MassMutual ERISA Advisory Services™

Understanding the 401(k) & (m) Internal Revenue Service (IRS) Regulation Changes
Contents

Overview .............................................................................................................................................. 1

Employee Contributions

Automatic Enrollment ............................................................................................................................. 2
One-Time Irrevocable Elections ........................................................................................................... 2

Distributions

Hardship Distributions .......................................................................................................................... 3
Rule of Parity .......................................................................................................................................... 3
Successor Plan Rule .............................................................................................................................. 4

Non-Discrimination Testing

Safe Harbor 401(k) Plan Changes .......................................................................................................... 5
Plan Coverage Change ............................................................................................................................ 5
Anti-Abuse Rule ...................................................................................................................................... 6
Separate Testing Methods for Different Portions of the Plan ................................................................ 6
Exclude USERRA Contributions From ADP Test ................................................................................... 6
Aggregation of KSOP and Non-KSOP 401(k) for ADP Test ..................................................................... 7
Aggregation of HCE’s in Multiple Plans ................................................................................................. 7
Targeted Qualified Non-Elective Contributions (QNECs) ....................................................................... 8
Gap Period Income .................................................................................................................................. 9
Limit Excess Match from ACP Test (Your Action Required) .................................................................... 9

For Your Information

Ban on Accelerated Tax Deductions ..................................................................................................... 11

Appendix A

Example of a Disproportionate Match (D-Match) ................................................................................. 12
On December 29, 2004, the IRS published final regulations under code sections 401(k) & 401(m) regulations. These regulations incorporate all of the previously published guidance that has been issued as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the Small Business Job Protection Act of 1996 (SBJPA) and the Taxpayer Relief Act of 1997 (TRA’97). This is the first time the regulations have been updated since 1994.

While the final regulations include many of the provisions reflected in the 2003 proposed regulations, some substantial changes appear.

These changes become mandatory with the plan year beginning on or after January 1, 2006.

For plans whose members are covered under a Collective Bargaining Agreement, the effective date that these changes become mandatory varies. Please contact your MassMutual representative to discuss the effective date of these changes.

This guide provides information to help you understand how these changes impact the administration of your plan and what MassMutual can do to aid you in complying with these regulations.

This overview arranges the regulatory changes into four general topic categories to help you better understand the areas of impact. The categories are: Employee Contributions, Distributions, Non-Discrimination Testing and For Your Information.
Employee Contribution Topics

Automatic Enrollment

Prior to the final regulations, plan sponsors who had elected to utilize an automatic enrollment feature in their plan were hesitant to have the default deferral percentage higher than 3% of compensation.

The final regulations have clarified that the previous communications on automatic enrollment were illustrative only and that there is no ceiling as to the percentage that can be used for automatic enrollment.

One Time Irrevocable Elections

The IRS clarified that an employee may make a one-time irrevocable election no later than when the employee becomes eligible under the plan or any other plan of the employer.

The final regulations continue to allow an employee to make a one-time irrevocable election, however, this election now can be made at anytime before the employee is eligible to join the 401(k) plan or any other tax-favored retirement arrangement. This election most commonly appears as an election not to participate in all of the employer’s tax-favored retirement arrangements.

Bottom line, the final regulations clarified that employees have more time to make the decision not to participate.

For example, Joe was hired on February 6, 2006. The plan requires Joe to be employed for 1 year before he is eligible for the plan. The plan has monthly entry dates. Joe has until March 1, 2007 to make an irrevocable election with respect to the plan.

Some individuals may make this irrevocable election not to participate in a qualified plan to be eligible for pre-tax IRA deductions.
Hardship Distributions

401(k) plans have the option to offer hardship withdrawals. Many plans use the “safe harbor” rules to determine whether a participant has incurred an “immediate and heavy financial need.”

Currently, the four specific deemed reasons that satisfy the safe harbor rules include:

1) Medical expenses incurred by the employee, spouse, or dependent
2) Purchase of a principal residence of the employee
3) Tuition for the next 12 months for post-secondary education for the employee, spouse, children, or dependents
4) Payment to prevent eviction from the employee’s primary residence or foreclosure on the mortgage on the employee’s primary residence

The final regulations expand the safe harbor rules to include:

5) Funeral expenses of parents, spouse, children or dependents
6) Certain expenses relating to the repair of damage to the employee’s principal residence such as hurricanes or flood damage

These six safe harbor rules are now used for determining if the need for a distribution is an “immediate and heavy financial need.”

