



SIMONEAUX & STROUD
CONSULTING SERVICES

DC-1 Exam Review: Tips and Traps

Sarah Simoneaux, CPC
Founding Partner
Simoneaux & Stroud Consulting Services

Artbywicks.com
Dale wicks

Industry Expertise



Business Know-How



Real World Experience

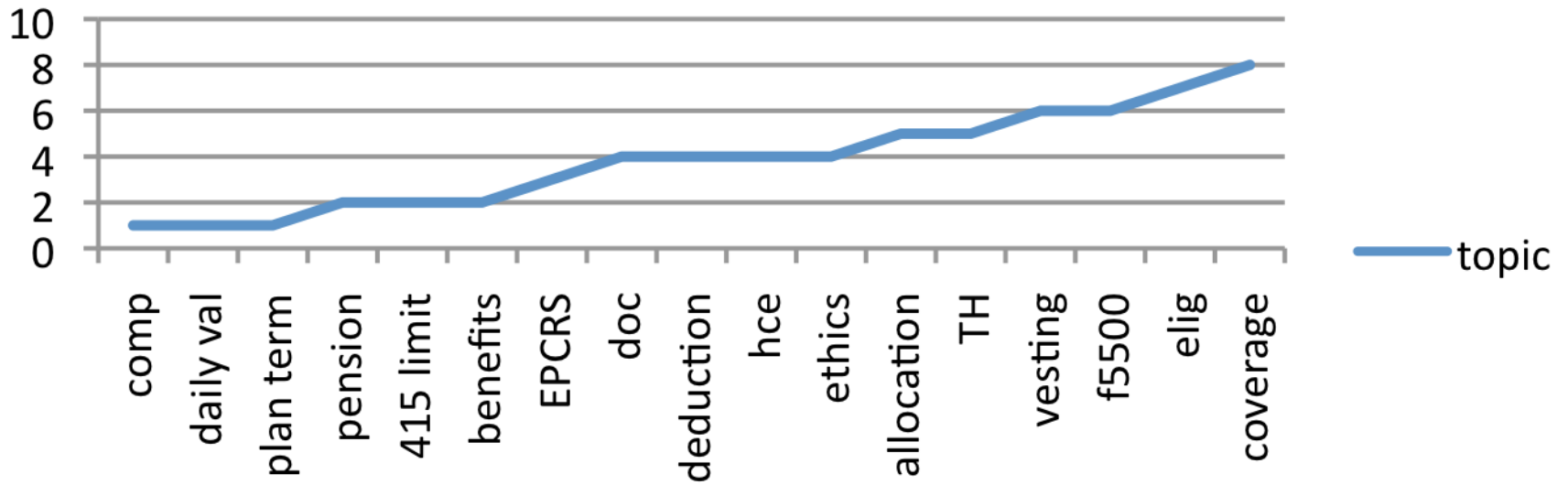
Question Types

- ALL TRUE EXCEPT: Find one **FALSE** answer (A, B, C, D, E)
- Which are TRUE: Find **ALL TRUE** answers (I, II, III)

Test Tips

- RTFD!!!! Watch for double negatives!
- Check limits – probably 2015 amounts.
- Check answers from the bottom to the top.
- Answer all questions but skip hard ones (especially those involving multiple calculations) and go back.
- Remember – you can miss 15 to 20 questions 😊.

topic



What We Will NOT Cover in Today's Webcast

Qualification requirements list under 401(a)

Pension versus non-pension plans

Anti-cutback rules (411d6, 204h)

Compensation (414s and excl comp)

415 and 402g limits

HCE rules



EPCRS

What We Will Cover in Today's Webcast

Coverage

Eligibility

Reporting and disclosure

Vesting

Top-heavy

Allocations

Ethics



Eligibility

Eligibility Overview

Where?

- Eligibility provisions are in the document.

What?

- Effective date of employee's participation is the entry date.

How?

- In 401(k) plans, eligibility can be different for different contribution types.

Eligibility Requirements

401(k) Plans

Can have three separate eligibility requirements for deferral, match, PSP

Other options

Two-year eligibility requirement requires 100 percent vesting

Only for ER contributions

Examples

Six months = one entry date; 0 to 500 hours
One year = 1000 hours; entry dates every six months

Other entry dates:
Immediate
Payroll
Monthly
Quarterly

Employees must enter the plan within 18 months and by age 21.

Eligibility Requirements

Define Eligibility

Eligibility computation period: start with date of hire

Can switch to plan year
Must use 12-month period

Elapsed Time

Always based on ee date of hire

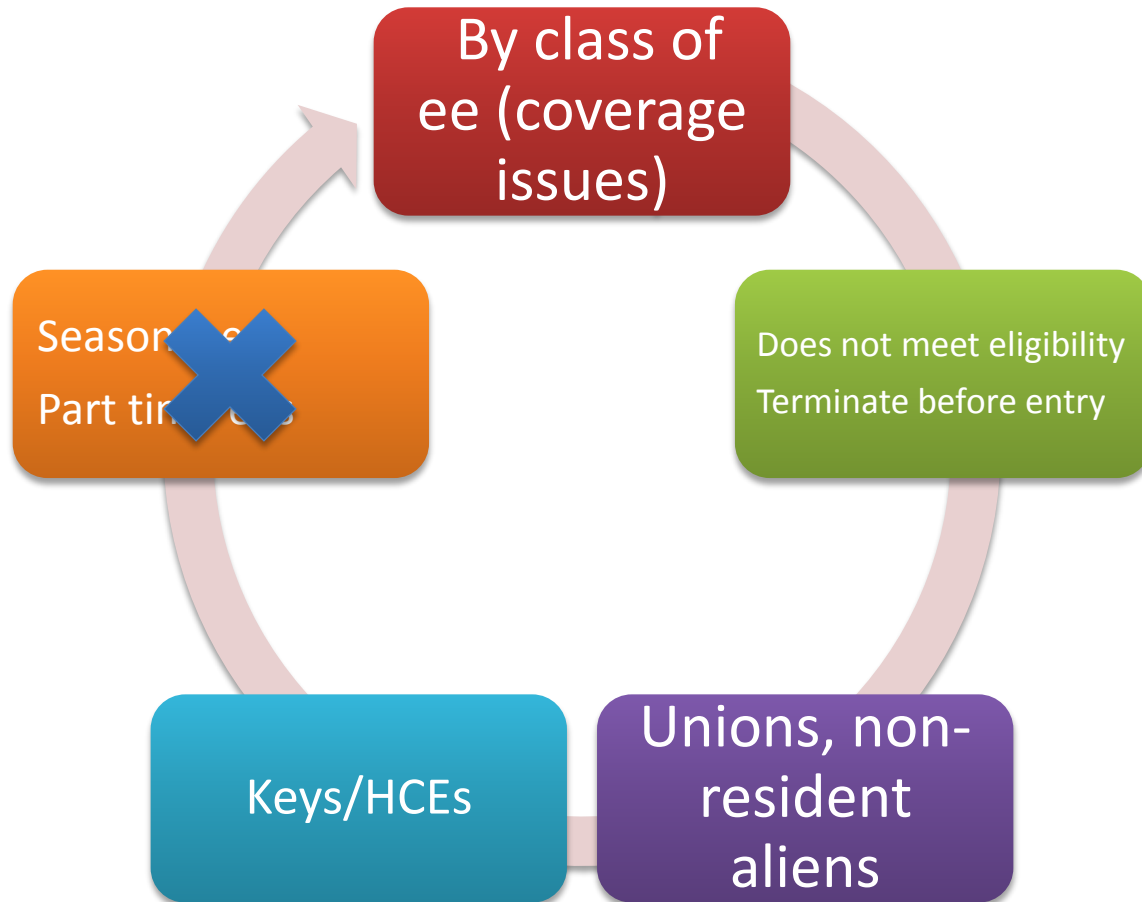
Break in service based on period of severance

Break in Service

500 or fewer hours in eligibility computation period – must be 12 months or less

Can be less than 500 hours
Not required
Unpaid leave hours count

Exclusions



All of the following statements regarding eligibility requirements are TRUE, EXCEPT:

- A. A plan may have different eligibility requirements for 401(k) deferrals than for matching contributions.
- B. A 401(k) portion of a plan may not require more than one year of service for eligibility purposes.
- C. A plan that includes a 401(k) arrangement may require two years of service for matching contribution eligibility.
- D. A plan that includes a 401(k) arrangement may require two years of service for non-elective contribution eligibility.
- E. A plan may include an age 22 requirement as long as there is no service requirement.

