to make investment purchases on behalf of the client that he or she deems wise.

A classic example of portfolio management can be found in the recent run-up of social media stocks. A portfolio monitor will look in the rear view mirror at the recent increases in share prices for Facebook and LinkedIn and say, "Social media stocks are doing well and we should be in those stocks." For the portfolio manager, however, social media stocks trading at hefty premiums are shiny objects that could lead to a wrong turn in the client's investment strategy. As a portfolio manager, your first instinct must be to steer clients in the right direction and keep them away from possible dangers.

From a philosophical point of view, a good portfolio manager will concentrate on the road ahead and stay focused on the client's long-term goals and objectives. This means being conscious of both overvalued and undervalued market sectors. In today's market, for example, a forward-looking portfolio manager will notice that international markets are lagging but are showing strong long-term fundamentals.

> ***"The portfolio manager will be fearful when others are greedy and opportunistic when others are fearful."***

In the final analysis, the portfolio manager will stick to a disciplined process to find opportunities where the mass market is not looking for them. As an investment strategist in the dynamic and fluid 403(b) and 457 retirement planning marketplace, the portfolio manager will be fearful when others are greedy and opportunistic when others are fearful.

When you're wearing the portfolio monitoring hat, your focus is on recent past performance. But as a portfolio manager, combining long-term vision with fiduciary responsibility, you keep your eyes on the financial road and your hands on the investment wheel in order to make the mid-course corrections that steer the client in the right retirement direction. b

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Clark Kendall, founder of Kendall Capital Management in Rockville, MD, has more than 20 years of experience in investment management and wealth management strategies. He is one of a select few professionals in the world who has earned the triple designations of Chartered Financial Analyst, Chartered Financial Planner and Accredited Estate Planner.

Cognitive Science 101

BY ART MARKMAN, PHD

In this new column, Art Markman, PhD, of the University of Texas brings insights from the field of cognitive science to retirement advisors.

Think for a moment about the education that helped you get where you are today. Twelve years of grade school, four years of college and perhaps a little graduate school to go with it. All so that you can give people the best advice possible about how to save for their retirement. You have learned about investment opportunities, markets and finance—and more.

Basically, you have to think for a living. You are given new problems to solve on a daily basis. You have to influence the way that your clients decide in order to guide them toward a secure future.

Yet, you probably have learned little about how the mind works. The reason for this gap in knowledge is that the

modern science curriculum was laid down a little over 100 years ago. At that point, the mature sciences were biology, chemistry and physics. Those sciences were the ones that were chosen to be taught broadly. In the early 20th century, psychology had just wrested itself free of philosophy, and so it did not make the cut. Over the past 50 years, though, science has learned a lot about how the mind works.

My mission over the past 10 years has been to bring insights from the field of cognitive science to people who need that knowledge to work more effectively. I will be writing this regular column in *403(b) Advisor*, presenting the results of research that will be useful for your work.

Right now, though, I want to introduce you to the field of cognitive science.

The mind is one of the most magnificent scientific mysteries currently being studied. Somehow, a few pounds of our body's cells allow us to see the world, hear what is going on around us, recognize a countless number of objects, reason about the past and future, and support our ability to communicate with others using language.

The field of cognitive science recognizes that understanding this complex set of abilities requires cooperation among different disciplines. This field brings together psychology, neuroscience, artificial intelligence, education, anthropology, philosophy, economics, and linguistics. By approaching the mind from all of these perspectives, cognitive scientists aim to go beyond what can be learned from any discipline alone.

Research on the way people make decisions pioneered by Nobel Prize winner Danny Kahneman and his longtime collaborator Amos Tversky provides an excellent example of cognitive science in action. Starting in the 1960s, Kahneman and Tversky examined predictions of theories of economics for the way people should make decisions. Psychological studies demonstrated that people often make choices that violate predictions of economic models.

> **“Researchers have been using techniques for brain imaging to examine brain structures that influence the way people make choices.”**

Subsequent research tried to explain what people were doing using techniques drawn from artificial intelligence. More recently, researchers have been using techniques for brain imaging to examine brain structures that influence the way people make choices. Other researchers have compared human decision making to choices made by other animals. This combination of disciplines has provided a deep understanding of the factors that drive people's decisions.

In future installments, I will highlight studies from across the disciplines of cognitive science that have key lessons for how to think about the way you and your clients make decisions. I will also highlight new books that present key insights into the mind.

I look forward to sharing my field with you. ■

Art Markman, PhD, is a professor of Psychology and Marketing at the University of Texas and director of the program in the Human Dimensions of Organizations. He is the editor of the scientific journal Cognitive Science and author of the books Smart Thinking and Habits of Leadership.

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Retiring in a Boom Market

BY STEVE SULLIVAN

If your clients think a booming market is the perfect time to retire, your job may be to help them think again

When 403(b) advisors counsel their clients, it's important that they not allow emotion or bias to affect their judgment. It's also important that they realize their clients are under no such constraint. Many, if not all of the decisions their clients may make are often based on rumor, unsolicited and unprofessional advice, and gut feelings. It may seem counterintuitive, but when it comes to money, particularly the large and important sums associated with retirement planning, rational behavior often goes out the window.

> *There is research that suggests that some people decide when to retire—against all advice to the contrary—based on what the stock market is doing at the time.*

To illustrate, here's a hypothetical exchange between Stan, an employee, and Linda, an advisor:

Stan: *Linda, thanks for sitting down with us. I know you're busy but we've been doing some thinking and we wanted to run it by you before we did anything. You know I'm turning 57 next month, and frankly I'm burned out. I've had it. I know we haven't quite reached our goal yet, but Stella says she's willing to keep working until she's 65. I figure we could cash out part of the nest egg and buy an annuity or something, and let the rest of it keep working in the market. My brother-in-law watches the market like a hawk and he says it's been like gangbusters for six straight months now. He says there's never going to be a better time to retire. So what could possibly go wrong?*

Linda: *[OMG!]*

The dialog may be hypothetical but it's certainly not farfetched. Once Linda's over the shock, how should she respond to Stan? What questions should she ask? What course of action should she advise?

"First," says J. Bruce Weinstock, a GWN Securities registered rep with Kades-Margolis in Kensington, PA, "I tell my clients never to base any financial decisions on advice from anyone who isn't a licensed financial advisor. You don't listen to hearsay about the greatest stock offering or investment, and you should always avoid the genius financial wizard in the faculty lounge. Over 39 years I've constantly seen people who get burned by the 'wizards.' They come back with their tails between their legs asking to be rescued from a plan that has surrender charges for 15 or 20 years and the guaranteed rate really wasn't 8 or 9%. Sometimes I can help; sometimes I can't."

Jody Detillier, TGPC, a principal with the Sonny Detillier Agency in Lutcher, LA, calls it "the brother-in-law problem." "Let's assume the brother-in-law is absolutely correct, the market has been doing really well for six months," he says. "But that doesn't tell us anything. Six months from now it could be totally the opposite. We're talking about a retirement that could last 30 years. What the stock market is doing right now is irrelevant."

Nevertheless, there is research that suggests that some people decide when to retire—against all advice to the contrary—based on what the stock market is doing at the time. This is the finding of a paper, "Market Performance and the Timing of Retirement," published last year by Dr. Rui Yao, an assistant professor of personal financial planning in the College of Human Environmental Sciences at the University of Missouri, Columbia.

The Research

Yao began with data from the Health and Retirement Study (HRS), a national biannual longitudinal survey conducted by the University of Michigan. The HRS, launched in 1992, has interviewed more than 27,000 Americans of diverse backgrounds over the age of 50. The interviews occur in two-year cycles and cover questions about their health, the state of their finances and their interactions with family and others in their communities.

