

403(b) Plan

Nondiscrimination Requirements for Matching Contributions and Employee After-Tax Contributions

Worksheet 11A – 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 employer has not requested a determination as to a particular item, and 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. Does the plan provide for				
i. Employer matching contributions				
ii. Voluntary or mandatory employee after-tax contributions? or				
iii. Allocation of forfeitures on the basis of a participant's elective contributions If answer is “Yes” to any of the above, continue this section to determine whether this worksheet is applicable. If “No”, stop here and do not complete the rest of this worksheet.				
b. Is the plan				
i. A governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof); or				
ii. Maintained by a church (as defined in section 3121(w)(3)(A)) or QCCO (as defined in section 3121(w)(3)(B)) If “Yes”, do not complete the remainder of this worksheet, because these plans are not subject to 401(m).				

Explain any "No" answers in this section

II. Coverage (Complete Worksheet 5B, Form 15417-C)	Plan Reference	Yes	No	N/A
a. Does the plan satisfy the coverage requirements with respect to matching and employee contributions				

Explain any "No" answers in this section

III. Matching Contributions	Plan Reference	Yes	No	N/A
<p>a. Does the plan specify how the nondiscrimination requirements of 401(m) will be met</p> <p>If by matching contributions satisfying the 401(m)(11) safe harbor, complete Section IV below.</p> <p>If by matching contributions satisfying the 401(m)(12) (QACA) safe harbor, complete Section V below.</p> <p>If by satisfying the ACP test, complete Sections VI and VII below.</p>				

Explain any "No" answers in this section

IV. Safe Harbor Matching Contributions under 401(m)(11)	Plan Reference	Yes	No	N/A
<p>a. If the plan intends to be a ACP safe harbor plan, does it provide at least one of the following</p>				
<p>i. The safe harbor basic matching formula (100% match of the first 3% of compensation deferred, plus 50% match of the next 2% of compensation deferred)</p>				
<p>ii. A safe harbor enhanced matching formula (provides at least as much as basic formula at every level), or</p>				
<p>iii. A safe harbor nonelective contribution</p>				
<p>b. Does the plan provide that</p>				
<p>i. Matching contributions are not made with respect to after-tax employee contributions or elective contributions that in the aggregate exceed 6% of the employee's compensation</p>				
<p>ii. The rate of matching contributions does not increase as the rate of employee contributions or elective contributions increases, and</p>				
<p>iii. At any rate of employee contributions or elective contributions, the rate of matching contributions that would apply with respect to any HCE who is an eligible employee is no greater than the rate of matching contributions that would apply with respect to an NHCE who is an eligible employee and who has the same rate of employee contributions or elective contributions</p>				
<p>c. Are restrictions on employee contributions or elective contributions limited to those permissible under 1.401(m)-3(d)(6)</p>				
<p>d. If the plan provides for discretionary matching contributions, does the plan provide that such discretionary matching contributions may not, on behalf of any employee, in the aggregate exceed an amount equal to 4% of the employee's compensation</p>				
<p>e. Are matching contributions taken into account for a plan year under the ACP test safe harbor in accordance with the allocation and timing rules of section 1.401(m)-2(a)</p>				
<p>f. Does the plan allow elective contributions to be made following a hardship distribution made on or after January 1, 2020</p>				
<p>g. Are other requirements applicable to the ACP test safe harbors met, including satisfying the aggregation and disaggregation rules, as described in Pub 7335 (Explanation No. 12 Section 401(k) Requirements)</p> <p>Note: ADP testing is not applicable to 403(b) plans. However, the ACP safe harbor incorporates some requirements of the ADP safe harbors.</p>				

IV. Safe Harbor Matching Contributions under 401(m)(11)	Plan Reference	Yes	No	N/A
h. Does the plan provide that safe harbor matching contributions must be made on behalf of all NHCEs who are eligible employees and who make elective contributions? If the plan provides safe harbor nonelective contributions, does the plan provide those must be made on behalf of all eligible NHCEs Note: Safe harbor contributions must be made without regard to conditions such as hours of service worked during the year or employment on the last day of the year.				
i. Does the plan contain the appropriate restrictions on distributions of safe harbor matching and nonelective contributions and earnings				
j. Were safe harbor provisions adopted before the start of the plan year and does the plan provide the safe harbor requirements will be in effect for the entire 12-month plan year and if a short plan year does it meet the requirements of 1.401(m)-3(f)				
k. Does the plan use an allowable definition of compensation for purposes of determining compliance with safe harbor contribution amounts and limitations				
l. Does the plan (i) permit after-tax employee contributions or (ii) permit matching contributions that fail to satisfy the ACP test safe harbor? If "N/A," skip this question and Sections VI and VII below. If "Yes," the plan must apply the regular ACP test to these employee contributions and matching contributions, taking into account the special rules for the ACP test (see Section VI below)				

Explain any "No" answers in this section

Complete this section only if the plan provides automatic employee elective deferrals and for satisfaction of the ACP test through the QACA provisions. If the plan meets the requirements of this Part V and does not provide for after-tax employee contributions, do not complete items VI - VIII because section 401(m) is satisfied. The rules for satisfying the QACA ADP test safe harbor (including notice and contribution requirements) apply to a 403(b) plan that uses the QACA safe harbor to satisfy the ACP test safe harbor under 401(m)(12).