All of the following statements regarding years of service for eligibility are TRUE, EXCEPT:

- A. A plan may define a year of service as the 12-month period beginning with an employee's date of hire during which the employee completes at least 1,000 hours of service.
- B. A plan may provide that, following the initial eligibility computation period, subsequent periods will be the plan year.
- C. The first eligibility computation period must begin on the employee's date of hire.
- D. A plan may define a break in service to be 250 or fewer hours in an eligibility computation period.
- E. Under the elapsed time method of crediting service, eligibility computation periods are based on the plan year.

Which of the following statements regarding eligibility computation periods is/are TRUE?

- I. The eligibility computation period may be defined as a 12-month anniversary period following the first computation period.
 - II. A plan may use a short plan year as an eligibility computation period.
 - III. The eligibility computation period must be a period of 12 consecutive months.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

A plan may exclude each of the following categories of employees from plan participation, EXCEPT:

- A. Seasonal employees
- B. Executive officers
- C. Employees who terminated prior to reaching the plan's entry date
- D. Staff employees under Division X
- E. Janitorial staff

Based on the following information, determine when Employee A will enter the plan:

- The plan year begins on July 1 and ends on June 30.
- The eligibility requirements are one year of service and attainment of age 21.
- Employee A's date of hire is April 15, 2014.
- Employee A's date of birth is August 1, 1994.
- Employee A is a full-time employee.
- The entry date is the earlier of July 1 or January 1 following the date the eligibility requirements are satisfied.

- A. January 1, 2015
- B. July 1, 2015
- C. August 1, 2015
- D. January 1, 2016
- E. July 1, 2016

1. Check DOB – attains 21 8/1/2015
2. Check service: meets one year 4/15/2015
3. Because of age 21, enters 1/1/2016 NOT 7/1/2015

All of the following statements regarding a break in service for eligibility purposes are TRUE, EXCEPT:

- A. A plan may define a break in service to be based on more than 12 consecutive months.
- B. A break in service is determined by the period of severance when using the elapsed time method.
- C. A plan may define a break in service to be 300 or fewer hours in an eligibility computation period.
- D. A break in service is determined based on the hours credited during an eligibility computation period when using the counting-hours method.
- E. Hours of service credited during certain unpaid leaves of absence are included in determining whether the employee has incurred a break in service.

Which of the following statements regarding the effects of changing eligibility requirements is/are TRUE?

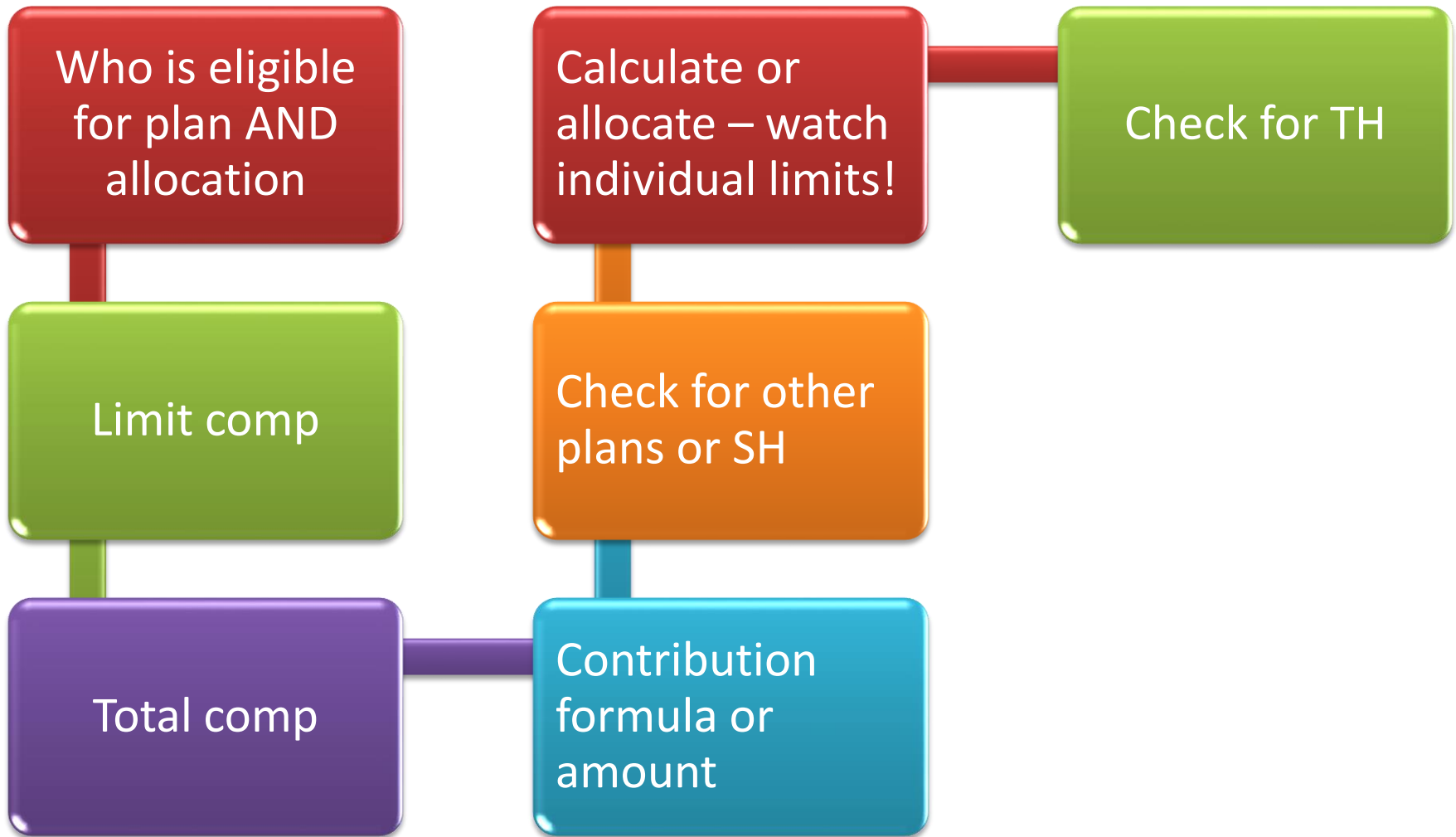
- I. Existing participants may be allowed to continue to participate even if they haven't satisfied the new eligibility conditions.
 - II. Existing participants may be required to satisfy the new requirements in order to continue participation.
 - III. A participant who is now in an excluded class due to a plan amendment is no longer eligible to participate in the plan.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III



Contributions, Limits, Allocations

All of the following statements regarding contributions and allocations are TRUE, EXCEPT:

- A. A plan's contribution formula identifies how the amount deposited into the plan is determined.
- B. The contribution formula and the allocation formula must be the same in a defined contribution plan.
- C. A plan's allocation formula specifies how the contribution is apportioned to the participant accounts.
- D. A contribution that is allocated proportionately based on participant compensation is called a pro rata allocation formula.
- E. An allocation date is the date on which the contributions are allocated to the participant accounts.



