Compare features of retirement plans (including 401(k) plans) for tax exempt and government employers.

403(b) and 457 Retirement Plans

This brochure outlines features of 403(b) and 457 retirement plans in an easy-to-read chart.

403(b) PLANS are adopted by public and private schools, colleges, universities, churches, public hospitals, and charitable entities tax exempt under section 501(c)(3) of the Internal Revenue Code (IRC).

457 PLANS are deferred compensation plans described in the IRC section 457. They are available to certain state and local governments and non-governmental entities that are tax exempt under IRC 501.

Common errors found in the operation of 403(b) plans include:

- Excess IRC 402(g) contributions, which includes violating the 15-year catch-up rule limitations.
- Excess IRC 415 contributions.
- Plan loans that violate IRC 72(p).
- Hardship distribution failures.
- Common violations include: failure to make required payments when due resulting in default of the entire loan, poor documentation, and loans from multiple vendors that in the aggregate exceed the IRC 72(p) limits.
- Generally, the sum of elective deferrals and employer contributions cannot exceed the greater of $41,000 or 100% of includible compensation for 2004.
- Common violations include: inadequate documentation that the distribution is the result of a financial hardship, and distributions from multiple vendors that in the aggregate exceed the amount needed to relieve the hardship.
This brochure outlines features of 403(b) and 457 retirement plans in an easy-to-read chart.

403(b) PLANS are adopted by public and private schools, colleges, universities, churches, public hospitals, and charitable entities tax exempt under section 501(c)(3) of the Internal Revenue Code (IRC).

457 PLANS are deferred compensation plans described in the IRC section 457. They are available to certain state and local governments and non-governmental entities that are tax exempt under IRC 501.

The amount of salary reduction contributions exceeds the annual dollar limitation ($13,000 for 2004). The excess may be the result of poor internal controls, or failure to aggregate deferrals made to other 403(b) or 401(k) plans. Violations of the 15-year catch-up rule occur when the employee has exceeded the $15,000 lifetime limitation, or when the employee is not employed by an eligible employer.

Excluding eligible employees from participation, usually part-time employees that would qualify to participate. Eligible employees are not given the right to make salary reduction contributions. Employers often misapply eligibility and coverage conditions to employees who are otherwise eligible to make salary reduction contributions under IRC section 403(b)(12).

Common violations include: failure to make required payments when due resulting in default of the entire loan, poor documentation, and loans from multiple vendors that in the aggregate exceed the IRC 72(p) limits.

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- Excess IRC 415 contributions.
- Plan loans that violate IRC 72(p).
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Generally, the sum of elective deferrals and employer contributions cannot exceed the greater of $41,000 or 100% of includible compensation for 2004.

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403(b) PLANS are adopted by public and private schools, colleges, universities, churches, public hospitals, and charitable entities tax exempt under section 501(c)(3) of the Internal Revenue Code (IRC).

457 PLANS are deferred compensation plans described in the IRC section 457. They are available to certain state and local governments and non-governmental entities that are tax exempt under IRC 501.

Common errors found in the operation of 403(b) plans include:

- Excess IRC 402(g) contributions, which includes violating the 15-year catch-up rule limitations.
- Universal availability: IRC 403(b)(12)(A).
- Excess IRC 415 contributions.
- Plan loans that violate IRC 72(p).
- Hardship distribution failures.

The amount of salary reduction contributions exceeds the annual dollar limitation ($13,000 for 2004). The excess may be the result of poor internal controls, or failure to aggregate deferrals made to other 403(b) or 401(k) plans. Violations of the 15-year catch-up rule occur when the employee has exceeded the $15,000 lifetime limitation, or when the employee is not employed by an eligible employer.

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Generally, the sum of elective deferrals and employer contributions cannot exceed the greater of $41,000 or 100% of includible compensation for 2004.

Common violations include: failure to make required payments when due resulting in default of the entire loan, poor documentation, and loans from multiple vendors that in the aggregate exceed the IRC 72(p) limits.

