

# 403(b) Tax-Sheltered Annuity Plans



This mini-course on 403(b) Tax-Sheltered Annuity Plans is presented as a conversation between a new employee and a Human Resources representative.

Meet Pam, a teacher who is starting her new job today.

As part of her new employee orientation, Doug from the school's HR department is explaining Pam's employee benefits.

Let's listen in as Doug explains their employer's 403(b) Tax-Sheltered Annuity Plan to Pam.

## **What is a 403(b) Tax-sheltered annuity plan?**

A 403(b) tax-sheltered annuity (TSA) plan is a retirement plan offered by public schools and certain 501(c)(3) tax-exempt organizations.

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DOUG: Now I want to explain how our retirement plan works. Here, we have a 403(b) tax-sheltered annuity plan for our employees.

PAM: What is a 403(b) tax-sheltered annuity plan?

DOUG: It is a retirement plan that can be offered by public schools, like ours, and certain tax-exempt 501(c)(3) organizations.

## What are the benefits of participating in a 403(b) plan?

- Pre-tax salary contributions
- Employer nonelective contributions
- Contributions and their investment earnings are generally not taxed until distributed

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PAM: What are the benefits of participating in this 403(b) plan? Why should I join?

DOUG: Well Pam, a 403(b) plan would allow you to contribute some of your salary to the plan. An employer, like ours, may also contribute to the plan on behalf of an employee. Your pre-tax salary contributions and the employer's nonelective contributions, along with any money that is earned on them, are generally not taxed by the federal government or most state governments until they are distributed.

## **What type of contributions can be made to a 403(b) plan?**

Generally, three different types:

1. Employee pre-tax contributions
2. Employee post-tax  
(designated Roth contributions)
3. Employer nonelective contributions  
(matching, mandatory, or discretionary)

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PAM: What kind of contributions can be made to this plan?

DOUG: Contributions to a 403(b) plan can generally be of three different types.

First, you can make contributions from your pre-tax salary.

Secondly, since our plan allows this, you can also make contributions from your post-tax salary. These are called designated Roth contributions.

Finally, our employer makes nonelective contributions to the plan on behalf of each employee.

## What are designated Roth contributions?

- Employee post-tax contributions
- Kept in a separate designated Roth account
- Generally, designated Roth contributions, along with earnings, distributed tax-free

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PAM: Designated Roth contributions, what are those?

DOUG: Designated Roth contributions are amounts that you contribute to the plan from your post-tax salary. These contributions are kept for you in an account that is separate from any of your pre-tax salary contributions and employer nonelective contributions. This account is called a designated Roth account. These contributions also grow tax free in the plan. You don't pay income tax on them or their earnings when they are distributed to you when you retire, because you already paid the income taxes on those dollars.

**What is the maximum amount an employee can contribute by salary reduction (or a designated Roth contribution) to a 403(b) plan?**

Generally, the lesser of:

1. 100% of the employee's includible compensation;  
or
2. \$16,500 for 2009 (\$22,000 if age 50+)

Increased limits under a special 15-year rule or age 50+ catch-up contributions

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PAM: What is the maximum amount that I can contribute?

DOUG: Generally, the maximum amount that you can contribute is the lesser of 100% of your includible compensation or \$16,500 for 2009. This \$16,500 dollar limit changes annually by the way.

Before you ask, “includible compensation” generally means the amount that you get from the employer that must be included in your income.

Now, if the plan so provides, people who have at least 15 years of service with the employer or who are 50 or older can make some additional contributions. Our plan allows these additional contributions.

## **Can I decide not to contribute or change the amount I contribute?**

Yes, though your plan may have restrictions on when and how often changes can be made.

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**PAM:** What if I decide not to contribute anything or if I want to change the amount I want to contribute, can I do that?

**DOUG:** You can initially decide not to make any contributions to the plan or indicate you want to contribute a certain amount. If you later change your mind, you can start contributing or change the amount you want to contribute to the plan up to the annual limit. For example, initially, you can indicate you don't want to contribute anything on your salary deferral election form. If you change your mind down the road and want to start contributing, you will need to notify us by completing a salary deferral election form. If you want to change the amount you contribute, provide us with a new salary deferral form. Each employer sets the rules on when and how often this can be done. Our plan allows one change per year and the change becomes effective at the end of the current quarter (every 3 months).

## **What are age based catch-up contributions and does a 403(b) plan have to allow for them?**

Some plans allow employees aged 50 or over to make additional contributions to the plan (up to \$5,500 more in 2009).

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PAM: You mentioned aged based catch-up contributions earlier. What are these? Does a 403(b) plan have to allow employees to make catch-up contributions?

