



# **PLAN SPONSOR'S GUIDE**

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## GENERAL INFORMATION

A qualified plan such as yours combines current employer tax savings with retirement security for Participants. However, in order to maintain your plan's qualified status, there are certain rules and guidelines by which you must comply. We hope you will find this information useful in assisting you. This is only a guide to assist you in maintaining proper records and performing other duties.

As the plan administrator it is important that you keep complete and accurate records of all activity on an ongoing basis. You also must keep the following: date of birth, date of hire, marital status, hours worked, compensation and dates of termination for each employee.

If you have questions about your plan or its operation, including:

- ◆ Plan provisions, plan design or plan amendments
- ◆ Distribution or loan processing questions
- ◆ Eligibility questions
- ◆ Compliance testing issues or concerns
- ◆ Form 5500 and related Schedules, Form 1099-R, Form 1096 or Form 945

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If you have any questions related to investment performance, advice or fund selection, please contact your investment agent or broker.

## PLAN CONTRIBUTIONS

United States Department of Labor regulations require that all pre-tax 401(k) deferrals, Roth 401(k) deferrals, and loan repayments be invested **as soon as they can be separated from corporate assets**, however, in no event can they be deposited after the 15<sup>th</sup> business day of the month following the month of withholding. It is important that all deposits are made **as soon as administratively possible** to avoid penalties and lost earnings on late deposits. We strongly recommend that all deposits be made after each pay period.

All employer match or profit sharing contributions must be made by the due date of the corporate tax return.

If you forward your plan contributions directly to your investment manager, please forward a copy of the contributions to us so that we can accurately prepare the plan's Form 5500.

## PLAN DISTRIBUTIONS

A participant can receive a distribution from your qualified retirement plan only if a distributable event has occurred. Generally, distributable events include retirement, death, disability, or termination of employment. Depending on your plan provisions, your plan may also provide for in-service withdrawals if a participant has attained age 59½ or in the case of financial hardship.

### **Hardship Withdrawals**

In order for a participant to qualify for a hardship withdrawal, he/she must have a heavy and immediate financial need resulting from one or more of the following: purchase of a primary residence, medical expenses, education expenses for post-secondary education, payments necessary to prevent eviction or foreclosure on the participant's primary residence, funeral or burial expenses for a participant's parent, child, spouse or dependant, or repair of damage to the employee's principal residence that would qualify as deductible casualty expenses.

If a participant satisfies one of the distributable events outlined above and wishes to take a distribution from your plan, he/she should be given copies of the *Special Tax Notice* and the Hardship Withdrawal Request for Distribution. The participant should complete the appropriate distribution form and return it to us for processing with the appropriate signatures and processing fee. Documentation of the hardship should also be submitted. The participant can not make 401(k) contributions to the plan for 6 months after the hardship withdrawal.

### **Death of a Participant**

When an employee becomes eligible for the plan, he/she will complete a *Designation of Beneficiary*. Unless plan provisions state otherwise, a deceased participant will become 100% vested in the plan and his/her account balance will be distributed according to the properly completed *Designation of Beneficiary* form. In order to complete the distribution, we will need a completed *Separation from Active Employment Request for Distribution* form, along with a certified copy of the death certificate, and the beneficiary form.

### **Disability**

Unless plan provisions state otherwise, if a participant separates from active employment due to total and permanent disability, he/she will become 100% vested in the plan. In order to complete the distribution, we will need a completed *Separation from Active Employment Request for Distribution* form along with documentation of the disability from the attending physician.

### **Qualified Domestic Relations Order (QDRO)**

A QDRO is a court order that gives a spouse, former spouse, child, or other legal dependent of a participant a portion of the participant's interest in the Plan. Most commonly, a QDRO is the result of a divorce. If a participant notifies you that he/she has a divorce pending, his/her account must be frozen so that no distributions or loans can be processed until the divorce is complete.