Based on the following information, determine the employer contribution for the 2015 plan year:

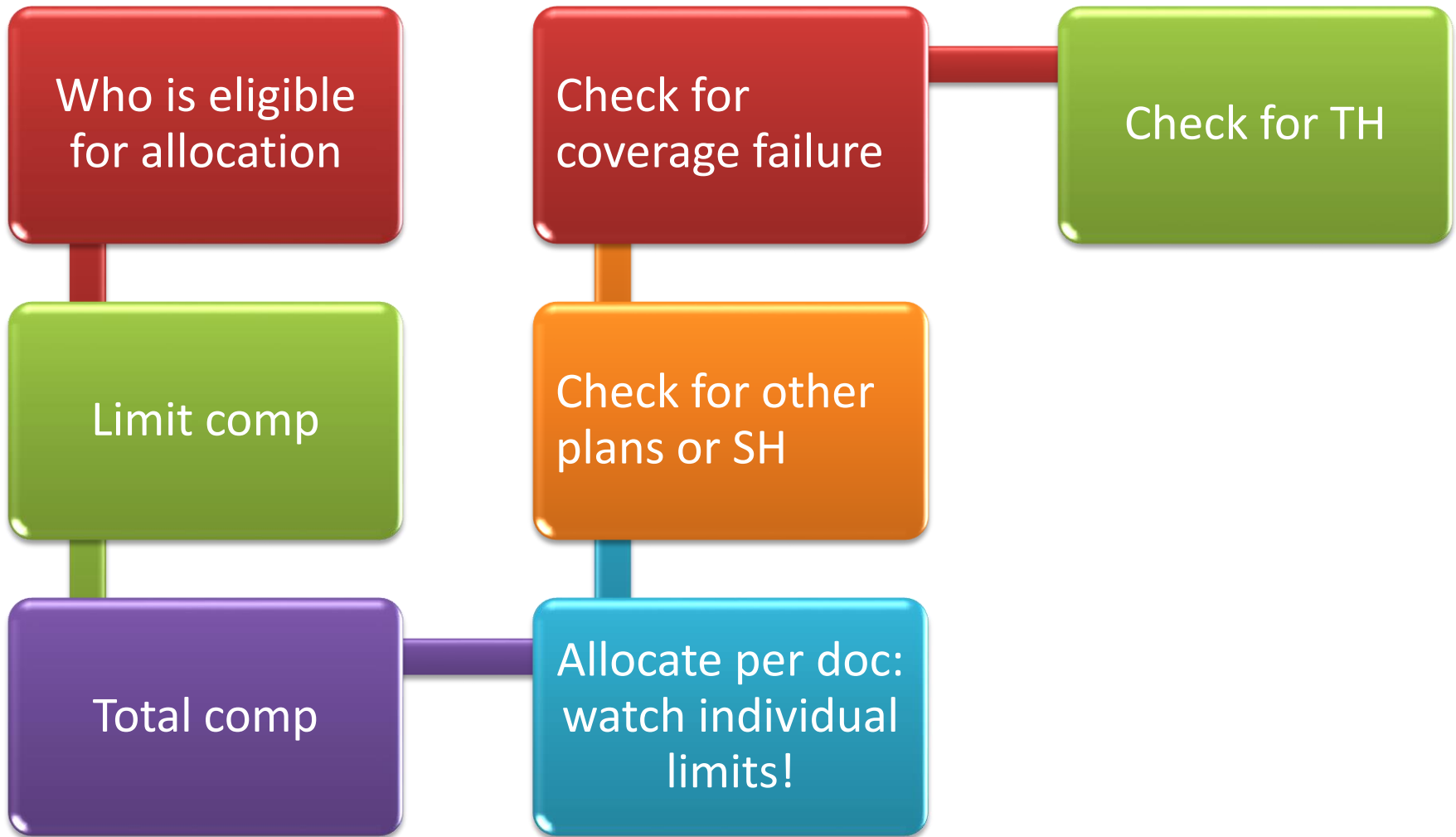
- The plan is a calendar year profit sharing plan and is the only plan of the employer.
- The plan uses a pro rata allocation formula.
- The employer contribution is 6% of eligible compensation.
- Contributions are allocated to participants who worked at least 1,000 hours during the plan year and who are employed on the last day of the plan year.
- The IRC §401(a)(17) compensation limit in 2015 is \$265,000.
- The plan satisfies coverage requirements.
- The plan is not top-heavy.

Based on the following information, determine the employer contribution for the 2015 plan year:

Participant	Compensation	Hours Worked	Status
A	\$500,000	2,080	Active
B	\$150,000	2,080	Active
C	\$55,000	2,080	Active
D	\$50,000	2,080	Active
E	\$30,000	950	Active
F	\$25,000	250	Terminated

- A. \$31,200
- B. \$33,900
- C. \$46,800
- D. \$47,100
- E. \$48,600

1. Check eligibility for contribution: eliminate E and F
2. Limit comp: A comp \$265K
3. Not top-heavy; no 415 issues
4. Total comp: 265K + 150K + 55K + 50K = \$520K
5. 6 percent * 520K = \$31,200



Based on the following information, determine the forfeiture allocation for Participant D for the 2015 plan year:

- The plan is a calendar year profit plan and is the only plan of the employer.
- Forfeitures are allocated in proportion to compensation to participants who worked at least 1,000 hours in the plan year.
- Participant B terminated on August 15, 2015 and was 20% vested.
- Participant B received a lump sum distribution of \$1,000 in November, 2015.
- The forfeiture reallocation totals \$4,000.
- The plan is not top-heavy and satisfies coverage requirements.

Based on the following information, determine the forfeiture allocation for Participant D for the 2015 plan year:

Participant	Hours Worked	Compensation
A	1,500	\$180,000
B	900	\$40,000
C	1,500	\$30,000
D	1,500	\$25,000
E	1,500	\$24,000

- A. \$83
- B. \$97
- C. \$334
- D. \$386
- E. \$418

1. Check eligibility for forfeiture: eliminate B
2. Eliminate extra info on terminated participant B
3. Not top-heavy; no 415 issues
4. Total comp: $180K + 30K + 25K + 24K = \$259K$
5. D allocation portion: $25k/259K = 9.65$ percent
6. Forfeiture allocation: 9.65 percent * $\$4K = \386

Vesting by
source

Rehire status

Break in
service rules

Previous
distributions
or forfeitures

What are the hours worked in termination year?

All of the following statements regarding forfeitures are TRUE, EXCEPT:

- A. Whether an employee is rehired may affect the timing of a forfeiture.
- B. Permitted disparity may not be used for the purposes of allocating a forfeiture.
- C. When the vested accrued benefit is distributed may affect the timing of a forfeiture.
- D. Forfeitures may be allocated in the same manner as the employer contribution.
- E. The number of breaks-in-service incurred may affect the timing of a forfeiture.

Based on the following information, determine the amount forfeited by Participant A:

- Participant A terminated employment two years ago.
- Participant A was 60 percent vested.
- Participant A took a distribution of his entire vested balance in the current plan year.
- Participant A's account balance at the time of distribution was as follows:

Source	Balance
After-tax Employee Contribution	\$2,000
Profit Sharing	\$32,000

- A. \$12,800
- B. \$13,600
- C. \$14,800
- D. \$19,200
- E. \$20,400

1. Check vesting by source: after-tax is 100 percent, so DO NOT include \$2,000 in forfeiture calculation
2. Forfeiture percentage = $100\% - 60\% = 40\%$
3. Forfeiture amount = $40\text{ percent} * \$32\text{K} = \$12,800$



Deduction Limits

Employer Deduction Limits

DC Plan Limits


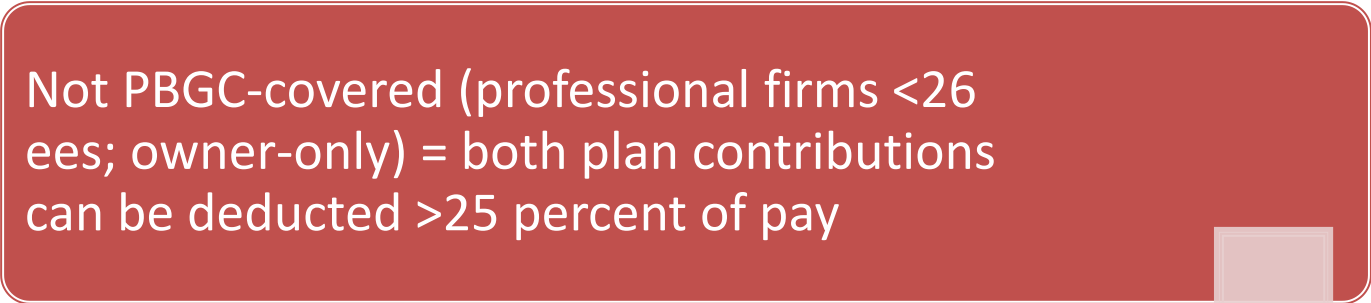
- 25 percent of eligible compensation
- 25 percent applies to all DC plans, including 401(k), of the employer
- “Old” DC plans MPP and target benefit also subject to 25 percent limit

DB Plan Limits

- Whatever is necessary to meet minimum funding for the plan

DB/DC Deduction Limits

Not PBGC-covered (professional firms <26
ees; owner-only) = both plan contributions
can be deducted >25 percent of pay



