

## Frequently Asked Questions

### **When must 401(k) deferrals be deposited into the trust?**

Employers must transmit employee contributions to pension plans within seven days of payday.

### **What is the maximum amount I can contribute?**

Your 401(k) contribution limit is \$19,000 (2019 Index). If you are 50 or older, an additional \$6,000 is allowed. A Defined Contribution plan has a combined individual addition limit from all sources of \$56,000 (2019 Index). If you are 50 or older \$62,000 is allowed. However, several non-discrimination tests may reduce your limits if you are an owner or key employee of a business with other employees. Defined Benefit plans allow for greater limits but the limits differ based on your particular census information.

### **Who conducts our enrollment meetings?**

Enrollment meetings are set up when your new plan is established or when we take over your plan administration from another TPA. Your plan Consultant along with your investment advisor will be in attendance for the first enrollment meeting. Additional attendance to your enrollment meetings will only be scheduled upon your request.

### **When do you need the completed Year End Kit returned to us?**

If your plan has 401(k) deferrals and is not utilizing Safe Harbor, we must have the completed year end kit returned to us within 1 month after the end of the plan year. Otherwise, we need your information at least 45 days prior to your businesses final tax filing date in order to calculate your employer pension expense deduction and allow you time to make the deposits prior to filing your business tax return.

### **Am I required to report all my employees to you?**

Yes. It is our job to assist you in determining who is eligible to participate in the plan. We also need this information in order to properly test your plan for compliance and complete your form 5500 for you.

### **Why do I have to report the hours each employee worked to you?**

In order to determine whether or not an employee accrues benefits and/or vesting service, we need to know how many hours the employee worked. There are multiple sections where IRS Discrimination testing references hours worked. Many sections of code divides employees into three different groups. Those that work 1,000 hours or more in the course of a year, employees who work 500 – 999 hours in a year and those that work less than 500 hours a year. We need their actual hours in order to place them in the proper group.

### **Do I need a Bond?**

The Employees Retirement Income Security Act (ERISA) of 1974 requires that if you have employees, the fiduciaries (i.e. anyone who has some discretionary authority or control over the plan and its assets) be bonded for at least ten percent (10%) of the assets in your pension and/or profit sharing plan. The Plan is valued at the beginning of the year, with a minimum bond requirement of \$1,000.

### **Will my plan need an independent audit?**

In October 2000, the Department of Labor issued final regulations that could require an independent CPA audit of your plan. In the past, plans with less than 100 participants have been exempt from this audit. For plan years starting after April 17, 2001, your plan will be exempt only by meeting the following requirements:

1. Participants must receive a Summary Annual Report.
2. The Plan must be covered by a fidelity bond in an amount equal to the value of the non-qualifying assets, but not less than 10% of all plan assets. Non-qualifying assets include assets such as trust deeds, limited partnerships and collectibles.

*All one-participant plans will continue to exempt from the audit requirement.*

Since the reporting forms require that we submit information regarding your bond, it is necessary for us to keep a copy on file.

### **I need to change my plan document. What do I do in order to amend my plan?**

Please contact your plan administrator. Plan amendments have various requirements and timing deadlines depending on the nature of the change you are making. It is important that our office assist you.

### **What are the Summary Plan Descriptions/Beneficiary Designation Requirements?**

Each new eligible participant must complete a Beneficiary Designation form and receive a copy of the Summary Plan Description (SPD). If necessary, you may obtain additional copies of the SPD from us at a cost of \$10 each. Penalties have been assessed against companies for the failure to provide plan participants with an SPD.

## **Terms and Definitions**

### **Compensation:**

Compensation for the plan year is defined as compensation while a participant in the plan. For new entrants, compensation is generally defined as earnings from entry into the plan through the plan year end. This compensation is used for allocation and testing purposes and thus important to the overall balance of the plan.

### **Match:**

An employer contribution dependent on an employee 401(k) salary deferral election. The employer may offer a match, to increase participation, which can come under a vesting schedule. For example, \$0.25 per \$1 deferred up to 4% of pay. The match may be discretionary, unless it is also used in order to satisfy Safe Harbor.

### **Top-Heavy Test:**

If your plan is top-heavy (the total of the accounts of all key employees exceeds 60% of the total of the accounts of all employees) you are required to make a minimum contribution to non-key employees equal to the lesser of 3% of compensation or the highest contribution percentage rate for a key employee. You may also contribute the same percent for the key employees. This

contribution will come under the vesting schedule. If the plan is top-heavy a contribution can be avoided if none of the key employees use the 401(k) in that year.

For 2019, key employee is defined as: over 5% owner, a >1% owner with compensation at or above \$150,000, an officer with compensation at or above \$180,000, or a spouse or linear relation.

**Safe Harbor:**

An employer may choose to make a 100% vested contribution (except auto enroll) to the employees to pass the ADP and top-heavy tests. This must include eligible employees who terminate before the end of the year. New plans must be in place for at least 90 days. These options are:

1. 3% contribution to all eligible non-highly compensated employees (may also include highly compensated). 3% may do “double duty” counting as a basis for new comparability plans based on job class. Final notice due 30 days prior to plan year-end.
2. Match non-highly compensated employees \$1 for \$1 up to 3%, plus \$0.50 on the \$1.00 from 3% to 5% (may increase match to \$1 for \$1 up to 6% of pay and include highly compensated). Final notice due 30 days prior to plan year beginning, except for new plans.
3. Automatic Enrollment provision at 6% of compensation over 4 years and a \$1 for \$1 match up to 3.5% with vesting after 2 years. Final notice due 30 days prior to plan year beginning.

**Investments:**

The plans are self-trusted so the employer can choose any legal non-foreign investment. Typically, the employer will control the profit sharing contribution as it comes under the vesting schedule and therefore may not be owned by the employee.

The employees usually control their own 401(k) contribution. Each employee can have their own segregated account where they can obtain their balance at any time as well as trade the account within a menu of funds. Employees should be given the choice of at least four investments, ranging from conservative to aggressive.