DOUG: Age based catch-up contributions are an additional amount that employees aged 50 or over can make to the plan. The amount of the catch-up contributions usually changes every year. For 2009, this amount is \$5,500. This means that the maximum an employee who is aged 50 or over can contribute to the plan is the lesser of 100% of his or her includible compensation or \$22,000 for 2009; \$16,500 as a regular contribution and another \$5,500 as a catch-up contribution. A plan does not have to allow age based catch-up contributions but luckily our plan does!

## Does an employer have to contribute to the plan on behalf of employees from the employer's own money?

- Employers are not required to make contributions from their own funds.
- Employers **may** make:
  - Matching contributions
  - Mandatory contributions
  - Discretionary contributions

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PAM: So does an employer also have to contribute to the plan on my behalf from their own funds?

DOUG: No, an employer is not required to make any nonelective contributions from their funds on behalf of employees to a 403(b) plan. The employer can, if they choose, make a matching contribution which means they match some percentage of how much you choose to contribute to the plan. Our employer does not make a matching contribution but does make a mandatory contribution to the plan in the amount of 3% of your includible salary. This means that 3% of your includible salary will be contributed to the plan on your behalf on an annual basis regardless of whether you make any contributions to the plan. Since this is not a discretionary contribution, our employer must make this 3% contribution every year rather than only in the years it chooses.

**What is the maximum annual combined amount that can be contributed by the employee and the employer to all the 403(b) plans of a single employer?**

The lesser of:

- The employee's includible salary for most recent year of service  
or
- \$49,000 for 2009 (or more if plan allows special 15-year rule or age 50+ catch-up contributions)

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PAM: Wow, this is sounding better and better. What is the maximum annual amount that can be added to my 403(b) plan account?

DOUG: Well, we already talked about the maximum you can contribute. Now since our employer only maintains one 403(b) plan, the maximum that both our employer and you the employee can contribute annually to the plan is the lesser of \$49,000 for 2009 or your includible compensation for your most recent year of service.

## Can a retired or terminated employee contribute to a 403(b) plan?

Yes, from any regular wages or wages representing accrued but unused vacation or sick days by the **later** of :

1. 2 ½ months from date of severance  
or
2. End of the year of the employee's severance

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PAM: What if I am terminated or after I retire, can I continue to make contributions to the 403(b) plan?

DOUG: Yes, but only from any wages that have not been paid to you or from any wages that are for accrued but unused vacation or sick days. Also, you can only make contributions by the later of 2 ½ months from when you leave or by the end of the year in which you leave.

**Can the employer continue to make contributions on behalf of a retired or terminated employee to a 403(b) plan?**

Yes, the employer can make nonelective mandatory and discretionary contributions for up to five years from the date of severance.

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PAM: Okay, if I am terminated or after I retire, can the employer still make nonelective contributions on my behalf to the plan?

DOUG: Yes, in a 403(b) plan, an employer can only make nonelective mandatory and discretionary contributions, but not matching contributions, and can make these contributions for up to five years from when you leave. However, the plan does not have to provide for these and our plan does not

## Where are my contributions held in a 403(b) plan?

- Annuity contracts  
or
- Custodial accounts, usually referred to as mutual funds

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PAM: How is the money I have in the plan held?

DOUG: You can choose to have the money held in either an annuity contract or in a custodial account. Custodial accounts are usually referred to as mutual funds. I will provide you with the paperwork you should read over before making your decision.

## Can an employee take money out of a 403(b) plan?

Yes (if the plan so provides) if you:

- Attain age 59 ½,
- Sever employment
- Become disabled
- Die or
- Encounter a financial hardship

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PAM: What if I need to access this money before I retire, can I do that?

DOUG: Yes, 403(b) plans may allow you to withdraw money from the plan before you retire when you:

reach the age of 59 ½;

sever employment;

become disabled

die; or

encounter a financial hardship

Now you will have to pay taxes on the amount you withdraw that was not designated Roth contributions. Also, in some cases, like financial hardship distribution, you will likely have to pay an additional 10% early distribution tax on any amount.

