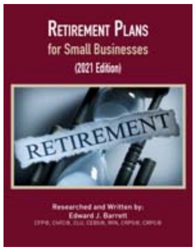
Welcome to our Virtual Super CE Event:

Small Business Retirement Plans/Retirement Plans for Small Businesses



We will begin shortly…
(event begins promptly at 3:00PM Eastern Time)

VIRTUAL WEBINAR

Small Business Retirement Plans

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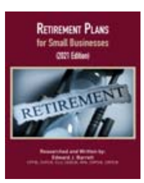
Virtual Super CE Program

- Live Webinar Presentation:
  - Small Business Retirement Plans
    - No CE Credit
- Electronic Exam
  - Self-Study/Correspondence Course: Retirement Plans for Small Businesses (2021 Edition)
    - State Insurance CE credit (varies with state)
      - Test 50 /100 Question Electronic Exam
    - CE credit for CFP and CIMA/CPWA
      - CFP 50 question exam = 10 credits
      - CIMA/CPWA/RMA 50 question exam = 5 credits
    - Must receive a passing grade of 70% or higher



Agenda

- Overview of the Small Business Marketplace
- Employer Sponsored IRA Plans
- Employer Sponsored Qualified Retirement Plans For Small Businesses
- New Federal Legislation

OVERVIEW OF THE SMALL BUSINESS MARKET

Defining A Small Business

- Defining a Small Business in the U.S:
  - **IRS**: The IRS defines small businesses as those entities (firms) with less than $10 million of assets.
  - **Small Business Association (SBA) Office of the Advocacy:** A small business is one with fewer than 500 employees.
- According to the SBA, businesses with 500 or less employees represent 99.9 percent of all U.S. businesses and provide almost half (47.3%) of all private-sector employment (59.9 million).[1]
  - Accounted for 9.3 million net new private-sector jobs from 2005 to 2019, or 64% of the total[2]

Source: [1]"Demographic Characteristics of Business Owners." U.S. Small Business Administration, Office of Advocacy. August 2019; https://cdn.advocacy.sba.gov/wp-content/uploads/2019/04/23142719/2019-Small-Business-Profiles-US.pdf. [2]SBA https://cdn.advocacy.sba.gov/wp-content/uploads/2020/04/30103025/April-2020-Econ-Bulletin.pdf

Small Business Profile[1]

- In 2017 (latest data available) there were approximately 30.7 million small businesses in the U.S:
  - 81% were non-employer firms (24.8 million)
  - 19% Firms with employees (5.9 million)
    - Firms with 0-4 employees 3.7 million (63%)
    - Firms with 1-20 employees 5.3 million (90%)
    - Firms with 1-100 employees 5.8 million (98%)
    - Firms with <500 employees 5.9 million (99.9%)
  - Firms with less than 100 EEs have the largest share of small business employment.
- 50% of all small businesses are home-based.

"Main Street America"

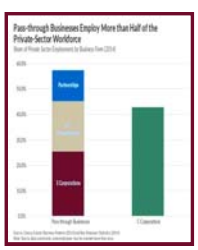
Source: [1] SBA, Office of Advocacy, Small Business Profile; https://cdn.advocacy.sba.gov/wp-content/uploads/2019/04/23142719/2019-Small-Business-Profiles-US.pdf ; SIPP https://www.census.gov/data/tables/2016/econ/susb/2016-susb-annual.html

Business Organizations and Tax Structures

- **Sole Proprietorship** - the oldest, simplest and most prevalent business form/ Schedule C submitted to the IRS with IRS Form 1040/SE Tax).
- **Partnership** – an unincorporated organization formed by two or more persons or entities/treated as pass-through entities/IRS Form 1065)
  - Domestic General Partnerships (most prevalent);
  - Domestic Limited Partnerships; and
  - Professional Partnerships
- **Corporation** - the most important form of business organization, in terms of total assets. It is considered and artificial entity-separate entity and provides a level of protection against personal liability.
  - C-Corporation – IRS Form 1120 (TCJA of 2017 flat rate of 21%)
  - S-Corporation - a conduit-a pass-through/ IRS Form 1120-S (most common)
  - PSC – Personal Services Corporation
- **Domestic Limited Liability Company (LLC)** - authorized under state law, similar to Corporations have limited personal liability, but are taxed like a partnership (the majority of all partnerships)

Pass-through Entities

- The vast majority (95%) of businesses in the U. S. are pass-through businesses [1]
- Major Types of Pass-Through Businesses:
  - Sole Proprietorships (the most common)
  - Partnership
  - S Corporations
- 57.3% of the U.S. private sector workforce was employed or self-employed at a pass through businesses[2]



Source: [1,2] Tax Foundation; https://files.taxfoundation.org/20170124162950/Tax-Foundation-FF5361.pdf

Tax Cuts Jobs Act of 2017

- Qualified Business Income (QBI) is one of the new concepts introduced in the TCJA of 2017.
  - Provides a new 20% deduction for Qualified Business Income (QBI) for taxpayers owning a partnership, an LLC taxed as a partnership, S corporation, or sole proprietorship. This deduction is available for individual taxpayers, as well as trusts and estates.
  - QBI Thresholds (2021):
    - Single filer Threshold /Phase-out:: $164,900 - $214,900
    - Married Filing Jointly: Threshold/Phase-out: $329,800 - $429,800
  - QBI Expiration: QBI is scheduled to expire for tax years beginning after December 31, 2025.

