

Voya Alert!

January 30, 2019

2019 Annual Plan Deadlines by Event

Action Required: *This Voya Alert is for information only; no action is required at this time.*

- The attached chart provides an explanation of key plan events for Section 401(a) and 401(k) defined contribution plans and the deadline for each.
- The chart is intended as a tool to assist employers with monitoring the key annual plan requirements.

There are many important requirements for section 401(a) and 401(k) defined contribution plans that occur either during the calendar year or during the plan year. Some examples of these requirements include participant statements, compliance testing and remittance of plan contributions.

The attached chart (although not intended to be exhaustive) includes the key annual events which must occur within a specific deadline. The chart is intended to serve as a tool that can be used by employers to monitor compliance over the plan and calendar year.

Editions of Qualified Plan News referenced in the attached chart are available on the Voya 401(k) InfoCenter site at <http://voya401kinfocenter.com>.

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2019 ANNUAL PLAN DEADLINES by EVENT

Required Event	Deadline
Contribution Remittance	
Remit Employee Contributions and loan repayments in accordance with the ERISA ¹ “earliest date standard.”	As soon as administratively possible for the employer to segregate from corporate assets but in no event later than 15 business days following the month in which the contribution was deducted (the “earliest date standard”). There is a Department of Labor (DOL) safe harbor of 7 business days for plans with less than 100 participants at the beginning of the plan year. See Qualified Plan News (QPN) 2010-1 for more details.
Employer Match*	<u>Annual</u> - By the employer’s tax return filing date (plus extensions). <u>Payroll Periods</u> - As directed by the plan document, but not later than the employer’s tax return filing date (plus extensions) for the plan year the match applies to. <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i>
True-Up of Employer Matching or Profit Sharing Contribution when made based on annual compensation but contributed periodically during the Plan Year.*	By the employer’s tax return filing date (plus extensions). <i>Note: ADP/ACP testing cannot be completed until the match is remitted.</i>
Safe Harbor Employer Match *	<u>Annual</u> - By the employer’s tax return filing date (plus extensions). <u>Payroll Periods</u> –The match on any elective deferral made during a plan year quarter must be contributed to the plan by the last day of the immediately following plan year quarter.
Safe Harbor 3% Non-Elective Contribution*	By the employer’s tax return filing date (plus extensions).
Employer Annual Profit Sharing*	By the employer’s tax return filing date (plus extensions).

* Partnerships should contact their plan attorney or tax advisor to determine the deadline for remittance of employer contributions.

¹ Employee Retirement Income Security Act of 1974, as amended

Required Event	Deadline
Annual Compensation Limit	
The annual compensation limit for the 2019 plan year is \$280,000	Employee contributions based on amounts in excess of the limit must be returned and any employer contributions must be forfeited before testing for the plan year is done.
Forfeiture Account Use	
Forfeitures for each plan year should be used and not held indefinitely.	By the end of the plan year in which they were forfeited.
Participant Notices	
Safe Harbor ADP/ACP Notice	<p><u>Initial Notice</u> – For newly eligible employees no later than the eligibility date and no earlier than 90 days prior to the eligibility date. Or, as soon as practicable after that date and the employee is permitted to elect to defer from all types of compensation that may be deferred under the plan beginning on the date the employee becomes eligible.</p> <p><u>Annual Notice</u> – No earlier than 90 days and no later than 30 days before the start of each plan year to which the safe harbor rules will apply.</p> <p>Certain exceptions apply to the initial and annual notice requirements.</p>
Eligible Automatic Contribution Arrangement (EACA) (See QPN 2009-4 for more details.)	<p><u>Initial Notice</u> - For newly eligible employees, no earlier than 90 days before the employee’s eligibility date, and no later than the employee’s eligibility date or, as soon as practicable, but prior to the pay date of the pay period in which the employee is first eligible. The employee must have reasonable time after receiving the notice to opt out or elect a different deferral percentage.</p> <p><u>Annual Notice</u> - No earlier than 90 days or later than 30 days before the start of the plan year.</p>

