How You Benefit from a Safe Harbor 401(k) Plan

Safe Harbor plan designs eliminate the need for annual ADP (Actual Deferral Percentage) and ACP (Actual Contribution Percentage) tests. These tests may limit contributions by highly compensated employees. Depending on a plan's design, the Safe Harbor may also eliminate the need for top heavy tests.

Safe Harbor Plan Benefits May Include:

- Fewer compliance tests
- Increased benefit opportunities for employees such as:
  - Contributions by highly compensated employees (HCEs) up to the maximum allowed by law - as much as $18,500 each year - or if age 50 or older, $24,500 per year
  - Generous employer contributions to eligible non-highly compensated employees.
  - May also allow HCEs to keep all matching contributions made on their behalf

Safe Harbor Plan Design Works Best If Your Company Features:

- A plan that routinely fails ADP/ACP tests (your highly-paid employees have been receiving refunds)
- A top-heavy plan with a low participation rate (you have been forced to make employer contributions)

Safe Harbor Plan Designs Require One of Three Methods:

Basic Safe Harbor: The employer matches 100% of the first 3% of elective deferral by each employee and 50% of the next 2% deferred. An employee must contribute to receive the safe harbor match.

Enhanced Matching Safe Harbor: Employer safe harbor matching contributions of 100% of the first 4% of elective deferrals by each employee. An employee must contribute to receive the safe harbor match.

Non-Elective Safe Harbor: Fully vested 3% of compensation is contributed to all eligible employees.

Safe Harbor Plans Also Require:

- Participant safe harbor notice before each safe harbor plan year.
- Plan document provision allowing the plan to utilize a safe harbor method.
- That all matching and non-elective contributions be 100% vested. *This requirement only applies to the safe harbor contributions.*

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Safe Harbor Specific Information

Deadlines:

- Plans, in general, must include a Safe Harbor provision before the first day of any Safe Harbor plan year
- New plans or plans adding a 401(k) feature must have at least a 3-month plan year. New calendar year plans must be established by October 1
- A 30-to-90 day advance annual notice must be given to all eligible employees
- Employer Safe Harbor contribution deadline varies depending upon plan design

Eligibility:

One of these two options is ***required***:

- In general, plans must provide a non-elective Safe Harbor contribution to all eligible employees
- In general, plans must provide a matching Safe Harbor contribution to all eligible employees who make a 401(k) salary deferral
- The plans existing eligibility requirements must still be met to participate

Contributions:

- 401(k) salary deferral / Roth 401(k) deferrals
- Safe Harbor match or non-elective contribution
- Other employer contributions permitted (*certain limits apply*). However, the plan will then be subject to additional discrimination testing

Plan Contribution Limits:

- $18,500 salary deferral limit, age 50+ catch-up contribution limit is $6,000 for 2018
- Certain additional limits apply to any additional discretionary matching contributions
- Overall contribution limit is the lesser of $55,000 or $61,000 with catch-up contributions for 2018
- Maximum employer tax-deductible limit on employer contributions is 25% of participant compensation

Vesting:

- Participant salary deferral and Safe Harbor employer contributions are immediately 100% vested
- Vesting schedule may be used for other non-safe harbor employer contributions

Withdrawal Restrictions:

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

Administration:

- Annual pre-plan year employee Safe Harbor notice required
- No ADP or ACP nondiscrimination tests on salary deferral or Safe Harbor employer-matching contributions
- No top-heavy testing required if the employer contributions are limited to Safe Harbor contributions
- No additional administrative costs