Note that with the final regulations, the definition of medical expenses has been expanded to include the expenses of non-custodial children. Also, medical expenses are deemed a heavy financial need even if they do not exceed 7.5% of Adjusted Gross Income (AGI).

Currently, to receive a hardship withdrawal, a participant is required to obtain any available loan from the plan first. This requirement is carried forward in the final regulations with one exception. In the event that such plan loan would exacerbate the hardship situation, the participant would not be required to take the loan.

Furthermore, a participant that obtains a hardship withdrawal using the safe harbor provisions must be able to reasonably prove that they have obtained all other available distributions and plan loans (if it does not make the hardship worse). In addition, the participant must be suspended from making employee contributions to the 401(k) plan and all other qualified and nonqualified plans maintained by the employer.

Another change associated with these final regulations requires Employee Stock Ownership Plan (ESOP) dividends be distributed prior to any hardship distribution.

Rule of Parity

Generally, each year of service with the employer must be taken into account when determining an employee’s vesting percentage on the plan’s vesting schedule. There is an exception to this requirement. This exception is referred to as the “Rule of Parity.” Under the Rule of Parity, a terminated employee who was non-vested in the portion of his or her account derived from employer contributions at the time of termination, and who is rehired after the greater of five years or the aggregate number of years before separation, will lose the right to any vesting years of service previously credited. In effect, the rehired participant is treated as a new employee for vesting purposes with respect to future employer contributions.

The final 401(k) regulations provide that when determining whether a participant is non-vested

continued
or not, any elective deferral contributions, in addition to employer contributions, must be considered when applying the Rule of Parity. The employee’s vested balance (deferrals and employer contributions) is considered to determine when the “Rule of Parity” applies. The “Rule of Parity” is applied when a participant has a non-vested balance at the time of separation and is rehired.

Note that loan balances are considered when determining the “employees vested balance.” Rollover and after-tax balances are not considered when determining the “employees vested balance.”

As an example,

• At the time of separation, Participant A has 3 years of service and has a vested account balance. Participant A is rehired after 18 consecutive one year breaks in service.

• At the time of separation, Participant B has 3 years of service and has no vested account balance. Participant B is rehired after 18 consecutive one year breaks in service.

Successor Plan Rule

Currently, 401(k) plans are permitted to distribute salary-deferred contributions at plan termination, only if the employer does not maintain or establish a successor defined contribution plan, (other than an ESOP or SEP).

The final regulations provide that a 401(k) plan can distribute salary deferred contributions even if the employer establishes a successor defined contribution plan such as an ESOP, SEP, SIMPLE IRA, 403(b) plan or 457 plan.

For example, Company, Inc. sponsors a calendar year 401(k) plan. Under the old rules, if Company, Inc. terminates its 401(k) plan on March 31, 2006, it would not be able to establish a SIMPLE IRA, 403(b) or 457 plan within 12 months of the date of plan termination if they wanted to allow for participant distributions from the 401(k) as a result of plan termination.

Under the new provision, Company, Inc. may terminate their existing 401(k) plan on March 31, 2006 and distribute plan benefits to participants and establish a SIMPLE IRA effective January 1, 2007 for the same participants even though it is within the 12 month period.
Safe Harbor
401(k) Plan Changes

Currently, short plan years are not allowed for 401(k) Safe Harbor plans – a 12-month plan year is required. There is an exception for the first plan year of a newly established plan. Also, Highly Compensated Employee (HCE) aggregation of multiple 401(k) plans of the same employer is required for purposes of determining whether a 401(k) plan meets the safe harbor rules.