Common violations include: inadequate documentation that the distribution is the result of a financial hardship, and distributions from multiple vendors that in the aggregate exceed the amount needed to relieve the hardship.
### 403(b) and 457 Retirement Plans – Plan Feature Comparison Chart

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<th>COMPLIANCE RESOLUTION FORMATION ACT (EPCRS)</th>
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<tr>
<td>401(k)</td>
<td>• all non-government employers</td>
<td>• common law employees</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>• elective deferrals 402(g) – $13,000 (2004) increasing to – $15,000 (2006) – employer &amp; employee $41,000 or 100% of compensation</td>
<td>no</td>
<td>• 414(c) – $3,000 (2004) increasing to – $4,000 (2005) – $5,000 (2006)</td>
<td>generally, • death • no 5 1/2 • severance from employment • disability</td>
<td>hardship • QDRO (qualified domestic relations order) • yes, same as 401(a) • must satisfy distribution requirements</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>403(b)</td>
<td>• public education employers • 501(c)(9) organizations</td>
<td>• common law employees</td>
<td>• yes for IRS purposes (see DOL rules)</td>
<td>no</td>
<td>no</td>
<td>• elective deferrals 402(g) – $13,000 (2004) increasing to – $15,000 (2006) – employer &amp; employee $41,000 or 100% of includible compensation</td>
<td>• 402(g)(7) catch-up – selected employers – employee must have 15 years of service - limited to lesser of $3,000; $15,000 less previously excluded special catch-up; $5,000 multiplied by years of service minus previously excluded deferrals</td>
<td>generally, • death • no 5 1/2 • severance from employment • disability</td>
<td>hardship • QDRO (qualified domestic relations order) • yes, same as 401(a) • must satisfy distribution requirements</td>
<td>purchase permissible service – government plans in-service • 403(b) to another 403(b) in-service</td>
<td>no</td>
<td>yes</td>
<td></td>
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<tr>
<td>457(b)</td>
<td>• state and local governments • independent contractors</td>
<td>• common law employees</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>• employer &amp; employee – $13,000 (2004) increasing to – $15,000 (2006)</td>
<td>• special 457 catch-up – 5 years prior to the year of normal retirement age – limited to lesser of twice the basic annual limit [$36,000 (2004) increasing to $30,000 (2006)]; or basic annual limit plus under-utilized basic annual limit in prior years</td>
<td>• 414(c) – $3,000 (2004) increasing to – $4,000 (2005) – $5,000 (2006)</td>
<td>• 70 1/2 • severance from employment • disability • unforeseeable emergency • small-in-active accounts • QDRO (qualified domestic relations order) • yes, same as 401(a) • must satisfy distribution requirements</td>
<td>purchase permissible service • government plans 457(b) to another government 457(b)</td>
<td>yes</td>
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<tr>
<td>457(b)</td>
<td>• any 501(c) tax-exempt organization</td>
<td>• select group of management or highly compensated employees • independent contractors</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>• employer &amp; employee – $13,000 (2004) increasing to – $15,000 (2006)</td>
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<td>no</td>
<td>tax exempt 457(b) to another tax exempt 457(b)</td>
<td>yes</td>
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<td>457(f)</td>
<td>• state and local governments • any 501(c) tax-exempt organization</td>
<td>• common law employees • independent contractors</td>
<td>• generally written agreement such as an employment contract</td>
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<td>no</td>
<td>no</td>
<td>• tax exempt when no substantial risk of forfeiture</td>
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<td>all non-government employers</td>
<td>common law employers</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>elective deferrals 403(b)</td>
<td>no</td>
<td>414(c) (2004) increasing to $3,000 (2008)</td>
<td>generally, death 59 1/2; severance from employment; disability</td>
<td>hardship QDRO (qualified domestic relations order)</td>
<td>yes, same as 401(a); must satisfy distribution requirements</td>
<td>yes</td>
<td>yes</td>
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<td>public education employers</td>
<td>501(c)(3) organizations</td>
<td>common law employers</td>
<td>yes, for IRS purposes (see DOL rules)</td>
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<td>elective deferrals 403(b)</td>
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<td>414(c) (2004) increasing to $3,000 (2008)</td>
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<td>special 457 catch-up</td>
<td>yes</td>
<td>414(b)(7) catch-up; employer must have 15 years of service; limited to less than $3,000; $15,000 less previously excluded special catch-up; $15,000 multiplied by years of service minus previously excluded deferrals</td>
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<td>unferrable emergency; small-in-active accounts</td>
<td>purchase permissive service – government plans in-service 403(b) to another 403(b) in-service</td>
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<td>yes</td>
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<td>special 457 catch-up</td>
<td>no</td>
<td>414(b)(7) catch-up; employer must have 12 years of service; limited to less than $3,000; $5,000 less previously excluded special catch-up; $5,000 multiplied by years of service minus previously excluded deferrals</td>
<td>70 1/2; severance from employment; disability</td>
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<td>state and local governments</td>
<td>common law employers</td>
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<td>no</td>
<td>generally, no limit on employer or employee contributions</td>
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<td>generally, • death</td>
<td>• hardship QDRO (qualified domestic relations order)</td>
<td>• yes, same as 401(a) • must satisfy distribution requirements</td>
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<td>no</td>
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<td>457(b) Governmental</td>
<td>• state and local governments • independent contractors</td>
<td>• common law employees</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>• employer &amp; employee – $13,000 (2004) increasing to – $15,000 (2006)</td>
<td>• special 457 catch-up – 3 years prior to the year of normal retirement age – limited to lesser of twice the basic annual limit ($32,000 (2004) increasing to $30,000 (2006)); or basic annual limit plus under-utilized basic annual limit in prior years</td>
<td>• 414(v) – $3,000 (2004) increasing to – $4,000 (2005) – $5,000 (2006)</td>
<td>• 70 1/2 • severance from employment • disability</td>
<td>• unfundable emergency • small-in-active accounts • QDRO (qualified domestic relations order)</td>
<td>• yes, same as 401(a) • must satisfy distribution requirements</td>
<td>purchase permissive service • same government plan 457(b) to another government 457(b)</td>
<td>yes</td>
<td>no</td>
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<td>457(b) Tax-Exempt Organizations</td>
<td>• any 501(c) tax-exempt organization</td>
<td>• select group of management or highly compensated employees • independent contractors</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>• employer &amp; employee – $13,000 (2004) increasing to – $15,000 (2006)</td>
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<td>no</td>
<td>• 70 1/2 • severance from employment • special rules for independent contractors • minimum required distribution • special distribution elections</td>
<td>• unfundable emergency • small-in-active accounts • QDRO (qualified domestic relations order)</td>
<td>no</td>
<td>tax exempt 457(b) to another tax exempt 457(b)</td>
<td>yes</td>
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<tr>
<td>457(f) Government and Tax-Exempt Organizations</td>
<td>• state and local governments • any 501(c) tax-exempt organization</td>
<td>• common law employees • independent contractors</td>
<td>• generally written agreement such as an employment contract</td>
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**Notes:**
- 457(f) plans are permissive plans and may be included in a 403(b) plan or stand alone.
- 457(b) plans are permissive plans and may be included in a 403(b) plan or stand alone.
- 403(b) plans are permissive plans and may be included in a 403(b) plan or stand alone.
- 401(k) plans are permissive plans and may be included in a 403(b) plan or stand alone.

