Strategic Benefit Services

Just the FAQs
for Plan Sponsors

4 Questions Plan Sponsors Should Ask to Understand the Similarities and Differences Between 401(k) and 403(b) Plans

1. Which employers can offer a 403(b) plan?

- Public education organizations such as public elementary and high schools, state colleges and universities, and boards of education.
- 501(c)(3) nonprofit organizations such as private schools, research facilities, private hospitals, charities, social welfare agencies, healthcare organizations, and religious institutions.
- Grandfathered Indian tribal governments.
- Certain religious ministers of a church or related religious organizations.

2. Which employers can offer a 401(k) plan?

Almost any type of company may offer a 401(k) plan. Most private, for-profit companies are eligible. Many tax-exempt, non-profit organizations have a choice between sponsoring a 401(k), a 403(b), or both.

3. How are 401(k) and 403(b) plans similar?

- Have the same 402(g) elective deferral contribution limits. For 2016, elective deferrals cannot exceed $18,000.
- Allow the additional catch-up contribution for employees over age 50. For 2016, the maximum catch-up contribution is $6,000.
- Allow Roth contributions.
- Allow both elective deferrals and employer contributions.
- Require plan sponsor oversight.

Before new 403(b) regulations were passed, plan sponsor oversight of 403(b)s was almost nonexistent. Generally, it was much easier for 403(b) plans to be exempt from the Employee Retirement Income Security Act (ERISA), as long as they did not include employer contributions. Since the final 403(b) regulations became effective in 2009, administrative responsibilities have been imposed on 403(b) sponsors and the two plan types have become more similar.

Click to learn more about the **final 403(b) regulations** **or visit** **https://www.irs.gov/publications/p571/ch04.html**.

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4. How do 401(k) and 403(b) plans differ?

	401(k)	403(b)
Investment Options	**Broad range** of investment options: mutual funds, annuity contracts, and individual securities.	**Only** annuity contracts or custodial accounts invested in mutual funds. A '40 Act fund is a pooled investment company defined in the 1940 Investment Companies Act. Individual stocks & bonds, ETFs, collective trusts, and separate accounts are **not** permissible.
Subject to Employee Retirement Income Security Act (ERISA)	**Yes**	**Depends** on plan provisions, but many non-profit entities now have ERISA 403(b) plans.
15-year service catch-up contribution To learn more visit: https://www.irs.gov/publications/p571/ch04.html	**Not available**	**Allows** employees to exceed the 402(g) limit if they have at least 15 years of service with the same employer (which do not need to be consecutive). If an employee's elective deferrals in prior years were less than the 402(g) limit, he or she may be able to make deferrals up to $3,000 over the otherwise applicable 402(g) limit for the current year, subject to a lifetime limit of $15,000. If the participant is over age 50, the 15-year catch-up contribution must be applied before the over age 50 is applied. Therefore, an employee age 50 or older who is eligible for the 15-year rule may be able in 2016 to contribute up to $27,000: 18,000 under 402(g), $3,000 under the 15-year rule and another $6,000 in age 50+ catch-up contributions.
Applicability of 415 limits	There is **only one 415 limit** that applies to plans sponsored by for-profit employers. This maximum contribution includes the sum of employer contributions plus employee pretax, after-tax and/or Roth contributions. For 2016, this limit is $53,000 or 100% of compensation.	**Separate 415 limits can apply** if a not-for-profit entity sponsors a 403(b) in conjunction with another retirement plan. The employee under the 403(b) contract, not the actual employer, is deemed to maintain the 403(b) contract regardless of the form of contribution or degree of control maintained by the employer. Therefore, contributions to other plans of the employer are not ordinarily combined with the contributions to the 403(b) plan under the section 415 limits. However, if individual participants in 403(b) plans **are also in control of an outside entity that sponsors a plan** (owns or controls more than 50% of another business), the limit is combined, e.g., a doctor who participates in a hospital's 403(b) and sponsors his own retirement plan for his practice.
Average Deferral Percentage (ADP) Test	Applies to 401(k) plans. Non-discrimination testing ensures plans don't favor (HCEs) over non-highly compensated employees (NHCEs). The ADP test compares the deferral percentage of HCEs and NHCEs. (Generally, the HCE deferral cannot be more than 2% higher than the non-HCE's average.)	**Does not apply to 403(b) Plans**. Therefore, HCE's can potentially defer the maximum allowed.

Your retirement plan consultant at SBS can help you determine whether a 401(k) or 403(b) plan would be more advisable for your organization.

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