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Plan Ahead to Set Up a Safe Harbor Plan Option

Now is a great time to consider whether your retirement plan could benefit from a safe harbor 401(k) plan design.

Safe harbor plans relieve employers from several nondiscrimination tests in exchange for providing employees with an annual contribution. This testing “safe harbor” benefit is especially useful if your plan often fails the Actual Deferral Percentage (ADP) test, which governs how much various participants can contribute and defer into this plan. If you want to allow your company’s owners and other key employees to defer more into your plan—while providing your workers with a retirement savings incentive—consider a safe harbor option.

Keep in mind that you need to have the safe harbor provisions in place early enough to allow for a 30-day advance notice to be distributed to all plan participants before the start of the next plan year.

A new plan with a safe harbor feature must be in place for at least three months of the first plan year. For example, for a calendar year plan with a December 31 year end, the safe harbor provisions would need to be effective no later than October 1. To fit this timing requirement, the plan needs to be amended by September 30.

Notable safe harbor plan features

- Nondiscrimination tests (ADP, described above, and the Actual Contribution Percentage test (ACP), related to plan sponsor matching contributions) are deemed to pass allowing owners and highly compensated employees to defer more of their compensation.



- If only safe harbor contributions are made, a safe harbor plan automatically satisfies the top-heavy test.
- Participants must be immediately vested in any safe harbor contributions.

Safe harbor contribution options

Employers must make annual contributions under one of the following methods:

- Basic Match Formula: Contributions under this option are allocated only to participants who make employee deferrals. The formula is
 - » 100% match for the first 3% deferred, and
 - » an additional 50% for the next 2% deferred.

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Therefore, the maximum match that any participant receives is 4% of eligible compensation.

An alternative safe harbor match formula is available and can be discussed with your plan consultant.

- 3% Nonelective Formula: This option is allocated to all eligible plan participants regardless of whether they make employee deferral contributions. In many cases, employers don't choose this option because they want to reward those who are deferring some of their compensation into the plan.

Important considerations

- The safe harbor employer contribution isn't a discretionary employer contribution option. Rather, it must be provided each year, along with certain safe harbor notices, unless the plan is amended beforehand to remove the safe harbor language.
- Unique withdrawal restrictions apply for employer safe harbor contributions.

Many safe harbor plan design options are available. We'd be happy to help you determine whether a safe harbor option could enhance your retirement plan. ■

Why Is a Beneficiary Form So Important?

Many people are surprised to learn that a retirement account beneficiary form supersedes what is stated in their will. In some cases, this can result in retirement savings going to the wrong person.

The following frequently asked questions about beneficiary forms are worth reviewing to determine if information should be updated.

Q What is a beneficiary form?

A A beneficiary form directs how a deceased participant's retirement account assets are distributed. Completing beneficiary forms accurately helps avoid problems when a participant dies.

Q When should the form be completed?

A A beneficiary form should be completed at the time of enrollment in the plan. Also, it's important that a form

be completed for **each** retirement plan sponsored by the employer.

Q What are some of the common errors or items not completed on a beneficiary form?

A A participant might not list a contingent beneficiary; however, it's good to name one just in case the primary predeceases the participant.

A married participant might decide to name someone other than their spouse as the beneficiary. In this case, by law, the spouse must agree in writing to not be named on the beneficiary form. A plan representative or notary public must witness the spouse's signature on the written agreement.

Q What can employers consider doing to help participants maintain current beneficiary forms?

A Some optional actions that employers can take include:

- Encouraging employees to review their beneficiary designations annually to assure accuracy
- Following up with participants who don't have a beneficiary on file
- Reminding participants to update their beneficiary designations for life events, such as marriage, divorce, or death

Q What happens if a participant dies and didn't complete a beneficiary form?

A In the absence of a beneficiary form, the plan document dictates how the distribution is paid. Most documents require the spouse to receive the benefit. If there isn't a spouse, the children share the benefit in equal shares, or the distribution will be made to the decedent's estate. Contrary to what a lot of people think, a participant's will doesn't direct how the benefit from a retirement plan is distributed.

Q Should a participant name minor children as beneficiaries?

A A common mistake is naming children under age 18 as direct retirement plan beneficiaries. Minor children may not get the money, even though they're named as the primary or secondary beneficiaries.

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In some states, payment must be made to an adult who has been legally appointed as the guardian of the minor's estate. The minor's parent isn't always automatically a guardian of the minor's estate, and the parent may need to be designated as such by a court.

