



403(b) Plans – FAQs on Participation and Contributions

A 403(b) plan is a retirement plan offered by a public school or 501(c)(3) tax-exempt organization for its employees. An employee can only obtain a 403(b) annuity or custodial account under an employer's 403(b) plan. These annuities and custodial accounts are funded by employee elective deferrals made under salary reduction agreements, employer contributions or a combination of both.

There are numerous tax advantages associated with 403(b) plans. For example, contributions and earnings in a traditional 403(b) annuity are not taxed until they are distributed. To obtain these tax advantages, the Internal Revenue Code (Code) imposes numerous compliance requirements on 403(b) plans, including requirements related to participation in the plan and contributions to the plan.

This Compliance Overview includes frequently asked questions (FAQs) from the IRS on 403(b) participation and contribution issues. Note that the information contained in these FAQs may be affected by coronavirus relief, which is outlined in [additional IRS FAQs](#).

LINKS AND RESOURCES

- IRS [webpage](#) on 403(b) plans, which includes links to many 403(b) resources
- [IRS Publication 4483](#), 403(b) Tax-Sheltered Annuities for Sponsors
- [IRS Questions and Answers](#): Coronavirus-related relief for retirement plans

General

What is a 403(b) plan?

A 403(b) plan, also known as a tax-sheltered annuity plan, is a retirement plan for certain employees of public schools, employees of certain Code Section 501(c)(3) tax-exempt organizations and certain ministers. A 403(b) plan allows employees to contribute some of their salary to the plan. The employer may also contribute to the plan for employees.

Which employers can establish a 403(b) plan?

Generally, public schools, Code Section 501(c)(3) tax-exempt organizations or churches can set up 403(b) plans.

Participation

Who can participate in a 403(b) plan?

- Eligible employees of Code Section 501(c)(3) tax-exempt organizations;
- Eligible employees of public school systems;
- Eligible employees of churches;
- Employees of public school systems organized by Indian tribal governments;
- Ministers employed by Code Section 501(c)(3) organizations;
- Self-employed ministers, treated as employed by a tax-exempt organization that is a qualified employer; and
- Ministers (chaplains) who meet both the following requirements:
 - They are employed by organizations that are not Code Section 501(c)(3) tax-exempt organizations, and
 - They function as ministers in their day-to-day professional responsibilities with their employers.

A “public school system” is defined as an education organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly conducted. Included in this category are employees of public schools, state colleges and universities.

What are the benefits of participating in a 403(b) plan?

There are significant tax advantages for participants in a 403(b) plan, including pre-tax contributions to a 403(b) plan. Also, earnings on these contributions are not taxed until they are distributed from the plan.

When can an employee join a 403(b) plan?

The terms of the employer’s 403(b) plan govern when an employee may enroll. However, a 403(b) plan is generally required to allow all eligible employees to participate in the plan as of their employment commencement date (the universal availability rule). Employees should check with their employer to determine how to enroll in the plan.

Can a 403(b) plan automatically enroll employees in the plan?

Yes, a 403(b) plan can automatically enroll employees if the plan allows employees to contribute to the plan, the plan’s provisions contain an automatic contribution arrangement and the employee does not opt out (affirmatively elect not to participate) of the plan’s automatic enrollment.

Contributions

What types of contributions can be made to a 403(b) plan?

A 403(b) plan may allow:

- **Elective deferrals**—employee contributions made under a salary reduction agreement. The agreement allows an employer to withhold money from an employee’s salary and deposit it into a 403(b) account.
- **Nonelective employer contributions**—contributions other than those made under a salary reduction agreement, which include matching contributions, discretionary contributions and certain mandatory contributions made by the employer. The employee pays income tax on these contributions only when they are withdrawn.
- **After-tax contributions**—contributions (otherwise referred to as voluntary contributions that are not designated Roth contributions) made by an employee, which are reported as compensation in the year contributed and included in the employee’s gross income for income tax purposes.
- **Designated Roth contributions**—elective deferrals that the employee elects to include in gross income. The plan must keep separate accounting records for all contributions, gains and losses in the designated Roth account.

May an employer sponsoring a 403(b) plan exclude any employee from contributing to the plan?

A 403(b) plan must generally allow all employees to make elective deferrals to the plan. Under the universal availability rule, if an employer permits one employee to defer salary by contributing it to a 403(b) plan, the employer must extend this offer to all employees of the organization with the following limited exceptions:

- Employees who will contribute \$200 or less annually;
- Employees who participate in a 401(k) or 457(b) plan or in another 403(b) plan of the employer;
- Nonresident aliens;
- Employees who normally work less than 20 hours per week; and
- Students performing services described in Code Section 3121(b)(10).

What is the maximum amount of elective deferrals an employee can contribute to a 403(b) plan?

The maximum amount of elective deferrals an employee can contribute annually to a 403(b) is generally the lesser of:

- 100 percent of includible compensation; or
- \$22,500 for 2023 (\$20,500 for 2022).

However, this general limit is reduced by the amount of elective deferrals an employee makes to 401(k) plans, SIMPLE IRA plans, Salary Reduction Simplified Employee Pension (SARSEP) plans, other 403(b) plans and Code Section 501(c)(18) plans.

If the plan allows:

- An employee who has worked for a qualified organization for 15 or more years, if he or she meets certain requirements, may be able to make additional contributions of up to \$3,000 for up to five years (see 15-year rule in IRS Pub. 571, Tax-Sheltered Annuity Plans (403(b) Plans); and
- An employee who is age 50 or older may make an additional catch-up contribution of \$7,500 for 2023 (up from \$6,500 for 2022), reduced by the amount of catch-up contributions made to other plans.

Does the employer have to contribute to a 403(b) plan for employees?

No. An employer may, but is not required to, contribute to the 403(b) plan for employees.

What is the maximum annual combined amount the employer and employee can contribute to a 403(b) plan for an employee?

The maximum combined amount both the employer and the employee can contribute annually to the plan is generally the lesser of:

- \$66,000 for 2023 (\$61,000 for 2022); or
- An employee's includible compensation for his or her most recent year of service.

Employees meeting certain requirements and plan participants may be eligible to make additional contributions.

Can an employer contribute to a 403(b) plan for a former employee?

Yes, if the plan allows, an employer can make nonelective contributions to a former employee's account for five years after the date of severance, up to the annual limits (total contributions to an employee's account should not exceed \$66,000 for 2023 (\$61,000 for 2022)). However, no portion of these contributions can come from money otherwise payable to the former employee by the employer and must cease at the death of the former employee.

When must the plan sponsor send elective deferrals to the vendor?

The 403(b) plan sponsor must send elective deferrals to the vendor within an administratively feasible period (generally, within 15 business days following the month in which these amounts would have been paid to an employee).

However, a 403(b) plan subject to the Employer Retirement Income Security Act of 1974 (ERISA) should review the Department of Labor's rules for a potentially shorter time frame for forwarding elective deferrals to the vendor.

Source: U.S. Internal Revenue Service

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. ©2016-2022 Zywave, Inc. All rights reserved.