

Savings Limit Cost of Living Adjustments (COLA) for 2017 from the IRS

The IRS has issued the 2017 retirement savings limitations based on its annual cost of living adjustment (COLA). Some of the more commonly used limitations are listed below.

Cost of Living Adjustments for 2017 from the IRS

Internal Revenue Code Limitation	2016	2017
402(g)(1) limit for elective deferrals under 401(k) plans	\$18,000	\$18,000
401(k), 403(b), and 457 catch-up contribution limit	\$6,000	\$6,000
415(c)(1)(A) annual defined contribution plan limit	\$53,000	\$54,000
401(a)(17) and 404(1) annual compensation limit	\$265,000	\$270,000
Social Security Taxable Wage Base	\$118,500	\$127,200
414(q)(1)(B) highly compensated employee compensation limit	\$120,000	\$120,000
416(i)(1)(A)(i) key employee officer compensation limit	\$170,000	\$175,000
408(p)(2)(E) limitation regarding SIMPLE retirement accounts	\$12,500	\$12,500
SIMPLE plan catch-up contribution	\$3,000	\$3,000
415(b)(1)(A) annual defined benefit plan limit	\$210,000	\$215,000
408(k)(2)(C) compensation amount	\$600	\$600



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Paying for Plan Expenses with Plan Assets

Employers sponsoring a retirement plan may choose to pass on expenses for the plan's maintenance to plan participants. Plans that are subject to the Employee Retirement Income Security Act of 1974 (ERISA), (e.g., many 401(k), 403(b), and 457(b) plans) must follow several important rules created by the Department of Labor (DOL) in order to do this.

Not all plan-related expenses can be charged to the plan. It's important for all employers to know what can and cannot be paid by the plan so that they do not create a prohibited transaction. Subject to certain exceptions, plan fiduciaries—including employers—may use plan assets only to provide benefits to plan participants and beneficiaries and to pay reasonable expenses of administering the plan.

Business or "Settlor" Expenses

Employers sometimes confuse plan-related business expenses—which aren't payable from plan assets—with

plan administration expenses. The DOL has long held that costs incurred to design, establish, and terminate plans—so-called "settlor functions"—aren't reasonable expenses of administering a plan. These expenses are incurred for the benefit of the employer and involve services that the employer can reasonably be expected to pay in the normal course of its business operations.

Plan Amendments

While the costs of designing a plan can't be charged to the plan, fees related to maintaining the plan's tax-qualified status—including drafting of required amendments—generally can be paid out of plan assets, with some exceptions. For example, if maintaining tax-qualified status of the plan requires the employer to analyze and choose from several amendment options, the expenses incurred in that analysis would be settlor expenses that cannot be paid out of plan assets.

What does this mean for employers that have amended or are considering amending their plan documents to reduce or suspend matching contributions? Because such an amendment is optional and benefits the employer and not the plan participants, employers should pay the costs of the amendment themselves and not with plan assets.

Allowable Administration Expenses

So what expenses can be paid with plan assets? Examples of administrative and similar expenses incurred in operating the plan that can be paid with plan assets include:

- Fees paid to maintain a plan's tax-qualified status
- Trustee fees
- Annual accounting of trust assets
- Recordkeeping expenses
- Costs of valuing assets
- Certain investment management fees and expenses
- Employee communication expenses for participant disclosure statements
- Costs of computing participant benefits
- Fees for participant enrollment/election changes
- Fees for participant investment changes/elections
- Expenses for participant loan administration
- Costs of administering qualified domestic relations orders
- Certain legal fees

Please contact Ascensus Consulting with questions about paying expenses out of plan assets.



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Safe Harbor 401(k) Plans Notices

Every plan year, the plan sponsor of a safe harbor plan – including Qualified Automatic Contribution Arrangements (QACAs) – must provide a notice to participants. The notice must detail the safe harbor feature and requirements, describe the rules surrounding any money added to the plan, inform plan participants of how they can change their deferral elections, and explain how participants can request and acquire additional information. If we are your plan document provider, we can assist you with preparing the notices, but ensuring that these notices are provided timely is your responsibility.

Safe Harbor Notice Timing

So, your notices contain all the right information - now what? The IRS says that eligible employees in existing safe harbor plans generally must receive their notices 30 to 90 days before the beginning of each plan year. For new employees, the 30-day portion of the deadline is moved up to the employee's date of eligibility. However, this window of time is not set in stone, it could be subject to the specific facts and circumstances if the notice is not achieved by the 30-day guideline. But what if you don't give the notice timely and there is no reasonable excuse? You risk the safe harbor status of your plan, and could even be putting the tax-exempt status of all the plan's assets at risk. Luckily, the IRS provides some information on how to fix this kind of plan failure.



Failure to Provide the Safe Harbor Notice Timely

If you discovered that you've failed to provide the safe harbor notice timely, or if the notice isn't complete, the best thing to do is to give the notice, or a corrected notice, to all affected employees immediately. This will prevent a correctible circumstance from growing into a plan-threatening one.

Guidance from the IRS website, "Fixing Common Plan Mistakes – Failure to Provide a Safe Harbor 401(k) Plan Notice¹," says that this failure requires a correction through the IRS program, known as the Employee Plans Compliance Resolution System (EPCRS). Whether the fix will require a formal submission to the IRS will depend on facts and circumstances, such as the impact on participants.

As always, the best way to fix a failure is to avoid it. You can accomplish this in part by maintaining an accurate calendar of important plan-related dates, including the safe harbor notice due date.

¹<https://www.irs.gov/retirement-plans/fixing-common-plan-mistakes-failure-to-provide-a-safe-harbor-401k-plan-notice>

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Reminder: A Plan Sponsor's Responsibilities

Employers who sponsor retirement plans provide a valued benefit that can help to ensure a secure future for its employees. Becoming a retirement plan sponsor includes taking on the responsibility for keeping the plan in compliance with applicable laws and regulations.

In general, this means administering the plan with accurate data, meeting filing and notification deadlines, reviewing the plan's document to ensure it is up-to-date and being followed, and at least annually reviewing the plan's investments, fees, and design.

The following chart summarizes the roles and responsibilities of an employer that works with a financial advisor and a third-party administrator to maintain the plan. For more detailed information about an employer's responsibilities, please contact Ascensus Consulting or refer to your plan's service agreement.

Ongoing administration of a retirement plan

Roles and Responsibilities	Employer	Financial Advisor	Third-Party Administrator
Provide census data for interim and year-end testing to the third-party administrator	X		
Process corrective distributions, allocations, and forfeitures, if applicable			X
Conduct compliance testing			X
Provide annual valuation reports to the employer			X
Prepare Form 5500 with attachments and schedules for the employer to review, approve, sign, and file with the DOL			X
Calculate vested benefits, plan distributions, and required minimum distributions upon request from the employer			X
Calculate loan amounts, provide loan amortization schedule, and process plan distributions upon request from the employer			X
Annual (at least) review of the plan design	X		X
Prepare plan document (if restatement is required), summary plan description (SPD), plan amendments, summary of material modifications (SMM), loan policy, and qualified domestic relations order (QDRO) policy as applicable			X
Execute plan document and amendments	X		
Distribute required notices to the plan's participants; in some cases, the third-party administrator will distribute notices specified in the plan's service agreement	X		
Annual (at least) investment review	X	X	
Maintain investment mix and investment policy	X	X	



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