The HRS covers more territory than the respondents' economic circumstances, but the economic information it gathers is quite detailed. According to the HRS website, the study collects information about "sources and amounts of income; composition and amounts of assets; and entitlements to current and future benefits such as those provided through Social Security, Medicare, Medicaid, employer pension plans, and employer-sponsored health insurance. Data describing the movement of assets, including gifts and bequests, time (*e.g.,* to provide daily living assistance), and housing within families, are also collected, as are data about earnings, savings, and spending of individuals and families as they approach retirement and over the course of their retirement until death."

Yao's study, published in the *Journal of Personal Finance* and funded by a grant from Prudential Insurance, reviewed the financial and retirement status of more than 4,000 of these respondents between 1992 and 2008. It's the first study to use these data to look at retirement behavior over that period of time.

"The study respondents in my paper were 51 to 61 years old, born between 1931 and 1941," says Yao. "We wanted to focus on pre-retirees, not people who were too young and weren't planning to retire. Nor did we want to look at anyone who was too old and already retired."

The Findings

As employers transition from defined benefit plans to defined contribution plans, the risk of retirement is shifting from employers to employees. Though the professionals who run DB plans base their decisions on hard numbers and probability, individuals don't usually have the same kind of analytical skills or

> ***There's no shortage of people willing—even eager—to make irrational decisions about their finances.***

access to the same data.

"We know that pre-retirees make bad decisions all the time," says Yao. "That's why I felt the need to do this study, because retirement is one of the most important financial decisions we make in our lives. It's a decision that's not revocable; once you retire, it's very difficult to get back into the workplace."

Yao's study found that the decision to retire is often based on what the market is doing at that particular point. If the market is up, they'll see it as a sign that this is the perfect time to retire. Behavioral economists call it the "recency effect," the phenomenon that people tend to remember things at the end of a list or only the most recent events in time.

"The problem with this strategy is that the economy runs in cycles," Yao says," meaning that after a peak, the market will inevitably take a downturn. People who have retired shortly before an economic downturn run a serious risk of losing a significant portion of their retirement savings, which will shorten the longevity of their retirement income. This could result in many retirees outliving their retirement savings and facing financial hardships toward the end of their lives."

Advisors need to help their clients think more like actuaries, according to Yao. "They need to do the math. They need to project life expectancy. Nobody knows when they're going to die but they all have some kind of expectation based on family history."

Jody Detillier uses a powerful website, Livingto 100.com, to help lower this uncertainty. Answering about 50 questions about your living habits, medical history, immediate family's longevity, etc. can bring you about as close as you're ever going to get to predicting your life expectancy. Using this estimate instead of the standard life expectancies, says Detillier, provides a much better basis for planning.

Incipient retirees also need to project how much they want to spend and project the value of their retirement income, says Yao, then compare this present value with their wealth accumulation. If their accumulated wealth can cover retirement, then there's no problem. They can retire.

"If their retirement target is $1 million," she says, "and they reach their target at the peak of the market, they've achieved it only because of the up market. If they retire now and stay in the market, chances are their $1 million won't be worth the same next year or the year after. They'll probably want to stay around for a couple more years to see if their $1 million is stable."

And what about married couples who want to retire together? After all, it's a natural thing for spouses to coordinate their retirements so they can enjoy their leisure together. In that case, says Yao, advisors have to specifically point out that they won't have any cushion if they retire at the wrong time. If they retire together at the end of a market peak, and there isn't a working spouse who can hedge against the risk of mistiming, they may be in trouble.

And if they don't intend to retire together, how long is the spouse prepared to work? "From 39 years of experience," says Weinstock, "I can tell you that very rarely, if ever, will the spouse stay employed longer than three years after the first spouse retires. You can just image all the reasons why, the spoken and the unspoken—'it's freezing cold and I have to get up and go to work and you don't.'"

Point of No Return

Still, Weinstock adds, many clients worry about how they'll know when it's time to retire. If it's not based on what the stock market is doing, then what should they base it on?

"I tell them not worry because there will be a triggering event. If you're an educator on the front line in the classroom and you feel your focus is slipping or your enthusiasm is waning, what you don't want to do is make one bad slip, no matter what that may be. The next thing you know you're in a legal battle to try to keep your retirement because you did something that may not have been correct. That's my worry for people who teach for a long period of time; sometimes they hang in there too long and unknowingly put themselves at risk because they're

just not at the top of their game."

So if there is truly a triggering event that's taken them to the point of no return, their first course of action is to understand their current contract. Weinstock makes sure his clients know the answers to some important questions:

- When do you have to give notice?
- What's the timeframe for receiving all the benefits you're entitled to, including sick days, retirement incentives and loyalty pay?
- What will your income be from your state teachers' retirement system?

"All this has to be covered before we even start to talk about the money," Weinstock says. "When you go through all these steps, the money is the last thing you discuss, but it's a natural follow-up to everything that's gone before. Allocating the money, designing a plan, is the easy part."

Detillier agrees. "A lot of people look at retirement as just surviving over the next year or two," he says. "That's important; you have to be able to pay your bills. But as a financial planner I have to make sure they can provide an income for the rest of their lifetime. If Stan retires at 57 and has to go back to work at 65, I really didn't do a very good job for him."

Detillier makes sure to include Social Security planning as part of the mix. He uses software that will analyze every possible method of claiming one's Social Security retirement benefits.

"Individuals have several options for when to start taking Social Security benefits," he says. "Couples have even more. When you throw in alternative strategies like file-and-suspend and filing a restricted application, you've got more than 350 ways a couple can select their benefits. Using the software can determine which choice can yield the most money over the course of their lifetime. If I can get them an extra $200,000 in Social Security benefits over the course of their lifetime, that takes more pressure off their assets."

Even absent brothers-in-law and faculty room wizards, there's no shortage of people willing—even eager—to make irrational decisions about their finances. And with so many variables involved in deciding when to retire—Social Security, longevity, contractual restrictions—there are enough uncertainties without trying to time it to the market. Both the empirical research and advisors' anecdotal evidence agree: Markets go up and down; they always have and they always will. Which may be meat and potatoes to day traders and speculators, but it could be the kiss of death for people with finite resources who are on the brink of retirement. b

Steven Sullivan is a freelance writer in Baltimore, MD, and former editor of 403(b) Advisor.

INVENTORY WITHOUT CRYSTAL BALL

By Jill Snyder

Jill Snyder is a GWN Securities registered rep with National Insurance Services in Brookfield, WI.

First of all, in the example at the beginning of this article, unless Stan's brother-in-law has a crystal ball, he should probably refrain from offering advice. Even so, I would do a financial inventory lining up all their assets against their liabilities. The numbers don't lie and if the reason for retiring early and not sticking to the original plan is emotional, then the math may help them realize that retirement simply isn't an option right now. I'd ask the following questions as well:

- **Will either of them be receiving a pension upon retirement?**
- **What are their plans for collecting Social Security? The ordering and timing of collecting payments is much more strategic than folks think. Software is available to help couples make this decision.**
- **What about health insurance until age 65? Since many of our clients are in education, this is often a benefit they receive upon retirement.**
- **What about long-term-care needs?**
- **What are their plans in retirement—spending time with grandkids, traveling, hobbies, returning to some sort of part-time work?**
- **Will their living space change as a result of retirement? Will they be downsizing, selling a home, buying a second home?**

With answers to those questions and a spreadsheet of their "real numbers" for how long their money might last (based on a "reasonable" growth rate) this will give us an idea if that income can support their lifestyle in retirement.

