The SIMPLE IRA Plan

A) The acronym SIMPLE stands for Savings Incentive Match Plan for Employees.

B) For an employer to be eligible to adopt a SIMPLE for a given calendar year,

1) the employer must have had 100 or fewer employees who earned at least $5,000 in the prior calendar year, and
2) ***the employer must sponsor no other qualified retirement plans or SEP's in which employees receive an allocation of contributions for that year.***

If this headcount later exceeds 100, the employer will be treated as meeting the limit for the two years following the calendar year in which it last satisfied the limit. However, if the plan exceeds the headcount because of an acquisition, disposition, or similar transaction the qualified plan transition rule replaces the two-year grace period. (See below).

An employer maintaining a SIMPLE IRA plan that fails to meet the 100 headcount rule (or other applicable requirements) because of an acquisition, disposition, or similar transaction will not be treated as failing to meet that requirement during a transition period. The transition period ends on the last day of the second calendar year in which the transaction occurs.*

* Other applicable requirements are:

1) The employer is an eligible employer.
2) This arrangement is the only plan of the employer.
3) All eligible employees who satisfy the compensation and service requirements are given the opportunity to participate.

C) 60-Day Notice to Employees --- employees must be told of the employer's contribution *prior to the "60-day election period"* --- which is the 60 days immediately prior to the beginning of the calendar year for which the contributions will be made. However, for the first year in which the employee becomes eligible to make salary reduction contributions, the period during which the employee may make or modify the election is a 60-day period that includes either the date the employee becomes eligible or the day before.

For the plan's first plan year, the documents must be adopted with an effective date that is no later than October 1, and announced to employees no later than 60 days prior to the effective date of the plan. A *new* employer can adopt a SIMPLE Plan any time after October 1st with notice given to employees as soon as possible.

Payroll withholdings can commence on the first payroll period following the plan's effective date.

D) Eligibility --- the plan *must* cover any employee who

1) earned at least $5,000 in any two calendar years preceding the year for which the contribution is being made, and
2) is reasonably expected to earn $5,000 *during* the year for which the contribution is being made.

The employer may choose to be more liberal than these requirements.

Union employees may be excluded. Employees of related employers and leased employees must be included in the plan.

E) Plan Year --- must be the calendar year, even if the employer has a different fiscal year. The first year may start as late as October 1.

F) Participant Contributions --- the participant must be allowed to discontinue contributions at any time. The employer must deposit payroll withholdings no later than 30 days after the end of the month for which the amounts are withheld.

G) Vesting --- all contributions are 100% vested at all times.

H) Investment Vehicle --- all deposits must go into an IRA.

I) Investment Responsibility --- once the money goes into the IRA, the employee must decide how it is to be invested.

J) In-Service Withdrawals --- the employee has total control over his IRA account. If he is willing to pay the taxes (and 10% penalty for using retirement funds prior to age 59 ½) he can withdraw money from the IRA at any time, even if he is still an employee of the company making the contributions. The 10% penalty is replaced with a 25% penalty for withdrawal of money within two years of the date the employee first participates.

An *exception* to the above penalty is made for a first-time homebuyer (the individual, his/her spouse, child or grandchild). A first-time homebuyer is defined as a person who has no present ownership in a principal residence during the preceding two years. There is a lifetime maximum of $10,000 per individual. The funds must be used within 120 days.

K) Rollovers --- Since 2002, a SIMPLE IRA may be rolled into an IRA, 401(k), 403(b) or 457(b) Plan, but only *after* the 2-year participation requirement has been met. SIMPLE IRA Plans may only accept a rollover from another SIMPLE IRA.

L) Testing --- None.

M) Maximum Annual Contributions ---

1) Employee --- **$16,500 for 2025** (as indexed) by the employee if the employee has at least that much in compensation, plus
2) Catch-Up Contributions --- Employees over age 50 by the end of the calendar year can have an additional amount contributed to the plan for that year. This amount is: **$3,500 for 2025. Super Catch-Up Limit for ages 60-63 is $5,250 for 2025.**
3) Employer --- a *required* company contribution of either
    (a) a dollar-for-dollar match on the first X% of pay contributed by the employee, or
    (b) a non-matching contribution of 2% of pay to all eligible participants, regardless of any employee contributions.
4) If using (3)(a), X% must be
    (a) 3%, in at least 3 out of every 5 years, and
    (b) no less than 1% (but less than 3%) in no more than 2 of every 5 years.

For years prior to the SIMPLE's first plan year, the employer will be deemed to have always contributed 3% for purposes of this rule. Employer contributions are based on Compensation for the *entire* calendar year.

N) Other Company Contributions --- none permitted.

O) Form 5500 Filing --- not applicable.

P) Compensation Cap --- limited to **$350,000 for 2025**, for purposes of the 2% company contribution, if the employer chooses the non-match. There is no compensation cap for purposes of calculating the matching contribution for a SIMPLE (unlike SIMPLE 401(k) plans where there is a cap on plan compensation for matching contributions). Compensation does not include amounts deferred under a Section 125 Plan.

Q) Deductions --- contributions are deductible to the employer for its taxable year containing the December 31 ending the calendar year for which the contributions are being made.

R) Advantages

1) Very basic documents.
2) No annual government filings.
3) Can require more service than in qualified plans.
4) Allows employee contributions.
5) No 401(a)(17) Compensation cap on matching contributions to the SIMPLE IRA.
6) Simple to administer.
7) No testing.
8) No top heavy minimum contribution required.
9) Can ignore employees making less than $5,000 per year.
10) Funds can be rolled over to any other IRA, 401(k), 403(b) or 457 Plan.

S) Disadvantages

1) Less flexibility than with some plans.
2) Must fully vest all contributions.
3) Employee can withdraw funds and spend the funds even before he terminates employment with the company sponsoring the plan.
4) Company must decide, and give notice to employees, before the plan year, as to what the company contribution will be.
5) Cannot use "permitted disparity" (also known as integration with Social Security), giving a higher percent employer contribution to highly paid employees.
6) Elective participant deferrals are limited to $16,500 in 2025 (which is less than the 401(k) plan limit of $23,500 in 2025).
7) Catch-up deferrals are limited to $3,500 in 2025 (which is less than the 401(k) plan limit of $7,500 for 2025).

T) SECURE 2.0 Changes

1) Starting in 2025, a SIMPLE IRA can be replaced with a safe harbor 401(k) plan mid-year. The replacement plan can be either a traditional safe harbor plan or a Qualified Automatic Contribution Arrangement (QACA) safe harbor 401(k) plan. The

replacement safe harbor/QACA 401(k) plans must be effective as of the termination date of the SIMPLE IRA.

2) Contributions will be restricted to an aggregate elective deferral limit (including catch-up contributions) during the replacement year. The limit is based on the number of days covered in each plan. For example, if the replacement is done on June 1, 2025, the 2025 elective deferral limit – contributed to either the SIMPLE IRA or 401(k) plan – would be determined by taking the number of days covered in the SIMPLE IRA multiplied by its contribution limit (152/365) x 16,500 ($20,000 including regular catch-up) = $6,871.23 ($8,328.77) and adding the number of days covered in the 401(k)-plan multiplied by its contribution limit (213/365) x 23,500 (31,000 including catch-up) = $13,713.70 ($18,090.41) for a total deferral contribution of $20,588.93 ($26,719.18). This is using 2025 limits for illustrative purposes.