

The PRS Report

VOLUME 26,
ISSUE 2

AUGUST
2017

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October 1st Deadline for Establishing a Safe Harbor 401(k) Plan



In 401(k) plans without safe harbor provisions, highly-compensated employees often must take refunds of part of their 401(k) contributions in order for their plan to pass non-discrimination testing. The beauty of Safe Harbor 401(k) plans is that ADP/ACP testing is not required. In addition, in certain instances, the safe harbor contribution satisfies top-heavy requirements. With certain contributions being made on behalf of the lower-paid employees, the highly compensated may defer up to the maximum amount allowable by law without any fear of having to later receive a refund of all or part of their contributions.

The deadline for establishing a new Safe Harbor 401(k) plan (or adding 401(k) and safe harbor provisions to an already existing Profit Sharing plan) for 2017 is October 1, 2017. Since considerable lead time is needed, please let us know if you or your client is interested. We would be happy to run plan designs for your review.

The exception to the October 1, 2017 deadline for adopting safe harbor provisions involves an existing 401(k) plan that does not currently have safe harbor provisions but desires to add these provisions. In this situation, newly added safe harbor provisions cannot be effective until January 1, 2018, but since Safe Harbor Notices must be distributed to participants 30 to 90 days prior, the deadline to adopt the safe harbor provisions is December 1, 2017. Again, time is of the essence.

Recent Amendment Regarding Forfeitures

A short time ago, we sent all of our defined contribution plan (profit sharing, 401(k), and money purchase) plan sponsors an amendment regarding forfeitures. Quite a few clients called with questions. What follows is a summary in a Q and A format, with the answers, wherever possible, being an example of the situation.

<p>What are plan forfeitures?</p>	<p>John participates in a 401(k) Profit Sharing plan, his 401(k) account balance is \$10,000, and he is fully vested in that amount. When John terminates employment, his profit sharing account balance is \$4,000. However, his vested balance in the profit sharing account is \$1,600. This is because his plan has a 6-year graded vesting schedule whereby each year, he becomes 20% more vested in his profit sharing balance until he is fully vested after 6 years of participation. The \$2,400 excess (\$4,000 - \$1,600) is forfeited, and up until now, could only be used by the Plan to reduce future profit sharing contributions.</p>
<p>What will this amendment do for my plan? - Two examples:</p>	<ol style="list-style-type: none"> 1. Upon initially failing the ADP test, PRS informs ABC Company that the funds in its plan's forfeiture account can now be used to fund a QNEC (Qualified Non-Elective Contribution) or a QMAC (Qualified Matching Contribution). Making use of the forfeitures in this manner, instead of using company funds, gives ABC a less expensive way to make contributions to lower-paid participants in order to pass the ADP test. 2. The DEF company plan is a 401(k) Profit Sharing Plan with Safe Harbor provisions. DEF company typically makes annual profit sharing contributions to its plan. For the first time, the plan can now make use of the funds in its forfeiture account to help fund the annual safe harbor contribution.

Recent Amendment Regarding Forfeitures (continued)

<p>My plan has no profit sharing money and therefore nothing in its forfeiture account. Why did I have to pay for an amendment which will not benefit my plan?</p>	<p>The 123 company sponsors a 401(k) Plan with Safe Harbor provisions. The plan sponsor does not make profit sharing contributions. Since both 401(k) monies and safe harbor monies are immediately 100% vested, there is no forfeiture money available. Therefore, 123 company gets no benefit from this new amendment. Unfortunately, however, the IRS has mandated that all defined contribution plans (401(k), profit sharing, and money purchase) adopt this amendment.</p>
<p>The letter sent to me regarding the amendment indicated an address change for ftwilliam.com? What does this company have to do with my plan?</p>	<p>Ftwilliam.com is the document sponsor for your plan. PRS utilizes ftwilliam.com software to prepare plan documents and amendments that contain IRS pre-approved language. The opinion letter for your plan has been issued by the IRS to ftwilliams.com, and each page of your plan document is copyrighted by ftwilliam.com. Since notice of the address change was required, this information was included in the amendment letter. Since defined benefit plans did not require an amendment regarding forfeitures, the plan sponsors of these plans received a notice of the address change only.</p>



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