



Qualified Planning

Maximum Total Deductible Contribution to Both Defined Benefit and Profit Sharing/401(k) Plans

Generally, employers that adopt both a defined benefit plan and a defined contribution plan (including a profit sharing plan with or without 401(k) salary deferral contribution features) are able to make the maximum contribution to both plans. However, that's not always true. In some cases, there is a lower maximum deduction that may be applicable to certain employers on the total combined contribution to both plans.

Closely held businesses often want to adopt and maintain both a defined benefit plan and a defined contribution plan in order to maximize the company's total deductions and to maximize retirement contributions. Aside from traditional defined benefit plans, fully insured plans and cash balance plans are also types of defined benefit plans. While there are also several types of defined contribution plans, profit sharing plans and/or 401(k) plans are the more popular types. A defined benefit plan can be designed to provide maximum retirement benefits and a 401(k)/profit sharing plan may allow employees to maximize salary deferral contributions. However, some employers may have defined benefit plans that may not be insured by the Pension Benefit Guaranty Corporation (PBGC). In those cases, the total combined deductible contribution to both a defined benefit plan and a defined contribution plan (including a profit sharing/401(k) plan) may be limited. PBGC insurance may not be available if:

1. the only employee(s) who will be participating in the plan are only the owner/employees (including the spouses, as may be applicable), or

2. the employer is a professional service company (e.g., dentists, doctors, lawyers, public accountants, architects, pharmacists, etc.) with no more than 25 employees.

In those cases, the Internal Revenue Code provides that the employer's aggregate total maximum deductible contribution to a defined benefit plan and a defined contribution plan (including a 401(k)/Profit Sharing plan) *may not exceed the greater of:*

1. 31% of the total compensation of all eligible employee(s) in both plans if the contribution to the defined benefit plan is less than 25% of total compensation; or
2. The sum of the contribution to the defined benefit plan, and the contribution to the defined contribution plan (***excluding any employee salary deferral contributions to the 401(k) portion of the plan***) not exceeding 6% of the total compensation of all eligible employee(s) if the contribution to the defined benefit plan is more than 25% of the total compensation.

Please note that for qualified plan purposes including in the determination of deductible contributions, the maximum compensation that may be used for any plan participant, may not exceed the maximum amount allowed by the Internal Revenue Service for a given year. For 2013, the maximum annual compensation that may be considered for a plan participant may not exceed \$255,000.



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The foregoing rule may be illustrated by the following example:

Assume a professional service practice with 3 employees including the owner and spouse:

- Owner, 52 years old
- Owner's Spouse, 42 years old
- Employee, 40 years old

The employer is considering adopting a profit sharing plan to which employee 401(k) contributions may be made, and a defined benefit fully insured plan with a normal

retirement age of 62, designed to provide the maximum retirement benefit primarily for the owner/employee and the maximum deductible contribution. Based on some specific plan designs, as shown below, the annual contribution to the defined benefit fully insured plan for all participants of \$262,425 exceeds 25% (i.e., 77.18%) of total compensation. Consequently, the total maximum employer contribution to the profit sharing plan for all participants (consisting of a profit sharing contribution and a 3% safe harbor contribution) is limited to 6%.

Employee	Annual Compensation	Annual Contributions				
		Fully Insured 412(e)(3) Plan	Profit Sharing/401(k) Plan			
			Profit Sharing	Safe Harbor	Total ER Contribution	EE 401(k)
Owner	\$ 255,000	\$ 227,941	\$ 9,800	\$ 7,650	\$ 17,450	\$ 17,500
Spouse	\$ 45,000	\$ 20,142	\$ 313	\$ 1,350	\$ 1,663	\$ 17,500
Employee	\$ 40,000	\$ 14,342	\$ 87	\$ 1,200	\$ 1,287	\$ 0
TOTAL	\$ 340,000	\$ 262,425	\$ 10,200	\$ 10,200	\$ 20,400	
% of Compensation		77.18%			6%	

If the employer was not a professional service company, the employer would have been able to contribute the \$262,425 to the defined benefit fully insured plan plus a contribution to the profit sharing/401(k) plan of up to 25% (i.e., \$85,000) instead of just 6% of the total compensation of all participants, for a total combined deductible contribution of \$347,425.

Before implementing a qualified retirement plan, make sure you consult with your Guardian Financial Representative who can help you wade through the intricacies and complexities of these rules, as well as to ensure that the most appropriate plan is implemented based upon your goals for your business as well as for yourself. Please also consult with your Guardian Financial Representative if you have any questions concerning this document.

The foregoing information regarding estate, charitable and/or business planning techniques is not intended to be tax, legal or investment advice and is provided for general educational purposes only. Neither Guardian, nor its subsidiaries, agents or employees provide tax or legal advice. You should consult with your tax and legal advisor regarding your individual situation.

Lanny D. Levin, CLU, ChFC
LANNY D. LEVIN AGENCY, Inc.
 1751 Lake Cook Road suite 350
 Deerfield, IL 60015
 (847) 597-2444
 lanny_levin@levinagency.com
 GEAR #2013-8386

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