

What is a 401(k) plan?

A 401(k) plan is a qualified retirement plan established by employers to which eligible employees may make salary-deferral contributions on a ROTH and/or pre-tax basis. Employers may make matching or nonelective contributions to the plan on behalf of eligible employees and may also add a profit-sharing feature to the plan. Earnings accrue on a tax-deferred basis.

What is a safe harbor 401(k) Plan?

A safe harbor 401(k) plan is a traditional 401(k) plan with 'safe harbor' provisions. These provisions require the employer to make certain contributions to employees in order to take advantage of the safe harbor status. Because of the required contributions, the plan is not subject to many of the complex rules that apply to traditional 401(k) plans.

What are the benefits of a safe harbor 401(k) Plan?

- Eliminate the need for 401(k) nondiscrimination tests, also known as ADP and ACP testing
- Permit the maximum allowable elective deferrals for matching contributions and HCEs
- Eliminate ADP and ACP test fees, time-consuming data gathering, and test preparation
- Implement safe harbor contributions to also satisfy the top-heavy required contributions for some plans
- Avoid top-heavy contribution requirements, in certain cases

How does a safe harbor 401(k) plan work?

There are two types of safe harbor contributions:

- Safe harbor matching contributions available with or without a qualified automatic contribution arrangement (QACA)
- Safe harbor non-elective contributions available with or without a qualified automatic contribution arrangement (QACA)

Generally, all safe harbor contributions must be 100% immediately vested. In addition, a timely notice that describes the safe harbor provisions and some of the other benefits and features provided under the plan must be provided to employees.

A QACA is a type of automatic enrollment provision. Under the QACA rules, a plan can provide for 100% vesting of safe harbor contributions after 2 years of service, rather than 100% immediate vesting, as required in traditional safe harbor plans.

Safe Harbor Match Options

- Basic safe harbor match: 100% match on deferrals up to 3% of compensation plus 50% match on deferrals above 3% but not more than 5% of compensation, for all eligible non-highly compensated employees
- Enhanced safe harbor match: 100% match on deferrals up to a specified percentage (at least 4% and not greater than 6%) of compensation for all eligible non-highly compensated employees

- QACA safe harbor match: 100% match on deferrals up to 1% of compensation plus 50% match on deferrals above 1% but not more than 6% of compensation for all eligible non-highly compensated employees
- Amending from safe harbor to traditional matching during the year by eliminating or reducing future matching is permitted if:
 - o Plan is amended before the effective date of the reduction or elimination; *and*
 - o Supplemental notice is given to eligible employees explaining consequences of amendment; *and*
- Reduction or elimination of safe harbor matching is effective no earlier than 30 days after supplemental notice is given or the date amendment is adopted, whichever is later; *and*
- Before the elimination or reduction eligible employees are given a reasonable period of time to change their deferral elections; *and*
- The plan amendment states that the ADP/ACP tests will be performed and satisfied for the entire plan year using the current year testing method; *and*
- All other safe harbor requirements are satisfied through the amendment's effective date

Safe Harbor Non-elective Options

- Basic safe harbor non-elective contributions: Contributions equal to at least 3% of compensation for all eligible non-highly compensated employees.
- QACA safe harbor non-elective: Contributions equal to at least 3% of compensation for all eligible non-highly compensated employees, including employees automatically enrolled in the plan.*

*A QACA has several requirements, including automatic increases of salary deferral amounts of 1% each year for each employee automatically enrolled, until an elective deferral rate of at least 6% is reached, but not to exceed a maximum rate of 10%.

