



RETIREMENT PLAN

**CORRECTIVE DISTRIBUTION
IN 401(K) PLANS**

STEPHEN BELLOSI

Objective, unbiased advice and guidance.

AIF®, AWMA®



CORRECTIVE DISTRIBUTION IN 401(K) PLANS

ISSUE: Plans which report corrective distributions have typically failed nondiscrimination testing on salary deferrals and/ or matching contributions. Corrective distributions therefore indicate a need for better service or a change in plan design

The IRS requires that both highly compensated plan participants and rank-and-file plan participants contribute to their 401(k) plans at similar rates.

When owners and managers contribute at far higher rates than their workers over the course of the year, their plans must return some of the highly compensated participants' savings, which then become subject to income taxes.

These payments are known as corrective distributions.

Highly Compensated Employee (HCE):

One who owns 5% or more of the company or earns more than the Section 414(q)(1)(B) Highly Compensated Employee Income Limit. For 2018, that limit is \$120,000.

Financial advisors seeking to grow their 401(k) businesses should treat corrective distributions made by plan sponsors as a red flag.

Corrective distributions indicate that the specific plan includes highly compensated employees (HCEs) who were unable to save as much for their retirement with pre-tax income as they would like, and/or that the specific plan is not designed to encourage non-highly compensated employees (NHCEs) to contribute sufficiently.

The IRS uses a formula called the **Actual Deferral Percentage** (ADP) to calculate the applicable corrective distribution.

The ADP test compares the average salary deferral among HCEs to that of NHCEs as a percentage of pre-tax compensation. The requirements to pass the ADP test are as follows:

If the average ADP for NHCEs is:

- Less than 2%
- Between 2% and 8%
- More than 8%

Then the maximum average ADP for HCEs is:

- 2 times the average ADP for NHCEs
- The average ADP for NHCEs plus 2%
- 1.25 times the average ADP for NHCEs

The Actual Contribution Percentage (ACP) is the same as the ADP but calculated using matching contributions instead.

A plan must pass both the ADP and the ACP tests in order to satisfy the IRS's non-discrimination requirements. If the plan fails either test, the statutory correction period is 12 months starting from the close of the plan year in which the failure occurs.

This correction involves ceasing or reducing HCE contributions before the end of the year, re-characterizing elective contributions from HCEs as after-tax contributions, distributing excess elective contributions to HCEs, or making additional contributions on behalf of NHCEs. If corrective distributions are made later than two and a half months after the applicable plan year, the employer (not the HCEs) will be liable for excise tax.

OPPORTUNITY: Advisors could discuss the benefits of appropriate plan design with employers, explaining how passing the annual IRS tests will help attract and retain top employee talent.

Safe Harbor 401(k) plans have become increasingly more popular because they allow employers to waive ADP and ACP testing each year in exchange for committing to a minimum level of contribution per participant, either as a percentage of compensation or a specific match. With a Safe Harbor 401(k) plan, HCEs can contribute the maximum amount each year without fear that the plan might fail the IRS tests.

Safe Harbor 401(k) plans require employers to take one of three possible contribution options:

Safe Harbor non - elective contribution	Safe Harbor matching contribution (basic match)	Safe Harbor matching contribution (enhanced match)
3% (or more) of compensation, regardless of 401(k) deferrals.	100% match on the first 3% of deferred compensation plus a 50% match on deferrals between 3% and 5% (4% total)	Must be at least as much as the basic match at each tier; a common formula is 100% on the first 4% of deferred compensation

The ADP test requirement is considered satisfied under all Safe Harbor options if employees are provided with a timely notice describing their rights and obligations under the plan. Automatic enrollment is another plan design option that is gaining popularity among employers. It may help reduce the chance of test failure by increasing overall NHCE participation. This auto feature also has the added benefit of helping employees better prepare for retirement.

RESULTS: Contact Retirement PlanVision for an in-depth report showing retirement plans in your area that have had Corrective Distributions.

PLAN SPONSOR QUESTIONS + SOLUTIONS

Talking points that you can bring to the table in order to open a meaningful dialogue with plan sponsors.

When was the last time you sat down and did a plan design review?

As your company grows (or shrinks), the benefit plan you're using may cease to be a good fit. Which is why, it is important to sit down at least once a year to review your plan design. We are consistently doing due diligence to make sure your plan is up-to-date with market trends.

Do the programs you provide to help employees address their financial needs?

A well-designed education plan can improve participant understanding and decision-making, leading to greater levels of employee satisfaction and retirement readiness. We will work with you to develop educational goals, decide on a strategy, and oversee the execution of that strategy toward the objectives we outline. We can also create a written calendar of educational services to address participant needs.

What are the goals of your retirement plan?

Without a clear plan goal, both employers and employees will likely fall short of expectations. Together, we will come up with objectives that will lay the path toward plan success.

Do you know who your plan fiduciaries are?

Under ERISA, plan fiduciaries are held to the highest standard of the law. Plan fiduciaries are responsible to act in the best interest of the participants and their beneficiaries. If you don't know who your plan fiduciaries are or what your responsibilities include, let's schedule a conversation to discuss plan roles and responsibilities.

PLAN SPONSOR QUESTIONS + SOLUTIONS

Talking points that you can bring to the table in order to open a meaningful dialogue with plan sponsors.

Who is your Third Party Administrator?

Your TPA is a valuable partner who helps you with your retirement plan administration. If needed, we will work together to find a TPA who has reliable software, services, and a price to meet your specific needs.

Are you anticipating any changes in structure or employee demographics in the near future?

Changes in your company's structure or demographics can impact contribution requirements and mandatory testing results. Together, we can create a strategy that aims to protect your firm from having to make costly adjustments to the plan design later.

Do you understand your fees?

Many plan sponsors don't understand the fees they pay or the value of the services they receive. It may be difficult for plan sponsors to compare fees, costs, and services across providers. To help you evaluate, we can provide a streamlined, in-depth, and transparent fee benchmark report.

IMPORTANT NOTICE:

This information was developed as a general guide to educate. It is not intended as authoritative guidance or tax/ legal advice. Each plan has unique requirements. Use of the information provided does not ensure compliance with ERISA regulations. You should consult your attorney or tax advisor for specific guidance on your plan. This information, including any letters, attachments, and/or other materials designed for potential use with plan sponsors, fiduciaries, plan participants, et al must be reviewed and approved by the compliance and legal department(s) of the Financial Professional's firm prior to any use to confirm that they meet the firm's legal and compliance policies and standards. The Financial Professional and his/her firm are solely responsible for the Financial Professional's use of this information and any materials included herein, and for ensuring that all services provided by the Financial Professional conform to the firm's legal and compliance policies and standards.



SCHEDULE A CONSULTATION

CONTACT US

FOLLOW US ON SOCIAL MEDIA



OUR STRATEGIC PARTNERS