If there is an order that a portion of the participant's account balance be directed to an alternate payee, the order should be sent to our office for review. We will then send a letter to the participant and alternate payee informing them if the order is qualified and explaining the steps necessary for the appropriate funds to be distributed to the alternate payee.

## PLAN LOANS

A participant loan program specifying the plan's loan provisions is required for all plans that will allow participants to take loans from the plan. A participant's outstanding plan loans may not exceed the lesser of 50% of the participant's vested account balance or \$50,000 reduced by the highest outstanding loan balance during the previous 12 months.

If your plan allows plan loans and a participant wishes to borrow from the plan, he/she should be given the *Request for Plan Loan* form. Upon receiving the completed form with appropriate signatures along with the applicable processing fee, we will verify your plan's provisions and initiate the request for liquidation from the participant's account.

After receiving the loan proceeds, the participant must begin making the required loan payments outlined on the amortization schedule provided for the loan. After-tax loan payments should be made through payroll deduction and forwarded along with your regular plan contributions. It is important to denote after-tax loan payments separately on your deposit remittance. If loan payments are not made according to the amortization schedule, the loan may become subject to loan default, making it taxable to the participant.

## ENROLLMENTS

Your plan provides for the enrollment of employees who have completed certain eligibility requirements stipulated in your plan document. For example, many plans require an employee to complete one year of service and attain age 21 before becoming eligible for the plan. If your plan requires one year of service to become eligible then an employee must work 1000 hours during that 12 months to satisfy the service requirement.

Once an employee has satisfied the eligibility requirements in the plan, the employee becomes eligible on the next plan enrollment date specified in the plan. It is important that you maintain accurate census information including date of birth, date of hire, social security number, and hours worked for each employee so that you can accurately determine which employees have satisfied the eligibility requirements.

We will send a notification to you prior to each of your plan's enrollment dates requesting that you list each of the employees who have satisfied the eligibility requirements since the plan's last enrollment date. Please list each of the newly eligible employees, regardless of whether or not they have previously elected to participate in the plan. If no new employees have satisfied the eligibility requirements, simply indicate "None" on the form. All forms should be faxed back to us at (920) 788-7053.

Enrollment materials will be prepared for each of the newly eligible employees listed on the form. The enrollment materials will provide the employees with information about the plan, a beneficiary designation form, as well as the required summary plan description (SPD). If your plan allows for voluntary 401(k) salary reductions (pre-tax or Roth), the employee must complete an enrollment or salary reduction election form indicating his/her decision. These forms are available in Section 3 of this binder or on our website – [www.retirementstrategies-wi.com](http://www.retirementstrategies-wi.com)

Copies of the completed enrollment and beneficiary forms should be kept on file for each employee so that they can make changes as needed.

## PLAN YEAR-END COMPLIANCE TESTING

The IRS requires that qualified retirement plans adhere to certain restrictions. At the end of each plan year we perform a series of compliance tests to verify that your plan remains in compliance. Completing these compliance tests requires census information from you. At the end of each plan year you will receive a census request from us. It is important that you return the requested information to us as soon as possible as certain penalties and excise taxes may result from the failure to complete any necessary refunds timely. Below is a summary of some of the compliance tests.

### **Nondiscrimination Testing**

The Average Deferral Percentage (ADP) test and Average Contribution Percentage (ACP) test are designed to ensure that highly compensated employees do not defer or receive contributions of significantly more of their pay than the non-highly compensated employees. These tests compare the average percentage for the highly compensated employees to the average percentage for the non-highly compensated employees and the highly compensated employees can only average slightly more than the non-highly compensated employees. If the plan “fails” the test and the highly compensated average exceeds the amount allowed, the plan can correct the matter by refunding contributions to the highly compensated employees or by contributing an additional 100% vested employer contribution to the non-highly compensated employees. Most safe harbor 401(k) plans do not require the ADP or ACP testing.