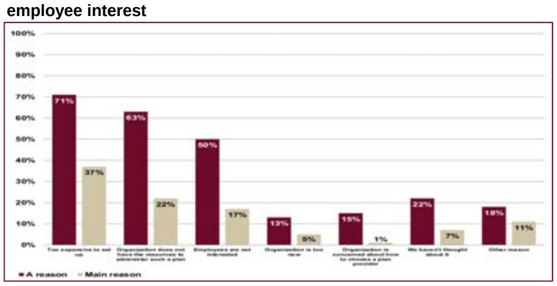
The Good News; Bad News

- Good News:
  - Small businesses account for 99.9% of all employer firms and provide almost half of all private-sector employees[1]
- Bad News:
  - They are not a big source of retirement plan coverage:
    - 36% of small businesses don't currently offer an employer sponsored retirement plan to their employees [2]

Source:[1]Small Business Administration; [2] LIMRA SRI 2018 https://insurancenewsnet.com/innarticle/just-4-in-10-small-businesses-offer-retirement-benefits-survey-finds#.XkRxfXdFx9M

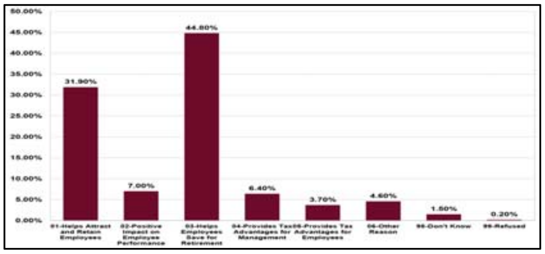
Why Don't Small- and Medium-Sized-Businesses Offer Retirement Plans?

Top reasons: Expense, administrative burdens, and lack of employee interest



Source: Pew Charitable Trust 2017 Survey, Small Business Views on Retirement Plans http://www.pewtrusts.org/~/media/assets/2017/01/small-business-survey-retirement-savings_f.pdf

Of the Following, Which is the Main Reason Your Organization Offers Retirement Plan?



Source: Pew Charitable Trust 2017 Survey, Small Business Views on Retirement Plans http://www.pewtrusts.org/~/media/assets/2017/01/small-business-survey-retirement-savings_f.pdf

Tax Credit for Small Businesses

- Prior law: Tax credit to offset the start-up costs of establishing /administering a new plan for the first 3 years to small businesses with no more than 100 EEs and at least 1 NHCE:
  - Credit capped at $500, or 50% of the start-up costs, whichever was lower.
- SECURE Act (Section 104):
  - Increased the credit to $500 or the lesser of (a) $250 multiplied by the number of NHCE of the eligible employer who are eligible to participate in the plan or (b) $5,000.
- Claim the credit on IRS Form 8881 for each of the first 3 years of the plan.
- The SECURE Act (Section 105)
  - A new 3-year tax credit ($500 each year) for small businesses for start up costs for new pension plans and SIMPLE IRA that include automatic enrollment.

Saver's Tax Credit in 2021*

Tax credit available to low and moderate income taxpayers who make contributions to ESRPs.

Credit Rate	Married Filing Jointly	Head of HLD	All Other Filers
50% of contribution	AGI < than $39,500	AGI < than $29,625	AGI < than $19,500
20% of contribution	$39,501 - $43,000	$29,625 - $32,250	$19,501 - $21,250
10% of contribution	$43,001 - $66,000	$32,251 - $49,500	$21,251 - $33,500
0% of contribution	AGI >than $66,000	AGI >than $49,500	AGI >than $33,500

*The maximum tax credit (**nonrefundable**) amount in a given year is $1,000/$2,000 (MFJ). To figure out must file IRS Form 8880 Credit for Qualified Retirement Savings contribution..

EMPLOYER - SPONSORED IRA PLANS

Employer Sponsored IRA Plans

> SEP IRA Plan [IRC § 408(k)]

> SIMPLE IRA Plan [IRC § 408(p)]

	SEP IRA	SIMPLE IRA	401(k) Plan
Very Familiar	11.6%	11.3%	37.1%
Somewhat familiar	25.5%	26.8%	51.9%
Not at all	62.9%	61.0%	11.0%
Don't know	0.0%	0.8%	0.0%
Refused	0.0%	0.1%	0.0%

Source: Pew Charitable Trust 2017 Survey, Small Business Views on Retirement Plans
http://www.pewtrusts.org/~/media/assets/2017/01/small-business-survey-retirement-savings_f.pdf

SEP IRA

> Simplified Employee Pensions (SEP) created by The Tax Revenue Act of 1978. Governed by IRC § 408 (k)
  - An agreement between ER and EE to offer a plan in the form of an IRA owned by the EE, and the ER makes the contributions.