My parents live quite comfortably in retirement on around $30,000 a year. They have no debt, they have emergency funds in savings, they travel (via air) maybe once a year, have LTC insurance, and are frugal about spending. They know the limits they have to work within. They have an active social life that costs little monetarily, but it's their most valuable asset in retirement! b

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To 403(b) or Not to 403(b)?

Retirement Plan Options for Churches

BY DANNY MILLER

For churches, the choice between a 403(b) and a 401(k) plan can be daunting—but with your help, it doesn't have to be.

There are three basic types of retirement plans available to churches: Section 401(a) qualified plans, Section 403(b) tax sheltered annuities and nonqualified retirement plans. (For purposes of this article, the term "church" refers to local houses of worship of the various faiths and certain church-affiliated and supported organizations referred to in the Code as "qualified church-controlled organizations," or QCCOs. It does not include non-QCCOs such as church-affiliated hospitals, colleges and universities, which are subject to different and more complex rules.) All three types of plan are exempt from the requirements of ERISA as "church plans"—and therefore do not have to file Form 5500s. However, each type of plan is subject to different rules under the tax code.

Section 401(k) plans are a type of Section 401(a) qualified plan. In the 403(b) arena, church 403(b) plans can be funded with 403(b)(1) annuity contracts or 403(b)(7) custodial accounts—or, if the plan document specifically so provides, they can be treated as 403(b)(9) retirement income accounts. Nonqualified plans aren't subject to the rules imposed on 401(k) or 403(b) plans. However, beginning in 2005, nonqualified plans became subject to the rules of Code Section 409A.

Coverage and Nondiscrimination Rules

So what's the best type of retirement plan for a church to maintain? What are the primary advantages and disadvantages of each? First of all, a 403(b) plan sponsored by a church is not subject to coverage and nondiscrimination rules. This means that a church can provide more retirement plan contributions for some employees, including its pastor, than for others; it can even make contributions for only one church worker and none for others. This flexibility can provide an advantage for a 403(b) plan over a 401(k) plan, because the latter is subject to both general and special coverage and nondiscrimination rules.

> **403(b) plans maintained by churches offer more flexibility than do 401(k) church plans, particularly if the church employs HCEs.**

However (there always seems to be a "however" or a "but" when discussing tax rules), if a church doesn't employ any highly compensated employees (HCEs) (for 2013, an employee has to make more than $115,000 in taxable income to be an HCE—and, significantly, a minister's excludable housing allowance isn't counted for this purpose), then these nondiscrimination and coverage rules are not an issue. The rules only prohibit coverage and discrimination in favor of HCEs; if there are no HCEs, then a 401(k) plan has the same flexibility as a 403(b) plan and it can provide different contribution levels (including no contributions) for different employees.

Differences in Deferrals

Are there any other differences between church 401(k) plans and church 403(b) plans? The limits on elective deferrals are generally the same for both 401(k) and 403(b) plans. However, a participant in a church 403(b) plan who has 15 years of service with the church can contribute an extra $3,000 per year to the plan, on top of the normal limits, up to a lifetime limit of $15,000—not that much in extra contributions, but still more than can be made to a 401(k) plan.

Contribution Issues

A 403(b) plan can also be more useful than a 401(k) plan if a church wants to continue to make contributions after an employee terminates service. A special rule (only available to 403(b) plans) permits contributions to be made on behalf of former employees for up to five years following termination of employment. This means, for example, that a church could agree to continue to make contributions to its 403(b) plan for up to five years following its senior pastor's retirement, subject to the annual Code contribution limits (which, in 2013, could be as much as $51,000 per year, if the senior pastor had that much taxable income in the last 12 months of his or her employment). Note, however, that only the church can make these post-employment contributions—the former employee cannot.

Church 403(b) plans also can permit contributions to be made on behalf of pastors who have no or very little taxable compensation due to their claiming an excludible housing allowance. A special contribution limit rule applicable to church 403(b) plans permits up to $10,000 per year (subject to a lifetime limit of $40,000) to be contributed in behalf of church workers, including clergy, even if they have no taxable compensation. This special contribution rule is not available under a 401(k) plan.

Making the Right Choice

With these differences in mind, is there any reason for a church to provide a 401(k) plan instead of a 403(b) plan? Currently, the process by which 401(k) plans are approved by the IRS is less expensive and time consuming than the process by which 403(b) plans receive an IRS blessing. However, the IRS is expected to adopt a prototype and volume submitter program for 403(b) providers, and the IRS has indicated the program will have special rules for church 403(b)s. Ultimately, a church may choose to provide its workers with a 401(k) plan simply because it feels that they may be more familiar with the 401(k) label, particularly if the church has no HCEs and can thus vary contribution levels. But the flexibility that a church 403(b) plan offers would seem to tilt the decision-making process in its favor.

The Nonqualified Plan Option

Nonqualified plans are not a very attractive option for churches due to the requirement that assets in such plans must be reachable by creditors of the church in order to avoid contributions under the plan being taxable to participants. In addition, the relatively inflexible requirements of Section 409A apply to a nonqualified plan maintained by a church.

However, nonqualified plans are not subject to the Code's contribution limits, so they can still have a place in retirement planning for churches, particularly in the case of pastors who have no or very little taxable compensation due to their claiming tax excludible housing allowance and who are therefore limited in their ability to make contributions to either a 403(b) plan or a 401(k) plan.

But the benefit security issue and the Section 409A restrictions probably mean that nonqualified plans will only be used by a church as a supplemental retirement arrangement (and even then normally will be used only if the five-year, "former employee" contribution rule available under 403(b) plans described above doesn't accommodate the amount desired to be paid as additional retirement compensation).

Conclusion

In summary, 403(b) plans maintained by churches offer more flexibility than do 401(k) church plans, particularly if the church employs HCEs. Even if a church has no HCEs, a 403(b) plan offers slightly greater advantages in the areas of contribution limits and a church's ability to make post-employment contributions. Church 403(b) and 401(k) plans both offer the benefit security that's lacking in a nonqualified plan. This lack of benefit security and the restrictions imposed by the Section 409A rules mean that nonqualified plans should be used primarily to supplement a church 403(b) or 401(k) plan. **b**

Danny Miller is a partner in the Washington, D.C. office of Conner & Winters, LLP, a Tulsa-based law firm, and a member of the firm's Employee Benefits Practice Group. He serves as counsel to approximately 20 church denominational employee benefit plans and programs and para-church ministries, as well as to other types of non-profit organizations.

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- American Taxpayer Relief Act
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- Longevity initiatives from the IRS
- Important changes to the determination letter process
- Form 8955-SSA guidance
- New IRS practice rules in Circular 230
- Latest guidance for 403(b) plans
- Guidance for governmental plans
- Latest court cases and IRS/DOL/PBGC guidance

(b)uild Your (b)usiness at the Ultimate 403(b) Summit

BY JOHN ORTMAN

Don't get left out—join your peers and top thought leaders in the 403(b) business at NTSAA's 403(b) Summit next month in Chicago.

This is a watershed year in many ways. First, there's the mounting threat to the industry posed by legislative initiatives being pushed in state capitals around the country—initiatives that threaten the future of advisors serving the K-12 market. (For more on this threat—and how you can help fight it—see David Blask's column on page 6.)

Then there's the new game plan at NTSAA. The association's revamped business model, which includes bringing strategic partners into the organization, is paying big dividends in term of membership numbers, an influx of resources and new energy devoted to protecting the tax-sheltered retirement industry and, in particular, the financial advisors who have built their careers on helping teachers and others in the public sector and the non-profit world reach the goal of a dignified retirement.

