Safe Harbor for your Retirement Plan

What is a safe harbor 401(k) plan?

A safe harbor 401(k) plan is a type of tax-deductible 401(k) plan that provides all employees at a company with a set of minimum contributions made to their individual 401(k) accounts, regardless of their title, compensation, or length of service. The benefit of having a safe harbor 401(k) plan is that it helps companies pass 401(k) non-discrimination testing — one of the safeguards that the IRS puts on 401(k) plans to make sure the plan is benefitting all employees equally.

Requirements of a safe harbor match:

Most 401(k) providers can help you decide which type is the best safe harbor plan for your company by looking at your census and demographics.

There are three different types of safe harbor 401(k) plans you can implement:

- **Elective (basic match):** Company matches 100% of all employee 401(k) contributions up to 3% of their compensation, plus a 50% match of the next 2% of their compensation, OR
- **Non-elective:** Company contributes 3% of each employee's compensation, regardless of whether the employee also makes contributions, OR
- **Elective (enhanced match):** Company matches 100% of all employee 401(k) contributions, up to 4% of their compensation.

Safe Harbor Design Features to note:

- Unlike discretionary matching in 401(k) plans, in which employers can choose a certain vesting schedule, all safe harbor contributions are subject to immediate vesting for all employees. That means employees immediately own 100% of the employer contribution without any sort of time frame imposed on receiving that benefit.
- Companies must commit to the safe harbor contribution on an annual basis. If you currently have a 401(k) plan that is not safe harbor, you will have to wait until the next calendar year to be able to launch a safe harbor plan.
- A new 401(k) plan, whether it's safe harbor or not, can be established at any point in the year.
- The SECURE Act allows you to add safe harbor to an established 401(k) plan at any point in the plan year, but it must be a non-elective safe harbor contribution of 4%, instead of 3% for the year.

Safe harbor deadlines:

- **October 1** is the deadline to launch a new safe harbor 401(k) plan for the current calendar year. For the first year of a new safe harbor plan, the safe harbor plan must in effect for a minimum of 3 months, which is why October 1 is the deadline to add it to your plan.
- **November 1:** There is a 30-day notice that must go out to employees regarding the addition of safe harbor. By letting your provider know about the wish to add this feature by November 1, you give them ample time to amend the plan document and produce the notice for employees.
- **December 1**: Notice to be sent out to all employees letting them know safe harbor will be added for the next plan year.
  - *If you have an existing safe harbor plan* and would like to change the type of safe harbor, this must be decided prior to December 1 so that the notices can be distributed by December 1.
  - *If you do not have a safe harbor plan and you want to add it,* you must amend your plan documents to enact a safe harbor 401(k) plan for the following calendar year.
- **January 1** is the date on which existing 401(k) plans can begin anew as safe harbor 401(k) plans.

Working backwards from these deadlines, we recommend beginning the conversation about adding safe harbor to your 401(k) for the following year by October 1 of the current year.

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