

When Do I Need to Establish a Retirement Plan?

Due to changes in the law as a result of the SECURE Act, employers have more time to decide upon their adoption of a retirement plan. Generally, a pension or profit sharing plan must be established in writing prior to the tax filing deadline for a business. For instance, if you are a calendar year taxpayer, not organized as a sole proprietor, you must establish the plan no later than March 15 of the year following the year in which you want to adopt the plan (or September 15 if you extend your taxes). Establishing a plan means that you have finalized and signed the legal Plan Document. Simply opening an account at a financial institution does not, by itself, create a tax-qualified retirement plan. Prior to the SECURE Act, a calendar year taxpayer needed to have adopted a new plan by December 31.

However, with this new extended timeline from the SECURE Act, the deadline for adopting the plan is also often the deadline for funding the plan. In addition, your new plan has required government filings that can be due as little as one month after adoption dependent upon the date adopted.

An existing plan will specify when a benefit is accrued. Most standardized prototype plans cannot be easily changed or terminated after employees work 500 hours in a plan year. Most non-standardized prototype plans allow changes before 1,000 hours and some allow changes before the "last day" of the plan year. Individually designed plans may vary even more. You must consult your Plan Document to determine when a benefit is earned.

For this reason, Security Mutual Life has internal recommended deadlines for plan adoption, in order to assure our clients have an outstanding first year experience, with all required government filings met in a timely manner, with no penalties.

Tax Status	Filing Deadline	Extended Deadline	Recommended Adoption Deadline
S Corporation	March 15	September 15	July 15
Partnership	March 15	September 15	July 15
C Corporation	April 15	October 15	August 15
Sole Proprietorship	April 15	October 15	August 15

There are some exceptions and other important dates you should be familiar with:

A New "Safe Harbor" 401(k) Plan

A safe harbor 401(k) plan must be installed prior to the first day of your fourth quarter (e.g., October 1 for a calendar year plan). Also, participants must be enrolled and able to make salary deferrals for at least 3 months. You should allow at least 30 days for your documents to be prepared and for your financial representative to prepare the enrollment kits and employee education program.

Adding a "Safe Harbor Non-Elective" feature to an Existing 401(k) Plan (minimum of 3%)

Generally, you must add this provision at least 30 days BEFORE the first day of the last month of your plan year (e.g., December 1 for a calendar year plan). Thus, for an existing 401(k) plan that may be having trouble satisfying the Actual Deferral Percentage (ADP) test, it is wise to do some planning in the late third quarter or early fourth quarter to see what curative options may be best for the upcoming plan year. Additional snapshot ADP testing may be required. A Safe Harbor Non-Elective contribution of 4% or greater has later deadlines. Please contact your TPA for details.

Adding a "Safe Harbor Match" Feature to an Existing 401(k) Plan

Generally, you must add this provision at least 30 days BEFORE the first day of the last month before your plan year (e.g., December 1 for a calendar year plan). Thus, for an existing 401(k) plan that may be having trouble satisfying the Actual Contribution Percentage (ACP) test, it is wise to do some planning in the late third quarter or early fourth quarter to see what curative options may be best for the upcoming plan year. Additional snapshot ADP/ACP testing may be required.

Making Changes to an Existing Pension or Profit Sharing Plan

An existing plan will specify when a benefit is accrued. Most standardized prototype plans cannot be easily changed or terminated after employees work 500 hours in a plan year. Most non-standardized prototype plans allow changes before 1,000 hours and some allow changes before the "last day" of the plan year. Individually designed plans may vary even more. You must consult your Plan Document to determine when a benefit is earned.

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