

TAX TIPS

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July 26, 2010

403(B) PLANS REQUIRED TO FILE FORM 5500 FOR 2009

Beginning with the 2009 plan year, tax-sheltered annuities offered under Code Sec. 403(b) to employees of public schools, employees of certain tax-exempt organizations and certain ministers, have become subject to a number of regulations created under the Pension Protection Act of 2006. Under final 2007 IRS regulations, effective for tax years beginning on or after Jan. 1, 2009, a Code Sec. 403(b) plan must adopt a written plan document by December 31, 2009, and is required to file a Form 5500 for the 2009 plan year. Plan administrators should have informed plan sponsors of these new requirements.

Form 5500 returns are required to be filed by the last day of the seventh calendar month after the plan year ends. When the filing date falls on a Saturday, Sunday, or federal holiday, the return is filed on the next day that is not a Saturday, Sunday, or federal holiday. Therefore, for 2009, a calendar-year employee benefit plan must file on or before August 2, 2010. A one-time extension of time to file the return for up to 2 1/2 months will be automatically granted if a properly completed Form 5558, Application for Extension of Time to File Certain Employee Plan Returns, is filed with the Internal Revenue Service Center, Ogden, UT 84201-0027, on or before the normal due date of the return.

Under the revised Form 5500 requirements, generally, those Code Sec. 403(b) plans with 100 or more participants will be required to file audited financial statements with their Form 5500. Those Code Sec. 403(b) plans with fewer than 100 participants are generally eligible for a waiver of the audit requirement. In addition, most small plans will be able to use the Form 5500-SF (Short Form 5500), a new simplified form for small plans invested in certain types of assets. However, even small Code Sec. 403(b) plans must report aggregate financial information regarding the plan.

If you have any questions please contact our National Tax Services Group at 609.520.1188 or email Taxbriefs@withum.com

**CALENDAR YEAR 403(B)
PLAN FORM 5500
RETURNS ARE DUE JULY
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