THE IRS EXTENDS 403(b) WRITTEN PLAN REQUIREMENT

The IRS issued IRS Notice 2009-3 yesterday announcing relief for 403(b) plans that do not have a written plan in place by January 1, 2009. The notice extends the deadline for plan sponsors to adopt new written plans or amend existing plans to satisfy the requirement of the final 403(b) regulations because of difficulties expressed by numerous plan administrators in meeting the current deadline of January 1, 2009. This extension gives plan sponsors additional time to put their plan documents in place.

The IRS will treat plans as meeting the requirements of 403(b) and the regulations during the 2009 calendar year if:

- By December 31, 2009, the plan sponsor of the plan has adopted a written 403(b) plan that is intended to satisfy the requirements of 403(b) and the regulations.
- During 2009, the plan sponsor operates the plan in accordance with a reasonable interpretation of 403(b) and the related regulations.
- By the end of 2009, the plan sponsor makes its best effort to retroactively correct any operational failure during the 2009 calendar year to conform to the written plan.

The IRS plans to issue further guidance on 403(b) plans, including a revenue procedure establishing programs for 403(b) plans to obtain IRS approval of the plan document and allowing these plans to make remedial amendments to retroactively fix plan provisions under rules that similar to those that apply for 401(a) qualified plans.

Though the IRS has granted some breathing room, MidAmerica fully intends to bring your plan into compliance as of January 1. We will continue to work diligently to wrap up necessary communications materials and other required documents, as well as monitor the operational compliance of your plan.