Coastal Retirement Consultants, LLC
Plan Design, Consulting & Administration Services

403(b) and 401(k) Plan Comparison Chart

Issue	403(b) Plan	401(k) Plan
Eligible Employers	Nonprofit organizations under IRC 501(c)(3), certain public educational organizations, and churches	All employers except governmental entities **Important:** *If the employer is a nonprofit AND a governmental entity, it may <u>not</u> sponsor a 401(k) plan*
Subject to ERISA • Form 5500 filing requirements • Fidelity bond requirements • Plan audit requirement (large plans only) • Required participant notices and disclosures • Other specific requirements	• A 403(b) plan sponsored by a nonprofit organization is subject to ERISA if the plan provides for any employer contributions, e.g., employer matching or nonelective contributions • A 403(b) plan sponsored by a nonprofit organization that does not permit employer contributions may be exempt from ERISA, but only if the employer has "limited involvement" **Note***: Governmental and non-electing church plans are exempt from ERISA*	401(k) Plans are subject to ERISA (regardless of the sponsor) unless the plan is: • an "owner-only" plan (i.e., does not cover any employees), • a "grandfathered" 401(k) plan sponsored by a governmental entity, or • a non-electing church plan **Note:** *In general, "owner-only" plans must file Form 5500-EZ each year, unless assets do not exceed $250,000*
Written Plan Document	Required	Required
Eligible Employees	Common law employees of the employer	Common law employees of the employer (including leased employees)
Eligibility Requirements – Elective Deferrals • 403(b) deferrals • 401(k) deferrals • Roth contributions	With limited exceptions, 403(b) plans must allow all employees to make elective deferrals under the plan without any eligibility conditions **Note:** *The following employees may be excluded: (1) employees covered under another 403(b) or 401(k) plan sponsored by the employer; (2) employees covered under governmental 457(b) plan; (3) certain students performing services for a school, college, or university; (4) nonresident aliens; and (5) part-time employees who normally work less than 20 hours per week (but generally not after completing a year of service with 1,000 hours)*	Must permit eligible employees to make deferrals upon completion of: • Attainment of age 21 • Completion of one year of service (1,000 hours) **Note:** *It is permissible to have more liberal eligibility conditions (or no eligibility conditions)* *Plan may exclude employees covered under a collective bargaining agreement and nonresident aliens* *Additionally, it is permissible to exclude a "class" of employees if the plan can satisfy coverage testing*
Eligibility Requirements – Employer Contributions • Matching contributions	If permitted, eligible employees generally must become eligible for employer contributions upon completion of:	Same as elective deferrals for 401(k) plans

Note*: This chart in intended to provide a general overview of the differences between 403(b) and 401(k) plans sponsored by nonprofit entities. It is not intended to provide a detailed explanation, nor is it intended to address the rules applicable to 403(b) plans sponsored by other entities. If you have questions regarding the options available for your entity, please contact us.*

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• Nonelective contributions	• Attainment of age 21 • Completion of one year of service (1,000 hours) **Note:** *It is permissible to have more liberal eligibility conditions (or no eligibility conditions)* *Plan may exclude certain employees from employer contributions, subject to additional testing requirements*	
Entry Dates	**For Elective Deferrals.** Generally, must enter the plan upon hire, but the plan may allow for a reasonable period of time for plan entry. 30 Days is generally considered reasonable for this purpose **For Employer Contributions.** Generally, must enter no later than the first day of the plan year or first day of the seventh month of the plan year following or coinciding with satisfaction of the eligibility conditions	**All Contributions.** Generally, must enter no later than the first day of the plan year or first day of the seventh month of the plan year following or coinciding with satisfaction of the eligibility conditions
Plan Investments	Investments are restricted to the following: (1) annuity contracts, (2) custodial accounts holding only mutual funds, or (3) a combination of (1) and (2)	All plan assets must be held in a trust, and most types of investments are permissible
Participant Direction of Investments	Permitted	Permitted
Elective Deferrals, Roth & Catch-Up Contributions	Permitted	Permitted
Automatic Enrollment	Permitted, if the plan is subject to ERISA Not permitted, if the plan is intended to be exempt from ERISA	Permitted
Safe Harbor Contributions	Permitted	Permitted
Matching Contributions	Permitted	Permitted
Nonelective Contributions, i.e., profit sharing	Permitted	Permitted

