

**403(b) vs 401(k)**

	<b>403(b) ERISA Title I Plans</b> (with Employer Contributions)	<b>401(k) Plan</b> (includes profit sharing options)
<b>Who Can Establish?</b>	Non-profit organizations exempt under IRC Section 501(c)(3) (i.e., churches, hospitals, foundations) and public educational organizations.	Corporations, Sub-Chapter S, Self-Employed, Sole Proprietorships, Partnerships, Non-Profit.
<b>ERISA coverage</b>	If the plan provides any contributions other than employee deferrals, it is subject to ERISA.	Subject to ERISA.
<b>Written Document</b>	Required, starting in 2009. Summary Plan Description required.	Required. Summary Plan Description also required.
<b>Maximum Eligibility Requirements</b>	The option to defer must be offered to all eligible employees, except (a) certain student employees and (b) employees who work less than 20 hours per week and are expected to work less than 1,000 hours per year. This is known as the Universal Availability rule. For employer contributions, the plan may exclude employees by class, as long as the coverage requirements are passed. A waiting period and age requirement may be applied for employer contributions.	Generally, must be offered to all employees at least 21 years of age who worked at least 1,000 hours in a previous year. (Two-year eligibility requirement permitted in profit sharing component, but with immediate vesting.) (Excluding some of these employees subjects the plan to special coverage tests.) Union employees can be excluded.
<b>Universal Availability</b>	Unlike 401(k) plans, the right to make elective deferrals must be extended to 100% of those individuals (no waiting period or excluded classes for 403(b) deferrals) who are eligible for the Plan.	N/A
<b>Contributors to the Plan</b>	Both employer and employee may contribute.	Both employer and employee may contribute.
<b>Nondiscrimination Testing on Deferrals (ADP test)</b>	Not required.	Required, unless the Employer commits to Safe Harbor design.
<b>Nondiscrimination Testing on Matching Contributions (ACP test)</b>	Required ACP test, unless the Employer commits to Safe Harbor design.	Required ACP test, unless the Employer commits to Safe Harbor design.
<b>Nondiscrimination Testing on Employer Non-matching contributions</b>	Must pass 401(a)(4) and coverage testing; but many plans use automatically approved allocation methods.	Must pass 401(a)(4) and coverage testing; but many plans use automatically approved allocation methods.
<b>Contributions</b>	Employee pre-tax (and Roth if the plan permits). Employee can elect how much to contribute pursuant to a salary reduction agreement. The employer can make additional contributions, including possible matching contributions, as set by plan terms.	Employee pre-tax (and Roth if the plan permits). Employee can elect how much to contribute pursuant to a salary reduction agreement. The employer can make additional contributions, including possible matching contributions, as set by plan terms.
<b>Contribution Limits- Employee</b>	The lesser of 100% of compensation or \$18,000 (for 2016).	The lesser of 100% of compensation or \$18,000 (for 2016).
<b>Catch-Up Contributions for Workers Over 50</b>	An additional \$6,000 (for 2016) above and beyond other limits described above.	An additional \$6,000 (for 2016) above and beyond other limits described above.

<b>Special 15 Years of Service Catch-Up</b>	Some employers can permit participants with 15 years of service to defer an additional \$3,000 per year, subject to a lifetime max of \$15,000.	Not available.
<b>Contribution Limits -- Employee &amp; Employer Combined</b>	Contributions per participant must not exceed the lesser of 100% of compensation or \$53,000 (for 2016).	Contributions per participant must not exceed the lesser of 100% of compensation or \$53,000 (for 2016).
<b>Permitted Investments</b>	Can only use (a) annuity contracts purchased from insurance companies or (b) custodial accounts invested solely in mutual funds. (No brokerage accounts)	Must use a trust; and investment options include annuity contracts, mutual funds, stocks, bonds, real estate, and even some non- publicly traded securities.
<b>Are Loans Available?</b>	Yes	Yes
<b>Vesting</b>	Employee salary deferrals are immediately 100% vested. Employer contributions may vest over time according to plan terms: immediate, cliff, or graded.	Employee salary deferrals are immediately 100% vested. Employer contributions may vest over time according to plan terms: immediate, cliff or graded.
<b>Portability</b>	Distribution from 403(b) may be rolled to qualified plan, 403(b) plan, 457 governmental plan, or IRA	Qualified plan, 403(b) plan, 457 governmental plan or IRA
<b>Form 5500 filing, and Summary Annual Report to participants</b>	Required	Required.
<b>Audit Requirements for Form 5500</b>	Required if over 100 participants	Required if over 100 participants.