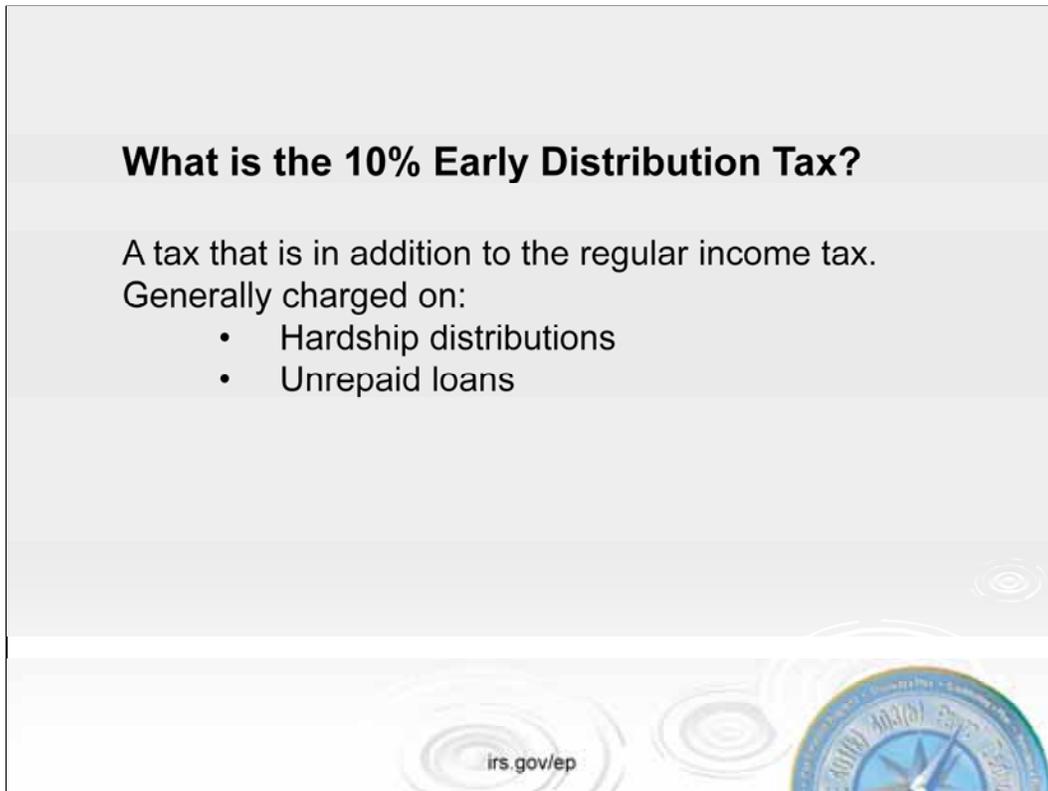
Another way you can access the money in the plan before you retire is through loans from the plan.

## What is the 10% Early Distribution Tax?

A tax that is in addition to the regular income tax.

Generally charged on:

- Hardship distributions
- Unrepaid loans



PAM: What is this 10% early distribution tax?

DOUG: It is an additional tax charged if you withdraw money from the 403(b) plan before you reach the age of 59 ½. So, for example, if you take a financial hardship distribution, you will have to pay income tax and this additional 10% early distribution tax on the taxable amount of the distribution. Another example is if you take a loan from the plan and don't repay that loan, the unpaid loan amount is generally considered taxable income and may be subject to this additional 10% early distribution tax.

## Can a 403(b) plan make loans?

Yes, if allowed under the terms of the plan. Restrictions may include:

- May only borrow greater of \$10,000 or 50% of account balance (maximum of \$50,000)
- Must repay within five years (generally)
- Must pay interest on the loan
- May be taxable and subject to 10% early distribution tax if not repaid

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PAM: Okay, so I may be able to borrow the money I have in the plan?

DOUG: Yes, some 403(b) plans like ours allow you to borrow from the money you have in the plan. There are some restrictions. For example, you can only borrow the greater of \$10,000 or 50% of what you have in the plan, but in no case more than \$50,000. You have to pay interest on the amount borrowed, and most loans have to be repaid within five years. If the loan is not repaid, it is treated like you took the money out early from the plan and you may have to pay income taxes on the money and maybe even that 10% additional early distribution tax I mentioned earlier.

## Can a 403(b) plan make a hardship distribution?

Yes if allowed under terms of the plan:

- Must encounter financial hardship
- Considered taxable income
- Subject to 10% early distribution tax

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PAM: Now what is a hardship distribution?

DOUG: Some 403(b) plans like ours allow you to withdraw funds from a 403(b) if you experience a financial hardship and have no other resources available.

A hardship distribution may generally be made for:

un-reimbursed medical expenses for you, your spouse, and/or your dependents;

making a down payment on the purchase of a primary residence for yourself;  
or

paying tuition and fees for higher education needs

Now a hardship distribution is taxable income and you also have to pay that additional 10% early distribution tax I talked about earlier on the amount withdrawn.

## **What happens to an employee's 403(b) plan account if he or she switches jobs?**

- Roll over to new employer's 403(b) or 401(k) plan
- Move to an IRA
- Leave it in the plan
- Receive a distribution

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PAM: What happens to the money I have put into the plan if I switch jobs?

DOUG: If you switch jobs, you have several options: you can roll over the money into your new employer's 403(b) or 401(k) plan; roll it into your IRA; leave it where it is, especially if you like your investment choices; or take a lump sum payment but if you take a lump sum before you turn 55, you will not only have to pay income taxes on the amount but also may end up paying an additional 10% early distribution tax.

