



## School Sponsored 403(b) Plans Beware

by Amy J. Borman and Karen E. Wabeke

The Internal Revenue Service recently promulgated new rules governing Section 403(b) defined contribution plans for employees of certain educational and tax-exempt organizations. The rules governing so-called “tax-sheltered annuities” will take general effect on January 1, 2009, with several notable exceptions.

Under the new regulations, the IRS will require, for the first time, that all 403(b) plans operate according to a written plan document. The central plan document must include provisions on eligibility, benefits, contribution limits, available investment contracts and rules on benefit distribution.

Plan sponsors also must give employees annual meaningful notice of the availability of 403(b) plans to ensure that employees have an effective opportunity to contribute. Once a plan sponsor permits any employee to make 403(b) elective deferrals, the option to participate in a 403(b) plan must be made universally available to all employees. Among those employees excluded from this requirement under the new IRS regulations are employees eligible under other deferral plans, non-resident aliens, students and employees who normally work less than twenty hours per week.

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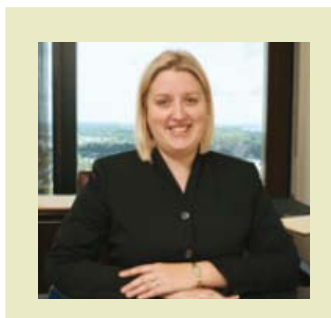
transferred to the fund vendor within a reasonable time period. The IRS regulations now allow transfers between 403(b) plans if the participant whose assets are being transferred is a current or former employee of the employer receiving the assets and so long as benefit distribution restrictions are maintained. However, asset transfers between 403(b) and non-403(b) plans are disallowed under the new rules, so employers that freeze or terminate a 403(b) plan cannot merge or transfer the 403(b) plan assets into a 401(k) or 457(b) plan.

In light of these changes, we are prepared to provide educational and other tax-exempt organizations with a written 403(b) plan document and guidance in complying with the regulations that take effect next year.

*For more information on the new IRS 403(b) regulations, please contact Ms. Borman or Ms. Wabeke at 419-241-6000.*



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