InWest Retirement Solutions

WORK...SAVE...PLAY!
INNOVATIVE SOLUTIONS SINCE 1983

# Safe Harbor 401(k)

## INTRODUCTION

The Small Business Job Protection Act (SBJPA) gave retirement plan sponsors the ability to add safe-harbor provisions to qualified plans. Adoption of safe-harbor provisions allows 401(k) plan sponsors to avoid the actual deferral percentage (ADP) test and the actual contribution percentage (ACP) test for employer contributions. These non-discrimination tests are deemed satisfied if the employer agrees to make certain contributions of behalf of plan participants. In other words, safe-harbor adoption will allow 401(k) participants (including Highly Compensated Employees) to defer up to the maximum IRS limit without fear of non-discrimination test failure.

## SAFE-HARBOR CONTRIBUTION REQUIREMENTS

Employers may choose from three types of contributions to satisfy safe-harbor provisions and receive ADP/ACP test relief. These contributions also satisfy the minimum contribution requirements for Top-Heavy plans.

***Non-Elective Contribution*** – Employer contributes 3% of pay for each eligible employee, without regard to whether the employee actually chooses to make 401(k) deferrals.

***Matching Contribution*** – Employer matches 100% of the first 3% of employee deferrals, plus 50% of the next 2% of employee deferrals. Employers can also elect an enhanced safe-harbor match (i.e. 100% match on the first 4% of employee deferrals).

***QACA Matching Contribution*** – Employer adopts an automatic enrollment feature that satisfies the definition of a Qualified Automatic Contribution Arrangement (QACA).

*Participants become 100% vested in all safe-harbor non-elective and matching contributions as soon as they are made. QACA contributions can be made subject to a 2-year cliff vesting schedule.*

## SAFE-HARBOR DEADLINES

New plan sponsors wishing to adopt safe-harbor must offer the plan for a minimum of three months during its initial plan year. For example, plan sponsors adopting a calendar year plan must establish safe harbor provisions on or before October 1st. Existing plan sponsors wishing to add safe-harbor must amend their plan documents and provide a safe-harbor participant notice at least 30 days before the beginning of the plan year for which safe-harbor is being adopted..

InWest Retirement Solutions

WORK...SAVE...PLAY!

INNOVATIVE SOLUTIONS SINCE 1983

# Safe Harbor 401(k)

## QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT

Plan sponsors can meet Safe-Harbor by adopting an automatic enrollment feature that satisfies the definition of a Qualified Automatic Contribution Arrangement (QACA). The requirements of a QACA are discussed below.

## AUTOMATIC DEFERRAL REQUIREMENTS FOR A QACA

The automatic enrollment percentage under a QACA must be set between 3% and 10% of compensation. If the initial percentage is set at less than 6%, then the initial percentage must be no less than the following minimum percentage requirements:

1) 3% for the period beginning with the first automatic contribution and ending on the last day of plan year following the plan year of the first automatic contribution.
2) 4% during the first plan year following the period described in (1)
3) 5% during the second plan year following the period described in (1) and
4) 6% during any subsequent plan year

For example, if an employee is auto enrolled on 1/1/2017 then his minimum percentage can be set at 3% until 12/31/2018. It must then be increased to at least 4% for 2019, at least 5% for 2020 and at least 6% for 2021 and subsequent years.

**Due to the administrative complexities of increasing plan deferral contributions as described above, we suggest that employers consider setting an initial automatic enrollment percentage at 6% or more.**

## BASIC MATCHING FORMULA REQUIREMENTS FOR A QACA

Under a QACA, the Employer matches 100% of the first 1% of compensation that is deferred by the employee plus 50% of the next 5% deferred by the employee. Thus, the maximum required match is 3.5% of compensation. This compares to the maximum non-QACA Safe-Harbor Match of 4% of compensation.

## VESTING REQUIREMENTS FOR A QACA

Employer matching contributions under a QACA Safe-Harbor must be 100% vested for any employee who has completed at least 2 years of service. This compares to 100% immediate vesting of employer contributions under a non-QACA Safe-Harbor plan.

# New Comparability Profit Sharing

## WHAT IS A NEW COMPARABILITY PLAN?

A new comparability plan is generally a profit sharing plan or a money purchase pension plan in which the contribution percentage formula for one category of participants is greater than the contribution percentage formula for other categories of participants. As with an age-based profit sharing plan, to satisfy the non-discrimination requirements, a new comparability plan is tested under the cross-testing rules.

## WHAT DOES CROSS-TESTING MEAN?

A qualified retirement plan may not discriminate in favor of highly compensated employees with respect to the amount of contributions or benefits. Whether a defined contribution plan satisfies this requirement is generally determined with respect to the amount of contributions. As an alternative, however, a plan may be tested with respect to the equivalent amount of benefits or Equivalent Benefit Accrual Rate (EBAR). As an example, a 50-year old business owner's EBAR would be considerably less than a 25-year old employee's EBAR if they both received the same percentage of pay contribution. Cross-Testing would allow the sponsor to demonstrate that the owner should receive a greater percentage of pay contribution (or the employee a lower percentage) in order to receive an equivalent benefit at retirement.