> Easy to set up and maintain for any business with or without EEs (IRS Model SEP Form 5305-SEP). No government reporting required by ER (No Form 5500).
  - Low start-up and operating costs (eligible for startup tax credit).

> ER can use a calendar year/fiscal year. Used as an alternative/supplement to another qualified retirement plan.

SEP IRA Employer (ER) Contributions

- Must be under a written allocation formula [IRC § 408(k)(5)]
- ER must contribute a uniform percentage of pay (can be decided each year), although ER does not have to make contributions every year. In addition:
  - ER contributions can be made up until the time for filing the tax return (including extensions).
  - ER contributions must be 100% immediately vested
  - ER contributions are not subject to FICA or FUTA or income tax WH.
- ER contributions cannot discriminate in favor of HCEs [IRC § 408(k)(3)] and must also apply the top-heavy rules.

Definitions

- Highly Compensated Employee (HCE) IRC § 414(q)(1):
  - A 5% owner, as defined in IRC § 416(i)(1), or EE received compensation for the preceding year in excess of $130,000.
- Key Employee
  - A more than 5% owner of the business;
  - An officer making over $185,000 [IRC 416(l)(A)(i)];
  - An employee owning more than 1% of the business and making over $150,000 [IRC §416(i)].
- Top Heavy
  - When more than 60% of the benefits of a 401(k) plan are attributable to key employees.

SEP IRA Employee (EE) Eligibility

- Must include all EEs who:
  - Have attained age 21 [IRC § 408(k)(2)(A)],
  - Have been employed 3 of the last 5 preceding years [IRC § 408(k)(2)(B)], and
  - Have earned at least $650 [IRC § 408(k)(2)(C)].
- A SEP may exclude EEs subject to a collective bargaining agreement and non-resident aliens [IRC § 408(k)(2)]

SEP IRA Contribution Limits (2021)

- For discretionary ER contributions up to the lesser of:
  - 25% of pay or $58,000 (up from $57,000 in 2020) of the EE's compensation [IRC § 415 (c) (1)(A)].
  - Annual Compensation Limit: $290,000 (up from $285,000 in 2020) [IRC § 408(k)(a)(3), IRC § 408(k)(6)(D)(ii)].
  - Employee elective deferrals and catch-up contributions are not allowed.
  - Maximum deduction for ER is 25% of covered payroll.
  - Self-employed/ Sole Proprietors : Overall contribution limit is 20% of 92.9% of net profit (that is 18.6% of gross profit)
- Reminder: Employer contributions only. No catch-up contributions allowed.

SIMPLE IRA

- Savings Incentive Match Plan for Employees of Small Employers was created by the Small Business Job Protection Act (SBJPA) of 1996. Governed by IRC § 408(p)
  - Allows for both EE and ER contributions. Avoids all discrimination and top heavy tests. Qualifies for start-up tax credit (max.$5,000 first 3 years)
- Easy to set up and administrative costs are low. No financial reporting to the government (No Form 5500).
  - Choice of two forms: IRS Model Form 5304 SIMPLE or 5305-SIMPLE (used with designated financial institution)..
- Must be maintained on a calendar year basis only (October 1, new plan)
- The Secure Act provides a new $500 tax credit available for three years for new SIMPLE IRA plans that include automatic enrollment (in addition to other tax credit).

SIMPLE IRA Eligibility Rules

- Employer Eligibility:
  - An ER who employs **100 or fewer** EEs who earned **$5,000 or more** during the preceding calendar year [IRC § 408(p)2(C)(i)].
  - The ER can be corporate, non-corporate, tax-exempt, and government entities. The ER cannot offer any other type of qualified retirement plan [IRC §§ 408 (p)(2)(D), 219 (g)(5)].
- Employee Eligibility Rules:
  - Received at least $5,000 in compensation from the ER any 2 preceding years, and are reasonably expected to receive at least $5,000 in compensation during the year [IRC § 408(p)(4)(i) and(ii)].

