



Are You Prepared For The New 403(b) Retirement Plan Regulations?

The Internal Revenue Service issued new regulations affecting ERISA-covered 403(b) retirement plans beginning with plan years ending December 31, 2009. Plans sponsored by governmental entities and church plans are exempt from ERISA and therefore the new rules don't apply. For other tax-exempt employers, determining whether your plan is subject to ERISA's new rules isn't so simple. Most 403(b) plans will be subject to ERISA, if your desire is to have a plan not subject to ERISA, then you should discuss this with your legal counsel or the party that designed your plan immediately to see whether it meets the guidelines that will allow it to be considered not subject to ERISA regulations.

If your plan is subject to ERISA, these new regulations may require significant changes for your plan documentation and at a minimum will require new tax filings and may require an audit of its financial statements. In order to comply with these new regulations, have you considered the following:

- Has the plan document been reviewed and amended to comply with the new rules?
- Are the individual participant account records updated and maintained properly?
- Have you talked to any of your plan's third-party administrators or service providers about their preparation for these new requirements?
- Have you planned for the new IRS Form 5500 filing requirements?
- If your plan has enough participants, have you considered the new financial statements audit requirements for the plan?

If the answer to some or all of the above is "no" or you're not sure, then you definitely need take a look at your plan now.

Some plans may not have an up-to-date plan document. Some may not even have a plan document. The new rules require all plans to have a written plan and it must be in place before December 31, 2009.

In addition, the new rules change the requirements of how much information is to be provided with the Form 5500 filing. A plan that qualifies as a "small" plan provides less information than a "large" plan. In addition, a "large" plan's financial statements will be required to be audited. Determining whether a plan is "small" or "large" is based on the number of persons eligible to participate and requires some careful evaluation.

If you would like assistance with evaluating your plan and how these new rules may apply to it, professionals at GBQ are ready and able to assist you.