And third, there's the combination of two successful, cornerstone annual events—the 403(b) Advisor Summit and the 403(b) Compliance Summit—into a single mega-event: The NTSAA 403(b) Summit.

The first Summit is right around the corner—June 23-25, in Chicago. General session and breakout workshops at the Summit will provide coaching, motivation and innovative sales ideas, as well as in-depth information on retirement issues affecting the pubic and non-profit markets, technical education, legislative updates and more. And attendees will learn, share and interact with thought leaders, experts and the top technicians in the financial services and retirement fields.

Let's take a close look at what's on tap in the Windy City next month.

Celebrating Ethical Entrepreneurship

Bill Rancic, the first winner of- Donald Trump's "The Apprentice" competition, draws upon his first-hand experience with successful people's personal and professional codes of conduct, choices, values and behaviors to explore working professional relationships and the daily ethical challenges in business.

'Re-Visioning' Retirement

Age Wave's Dan Veto explains why the recession includes good news for investors, the consumer marketplace and the retirement planning industry. Veto will explore how women's rising financial power is transforming their attitudes and behavior toward money, family dynamics and retirement planning. He will also explore how the demands of eldercare, grandparenthood, singlehood and retirement impact preparation for retirement.

View from Capitol Hill

NTSAA's Executive Director Chris DeGrassi will team up with Brian Graff, CEO and Executive Director of the American Society of Pension Professionals & Actuaries, for a briefing on the latest regulatory and legislative news from Washington and state capitals around the country.

Plan Sponsor Concerns

Hear from a panel of plan sponsors how critical it is for advisors and compliance professionals, together with TPAs working on their behalf, to be tuned in to their concerns.

View from the Compliance World

Some of the foremost experts in the 403(b) market shine a light on the developing issues in the world of regulation and legislation, and what they mean to advisors serving that market—including plenty of Q&A time.

View from the Markets

Get an economic overview and trend-setting prognostications from executives at Lord Abbett and Northern Trust, leaders in the equities and fixed income markets.

The Ethical View

Learn about issues in the marketplace that challenge ethical practices from noted pension professional and former ASPPA President Sheldon Smith.

Trend Spotting

EBRI's Nevin Adams is joined by VALIC's Greg Garvin and Vanguard's John Heywood to discuss implementing a strategic planning process that will keep you a step ahead, based on ideas presented throughout the Summit.

The NTSAA 403(b) Summit
June 23–25, 2013
REGISTER: www.ntsaa403summit.org
HOTEL RESERVATIONS
Hyatt Regency Chicago
1.888.421.1442
Room Rate: $249/night
Reservation cut-off date: May 31

Workshops

The Summit will offer a total of 16 workshops on a wide range of topics led by thought leaders in the industry, including Scott Hayes, David Blask, Bruce Allen, Paul Lally, Mark Heisler, Sue Diehl, Gary Munz, Joe Elsasser, Edward Forst, Chris Guanciale, Mark Griffin, Gregory Herman-Giddens, Roxanne Marvasti, Bruce Ashton, and others.

The workshops will focus on nuts-and-bolts ideas to help you optimize the performance of your practice, including:

- using the new open architecture products
- fee disclosure for non-ERISA plans
- sales idea contest
- building a succession plan
- using RFIs and disclosures
- LTC hybrid products
- basics of Social Security
- alternative income strategies
- essentials of estate planning
- secrets to success in the K-12 marketplace
- charter schools: fish or fowl?
- fee-based asset management tools
- lifetime income

Continuing Education—and More

The 403(b) Summit offers up to 14 hours of ASPPA CE credits, including two hours of ethics/professionalism credit.

The Summit will also include networking events in an exhibit hall packed with the top service providers in the business—the perfect setting to connect with peers and learn about the newest products and services. b

Caped Crusader or Salesperson?

Validating your Significance as a Financial Representative

BY JILL SYNDER

Watch out, Spider-Man. Stand back, Wonder Woman. There's a new superhero in town: the Caped Crusader. Ready to inform, defend, advocate and assist when the need arises, armed with a strong moral code of financial justice, and ready to save the day at a moment's notice.

> **Do you consider yourself a Caped Crusader, wiping out bad financial decisions and protecting the future of America in one fell swoop?**

How do you determine your worth as a financial representative? By your bank account? By how many "sales" you have made? How do you know you are providing something of value? Do you consider yourself a Caped Crusader, wiping out bad financial decisions and protecting the future of America in one fell swoop? Or are you concerned mostly about convincing someone to buy a product from you?

A Life of Significance

A financial representative is like being a coach, mentor, teacher, counselor and guide, all rolled into one. Through your expertise and guidance, you are shepherding your client down a long and winding path to financial security and financial freedom, and away from financial ruin. Is your relationship with your clients just a simple transaction of making a sale and then walking away, or is it something more?

Joseph Jordan believes that being a financial representative is more than just a profession, but rather a vocation. He calls it "living a life of significance." Jordan is an author and senior V.P. at MetLife who has enjoyed a successful 30-year career in the financial industry. He leads a life of significance by helping financial professionals around the world recognize and celebrate the intrinsic value they deliver to their clients.

A few months before Jordan's father died, he cashed out his life insurance policy. His family was left penniless and struggled to make ends meet while grieving his loss. Where was the financial representative to advise Jordan's father against cashing out his policy? Did his father know the possible repercussions or the importance of life insurance?

As a financial representative, you offer your clients a significant gift: education about an uncertain future and advocacy on behalf of their beneficiaries. What could be more important than that?

In his book, *Living a Life of*

Significance, Jordan writes about financial representatives as empathetic, understanding guides who help clients improve their lives. "When you protect the well-being of another person, you have done something deeply and profoundly human—in the best sense of the word," he says. "When you return to that person in the moment when your advice has delivered on its promise, you have known what it is to live a life of significance."

Jordan also co-authored MetLife's Behavioral Finance Strategies, a training guide for financial professionals. It's about trying to find a meaningful way to connect to clients and understanding how different people think (right brained vs. left brained). The premise is to learn how to factor a client's emotions and behavior into their financial decision-making process.

We all think differently and we all take different facts into consideration, so we don't all come to the same conclusion. We can't remove the emotion from the decision, but as financial representatives we can learn how to embrace it and make it part of how we guide clients toward solutions.

Manage Behavior, Not Performance

Nick Murray, a well-respected financial author, focuses on behavioral economics. He believes that people make bad financial decisions based on emotional reactions like euphoria and panic. (I'm sure you have a client who fits this description.) Nick suggests that a paradigm of "selection and timing" has put both financial professionals and clients into a performance race that is impossible to win simply because it is not a goal. He believes that financial representatives should focus on managing client behavior rather than performance.

The concept of our roles as emotional and behavioral can be easily dismissed because our significance is not measured by a number—that is, with a dollar sign. Consider, for example, the decision to purchase life insurance. The decision is not based on math. Instead, it's based on the emotional consequences of not making the decision and the behavioral concept of taking responsibility for those we care for.

We should never lose sight of the potential we have in this business to change people's lives for the better. The value of the advice you give and the products you sell are worth far more than what your clients pay for them.

Jordan defines his role as financial professional like this: "I protect the innocent when someone dies prematurely. I provide a worry-free retirement that people can't outlive. I protect their assets when they get sick. I provide a legacy when they die because … I live a life of significance." ■

Do you?

Jill Snyder is a registered financial representative with National Insurance Services, Brookfield, WI. She holds Series 6, 63 and 65 securities licenses, and is a Tax-Exempt and Governmental Plan Consultant (TGPC) and a licensed life and health insurance agent. Jill has also served on NTSAA's board of directors.

