

SOLOK vs. ERISA 401(k) Plan

Differences between a SOLOK and ERISA 401(k) Plan, including additional compliance requirements, services needed, and differences in fees



SOLOK Plans are a great savings vehicle for owner-only businesses because they are not subject to ERISA and are simpler and less expensive to maintain than ERISA plans.

When an owner-only business has non-owner employees that meet the SOLOK plan's eligibility provisions the plan becomes subject to ERISA and must comply with more extensive compliance requirements. To meet these requirements, the plan will need additional plan administration services beyond those of a SOLOK Plan.

This document discusses the additional requirements and actions we recommend to SOLOK sponsors when their companies grow and their plan becomes subject to ERISA.

Additional Compliance Requirements

Below are some of the requirements for ERISA 401(k) plans not applicable to SOLOK plans.

- Non-Discrimination Testing
- ADP / ACP Testing
- Top Heavy Testing
- Coverage Testing
- Complying with Eligibility Provisions
- Annual Participant Notice Requirements
- Form 5500 Filing Requirements
- Contribution Allocation Requirements
- Distribution and Cash-Out Requirements
- Calculation of Vesting Percentages
- Fiduciary Considerations
- Investment Suitability
- Fee Reasonableness

Contribution for Non-Owner Participants

In addition to the above requirements, the employer must allocate employer contributions according to the plan's contribution formula. In a SOLOK plan, each participant is generally required to receive contributions in proportion to

compensation. If the owner is receiving a contribution of 15% to 20% of salary, non-owner participants must also receive the same. Because SOLOK plans are designed with a vesting schedule of 100%, these contributions will be 100% vested immediately when allocated.

Other Considerations

When a SOLOK Plan determines it will have a non-owner employee that meets plan eligibility, we recommend setting up a consulting call with our plan design team to modify the plan so that it is more suitable for a business with non-owner employees. We can help with the following:

- Evaluate whether to continue maintaining the plan and discuss plan termination options
- Review the plan's contribution formula to identify options for reducing costs and maximizing owner contributions
- Evaluate whether the plan should add a Safe Harbor 401(k) provision to simplify testing
- Review and update the plan's vesting provisions to reward long-term employment
- Review and update other features such as distributions, loans, and cash-out provisions
- Review and evaluate plan's investment options and recordkeeping platform

Fees for Additional Services

ERISA plans are subject to a different fee schedule than SOLOK because of the additional services needed. Annual fees will range from \$1,500 to \$3,000 depending on the number of participants, the plan design, and the recordkeeping options chosen. We will provide a custom fee quote upon request.

Next Steps

Please contact JULY at [888.333.5859](tel:888.333.5859) if you believe your plan may become subject to ERISA. We will be happy to assist with the next steps.