With these final regulations, the following applies:

- Short plan years are allowed for plan termination or if short plan year is preceded and is followed by a full 12-month plan year with some restrictions.
  - If the plan termination is for any reason other than a merger or acquisition, or a substantial business hardship of the employer, the participants must receive notice of the change and Actual Deferral Percentage (ADP) and/or Actual Contribution Percentage (ACP) testing must be satisfied.
  - If the short plan year is the result of a change in plan year, the plan will not fail to satisfy the safe harbor rules if the short plan year is preceded and followed by full 12-month plan years during which the plan satisfies the safe harbor requirements (not simultaneous).
- HCE aggregation for purposes of determining whether a 401(k) plan meets the ADP safe harbor is not required. However, for purposes of ACP safe harbor, HCE aggregation requirement is eliminated only if HCE participates in two 401(m) plans on a consecutive basis.
- Generally, safe harbor plans may not be amended (or designed) to revert to testing if they don’t meet the safe harbor requirements for the plan year. Note: Safe harbor matching contributions may be reduced or suspended for future elective contributions if proper notice is provided to participants and the plan is amended to provide ADP/ACP testing.

Plan Coverage Change

Currently, the weighted average for prior year testing methods is required when there has been a “plan coverage change.”

Final regulations identify certain “plan coverage changes” that affect the way the “prior year” testing method is applied. A plan coverage change is a change in the group of eligible employees under the 401(k) arrangement that becomes effective in the testing year due to:

- the establishment or amendment of the plan,
- a plan merger or spin off, or
- a change in the way plans are combined or separated for testing.

The final regulations amend this definition of plan coverage change to include a reclassification of a substantial group of employees that has the same effect as amending the plan.

For example, if a 401(k) plan currently excludes hourly employees and, as a result of recent business activity, a substantial group of employees were reclassified from salary to hourly employees and no longer are eligible to participate in the 401(k) plan, a plan coverage change has occurred even though a plan amendment was not needed.
Anti-Abuse Rule

Current regulations do not directly address the issue of nondiscrimination testing abuses.

The final regulations contain an anti-abuse rule. The intent of this rule is to prevent plans from making repeated changes to testing procedures or plan provisions that have the principle purpose of distorting or manipulating nondiscrimination testing.

The IRS has not provided any specific examples of situations that result in the abuse of distorting or manipulating non-discrimination testing.

Separate Testing Methods for Different Portions of the Plan

Most plans do not allow for separate testing methods by money source.

The Actual Deferral Percentage (ADP) and/or Actual Contribution Percentage (ACP) tests can be performed either on a current year basis or a prior year basis. The final 401(k) regulations provide that a plan may use a different testing method for the ADP test than for the ACP test. For example, the same plan may use the prior year testing method for the ADP test and the current year testing method for the ACP test. However, if a plan uses different testing methods for the ADP and ACP tests, the plan will not be able to use the borrowing method to help pass the ACP test.

A Sponsor may take advantage of using prior year’s ADP information for NHCEs but use current year information for ACP purposes. This will help alleviate concerns of prior year testing method with respect to discretionary matching contributions where the Sponsor changes or does not contribute a matching contribution for a plan year.

For example, the employer likes the prior year method for salary deferral purposes since it can help determine, in advance, how much their HCEs can defer in a year. Under the old rules, prototype plan documents were required to have the same testing method for ADP and ACP purposes. The employer has a discretionary matching formula, but did not make a match for the 2005 plan year, and wants to make one for the 2006 plan year. Since the use of prior year numbers for the NHCEs for 2005 results in a 0% average deferral ratio for the NHCEs for the 2006 ACP test, HCEs would need to forfeit or receive a taxable distribution of their entire matching contribution for the 2006 plan year. To eliminate this problem, the employer could use the current year method for the ACP test and compare the current matching contributions for all employees.

Exclude USERRA Contributions from ADP Test

Note that this is not a change but is a clarification of the existing regulations.

Uniformed Services Employment and Reemployment Rights Act (USERRA) applies to returning military personnel who have an opportunity to make employee contributions or deferrals by the earlier of five years from their re-employment date or the last day of the period that is equal to three times the period of military service.

These USERRA contributions are not included in the ADP test. But, they must be included in the 402(g) and 415 tests for the year that they were effective.
For example, Joe Smith returned to the employer from military service after 1 year. Joe can make up missed salary deferrals in the current plan year even though the total deferrals that are actually made in the current year exceed $15,000 (2006 deferral limit).