Required Event	Deadline
Participant Notices (con't)	
<p>Qualified Automatic Contribution Arrangement (QACA) (See QPN 2009-4 for more details.)</p>	<p><u>Initial Notice</u> – For newly eligible employees no later than the eligibility date and no earlier than 90 days prior to the eligibility date. If it is not practicable for the notice to be provided by the eligibility date then provide the notice as soon as practicable after the date the employee is eligible to defer but, prior to the pay date for the payroll period that includes the date the employee becomes eligible. The notice must be furnished sufficiently early so the employee has a reasonable period of time after receipt of the notice to make an alternate election under the plan.</p> <p><u>Annual Notice</u> – Same as ADP/ACP Safe Harbor above.</p>
<p>Automatic Contribution Arrangement (ACA)</p>	<p><u>Initial Notice</u> – The employee must receive notice of the availability of the election to receive the amount in cash or have it contributed by the employer to the plan, within a reasonable period, before the date on which the cash is currently available. The time period must allow the participant an effective opportunity to make an election.</p> <p><u>Annual Notice</u> – A reasonable time period of at least 30 days before the start of the plan year.</p>
<p>Qualified Default Investment Alternative (QDIA) (See QPN 2007-16 for more details.)</p>	<p><u>Initial Notice</u> - A reasonable time period of at least 30 days before plan eligibility or at least 30 days before the first default investment.²</p> <p><u>Annual Notice</u> – A reasonable period of time at least 30 days before the start of the plan year.</p>
<p>Stock Diversification Requirement (See QPN 2007-12 and QPN 2010-5)</p>	<p>At least 30 days before a participant is eligible to diversify. No ongoing annual notice is required.</p>

² Alternatively, on or before eligibility date if participant may make a permissible withdrawal under an EACA.

Required Event	Deadline
<p data-bbox="235 283 597 315">Participant Fee Disclosure</p> <p data-bbox="235 331 787 619">For participant-directed plans subject to ERISA, furnish the report of plan-related and investment-related expenses to all eligible employees, beneficiaries of deceased participants and alternate payees pursuant to a Qualified Domestic Relations Order that have an account balance under the plan.</p> <p data-bbox="235 697 779 802">Any change (not just a material change) to the plan-related disclosure must be furnished directly to participants.</p> <p data-bbox="235 879 776 1092">Changes to investment-related disclosures are not required to be furnished directly to participants, but must be reflected on the required Internet Web site where detailed investment-related information is made available.</p> <p data-bbox="235 1169 787 1350">Provide to each participant a statement that includes the dollar amount and description of any plan or individual expenses actually charged to his/her account during the preceding quarter.</p> <p data-bbox="235 1428 747 1497">(For a more detailed overview see QPN 2011-2, QPN 2012-7 and QPN 2012-3.)</p>	<p data-bbox="820 331 1412 472"><u>Initial Notice</u> – On or before the date the participant is eligible to direct investments for the first time and on an annual basis thereafter.</p> <p data-bbox="820 514 1412 655"><u>Annually</u> – Originally at least once in each 12-month period. This deadline was extended to once in each 14-month period effective June 17, 2015.</p> <p data-bbox="820 697 1412 840"><u>Notice of Changes to Plan-Related Disclosures</u> - Not less than 30 days and not more than 90 days before the effective date of the change.</p> <p data-bbox="820 879 1388 1022"><u>Notice of Changes to Investment-Related Disclosures</u> - The Web site must be updated as soon as reasonably possible, but at least quarterly.</p> <p data-bbox="820 1169 1364 1312"><u>Quarterly</u> – Participants must receive a quarterly statement reporting any amounts actually charged to his/her account in the prior quarter.</p>

Required Event	Deadline
<p data-bbox="235 285 553 315">Sponsor Fee Disclosure</p> <p data-bbox="235 323 756 426">Receive from certain service providers a disclosure of the service provider’s fees and compensation.</p> <p data-bbox="235 506 756 609">Changes to the required disclosure information must be reported to the plan fiduciary.</p> <p data-bbox="235 835 797 938">If the service provider fails to furnish the required disclosures the plan fiduciary must notify the DOL of the failure in writing.</p> <p data-bbox="235 1272 743 1339">(For a more detailed overview see QPN 2012-1 and QPN 2012-6.)</p>	<p data-bbox="820 323 1417 464">Service provider must furnish this disclosure to the plan’s fiduciaries reasonably in advance of the date the contract or arrangement is entered into.</p> <p data-bbox="820 506 1406 573"><u>Changes to Investment-Related Disclosures</u> – Not later than annually.</p> <p data-bbox="820 615 1411 756"><u>Changes to All Other Disclosures</u> – As soon as practicable, but not later than 60 days from the date the service provider knows of the change.</p> <p data-bbox="820 835 1412 1230">Upon discovering the failure the plan fiduciary must send a written request for the information to the service provider. If the disclosures are not furnished within 90 days the fiduciary must notify the DOL in writing not later than the thirty (30) days following the earlier of: 1) the service provider’s refusal to furnish the information requested in writing; or 2) the end of the ninety (90) day period after the written request is made of the service provider.</p>

