



New regulations are making the 403(b) Plan more susceptible to IRS and DOL scrutiny – is your plan compliant?

WHO CAN PARTICIPATE IN A 403(b) PLAN?

Any eligible employee can participate in a 403(b) plan. **Eligible employees.** The following employees are eligible to participate in a 403(b) plan.

- Employees of tax-exempt organizations established under section 501(c)(3) of the Internal Revenue Code. These organizations are usually referred to as section 501(c)(3) organizations or simply 501(c)(3) organizations.
- Employees of public school systems who are involved in the day-to-day operations of a school.
- Employees of cooperative hospital service organizations.
- Civilian faculty and staff of the Uniformed Services University of the Health Sciences (USUHS).
- Employees of public school systems organized by Indian tribal governments.
- Certain ministers.

HOW MUCH CAN I CONTRIBUTE?

Although the 403(b) Plan is not subject to the traditional 401(k) testing requirements, there are new rules for contribution limits. Generally, employees can contribute the same as in a 401(k) Plan (\$16,500 for 2010 with a \$5,500 catch-up). However, employees with 15 years of service with their employer who are over the age of 50 may be able to contribute an additional \$3,000. In addition, the 403(b) is generally the only qualified retirement plan that can have employer contributions made to it for an employee who has terminated employment (up to 5 years after termination).

403(B) PLANS

ARE EMPLOYEE CONTRIBUTIONS REQUIRED?

No. Employee contributions (salary deferrals) into these plans are discretionary, and can be increased, decreased, or eliminated in future years. This makes this type of plan very flexible in handling fluctuating contributions from year to year.

ARE ROTH CONTRIBUTIONS ALLOWED?

Yes. Like traditional 401(k) Plans, non-deductible ROTH contributions can be made to a 403(b), as long as the plan document allows these types of contributions by the Employee. The employees are not limited in the amount of salary they earn to be eligible to make these contributions.

WHAT ARE THE REQUIREMENTS?

The employer must allow all employees the ability to participate in the Plan. Unlike a 401(k) plan that can have a waiting period for participation in the plan, a 403(b) plan has a requirement for "universal availability" which means all employees must be eligible to participate, regardless of age and service. In addition, one plan document must be prepared – whether there are employer contributions to the Plan or not. This is a new requirement the deadline of which is fast approaching – December 31, 2009.

ARE EMPLOYER CONTRIBUTIONS REQUIRED?

Employers do not have to make contributions to the Plan.

WHAT ARE THE VESTING REQUIREMENTS?

New regulations specifically allow Employer contributions to have a vesting schedule on them, similar to Employer contributions to a 401(k).

WILL THIS PLAN WORK FOR ME?

Your employer must adopt a 403(b) Plan in order for you to participate in one. If you would like help in discussing a 403(b) Plan with your employer or your clients, please contact July Business Services or visit our website at www.julyservices.com.