Aggregation of KSOP and Non-KSOP 401(k) for ADP Test

The final regulations change the way a 401(k) plan that includes an Employee Stock Ownership Plans (ESOP) feature (sometimes referred to as a KSOP plan) is tested. The prior rules required the ESOP and non-ESOP portions of the 401(k) plan be separated for testing purposes. Consequently, the employer needed to perform two separate Actual Deferral Percentage (ADP) and/or Actual Contribution Percentage (ACP) tests – one for the ESOP portion of the plan and another for the non-ESOP portion. The final regulations override this rule and allow the plan to combine the ESOP and non-ESOP portions when testing ADP and ACP.

Plan Disaggregation would still apply for coverage testing purposes.

Aggregation of HCEs in Multiple Plans

Currently, if a Highly Compensated Employee (HCE) participates in more than one plan of an employer, all salary deferrals, after-tax and matching contributions of the HCE (but not Non-Highly Compensated Employees) for all plan years that end with or within the single calendar year are aggregated when determining the ADP and ACP ratio of a HCE. (Please see chart below.)

With these final regulations, only contributions made and compensation of each HCE, participating in multiple plans of the same employer, are determined by aggregating the deferrals and contributions during the 12-month period that coincides with the plan year of the plan being tested.

For example, HCE #1 in plan 1 of the employer defers $200 per month for the plan year 7/1/2006-6/30/2007.

He/She also defers $200 per month in plan 2 of the employer from 1/1/2007-12/31/2007.

The old rule would result in deferral of $4,800 for this individual in the ADP test ($2,400 for the calendar and $2,400 for the off calendar year because this plan year ended during the calendar year).

The new rule would result in deferrals of $3,600 in the ADP test ($2,400 for calendar year plan + $1,200).
Targeted Qualified Non-Elective Contributions (QNECs)

Currently, an employer may be allowed to make a “targeted” QNEC allocation to the lowest paid Non-Highly Compensated Employee (NHCE) up to the Annual Additions limit (i.e., 415 Limit). This process is continued until the Actual Deferral Percentage (ADP) and/or Actual Contribution Percentage (ACP) test is satisfied. This corrective allocation is commonly referred to as a “bottom-up QNEC” and often results in a disproportionate QNEC allocation.

The final regulations restrict targeted QNECs and impose new conditions. Under the new regulations, disproportionate QNECs may be excluded from the ADP or ACP test if they exceed the greater of:

• 5% of Compensation; or

• Two times the plan’s representative contribution rate.

However, Davis-Bacon plans will allow QNECs up to 10% of Compensation.

Note that the representative contribution rate equals the lowest contribution rate for any NHCE taking into consideration at least 50% of the eligible NHCEs, or if greater, the lowest contribution rate for any eligible NHCE who is active on the last day of the plan year.

<table>
<thead>
<tr>
<th>MONTH</th>
<th>Deferrals Plan 1</th>
<th>Deferrals Plan 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/2006</td>
<td>200</td>
<td>0</td>
</tr>
<tr>
<td>8/2006</td>
<td>200</td>
<td>0</td>
</tr>
<tr>
<td>9/2006</td>
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</tr>
<tr>
<td>10/2006</td>
<td>200</td>
<td>0</td>
</tr>
<tr>
<td>11/2006</td>
<td>200</td>
<td>0</td>
</tr>
<tr>
<td>12/2006</td>
<td>200</td>
<td>0</td>
</tr>
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<td>1/2007</td>
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<td>200</td>
</tr>
<tr>
<td>2/2007</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>3/2007</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>4/2007</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>5/2007</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>6/2007</td>
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</tr>
<tr>
<td>7/2007</td>
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<td>200</td>
</tr>
<tr>
<td>8/2007</td>
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<td>200</td>
</tr>
<tr>
<td>9/2007</td>
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<td>200</td>
</tr>
<tr>
<td>10/2007</td>
<td>0</td>
<td>200</td>
</tr>
<tr>
<td>11/2007</td>
<td>0</td>
<td>200</td>
</tr>
<tr>
<td>12/2007</td>
<td>0</td>
<td>200</td>
</tr>
</tbody>
</table>

TOTAL for test $2,400 $2,400
OLD RULE = $4,800

New Rule would only include those contributions made during the YEAR being tested resulting in $3,600 of deferrals instead of $4,800.
GAP Period Income

The “gap period” is the time from the end of the plan year until the date of a corrective distribution. If there is a valuation date within such period the gap period income must be calculated. Therefore a plan that is valued annually will not have a valuation date during this period so no gap income needs to be distributed, however all daily valuation plans will be affected.