The Cash-Back Rewards Advantage

BY MARC ROBINSON

The man behind the innovative SaverNation program describes the first cash-back rewards program for workplace retirement plans.

The Number 1 reason why people don't save enough for retirement is pretty basic: they can't afford to. This simple—even obvious—fact may be more applicable to the 403(b) market than anywhere else. Suffice to say that most people who work for school districts, non-profits or hospitals are not typically among the highest wage earners.

So, if you're a 403(b) advisor, you might want to know about the newest innovation in plan design optimization. It essentially eliminates the "I can't afford it" problem—for your clients and maybe for you, too. It's called the SaverNation program; and it's the first cash-back rewards program for workplace retirement plans. Employees can automatically earn from 1% to 25% cash back for retirement when they make any purchase on the websites of hundreds of retailers, including almost every popular name brand.

Why hasn't there been a 403(b) cash-back program before? There were very many legal, compliance, tax and business complexities to overcome. In fact, it took a team of experts from the pension, payroll and retail worlds almost seven years of meticulous, dedicated development and testing to make SaverNation a safe, simple, no-cost feature for any plan design. Some of those involved are names you might know:

- Dallas Salisbury, CEO of EBRI
- Bruce Ashton, ERISA attorney
- Brian Graff, CEO of ASPPA
- Dan Maddux, Executive Director of the American Payroll Association (and many others from the APA)
- John Fiore, recently retired from his position as CIO at Bank of NY Mellon

A plan can be designed with auto-enrollment, which helps; but of course, it forces employees to give up some current spending money. Some advisors believe that plans with auto-enrollment should also include auto-escalation. Whether or not that's your belief, auto-escalation forces employees to automatically sacrifice increasing amounts of spending money every year. The SaverNation program, however, is a plan feature that gives employees all the gain of escalated savings, automatically, without any pain of lost spending.

Imagine recommending to clients and prospects a simple plan design feature that solves the one problem that everyone had always assumed was "unsolvable." Imagine giving your clients the opportunity to tell their employees they now have an improved retirement benefit with hard-dollar value (at no cost to the employer). Maybe even imagine yourself, standing in a room full of employees, talking about creative ways to buy the same things, at the same prices, from the same places—and end up with more retirement savings automatically. Financial education is important, but sometimes it's just fun to talk about shopping—especially in the context of an actual increase in the employee's compensation package.

Since its recent release, forward-thinking TPAs and advisors nationwide have been using SaverNation to optimize 401(k) plan designs and give employees a more legitimate shot at achieving retirement readiness. They've also been using SaverNation to instantly differentiate themselves in sales presentations and networking situations. (To learn more, visit www.savernation.org and use the Contact Us page.)

This month, GWN Marketing, Inc. is launching the first SaverNation campaign aimed at the 403(b) market, giving their hundreds of affiliated advisors a rare opportunity to gain competitive advantage with a simple, new tool that's easy to explain, easy to use, and legitimately high-gain and no-pain.

"With our introduction of the MyIRASaverNation.org benefit," said Walter McBay, Managing Director of GWN Marketing, Inc., "we believe any 403(b) employer can immediately offer employees a valuable new benefit without the typical system involvement associated with adding benefits. It's easily added to an existing human resources portal for employee self-service. Once registered, employees can just keep doing what they always

> ***"It's a refreshingly uncomplicated improvement to an increasingly complicated retirement system."***

do—except now they can build retirement savings at the same time. It's a refreshingly uncomplicated improvement to an increasingly complicated retirement system."

Financial advisor Michael Buttelman of Buttelman & Associates in West Palm Beach, FL, is well aware of the possibilities. "I'm always looking to provide each unique client with the best possible benefits available within their 403(b) employer guidelines," says Buttleman. "So I'm excited to be involved with a revolutionary new benefit that works with any employer's system. It's really simple to show both employers and individuals how to use MyIRASaverNation.org as a retirement savings vehicle. In fact, it can be funded from cash back earned from online purchases made by anyone in the family." b

Marc Robinson is the inventor of the program. He's the Founder and CEO of SaverNation.

This last of three articles focusing on 403(b) plan audits describes the programs under which plan sponsors may self-correct plan operational errors and compliance failures.

How to Resolve Common Deficiencies Uncovered During 403(b) Plan Audits

BY DEBRA L. WARNACUTT AND CHRISTINE P. ROBERTS

This is the last of three articles focusing on 403(b) plan audits. It describes the IRS and DOL correction programs under which plan sponsors may self-correct plan operational errors and compliance failures. The IRS program is offered through the Employee Plans Compliance Resolution System (EPCRS) and the DOL programs are known as the Voluntary Fiduciary Correction Program (VFCP) and Delinquent Filer Voluntary Compliance Program (DFVCP).

Earlier in the series, private school Worthy Academy found that it had misapplied the "20-hour" exception to the "universal availability" rule and improperly excluded three non-highly compensated employees from participation in the plan. Since this compliance failure could put the plan's tax-qualified status at risk, Worthy has elected to use available self-correction programs to put affected employees in the position that they would have been in, had the error not occurred.

Worthy Academy is in luck, because on Dec. 31, 2012, the IRS

issued Revenue Procedure (Rev. Proc.) 2013-12, which provides authoritative guidance for 403(b) plan failures. Rev. Proc. 2013-12 supersedes and modifies Rev. Proc. 2008-50.

Rev. Proc. 2013-12 allows plan failures arising from noncompliance with the form and operational requirements of 403(b) plan regulations to be corrected in the same manner as other qualified plans with the same failure. Appendix A includes a safe harbor correction method for missed deferrals and defines qualified non-elective contributions (QNECs). Current IRS regulations prohibit the plan from using forfeitures to fund QNEC contributions. 403(b) plans that have failed to adopt a written plan document may use the Voluntary Correction Program (VCP) procedures outlined in Appendix C and Schedule 2.

The submission procedures for VCP applications have changed substantially. Two new IRS forms that must accompany VCP submissions made on or after April 1, 2013, were released on Feb. 7, 2013. Form 8950 is a VCP application form and Form 8951 accompanies the compliance fee for the application. In addition, the VCP application and completed forms are now mailed to the IRS Service Center in Covington, KY instead of Washington, DC. Application fees may be reduced under certain conditions.

It is important for practitioners to note that many of the procedures, particularly with regard to the VCP, are changed significantly in Rev. Proc. 2013-12. Care should be taken to follow Appendix C and Schedule 2 instructions. Furthermore, if the 403(b) plan failure occurred prior to Jan. 1, 2009, plans must use the definitions provided in Rev. Proc. 2008-50 in order to determine which failures may be resolved under EPCRS.

The effective date of Rev. Proc. 2013-12 is April 1, 2013; however, plan sponsors may apply provisions of the procedure on or after Dec. 31, 2012. Accordingly, early in 2013, Worthy Academy makes the prescribed correction for failures to satisfy the universal eligibility rule, which is to contribute to the plan an amount equal to 50% of the missed deferrals, plus earnings, on behalf of affected participants. They elect to use the actual deferral percentage for non-highly compensated employees for the plan year in which the error occurred, which was 2% of covered wages.

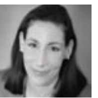
> **"It is important to note that many of the procedures, particularly with regard to the VCP, are changed significantly in Rev. Proc. 2013-12."**

A wide variety of fiduciary violations, such as failure to remit participant contributions to the plan in a timely manner, may be self-corrected by the plan sponsor through the DOL VFCP. There is no cost for this program. All plan sponsors should consider participating in this program in order to reduce the risk of investigation by the DOL and potential fine. A list of specific violations that may be corrected is found at www.dol.gov/ebsa/newsroom/fs2006vfcp.html.

