

Safe Harbor 401(k) Plans

- **ADP/ACP Safe Harbor 401(k) Plan Defined**

A safe harbor 401(k) plan allows employers to automatically pass certain compliance tests if the plan satisfies specific contribution and notice requirements. Safe harbor plans allow business owners and highly paid employees to maximize their own contributions while reducing some of the limitations typically imposed by IRS compliance testing.

- **Advantages of a Safe Harbor Plan**

Typically, a safe harbor plan is deemed to pass the following IRS compliance testing requirements:

- Actual Deferral Percentage (ADP) Test,
- Actual Contribution Percentage (ACP) Test, and
- Top-Heavy Testing

Employers can deduct the safe harbor contribution amount on their business tax return. Also, employer contributions increase retention of current employees and act as a great recruiting tool for prospective hires.

- **Who May Want to Adopt a Safe Harbor Plan?**

Plans that have trouble passing the ADP / ACP nondiscrimination tests, or plans that are required to make Top Heavy minimum contributions are ideal candidates for adopting safe harbor provisions. Also, businesses whose owners and/or highly paid employees want to be able to maximize their contributions each year may want to consider a safe harbor 401(k) plan.

- **What are the Safe Harbor Contribution Requirements?**

Employers can choose among several safe harbor contribution options. The safe harbor contributions must be immediately 100% vested. (A two-year vesting schedule may be applied to safe harbor automatic enrollment contributions.)

- **Basic Match:**
100% match on the first 3% of compensation deferred, plus a 50% match on the next 2% of compensation deferred.
- **Enhanced Match:**
A matching contribution that is at least as generous as the Basic Match at any level of deferral. The most common Enhanced Matching formula is a 100% match on the first 4% of compensation deferred. The maximum enhanced match is a 100% match on the first 6% of compensation deferred.
- **Non-elective Contribution:**
A non-elective contribution for all eligible employees equal to at least 3% of compensation.
- **Automatic Enrollment with Match Contributions:**
A minimum automatic employee deferral rate of 3% with an automatic increase of 1% per year (up to 6% deferral) and an employer contribution of either:
 - o 3% of compensation, or
 - o 100% match on the first 1% of compensation deferred plus an additional 50% match on the next 5% of compensation deferred.

- **Administrative Requirements of Safe Harbor Plans**

In addition to the usual operational compliance rules, safe harbor 401(k) plans must also:

- Amend their plan document (or adopt a 401(k) plan for the first time) to add the safe harbor provisions. A new plan must be in existence for at least 3 months for the first plan year.
- Notify participants about the safe harbor provisions no less than 30 but no more than 90 days before the start of each new plan year (*the SECURE Act of 2019 added additional flexibility about adding Safe Harbor provision after the plan year has started; contact PCC for more information*).
- Operate as a safe harbor plan for the entire plan year.



**Please note this is just a summary of safe harbor 401(k) plans. Contact PCC for more information.*