Prior to the final regulations, when removing distribution to correct a failed ADP or ACP test, the option to include/exclude gap period earnings from the end of the plan year through the date of distribution was a plan design option. Plans that use MassMutual’s document services did not require gap interest to be distributed to correct ADP/ACP test failures.

With these final regulations, when removing excess contributions/excess aggregate contributions, interest during the gap period (from the end of the plan year through the date of distribution) must also be removed. To accommodate daily valued plans, the regulations allow up to seven days for the plan to make the distribution after gap period earnings are calculated without having to calculate additional earnings.

The amount of gap period income may be determined by applying the final regulations’ alternative method for estimating the income. Plans also have the option of calculating gap period earnings using a safe harbor method (as under prior law). Under the safe harbor method, for each month in the gap period (including the month of payment if the corrective distribution is made after the 15th of the month) the allocable income is equal to 10% of the income that was determined for the preceding plan year.

As an example:

- $1,000 ADP excess resulted from the 2006 test
- 2006 test completed on 2/20/07 with additional interest calculated for the period 1/1/2007 to 2/20/2007
- 7-day window allows for distribution during the period 2/20/2007 thru 2/27/2007

Limit Excess Match from ACP Test

Currently, all matching contributions (regardless of the formula) are generally included in the Actual Contribution Percentage (ACP) test. The final regulations impose a new requirement for including matching contributions that are made on behalf of Non-Highly Compensated Employees. Under the new regulations, matching contributions for NHCEs may be disregarded from the ACP test if they exceed the greater of:

- 5% of Compensation;
- 100% of the Employee’s Elective Deferrals; or
- Two times the plan’s representative matching rate.

The new regulations also provide for a special rule, which states that if the plan provides a tiered formula (i.e., matching rate that is not the same for all levels of elective deferrals or employee contributions) the employee’s actual contributions are ignored for determining his or her matching rate and instead the employee is “deemed” to have contributed 6% of compensation.

An extensive example is contained in the attached appendix entitled “Example of a Disproportionate Match (D-Match).”
Limit Excess Match from ACP Test continued

Several basic sample formulas follow:

Sample formulas that are not disproportionate:
• 100% of the first 3% of compensation
• 100% of the first 10% of compensation
• 100% of the first 5% then 50% of the next 5% of compensation
• 50% of 20% of compensation

In each case these match formulas are not greater than 100% of compensation.

More sample formulas that are not disproportionate.
• 100% of the first 2% then 200% of the next 1% of compensation
• 100% of the first 1% then 100% of the next 1% of compensation
• 200% of the first 2% of compensation

In each of these cases, although the match is greater than 100%, the TOTAL match does not exceed 5% of compensation.

Sample formulas that may be disproportionate.
• 200% of the first 3% of compensation
• 100% of the first 3% then 150% of the next 2% of compensation
• 150% of the first 4% of compensation

In each of these cases, the match is greater than 100% of the employees contribution AND the total match could be greater than 5% of compensation.

Please contact your MassMutual service representative, if you believe that your matching contribution formula may be a disproportionate matching formula.
Ban on Accelerated Deductions

Currently, employers may accelerate tax deductions of elective deferrals and matching contributions by pre-funding these contributions.

The final regulations provide that a contribution will not be treated as made to a Cash-or-Deferred-Arrangement (CODA) or an employer matching contribution if it is made to the plan before the employee actually performs the services to which the contribution relates. These final regulations offer limited exceptions to the pre-funding restrictions, such as early contributions as a result of an occasional administrative reason (e.g., bookkeeper going on vacation).