SIMPLE IRA Contributions Limits (2021)

- EE Contribution: Elective Annual Salary Reduction:
  - Up to 100% of compensation up to a maximum of $13,500 (same as in 2020), [IRC § 408(p)(2)(E)].
  - For EE's age 50 or over a $3,000 "catch-up" contribution (same as in 2020) [IRC § 408(p)].
- ER Contributions:
  - 3% Matching Contribution:
    - Match of EE's elective deferrals on a dollar-for-dollar ($455k)% basis up to 3% of employee compensation (downward to 1% in any two years within a 5-year period).
  - 2% Non-elective contributions:
    - 2% of each eligible EE's compensation up to maximum of $290,000 ($5,800), regardless of whether or how much the EE deferred.
- 100% immediately vested (The "2-Year Rule" 25% penalty)

EMPLOYER SPONSORED QUALIFIED RETIREMENT PLANS FOR SMALL BUSINESSES

Qualified Retirement Plans (QRPs)

- A QRP established by employers for their employees must meet the requirements of IRC § 401(a) in both form and operation, in order to be eligible for special tax benefits.
- Two basic types of QRP:
  - Defined Contribution (DC) Plans
  - Defined Benefit (DB) Plans
- According to the Bureau of Labor Statistics, National Compensation Survey (March 2020), overall, 67% of private-sector workers had access to a QRP, with a 51% participation rate, and a 76% take up rate.[1]

Source: [1]Bureau of Labor Statistics (March 2020), released September 2020; https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf

Defined Benefit Plan

- Provides a fixed, pre-established benefit for each employee at specified event (NRA ages 62-65, plan termination).
  - Maximum retirement benefit is 100% of compensation up to a maximum of $230,000 a year in 2021 [IRC§415(b)(1)(A)].
- Primarily funded by ER, who is generally required to make contribution as set by plan term and bears the risk of any investment losses. An actuary must determine annual contributions.
  - Overall, 15% of private-industry workers have access to a DB plan with a participation rate of 11%, and a take-up rate of 74%.[1]
  - Small Businesses: 1-99 workers, 7% of workers have access to a DB plan, with a participation rate of 5% , and a 79% take-up rate.[2]

Source: [1]Bureau of Labor Statistics (March 2020), released September 2020; https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf

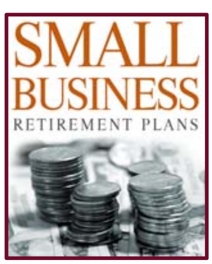
Defined Contribution Plans

- Americans held an estimated $9.3 trillion in DC plan assets, at end of the 3rd Quarter (September 30, 2020) of 2020[1]:
  - Representing 28% of the total retirement market assets ($33.1 trillion) and one-tenth of U.S. Households' aggregate financial assets.[2]
  - Assets in DC plans have grown faster than assets in DB plans over the past three decades, increasing from 29% of total DC and DB plan assets in 1988 to 48% at the end of the 3rd Quarter 2020.[2]
- Overall, 64% of private-industry workers had access to a DC plan, with a 47% participation rate, and a 74% take up rate.[3]
  - Small businesses with < 100 workers, only 51% had access to a DC plan, with a participation rate of 35% and a take-up rate of 67%.[4]

Source: [1,2]ICI Research & Statistics; September 24, 2020; https://www.ici.org/research/stats/retirement/ret_20_q3 [3,4] Bureau of Labor Statistics, (March 2020), released September 2020; https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf

QRPs Used by Small Businesses

- Types of QRPs being used by small businesses:
  - Profit Sharing Plans;
  - 401(k) Plans;
  - Safe Harbor 401(k) Plans;
  - Individual (Solo) 401(k); and
  - Cash Balance Plans and Combination Plans



Profit Sharing (PS) Plan

- The oldest type of DC plan dating back to the mid-1800s. ER agrees to make discretionary contributions. Contributions do not have to be from current or accumulated company profits.
  - Although there is no fixed annual contribution commitment, ER contribution must be "substantial" and recurring" in order to prevent plan from being terminated by IRS (retro 100% vesting).
- Moderate administration and paperwork; Does requires government reporting (Form 5500) and must pass nondiscrimination tests.
  - ER eligible for startup tax credit.
- Deadline to establish plan is the last day of the ERs tax year; the deadline to fund the plan is the ERs tax filing deadline (including extensions). PS can be combined with a 401(k) plan

Profit Sharing Contributions

- Maximum ER contribution (2021) to a participant's account is the lesser of:
  - 100% of participant's annual compensation up to $290,000; or
  - $58,000 (up from $57,000 in 2020) [IRC § 415 (c)(1)(A)]
- Top heavy PS plan, ER must make a minimum contribution to non-key EEs equal to the contribution received by any key EE, up to, but not in excess of 3% of compensation.
- ER may deduct contributions of up to 25% of total participant compensation (limited to $290,000 per participant).
- Vesting: 6-year graduated; Or 3-year cliff vesting.
- ER may allow "in-service" distribution (but not required) and allow loans ($50,000/5 years), and hardship withdrawals.

Profit Sharing Allocation Formulas

- Contributions to a PS plan may be allocated using the following types of plan allocations:
  - **Pro-Rata Method** – using a fixed % or a dollar amount of EEs compensation, or years of service ("Service Based"). Must be uniformed
  - **Permitted Disparity ("Integrated" plan)** – maximizes contributions for HCEs. EEs earning above the maximum SSTWB ($137,700) may be allocated a greater benefit. The maximum disparity allowance is 5.7%..
  - **Age Weighted** -Allows the ER to make contributions based on an EEs age as well as compensation
  - **Cross Tested ("New Comparability")** - separates the eligible EEs into "non-discriminatory" different category groups (i.e., job classification, title, hourly vs. salaried, etc.) and designates different contribution rates for each group.

