



LATE BREAKING DEVELOPMENT

IRS extends 403(b) written document deadline until 12/31/2009

IRS Notice 2009-3 provides sponsors of Section 403(b) plans a reprieve from the December 31, 2008 deadline to have a written document in place. So long as the plan sponsor operates the plan in accordance with the final 403(b) regulations that are effective January 1, 2009, AND has a written document in place by December 31, 2009 that is retroactively effective to January 1, 2009, they will be deemed to be in compliance.

In addition, if any operational failures occur during 2009, they must be corrected by December 31, 2009 in accordance with the IRS Employee Plans Compliance Resolution System (EPCRS) at section 6 of Revenue Procedure 2008-50.

The Notice also indicates that IRS intends to establish a pre-approved prototype program similar to that used for plans qualified under Section 401(a) of the Code, to be followed by a program for individually designed Section 403(b) plans. This will enable sponsors of such plans to have the confidence that their plan document is in compliance.

Lastly, IRS intends to update EPCRS to include additional operational failures that may occur under Section 403(b) plans.