## How are benefits paid from the 403(b) plan to a retired employee?

Depending upon what the plan provides, benefits may be paid in the form of:

- An annuity (monthly payment)  
or
- A lump sum

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PAM: Now I keep putting money into the plan and then I retire. How are my benefits paid to me when I retire?

DOUG: When you retire, you have a choice under our plan as to how benefits are paid to you. This choice is affected by the type of investment you choose. For example, you can choose to have benefits paid to you in the form of an annuity. This means you get a monthly payment of a certain amount for a period that you choose. This period can be for the term of your life or the joint lives of you and your beneficiary. Alternatively, you can have the benefits paid to you in a lump sum.

## **What happens to an employee's 403(b) plan if he or she dies before retiring?**

It is distributed to your named beneficiary or beneficiaries.

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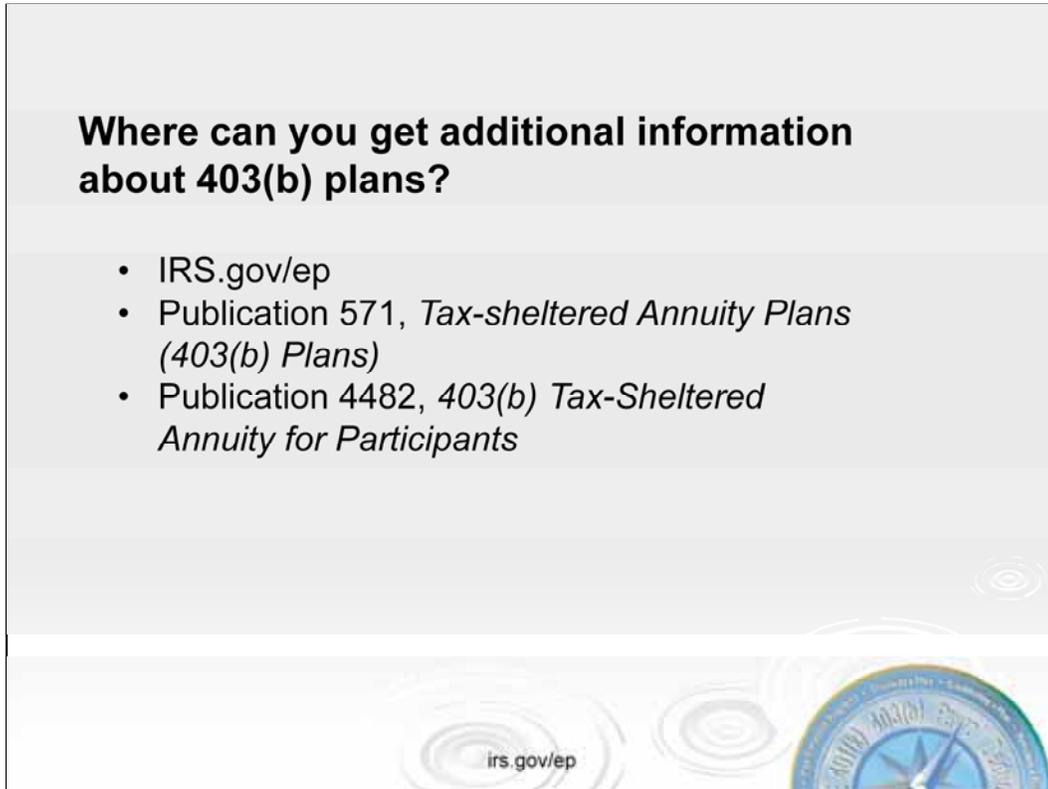


PAM: What happens to the amount I have in the plan if I should pass away before I retire?

DOUG: You will need to fill out a beneficiary designation form when you start participating in the plan. You can name one or multiple beneficiaries and they inherit any amount you have in the plan.

## Where can you get additional information about 403(b) plans?

- IRS.gov/ep
- Publication 571, *Tax-sheltered Annuity Plans (403(b) Plans)*
- Publication 4482, *403(b) Tax-Sheltered Annuity for Participants*



PAM: Hey Doug, you have done a wonderful job explaining all this to me. What if I have any follow-up questions though, where can I get more information about 403(b) plans?

DOUG: The IRS has a great website, [www.irs.gov](http://www.irs.gov). You can go to their site, click on Retirement Plans Community, then look on the left side of the screen for Types of Plans, click on this and you will see a link for 403(b) plans.

The IRS also puts out several publications specifically about 403(b) plans. There is Publication 571 and Publication 4482 that come to mind.

Of course, you can always come back and ask me any additional questions you may have about our plan.