Comparison of PS Allocations

Eligible EE	Age	Compensation	Pro-Rata	Permitted Disparity	Age-Weighted	Cross Tested
Principal 1	56	$290,000	$58,000 (20%)	$58,000 (20.0%)	$58,000 (20%	$58,000 (20%)
Principal 2	49	$200,000	$40,000 (20%)	$38,400 (19.2%)	$44,000 (22%)	$54,000 (27%)
Principal 3	60	$100,000	$20,000 (20%)	$16,900 (16.9%)	$54,000 (54%)	$54,000 (54%)
Employee 1	59	$90,000	$18,000 (20%)	$15,210 (16.9%)	$45,900 (51%)	$4,500 (5%)
Employee 2	29	$50,000	$10,000 (20%)	$ 8,450 (16.9%)	$2,000 (4%)	$2,500 (5%)
Employee 3	47	$40,000	$ 8,000 (20%)	$ 6,760 (16.9%)	$7,600 (19%)	$2,000 (5%)
Employee 4	32	$30,000	$ 6,000 (20%)	$ 5,070 (16.9%)	$1,800 (6%)	$1,500 (5%)
Employee 5	27	$25,000	$ 5,000 (20%)	$ 4,225 (16.9%)	$1,000 (4%)	$1,250 (5%)
Employee 6	26	$25,000	$ 5,000 (20%	$ 4,225 (16.9%)	$750 (3%)	$1,250 (5%)
Employee 7	23	$25,000	$ 5,000 (20%)	$ 4,225 (16.9%)	$750 (3%)	$1,250 (5%)
Employee 8	69	$20,000	$ 4,000 (20%)	$ 3,380 (16.9%)	$9,800 (49%)	$1,000 (5%)
Employee 9	60	$20,000	$ 4,000 (20%)	$ 3,380 (16.9%)	$11,000 (55%)	$1,000 (5%)
Employee 10	32	$20,000	$ 4,000 (20%)	$ 3,380 (16.9%)	$1,200 (6%)	$1,000 (5%)
Employee 11	35	$20,000	$ 4,000 (20%)	$ 3,380 (16.9%)	$600 (3%)	$1,000 (5%)
Total		**$955,000**	**$191,000**	**$174,985**	**$238,400**	**$184,250**
Principal's Share		**62%**	**62%**	**65%**	**65%**	**92%**

Note: All allocation methods are governed by top-heavy and nondiscrimination rules.

401(k) Plans

- The 401(k) plan is the largest workplace savings vehicle and now accounts for, on average, 71% of all DC plans assets.[1]
  - $6.53 trillion in assets accounting for 20% of all retirement assets ($33.1 trillion), as of the 3rd Quarter 2020[2].
- Set up by any type of employer including tax-exempt organizations.
  - Used as sole retirement plan or as a supplement to an existing plan.
- Traditional (regular) / Designated Roth Account (Roth 401(k))

Source: [1,2]Investment Company Institute (ICI) , September 24, 2020, https://www.ici.org/research/stats/retirement/ret_20_q3

Designated Roth Account

- Introduced in 2006, it allows participants in a 401(k) plan to make after-tax contributions to a separate account, which accrues earnings tax-free and allows for tax-free distributions.
  - The PPA of 2006 made permanent.
- There are no income tax limits for making contributions
  - However, ER may not make the matching contribution in the form of an after-tax Roth contribution.
- In-Plan Conversions (Small Business Jobs Act 2010):
  - ATRA of 2012 opened the door for anyone to make Roth 401(k) in-plan conversions (tax must be paid).

401(k) Contribution Limits (2021)

- Employee Elective Deferrals
  - $19,500 [IRC § 402(g)]
- Catch-up contributions for participant age 50 and older is:
  - $6,500 [IRC § 414(v)(2)(B)(i)]
- Matching contributions
  - When factoring in matching contributions the maximum allowable contribution may not exceed the lesser of:
    - 100% of compensation up to $290,000 (up from $285,000 in 2020); or $58,000 (up from $57,000 in 2020) [IRC § 415(c)(1)(A)].
- Maximum contribution for participant age 50 or older = $64,500. However, must meet nondiscrimination rules

Nondiscrimination Rules

- Broad Coverage of Employees – minimum participation standards concerning coverage of EEs [IRC § 410(b)]
  - **Ratio percentage test**: Plan must benefit at least 70% of NHCE
  - **Average benefit test**: Nondiscriminatory classification test and the average benefit test.
- Benefits, Rights and Features - elective contributions, matching contributions, and EE after-tax contributions must meet special nondiscrimination tests [IRC § 401(a)(4)].
  - **Actual Deferral Percentage (ADP)** – compare the average annual elective deferral rates of HCEs an NHCEs - the 1.25 times test or the 2% spread test (3% for HCEs; NHCEs must receive 1.5%); and
  - **Actual Contribution Percentage (ACP)** – Applies to ER matching and EE after-tax contributions (same tests as ADP)
- Top Heavy test - 60% of the overall assets in the plan are attributable to key employees

