



## When Do I Need To Establish A Retirement Plan?

Generally, a pension or profit sharing plan must be established in writing prior to the last day of your tax year. For instance, if you are a calendar year taxpayer, you must establish the plan no later than December 31. 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.

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

1. **SIMPLIFIED EMPLOYEE PENSION PLAN (SEP-IRA).** Because a Simplified Employee Pension (SEP) is actually an IRA and not a pension or profit sharing plan, you can establish it by your tax filing date (e.g., April 15).
2. **SIMPLE-IRA.** All SIMPLEs must be calendar-year plans. They must generally be adopted and communicated to your employees by October 1. The October 1 deadline is to coordinate with the required 60-Day Election Period. Also, prior to the 60-day Election Period, a Summary Plan Description must be given to your employees to tell them whether the plan will match, grant a 2% non-elective contribution or the 1% non-elective special contribution for the following plan year. SAI recommends that a SIMPLE be evaluated in the third quarter to see if it is appropriate for the next year.
3. **A NEW “SAFE HARBOR” 401(K) PLAN.** Like a SIMPLE-IRA, 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). 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.
4. **ADDING A “SAFE HARBOR” FEATURE TO AN EXISTING 401(K) PLAN.** Generally, you must add this provision at least 30 days BEFORE the first day 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.
5. **MAKING CHANGES TO AN EXISTING PENSION OR PROFIT SHARING PLAN.** An existing plan will specify when a benefit is accrued. Most standardized prototype plans can't be easily changed or terminated after employees work 500 hours. 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. We will be happy to be of assistance and will offer options appropriate for your circumstance.

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