Required Event	Deadline
Compliance Testing	
ADP/ACP Annual Nondiscrimination Testing - The amount of contributions made to a plan cannot discriminate in favor of highly compensated employees.	Test must be completed and corrected (if failed) within 12 months after the end of the plan year. If the plan fails testing, excess amounts must be distributed within <u>2 ½ months</u> after plan year end to avoid the 10% excise tax.
ADP/ACP testing under a plan with an <i>EACA provision that covers all eligible employees.</i>	Test must be completed and corrected (if failed) within 12 months after the end of the plan year. If failed, excess amounts must be distributed within <u>6 months</u> after plan year end to avoid the 10% excise tax.
415 Annual Additions Testing - Total contributions cannot exceed the lesser of 100% of compensation or \$56,000 for the 2019 limitation year.	Must be monitored ongoing. If the test fails excess deferrals or after tax contributions are returned and excess employer contributions are forfeited or held in a suspense account, as directed by the plan document.
Top Heavy Testing - Key employees' assets must not exceed 60% of total plan assets. Top Heavy testing does not apply to Safe Harbor ADP/ACP Plans or to QACAs if the safe harbor contribution is the only employer contribution made to the plan.	Test is performed at the start of the plan year using account balances on the last day of the prior plan year. If failed, the plan is Top Heavy for the current plan year and an additional employer contribution may be required. Generally, the additional contributions should be made no later than the employer's tax filing date (plus extensions) for the Top Heavy plan year.
Elective Deferral Limit is raised to \$19,000 for 2019.	Return excess deferrals plus income allocable thereto by April 15 th following the close of the taxable year of the deferral.
Coverage Testing - Requires that the classification of employees covered by a plan does not discriminate in favor of highly compensated employees.	Coverage requirements must be satisfied at least annually as of the last day of the plan year using the annual testing option (as opposed to the daily or quarterly testing options). A failed test must be corrected within <u>9 ½ months</u> after the end of the plan year.

Required Event	Deadline
Plan Amendments and Disclosures	
Legislatively required amendments	Adopt by the employer’s tax filing date (plus extensions) unless otherwise directed.
Employer discretionary amendments	Adopt by the end of the plan year in which the amendment is effective. Some exceptions apply requiring amendments to be adopted before the start of the plan year to which they apply (e.g., amendment to add or change an ADP/ACP Safe Harbor or Qualified Automatic Contribution Arrangement (QACA)).
Amendment for changes to hardship withdrawals under IRS notice of Proposed Regulation published in the Federal Register on November 14, 2018.	For both amendments, if the Proposed Regulation is issued in final form without further modification, the plan amendment deadline is as follows:
Discretionary amendment for certain disaster relief for victims of Hurricanes Michael and Florence (included in the proposed hardship withdrawal regulation noted above).	<p><u>For individually designed, non-governmental plans</u>, the applicable deadline will be the end of the 2nd calendar year that begins after the issuance of the annual IRS Required Amendments List that contains the hardship rule changes.</p> <p><u>For pre-approved plans</u>, the Proposed Regulation does not specify the deadline for plan amendments. Presumably the IRS intends that the normal deadlines applicable to interim amendments, as prescribed by Rev. Proc. 2017-41, will apply.</p>
Correction for failure to timely amend	Correct under the Voluntary Correction Program (VCP) of the Internal Revenue Services’ Employee Plans Compliance Resolution System described under Revenue Procedure 2018-52. The Plan’s attorney should also be consulted. See the IRS website under Correcting Plan Errors: http://www.irs.gov/Retirement-Plans/Correcting-Plan-Errors .
Summary of Material Modifications (SMM)	Furnish to participants within 210 days after the end of the plan year in which the change is effective.

Required Event	Deadline
Plan Amendments and Disclosures	
Summary Plan Description (SPD)	Furnish 90 days after participant becomes eligible; every 5 years if plan is amended; every 10 years if plan is not amended (unless otherwise directed by the IRS).

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