Safe Harbor Plans

- To avoid the nondiscrimination testing (ADP/ACP) and top-heavy rules a plan sponsor can set up one of the following 401(k) Safe Harbor plan designs:
  - Traditional SH Plan (Small Business Job Protection Act of 1996). Plans must offer minimum matching contributions or non-elective contributions [IRC § 401(k)(12)]
  - QACA SH Plan (PPA of 2006, Sec 902). Plans offering qualified automatic contribution arrangements (QACA) with a minimum matching contribution or non-elective contribution [IRC § 401(k)(13)].
- October 1st is deadline to launch a new SH 401(k) plan for the current calendar year.
  - For the first year of a new SH plan, the SH plan must be in effect for a minimum of 3 months.
- 68% of small business 401(k) plans use a SH design.[1]

Source: [1]Small Business Favor Safe Harbor 401(k) Plans; https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/safe-harbor-401k-plans-favored.aspx 401(k) Help Center; Society of Actuaries.

Traditional Safe Harbor Plan Formulas

- ***Basic Match Formula***: The employer provides 100% matching on the first 3% of the NHCE deferred compensation plus a 50% match on deferrals between 3% and 5% (up to a total of 4% of an employee's compensation).
- ***The Enhanced Match***: Employer offers an alternative that must be at least as much as the basic match at each employee-deferral percentage tier. A common formula is 100% of the first 4% of compensation (minimum) 6% is maximum.
- ***Non-elective Contribution***: 3% contribution of each plan-eligible employee's salary, even if an employee is not making elective deferrals.
- **Vesting** Safe Harbor matching contributions and non-elective contributions must be 100% immediately vested.

Safe Harbor Plan with QACA

- A Qualified Automatic Contribution Arrangement (QACA)
  - An employee who fails to make an election to defer into the 401(k) plan is treated as having elected to defer a *qualified percentage* of his/her compensation into the plan until the EE affirmatively elects not to defer [IRC § 401(k)(13)(B)].
- A plan that includes a QACA is not required to perform nondiscrimination testing of elective contributions or matching contributions [IRC § 401(k)(13)(A) § 401(m)(12)].
- Participant notice must be given within 30 days prior to start of plan year.

QACA Qualified Percentage

- The initial Annual Contribution Amount (ACA) must be:
  - At least 3 percent of participant's compensation deferred into the plan, plus after 2nd year, the plan must provide that the deferral % will increase by at least 1% each plan year thereafter until participant's rate is 6% of compensation
  - The SECURE Act increased the maximum cap to 15% after the 2nd year from 10%.[1]
- ER Contributions:
  - Either a matching contribution of 100% for salary deferrals up to 1 percent of compensation and a 50 percent match for all salary deferrals above 1 percent but no more than 6 percent of compensation; or a non-elective contribution of 3 percent of compensation to all participants [IRC § 401(k)(12)(B)(i)(II);
  - Vesting: 100% vesting after 2nd year.

Source: The SECURE Act, Setting Every Community Up For Retirement Enhancement, Section 102

Benefits of a SH 401(k) Plan

- Automatically pass non-discrimination testing;
- Automatically satisfy top-heavy testing;
- Allow all EE's to contribute the maximum allowable
- The company will not have to restrict EE contributions from HCE and company owners or monitor contributions from NHCEs;
- Provide an incentive to EE's to save for their retirement; and
- The match is tax-deductible for the ER.

Solo 401(k)

- Designed for owner-only businesses (not available to businesses with EEs)
  - Owners and immediate family members
- Eligible Businesses can be incorporated (partnerships and corporations) and unincorporated (sole proprietorships)
- Simple to administer and low costs. Must file 5500-SF if assets in the plan are over $250,000.
- High contribution limits (with Roth 401(k) feature) and access to account through loans and hardship withdrawals .

Solo 401(k) Contributions

- Allows for employee and employer contributions:
  - Employee Elective (salary reduction):
    - 100% of EE's compensation up to $19,500 [IRC § 402(g)].
  - Catch-up Contributions:
    - $6,500 in salary deferrals for individuals age 50 and older
  - Employer (PS) Contributions:
    - Up to 25% of compensation. Self-employed 20% of compensation
  - Annual Additions Limit [IRC § 415]:
    - The lesser of 100% of compensation up to $290,000; or $58,000 [IRC § 415] plus catch-up contribution ($6,500) = $64,500 for 2021.

Cash Balance (CB) Plans

> A DB plan that looks like a DC plan. PPA of 2006 greatly expanded their legitimacy [IRC § 411(a)(13)(A)]
  - Participants are divided into groups by classifications, similar to a New Comparability PS plan.

