

Safe Harbor Contributions

Annual Contributions Required of Safe Harbor 401(k) Plans



This document provides general information about required Employer Contributions to Safe Harbor 401(k) Plans.

Why are these Contributions Required?

Traditional 401(k) Plans are subject to an annual ADP / ACP Test, designed to limit employee contributions (deferrals) for Highly Compensated Employees or HCEs (owners, their family members, and employees above certain salary levels).

Safe Harbor 401(k) Plans are popular because they provide employers an automatic “pass” of the ADP / ACP Tests which can severely limit the contributions HCEs can make. By adopting a Safe Harbor Plan, employers can reasonably project contribution costs while ensuring passage of the ADP / ACP tests without having to refund HCE contributions.

How Does an Employer Adopt a Safe Harbor 401(k) Plan?

Adopt Plan Document - Employers are required to adopt and maintain an Adoption Agreement / Plan Document which specifies the features offered in the plan, including the Safe Harbor provisions.

Annual Notice – Employers are required to distribute an Annual Safe Harbor Notice to Employees.

Fund Safe Harbor Contribution – Employers must commit to and fund a fully vested annual Safe Harbor Contribution.

Safe Harbor Contribution Formulas

Safe Harbor plans choose a contribution formula in their Adoption Agreement / Plan Document. The choices are:

3% Non-elective – The Employer commits to fund a contribution of 3% of compensation for all eligible employees.

Basic Match – The Employer commits to fund a match of 100% on the 1st 3% of compensation

and 50% from 3% to 5%. (The total cost would not exceed 4%).

Enhanced Match – The Employer commits to fund a match that is more generous than the Basic Match. A common Enhanced Match is 100% up to 4% of compensation.

Note - Match Restrictions – Safe Harbor 401(k) Plans always provide ADP Protection. For ACP Protection, the Match may not consider more than 6% of compensation; the rate of match may not increase with compensation; and any discretionary match cost may not be more than 4% of compensation.

Benefits of a Safe Harbor Contribution

In addition to providing an automatic “Pass” of the ADP / ACP test, the safe harbor contribution may also be counted toward Employer Contribution Requirements for Top-Heavy purposes and in the case of the 3 % non-elective contribution, for New Comparability Nondiscrimination purposes.

What is the Due Date for Funding Safe Harbor Contributions?

Safe Harbor 401(k) Contributions are required to be funded by the last day of the following plan year, often December 31. A safer practice is to fund by the Employer’s tax return due date, including extensions, or at least by 30 days later to comply with requirements in Section 415.

Can Contributions be Reduced or Suspended?

Normally a Safe Harbor Contribution is an Employer Commitment. An employer may, however, provide an advance notice that contributions may be stopped (a Maybe Notice). Also, an employer operating at an economic loss may reduce or suspend contributions mid-year by amending his plan and giving a new employee notice. This subjects the plan to ADP / ACP testing, possibly with required refunds.

Please contact JULY at [888.333.5859](tel:888.333.5859) for more information.