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Voluntary After-Tax Contributions (non-Roth)	Permitted	Permitted
Compliance Testing Requirements	• Not subject to ADP testing • Subject to ACP testing, unless safe harbor requirements are met (voluntary after-tax contributions are always subject to ACP testing, even if the plan is a safe harbor plan) • Coverage testing applies for employer matching and nonelective contributions (but not 403(b) elective deferrals) • General nondiscrimination testing applies for employer nonelective contributions, if applicable • Exempt from top-heavy rules **Note:** *Special exemptions from testing apply to 403(b) plans maintained by State and local governments (including their agencies and instrumentalities) and certain churches*	• Subject to ADP and ACP testing, unless safe harbor requirements are met (voluntary after-tax contributions are always subject to ACP testing, even if the plan is a safe harbor plan) • Coverage testing applies • General nondiscrimination testing applies for employer nonelective contributions, if applicable • Subject to top-heavy rules
Timing of Elective Deferral Contributions	**If the plan is subject to ERISA**, elective deferrals (and loan payments) must be deposited as soon as the amounts can be reasonably segregated from the general assets of the employer For small plans (plans with less than 100 participants), the amounts are deemed to be funded in a timely manner as long as they are deposited within seven business days **If the plan is not subject to ERISA**, the regulations provide the amounts must be deposited as provided for under the plan document (typically, plans provide that deferrals must be funded within 15 business days following the month in which the amounts were withheld from pay)	Same as 403(b) Plans that are subject to ERISA
Timing of Employer Contributions	Generally, must be funded by October 15th (for nonprofits who maintain their books on a calendar year basis)	Generally, must be funded by the due date of the employer's tax return (including extensions)
Contribution Limits – Employee	Can contribute up to $19,500 (2021) as elective deferrals (limit includes pre-tax and Roth contributions on a combined basis)	Same as 403(b) Plans, except the special "catch-up" rule does not apply

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Contribution Limits – Employee (cont.)	Catch-up eligible employees can contribute an additional $6,500 (2021) if the plan permits catch-up contributions The sum of all contributions for the plan year, i.e., elective deferrals and employer contributions, cannot exceed the lesser of $58,000 (2021) or 100% of eligible compensation **Note:** A 403(b) plan can also permit a special "catch-up" contribution for employees with 15 years of service with a "qualified organization"	
Contribution Limit - Employer	25% of eligible compensation	Same as 403(b) plans
Rollovers	Permitted	Permitted
In-Service Distributions – Elective Deferrals	May not be distributed before termination of employment, attainment of age 59 ½, death, disability, plan termination, or employee hardship (as defined under the Code and regulations) **Note:** *Related earnings attributable to elective deferrals are available for hardship distributions*	Same as 403(b) Plans except that related earnings attributable to elective deferrals may be distributed in the case of a hardship distribution
In-Service Distributions – Other Accounts	**For amounts held in custodial account,** distributions generally may not be made before termination of employment, attainment of age 59 ½, death, disability, or plan termination **For amounts held in annuity contracts**, a plan generally can permit in-service distributions upon a specific event, i.e., attainment of a stated age, fixed number of years, disability, etc. **For amounts held in rollover accounts (and voluntary after-tax accounts)**, an exception applies. These amounts (regardless of the contract type) can be distributed at any time, if permitted under the plan **Note:** *Safe harbor contributions held in an annuity contract are subject to the same distribution restrictions as amounts held in custodial accounts, i.e., unlike 401(k) plans, they are not available for hardship distributions*	**For non-restricted accounts**, e.g., profit sharing or matching contribution accounts, a plan can permit in-service distributions upon attainment of a stated age or event, after the amounts have been held in the plan for at least two years, or after the employee has been a participant for at least five years **For restricted accounts**, e.g., safe harbor contributions, distribution may not be made before termination of employment, attainment of age 59 ½, death, disability, plan termination, or employee hardship (as defined under the Code and regulations) **For amounts held in rollover accounts (and voluntary after-tax accounts),** an exception applies. These amounts can be distributed at any time, if permitted under the plan

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Required Minimum Distributions	Required	Required
Participant Loans	Permitted	Permitted
Vesting Schedule	Permitted for certain employer contributions	Permitted for certain employer contributions
ERISA Required Participant Notices and Disclosures	Apply if plan is subject to ERISA (includes SPD, quarterly benefit statements, participant investment and fee disclosures, etc.)	Apply unless a limited exemption applies (includes SPD, quarterly benefit statements, participant investment and fee disclosures, etc.)

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