

403(b) Plan
Eligibility and Participation
Worksheet 1A – 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.

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

Name of plan

I. 403(b) Employer Eligibility Requirements	Plan Reference	Yes	No	N/A
a. Is the employer an eligible employer under section 1.403(b)-2(b)(8) for purposes of sponsoring a 403(b) plan				
b. Does the plan provide that employees of related employers must be taken into account in determining whether the exclusion from gross income of contributions by an eligible employer under section 1.403(b)-3 applies				

Explain any "No" answers in this section

II. Eligibility of Employees	Plan Reference	Yes	No	N/A
a. Are contributions only made on behalf of common law employees providing service for the employer				
b. Is a participant defined as an individual for whom contributions are currently being made or former employee for whom contributions have previously been made under the plan and who has not received a distribution of his entire benefit under the plan				

Explain any "No" answers in this section

III. Universal Availability Requirement for Elective Contributions	Plan Reference	Yes	No	N/A
a. Is the plan sponsor a church or QCCO? If yes, skip the rest of this worksheet. If the sponsor is a non-QCCO, government, or other tax-exempt entity this section applies				
b. With respect to elective deferrals, except for employees excluded in line (c) below, are all employees of the employer permitted to make elective deferrals if any employee of the employer can make an elective deferral If the plan does not offer elective deferrals, skip this section (and WS 11a, Elective Deferrals for 403(b)).				
c. Does the plan exclude employees from making elective deferrals only as allowed by section 1.403(b)-5(b)(4)(ii)				
d. If the plan excludes employees who normally work less than 20 hours per week, does it determine whether an employee normally works less than 20 hours per week for (1) the first 12-month period of employment and (2) subsequent periods in accordance with the Regulations				

III. Universal Availability Requirement for Elective Contributions	Plan Reference	Yes	No	N/A
<p>e. With respect to the part-time employee exclusion of III(d) above, does the plan provide that once an employee has satisfied the service conditions for the plan for a year, he or she remains eligible to participate even if his or her hours are reduced below the minimum level, that is the Once-In-Always-In Rule (the OIAI rule)? See section 1.403(b)-5(b)(4)(iii)</p> <p>Note: If the plan qualified for operational relief under Notice 2018-95, for failing to comply with the OIAI rule, corrective plan language must have been adopted by June 30, 2020.</p>				
<p>f. Does the plan satisfy the effective opportunity requirement under section 1.403(b)-5(b)(2)</p>				
<p>i. If the plan specifies a time for providing the participants with notice of the right to defer, are the participants given a reasonable period to make their election? Section 1.403(b)-5(b)(2)</p>				
<p>ii. Does the plan provide each employee the opportunity to make (or change) a cash or deferred election to receive cash or have contributions made to the plan at least once during each plan year</p>				
<p>iii. Does the plan provide each employee the right to make deferrals up to the lesser of the limit under the Code (see section 1.403(b)-4(c)) or the limit under the contract with the largest limitation? Section 1.403(b)-5(b)(2)</p>				
<p>iv. Does the plan provide no other rights or benefits provided under the plan are conditioned on employee elective deferrals (other than those listed in 1.401(k)-1(e)(6)(i)(A), (B) and (D))</p>				

Explain any "No" answers in this section

IV. Participation Requirements for Non-Elective Contributions	Plan Reference	Yes	No	N/A
<p>a. If the plan sponsor is a church, QCCO, or governmental entity (e.g. public school) do not complete this section IV</p>				
<p>b. Does the plan have contributions other than elective deferrals? (that is, matching contributions, non-elective (mandatory or discretionary) employer contributions, mandatory or after-tax employee contributions)? If so, complete section C below</p>				
<p>c. 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 Section 410(b)? If so</p>				
<p>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</p>				
<p>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</p>				

Explain any "No" answers in this section