

**Case of the Week:** To File or Not to File? Churches and 403(b) plans

Our ERISA consultants on the Columbia Management Resource Desk regularly receive calls from financial advisors who have client questions about the rules for filing IRS Forms 5500 for their retirement plans. Through our relationship with the Columbia Management Learning Center, we are able to guide Columbia Management's financial advisor partners through the IRS and Department of Labor rules and regulations that govern the filing of required reports, including, but not limited to, IRS Form 5500.

A recent call with an advisor with Ameriprise in New York is representative of a common Form 5500 filing inquiry. The advisor in this case was working with a 403(b) plan sponsored by a church. Generally, the final Form 5500 regulations, effective beginning with the 2009 plan year filing, change the annual reporting requirements for 403(b) plans covered by Title I of the Employee Retirement Income Security Act of 1974 (ERISA). The advisor asked the following question: **Under the new Form 5500 filing requirements, is a church required to file a Form 5500 for its 403(b) plan?**

**Highlights of Recommendations**

- Unless a church elects, under Section 410(d) of the Internal Revenue Code (IRC), to be subject to the provisions of Title I of ERISA, a Form 5500 filing is not required for the church's 403(b) plan.
- The definition of church in this instance is very specific. A church plan means a plan that is maintained by a church or convention or association of churches that is exempt from tax under IRC Sec. 501, and meets the additional requirements as outlined in IRC Sec. 414(e).

**Conclusion**

Form 5500 filing requirements do not apply to church-sponsored 403(b) plans unless the church elects to be subject to ERISA's rules. The definition of church used for this purpose can be tricky to decipher. With the expert guidance of the Columbia Management Learning Center, advisors can confidently assist their clients in their efforts to understand the Form 5500 filing requirements, and the exemption that exist for qualifying church plans.