

Commco Comments

Timely Information Updates for Employers and Retirement Plan Sponsors

Safe Harbor for 2010

It will soon be time to consider whether to start or continue a safe harbor 401(k) plan for next year. Obviously, the harsh economic times have influenced the future use of the guaranteed Non-Elective Contribution (NEC) option and brought new favor to the use of the flexible NEC. In some cases, all employer contributions have been stopped with a hope that they can be continued later. For those employers able to continue or start safe harbor contributions, the time to consider them for 2010 is near as is the time to amend a plan to add (or eliminate) a safe harbor 401(k) provision to a calendar year plan for the 2010 year.



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What is the 2009
deadline for providing
employees with the
QDIA and Automatic
Enrollment notices?

The main advantage to becoming a safe harbor plan is that for the price of a safe harbor employer contribution, the nondiscrimination tests that apply to employee deferrals (ADP) and matching contributions (ACP) are deemed satisfied and, thus, the Highly Compensated Employees (HCEs) may make the maximum allowable deferral of compensation without the need for the plan to pass the discrimination tests.

Another advantage to becoming safe harbor is that a top heavy plan that adheres to the specific rules will be exempt from being top-heavy. Note that this is an annual determination.

Since 2008, in addition to what has become known as the traditional safe harbor 401(k), we also have the Qualified Automatic Contribution Arrangement (QACA) which follows the traditional safe harbor 401(k) rules except for several new QACA features.

Some of the features that employers need to understand about traditional safe harbor 401(k) plans are:

- Full vesting of safe harbor contributions when there is turnover.
- Cost of matching versus NEC contribution.
- No allocation requirements. Thus, the NEC is to be made to all eligible non-HCEs, even those who may have left on less than favorable terms before year end.

For more information on safe harbor plans, visit www.thecommmco.com/PlanComparison.





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Important Reminders

2009 ERISA Calendar for Defined Contribution Plans

December 2 is right around the corner! Don't forget these important ERISA deadlines:

- Qualified Default Investment Alternative Notice provided to all participants who have been defaulted into a QDIA at least 30 days prior to the beginning of the plan year.
- Annual automatic enrollment notice (can be combined with QDIA notice).
- Traditional Safe Harbor notice delivered to all eligible employees. A Plan shall be deemed to satisfy ADP/ACP testing provided all the requirements are met (including delivery of notice).

Annual Contract Reviews

A reminder that trustees should review their company's retirement plan every year. If you have not yet scheduled your annual review with The Commerce Company, email ACR@thecommco.com.

Announcing the 2010 Commerce Concepts dates!

- October 7
- October 19
- November 4
- November 16

To ensure you receive the official invitation next spring, or if you have a colleague who you think would like to be invited, log on to www.thecommco.com/invite2010 to submit your email addresses!

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