



JOHN CHIANG  
California State Controller

December 30, 2009

**Re: Eligibility For 403(b) Tax Deferred/Sheltered Annuity Program**

Dear 403(b) Tax Sheltered Annuity Program Participant:

On July 26, 2007, the Internal Revenue Service issued new regulations on section 403(b) in response to the Pension Protection Act of 2006. These new regulations were effective on January 1, 2009, and dramatically impact the employer's responsibility associated with the administration of a 403(b) plan. As a result of these new regulations, an audit was performed of all participants in the state's Civil Service 403(b) plan. The audit resulted in a legal opinion to validate the participant's eligibility in a 403(b) program.

Eligibility to participate in a 403(b) plan requires that an employee must perform services for an education organization. An "education organization" is described under Internal Revenue Code section 170(b) (1) (A) (ii). It is an institution which normally maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its education activities regularly take place. The legal opinion has determined that employees at the Department of Corrections and Rehabilitation and the Department of Mental Health must be in classifications identified as a teacher or vocational instructor to be eligible for a 403(b) plan.

Based on the IRS Code and your current classification, you are not eligible to participate in a 403(b) plan. Therefore, effective with the December 2009 pay period, your payroll deduction for your 403(b) plan has been cancelled.

The SCO will be contacting the IRS regarding the status of the 403(b) account balance you have with your 403(b) vendor. You will be notified once information is available on the status of your account due to your eligibility status change.

As an alternative to the 403(b) plan, the Department of Personnel Administration (DPA) Savings Plus Program offers a 401(k) plan and a 457 plan. For further information on this program, go to DPA's public web site at [www.dpa.ca.gov](http://www.dpa.ca.gov) or use the following web address

<http://www.dpa.ca.gov/benefits/spp/main.htm> to go directly to the Savings Plus Program web site.

If you have any questions regarding the above information, please contact Lisa Callaghan at (916) 327-3923 or email her at [llcallaghan@sco.ca.gov](mailto:llcallaghan@sco.ca.gov).

Sincerely,

Linda Matsuda, Acting Chief  
Personnel/Payroll Services Division

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