### **Top Heavy Testing**

A plan is top heavy when the key employees own more than 60% of the plan’s assets. When a plan is top heavy, the IRS requires that each participant who is actively employed at the end of the year receive a minimum contribution. Generally, if the non-key employees do not receive at least 3% of their gross annual wages in match or profit sharing contributions, the employer is required to make an additional contribution so that they receive 3% of their wages in contributions. The minimum contribution may be less depending on how much the key employees benefit from the plan. We will calculate any required contribution for you.

### **Calendar Year Deferral Limit**

The IRS limits the dollar amount of gross wages that participants can defer on a pre-tax basis. Catch-up contributions allow participants over age 50 to defer an additional amount over the calendar year limitation. If a participant exceeds these limitations, a refund is necessary before April 15<sup>th</sup> of the next calendar year. These limits are adjusted annually and we will include the adjusted limits in one of our annual mailings.

### **Maximum Annual Additions**

The maximum annual additions test limits the total combined employee and employer contributions that can be allocated to a participant during a plan year. This limit is adjusted annually and included in our annual mailing. It is important to note that participants are still limited by the calendar year deferral limit mentioned above.

If any participants happen to exceed this limitation, we will notify you when we complete the plan’s compliance testing that a refund is necessary. The refund will be taxable to the participant in the year the money is refunded.

### **Minimum Coverage Ratio Percentage Test**

This test compares the percentage of non-highly compensated employees who are benefiting in the plan to the percentage of highly compensated employees who are benefiting. The plan satisfies minimum coverage requirements if the percentage of non-highly compensated employees benefiting is at least 70% of the percentage of highly compensated employees benefiting. If the plan does not originally satisfy minimum coverage, additional participants must be allowed to share in the contribution. We will verify that all contribution allocations satisfy minimum coverage standards.

## **FORM 5500**

All qualified retirement plans are required to file a Form 5500 annually after the close of the plan year (special rules apply to when Solo 401(k) plans are required to file). We will prepare the Form 5500 and related schedules upon the completion of your plan's annual valuation and compliance testing. The completed Form 5500 will be forwarded to you for trustee signature. Form 5500 and related schedules must be filed no later than 7 months after the end of the plan year. If an extension is filed the due date is extended an additional 2½ months.

Generally if a plan has more than 100 participants, it is required to file Form 5500 as a large plan. If your plan is required to file a large Form 5500, ERISA regulations require that the plan is audited by an independent qualified public accountant. The auditor's opinion must be mailed with the Form 5500.

### **Fidelity Bond**

A fidelity bond must be obtained for all plan fiduciaries. A plan fiduciary is any person who handles the Plan's assets. The minimum bond required is generally the greater of \$1,000 or 10% of the plan's assets. However, the amount of the required bond may be higher if your plan invests in assets that have a higher risk of loss due to fraud or dishonesty. We will notify you if your plan is required to obtain additional bond coverage. A bond is not required when the employer is owned entirely by an individual and his/her spouse and the individual and his/her spouse are the only plan participants.

## DATES TO REMEMBER

<u>Item</u>	<u>Due Date</u>
Required Minimum Distributions needed for participants who are 70½ (if applicable)	December 31 <sup>st</sup>
Discrimination Refunds to highly compensated employees without excise tax penalty (if applicable)	2½ months following the end of the plan year
Form 5500/Form 5500EZ and related schedules mailed to Department of Labor	7 months following the end of the plan year (9½ months if extended)
Summary Annual Report (SAR) furnished to all participants and beneficiaries	9 months following the end of the plan year
Form 1099-R furnished to all participants who received a distribution in the prior calendar year	January 31 <sup>st</sup>
Form 945 to the IRS detailing federal withholding amounts on participant distributions	January 31 <sup>st</sup>
Form 1096 and federal copies of Form 1099-R to the IRS	February 28 <sup>th</sup>
Refund of deferrals for participants who exceed the calendar year limitation (if applicable)	April 15 <sup>th</sup>
Safe Harbor notice (required annually for all safe harbor plans)	No later than 30 days prior to the beginning of the plan year