

## 403(b) Plan

# Coverage and Nondiscrimination Requirements for Employer Contributions (Other than Matching Contributions)

### Worksheet 5B – Determination of 403(b) Status

**Instructions** – All items must be completed. A “Yes” answer generally indicates a favorable conclusion is warranted, while a “No” answer indicates a problem exists. Use the space on the worksheet to explain any “No” answer. If the plan is not required to address a particular item, the question related to that item should be answered “N/A”.

The technical principles in this worksheet may be changed by future regulations or guidelines

Name of plan

I. Applicability	Plan Reference	Yes	No	N/A
a. Is the plan or employer described in (i) or (ii) below				
i. Is the plan a governmental plan under 414(d) that is maintained by a State or local government or political subdivision thereof (or agency or instrumentality)? If “Yes”, skip the rest of this worksheet				
ii. Is the employer maintaining the plan a church as defined under 3121(w)(3)(A) or a qualified church-controlled organization (QCCO) as defined under 3121(w)(3)(B)? If “Yes”, skip the rest of this worksheet  <b>Note:</b> If the employer is a non-QCCO you should continue this worksheet.				
b. Is the plan sponsor not in category I(a)(i) or (ii) above and does the plan provide employer contributions other than matching contributions? If “Yes”, continue with this worksheet				

Explain any "No" answers in this section

II. Coverage	Plan Reference	Yes	No	N/A
a. With respect to contributions other than elective deferrals, does the plan include a fail-safe provision for correction of failures to satisfy the coverage requirement of 410(b)				
i. Does the fail-safe language state exactly how the testing will be done and how the correction will be implemented, with no discretion for the employer in the implementation of the correction				
ii. Does the fail-safe language provide that participants' rights are fixed as of the last day of the relevant plan year and that no other part of the plan may override these rights or take them away  <b>Note:</b> fail-safe language is optional. If there is no fail-safe language, answer “N/A”. If the fail-safe language is inadequate, answer “No”.				

Explain any "No" answers in this section

III. Matching and After-Tax Employee Contributions	Plan Reference	Yes	No	N/A
a. If the Plan offers matching or after-tax employee contributions, complete Worksheet 11A with respect to such contributions				

Explain any "No" answers in this section

IV Employer Contributions Other Than Matching Contributions	Plan Reference	Yes	No	N/A
a. Does the contribution formula satisfy the design-based uniform allocation safe harbor formula If "No", go to section IV(c). If it uses a permitted disparity formula complete IV(b).				
b. Permitted Disparity. Is this a designed-based safe harbor plan that provides for a disparity in the rate of employer contributions (and forfeitures) allocated to participants that favors highly compensated employees intended to satisfy 401(l) If "Yes", complete this part. If "No", do not complete this part.				
i. Is the integration level under the plan a uniform dollar amount not in excess of the taxable wage base in effect at the beginning of the plan year				
ii. Are the base contribution percentage and the excess contribution percentage under the plan the same for all participants				
iii. Is the excess contribution percentage no greater than twice the base contribution percentage				
iv. Is the difference between the excess contribution percentage and the base contribution percentage no greater than the maximum permitted disparity				
v. Does the plan provide that the overall permitted disparity limit and the cumulative permitted disparity limit will not be exceeded				

Explain any "No" answers in this section

V. Nondiscriminatory Compensation	Plan Reference	Yes	No	N/A
a. If the plan uses a design-based safe harbor allocation formula, does the definition of compensation (for purposes of computing contributions) satisfy 414(s)				
b. Does the plan's definition of compensation satisfy 414(s) for purposes of testing nondiscrimination				

Explain any "No" answers in this section

VI. Benefits, Rights, and Features (BRFs)	Plan Reference	Yes	No	N/A
a. Are BRFs available in a non-discriminatory manner				
b. Are all BRFs not conditioned upon the participant making, or failing to make, elective deferrals				

Explain any "No" answers in this section

VII. Former Participants	Plan Reference	Yes	No	N/A
a. Does the plan provide employer nonelective contributions to be made on behalf of former participants? If "No", skip remainder of worksheet				
b. Does the plan provide employer contributions for former participants on a nondiscriminatory basis				
c. Does the former employee NOT have the option to elect to receive this money in cash instead of depositing it to their 403(b) account				
d. Is the includible compensation calculated per the method described in 1.403(b)-4(d)(1)  <b>Note:</b> Review the "Limitations" Worksheet 6A for rules imputing "includable compensation" for such period to ensure that it is done correctly.				
e. Is the post-severance contribution limited to the earlier of participant's date of death or five years following the end of the year the participant left employment				

Explain any "No" answers in this section