For example, Sponsor has a June 30, 2006 tax year end but a calendar year 401(k) plan. To accelerate the tax deduction with respect to matching and salary deferral contributions, the employer pre-funds deferrals and matching contribution to the 401(k) plan for the period 7/1/2006-12/31/2006 by June 30, 2006 to receive the tax deduction on the June 30, 2006 tax return. Under the new rule, the employer may not pre-fund matching and salary deferral contributions prior to the time such service has been performed by the employees. Thus, matching and salary deferral contributions for the month of December 2006 may not be contributed until after such service is performed (e.g., December 2006).
Appendix A

Example of a Disproportionate Match (D-Match)

The new §401(k) regulations may exclude certain matching contributions made to NHCEs from the Actual Contribution Percentage (ACP) test if the amounts exceed certain limits. Consequently, this could lead to higher return of excesses to HCEs or an actual ACP test failure. A plan cannot count matching contributions for NHCEs in the ACP test if they exceed the greater of:

1. 5% of an employee’s compensation
2. 100% of an employee’s contributions; and
3. the product of (i) employee’s contributions and (ii) two times the representative matching rate.¹

Here’s an example of a matching contribution formula that would be affected by the new regulations:

<table>
<thead>
<tr>
<th>NHCE Group</th>
<th>Participant</th>
<th>Compensation</th>
<th>Years</th>
<th>Term at Year End</th>
<th>Actual Deferral Percent</th>
<th>Actual Salary Deferral Contribution</th>
<th>Actual Match %</th>
<th>Actual Match Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lyndsay Lane</td>
<td>$66,200</td>
<td>1</td>
<td>N</td>
<td>8.00%</td>
<td>$5,296</td>
<td>3.00%</td>
<td>$1,986</td>
<td></td>
</tr>
<tr>
<td>Joe Small</td>
<td>$70,000</td>
<td>5</td>
<td>N</td>
<td>6.00%</td>
<td>$4,200</td>
<td>3.00%</td>
<td>$2,100</td>
<td></td>
</tr>
<tr>
<td>Jim Hostess</td>
<td>$54,000</td>
<td>9</td>
<td>N</td>
<td>8.00%</td>
<td>$4,320</td>
<td>3.00%</td>
<td>$1,620</td>
<td></td>
</tr>
<tr>
<td>Jane Big</td>
<td>$82,500</td>
<td>10</td>
<td>N</td>
<td>15.00%</td>
<td>$12,375</td>
<td>6.00%</td>
<td>$4,950</td>
<td></td>
</tr>
<tr>
<td>Donna Fine</td>
<td>$38,000</td>
<td>10</td>
<td>N</td>
<td>24.00%</td>
<td>$9,120</td>
<td>6.00%</td>
<td>$2,280</td>
<td></td>
</tr>
<tr>
<td>Joel Little</td>
<td>$45,000</td>
<td>12</td>
<td>Y</td>
<td>2.00%</td>
<td>$900</td>
<td>2.00%</td>
<td>$900</td>
<td></td>
</tr>
<tr>
<td>Sarah Lee</td>
<td>$62,000</td>
<td>15</td>
<td>N</td>
<td>10.00%</td>
<td>$6,200</td>
<td>6.00%</td>
<td>$3,720</td>
<td></td>
</tr>
<tr>
<td>Amy Tall</td>
<td>$74,000</td>
<td>19</td>
<td>N</td>
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<td>$14,800</td>
<td>6.00%</td>
<td>$4,440</td>
<td></td>
</tr>
<tr>
<td>Sam Saver</td>
<td>$72,000</td>
<td>20</td>
<td>Y</td>
<td>6.00%</td>
<td>$4,320</td>
<td>9.00%</td>
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<td></td>
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<tr>
<td>Susan Time</td>
<td>$86,000</td>
<td>20</td>
<td>N</td>
<td>10.00%</td>
<td>$8,600</td>
<td>9.00%</td>
<td>$7,740</td>
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<tr>
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<td>14.00%</td>
<td>$10,920</td>
<td>9.00%</td>
<td>$7,020</td>
<td></td>
</tr>
<tr>
<td>Chris Trouble</td>
<td>$81,000</td>
<td>25</td>
<td>Y</td>
<td>5.00%</td>
<td>$4,050</td>
<td>7.50%</td>
<td>$6,075</td>
<td></td>
</tr>
</tbody>
</table>

¹ The plan’s representative matching contribution rate is defined as the lowest matching rate for any eligible NHCE in a group of NHCEs that includes at least 50% of all the eligible NHCEs who make contributions during the year (or the lowest matching rate among all eligible NHCEs who are employed on the last day of the year, if greater).
# D-Match Analysis