> Benefits = Contribution and interest credits. Typically a higher contribution than the employees receive with 401(k) plan.
  - 100% ER funded
  - Calculated actuarially and are mandatory

> Require employers to contribute 5% to 8% of pay to NHCE in order to contribute larger amounts for the owners

> Plan assets are pooled and Trustee directed. ER bears the burden of risk. Vesting: 100% of ER contributions after 3 years of employment (based on lump sum benefit)

Cash Balance Plans

> CB plans continue rising as the fastest growing sector of the retirement plan market:[1]
  - The number of new CB plans increased 15%, compared with just 1% growth in 401(k) plans.
  - 92% of Cash Balance Plans are in place at firms with fewer than 100 employees, 57% have 10 or fewer, and they make up over 37% of all defined benefit plans

> Reasons for growth of Cash Balance Plans[2]:
  - High taxes; Legislative changes and broader options for plan sponsors; Retirement savings crisis

Source:[1,2] Kravitz 2018 National Cash Balance Research Report https://www.cashbalancedesign.com/wp-content/uploads/2018/08/NationalCashBalanceResearchReport2018.pdf

Traditional DB vs. Cash Balance Plan

Census Data			Traditional DB Plan		Cash Balance Plan	
Position	Age	Annual Pay	Cost Allocation	% of Pay	Cost Allocation	% of Pay
Owner A	55	$290,000	$171,100	59%	$168,200	58%
Owner B	50	$290,000	$139,200	48%	$121,800	42%
EE 1	50	$75,000	$47,250	63%	$13,500	18%
EE2	55	$50,000	$39,000	78%	$9,000	18%
EE 3	35	$40,000	$10,000	25%	$7,200	18%
EE 4	30	$35,000	$6,650	19%	$6,300	18%
EE 5	25	$30,000	$4,500	15%	$5,400	18%
		Owners	$310,200	74% to Owners	$331,400	89% to Owners
		Employees	$107,400		$41,400	
		Total	$417,600		$372,800	

[1]Assumes a benefit based on 10% of average monthly compensation multiplied by a maximum of ten years of participation, and a Target Normal Cost calculated using mandated segment rates. Analysis by author

Combo Plan

- Also referred to as a DBk, is a DB plan combined with a DC plan having a 401(k) feature that is established under an automatic contribution arrangement. [IRC 414(x)].
  - Allows a DB contribution to be made and also allows EEs to defer compensation under the 401(k) feature.
- Combo plans are available to ERs considered a "small employer" at the time the plan is established:
  - An employer with at least two employees on the first day of the plan year and an average of at least two but not more than 500 EEs during the preceding calendar year [IRC § 414(x)(2)(A)].
- IRC 414(x)(6)(A) the requirements applicable to DB pension plans with separate participant accounts, do not apply to eligible combined plans.

Combo Plan Safe Harbor Formula

- Minimum Contributions for DC Plan (401(k) Plan):
  - Automatic enrollment for the 401(k) component. Unless an EE specifically opts out, or changes the contribution level, then 4% of their pay is automatically contributed into the 401(k) plan.
  - An ER match of at least 50% of EE 401(k) contributions, with a maximum required match of 2% of pay. ER non-elective contributions are allowed
- Minimum Contributions for DB Plan:
  - A DB plan equal to 1% of final average pay for each year of the employee's service, up to 20 years, or a cash balance formula as follows:

Age	Contribution Credit
30 or less	2%
Over 30 and less than 40	4%
Over 40 and less than 50	6%
50 and over	8%

- All ER derived benefits under the DB component and the non-elective contribution under the DC component would have to be fully vested within three years.

DB(k) Plan with a Cash Balance Plan

Census Data			Safe Harbor 401(k) and Profit Sharing Plan[2]				Cash Balance Plan[3][2]		Combined Total
Position	Age	Annual Pay	Salary Deferral	3% SHNEC	Cross-Tested PS	Total % of Pay	Cost Allocation	% of Pay	
Owner A	50	$290,000	$26,000	$0	$8,700	3%	$156,600	54%	$191,300
Owner B	50	$290,000	$26,000	$0	$8,700	3%	$156,600	54%	$191,300
EE 1	50	$75,000	$0	$2,250	$6,000	8%	$1,500	2%	$7,500
EE 2	55	$50,000	$0	$1,500	$4,000	8%	$1,000	2%	$5,000
EE 3	35	$40,000	$0	$1,200	$3,200	8%	$800	2%	$4,000
EE 4	30	$35,000	$0	$1,050	$2,800	8%	$700	2%	$3,500
EE 5	25	$30,000	$0	$900	$2,400	8%	$600	2%	$3,000
		Owners	$52,000	$0	$17,400		$313,200		$382,600
		EEs	$ 0	$6,900	$ 18,400		$4,600		$ 29,900
		Total	$52,000	$6,900	$35.800		$317,800		$412,500
								Percent to Owners	**93%**

1Assumes a benefit based on 10% of average monthly compensation multiplied by a maximum of ten years of participation, and a Target Normal Cost calculated using mandated segment rates. [2] 3% Safe Harbor Non-Elective employer contribution is allocated to all eligible participants plus a 5% regular employer Profit Sharing allocation to non-owner participants. Complying with Safe Harbor provisions allows the owners to make maximum salary deferrals without failing required non-discrimination testing. [3] Profit Sharing, Safe Harbor, Salary Deferral and Cash Balance allocations are converted to monthly benefits at age 65 (Normal Retirement Age) and aggregated to pass non-discrimination testing.

