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Retirement Plans for Public Schools and Exempt Organizations Get Extension on Time to Complete Written Plans

By United States Internal Revenue Service, IR-2008-140

WASHINGTON - The IRS issued a notice today announcing relief for certain retirement plans that do not have a written plan in place by January 1, 2009. The new guidance is for retirement plans covering employees at public schools, colleges and universities, and other tax exempt organizations. These retirement plans are often referred to as 403(b) plans after the relevant section in the tax code. Notice 2009-3 can be found at http://www.asppa.org/pdf_files/n-09-03.pdf.

The IRS is extending the deadline for plan sponsors to adopt new written plans or amend existing plans to satisfy the requirement of the final 403(b) regulations because of difficulties expressed by numerous plan administrators in meeting the current deadline of January 1, 2009. This extension will give plan sponsors additional time to put their plan documents in place.

The IRS will treat these plans as meeting the requirements of 403(b) and the regulations during the 2009 calendar year if:

- By December 31, 2009, the sponsor of the plan has adopted a written 403(b) plan that is intended to satisfy the requirements of 403(b) and the regulations.
- During 2009, the plan sponsor operates the plan in accordance with a reasonable interpretation of 403(b) and the related regulations.
- By the end of 2009, the plan sponsor makes its best effort to retroactively correct any operational failure during the 2009 calendar year to conform to the written plan.

The IRS plans to issue further guidance on 403(b) plans, including a revenue procedure establishing programs for 403(b) plans to obtain IRS approval of the plan document and allowing these plans to make remedial amendments to retroactively fix plan provisions under rules that similar to those that apply for 401(a) qualified plans.