<Six percent ER PSP contribution to DC plan
= both plan contributions can be deducted
>25 percent of pay



DB only: contribution needed to meet DB
funding requirements; not subject to DC 25
percent of compensation limit



Employer Deduction Limits

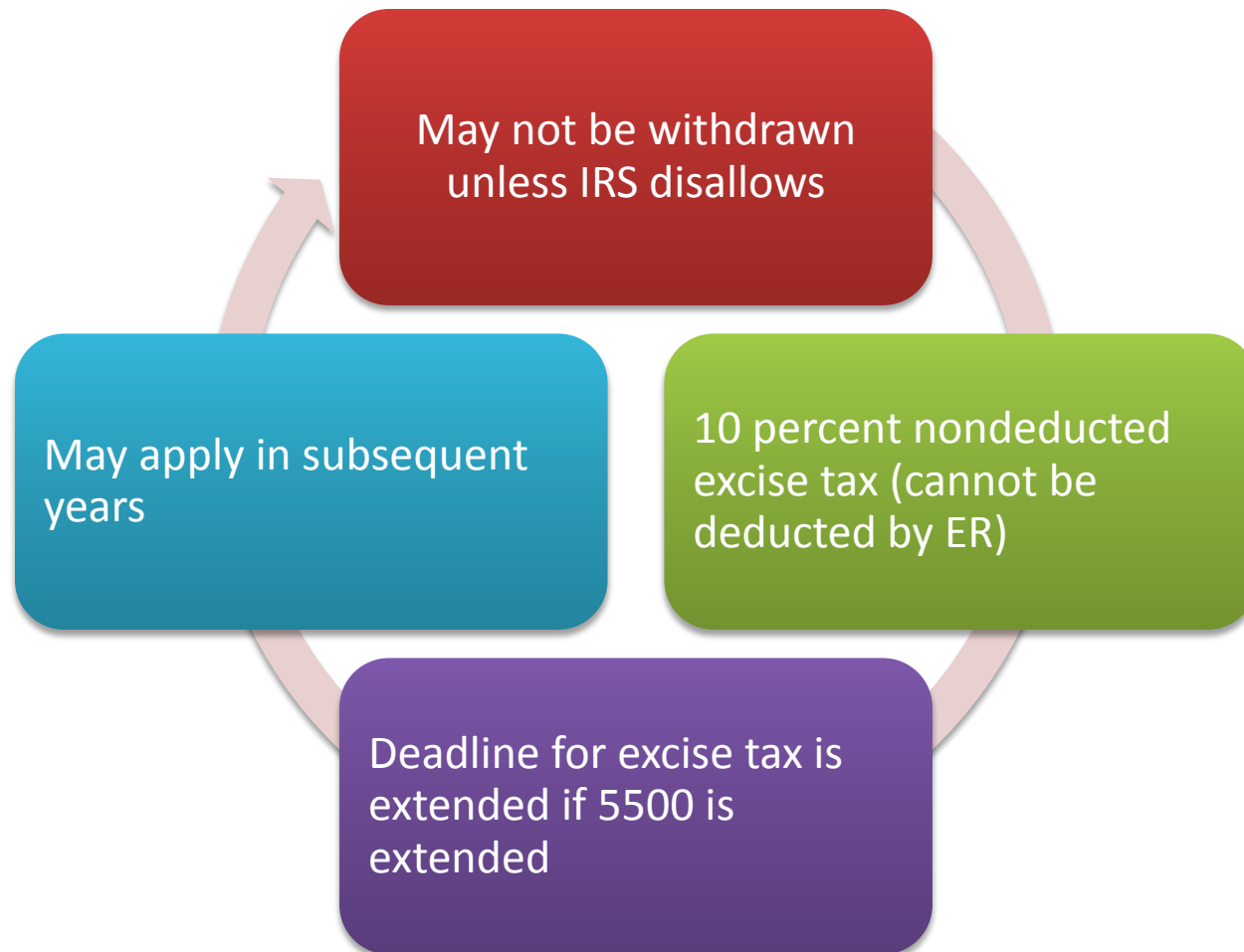
Compensation for deduction

- Based on TAX year
- Includes 125 deferrals
- Limited to comp limit under 401(a)(17)

Not compensation for deduction

- NOT based on plan year
- Can be different for allocation
- DOES NOT include 401(k) deferrals

Non-deductible Contributions



Which of the following statements regarding deduction limits for overlapping plans is/are TRUE?

- I. The overlapping plan deduction limit will never exceed 25 percent of compensation.
 - II. The overlapping plan deduction limit is never less than the minimum funding requirement under IRC §412 applicable to the defined benefit plan.
 - III. Overlapping plan deduction limits generally apply when an employer sponsors a defined contribution plan and a defined benefit plan.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

All of the following statements regarding compensation used for purposes of employer deduction limits are TRUE, EXCEPT:

- A. The maximum deductible contribution for a combination of money purchase and profit sharing plans is 25 percent of eligible plan compensation.
- B. Compensation is determined based on the employer's tax year, even if different than the plan year.
- C. Compensation used for deduction purposes must be the same as compensation used for allocation purposes.
- D. Compensation for deduction purposes includes salary deferrals under an IRC §125 cafeteria plan.
- E. Elective deferrals to a 401(k) plan are not included as employer contributions when determining the total contributions subject to the deduction limit.

Based on the following information, determine the maximum deductible contribution for the calendar plan year ended December 31, 2015:

- The plan is a profit sharing plan with a 401(k) feature.
- The plan allows the employer to make discretionary profit-sharing and matching contributions.
- The plan satisfies all nondiscrimination and minimum coverage tests.
- All participants are eligible for a contribution allocation.
- The IRC §401(a)(17) limit for 2015 is \$265,000.

Based on the following information, determine the maximum deductible contribution for the calendar plan year ended December 31, 2015

Participant	Compensation
W	\$300,000
X	\$200,000
Y	\$100,000
Z	\$45,000

- A. \$25,000
- B. \$152,500
- C. \$162,500
- D. \$600,000
- E. \$650,000

1. Check maximum compensation: W is limited to \$265K
2. Total compensation = 265K + 200K + 100K + 45K = 610K
3. Maximum deductible contribution is 25 percent of total compensation
4. 25 percent * 610K = \$152,500

All of the following statements regarding the excise tax on nondeductible contributions are TRUE, EXCEPT:

- A. Nondeductible contributions may be subject to a 10 percent excise tax.
- B. Contributions must be withdrawn from the plan no later than 90 days from the date made to avoid an excise tax.
- C. The excise tax is applicable in subsequent years if the nondeductible contribution has not been deducted in the subsequent year.
- D. Obtaining an extension for filing Form 5500 does not automatically extend the date for payment of the excise tax.
- E. The excise tax is not deductible by the employer.