Participation in this program requires the plan sponsor to restore all affected plan participants to the condition they would have been in had the violation not occurred. In the case of late remitted participant contributions, lost earnings on the contributions are required to be paid to the plan. Once the correction has been accurately completed through the VFCP Program, the DOL will issue a "no action" letter that absolves the plan sponsor from future penalties associated with the identified defect.

Administrators of large plans that fail to file an annual return (Form 5500) for the plan may be fined up to $2,000 per plan per year due to the failure. The penalty is assessed for each year that the returns are not filed. Plan administrators may cap the penalty at $4,000 per plan by entering into the DFVCP. This program requires the administrator to pay the fine and file the overdue reports before the DOL notifies the administrator of the failure. Plan assets may not be used to pay this fine. Practitioners should note that the DFVCP was updated on Jan. 29, 2013, to fully integrate with EFAST, the electric filing program for Form 5500s. ■

Debra L. Warnacutt is a CPA who specializes in providing auditing and consulting services to 401(k) and 403(b) plans. Her practice is located in Camarillo, CA. You can contact her at debra@DLW-CPA.com.



Christine P. Roberts is a partner at Mullen & Henzell L.L.P., located in downtown Santa Barbara, CA. She advises for-profit and tax-exempt employers regarding retirement and welfare benefit plans under ERISA. You can contact her at croberts@mullenlaw.com.

If You Don’t Ask, Someone Else Will

BY ROCCO MURATORE

An outreach effort to clients utilizing postcards and follow-up calls provides a good opportunity to ask for referrals—and remind your clients about the services you offer.

The unsettled nature of the markets in recent years has created a distinct set of opportunities and risks for advisors. Perhaps more than ever, clients need our guidance to help them navigate uncertainty and stay focused on their long-term goals. I pride myself in taking a personal interest in the welfare of my clients and am always looking to expand my presence and practice.

As a way of staying in contact with my clients, creating opportunities and discovering more business, I have always wanted to ask for more referrals. Only 12% of advisers actually ask clients for more business, while 86% of clients said they were open to being asked (*Cultivating the Middle Class Millionaire,* Russ Alan Prince and David A. Geracioti, Wealth Management Press, 2005). Almost everyone is more comfortable working with someone who is referred to them instead of being approached by a stranger.

My clients all know someone who recently started a new job, just got

married or engaged, has a new baby or is expecting, has young children who may go to college, recently bought a home, has recently retired after a successful career or has inherited money from parents who recently passed away. These are untapped opportunities for me to help more people and bring in more business.

I recently utilized a referral campaign that was designed and delivered through an online marketing store of my broker/dealer. I purchased 700 postcards that were pre-printed with my photo and contact information. Over the next three weeks, we mailed out approximately 250 cards each week. As a follow-up, my assistant and I called each client directly. This proactive outreach gave us an opportunity to not only ask for the referral—referring back to the postcard they received—but also gave us a chance to remind clients of the services we offer and that we are available for a personal consultation.

> **"Almost everyone is more comfortable working with someone who is referred to them instead of being approached by a stranger."**

Our telephone script went something like this:

You know, we have been working together now for over ____ years. Would you agree that I have been helpful to you in your planning for retirement through the selection of a diversified investment portfolio? I'd like to ask you for a favor. I'm always looking for ways to help people build wealth and save for retirement and college. That's my job—one I really enjoy. However, the most important factor is developing a relationship based on trust between my clients and me. For individuals who need help in the area of financial advice, there are a few instances where there is no one to provide the kind of guidance and care that I strive to deliver to my clients. So, within your circle of friends and acquaintances, I would appreciate the opportunity to work with individuals or families who might need the type of advice and guidance. There is no obligation and no charge. Are there individuals you would recommend that could take advantage of the services I offer?

Thanks for giving me the opportunity to help your friends and acquaintances should the need arise.

From the mailing and telephone outreach, I received 12 leads and met with 10 individuals/couples. From the 10 appointments, eight immediately turned into new clients, bringing in over $1.8 million in new sales and $12,000 to $15,000 of recurring asset-based income.

If you don't ask, someone else may be knocking on your client's door. b

Rocco Muratore is an independent adviser working in Nassau and Suffolk Counties (Long Island, NY) under Mutual, Inc. Securities and Investment Advisory Services offered through PlanMember Securities Corp., a Registered Investment Advisor and Member FINRA and SIPC.

King of the Tech Jungle

BY YANNIS P. KOUMANTAROS AND ADAM C. POZEK

1 Cheap Technology Tool #1: Jungle Disk (www.JungleDisk.com)

When it comes to technology, one of the most important considerations is access to information where you want it when you want it. Jungle Disk gives you all that and more. It's similar to some of the cloud storage services we've highlighted in the past, but it also has some key differences. For starters, it allows organizations of any size to create a web-based file server without the need to purchase hardware or hire an IT staff. The folders you create can be mapped to your drive in Windows Explorer and appear as a remote drive in Mac Finder. You can use permissions to restrict access to certain content. The system employs state-of-the-art encryption and can be set to automatically back up your data at whatever frequency makes the most sense for you.

Unlike some of the other services, you are not required to purchase storage space in big chunks. Jungle Disk's workgroup edition is priced at $4.95 per user per month, and each user account includes 10 GB of storage. Additional storage is $0.15 per GB per month.

Jungle Disk also provides free apps for iOS and Android devices so you can access data on the go when you don't have your computer with you.

2 Cheap Technology Tool #2: Transloader (www.transloader.com)

Have you ever been at a meeting or on the road without your laptop and come across a document or some other content you want to download? Depending on the content, your only option may be to email the URL to yourself or make a note for future reference. Enter Transloader. Through a combination of a mobile app and a desktop app, anything you download on your mobile device via the app is automatically downloaded to your laptop or computer back at the office.

Transloader is currently only available for iOS and Mac, but other platforms are coming soon. The mobile app is free, and the desktop app is only $4.99.

3 Cheap Technology Tool #3: GasBuddy (www.gasbuddy.com)

You nailed that prospective client meeting—just nailed it. But by the time you're driving back to the office, you get the bad news—they chose "the other guys" instead of you. After hearing the bad news, your mind goes into a tailspin and then a post mortem analysis on what you could have done differently. Now you definitely cannot expense the travel time, miles or gas you spent traveling 100 miles to and from the prospect's office. To add insult to injury, your reserve gas light comes on and you're in the middle of nowhere.

Have no fear, GasBuddy is here! This application uses a network of users and GPS to record the daily prices of 87, 89 and 91/92 octane gas throughout the United States. You can sort by distance or price to find the best deals in town, or in another town you never plan to visit again. The application is free, and you can even contribute to the community by snapping a picture and uploading it. Although you lost the prospect, at least you saved $3 filling up your gas tank … and hopefully "the other guys" paid way more on their own trip back!

4 Cheap Technology Tool #4: Uber (www.uber.com)

Uber is a German language word meaning "above," "over" or "across." However, it is also the coolest way to roll up to your favorite meeting, event or NTSAA conference. Sick of cabs? Travel in style with Uber, avoid the hassle of cabs, and pay an all-in tip/tax-included fare, all while using your SmartPhone. This start-up company out of San Francisco has expanded to over 30 major cities, and uses a network of available drivers with Lincoln town cars, Cadillac Escalades, BMW 7 Series, and Mercedes-Benz S550s. Simply download the app, enter your profile information with credit card, order the town car, and voila! It's paperless and easy. You get an email confirmation receipt after the ride and get to rate the ride on a five star system. But so do the drivers—yes, that's right, they get to rate their passengers, so be careful what you say on a bad day.

