Give Your 401(k) Plan a Boost

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- Introductions
  - Name
  - Employer
  - Involvement in Benefits Administration

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- Interesting Facts
  - Estimated number of plans
    - 30,000 – in 1985
    - 200,000 – in 1995
    - 640,000 – in 2010
  - Amounts held in 401(k) plans
    - $900 billion – in 1995
    - $4.7 trillion – in 2014

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– Percentage of compensation matched (for plans that provided matches)

- 3% or less - 22%
- 4% - - 15%
- 5% - - 12%
- 6% - - 41%
- 7% or more - 6%

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- Matching percentage of each dollar deferred (simple match formulas)
  - 100% - 44%
  - 50% - 15%
  - 25% - 9%
- 11% of participants eligible to make Roth deferrals take advantage of it
- 21% of participants eligible to take loans take advantage of it

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– Comparing Account Balances by Age and Salary Range

Salary Range	Median Account Balance by Age 60
$20,000 - $40,000	64,147
$40,000 - $60,000	97,588
$60,000 - $80,000	160,051

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Salary Range	Median Account Balance by Age 60
$80,000 – $100,000	237,303
Over $100,000	350,576

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- Our Own Quick Survey
  - How many of our employers do not offer a 401(k) or 403(b) plan?
  - How many offer a Roth option?
  - How many plan participants?
    - Under 10
    - 10 to 100
    - Over 100
  - How many fail the ADP test?
  - How many offer plan loans?

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- The Basics
  - Traditional 401(k) Plans
    - Pre-tax contributions
    - Distributions are taxable
    - Maximum deferral in 2017-$18,000
    - Maximum catch-up deferral in 2017-$6,000
    - Subject to non-discrimination testing (ADP test) to assure that HCEs do not defer disproportionately large amounts

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- HCEs are generally 5% owners and employees who earned at least $120,000 in 2016

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- Roth 401(k) Plans
  - After-tax contributions
  - Distributions are tax free (if eligible)
  - Contribution/deferral limits the same as in a traditional 401(k)
  - Subject to the same ADP test as in a traditional 401(k)

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- Why choose Roth 401(k) over a traditional 401(k)
  - Tax rates may be higher during retirement than current rates
  - Not subject to required minimum distributions if rolled into Roth IRAs
  - Maximizes retirement benefits
  - Facilitates estate planning by prepaying income taxes
  - Facilitates estate planning by providing “terrific” death benefits to beneficiaries

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- Curing ADP Test Problems
  - What is ADP? Must meet either of these two tests:
    - ADP for HCEs is not more than the ADP for NHCEs multiplied by 1.25; or
    - ADP for HCEs is not more than 2% higher than ADP for NHCEs and more than 2 times the ADP for NHCEs

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- Example

	Comp.	Deferral	ADP
HCE1	$205,000	$13,000	6.34%
HCE2	$180,000	$12,000	6.67%
NHCE1	$60,000	$ 6,000	10.00%
NHCE2	$40,000	$ 3,200	8.00%
NHCE3	$40,000	$ 2,000	5.00%
NHCE4	$40,000	$ 0	0.00%
NHCE5	$20,000	$ 600	3.00%
NHCE6	$20,000	$ 300	1.50%

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ADP Test 1 Failed

HCE ADP% = 6.51%

NHCE ADP% = 4.58%

6.51% / 4.58% = 1.42%

Therefore ADP Test 1 Failed

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ADP Test 2 Passed

6.51% - 4.58% = 1.93%

1.93% < 2% and

6.51% < 9.15 (2 times the NHCE ADP%)

Therefore ADP Test 2 Passed

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- How to cure a failed ADP Test
  - Refund deferrals to HCEs (by Mach 15th for calendar year plans)
  - Employer makes a Qualified Non-Elective Contribution (QNEC) or a Qualified Matching Contribution (QMAC) for NHCEs

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- Other options to cure ADP problems
  - Adopt a Safe Harbor Plan
    - Automatically passes ADP
    - Requires a mandatory 3% non-elective contribution or a match of 100% of the first 3% of deferral and 50% of the next 2%
  - Add or increase matches
  - Extend matches
  - Use escalating match rates

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- Provide automatic enrollment for new participants
- Give participants access to their accounts with loans, hardship distributions and in service distributions after 59 ½
- Increase opportunities to change deferral or investment elections
- Run ADP on an interim basis during the year to "know where you stand."

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- Who pays Plan Expenses
  - Paying expenses from plan assets
    - Plan document must authorize payment
    - May not be "settlor function" expenses - an independent decision or business activity
      - Design expenses
      - Initial plan document
      - Voluntary amendments

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- The types of expenses that may be paid from the plan include:
  - Participant record keeping
  - Non-discrimination/top-heavy testing
  - Preparation of Form 5500
  - Accountant's audit reports for large plans
  - Various notices such as automatic enrollment, default investments and safe harbor 401(k) plans

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- Plan amendments and/or restatements required by law changes or new regulations
- IRS Determination Letter requests
- Purchase of trustees fiduciary bond
- Trustee fees
- Investment management fees

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– Which expenses can be borne directly by an affected participant?
  - Plan document must authorize payment
  - Participant must be informed of the fee in advance
  - The types of fees typically charged directly

    Fees to prepare distribution packages and consent forms
    – Hardship withdrawal expenses
    – Fees to prepare participant loan documents
    – Qualified Domestic Relations Order determinations and processing fees

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- Other Methods of allocating expenses
  - Pro rata based upon account balances
  - Per capita among all participants

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- Should the plan sponsor pay expenses?
  - Obviously there is an economic decision
  - For marginal plans it may be necessary
  - Increases participants rates of return that could have a powerful effect on account balances
  - If the sponsor pay expenses let the participants know
- Consider using forfeitures to pay expenses

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- Don't Overlook Roth 401(k) Opportunities
  - Add Roth 401(k) options to a traditional 401(k) Plan
    - More media coverage than ever before
    - More plans are adding Roth options every day
    - Provides a method of diversifying future risk that rates will increase
    - Employers get more "bang for the buck" because very little cost to add this feature
    - Maximizes retirement benefits
    - Provides many estate planning opportunities

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- Allow for In-Plan Roth Conversions
  - What is a Roth Conversion?
    - Allows a participant to transfer a non-Roth portion of their account into a designated Roth account
    - Generally the amount converted is subject to Federal Income Tax in the year converted
    - The ten percent early distribution penalty does not apply

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- What accounts can be converted?
  - Pre-tax elective deferrals
  - Vested matching contributions
  - Vested non-elective employer contributions
  - Rollover contributions
  - Earnings on any of the above accounts

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– Paying the tax created by the Conversion
  - The big deterrent to a Conversion is the obligation to pay the tax immediately
  - Ideally, a participant will be in a low tax bracket and have cash available to pay the tax
  - The participant may have available other distribution opportunities
    – Plan loans
    – In-service distributions of other plan assets (which will subject the distribution to taxation and penalties, if appropriate)

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- Other Things to Consider
  - Provide regular employee meetings
  - Have professionals conduct those meetings
  - Make sure the participants understand how the plan works
  - Answer all questions
  - Provide "sample portfolios" or target date funds

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- Provide interactive tools when possible (calculators, retirement needs, etc.)
- Keep fees as low as possible
- Provide an "adequate array of investment options"
- Provide adequate flexibility to change deferrals and investment alternatives

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- Anyone have a feature in their plan that makes it particularly
  - Appreciated
  - Successful