Vesting

Vesting Overview

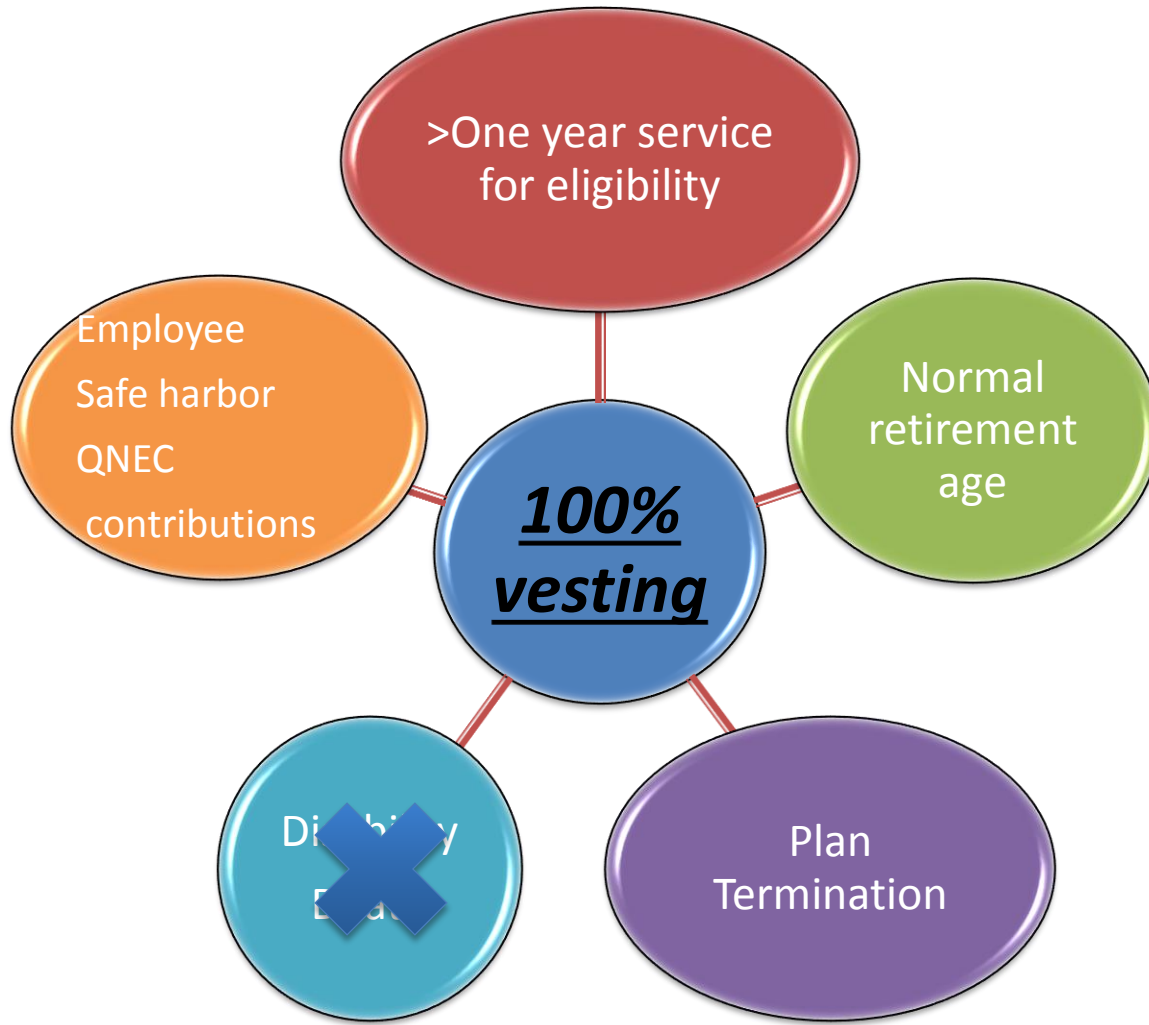
Vesting Schedules – DC plans

- Three-year cliff vesting: zero percent for the first two years and 100 percent in the third year
- Six-year graded percentages: first zero; second 20; third 40; fourth 60; fifth 80; sixth 100
- Top-heavy vesting is the same

Vesting Schedules – DB plans

- Five-year cliff vesting
- Seven-year graded percentages: First zero, second zero; third 20; fourth 40; fifth 60; sixth 80; seventh 100
- Top-heavy vesting is the same as DC plans

Vesting



Vesting Service

What counts

- 1,000 hours in a plan year using counting-hours method
- Prior vesting always preserved
- Years of service since date of hire (NOT date of entry)
- Approved leave to prevent a BIS
- Require one year >BIS to count pre-BIS years

What may not (RTFD)


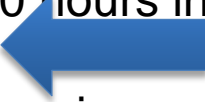
- Years before age 18
- Years before break in service (defined by document)
- Years prior to the effective date
- Suspension for misconduct
- Years <BIS for zero percent vested ee

Elapsed time counts vesting periods of service.

All of the following statements regarding vesting rules are TRUE, EXCEPT:

- A. Years of service prior to the effective date of the plan may be disregarded for vesting purposes.
- B. No years of service prior to attainment of age 21 may be disregarded for vesting purposes.
- C. Years of service prior to plan participation may not be disregarded for vesting purposes.
- D. Immediate vesting always satisfies minimum vesting schedules.
- E. The elapsed time method measures vesting periods of service instead of vesting computation periods.

Based on the following information, determine the participant's vested balance as of December 31, 2015:

- The plan year is the calendar year.
- The plan is using the counting-hours method to determine vested service.
- A year of service for vesting purposes is a plan year with at least 1,000 hours.
- Years of service before age 18 are excluded. 
- Participant A's date of birth is March 15, 1994 and date of hire is December 15, 2009.
- Participant A worked 1,000 hours in plan years 2010 through 2014, but fewer than 1,000 hours in 2015. 
- The vesting schedule is the six-year graded schedule.
- The vesting computation period is the plan year.

Based on the following information, determine the participant's vested balance as of December 31, 2015:

Account	Account Balance
Elective Contribution	\$1,750
Matching Contribution	\$525
Employer Nonelective Contribution	\$3,250
QMAC	\$450
Rollover	\$5,750

- A. \$7,950
- B. \$9,190
- C. \$9,460
- D. \$10,970
- E. \$11,725

1. Check exclusions: 18 in 2012; hired 12/2009
2. Check hours: <1000 hours in 2015
3. Six years working: one year in 2015, two years <18 = 3
4. Check schedule: 2/20 means 40 percent at three years
5. Check 100 percent vesting: $1,750 + 450 + 5,750 = 7,950$
6. 40 percent * $(525 + 3,250) = 1,510$
7. Total vested balance = $7,950 + 1,510 = 9,460$

Based on the following information, determine Participant A's vested percentage as of December 31, 2015:

- The plan year and vesting computation period is the calendar year.
- The plan uses the six-year graded vesting schedule.
- The plan is using the counting hours method to determine vested service.
- Participant A is a full-time employee.
- Participant A was 60 percent vested as of December 31, 2013.
- Participant A terminated employment on March 14, 2014.
- Participant A was rehired on May 1, 2015.

- A. 20%
- B. 40%
- C. 60%
- D. 80%
- E. 100%

1. Check exclusions: none
2. Check hours: <1000 hrs in 2014
3. Check hours: >1000 hrs in 2015
4. Preserve prior vesting = 60%
5. Add one year of service for 2015
6. Based on 2/20 schedule = 80%

All of the following statements regarding breaks in service for vesting credit are TRUE, EXCEPT:

- A. A plan must credit an employee on unpaid maternity leave of absence with hours of service necessary to prevent a break in service in that year.
- B. A plan need not credit an employee on unpaid FMLA leave with hours of service necessary to prevent a break in service in that year.
- C. A plan may require a participant to complete a year of service following a break in service before counting service with the employer prior to the break.
- D. A plan need not credit an employee suspended for misconduct hours of service necessary to prevent a break in service.
- E. Years of service prior to a break in service may be disregarded for a non-vested participant.

All of the following require full vesting of a participant's account balance, EXCEPT:

- A. Death of the participant.
- B. Attainment of normal retirement age (NRA) under the plan.
- C. Termination of the plan for affected participants.
- D. The plan requires more than one year of service for eligibility.
- E. The plan allows for elective contributions only.

All of the following schedules satisfy minimum vesting standards for defined contribution plans, post-PPA, EXCEPT:

- A. Seven-year graded (zero percent until year three, then 20 percent each year thereafter).
- B. Five-year graded (20 percent each year).
- C. Two-year cliff (zero percent until year two, then 100 percent).
- D. Six-year graded (zero percent until year two, then 20 percent each year thereafter).
- E. Three-year cliff (zero percent until year three, then 100 percent).



Testing: Coverage

Coverage



Overview:

- Tests who is eligible and benefitting versus eligible and not benefitting.
- Compare ratio of HCEs to NHCEs benefitting – in general 70 percent

Options to correct failed tests:

- Average benefits testing (IRC 401a4)
- “Throw money at the problem”: bring in ees
- Amendment within nine and a half months



Coverage Test

Can Exclude

- Union ees
- Statutory ineligible
- Non-resident aliens
- Terminated ees <500 hours

Who is Benefiting

- In general, ees who are eligible for match and deferral and/or receive PSP allocation
- Ees excluded by plan design
- Ees not receiving allocation due to last day rule
- Eligible ees who choose not to defer
- DB ees who earn accruals during the year

Cannot exclude all NHCEs, part-time employees or those who are eligible to defer and choose not to defer.

