



403(b) Plans: Written Plan Document Required by December 31, 2008

Employment, Labor & Benefits Practice Group

Foster Swift Employment, Labor & Benefits Quarterly

April 2008

PRACTICE AREAS

Employee Benefits

In July 2007, the IRS finalized comprehensive regulations under Section 403(b) of the Internal Revenue Code. The new regulations apply to all 403(b) plans including plans that permit only salary reduction contributions. The regulations require that each employer adopt a written plan document for the 403(b) plan on or before December 31, 2008. The document must contain all material terms and conditions for eligibility, limitations on contributions, benefits, distributions, and the contracts available under the plan. If an employer fails to timely adopt a written plan, any contract purchased through the employer will not qualify as a 403(b) contract, and contributions to the plan cannot be made on a pretax basis. Therefore, all employers with 403(b) programs must adopt a written plan document prior to January 1, 2009.