How much does it cost? Only about 10-20% more than a cab, and the fancy algorithm uses a mileage or minute rate depending on the car's speed (over or under 11 MPH), so you never need to worry about having cash or being overcharged!

Adam and Yannis are always on the lookout for new and creative mobile applications and other technologies. If you have any tips or suggestions, please email them at adam.pozek@dwcconsultants.com and yannis@spectrumpension.com.

Yannis Koumantaros, CPC, QPA, QKA, is a shareholder with Spectrum Pension Consultants, Inc. in Tacoma, WA. He is a frequent speaker at national conferences, and is the editor of the blog and newsroom at www.spectrumpension.com.

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Six Easy Steps to an ASPPA Certificate

BY SARAH SIMONEAUX

A six-point plan for tackling ASPPA's online certificate exams.

“Identify which exam follows specific career goals, passions or what helps in day-to-day work.”

s part of a service learning course in college, my daughter decided to volunteer for a group that helps low-income workers complete their tax returns. When she called to check in, she expressed surprise that her volunteer activity would require earning a certificate after completing an online IRS exam. Despite dealing with years of exams and papers—and despite being a technology-obsessed Millennial—she was stymied about how to best tackle the project. She had to complete and pass the test before the first volunteer session in 10 days, and she explained, “Mom, I know you like this stuff, but I think it is so dry and boring! But I really want to help people avoid predatory tax-refund lenders. Any ideas?”

When the young adult pendulum begins to swing away from “what do you know” toward “any ideas?”—well, the pent-up parental advice tends to spill out. (I decided to overlook the “dry and boring” comment.) But as I rattled off the steps she could follow to pass the exam, I realized the information would also work for those tackling online ASPPA certificate exams.

Here are the six steps to follow:

Step 1: Select the Right Exam

My daughter's distaste at learning the intricacies of claiming the marriage deduction was outweighed by her

desire to do the tax-return work in her community. Identify which exam follows specific career goals, passions or what helps in day-to-day work. Not sure which exam is the best fit? Look at the learning objectives of the online exams on ASPPA's website:

- Retirement Plan Fundamentals (RPF-1 and RPF-2)
- Plan Financial Consulting (PFC-1)
- Tax Exempt Governmental Plan (TGPC-1)
- Defined Benefit Administration (DB-A)

If qualified plan administration is the career path, consider RPF-1 and RPF-2—these exams are required for ASPPA's advanced credentials, including the Qualified 401(k) Administrator (QKA), Qualified Pension Administrator (QPA) and the Certified Pension Consultant (CPC). However, RPF-1 and RPF-2 on their own are also a great introduction to the world of qualified plans, and are particularly useful for entry-level employees and call center staff.

If, however, personnel are working with 403(b) and 457 plans, review the learning objectives of TGPC-1. Advisors and those supporting 401(k) advisors and salespeople can get a high-level introduction to qualified plans with PFC-1.

Step 2: Check the Timeframe

The advantage to online on-demand exams is their 24/7 access. However, the exams do have a deadline by which they must be completed in order to earn the certificate, as well as to avoid forfeiting exam fees. Check the ASPPA website for details on dates. Although the timeframe is typically a calendar year, if the firm has purchased a block of exams to take advantage of ASPPA volume discounts, exams may be able to be completed within one year of the firm's purchase date.

Think about the demands of the job and how realistic passing one or more exams might be. Administrators assisting with compliance will find it hard to complete any exam in the first quarter of the year, while advisors and sales support personnel are much busier in the last quarter of the year.

The reason for my daughter's short timeframe? She had to have the certificate granted by passing the online exam before the volunteer group's required training class.

Step 3: Register and Review

After deciding on the appropriate exam and certificate, register for the exam. Candidates do not have to be ASPPA members; they only need to create a login and password for the ASPPA website. After registering for the exam, candidates can access it any time without answering questions. The exam is not complete until it is submitted. Review all the exam questions to see what material looks familiar, what is less obvious, and what appears completely foreign. Don't be intimidated if the questions appear harder than those on proctored exams; online exams are designed to be study tools where candidates look up answers in a study guide or work together in a group to answer them. The IRS online exam required for my daughter's volunteer work was just as accessible as the ASPPA certificate exams, and she found it helpful to look at the exam questions before she reviewed the study guide.

Step 4: Get—and use—the Study Material

After reviewing the exam questions, get the study guide or textbook. RPF1 and 2 and PFC1 have PDF study guides that can be purchased by a firm for unlimited use. A PDF format allows candidates to search on key words to jump to the section that they need when answering exam questions. For example, a question on safe harbor plans could result in any of the following key word searches: "safe harbor notice," "safe harbor contribution" or "safe harbor eligibility." It's always best to use the study material to double-check answers that may seem obvious—it's also a productive way to learn something new!

Step 5: Form or Join a Group

If a group of staff members are taking the exams at the same time, consider a "lunch and learn" study group that meets two or three days each week. The group can focus on a few questions in each session, making the exam more manageable. This process also allows the participants to discuss issues raised by the exam and the material that they are encountering in their daily work.

Step 6: Offer a Boot Camp

Despite everyone's best intentions to study on their own or with a group, life—both professional and personal—often intervenes. The boot camp, or intensive review session, is ideal to get staff trained and certified in a short timeframe—sometimes even in one day.

Before the boot camp, participants should review the sample exam and have access to the study guide or textbook. The boot camp should cover the learning objectives and use the sample exam questions and answers as a guide to passing the online exam. Participants should take the exam as soon as possible after the boot camp; upon passing the exam, they can print out their certificate.

A boot camp I urged my daughter to attend helped her to pass the IRS online exam, and she said it was essential to getting her certificate immediately after the boot camp was over.

My daughter is now doing the "dry and boring" work of helping people complete their tax returns and getting the refunds to which they are entitled. Maybe it's time to introduce her to retirement plan fundamentals!

Sarah Simoneaux, CPC, is president of Simoneaux Consulting Services in Mandeville, LA, and a principal of Simoneaux & Stroud Consulting Services. She is a former president of ASPPA and previously served on the Education and Examination Committee as a Technical Education Consultant. She is the author of the textbook, Retirement Plan Consulting for Financial Professionals, *which is used for the PFC-1 course in ASPPA's QPFC credentialing program.*

How Does the 20-Hour Rule Work for 403(b) Plans?

BY SUSAN D. DIEHL

New guidance from the IRS impacts the application of the 20-hour rule to 403(b) plans. Here's an overview.

What's the 20-hour rule all about? Unlike qualified plans—including 401(k) plans—where typically an employer would set out eligibility requirements for both elective contributions by employees and employer contributions, 403(b) plans may not have a year-of-service requirement for eligibility for elective deferrals.

Generally, eligibility for an employee to defer into their employer's 403(b) plan account is immediate, and the employer is required to offer this to all employees with very few exceptions. For years after 2008, an employee must be provided the opportunity to make elective deferrals into the 403(b) unless the employee:

- "generally" works fewer than 20 hours per week;
- participates in another deferral plan (another 403(b), 401(k), or governmental 457(b));
- is a nonresident alien (NRA); or
- is a student performing certain services (*e.g.*, on a work study program).

On March 28, 2013, the IRS issued their long awaited Revenue Procedure 2013-22, providing guidance on the new 403(b) pre-approved plans and on the same day issued sample plan language for drafters to use in the form of "Listings of Required Modifications" (LRMs). These new LRMs provide a little more guidance in how the 20-hour rule works in subsequent years.

