Federal 401(k) & 401(a) provisions

OVERVIEW

Sections 401(k) and 401(a) of the Internal Revenue code (IRC) enable employers to establish a tax deferred retirement savings plans. Retirement plans allow eligible employees to make regular contributions via payroll deductions into a tax-deferred investment vehicle.

Employees' contributions are deducted from gross pay before income taxes are calculated and withheld. This means that income taxes on contributions are deferred until the money is withdrawn from the plan. Any pre-tax contributions that an employee has voluntarily made to their account are called elective paycheck contributions. Withdrawals are generally not made until the employee retires, at which time the employee's tax bracket may be considerably lower.

Depending upon plan provisions, employees may choose to make Roth and/or after-tax contributions. The earnings on after-tax contributions are tax-deferred until withdrawal. However, earnings on Roth contributions may be tax free upon withdrawal if certain requirements are met. Plan sponsors may decide to contribute to employee accounts by matching all or some percentage of employee elective paycheck contributions. Since contributions to 401(k) and 401(a) plans are tax deductible, plan sponsors generally enjoy a tax benefit as well. The return accrued on the plan sponsor's contributions to the plan is also tax deferred.

Contribution limits

The annual 401(k) and 401(a) contribution limits are listed on the IRS website. Annual limits may be adjusted annually for cost-of-living increases.

Catchup limits

Participants turning age 50 and older may elect to make catch-up contributions, if allowed by the plan.

Participants must be contributing the maximum amount allowable under the IRC, or the plan, in order to make catch-up contributions. Catch-up contributions are not subject to annual compliance testing.

415 limits

The annual additions limit of all contributions allocated to a participant's account during the applicable limitation year cannot exceed the lesser of the 415(c)(1)(a) dollar limit as indexed or 100% of the participant's compensation (if allowed by the plan).

Depending upon plan provisions, contributions include the following:

- Employee elective paycheck contributions
- Employer matching contributions
- Employee after-tax contributions
- Forfeitures
- Amount contributed by and on behalf of the employee to other plans sponsored by the employer
- Employer profit sharing contributions
- Employee Roth 401(k) contributions

Nondiscrimination testing

Federal laws and regulations require employer sponsored retirement plans to be nondiscriminatory in order to qualify for special tax treatment. To meet the requirement of nondiscrimination the plan must not provide benefits that favor the highly compensated employees (HCE's). The regulations provide special tests such as the 401(k) and 401(m) tests (also known as the ADP and ACP tests) to measure compliance, in addition, pre-approved plan designs that meet the required guidelines are also available.

If the plan fails to meet the requirements set by the plan document or the IRS code, prescribed steps for correction are required. Correction methods may include refunding contributions, making additional allocations to plan participants or modification of plan provisions. See Corrective Distributions for more information.

The following table summarizes the most common required compliance testing performed on an annual basis.

Test performed	Description of test
Actual Deferral Percentage (ADP)	Determines if the average contributions rates of highly compensated employees (HCEs) exceeds the average contribution rates of non-highly compensated employees (NHCEs) by more than a prescribed amount. NOTE: Catch-up contributions are not included in this test.
Actual Contribution Percentage (ACP)	Calculations and breakdowns are conducted in the same manner as ADP testing but includes Employer Matching contributions and After-Tax contributions in calculating the average contribution rate. NOTE: This test applies only to plans offering an employer match.
Coverage Test	The percentage of NHCEs benefiting from the plan must be at least 70% of the percentage of HCEs benefiting from the plan.
Ratio Percentage Test	To maintain qualified plan status, a plan must benefit a nondiscriminatory percentage of NHCEs in relation to the percentage of HCEs who benefit under the plan.
Average Benefits Test	The average benefit of the NCEs must be at least 70% of the average benefit of the HCEs.

Test performed	Description of test
415 Annual Additions Limitations Test	Determines if the sum of employee and employer contributions (including any reallocated forfeitures) have exceeded the 415 Annual Additions Limit. NOTE: Rollover money and catch-up contributions are not included in limit determination.
Top Heavy Test	If key employees' combined account balances exceed 60% of the entire plan's cumulative account balance, the plan is deemed to be top-heavy for the plan year and the employer may be required to make a contribution to participants (based on plan document specifications).

Documentation

Administrative records, notifications, resulting actions, the plan document, adoption agreement, amendments, summary plan description (SPD) and contracts should all be kept as part of the plan's permanent records for the lifetime of the plan. These records may be necessary in the event of a plan audit.

Plan year timeline

Several compliance related events occur annually. Depending on plan provisions, the following annual compliance related tasks must be completed in a timely manner are necessary in order to keep the plan in regulatory compliance.

Event	Deadline
Safe Harbor Notice, if applicable	1 month prior to plan year end
ADP/ACP Refunds (no excise tax)	2 ½ months following plan year end
402(g) Returns	April 15
Form 5500 and Form 8955-SSA (extended)	9 ½ months following plan year end, if Form 5558 filed by 7 months
Employer Contributions made	Earlier of Corporate tax filing date, or 8 ½ months
Summary Annual Reports	11 ½ months following plan year end, if Form 5558 filed by 7 months
QNEC Contributions for ADP/ACP failures	12 months following plan year end

NOTE: See DOL Requirements for more information on Form 5500 filing requirements.

The non-discretionary recordkeeping and administrative services described in this Service Overview are general in nature and reflect the standard service offering. Service descriptions are not specific to any plan provision or administration practice. The recordkeeper may agree to provide an alternate service arrangement, as applicable, if separately requested by the Plan Sponsor.