## WHO SHOULD CONSIDER A NEW COMPARABILITY PLAN?

This design is appropriate for plan sponsors looking to affordably increase business owner or key employee contribution rates. A traditional allocation formula would require every eligible employee to receive a uniform contribution as a percentage of pay. A new comparability formula allows the employer to divide eligible employees into multiple groups and potentially provide a different contribution amount to each group of participants. Some sponsors use this design as an incentive plan, tying company performance goals to plan contribution rates.

A new comparability plan design works best when the group(s) targeted for increased plan contributions are older and better paid than the average plan participant.

**New comparability is often a great addition to a new or existing Safe-Harbor 401(k) Plan.**

InWest Retirement Solutions

WORK...SAVE...PLAY!

INNOVATIVE SOLUTIONS SINCE 1983

# Super Safe Harbor 401(k) Plan

## OVERVIEW

A Super Safe-Harbor 401(k) Plan combines a Safe-Harbor 401(k) Plan design along with a New Comparability Profit Sharing Plan. A Super Safe-Harbor 401(k) Plan often allows the sponsor to target a certain employee (business owner) or group of employees for higher plan contributions.

## SAFE-HARBOR 401(k) PLUS…

We typically use the Non-Elective version of Safe-Harbor that requires the employer to make a 3% of pay contribution to all plan eligible employees. This contribution not only satisfies Safe-Harbor requirements (allowing the Highly Compensated Employees to maximize their personal plan deferrals), it also can be used to pass the non-discrimination testing on a New Comparability Profit Sharing allocation.

## NEW COMPARABILITY PROFIT SHARING

A New Comparability allocation formula allows the sponsor to create multiple employee groupings and potentially give each group a different percentage of salary. These groupings are often determined based on job classification or title.

**This design is appropriate for plan sponsors looking to affordably increase business owner or key employee contribution rates.  Some sponsors use this design as an incentive plan, tying company performance goals to plan contribution.**

InWest Retirement Solutions

# Sample Company USA

## Retirement Plan Illustration for the Plan Year Ending 12/31/2017

## Non-Elective Safe Harbor 401(k) Plan with New Comparability Profit Sharing

| Employee Name | DOB | DOH | Plan Comp | HCE/ Key | Employee[1] Deferral $ | Employee[1] Deferral % | Safe Harbor[2] Non-Elective $ | Safe Harbor[2] Non-Elective % | Discretionary[3] Profit Sharing $ | Discretionary[3] Profit Sharing % | Employer Total $ | Employer Total % | Total Contribution $ | Total Contribution % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Owner | 11/8/60 | 6/1/92 | 270,000 | Y/Y | 24,000 | 8.89% | - | 0.00% | 36,000 | 13.33% | 36,000 | 13.33% | 60,000 | 22.22% |
| Group A Totals | | | 270,000 | | 24,000 | | - | | 36,000 | | 36,000 | | 60,000 | |
| Staff #1 | 4/3/87 | 1/16/12 | 65,000 | N/N | - | 0.00% | 1,950 | 3.00% | 943 | 1.45% | 2,893 | 4.45% | 2,893 | 4.45% |
| Staff #2 | 7/2/88 | 1/15/13 | 38,000 | N/N | - | 0.00% | 1,140 | 3.00% | 551 | 1.45% | 1,691 | 4.45% | 1,691 | 4.45% |
| Staff #3 | 1/10/85 | 5/1/11 | 34,000 | N/N | - | 0.00% | 1,020 | 3.00% | 493 | 1.45% | 1,513 | 4.45% | 1,513 | 4.45% |
| Group B Totals | | | 137,000 | | - | | 4,110 | | 1,987 | | 6,097 | | 6,097 | |
| Company Totals | | | 407,000 | | 24,000 | | 4,110 | | 37,987 | | 42,097 | | 66,097 | |

| Tax Analysis | |
|---|---|
| Total Owner Contribution | 66,097 |
| Estimated Tax Rate | 39.6% |
| Estimated Tax Savings | **26,174** |
| Staff Contribution (Group B) | 6,097 |
| After-Tax Cost of Staff Contribution | **(20,078)** |

| | Employer Total $ | Employer Total % | Total Contribution $ | Total Contribution % |
|---|---|---|---|---|
| Contributions to Owners | **36,000** | **85.5%** | **60,000** | **90.8%** |
| Contributions to Staff | **6,097** | **14.5%** | **6,097** | **9.2%** |

| | | |
|---|---|---|
| Key Employees | 60,000 | **90.8%** |
| **Top-Heavy 2016 - Safe Harbor Satisfies** | | |

**Assumptions:**

Eligibility equals One Year of Service (12 Months and 1,000 Hours) with Semi-Annual plan entry dates (1/1 and 7/1).

Highly Compensated Employee (HCE) defined as greater than 5% owners, certain family members of greater than 5% owners and/or employees earning over $120,000 in 2016.

