

§ 1.403(b)-0

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Thus, if the balance to the credit of a deceased employee under all annuity contracts provided under an annuity plan becomes payable to two payees, the capital gains treatment is applicable provided the “total amounts” payable are received by or includible in the gross income of both payees within the same taxable year. However, if the “total amounts” payable are made available to each payee and one elects to receive his share in cash while the other makes a timely election under section 72(h) to receive his share as an annuity, the capital gains treatment does not apply to either payee.

(5) For purposes of determining whether the total amounts payable to an employee have been paid within one taxable year, the term “total amounts” includes amounts under a plan which are attributable to contributions on behalf of an individual while he was self-employed in the business with respect to which the plan was established. Thus, the “total amounts” payable are not paid within one taxable year if amounts remain payable which are so attributable.

(6) The term “total amounts” does not include any amount which has been placed in a separate account for the funding of benefits described in section 401(h). Thus, a distribution under a qualified annuity plan may constitute a distribution of the total amounts payable with respect to an employee even though amounts attributable to the funding of section 401(h) medical benefits as defined in paragraph (a) of § 1.401-14 are not so distributed.

(c) The provisions of this section are not applicable to any amounts paid to a payee to the extent such amounts are attributable to contributions made on behalf of an employee while he was a self-employed individual in the business with respect to which the plan was established. For the taxation of such amounts, see § 1.72-18. For the rules for determining the amount attributable to contributions on behalf of an employee while he was self-employed, see paragraphs (b)(4) and (c)(2) of such section.

[T.D. 6500, 25 FR 11681, Nov. 26, 1960, as amended by T.D. 6676, 28 FR 10143, Sept. 17, 1963; T.D. 6722, 29 FR 5073, Apr. 14, 1964]

§ 1.403(b)-0 Taxability under an annuity purchased by a section 501(c)(3) organization or a public school.

This section lists the headings that appear in §§ 1.403(b)-1 through 1.403(b)-11.

§ 1.403(b)-1 General overview of taxability under an annuity contract purchased by a section 501(c)(3) organization or a public school.

§ 1.403(b)-2 Definitions.

- (a) Application of definitions.
- (b) Definitions.

§ 1.403(b)-3 Exclusion for contributions to purchase section 403(b) contracts.

- (a) Exclusion for section 403(b) contracts.
- (b) Application of requirements.
- (c) Special rules for designated Roth section 403(b) contributions.
- (d) Effect of failure.

§ 1.403(b)-4 Contribution limitations.

- (a) Treatment of contributions in excess of limitations.
- (b) Maximum annual contribution.
- (c) Section 403(b) elective deferrals.
- (d) Employer contributions for former employees.
- (e) Special rules for determining years of service.
- (f) Excess contributions of deferrals.

§ 1.403(b)-5 Nondiscrimination rules.

- (a) Nondiscrimination rules for contributions other than section 403(b) elective deferrals.
- (b) Universal availability required for section 403(b) elective deferrals.
- (c) Plan required.
- (d) Church plans exception.
- (e) Other rules.

§ 1.403(b)-6 Timing of distributions and benefits.

- (a) Distributions generally.
- (b) Distributions from contracts other than custodial accounts or amounts attributable to section 403(b) elective deferrals.
- (c) Distributions from custodial accounts that are not attributable to section 403(b) elective deferrals.
- (d) Distribution of section 403(b) elective deferrals.
- (e) Minimum required distributions for eligible plans.
- (f) Loans.
- (g) Death benefits and other incidental benefits.
- (h) Special rule regarding severance from employment.

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§ 1.403(b)-7 *Taxation of distributions and benefits.*

- (a) General rules for when amounts are included in gross income.
- (b) Rollovers to individual retirement arrangements and other eligible retirement plans.
- (c) Special rules for certain corrective distributions.
- (d) Amounts taxable under section 72(p)(1).
- (e) Special rules relating to distributions from a designated Roth account.
- (f) Certain rules relating to employment taxes.

§ 1.403(b)-8 *Funding.*

- (a) Investments.
- (b) Contributions to the plan.
- (c) Annuity contracts.
- (d) Custodial accounts.
- (e) Retirement income accounts.
- (f) Combining assets.

§ 1.403(b)-9 *Special rules for church plans.*

- (a) Retirement income accounts.
- (b) Retirement income account defined.
- (c) Special deduction rule for self-employed ministers.

§ 1.403(b)-10 *Miscellaneous provisions.*

- (a) Plan terminations and frozen plans.
- (b) Contract exchanges and plan-to-plan transfers.
- (c) Qualified domestic relations orders.
- (d) Rollovers to a section 403(b) contract.
- (e) Deemed IRAs.
- (f) Defined benefit plans.
- (g) Other rules relating to section 501(c)(3) organizations.

§ 1.403(b)-11 *Applicable date.*

- (a) General rule.
- (b) Collective bargaining agreements.
- (c) Church conventions.
- (d) Special rules for plans that exclude certain types of employees from elective deferrals.
- (e) Special rules for plans that permit in-service distributions.
- (f) Special rule for life insurance contracts.
- (g) Special rule for contracts received in an exchange.

[T.D. 9340, 72 FR 41140, July 26, 2007]

§ 1.403(b)-1 **General overview of taxability under an annuity contract purchased by a section 501(c)(3) organization or a public school.**

Section 403(b) and §§ 1.403(b)-2 through 1.403(b)-10 provide rules for the Federal income tax treatment of an annuity purchased for an employee by an employer that is either a tax-exempt entity under section 501(c)(3) (relating

to certain religious, charitable, scientific, or other types of organizations) or a public school, or for a minister described in section 414(e)(5)(A). See section 403(a) (relating to qualified annuities) for rules regarding the taxation of an annuity purchased under a qualified annuity plan that meets the requirements of section 404(a)(2), and see section 403(c) (relating to nonqualified annuities) for rules regarding the taxation of other types of annuities.

[T.D. 9340, 72 FR 41141, July 26, 2007]

§ 1.403(b)-2 **Definitions.**

(a) *Application of definitions.* The definitions set forth in this section are applicable for purposes of § 1.403(b)-1, this section and §§ 1.403(b)-3 through 1.403(b)-11.

(b) *Definitions*—(1) *Accumulated benefit* means the total benefit to which a participant or beneficiary is entitled under a section 403(b) contract, including all contributions made to the contract and all earnings thereon.

(2) *Annuity contract* means a contract that is issued by an insurance company qualified to issue annuities in a State and that includes payment in the form of an annuity. See § 1.401(f)-1(d)(2) and (e) for the definition of an annuity, and see § 1.403(b)-8(c)(3) for a special rule for certain State plans. See also §§ 1.403(b)-8(d) and 1.403(b)-9(a) for additional rules regarding the treatment of custodial accounts and retirement income accounts as annuity contracts.

(3) *Beneficiary* means a person who is entitled to benefits in respect of a participant following the participant's death or an alternate payee pursuant to a qualified domestic relations order, as described in § 1.403(b)-10(c).

(4) *Catch-up amount* or *catch-up limitation* for a participant for a taxable year means a section 403(b) elective deferral permitted under section 414(v) (as described in § 1.403(b)-4(c)(2)) or section 402(g)(7) (as described in § 1.403(b)-4(c)(3)).

(5) *Church* means a church as defined in section 3121(w)(3)(A) and a qualified church-controlled organization as defined in section 3121(w)(3)(B).

(6) *Church-related organization* means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A).