

# 403(b) PLAN CHECKLIST

This Checklist is *not* a complete description of all plan requirements, and should *not* be used as a substitute for a complete plan review.

For Business Owner's Use

(DO NOT SEND THIS WORKSHEET TO THE IRS)

It is important to review the requirements for operating your 403(b) retirement plan annually. This checklist is a "quick tool" to help you keep your plan in compliance with many important tax rules. See IRS Publication 571, *Tax Sheltered Annuity Plans (403(b) Plans) for Employees of Public Schools and Certain Tax-Exempt Organizations* at [www.irs.gov/ep](http://www.irs.gov/ep). Underlined text below shows a link to expanded explanations and resources, also at [www.irs.gov/ep](http://www.irs.gov/ep).

**1. Does your organization qualify as a public educational institution or as a charitable organization exempt from tax under IRC 501(c)(3)?** Yes  No

Only public educational institutions described in IRC 170(b)(1)(A)(ii), or 501(c)(3) organizations may establish a 403(b) plan.

**2. Are ALL employees who normally work 20 hours or more per week (Universal Availability rule) given the opportunity to make a salary deferral?** Yes  No

Failure to meet this rule is often due to excluding part-time employees who would otherwise be eligible to participate.

**3. Are elective deferrals, including any designated Roth contributions, limited to the amounts under IRC 402(g) in a calendar year?** Yes  No

Failure to limit deferrals to the 402(g) limit (\$15,000 for 2006) may result in additional taxes and penalties to the employee and employer.

**4. Are the total employer and employee contributions limited so as not to exceed the IRC 415(c) limits?** Yes  No

Total employee and employer contributions cannot exceed the lesser of \$44,000 for 2006, or 100% of includible compensation.

**5. If the IRC 402(g) "15 years of service catch-up" contributions are being made, does the employer have the required 15 years of full-time service with the same employer?** Yes  No

Even if this requirement is met, a calculation must still be made to determine the level of entitlement.

**6. If your program permits age 50+ catch-up contributions, were each of your employees age 50 and over informed of their rights to make catch-up deferrals?** Yes  No

If your plan permits, participants age 50+ may defer an additional \$5,000 to the 403(b) plan for 2006.

**7. Does the 403(b) annuity contract or custodial account: contain the nontransferability provisions (annuity contract only); state the limits under IRC 402(g); and contain the direct rollover provisions of IRC 401(a)(31)?** Yes  No

Certain provisions are required for annuity contracts or custodial accounts.

**8. If your plan offers a 5-year post severance provision, are amounts contributed through a non-elective method?** Yes  No

Amounts contributed to an IRC 403(b) plan that an employee had an option of receiving in cash are considered elective deferrals and are not eligible for the 5-year provision.

**9. Are you (as the employer) and your vendor enforcing participant loan repayments and limiting aggregate loan amounts as required under IRC 72(p)?** Yes  No

If not, defaulted loans or loans in violation of IRC 72(p) may be deemed a taxable distribution and reported as income to the participant.

**10. Are you and your vendors requiring documentation that hardship distributions meet the definitions and requirements for hardship found in the IRC 401(k) regulations?** Yes  No

The employer should certify, based on the facts, that the participant has an immediate and heavy financial need.

If you answered "No" to any of the above questions, you may have a mistake in the operation of your 403(b) plan. This list is only a guide to a more compliant plan, so answering yes to each question may not mean your plan is 100% compliant. Many mistakes can be corrected easily, without penalty and without notifying the IRS.

■ contact your benefits professional

■ visit the IRS at [www.irs.gov/ep](http://www.irs.gov/ep)

■ call the IRS at (877) 829-5500



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