

401(k) Plans



TRADITIONAL 401(K) PLANS

- All 401(k) plans are Profit Sharing Plans that include a Cash or Deferred Arrangement (CODA) feature.
 - A CODA is an arrangement that allows participants to elect to contribute on a pre-tax basis to a retirement plan through payroll deduction rather than receive the compensation in cash. The contribution is called an “elective deferral.”
 - Elective deferrals are included in wages for social security (FICA), Medicare, and federal unemployment taxes (FUTA).
 - Elective deferral contributions are always fully vested.
 - The employer can make employer contribution, matching contributions for a participant who makes an elective deferral, or both. The employer can change these amounts each year.
- Annual nondiscrimination testing is required each year for employee elective deferrals and employer matching contributions to prevent the plan from discriminating in favor of highly compensated employees.
 - The 2008 elective deferral limit is \$15,500.
 - Participants who will become age 50 (or older) during a calendar year can make a catch-up contribution. For 2008, the limit for catch-up contributions is \$5,000.

ROTH 401(K) ELECTION

- Participants may designate all, or a portion, of their 401(k) elective deferral as Roth 401(k) contributions.
- Roth contributions are currently taxable (withheld from employees’ payroll with after-tax dollars).
- After-tax contributions and earnings grow completely tax free.
- A qualified distribution from a designated Roth account (including earnings) is not includible in gross income.
- A qualified distribution is one which is made after a 5-taxable-year period of participation, and is either:
 - made on or after the employee attains age 59½
 - made on or after the employee’s death, or
 - is attributable to the employee being disabled.

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Employee Benefit Services

SAFE-HARBOR 401(K) PLANS

- Safe-Harbor 401(k) plans are exempt from nondiscrimination testing as long as the plan is operated in compliance with the safe-harbor rules and the plan's provisions.
- Eligible employees must receive written notice of rights and obligations under the safe-harbor plan at least 30 days, but not more than 90 days before 1) the effective date of the plan, 2) the beginning of each plan year, 3) the participant's entry date if it differs from the first day of the plan year.
- A newly established plan (or a conversion from a non-401(k) plan) must function as a safe-harbor 401(k) plan for at least three months. A conversion of a traditional 401(k) plan to a safe-harbor 401(k) plan (including the employee written notice) must be accomplished before the beginning of the plan year.
- The plan document must specify if the employer will contribute either a matching contribution or a non-elective contribution:
- Matching Contribution – dollar-for-dollar match on each eligible employee's elective deferral, up to 3 percent of the employee's compensation, and a 50 cents-on-the-dollar match on elective deferrals between 3 percent and 5 percent of the employee's compensation.
- Non-elective Contribution – 3 percent of each eligible employee's compensation.
- The non-elective safe harbor contribution is often combined with a cross-tested profit sharing allocation for optimal results, especially when the employer is contributing more than the required safe-harbor and the plan is "top-heavy".
- Employer safe harbor contributions are fully vested when made.

Participant	HCE	Profit Sharing Plan / SEP		Safe-Harbor 401(k) Plan 2008 Limits			
		Prorata Compensation	Employee Contribution	Employer Deferral*	Optional 3% Safe Harbor	Cross Tested	Total
Owner	Yes	\$230,000	\$46,000	\$15,500	\$6,900	\$23,600	\$46,000
Employee A	Yes	\$110,000	\$22,000	\$11,000	\$3,300	\$0	\$14,300
Employee B	No	\$50,000	\$10,000	\$5,000	\$1,500	\$1,000	\$7,500
Employee C	No	\$40,000	\$8,000	\$4,000	\$1,200	\$800	\$6,000
Employee D	No	\$30,000	\$6,000	\$600	\$900	\$600	\$2,100
Totals		\$460,000	\$92,000	\$36,100	\$13,800	\$26,000	\$75,900

% to Owner (including deferrals)	50%
Total Contribution to Owner	\$46,000
Contribution to Employees	\$46,000

61%
\$46,000
\$29,900

*Catch-up contribution of \$5,000 available for participants age 50 or older.