Submitting 403(b) Business?

Frequently Asked Questions

It pays to keep things simple.®

Employer non-elective contributions vs. employee elective deferrals

What is the difference between an employer non-elective contribution and an employee elective deferral?

- An **employer non-elective contribution** is a type of contribution an employer chooses to make to a 403(b) contract for some or all of its eligible employees. The contribution may match employee elective deferrals, or it may be a fixed percentage of compensation, or it may be an amount otherwise determined by the employer. In any case, the employee is not given a choice between receiving the amount as a 403(b) contribution or receiving the amount as cash compensation. The sum of employer non-elective contributions and employee elective deferrals must not exceed the 415(c) limits ($57,000 for 2020, or 100% of includible compensation, if less, plus the over-age 50 catch-up limit).
- An **employee elective deferral** is a contribution an eligible employee chooses to make to a 403(b) contract out of his or her compensation through a salary-reduction agreement. Generally, an employee elective deferral is on a pre-tax basis, unless made to a Roth 403(b) account. Employee elective deferrals must not exceed the 402(g) limits ($19,500 per year for 2020, plus applicable catch-up amounts).

Can severance pay be contributed to a 403(b) contract as an employer non-elective contribution or an employee elective deferral?

- **Severance pay** can be contributed to a 403(b) contract only as an **employer non-elective contribution**. The employer non-elective contribution may be made only if the employer's severance pay plan specifically requires that the benefit be paid in the form of a 403(b) contribution. The employee cannot be given a choice between having the severance pay contributed to the 403(b) contract or receiving it in cash, nor can the employer unilaterally decide to make the contribution to the 403(b) contract if the severance pay plan provides for a cash payment. Severance pay cannot be contributed to a 403(b) contract as an employee elective deferral.

Can other post-severance payments be contributed to a 403(b) contract as an employer non-elective contribution or an employee elective deferral?

- Employee elective deferrals can be made from the following, if paid within the same calendar year as the severance from employment, within 2.5 months of the date that employment is severed:
  - Regular pay, overtime pay, commissions, bonuses and similar compensation that would have been paid even without severance
  - Accrued sick, vacation or other leave that the employee could have used if employment had continued
- Employee elective deferrals can be made from the following:
  - Certain continued compensation paid to an employee in qualified military service
  - Certain compensation paid to an employee who is permanently and totally disabled
- Employer non-elective contributions can be made for accrued sick pay, vacation pay, or other leave, but only if employer's sick pay plan, vacation pay plan, or other leave plan specifically requires that the lump sum benefit be paid in the form of a 403(b) contribution.

For questions, contact the Direct Connect team at 800-438-3398, ext. 17197 or DirectoConnectTeam@gaig.com.

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Rollovers, Transfers and Third Party Administrator (TPA) Approval

Is it possible for funds from one employer's 403(b) plan (or from a 401 plan, governmental 457(b) plan, or IRA) to be rolled over into another employer's 403(b) plan?

- Yes, a rollover is possible, but it must meet these requirements:
  - The 403(b) contract receiving the rollover must be maintained under an employer 403(b) plan. Rollover funds cannot be deposited into a grandfathered 403(b) contract funded solely by one or more pre-9/24/2007 Rev. Rul. 90-24 transfers.
  - The TPA for the receiving plan must approve the rollover contribution.
  - Rollover contributions must be made in the form of cash only.
  - Rollover contributions must be held in a separate contract from any salary reduction or employer contributions under the receiving employer's 403(b) plan, unless the TPA specifically tells us that the 403(b) plan does not require separate accounting for rollovers. (Note that rollover contributions that are held in a separate account are generally not subject to distribution restrictions, even if the owner is under age 59.5, while rollover contributions that are commingled with other contributions are subject to all distribution restrictions applicable under the current employer's 403(b) plan.)
  - Rollover contributions must be made by a current employee of the employer maintaining the 403(b) plan, unless the TPA specifically tells us that the plan allows a rollover by a former employee. If a teacher wants to roll over a distribution from a state teachers retirement plan, then we would need for the TPA to confirm either that the teacher is a current employee, or that the plan allows this rollover by a former employee.
  - After-tax amounts may be rolled over into a 403(b) plan only if made into a separate contract. The rollover of after-tax amounts must be by a direct rollover. The after-tax amounts cannot come from an IRA.

Is it possible to transfer an existing annuity contract from one employer's 403(b) plan to another employer's 403(b) plan?

- Yes, a plan-to-plan transfer of an existing 403(b) annuity contract is possible, but must meet these requirements:
  - The TPA for the transferring plan must approve the plan-to-plan transfer.
  - The TPA for the receiving plan must approve the plan-to-plan transfer.

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Catch-up contributions

How do over-age-50 catch-up contributions to a 403(b) plan fit within the normal annual contribution limits?

- In 2020, participants over age 50 can make an additional $6,500 in employee elective deferrals above the normal $19,500 annual 402(g) limit on elective deferrals.
  - These over-age-50 catch-up contributions are not subject to the normal 415(c) annual limit (lesser of $57,000 or 100% of includible compensation) on total additions to defined contribution plans. Therefore, an employee age 50 or older who has $25,500 of employee elective deferrals and compensation of $57,000 or more can be credited with up to $63,500 of total contributions in 2019.

Employee Contribution		Employer Contribution		Total Addition Limit
$19,500 + $6,500 catch-up	+	$37,000	=	$57,000 + $6,500

How do 15-years-of-service catch-up contributions to a 403(b) plan fit within the normal annual contribution limits?

- In 2019, participants with 15 years of service or more can make additional employee elective deferrals of up to $3,000 over the normal $19,000 annual 402(g) limit on elective deferrals. This 15-years-of-service catch-up cannot be more than the excess of (a) $5,000 multiplied by the participant's years of service, over (b) the participant's 403(b) contributions in prior years. This 15-years-of-service catch-up is limited to a lifetime total of $15,000.
  - These 15-years-of-service catch-up contributions must fit within the normal 415(c) annual limit (lesser of $57,000 or 100% of includible compensation) on total additions to defined contribution plans.

Employee Contribution		Employer Contribution		Total Addition Limit
$19,500 + $3,000 catch-up	+	Up to $34,000	=	$57,000

What if the participant is eligible for both the over-age-50 catch up and the 15-years-of-service catch-up contributions to a 403(b) plan? How do the combined catch-up contributions fit within the normal 415(c) annual contribution limits?

- Participants may use both the over-age-50 catch-up and the 15-years-of-service catch-up in the same year.
  - Catch-up contributions are treated first as 15-years-of-service catch-up contributions to the extent eligible.

Employee Contribution		Employer Contribution		Total Addition Limit
$19,500 + $3,000 catch-up + $6,500 catch-up	+	Up to $34,000	=	$57,000 + $6,500

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