

403(b) PLANS

An overview of the facts and benefits

A 403(b) plan is a type of retirement plan, much like a 401(k) plan, that can be offered by non-profit organizations, governmental employers, and churches. Eligible employers generally include certain charitable organizations, as defined by Section 501(c)(3) of the Internal Revenue Code, as well as public schools, universities, and “steeple” churches.

Here are some aspects of 403(b) plans that make them unique compared to 401(k) plans:



ERISA plans

Most 403(b) plans are subject to ERISA, which affords the plan and its participants some protections **and** some requirements, like an annual 5500 filing and various participant notices and disclosures. However, some types of 403(b) plans are exempt from ERISA.



Universal availability

In a 403(b) plan, all employees, with limited exception, must be permitted to make elective deferral contributions to the plan. Employees cannot be required to meet an age or service requirement first.



No ADP testing

403(b) plans are not subject to ADP testing, so all employees can defer as much as they want without impacting other employees. ACP testing will apply if the plan has a matching contribution, unless it satisfies an ACP testing safe harbor.



No top-heavy testing

Top-heavy testing is not a requirement of 403(b) plans.



Limited investment options

403(b) plans offer investments either in annuity contracts or custodial accounts (mutual funds). Employees cannot be given the option to use self-directed brokerage accounts or invest in real estate or life insurance.





Non-ERISA 403(b) plans

403(b) plans that are **not** subject to ERISA include the following:

- Governmental plans, including state or local entities and public schools
- Church plans, unless the plan sponsor elects to be covered by ERISA
- Non-profit employer plans that meet certain requirements. In these plans:
 - Only employee elective deferrals are allowed (pretax or Roth); no employer contributions are permitted.
 - The employer's involvement is minimal and does not include discretionary determinations (such as approval for hardships or loans).
 - The plan's service provider handles all administration of the plan; the employer simply withholds and submits employee deferral contributions.

403(b) church plans

Church plans are those sponsored by a "steeple" church or a qualified church-controlled organization (QCCO). A steeple church is a place of worship, whereas a QCCO is a separate entity that is controlled by a church and meets specific requirements.

Church plans are not subject to ERISA and many of the IRC requirements of 403(b) plans. They are not subject to universal availability, coverage or nondiscrimination testing, or minimum vesting rules. This means the church can cover whoever they want and contributions can be made in discretionary amounts to various participants.

EGPS can help

EGPS has a team of retirement plan experts who specialize in designing and administering these plans. We understand your needs are unique and we will help you tailor your plan to meet your objectives and reach your goals. Contact us to learn more. We're here to help!