



## 403(b) Plan Document Deadline Extended

*In the nick of time, the IRS released a notice delaying until the end of 2009 the time by which sponsors of 403(b) plans must have a written plan document.*

### Background

Final regulations under Internal Revenue Code Section 403(b) were issued in July 2007. One of the most significant provisions required 403(b) plan sponsors to have a written plan document that satisfies the final regulations in both form and operation in place by January 1, 2009. After becoming aware that many plan sponsors do not yet have written plan documents, the IRS has now delayed this requirement for one year.

### IRS Notice

In [Notice 2009-3](#), the IRS states that a 403(b) plan will be deemed in compliance with Section 403(b) and the final regulations as long as the sponsor –

- has adopted a written plan document by December 31, 2009 that is intended to satisfy the regulations as of January 1, 2009
- operates the plan in accordance with a reasonable interpretation of Section 403(b), including the final regulations, during 2009
- makes best efforts to correct any operational failures during 2009 (based on principles of the Employee Plans Compliance Resolution System (EPCRS)).

The IRS states that this relief applies only with respect to the 2009 calendar year.

In addition, the IRS notes that there is no current program for plans to receive assurance that they meet the requirements of Section 403(b). Therefore, the IRS intends to establish a prototype 403(b) plan and then a determination letter program for individually designed 403(b) plans.

### Conclusion

This delay is welcome relief to sponsors of 403(b) plans.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*