

# SAFE HARBOR REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

## May Allow a Plan to Satisfy

- ADP/ACP tests
- Top Heavy requirements
- 401(a)(4) for cross-tested plans

## Requirements

- Mandatory employer contribution
- 100% immediate vesting of safe harbor funds (unless automatic enrollment is implemented)
- An annual notice for all plan participants

## TYPES OF SAFE HARBOR CONTRIBUTIONS

### 1. SH Nonelective Contribution

A safe harbor nonelective requires at least a 3% safe harbor contribution to all eligible plan participants. A nonelective contribution is often the most cost-effective option for plans that are top heavy and make additional annual employer contributions.

#### Example

Sheila earns \$50,000. She receives a contribution equal to 3% of her compensation, or \$1500. Sheila receives this contribution even if she isn't deferring.

### 2. Basic SH Matching Contribution

A basic safe harbor matching formula requires a match rate of 100% of employee deferrals up to 3% of compensation plus 50% of employee deferrals between 3% - 5% of compensation, for a maximum match of 4% of eligible compensation.

#### Example

If Sheila earns \$50,000 and defers 4% of compensation, her match would be:

$$\$1500 = (3\% \times \$50,000) \times 100\%$$

$$+ \$250 = (1\% \times \$50,000) \times 50\%$$

$$\$1750 = \text{Total Basic SH Match (which is a total of } 3.5\% \times \$50,000)$$

Note: Only employees deferring will receive a match contribution.

### 3. Enhanced SH Matching Contribution

An enhanced matching formula must also provide a benefit equal to or greater than the maximum allowable basic safe harbor matching contribution (i.e., 4%). For instance, a match equal to 100% of deferrals up to 4% of compensation meets the enhanced safe harbor matching requirements.

#### Example

If the employer chose a match equal to 100% of deferrals up to 4% of compensation, using the same example above, Sheila's match would be:

$$\$2000 = (4\% \times \$50,000)$$

Note: Only employees deferring will receive a match contribution.

# TYPES OF SAFE HARBOR CONTRIBUTIONS

## 4. Qualified Automatic Contribution Arrangement (QACA)

An automatic enrollment feature automatically enrolls any eligible employee that fails to make an affirmative enrollment election in the plan at a specified deferral rate.

### Participant Requirements

A QACA must have a minimum specified automatic contribution percentage that cannot exceed 10% in any year:

**A) Annual Escalated Deferrals**

First Year of Participation: 3%

Second Year of Participation: 4%

Third Year of Participation: 5%

Fourth (and all future) Years of Participation: 6%

**OR**

**B) an employer may require 6% in all years**

### Employer Requirements

Employers must make EITHER a matching contribution or a nonelective contribution:

**A) Matching Contribution of at Least:**

100% of the first 1% deferred, plus 50% of the next 5% deferred (maximum match of 3.5% on 6% deferred)

**OR**

**B) 3% Nonelective Safe Harbor Contribution**

Unlike standard safe harbor plans, the automatic enrollment feature does not require immediate vesting until a participant earns 2 years of vested service.

**Please contact Watkins Ross if you have questions or would like to discuss implementing a safe harbor provision into your defined contribution plan.**