

## **403(b) Rules and Regulations Overhauled by IRS**

The IRS has published comprehensive 403(b) plan guidance for the first time in over 40 years that becomes effective **January 1, 2009**. The regulations will require much more involvement at the sponsor level than in the past. Chief among the changes is a requirement to have a written document in place and a larger burden on the organization to insure that the plan is administered in accordance with the terms of the plan document. For many 403(b) plan sponsors, this will be the first written document.

Additional modifications are made to the universal availability rules, testing requirements, distribution rules, timely depositing of contributions, and filing requirements with the IRS. For the most part, these new rules and regulations are making 403(b) plans appear to be more like 401(k) plans in many respects. Many of the new rules will substantially increase the required paperwork of the sponsor and make the 403(b) plans more burdensome and costly than a 401(k) plan.

One possible solution to the confusing new maze of rules and regulations is to switch to a 401(k) plan.

There are many aspects to review and consider going forward. Whether you choose to discontinue the 403(b) plan and begin a 401(k) plan or to just bring the 403(b) plan into compliance with the new regulations, the deadline is **January 1, 2009**. O'Sullivan Creel, LLP stands ready to help with a transition to a 401(k). Please contact us if you would like more information.

### **Action Points**

To implement these regulatory requirements, employers should consider taking the following steps by January 1, 2009.

- Create a written plan document or amend a previously established 403(b) plan document.
- Determine who will be responsible for administration of the plan.
- Determine the number of vendors that will be offered within the plan.
- Review communication materials to make sure that, at least once per year, they provide meaningful notice to all eligible employees of the availability of the 403(b) plan and how employees can begin making elective deferrals under the plan.
- Determine if the plan is subject to ERISA.

For more information, go to <http://www.irs.gov/retirement/article/0,,id=172430,00.html>.