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Returning to Safe Harbor

It has been a tough couple of years since the real estate bubble burst and stock market crashed. But by now many business have reduced costs and are once again profitable. So we pose this question, "Is the time right to go back to Safe Harbor"?

Safe harbor is a great concept that allows your plan to automatically pass the 401(k)/401(m) Discrimination and Top Heavy Testing by making a 100% vested employer contribution.

There are three basic types of safe harbor that can be utilized, which are listed below. Plan sponsors can re-adopt safe harbor for 2011 by amending the plan and providing employees a safe harbor notice by December 1, 2010.

1. **Safe Harbor Non-elective 3% contribution.** Under this option every employee who has met the plan's eligibility must receive an employer contribution equal to 3% of their compensation. This contribution can be used in conjunction with a cross-tested profit sharing contribution.

2. **Safe Harbor Match contribution.** Under this option the employer will give an employer match contribution to an employee who defers compensation as 401(k) contributions. The employer contribution will match the employee's 401(k) contribution using a formula of 100% match on the first 3% and 50% match on the next 2% of compensation deferred, or a similar formula.

3. **Maybe Safe Harbor Non-elective 3% contribution.** Under this option the employer has until 30 days before the end of the plan year to confirm whether it will adopt safe harbor or not for the current plan year. Two notices are given to employees, the initial notice 30 days prior to the start of the plan year and the final confirming notice 30 days prior to the end of the plan year. The highly compensated and key employees normally do not make 401(k) contributions until the company decides if it is going to elect safe harbor for the plan year.

Contact Administrative Retirement Services, Inc. by November 15, 2010 if you would like to add safe harbor to your plan for the year beginning January 1, 2011.