

Safe Harbor 401(k) Plans

Safe Harbor 401(k) Plans eliminate the need for the annual deferral percentage (ADP) and annual contribution percentage (ACP) test that are normally required in 401(k) plans. These nondiscrimination tests sometimes make it impossible for the highly compensated employees in a plan to defer the maximum amount for which they are eligible. Additionally, a Safe Harbor Plan design may eliminate the need for the top-heavy nondiscrimination test.

THE BENEFITS OF A SAFE HARBOR PLAN DESIGN INCLUDE:

- Fewer complicated compliance tests
- Increased deferral opportunities for the employees
- Key employees may increase their balances without requiring the employer to make additional contributions

CONSIDER A SAFE HARBOR 401(K) PLAN IF YOUR COMPANY:

- Routinely fails the ADP/ACP tests
- Currently has a plan that is top-heavy with low participation

THE SAFE HARBOR PLAN DESIGN REQUIRES:

- The employer to provide one of the following:
 1. A matching contribution of 100% of the first 3% of elective deferrals and 50% of the next 2% of elective deferrals
 2. An employer non-elective contribution of at least 3% of compensation for each non-highly compensated employee eligible to make a salary deferral
- Employer Safe Harbor contributions to be fully vested immediately
- The plan document to include the Safe Harbor provisions

PLAN CONTRIBUTION LIMITS

- For 2024, the salary deferral limit is \$23,000 with a catch-up contribution limit of \$7,500 for those who are age 50 and older
- The maximum overall contribution limit for 2024 is \$69,000 or \$76,500 for participants age 50 and older
- Maximum employer tax-deductible limit on employer contributions is 25% of participant's compensation

WITHDRAWAL RESTRICTIONS

- Safe Harbor contributions may only be withdrawn upon the attainment of age 59½, severance from employment, disability, death, or plan termination. They are not available for hardship distributions.
- Distributions are taxed as ordinary income and may be subject to an early distribution penalty tax of 10%.

ADMINISTRATION

- No ADP or ACP test on salary deferrals or Safe Harbor employer matching contributions
- No top-heavy testing required if the non-elective Safe Harbor contributions are provided
- A 30 to 90-day advanced annual notice must be given to all eligible employees

TAX CREDITS FOR START UP PLANS

The SECURE Act 2.0 provides for tax incentives for small employer plans.

1. A tax credit was created to reimburse small businesses (up to 50 employees) for a portion of the amount of employer contributions made up to \$1,000 per employee. The credit is phased out for employers with 51 to 100 employees. The applicable percentage is 100% in the 1st and 2nd years, 75% in the 3rd year, 50% in the 4th year, and 25% in the 5th year.
2. Plan cost credit was increased from 50% to 100% of administrative costs (plan administration and/or recordkeeping costs) up to an annual cap of \$5,000 for the first three years of the plan.

To learn more about Safe Harbor 401(k) Plans, we invite you to contact the Davenport & Company office nearest you and speak with one of our Financial Advisors.

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