

Section 403(b) Compliance Check for Higher Education

Glossary

The glossary below provides definitions of terms in the 403(b) Compliance Check for Higher Education. In general, the definitions are intended to track those under the Internal Revenue Code and Regulations covering 403(b) tax sheltered annuity plans.

403(b) plan	A special type of deferred compensation arrangement available to employees of: 501(c)(3) tax-exempt organizations, public school systems, cooperative hospital service organizations, Uniformed Services University of the Health Sciences, public school systems organized by Indian tribal governments; and certain ministers.
After-tax Roth 403(b) deferral election	An elective contribution under a 403(b) salary deferral plan (to the extent permitted under the plan), designated irrevocably by the employee at the time of the deferral as a designated Roth contribution. This after-tax deferral election is in lieu of all or a portion of the pre-tax elective contributions (standard deferral amount) the employee is otherwise eligible to make under the plan. A Roth 403(b) deferral is treated by the employer as not excludible from the employee's gross income and is maintained in a separate Roth 403(b) deferral account.
Collective bargaining agreement	An explicit employment contract negotiated through good faith bargaining by a labor union and employers who employ the union members (collectively bargained employees) and is typically renegotiated periodically.
Common law employee	In general, an employee NOT leased from an outside organization whose services (what is done and how it is done) are controlled by the employer. Even if the employer gives the employee freedom of action, that employee is still considered a common law employee. What matters is that the employer has the right to control the details of how the common law employee performs the services. For a discussion of facts that indicate whether an individual providing services is an independent contractor or employee see IRS Publication 15-A.
Employer contributions	In general, employer contributions are not made pursuant to an employee's salary reduction agreement. Employer contributions may be in varying amounts at the annual discretion of the employer, in a fixed percentage, or tied to employee elective deferrals (matching). Employer contributions also include employee contributions made under a one time irrevocable salary reduction agreement made at initial eligibility for plan participation (mandatory contribution).
Independent contractor	Generally individuals who follow an independent trade, business, or profession in which they offer their services to the public (such as lawyers, contractors, subcontractors, and auctioneers). Independent contractors are generally not employees. However, whether such people are considered to be employees or independent contractors depends on the facts in each case. The general rule is that an individual is an independent contractor if the employer (for whom the

	services are performed), has the right to control or direct only the result of the work and not the means and methods of accomplishing the result. For a discussion of facts that indicate whether an individual providing services is an independent contractor or employee see IRS Publication 15-A.
Indian tribal government	The governing body of any tribe, band, community, village, OR group of Indians, OR (if applicable) Alaska Natives, as determined by the Secretary to exercise governmental functions.
Leased employee	Any person who is not a common law employee of a given organization who provides services to that organization under an agreement with a leasing company. Such a person performs services under the organization's primary direction or control on a substantially full-time basis for a period of at least 1 year.
One time election to participate in a governmental plan	For purposes of this Questionnaire this election refers to employees of a governmental entity (State college or university), including Indian tribal governments, that make a one time election to participate in a governmental retirement plan instead of the 403(b) plan.
Part time employee	An employee who for the initial 12 month period beginning with employment is reasonably expected to work less than 1,000 hours. For each plan year (or if the plan provides, each subsequent 12 month period measured from the date employment commenced) the employees worked fewer than 1,000 hours in the preceding 12 month period (look back year).
Residency program	A program offered to doctors who have graduated from medical school and seek instruction in a chosen specialty.
Salary reduction agreement	Any direct or indirect election (or modification of an earlier election) by an employee to have the employer either — (A) Provide an amount to the employee in the form of cash (or some other taxable benefit) that is not currently available; or (B) Contribute an amount to a trust, or (C) provide an accrual or other benefit, under a plan deferring the receipt of compensation.
Written plan document	A written defined contribution plan, which in both form and operation satisfies 403(b) and contains all material terms and conditions for eligibility, benefits, applicable limits, available contracts, and the time and form of benefit payment.