

December 16, 2008

## IRS Provides Relief for 403(b) Plans

Good news for 403(b) plan sponsors — the Internal Revenue Service has extended until the end of 2009 the deadline for adopting written plan documents that comply with Internal Revenue Code Section 403(b) and the final 403(b) regulations.

403(b) plans are retirement plans maintained generally by public schools and tax-exempt entities. Many 403(b) plans have operated without formal written plan documents. In 2007, the IRS finalized regulations requiring written plan documents that meet the requirements of IRC Section 403(b) and the final 403(b) regulations. Until last Thursday, the deadline for adopting a written plan document was the end of 2008. In response to numerous public requests for an extension, last Thursday, the IRS extended the deadline until the end of 2009 for adopting written plan documents.

To take advantage of the extended deadline, a 403(b) plan sponsor must:

- before the end of 2009, adopt a written plan document effective as of January 1, 2009 that meets the requirements of the final 403(b) regulations;
- during 2009, operate the 403(b) plan in accordance with a reasonable interpretation of IRC Section 403(b) and the final 403(b) regulations; and
- before the end of 2009, use best efforts to retroactively correct any operational failures during 2009 based on the general principles set forth in the IRS' correction program known as the "Employee Plans Compliance Resolution System."

For more information on IRS Notice 2009-3, please visit <http://www.irs.gov/pub/irs-drop/n-09-03.pdf>.

**Our client alerts are for general informational purposes and should not be regarded as legal advice. If you would like additional information or have any questions, please contact:**

William G. Cavanagh  
+1 (212) 408-5388  
[wcavanagh@chadbourne.com](mailto:wcavanagh@chadbourne.com)

Marjorie M. Glover  
+1 (212) 408-1016  
[mglover@chadbourne.com](mailto:mglover@chadbourne.com)

Edward P. Smith  
+1 (212) 408-5371  
[esmith@chadbourne.com](mailto:esmith@chadbourne.com)

David Gallai  
+1 (212) 408-1033  
[dgallai@chadbourne.com](mailto:dgallai@chadbourne.com)

Lauren D. Kelly  
+1 (212) 408-5520  
[lkelly@chadbourne.com](mailto:lkelly@chadbourne.com)