Coverage Tests

401(k)

Deferrals
Roth

Benefitting =
eligible

401(m)

Match
After-tax
QMAC

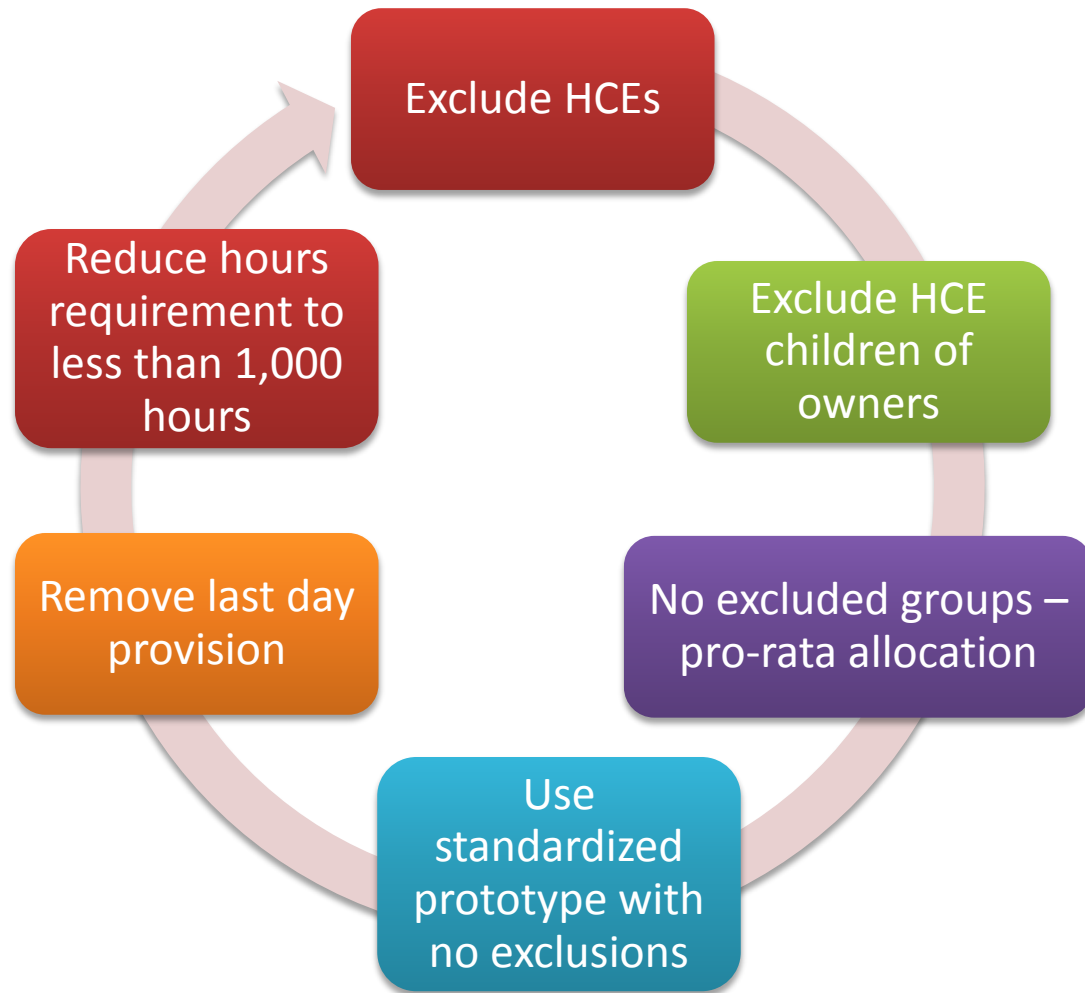
Benefitting =
eligible

PSP

ER contribution
QNEC

Benefitting = \$\$
(not including TH)

Coverage: Design Options to Pass Test



Coverage Case Studies

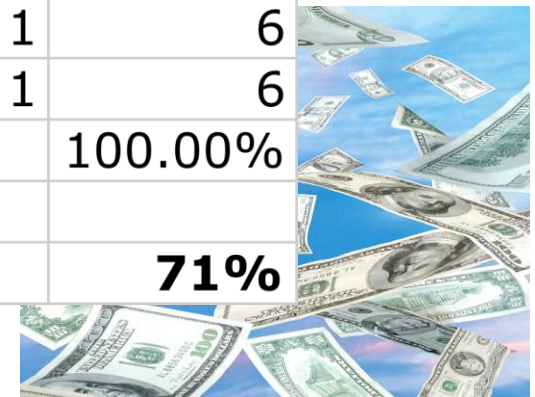
LAST DAY ALLOCATION 1	
Total employees	30
Exclude for age/svc	7
Union	0
Terminees <500 hours	3
Total nonexcludable	20
Nonexcludable NHCEs	15
NHCE with last day alloc	12
NHCE ratio	80%
Non excludable HCEs	5
HCEs benefiting	5
HCE ratio	100%
Ratio percentage test	80%

LAST DAY ALLOCATION 2	
Total employees	30
Exclude for age/svc	7
Union	0
Terminees <500 hours	3
Total nonexcludable	20
Nonexcludable NHCEs	15
NHCE with last day alloc	10
NHCE ratio	67%
Non excludable HCEs	5
HCEs benefiting	5
HCE ratio	100%
Ratio percentage test	67%



Coverage Case Studies

CONTROLLED GROUP 2			
	CO A	CO B	TOTAL
Total employees	30	25	55
Exclude for age/svc	7	3	10
Union	0	0	0
Terminees <500 hours	3	2	5
Total nonexcludable	20	20	40
Nonexcludable NHCEs	15	19	34
NHCE benefitting	15	9	24
NHCE ratio			70.59%
Non excludable HCEs	5	1	6
HCEs benefitting	5	1	6
HCE ratio			100.00%
Ratio percentage test			71%



Which of the following is/are groups of employees that may be excluded by statute from the coverage testing group under IRC §410(b)?

- I. Employees who satisfy the plan's age and service requirements, but are ineligible due to a job category exclusion.
 - II. Employees who fail to satisfy the plan's age and service requirements.
 - III. Nonresident aliens who receive no US source income from the employer.
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

Which of the following statements regarding coverage testing in a 401(k) plan is/are TRUE?

- I. QMACs used to satisfy the ADP test are tested for coverage under the 401(k) portion of the plan.
 - II. QMACs used to satisfy the ACP test are tested for coverage under the 401(m) portion of the plan.
 - III. QNECs used to satisfy the ADP test are tested for coverage under the 401(k) portion of the plan.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

Which of the following statements regarding coverage testing under IRC §410(b) is/are TRUE?

- I. The average benefit test is part of the ratio percentage test.
- II. A plan that fails the ratio percentage test may correct the problem by expanding coverage so that the test is satisfied.
- III. If there are no NHCEs in the coverage testing group, the plan will fail to satisfy the coverage requirements.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II, and III

Which of the following is/are plan designs that satisfy the minimum coverage requirements of IRC §410(b)?

- I. A plan that benefits only HCEs and excludes NHCEs.
 - II. A plan that benefits 30 percent of the NHCEs and excludes HCEs.
 - III. A plan that benefits all NHCEs and 50 percent of the HCEs.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

Which of the following is/are acceptable correction methods for a plan that fails to satisfy minimum coverage testing under IRC §410(b)?

- I. Adjust contribution amounts that have already been allocated and reallocate the contribution amount.
- II. Adopting a corrective amendment up to nine and a half months after the close of the plan year.
- III. Expand the group of HCEs who benefit under the plan.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III

Based on the following information, determine the number of NHCEs that must benefit under the plan to satisfy the ratio percentage test under IRC §410(b):

- ABC Company has two divisions, A and B.
- ABC Company wants to establish a profit-sharing plan to cover only employees of Division B.
- All HCEs at Division B will benefit under the plan.
- Division A has 50 non-excludable HCEs and 100 non-excludable NHCEs.
- Division B has 30 non-excludable HCEs and 50 non-excludable NHCEs.
- No employees work for both Division A and B.