The new LRMs go on to describe this rule as follows:

> "An Employee normally works fewer than 20 hours per week if, for the 12-month period beginning on the date the Employee's employment commenced, the *Employer reasonably expects the Employee to work fewer than 1,000 hours* of service (as defined under section 410(a)(3)(C) of the Internal Revenue Code) in such period, and for each Plan Year ending after the close of that

12-month period, the Employee has worked fewer than 1,000 hours of service in the preceding 12-month period. *Under this provision, an Employee who works 1,000 or more hours of service in the 12-month period beginning on the date the Employee's employment commenced or in a Plan Year ending after the close of that 12-month period shall then be eligible to participate in the Plan."* (Emphasis added.)

This refers to a rule that will only apply to 403(b) plans. Once you are eligible to defer, you are always eligible. In other words, there will not be a continuing eligibility requirement after the 1,000 hours is met.

Below is a series of questions and answers that should help you and your employees understand who is eligible to defer into the employer's 403(b) plan.

What's the big picture that the 20-hour rule fits into?

The big picture is the concept of Universal Availability. The Universal Availability Rule states that to the extent an institution permits one employee to make salary deferral contributions to a 403(b) plan, it must allow all employees an "effective opportunity" to participate in the 403(b) plan. Remember that the 20-hour rule is only applicable to salary deferrals under the 403(b) plan, not employer contributions.

Are there exceptions to the Universal Availability Rule?

Yes. Generally, employers have been able to exclude certain groups of employees from participating in its 403(b) plan without violating the rule: nonresident aliens with no U.S.-source income; employees eligible to make elective deferrals to another 403(b), 401(k) or governmental 457(b) plan of the same employer; employees whose contributions to the plan would be $200 or less annually; student employees exempt from FICA taxation; and employees who "normally work" fewer than 20 hours a week.

For the last two of these exclusions to apply, all employees covered by that exclusion must be prohibited from participating in the plan by the plan's terms.

Practice Pointer: Remember to review the plan document. Remember that the terms "part-time" and "full time" employees have nothing to do with the 20-hour rule.

How is the 20-hour rule exception applied?

The 20-hour rule, which is addressed under the 403(b) regulations as the 1,000-hour rule, states that an employer may exclude an employee from participating in the 403(b) plan during his or her first 12 months of employment if the employer 'reasonably' expects the employee to work fewer than 1,000 hours during that period.

Practice Pointer: The initial eligibility computation period always begins on the date of hire. However, please pay attention to the plan language as to when the second 12-month eligibility computation begins, if applicable. Some plans may select anniversaries of the date of hire, while others may revert back to the beginning of the plan year (which is usually the calendar year)

What happens if in a subsequent year, the employee works fewer than 1,000 hours?

In subsequent years, the employee can be excluded from the 403(b) plan only if he or she did in fact work fewer than 1,000 hours during the prior 12-month period. Employers sponsoring 403(b) plans subject to ERISA, however, can exclude employees from participating in the 403(b) plan only if they actually work fewer than 1,000 hours that year.

What happens if the employee works more than 1,000 hours in the first year, but fewer in the next?

Generally, once employees become eligible by satisfying the 20-hour rule or the 1,000-hour rule, they will remain eligible unless they fall under an exclusion specified in the plan document. This operates differently than under a qualified plan.

For example: Jane was hired by the Big Diehl School District on Sept. 1, 2012 as a substitute teacher. The employer determines that Jane will not work more than 1,000 hours during her first year of employment. On Dec. 1, 2012, Jane took a permanent substitute position to fill in for a teacher who goes on maternity leave. During her first year of employment (9-1-2012 to 8-31-2013) she works more than 1,000 hours. Jane is hired as a full-time teacher on Sept. 1, 2013. Since she did in fact work more than 1,000 hours in the previous year, she is eligible immediately to defer from her salary into the 403(b). As long as Jane works for the Big Diehl School District she will be eligible to defer from her salary regardless of how many hours she works in the future.

Practice Pointer: Remember, this is not necessarily the case for employer contributions. There can be an ongoing eligibility requirement for employer contributions. Read the plan document to determine how eligibility works with respect to employer contributions. Even though IRS speakers have weighed in on this question over the last few years, be prepared for sample IRS language to explain this as we get closer to preparing prototype documents, which we hope will provide more guidance in this area.

What if the employer expected the employee to work fewer than 1,000 hours, but the employee in fact worked more, but was not permitted to participate in the plan?

As long as the employer anticipated that he or she would not work 1,000 hours or more than 20 hours per week, then nothing was done incorrectly. However after the employer "looks back" and determines that he or she did in fact work more than 1,000 hours, then he or she must be eligible to participate in Year 2 and all subsequent years regardless of the number of hours worked.

Susan D. Diehl, CPC, ERPA, is the president of PenServ Plan Services, Inc., in Horsham, PA.

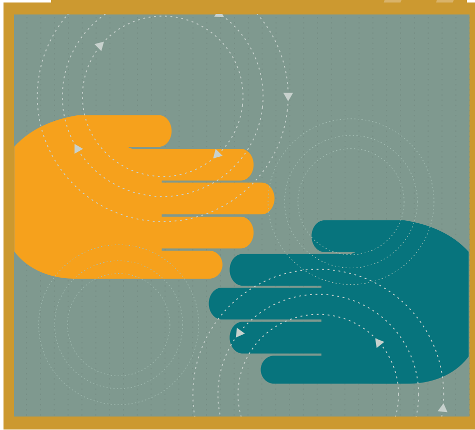
TAKEAWAY

Financial Advisors: My Inspirations in Our Market!

BY ELLIE LOWDER

Results for participants are greatly improved when they work face to face with a financial advisor. Reinforcement of the importance of careful nurturing of clients is paramount to that success.

> *The one thing that doesn't change is the desire of each financial advisor with whom I have the privilege of connecting to do the right thing for each participant and each client!*



As I examine my motivations to keep my consulting practice operating on a "dead run" after well over 50 years in the 403(b) marketplace (and at a time when most sensible people have retired), I realize that I genuinely feel good about what I do! It's important to me to help people—always has been; always will be. So where do I get my inspiration?

From you, the financial advisors that routinely call me.

For me, it's a very real blessing to be able to connect with hundreds of financial advisors each and every year. While the nature of the questions might change, the one thing that doesn't change is the desire of each financial advisor with whom I have the privilege of connecting to do the right thing for each participant and each client! Advisors are calling and emailing me for two totally different purposes:

- To clarify specific elements of the tax code and IRS regulations in order to help a participant achieve his or her specific goal without violating those rules. The importance of steering participants in a direction that follows IRS requirements is understood by financial advisors, who are intent upon not causing violations that could result in taxation of the 403(b) account. The knowledge advisors receive as the result of those calls or emails contributes greatly to the client's ability to achieve goals without "blowing up" their account.
- To brainstorm when a client has several options under which he or she can achieve retirement savings goals. Often, a caller will begin by saying, "Here are the options I've discussed with my client; I'd like to kick them around with you so that I can be sure I haven't missed anything."

We already know (from numerous studies) that the results for participants are greatly improved when they work face to face with a financial advisor. Reinforcement of the importance of careful nurturing of clients is paramount to that success.

I'm inspired by the quality and integrity of the financial advisors who call me. As long as they believe they need me, I plan to be here! Think of the millions of 403(b) participants for whom saving in a 403(b) account has made a vast difference in their retirement lives, and the role that financial advisors play in that result! Thank you, each and every one, for caring so much about your clients and potential clients. Keep up the good work—and let me help you if you need me. b

Ellie Lowder, TGPC, writes frequently for 403(b) Advisor. She is a consultant with TSA Training and Consulting Services in Tucson.

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