

401(k) Plan Checklist

This checklist is *not* a complete description of all plan requirements, and should *not* be used as a substitute for a complete plan review.

Every year it is important that you review the requirements for operating your 401(k) retirement plan. Use this checklist to help you keep your plan in compliance with many of the important rules. Click on “(More)” in any of the following questions for additional information (including examples) on how to find, fix, and avoid each mistake. See www.irs.gov/ep for online versions of the checklists, Fix-It Guides, and other resources for 401(k) and other plan types.

For Business Owner’s Use

(DO NOT SEND THIS WORKSHEET TO THE IRS)

1. Has your plan document been updated within the past few years? Yes No

If your plan has not been updated to reflect recent law changes, the plan needs to be revised.

[\(More\)](#)

2. Are the plan’s operations based on the terms of the plan document? Yes No

Failure to follow the terms of the plan is a common problem encountered on audit.

[\(More\)](#)

3. Is the plan’s definition of compensation for all deferrals and allocations used correctly? Yes No

Because your plan may use different definitions of compensation for different purposes, it’s important that you apply the proper definition according to your plan document.

[\(More\)](#)

4. Were employer matching contributions made to all appropriate employees under the terms of the plan? Yes No

The terms of the plan must be followed when allocating employer matching contributions.

[\(More\)](#)

5. Has the plan satisfied the 401(k) nondiscrimination tests (ADP and ACP)? Yes No

Every 401(k) plan must satisfy yearly ADP/ACP nondiscrimination tests except for certain auto enrollment and 401(k) safe harbor plans.

[\(More\)](#)

6. Were all eligible employees identified and given the opportunity to make an elective deferral election? Yes No

By supplying your tax advisor with information regarding all employees who receive a Form W-2, you may reduce the risk of omitting eligible employees.

[\(More\)](#)

7. Are elective deferrals limited to the amounts under IRC §402(g) for the calendar year? Yes No

Failure to distribute deferrals in excess of the 402(g) limit may result in additional taxes and penalties to the participant and employer.

[\(More\)](#)

8. Have you timely deposited employee elective deferrals? Yes No

You should deposit deferrals as soon as they can be segregated from the employer’s assets.

[\(More\)](#)

9. Do participant loans conform to the requirements of the plan document and IRC §72(p)? Yes No

Defaulted loans or loans in violation of IRC §72(p) may be treated as a taxable distribution to the participant.

[\(More\)](#)

10. Were hardship distributions made properly? Yes No

If a plan allows hardship distributions, the terms of the plan must be followed.

[\(More\)](#)

If you answered “No” to any of the above questions, you may have made a mistake in the operation of your 401(k) plan. This list is only a guide to a more compliant plan, so answering “Yes” to each question may not mean your plan is 100% compliant. Many mistakes can be corrected easily, without penalty and without notifying the IRS.

■ contact your tax advisor

■ visit the IRS at www.irs.gov/ep

■ call the IRS at (877) 829-5500



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IRS 401(k) Fix-It Guide

--Trends	-Tips-			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
		Corrective Action	Correction Program(s) Available	
1) Has your plan document been updated within the past few years to reflect recent law changes? (More)	Review annual cumulative list published close to year-end to see if plan made all required law changes (for example, Notice 2009-98). (More)	EPCRS VCP: Streamlined application available. See Appendix F and schedules 1 and 2 . Adopt amendments for missed law changes. (More)	VCP Audit CAP (More)	Resort to a calendar (tickler) that notes when you must complete amendments. Review your plan document annually. Maintain regular contact with the company that sold you the plan. (More)
2) Are the plan's operations based on the terms of the plan document? Failure to follow plan terms is a very common mistake. (More)	Independent review of plan and its operation. (More)	EPCRS Apply reasonable correction method that would place affected participants in the position they would have been in if there were no operational plan defects. (More)	SCP* VCP Audit CAP (More)	Develop a communication mechanism to make all relevant parties aware of changes on a timely and accurate basis (best practices). Perform a review at least annually to ensure you are following plan terms. (More)
3) Is the plan's definition of compensation for all deferrals and allocations used correctly? (More)	Review the plan document. (More)	EPCRS Corrective contribution or distribution. (More)	SCP* VCP Audit CAP (More)	Perform annual reviews of compensation definitions and ensure that the person in charge of determining compensation is properly trained to understand the plan document. (More)
4) Were employer matching contributions made to all appropriate employees under the terms of the plan? (More)	Review the plan document to determine the correct matching contribution formula and compare it to what is used in operation. (More)	EPCRS Base correction upon the plan's terms and other applicable information at the time of the mistake. (More)	SCP* VCP Audit CAP (More)	Contact plan administrators to ensure that they have adequate and sufficient employment and payroll records to make calculations. (More)
5) Has the plan satisfied the 401(k) nondiscrimination tests (ADP and ACP)? (More)	Independent review to determine if highly compensated and nonhighly compensated employees are properly classified. (More)	EPCRS Correction method for ADP/ACP test failures: Make qualified nonelective contributions (QNECs) on behalf of the nonhighly compensated employees Appendix B (section 2.01) One-to-one correction method. (More)	SCP* VCP Audit CAP (More)	Consider a safe harbor plan. Communicate with the plan administrator to ensure proper employee classification. Ensure both you and the plan administrators are familiar with the terms of the plan. (More)

--Trends	-Tips-			
Potential Mistake	How to Find the Mistake	How to Fix the Mistake		How to Avoid the Mistake
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6) Were all eligible employees identified and given the opportunity to make an elective deferral election (exclusion of eligible employees)? (More)	Review plan document sections on eligibility and participation. Check with plan administrators to find out when employees are entering the plan. (More)	EPCRS 6.02(7), Appendix A (section .05), Appendix B (section 2.02) Employer must make a qualified nonelective contribution (QNEC) to the plan on behalf of the employee that compensates for the missed deferral opportunity. (More)	SCP* VCP Audit CAP (More)	Monitor census information and apply participation requirements. (More)
7) Are elective deferrals limited to the amounts under IRC §402(g) for the calendar year and have any excess deferrals been distributed? (More)	Inspect deferral amounts for plan participants to ensure that the employee has not exceeded the limits. (More)	EPCRS Appendix A (section .04) Distribute excess deferrals. (More)	SCP* VCP Audit CAP (More)	Work with plan administrators to ensure that they have sufficient payroll information to verify the deferral limitations of §402(g) were satisfied. (More)
8) Have you timely deposited employee elective deferrals? (More)	Determine the earliest date you can segregate deferrals from general assets; compare that date with the actual deposit dates and any plan document requirements. (More)	Usually DOL through VFCP for prohibited transaction. May also be EPCRS. For both VFCP and EPCRS, deposit into the plan's trust all elective deferrals withheld and applicable earnings resulting from the late deposit of amounts to the trust. (More)	SCP* VCP Audit CAP (More)	Coordinate closely with payroll provider to determine the earliest date you can reasonably segregate the deferral deposits from general assets. Set up procedures to ensure you make deposits by that date. (More)
9) Do participant loans conform to the requirements of the plan document and IRC §72(p)? (More)	Review the plan document and all outstanding loans to ensure the loans comply with the plan's terms and that the employees are repaying their loans timely. (More)	EPCRS 6.07, Appendix F (Schedule 5) Some failures may be corrected by corrective repayment and/or modification of loan terms. (More)	VCP Audit CAP (More)	Review and follow the plan provisions relating to making loans, including the amount of loan, term of the loan and repayment terms. Make sure there are procedures in place to prevent loans that are prohibited transactions. (More)