- A. 21
- B. 35
- C. 40
- D. 63
- E. 105

1. Check goal: cover only ees in Division B
2. Check benefitting: all B ees will benefit
3. Check overlapping ees: none
4. Add total HCEs: $50 + 30 = 80$
5. Calculate HCEs benefitting: $30 \text{ (div B)} / 80 \text{ (total)} = 37.5 \text{ percent}$
6. Calculate percentage of NHCEs who have to benefit: $70 \text{ percent} * 37.50 \text{ percent} = 26.25 \text{ percent}$
7. Calculate total NHCEs: $100 + 50 = 150$
8. Calculate percentage of NHCEs that must benefit = $26.25 \text{ percent} * 150 = 39.98$

Based on the following information, determine the maximum number of HCEs that may benefit under Company S's profit-sharing plan and still satisfy the coverage requirements under IRC §410(b) ratio percentage test:

- Company S has 240 employees, 20 of whom are HCEs.
- Company S plan participants are entitled to an allocation of employer contributions if employed on the last day of the plan year and credited with at least 1,000 hours of service.
- All employees of Company S satisfy the statutory eligibility requirements.
- 60 NHCEs complete less than 1,000 hours of service and are still employed on the last day of the plan year.
- 20 NHCEs terminate service during the plan year with fewer than 500 hours of service.
- 49 NHCEs terminate service during the plan year with more than 500 hours of service.

A. 12

B. 13

C. 14

D. 15

E. 16

1. Determine exclusions: no eligibility exclusion but 20 NHCEs excluded <500 hours of service
2. Calculate total non-excluded NHCEs: 240 ees – 20 HCEs – 20 excluded = 200
3. Calculate benefitting NHCEs: 200 – (60+49) = 91 (109 not employed on last day)
4. Calculate NHCE ratio: $91/200 = 45.50$ percent
5. Calculate HCE percentage needed to pass: 45.50 percent NHCE/70 percent passing = 65 percent
6. Calculate HCEs needed to pass = 65 percent * 20 = 13

Based on the following information, determine the number of NHCEs that must benefit under the plan to pass the ratio percentage test under IRC §410(b):

- XYZ Company sponsors a calendar-year profit-sharing plan.
- The plan eligibility requirements are age 21 and one year of service.
- XYZ Company has two divisions and would like to exclude Division B employees from the plan.

Total nonexcludable HCEs	16
Total benefiting HCEs	8
Total NHCEs	150
Total NHCEs under age 21	20
Total NHCEs over 21 that have completed less than one year of service	25

- A. 37
- B. 47
- C. 53
- D. 74
- E. 105

1. Check goal: cover only employees in Division B
2. Check exclusions: $150 \text{ NHCEs} - 20 <21 - 25 <\text{one year} = 105 \text{ non-excluded NHCEs}$
3. Calculate HCE ratio: $8 \text{ benefitting HCEs} / 16 \text{ non-excluded HCEs} = 50 \text{ percent}$
4. Calculate NHCE benefitting ratio: $50 \text{ percent HCE} * 70 \text{ percent} = 35 \text{ percent NHCEs}$
5. Calculate number of NHCEs to benefit: $35 \text{ percent} * 105 = 37$



Testing: Top-Heavy

HCEs and Keys

Highly compensated	Key employee
>5% owner + family attribution	>5% owner + family attribution
Ownership includes related employers	Ownership includes related employers
> compensation limit or in top paid group	No stand alone compensation test
	>1% owner AND >\$150,000 in comp (NOT indexed)
	Officer* AND >\$140,000 in comp (as of 2006; indexed each year)
	* number of officers is limited to the greater of 10% of the employees or three, but no more than 50 officers are ever treated as keys, even if 10% of the employees is a number greater than 50

IRC 401(a)(17) compensation limit for 2015 is \$265,000.

IRC HCE compensation limit in 2015 - \$120,000.

Remember...

Keys only matter for top-heavy.

ALL other tests compare HCEs and NHCEs.

HCE and Key Compensation is always full plan year.



Top Heavy

Top-heavy determination

- >60 percent of benefits or **account balances** to key employees.
- Collectively bargained union plans exempt.

Top-heavy minimums

- Greater of highest HCE deferral rate or three percent of compensation.
- **Safe harbor contribution can satisfy minimum.**
- If two plans sponsored by same employer: only required to provide TH minimum in one plan.

**SEP-IRA can be included in TH determination.
SIMPLE IRA and SIMPLE 401(k) are NOT included.**

Top-Heavy Determination



Top-Heavy Determination

Included in TH balances

- Related rollovers
- One-year look-back for terminnee distribution (have to have >one hour service in determination year)
- Five-year (ending on determination date) look-back for in-service distribution

NOT included in TH balances

- Unrelated rollovers
- Former key employee account balances
- Collectively bargained union plans

Top-Heavy

Satisfy top-heavy: no required minimum contribution

- Plans that exclude ALL key employees from participation
- Safe harbor 401(k) plans with ONLY deferrals and safe harbor contributions
- No key employee defers or receives an allocation

Might be top-heavy

- Deferral-only 401k plans
- Safe harbor 401k plans with matching safe harbor contribution AND PSP contribution

Top-Heavy

Top-heavy vesting

- DC plans top-heavy vesting same as six-year graded vesting under EGTRRA; can also use three-year cliff vesting

Top-heavy defined benefit plans

- Minimum accrual is two percent of pay per year of service up to ten years
- Non-top-heavy DB plans can still use longer vesting schedule (seven years) or three-year cliff

All of the following are considered key employees, EXCEPT:

- A. A more than five percent owner of a company with annual compensation of \$120,000.
- B. A company salesman with annual compensation, including commissions, of \$225,000.
- C. An officer of a company with annual compensation of \$175,000.
- D. The son of a company's sole owner, with annual compensation of \$25,000.
- E. A four percent owner of a company with annual compensation of \$185,000.

Which of the following types of plans covering at least one key employee is/are subject to aggregation for top-heavy purposes?

- I. SEP plan.
- II. SIMPLE IRA plan.
- III. SIMPLE 401(k) plan.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III

All of the following statements regarding top-heavy plans are TRUE, EXCEPT:

- A. A distribution made during the one-year period ending on the determination date to a participant who terminated in an earlier plan year is not included in the top-heavy determination.
- B. In-service distributions to an active participant made four years before the determination date are included in the top-heavy determination.
- C. If an employee ceases to be a key employee, their accrued benefit is disregarded for purposes of determining whether the plan is top-heavy in the following years.
- D. For top-heavy determination purposes, related rollovers and transfers are not counted as accrued benefits by the plan making the distribution, but are counted by the plan receiving the distribution.
- E. A three percent minimum contribution is required to be made to a top-heavy 401(k) plan, regardless of whether any key employees are making deferrals under the plan.

Based on the following information, determine the top-heavy ratio as of December 31, 2013:

Key Employee Balances on 12/31/13	\$205,000
Non-Key Employee Balances on 12/31/13	\$300,000
Former Key Employee Balances on 12/31/13	\$ 50,000
In-Service Distributions to Non-Key Employees in 2012 and 2013	\$ 10,000
Distributions in 2013 to Participants who Terminated in 2012	\$ 7,000

- A. \$205,000 / \$572,000
- B. \$205,000 / \$565,000
- C. \$205,000 / \$555,000
- D. \$205,000 / \$515,000
- E. \$205,000 / \$505,000

Based on the following information, determine the minimum top-heavy allocation to Participant R:

- Participant R's IRC §415 compensation for the plan year is \$40,000.
- Participant R's plan compensation for the plan year is \$20,000 since he entered the plan mid-year.
- The highest allocation rate for a key employee for the plan year is two percent.
- The plan is top-heavy for the current plan year.

- A. \$0
- B. \$400
- C. \$600
- D. \$800
- E. \$1,200



Reporting and Disclosure

Summary Annual Report

- Summary Annual Report (SAR): plan expenses, assets, losses/gains.
- SAR Timing: if no extension, nine months after PYE.
- SAR Timing: if extension, two months after extended deadline.
- SAR for DB plans: not required for PGBC-covered plans but must provide funding notice.

Reporting and Disclosure

Plan Annual Return

- Separate annual return for each PLAN but not each PLAN SPONSOR.
- Form 5500 required for plans over 100 participants, assets with no clear market value, plans with employer stock.
- Audit required for plans with over 100 participants (80/20 rule exception).
- Plans under 100 participants can file form 5500-SF.
- Small plans with less than \$250K in assets and no employees are not required to file an annual return.
- Plans covering only owners and their spouses can file Form 5500-EZ.