**ELIGIBILITY:**
- All eligible participants must be employees of an eligible employer.
- Eligible employers include:
  - State and local governments
  - Tax-exempt organizations
  - Independent contractors

**CONTRIBUTIONS:**
- Contributions may be elective deferrals.
- Contributions may be non-elective deferrals.
- Contributions may be special rules for independent contractors.

**AGE 50 CATCH-UP CONTRIBUTIONS:**
- Contributions may be limited to lesser of:
  - Twice the basic annual limit
  - Basic annual limit plus under-utilized basic annual limit in prior years

**EXIT CONDITIONS:**
- Employment termination
- Inactive coverage
- Disability
- Death
- Hardship

**DISTRIBUTIONS:**
- Distributions may be made on a tax-free basis.
- Distributions may be made on a tax-deferred basis.
- Distributions may be made on a taxable basis.

**TERMINATION OF PLAN:**
- Plans may be terminated by the plan sponsor.
- Plans may be terminated by the beneficiaries.
- Plans may be terminated by the IRS.

**REVERSION:**
- Plans may revert to the employer.
- Plans may revert to the beneficiaries.
- Plans may revert to the government.

**TRUSTEE-TO-TRUSTEE TRANSFER:**
- Transfers may be made to another plan.
- Transfers may be made to another trust.
- Transfers may be made to another sponsor.

