



JANUARY 2017 | NRS NEWSLETTER

RETIREMENT PLAN COMPENSATION

DEFINING A CRITICAL DATA ELEMENT FOR EMPLOYEE CENSUS REPORTING AND PLAN ADMINISTRATION

Administering a tax qualified retirement plan (e.g. a 401(k), profit sharing, and/or a defined benefit plan) always results in gathering and reporting employee census information to the party responsible for plan administration. While data such as employee name and date of birth are pretty straightforward, and usually do not change from year to year, every employee's reported compensation for plan purposes generally does change. Furthermore, determining exactly what compensation to report for a given employee will depend upon the purpose of collecting this information and may result in different compensation amounts being reported for the same individual. This means that the individual gathering and reporting employee census for plan administrative purposes must consult the Plan document to determine which components of employee compensation must be reported and which must be ignored.

Compensation Is Used for a Variety of Purposes

Each employee's compensation is used for a variety of administrative tasks and the definition of compensation depends upon which task is being performed. For example, *a safe harbor 401(k) plan* with employer matching and discretionary profit sharing contribution will need to refer to compensation in order to perform the following tasks:

- Determine which participants are *Highly Compensated Employees* in order to ensure that allocated employer contributions do not unduly discriminate in their favor.
- Determine which participants are *Key Employees* for purposes of implementing the required top-heavy Plan rules.
- Ensure that employee *salary deferrals* do not exceed the *limits* of Internal Revenue Code ("IRC") section 415.
- Ensure that required *top-heavy minimum employer contributions* are made, if the plan is top-heavy.
- Define what *employee compensation is available* for the participant to elect to make salary *deferral contributions*.



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- Determine the *amount of employer matching contributions*, if any, to be allocated to each participant.
- Determine *the amount of employer safe harbor contributions*, if any, to be allocated to each participant.
- Determine the *maximum deductible employer contribution* which can be deducted for the applicable employer's tax year.

One Source for Most **Statutory** and Design Compensation Definitions

The *definition of Compensation* for purposes of determining Highly Compensated Employees and Key Employees is a matter of *applicable tax law* and is not a plan design variable. Likewise, Compensation for self-employed individuals (sole proprietors, partners, and members of LLCs taxed as partnerships) is determined by tax law. As stated above, plan design has a direct bearing on how Compensation is designed for non-statutory plan administration purposes. Fortunately, all of the necessary definitions of Compensation are contained in a *formal Plan document that describes a particular plan in complete detail*, not merely the Summary Plan Description ("SPD"). Often, the Plan document consists of *both* an *Adoption Agreement* where selections are made between various permissible provisions, *and* a *Base document* that applies to all provisions not addressed in the Adoption Agreement.

For example, an IRS pre-approved document used by NRS consists of the Adoption Agreement executed by the employer defining its plan, and the NATIONAL RETIREMENT SERVICES, INC. DEFINED CONTRIBUTION VOLUME SUBMITTER PLAN AND TRUST document that automatically applies in addition to the Adoption Agreement specifically executed by the employer. *A careful reading of the Plan document will provide concrete guidance concerning the several definitions of Compensation*, not to mention all of the other detailed provisions concerning benefits, benefit limits, and the like.

Another Compensation Consideration: "COLAs"

While the Plan document will provide most of the information necessary to administer a plan, some limits are expressed in a way that permits annual adjustment for changes in the U.S. cost of living. NRS communicates with all clients annually concerning the latest legal limits as modified by a *cost-of-living adjustment ("COLA")*. A plan participant's Compensation, regardless of the



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definition used to determine the amount, is only recognized with regard to the first \$270,000 in compensation for plan years starting in 2017, versus \$265,000 for plan years that started in 2016. These limits, of necessity, are not explicitly stated in the formal Plan documents and instead reference the annual adjustments.

Plan Compensation Per Employer *Plan Design*

“Plan Compensation” could be defined as before any exclusion for overtime, bonuses, commissions, or any other exclusion. Generally, employee deferral contributions to a cafeteria, 401(k), 403(b), or 457(b) plans are included in plan compensation. Nevertheless, employee deferral contributions may be included or excluded for nondiscrimination testing purposes at the employer’s option on a year by year basis. “Plan Compensation” can also exclude all fringe benefits, expense reimbursements, deferred compensation payments and welfare benefits.

Employers wishing to use an alternate definition of compensation may do so provided the resulting compensation passes certain additional testing. Tax law and regulations provide employers a good deal of flexibility in the definition of compensation for retirement plan design purposes. Although complicated, the rules permit employers to simplify compliance requirements through the use of safe harbor designs. They also provide employers the option for more sophisticated plan designs, while introducing additional complexities to the process.

Defined benefit pension plans, including cash balance plans, generally require fewer tasks. However, they too need to determine Highly Compensated Employees, Key Employees, IRC 415 limits, and maximum deductible employer contributions, as well as determine each participant’s benefit that accrues during a given plan year. Determining each of these items involves the determination of participant compensation during the plan year.

When in doubt, please consult your Plan document and then your NRS Account Manager.



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REMINDERS FOR JANUARY

January 15 – Minimum funding requirements for defined benefit, money purchase, and target benefit plan years ended 4/30/16 must be met by January 15 in order to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.

January 17 – Retirement plan employer contributions are due in order to be deducted on employer tax returns due to be filed January 17, 2017.

January 17 – Form 5500 Series/8955-SSA – Forms that are on extension are due for the Plan Year ended 3/31/2016.

January 31 – Form 5500 Series/8955-SSA – Forms are due for the Plan Year ended 6/30/16 that are not on extension.



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HOW ARE WE DOING? PLEASE COMPLETE THE NRS CLIENT SATISFACTION SURVEY!

We are grateful and thankful for the strong response to our Client Satisfaction Survey! In an effort to maintain high level client satisfaction, we need client feedback! The content of these replies will be sent directly to Executive Management. This survey takes less than 2 minutes to complete. To access the Client Satisfaction Survey, [please click here.](#)

As always, NRS truly values your continued business!

For more information or to request a proposal, please visit our website at www.NRServices.com, or for sales support, please contact:

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