Total NHCE group in order of Match Rate (w/terminated Es)

<table>
<thead>
<tr>
<th>Participant</th>
<th>Service Years</th>
<th>Match %</th>
<th>Deferral %</th>
<th>Match Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donna Fine</td>
<td>10</td>
<td>6.00%</td>
<td>24.00%</td>
<td>25.00%</td>
</tr>
<tr>
<td>Amy Tall</td>
<td>19</td>
<td>6.00%</td>
<td>20.00%</td>
<td>30.00%</td>
</tr>
<tr>
<td>Lyndsay Lane</td>
<td>1</td>
<td>3.00%</td>
<td>8.00%</td>
<td>37.50%</td>
</tr>
<tr>
<td>Jim Hostess</td>
<td>9</td>
<td>3.00%</td>
<td>8.00%</td>
<td>37.50%</td>
</tr>
<tr>
<td>Jane Big</td>
<td>10</td>
<td>6.00%</td>
<td>15.00%</td>
<td>40.00%</td>
</tr>
<tr>
<td>Joe Small</td>
<td>5</td>
<td>3.00%</td>
<td>6.00%</td>
<td>50.00%</td>
</tr>
<tr>
<td>Sarah Lee</td>
<td>15</td>
<td>6.00%</td>
<td>10.00%</td>
<td>60.00%</td>
</tr>
<tr>
<td>Peter Piper</td>
<td>22</td>
<td>9.00%</td>
<td>14.00%</td>
<td>64.29%</td>
</tr>
<tr>
<td>Susan Time</td>
<td>20</td>
<td>9.00%</td>
<td>10.00%</td>
<td>90.00%</td>
</tr>
<tr>
<td>Joel Little</td>
<td>12</td>
<td>2.00%</td>
<td>2.00%</td>
<td>100.00%</td>
</tr>
<tr>
<td>Chris Trouble</td>
<td>25</td>
<td>7.50%</td>
<td>5.00%</td>
<td>150.00%</td>
</tr>
<tr>
<td>Sam Saver</td>
<td>20</td>
<td>9.00%</td>
<td>6.00%</td>
<td>150.00%</td>
</tr>
</tbody>
</table>

Note: Participants who are not deferring are excluded from this analysis.

**Results of the example:**

Lowest matching rate in the top 50% group

Sarah Lee 60.00%

\[ \times 2 \]

Representative Match Rate 120.00%

---

2 The Match Rate is determined by dividing the participant’s matching contribution by his/her salary deferral contribution (i.e., Donna Fine: $2,280 (match) / $9,120 (deferrals) = 25%).
### Individual Results

<table>
<thead>
<tr>
<th>Participant</th>
<th>Serv Yrs</th>
<th>Comp</th>
<th>Def %</th>
<th>Sal Def Ctrbs</th>
<th>Match Rate*</th>
<th>Actual Match Ctrbs</th>
<th>Includable Match Ctrbs</th>
<th>Amt excl from ACP Test**</th>
</tr>
</thead>
<tbody>
<tr>
<td>C. Trouble</td>
<td>25</td>
<td>$81,000</td>
<td>5.00%</td>
<td>$4,050</td>
<td>150.00%</td>
<td>$6,075</td>
<td>$4,860</td>
<td>$1,215</td>
</tr>
<tr>
<td>S. Saver</td>
<td>20</td>
<td>$72,000</td>
<td>6.00%</td>
<td>$4,320</td>
<td>150.00%</td>
<td>$6,480</td>
<td>$5,184</td>
<td>$1,296</td>
</tr>
</tbody>
</table>

*Match Rate needs to be reduced to 120.00%*

**How do you determine the amount that is excluded from the ACP test?**

▸ The Match Rate needs to equal 120.00%. Solve for X.

1. C. Trouble  
   
   \[
   \frac{X}{4,050} = 120.00\% \\
   x 120\% \\
   = \frac{4,860}{4,050} = 1,215
   \]

   Actual Match – Includable Match = Amount excluded from ACP test.  
   
   \[
   ($6,075 - 4,860 = 1,215) 
   \]