



## Cross-Tested 401(k) Plan

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A Cross-Tested 401(k) Plan design allows a plan sponsor to contribute and allocate an employer profit sharing contribution percentage to the older, presumably key and highly compensated participants while allocating a much lower contribution percentage to the younger and again presumably lower paid participants. If the employer's demographics can support this type of plan design, the overall contribution to the ownership group percentage will be considerably higher than the non-ownership group. Furthermore, this design will yield far better result for the ownership group than permitted disparity or compensation to total compensation allocation would yield.

The cross-tested contribution is allocated by a formula and is set forth in the plan document. The cross-tested design further divides plan participants into separate and distinct groups and is set forth in the plan document. Examples of Groups are as follows:

- Group 1 - Owner 1
- Group 2 - Spouse/Family Member of Owner 1
- Group 3 - Owner 2
- Group 4 - Spouse/Family Member of Owner 2
- Group 5 - Highly Compensated Participants
- Group 6 - Non-Highly Compensated Participants
- Group 7 - All Others

The employer's profit sharing contribution allocation is converted to a projected benefit at retirement, much like a defined benefit plan. If the projected benefit at retirement passes the cross-testing nondiscrimination tests, the contribution allocation is acceptable for that plan year. Please note again if the employer's employee demographics "swing" too much from plan year to plan year the passage of these test maybe affected.

Since the employer's profit sharing contribution is skewed to the key and highly compensated participants and those participants can receive the lion's share of the over all contribution a minimum gateway contribution must be provided to the non-highly compensated participants:

- A 5% allocation to each eligible non-highly compensated employee
- Or
- A lesser amount as long as the highest allocation percentage of any highly compensated participant received is no more than three time what the lowest non-highly compensated participant received.

This type of plan design can help achieve the retirement goals of the owners and key employees while allowing the employer's contribution to remain discretionary from one plan year to the next.

Please contact us regarding your plan's design or any other questions your 401(k) plan.

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