

The Safe Harbor 401(k)

Safe Harbor Plans: an alternative

Employers struggling with 401(k) plans that fail ADP/ACP nondiscrimination testing or top heavy testing have a simple alternative – a safe harbor 401(k) plan. A safe harbor plan is a traditional 401(k) that includes provisions that – when certain requirements are met – eliminate ADP/ACP testing and top heavy testing.

Features of a Safe Harbor Plan

Establishing a safe harbor plan where the only contributions are safe harbor contributions, elective deferrals and rollovers will:

- Enable all employees, including highly compensated employees, to defer the maximum contribution amount to their 401(k) plan
- Generally exempt the plan from top heavy testing, provided the plan meets certain conditions
- Eliminate the need for complicated and time consuming ADP and ACP non-discrimination testing

To adopt a safe harbor plan, an employer must satisfy several requirements, two of which are:

1. Make a required Safe Harbor contribution to eligible employees

The most common safe harbor plan design formulas which must be 100% vested when contributed include:

- Basic Match – 100% match up to 3% of compensation deferred, plus 50% match on the next 2% of compensation deferred.
- Non-elective – 3% of compensation regardless of employee deferral rate.
- Enhanced Match – 100% match up to 4% of compensation deferred, not to exceed 6%.

Plans that also include a qualified automatic contribution arrangement may qualify for a QACA safe harbor which can be subject to a 2-year cliff vesting schedule and a reduced match formula.

2. Notify employees

Employees must receive a required safe harbor notice at least 30 days but no more than 90 days before the beginning of each plan year in which the safe harbor contribution is used to satisfy the ACP test. Your document provider can provide this notification for you to distribute.

The following are simplified illustrations of three safe harbor scenarios. Your situation may vary and the determination of whether a safe harbor is right for your plan must be based on the particular circumstances of your plan.

Scenario 1

This scenario utilizes a safe harbor basic match that is 100% of the first 3 percent of compensation and 50% of the next 2% of compensation deferred.

- Additional catch-up contributions may be made if the participant is age 50 or older
- All participants are immediately 100 percent vested in the non-QACA safe harbor contributions
- All eligible employees who make elective deferral contributions will receive the related safe harbor employer basic match

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	Employee Compensation	Pre-tax Payroll Deferral %	Pre-tax Payroll Deferral	Safe Harbor Match that is 100% of the first 3% of compensation deferred	Safe Harbor Match that is 50% of the next 2% of compensation deferred	Total Contribution
Owner 1	\$155,000	11%	\$17,050	\$4,650	\$1,550	\$23,250
Owner 2	\$92,000	14%	\$12,880	\$2,760	\$920	\$16,560
Employee 1	\$36,000	5%	\$1,800	\$1,080	\$360	\$3,240
Employee 2	\$25,000	4%	\$1,000	\$750	\$125	\$1,875
Employee 3	\$20,000	4%	\$800	\$600	\$100	\$1,500
Employee 4	\$15,000	4%	\$600	\$450	\$75	\$1,125

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Scenario 2

This scenario utilizes a non-elective safe harbor contribution that is 3% of the employee's compensation

- Additional catch-up contributions may be made if the participant is age 50 or older
- All participants are immediately 100 percent vested in the non-QACA safe harbor contributions
- All eligible employees receive a 3 percent fully-vested, non-elective safe harbor contribution

	Employee Compensation	Deferral %	Pre-tax Payroll Deferral	3% Safe Harbor Nonelective Contribution	Total Contribution
Owner 1	\$155,000	11%	\$17,050	\$4,650	\$21,700
Owner 2	\$92,000	14%	\$12,880	\$2,760	\$15,640
Employee 1	\$36,000	5%	\$1,800	\$1,080	\$2,880
Employee 2	\$25,000	4%	\$1,000	\$750	\$1,750
Employee 3	\$20,000	4%	\$800	\$600	\$1,400
Employee 4	\$15,000	4%	\$600	\$450	\$1,050

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Scenario 3

This scenario utilizes a safe harbor enhanced matching contribution that is 100% of the first 4% of the employee's compensation that is deferred.

- Additional catch-up contributions may be made if the participant is age 50 or older
- All participants are immediately 100 percent vested in the non-QACA safe harbor contributions
- All eligible employees who make elective deferral contributions will receive the related safe harbor employer enhanced match

	Employee Compensation	Deferral %	Pre-tax Payroll Deferral	4% Safe Harbor Enhanced Match	Total Contribution
Owner 1	\$155,000	11%	\$17,050	\$6,200	\$23,250
Owner 2	\$92,000	14%	\$12,880	\$3,680	\$16,560
Employee 1	\$36,000	5%	\$1,800	\$1,440	\$3,240
Employee 2	\$25,000	4%	\$1,000	\$1,000	\$2,000
Employee 3	\$20,000	4%	\$800	\$800	\$1,600
Employee 4	\$15,000	4%	\$600	\$600	\$1,200

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Voya can help

Voya can help you evaluate whether a safe harbor 401(k) plan is right for your organization. We can assist you with plan design and provide you with sample language for your plan's required safe harbor notice.

Visit Voya's 401(k) InfoCenter Website

Keeping track of legislative updates and the impact they can have on qualified defined contribution plans can be challenging. Our website is your resource for the latest information related to the compliance of your plan. Please visit often at www.voya401kinfocenter.com.

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