

4Q 2008



Relief for 2009 403(b) Regulations on Written Plan Document Requirements

The IRS recently issued Notice 2009-3, providing relief for sponsors of 403(b) plans with respect to the pending 403(b) regulations regarding the requirement of a written plan document in place by January 1, 2009. Although the final 403(b) regulations were initially published on July 26, 2007, this relief was intended to provide additional time for plan sponsors to put a written plan document in place, with the purpose of properly outlining the terms of the plan as well as investment provider and plan sponsor responsibilities.

Notably, Notice 2009-03 also provides that plans will be treated as compliant with the aforementioned regulations during the 2009 calendar year if:

- 1) By December 31, 2009, the plan sponsor has a written document in place that fulfills the requirements of the regulations.
- 2) During 2009, the plan sponsor operates in accordance with a reasonable interpretation of 403(b) and final regulations.
- 3) By the conclusion of 2009, the plan sponsor makes a good faith effort to retroactively fix any operational failure during the calendar year to conform to the terms of the written 403(b) plan; with such relief applying only to the operational failures during the 2009 calendar year, not including any prior or subsequent calendar year.



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