**COMPLIANCE RESOLUTION SYSTEM (EPCRS):**
- Plans must satisfy the requirements of EPCRS.
- Plans may satisfy the requirements of EPCRS.
- Plans may satisfy the requirements of EPCRS on a provisional basis.

**SPONSOR/WRITTEN PLAN DETERMINATION PROTOTYPE BASIC:**
- Plans may be determined by the plan sponsor.
- Plans may be determined by the plan administrator.
- Plans may be determined by the IRS.

---

**Additional Notes:**
- 403(b) plans and 457 retirement plans are permissive plans and may be included in a 403(b) plan or stand alone.
- 401(k) plans are permissive plans and may be included in a 403(b) plan or stand alone.
- 457(f) plans are permissive plans and may be included in a 403(b) plan or stand alone.
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<th>AGE 50 CATCH-UP CONTRIBUTIONS</th>
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<td>any 501(c) tax-exempt organization</td>
<td>select group of management or highly compensated employees</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>special 457 catch-up</td>
<td>no</td>
<td>414(v)</td>
<td>$3,000 (2004) increasing to $4,000 (2005)</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td></td>
<td>any 501(c) tax-exempt organization</td>
<td>independent contractors</td>
<td></td>
<td></td>
<td></td>
<td>$13,000 (2004) increasing to $15,000 (2006)</td>
<td>employer &amp; employee $10,000 or 100% of compensation</td>
<td></td>
<td>$15,000 (2006)</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>457(j)</td>
<td>state and local governments</td>
<td>common law employees</td>
<td>generally written agreement such as an employment contract</td>
<td>no</td>
<td>no</td>
<td>special 457 catch-up</td>
<td>no</td>
<td>414(v)</td>
<td>$3,000 (2004) increasing to $4,000 (2005)</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>yes</td>
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<tr>
<td></td>
<td>any 501(c) tax-exempt organization</td>
<td>independent contractors</td>
<td></td>
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<td></td>
<td>$13,000 (2004) increasing to $15,000 (2006)</td>
<td>employer &amp; employee $10,000 or 100% of compensation</td>
<td></td>
<td>$15,000 (2006)</td>
<td></td>
<td></td>
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</table>

Note: The information provided is a simplified representation of the retirement plans and their associated features and requirements. For detailed and accurate information, please refer to the respective documents or guidelines.
This brochure outlines features of 403(b) and 457 retirement plans in an easy-to-read chart.

403(b) PLANS are adopted by public and private schools, colleges, universities, churches, public hospitals, and charitable entities tax exempt under section 501(c)(3) of the Internal Revenue Code (IRC).

457 PLANS are deferred compensation plans described in the IRC section 457. They are available to certain state and local governments and non-governmental entities that are tax exempt under IRC 501.

The amount of salary reduction contributions exceeds the annual dollar limitation ($13,000 for 2004). The excess may be the result of poor internal controls, failure to aggregate deferrals made to other 403(b) or 401(k) plans. Violations of the 15-year catch-up rule occur when the employee has exceeded the $15,000 lifetime limitation, or when the employee is not employed by an eligible employer.

Excluding eligible employees from participation, usually part-time employees that would qualify to participate. Eligible employees are not given the right to make salary reduction contributions. Employers often misapply eligibility and coverage conditions to employees who are otherwise eligible to make salary reduction contributions under IRC section 403(b)(12).

Generally, the sum of elective deferrals and employer contributions cannot exceed the greater of $41,000 or 100% of includible compensation for 2004.

Common violations include: failure to make required payments when due resulting in default of the entire loan, poor documentation, and loans from multiple vendors that in the aggregate exceed the IRC 72(p) limits.

Common violations include: inadequate documentation that the distribution is the result of a financial hardship, and distributions from multiple vendors that in the aggregate exceed the amount needed to relieve the hardship.

Common errors found in the operation of 403(b) plans include:

- Excess IRC 402(g) contributions, which includes violating the 15-year catch-up rule limitations.
- Universal availability: IRC 403(b)(12)(A).
- Excess IRC 415 contributions.
- Plan loans that violate IRC 72(p)(1).
- Hardship distribution failures.