



457(b) Retirement Plans

457(b) plans are very similar to [401\(k\)s](#) and [403\(b\)s](#) but are available only to U.S. government employees and employees of certain nongovernmental tax-exempt U.S. employers, such as public schools and universities.

457(b)s vs. 401(k)s and 403(b)s

457(b) plans are similar to 401(k)s and 403(b)s, with the following major exceptions:

Withdrawal penalties: Assets in 457(b) accounts are not charged a 10% penalty for withdrawal before age 59 1/2.

Special catch-up provision: 457(b) plans also offer a unique catch-up provision. If you're within three years of retirement (as defined by your specific plan), you can double your usual catch-up contribution amounts, under certain conditions.

Multiple plans: Most employers who offer 457(b) plans also qualify to offer 401(k) or 403(b) plans. If you're an employee of such a company, you can contribute up to the maximum contribution limits of *both* plans. In addition, if you're over age 50, you can contribute the special additional catch-up amount into both your 403(b) *and* 457(b) plans.

457(b) plans are deferred compensation plans that allow eligible employees to set aside a portion of their salary on a before-tax basis, for the purpose of saving for retirement. The plans can also accept employer contributions.

Similar to other deferred compensation plans, such as 401(k)s and 403(b)s, the 457(b) plan allows participants in public plans to defer federal and (in many cases) state and local income taxes on contributions until these funds are withdrawn. Participants in private plans will generally pay federal and state income taxes when funds are made available to them.

Public vs. Private Plans

These plans can be either elective (employee contributions) or non-elective (employer contributions). Both public and private 457(b) plans are most frequently structured as voluntary employee plans, i.e., the employee voluntarily takes a reduction in current salary and the employer promises to pay a deferred benefit in the future. This design is known as a "salary reduction" or "elective deferral" plan.

The 457(b) private plan is for a select group of management or highly compensated employees within an institution. The employer determines this select group of employees.

Solutions for Usage

457(b) Deferred Compensation Plans enable your client to set aside a portion of his or her salary on a before-tax basis, providing an essential supplement to pension plans and Social Security. FICA tax is due on deferrals in private plans and some government plans, including any earnings on those deferrals, until the funds are withdrawn from the account. This applies to public plan

participants only; private plan participants will pay federal income taxes when funds are made available to them.

State and local governments are eligible to establish a 457(b) plan for their employees. More specifically, this includes individual employees of a state (including the District of Columbia), political subdivision of a state, and any agency or instrumentality of a state.

While any employee of a governmental entity can be a participant, tax-exempt organizations that are non-governmental must generally limit participation to a select group of management or highly compensated employees. This is because of the rules under Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"), which are under the jurisdiction of the Department of Labor.

ERISA generally requires that a plan providing retirement benefits to employees must be funded using a trust or annuity contracts. However, the rules of section 457(b) require that such plans be unfunded in order to obtain tax benefits. Therefore, a plan will violate ERISA unless an exception applies. If a tax-exempt employer limits participation to a "top hat" group, i.e., a select group of management or highly compensated employees, then it is exempt from most ERISA requirements.

Section 457(b) plans are not subject to nondiscrimination rules, which are designed to ensure that highly compensated employees do not receive a disproportionate share of the benefits under qualified plans maintained by the employer.

Restrictions and limitations to the unfunded deferred compensation plans maintained by non-governmental tax-exempt organizations are generally for taxable years beginning after December 31, 1986.

Forms and Applications

First, of course, you'll need to find out whether a 457(b) plan is available through your client's employer.

To begin contributing to the plan, your client must authorize his or her employer to reduce their salary by a designated amount, and to direct those amounts to a 457(b) plan account with TIAA-CREF. Your client will need:

- 457(b) Deferred Compensation Plan Enrollment Form (for public institutions)
- 457(b) Deferred Compensation Plan Information Form (for private institutions)
- Transfer/Rollover Authorization to TIAA-CREF (for public institutions only)

Visit the [forms facility](#) transfer forms pull-down menu to download the appropriate transfer form.

Have your client return the application, salary reduction agreement, and (if applicable) the transfer authorization to his or her benefits office. The employer will forward the papers to TIAA-CREF and set up the payroll deduction. A few weeks later your client will receive contracts in the mail.