

BE SURE YOUR QUALIFIED PLAN IS FULLY TESTED EVERY YEAR

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When we take over the routine administration of a qualified defined contribution plan, such as a profit sharing plan or a 401(k) plan, we sometimes find that not all of the various tests and limitations applicable to these plans have been checked in prior years. The following summarizes the **eight tests** that are required annually for every plan. It's not uncommon for a plan to be subject to a half dozen or more of these tests. In some cases the descriptions given below have been dramatically simplified, in the interest of brevity. Also, some tests do have their rare exceptions.

- A) Top-Heavy Testing: It must be determined if the plan is top-heavy, with 60% or more of the benefits attributed to key employees. If so, then in most cases, the non-key employees are entitled to certain minimum contributions and a minimum top-heavy vesting schedule.
- B) Coverage Testing: All qualified plans must cover a certain minimum percent of the rank-and-file in order to be deemed non-discriminatory.
- C) Excess Deferral Testing: In no event may an employee who is a 401(k) or 403(b) plan participant make an elective deferral that exceeds \$16,500 in the 2009 calendar year.
- D) Annual Additions Limit: The total of all contributions (participant, employer, and forfeiture reallocations combined) may not exceed the lesser of \$49,000 or 100% of pay.
- E) Actual Deferral Percentage (ADP) Test: In order to be non-discriminatory, the average elective deferrals (contributions) for highly paid employees may not exceed those of the rank-and-file by more than acceptable limits.
- F) Actual Contribution Percentage (ACP) Test: If matching contributions or employee after-tax contributions are permitted by the plan, these must pass a non-discrimination test separate from the ADP test.
- G) Non-discrimination in Benefits, Rights, and Features: The actual contributions, plan benefits, rights, features, and definitions of pay used in allocating contributions must also satisfy tests that show the plan does not unduly favor the highly paid employees. Also, it must be determined that the plan's definition of "compensation" (used in determining a participant's share of company contributions) is not discriminatory.
- H) Deduction Limits: The amount of contributions that may be deducted by the employer for each fiscal year is limited in ways that vary depending on the number and type of plans sponsored.

In addition to the tests described above, if an employer sponsors more than one plan, then some of the tests have to be passed on a *combined plan* basis.