

# What is a Safe Harbor 401(k) Plan?



## Safe Harbor 401(k) Plans

*Safe Harbor 401(k) plans are like traditional 401(k) plans, but they offer advantages to companies at risk of failing the ADP Test and ACP Test. Because Safe Harbor Plans are deemed to satisfy these tests, business owners and other highly compensated employees can defer the maximum contribution without risk of corrective distributions caused by low participation from non-highly compensated employees.*

### Plan Design:

Safe Harbor 401(k) plans can be offered with the same flexible features as traditional plans, including eligibility, participant loans, and distribution options. Unlike traditional plans, safe harbor plans **require fully vested** safe harbor contributions. Safe Harbor 401(k) Plans cannot impose an employment condition or hours requirement on the receipt of safe harbor contributions.

### Contribution Options:

Like traditional plans, Safe Harbor 401(k) Plans allow employees and employers to make tax-favored contributions to employee retirement accounts.

- **Employee contributions** Employees can make pre-tax salary deferrals, rollover contributions from IRAs and other qualified retirement plans, and catch-up contributions.
- **Employer contributions** Unlike traditional 401(k) plans, employer contributions are **not** discretionary. Employers **are required** to make fully-vested safe harbor contributions on behalf of employees. Safe harbor contributions can be structured either as safe harbor matching contributions or safe harbor non-elective contributions. In addition to the required safe harbor contributions, employers can elect to make non-safe harbor contributions that are subject to vesting.

### Why Choose a Safe Harbor Plan?

- **Trouble passing ADP/ACP Test:** Unlike traditional 401(k) plans, Safe Harbor 401(k) plans are generally not subject to the ADP Test and ACP Test. This allows highly compensated employees to avoid corrective distributions and to defer the maximum contribution, regardless of participation from non-highly compensated employees.
- **Safe harbor contributions may serve triple duty:** In addition to satisfying the safe harbor requirements, safe harbor contributions can be used to satisfy the top heavy minimum contribution when a plan is top heavy. They can also satisfy the minimum gateway contributions needed to pass the general nondiscrimination test required for new comparability plans.
- **Employee recruitment and retention:** Because Safe Harbor Plans offer **guaranteed** employer contributions that are fully vested, these plans are very attractive to employees and are sure to help with employee recruitment and retention. The IRS requires employers to give a **safe harbor notice** to each eligible participant 30 days prior to the beginning of the plan year in which safe harbor contributions will be given.
- **Tax Savings:** Safe Harbor 401(k) plans offer tremendous tax savings to both employers and employees. Employers receive tax deductions for making contributions, and employee salary deferrals are made before federal income taxes are withheld. All contributions grow on a tax-deferred basis.
- **Great retirement savings tool:** Like traditional 401(k) plans, safe harbor plans are a disciplined and convenient way to help employees save for retirement.