In other states, payment may be made to a parent or legal guardian if the total assets the minor is receiving are less than a specified dollar amount. In some cases, the only viable option is to hold the assets in an IRA until the minor becomes an adult. Keep in mind that no exception applies for a minor beneficiary who is required to take beneficiary payments.

To avoid the court appointing a guardian other than the one named in the will, a children's trust may be established in the will. The trust can then be named as the beneficiary. This avoids probate, court guardianship proceedings, and allows the participant to determine at what age the children should receive the money.

Another option is to list "my estate" as the secondary beneficiary. The assets of the retirement account are then distributed in accordance with the will, which must specifically address how the retirement account proceeds should be handled.

Protecting families through company retirement plans makes sense, but participants must make sure the designations are documented correctly. Contact a legal or tax advisor with questions about naming retirement plan beneficiaries. ■

Compliance Reminders 3Q2019

The following list highlights some important compliance dates for retirement plan administrators. Please contact your consultant with questions about compliance dates for your plan.

JULY 2019

Due July 15

- **Minimum funding requirements** for defined benefit, money purchase, and target benefit plan years ended October 31, 2018, must be met by July 15 in order to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- **Retirement plan employer contributions** are due in order to be deducted on employer tax returns due to be filed July 15, 2019.
- **Form 5500 Series/8955-SSA** Forms that are on extension are due for the plan year ended September 30, 2018.

Due July 31

- **Form 5500 Series/8955-SSA** Forms are due for the 2018 calendar plan year that aren't on extension.

AUGUST 2019

Due by August 15

- **Minimum funding requirements** for defined benefit, money purchase, and target benefit pension plan years ending November 30, 2018, must be met by August 15 in order to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- **Retirement plan employer contributions** are due in order to be deducted on employer tax returns due to be filed August 15, 2019.
- **Form 5500 Series/8955-SSA** Forms that are on extension are due for the plan year ending October 31, 2018.

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SEPTEMBER 2019

Due by September 3

- **Form 5500 Series/8955-SSA** Forms are due for the plan year ending January 31, 2019, that aren't on extension.

Due by September 15

- **Minimum funding requirements** for defined benefit, money purchase, and target benefit pension plan years ending December 31, 2018, must be met by September 15 to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- **401(k)** plans with a June 30, 2019, plan year end must process corrective distributions for failed nondiscrimination tests to avoid a 10% excise tax.

Due by September 16

- **Retirement plan employer contributions** are due to be deducted on employer tax returns due to be filed September 16, 2019.
- **Form 5500 Series/8955-SSA** Forms that are on extension are due for the plan year ending November 30, 2018.

Due by September 30

- Deadline for the pension plan's enrolled actuary to prepare the funding adequacy related **AFTAP calculation** for a calendar year plan to avoid certain plan level restrictions.
- **Form 5500 Series/8955-SSA** Forms are due for the plan year ending February 28, 2019, that aren't on extension. ■

In the News

We pride ourselves on our expertise in benefit plan administration. In this section, we highlight personalities who have made thought leadership contributions via the media.



Joanne Swerdlin,
Vice President

Joanne Swerdlin discusses how ESOPs can function as a retirement savings vehicle in PLANSponsor's [ESOPs As a Retirement, and Succession, Plan](#). In the article, Joanne notes that a well-designed ESOP with a well-managed repurchase obligation strategy can provide retirement benefits for many "employee owners" over future years—not just the original founders.



Kasey Price,
Head of
Institutional Sales

Kasey Price Discusses the Importance of Delegating to 3(16) Administrators

In a recent PLANSponsor article titled [Plan Defense](#), Kasey Price discusses the importance of delegating tasks to a 3(16) administrator. Among other things, she states that the biggest value in hiring a 3(16) administrator is that it can help the plan to avoid operational failures. Access to this article requires an email address and password. It's free to sign up. ■

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On April 7, 2019, TPA Solutions launched its new go-to-market brand at the National Plan Advisors Association (NAPA) conference in Las Vegas: FuturePlan by Ascensus. The FuturePlan brand allows our sales consultants to communicate the independence, flexibility, expertise, and investments in technology that Ascensus has brought together to create the nation's largest retirement third-party administrator (TPA).

FuturePlan by Ascensus is the nation's largest retirement TPA, combining high-touch local service with the strength and security of an industry leader. A business division of Ascensus, FuturePlan by Ascensus' dedicated team serves more than 44,000 retirement plan sponsors in 47 locations across the country.

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