V. Qualified Automatic Contribution Arrangements (QACAs) (complete only if the plan contains QACA provisions)	Plan Reference	Yes	No	N/A
a. If the plan intends to be a ACP safe harbor plan, does it provide at least one of the following				
i. The safe harbor basic matching formula (100% match of the first 1% of compensation deferred, plus 50% match of the next 5% of compensation deferred), or				
ii. A safe harbor enhanced matching formula (provides at least as much as basic formula at every level), or				
iii. A safe harbor nonelective contribution formula				
b. With respect to matching contributions, does the plan, Provide that (1) matching contributions are not made with respect to after-tax employee contributions or elective contributions that in the aggregate exceed 6 percent of the employee's compensation, (2) the rate of matching contributions does not increase as the rate of employee contributions or elective contributions increases, (3) at any rate of employee contributions or elective contributions, the rate of matching contributions that would apply with respect to any HCE who is an eligible employee is no greater than the rate of matching contributions that would apply with respect to an NHCE who is an eligible employee and who has the same rate of employee contributions or elective contributions and (4) restrictions on employee contributions or elective contributions are limited to those permissible as described above in Section IV(c)? If not, the regular ACP test applies to these matching contributions				

V. Qualified Automatic Contribution Arrangements (QACAs) (complete only if the plan contains QACA provisions)	Plan Reference	Yes	No	N/A
c. If the plan provides for discretionary matching contributions, does the plan provide that such discretionary matching contributions may not, on behalf of any employee, in the aggregate exceed an amount equal to 4 percent of the employee's compensation? If the answer to this is "No," the plan fails to satisfy the ACP test safe harbor for a plan year, and the regular ACP test applies				
d. Does the plan (i) permit after-tax employee contributions or (ii) permit matching contributions that fail to satisfy the QACA ACP test safe harbor? If "Yes," the plan must apply the regular ACP test to these employee contributions and matching contributions				
e. Are matching contributions taken into account for a plan year under the QACA ACP test safe harbor in accordance with the allocation and timing rules of section 1.401(m)-2(a)				
f. Does the plan allow elective contributions following a hardship distribution made on or after January 1, 2020				
g. Are other requirements applicable to both the QACA ADP and ACP test safe harbors met, including satisfying the aggregation and disaggregation rules				
h. Does the plan provide QACA safe harbor contributions are subject to the applicable withdrawal restrictions				
i. Are QACA safe harbor contributions made on behalf of each NHCE vested after no more than 2 years of service				
j. Does the definition of compensation for QACAs comply with 1.401(k)-6, which incorporates 1.414(s)-1				

Explain any "No" answers in this section

VI. ACP TEST	Plan Reference	Yes	No	N/A
a. Does the plan provide that it will satisfy the ACP test, if applicable? If "N/A," skip this section VI and Section VII				
b.				
i. Does the plan either include the actual contribution percentage test set forth in section 401(m)(2)(A); or incorporate the test by reference				
ii. Does the plan provide whether it is using the prior or current year testing method				
c. Does the plan, for purposes of the ACP test				
i. If using the prior year method, specify whether the ACP test for the first year will be calculated using 3% or the first year ACP as the ACP for eligible NHCEs				
ii. Take into account the actual contribution ratios of all eligible employees				
iii. Take the proper contributions into account				
iv. Treat contributions made under plans that are aggregated for purposes of section 401(a)(4) or 410(b) as made under a single plan				
v. Aggregate all plans under which a highly compensated employee (HCE) is eligible to make employee contributions or receive matching contributions for purposes of the HCE's actual contribution ratio; and				

VI. ACP TEST	Plan Reference	Yes	No	N/A
vi. Determine the ACPs of the HCEs and of all other eligible employees using the relevant plan year				
d. Are employee and matching contributions available on a nondiscriminatory basis				

Explain any "No" answers in this section

VII. Corrections to ACP Test Provisions	Plan Reference	Yes	No	N/A
a. If the plan is using the current year testing method, does it provide that in the event it would otherwise fail the ACP test the employer will make qualified nonelective contributions (QNECs) in order to satisfy the test? (If "No," check N/A)				
b. Does the plan provide a mechanism by which employee and/or matching contributions of the highly compensated employees in excess of the amount allowed in the test in VII a. ("excess aggregate contributions") may be distributed or, if forfeitable, forfeited? (If "No," check N/A)				
c. If the answer to the preceding question is "Yes"				
i. Is the amount of the excess aggregate contributions to be distributed to highly compensated employees (or, if forfeitable, forfeited) determined using the "ratio leveling method"? Are distributions or forfeitures of excess aggregate contributions determined using the "dollar leveling method"				
ii. Does the plan properly determine income to be distributed or forfeited				
iii. If the plan will distribute matched employee contributions, will it also forfeit the corresponding matching contributions				
iv. Will the distribution be made after the end of the plan year for which the excess aggregate contributions were made, and no later than 12 months following the end of the plan year				
d. If the answer to a. and b. is "N/A," does the plan contain provisions that will ensure that the ACP test is always satisfied				

Explain any "No" answers in this section

VIII. Qualified Nonelective Contributions (QNECs) (Complete if the terms of the plan provide that QNECs are to be treated as matching contributions for the purposes of the ACP test)	Plan Reference	Yes	No	N/A
a. Are the QNECs				
i. Immediately vested, without regard to a participant's age and service				
ii. Distributed only under the distribution rules (other than hardship) applicable for elective contributions under a qualified cash or deferred arrangement (CODA)				
b. Are QNECs treated as matching contributions only if the conditions described in section 1.401(m)-2(a)(6) are satisfied Note: Salary reduction contributions under a 403(b) plan cannot be taken into account for purposes of the ACP test.				

Explain any "No" answers in this section

IX. Definition of Highly Compensated Employee/Compensation	Plan Reference	Yes	No	N/A
a. Does the plan define highly compensated employee in accordance with section 414(q)				
b. For this definition does the plan				
i. Define determination year, lookback year, compensation, and, if applicable, top-paid group; and				
ii. Apply the aggregation rules of section 414				
c. Does the plan define compensation and specify the period used to determine an employee's compensation for purposes of the ACP test				

Explain any "No" answers in this section