Key Employee defined as any employee that is a greater than 5% owner, a greater than 1% owner with annual compensation in excess of $150,000 or any officer receiving compensation in excess of $170,000.

Illustration based on census data provided to InWest Retirement Solutions. Changing employee demographics may effect actual results.

**Notes:**

(1) HCE Deferrals illustrated at IRS Maximum.

(2) Safe Harbor Non-Elective equals 3% of plan compensation payable to all eligible Non-HCE. Contribution subject to full and immediate vesting.

(3) Discretionary Profit Sharing cross-tested to achieve maximum allocation rate disparity between Group A and Group B. Contribution can be made subject to a vesting schedule.

**Safe Harbor Allows Maximum HCE Deferrals - Requires an Annual Contribution & Immediate Vesting**

**Profit Sharing Provides IRS Maximum Benefit to Owner - Vesting Schedule Permitted (Max 3-Year Cliff or 6-Year Graded)**

## THE INWEST PHILOSOPHY – WE CARE

**At InWest we believe that our clients really don't care how much we know until they know how much we care.**

Retirement plan design and compliance administration requires very specialized knowledge; however, knowledge alone doesn't produce success.

## GREAT CUSTOMER SERVICE MAKES THE DIFFERENCE

**Our clients rated their overall satisfaction with InWest as a 9.1 on a scale from 1 to 10 in a recent, independent customer satisfaction survey and InWest has a 96% client retention rate since 2008.**

Any company can claim to provide outstanding service; at InWest we let our clients tell the story:

*"I have dealt with three different companies managing 401(k) plans for past employers, and none of them came close to providing this level of support."* Bruce F. - Plan Sponsor

*"Just wanted to let you know how much I appreciate the terrific work ethic of your wonderful staff. I call often with both questions and problems to solve and they are ALWAYS on top of their game! They work with the same sense of urgency that I do... I want to give spectacular service to my clients and your staff makes that possible so many times."* Sally R. - Financial Advisor

*"Experience together (since 1996). Fee structure is reasonable. Administrative care is tops! Exceeds customer support requests from problem to solution."* Ron T. – Plan Sponsor

## EXPERIENCE MATTERS

**Every InWest Account Manager is a member of the American Society of Pension Professionals & Actuaries (ASPPA) and has obtained at minimum ASPPA's Qualified 401(k) Administrator (QKA) designation.**

WE SUPPORT ASPPA®
WORKING FOR AMERICA'S RETIREMENT

*Credentialed ASPPA members have committed a minimum of three years of study, rigorous examinations and actual practice to become highly skilled specialists in their respective areas of retirement planning. ASPPA's extensive credentialing program has a reputation for excellence and includes continuing education requirements to ensure ongoing high standards of performance.*

## ADVANCED TECHNOLOGY – INWEST PLAN CONNECT

**InWest Plan Connect offers Plans Sponsors and Financial Advisors a secure environment for the exchange of information in a quick and efficient manner.**

*Some of the features available through Plan Connect are: secure file transfers, plan documents, administrative forms and compliance reports.*

InWest Retirement Solutions
PLAN CONNECT

InWest Retirement Solutions

WORK...SAVE...PLAY!
INNOVATIVE SOLUTIONS SINCE 1983

## WE'RE HONORED TO BE OF SERVICE

InWest partners with employers and financial advisors to design, install and administer retirement savings plans. We pursue innovative solutions that help our clients promote corporate objectives, control costs and give employees needed retirement income security.

**Our services include:**

**Plan Design** – Our plan architects can build a plan to meet your needs.
**Plan Installation** – Turnkey installation services including legal plan documents and hands-on coordination of existing plan conversions.
**Plan Compliance** – Responsive, accurate, full service plan compliance administration.
**Fiduciary Governance** – We work with you and your financial advisor to oversee more than 160 duties of the 402 Named Fiduciary and 3(16) Plan Administrator. We shoulder the responsibility and ensure the safety, quality and efficiency of your company's retirement plan.

**We specialize in:**

Traditional and Safe-Harbor 401(k) Plans
New Comparability Profit Sharing Plans
403(b)/457 Plans
Defined Benefit/Cash Balance Plans
DCDB Combo Plans
Solo 401(k) and DB(k) Plans

## WE'VE PARTNERED WITH THE BEST

**InWest has developed strategic partnerships with industry-leading providers.** Through our combined services we are able to offer comprehensive retirement plan services to plan sponsors and participants. Some of our partners include:

## OUR CLIENT DEVELOPMENT TEAM

**Marta Hurst, QKA**
**Vice President**
Phone: 210-899-0054 (ext. 605)
Cell: 817-988-5386
marta@inwest.net

**Alisha Hudman**
**Client Development Specialist**
Phone: 817-522-4229 (ext. 615)
Cell: 817-521-5474
alisha@inwest.net

**Jeanie Smith, QPFC**
**Director of Client Development**
Phone: 800-594-7700 (ext. 608)
jeanie@inwest.net