Ideal Clients for DB(k) Plan

Type of Business	Characteristics of owner or business
• Medical or Dental Practice • Law Partnerships • Consultants • Building Contractors • Real Estate • Architects • Farms • Engineering • Funeral Homes	• Highly profitable business with 1-10 EEs • Owner wants to reduce taxes • Owner wants to make large contributions for him/herself • Owner is willing to commit to a program for 5+ years • EEs are likely to be stable, not a lot of turnover

Note: The deductible/excludable contributions to a tax-deferred plan can make more sense than ever in light of the Section 199A QBI deduction.

New Federal Legislation

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The SECURE Act Provisions

> **Section 101: Multiple Employer Plans (MEPs)**

- A single retirement plan that is maintained for the benefit of two or more unrelated employers (result in lower costs). The "Nexus Rule" has been loosed and the "One Bad Apple Rule" has been eliminated. MEP will have to be administered by a "Pooled Plan Provider"

> **Section 114: Required Beginning Date (RBD)**

- Provides that the entire interest of each participant must be distributed to such participant not later than age 72 [IRC§ 401(a)(9)(A)].
  - The RBD is April 1 of the calendar year following the later of the calendar year in which the participant attains age 72 or the calendar year in which the participant retires.
- The rules for extending the RBD does not apply to participants who are 5% or more owners of the company sponsoring the plan.
  - For such participants, the RBD is April 1 of the calendar year following the calendar year in which the participant attains age 72 [IRC § 401(a)(9)(C)]. RMDs based on SL or Joint Life Table.

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The SECURE Act Provisions

> **Section 401 Modification of RMD Rules for Designated Beneficiaries**
- More restrictive rules surrounding a RMD to designated beneficiaries of retirement accounts. Under the updated rules, most non-spouse IRA and retirement plan beneficiaries will have to take distributions from inherited retirement accounts within 10 years after the account owner's death. The RMD change will *not* affect accounts inherited by a so-called eligible designated beneficiary (EDB):
  - The surviving spouse of the deceased account owner; a minor child of the deceased account owner; a beneficiary who is no more than 10 years younger than the deceased account owner; or disabled or chronically ill individuals.

> **Section 113: Penalty-free Withdrawals for Birth or Adoption**:
- Permits penalty-free withdrawals from retirement plans for expenses related to the birth of a child or adoption ($5,000).

SECURE Act Annuity-Related Changes

> **Section 203: Expanded Access To Annuities:**
- Requires benefit statements provided to DC plan participants to include a lifetime income disclosure at lease once during any 12-month period.

> **Section 204: Fiduciary Safe Harbor for Selection of Lifetime Income Provider:**
- Provides a SH for fiduciaries in the selection of an insurer for a guaranteed retirement income contract. Created ERISA Section 404(e)

> **Section 109: Portability of Lifetime Income Options.**
- Creates a new 'distributable event' (e.g., separation of service, death, attainment of age 59 ½) that applies just to annuities when they are no longer allowed as an investment option within a plan. In such situations, participants will be allowed to distribute their plan annuity, in-kind, beginning 90 days prior to the elimination of the annuity as a plan investment option. This provision is effective for plan years beginning on or after January 1, 2020.

The End

Electronic Exam

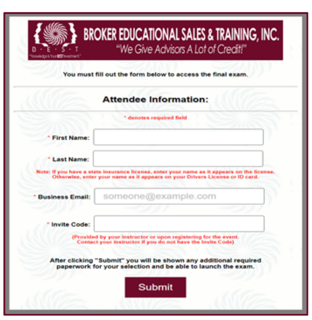
- Some states may require additional forms:
  - Disinterested Third-party Form
  - Personal Attestation Form
- Exam will be available for 10 business days to complete.
- Exam will be graded instantaneously (unlimited retakes)

Electronic Exam Link

https://selfstudyce.brokered.net/virtual/

INVITE CODE: 41320

Virtual Super CE – Step by Step



Virtual Super CE – Step by Step

States With Monitor/Attestation Form

AR	**HI**	**MS**	**VA**
CT	**IN**	**MT**	**WV**
DC	**ME****	**NC***	**WY*****
FL*	**MI***	**OH***	
GA	**MO**	**OR**	

States requiring a Third Party Monitor; * States that require a Personal Attestation Form. ** ME no requirement if credit is under 16 hours. WY allos a family member as a Monitor. To receive CE credit the Form must be returned to BEST.

Thank You
for attending the webinar

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