Reporting and Disclosure: Form 5500 Schedules

2014 Form 5500 and Form 5500-SF For Information Purposes Only, Not to be Used for Filing

View	Form 5500 Annual Return/Report of Employee Benefit Plan Instructions
View	Form 5500-SF Annual Return/Report of Small Employee Benefit Plan Instructions
View	Schedule A - Insurance Information
View	Schedule C - Service Provider Information
View	Schedule D - DFE/Participating Plan Information
View	Schedule G - Financial Transaction Schedules
View	Schedule H - Financial Information
View	Schedule I - Financial Information - Small Plan
View	Schedule MB - Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information
View	Schedule R - Retirement Plan Information
View	Schedule SB - Single-Employer Defined Benefit Plan Actuarial Information

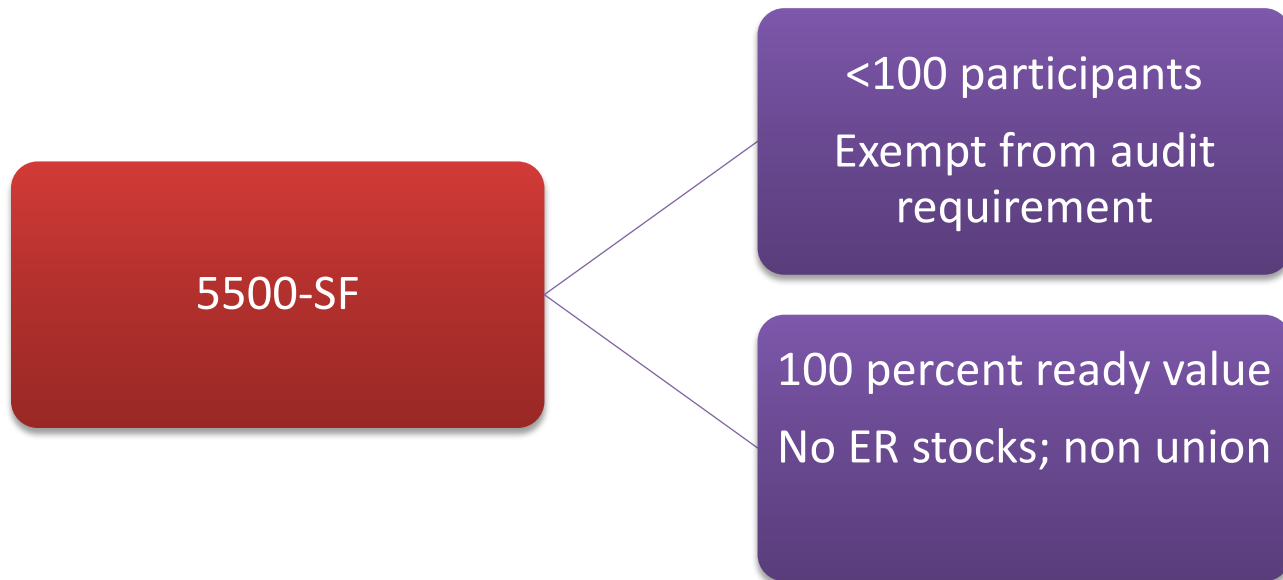
Reporting and Disclosure: Form 5500-SF

The Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan, is a simplified annual reporting form for use by certain small pension and welfare benefit plans. To be eligible to use the Form 5500-SF, the plan must:

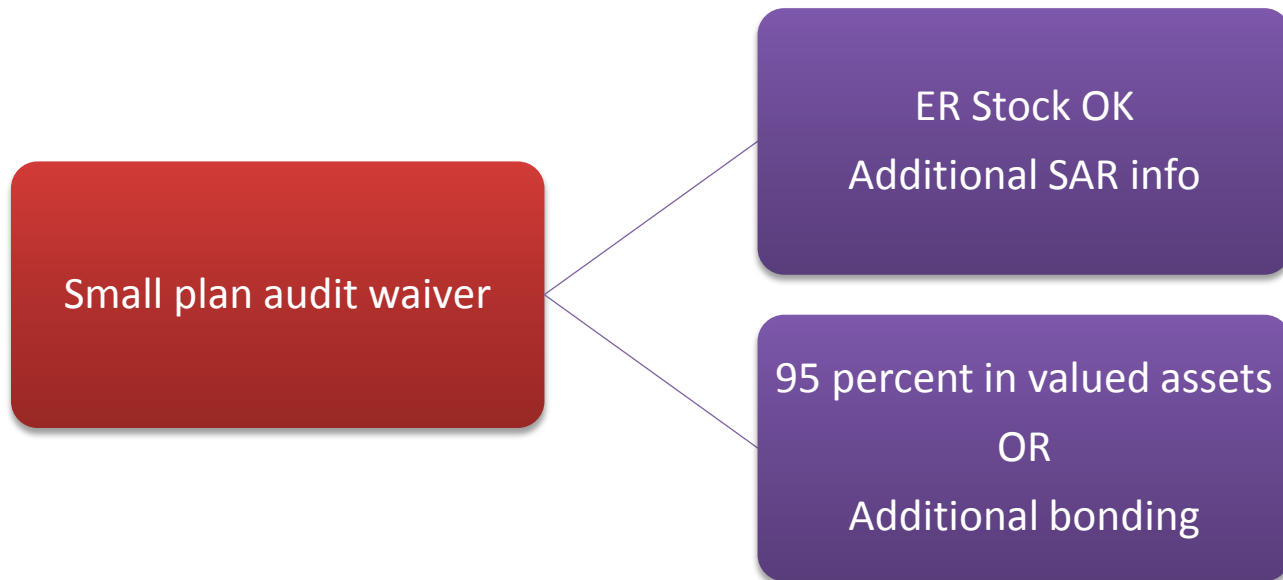
- Be a small plan (i.e., generally have fewer than 100 participants at the beginning of the plan year),
- Meet the conditions for being exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant (IQPA),
- Have 100% of its assets invested in certain secure investments with a readily determinable fair value,
- Hold no employer securities, and
- Not be a multiemployer plan.

Plans required to file an annual return/report that are not eligible to file the Form 5500-SF, must file a Form 5500, Annual Return/Report of Employee Benefit Plan, with all required schedules and attachments (Form 5500), or Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

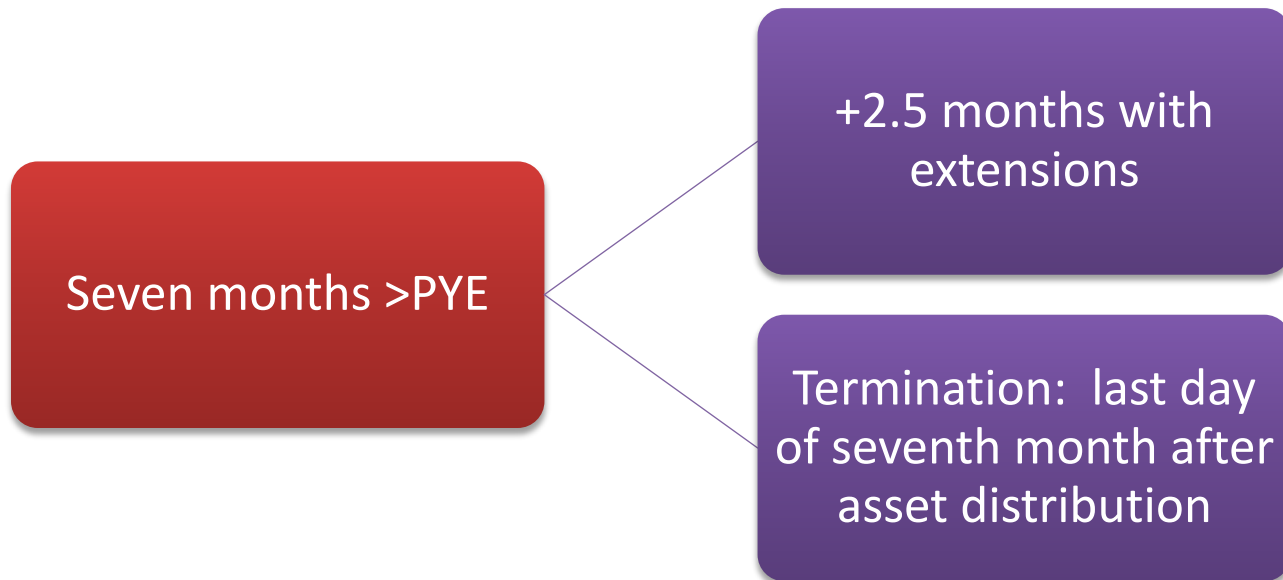
Reporting and Disclosure: Form 5500



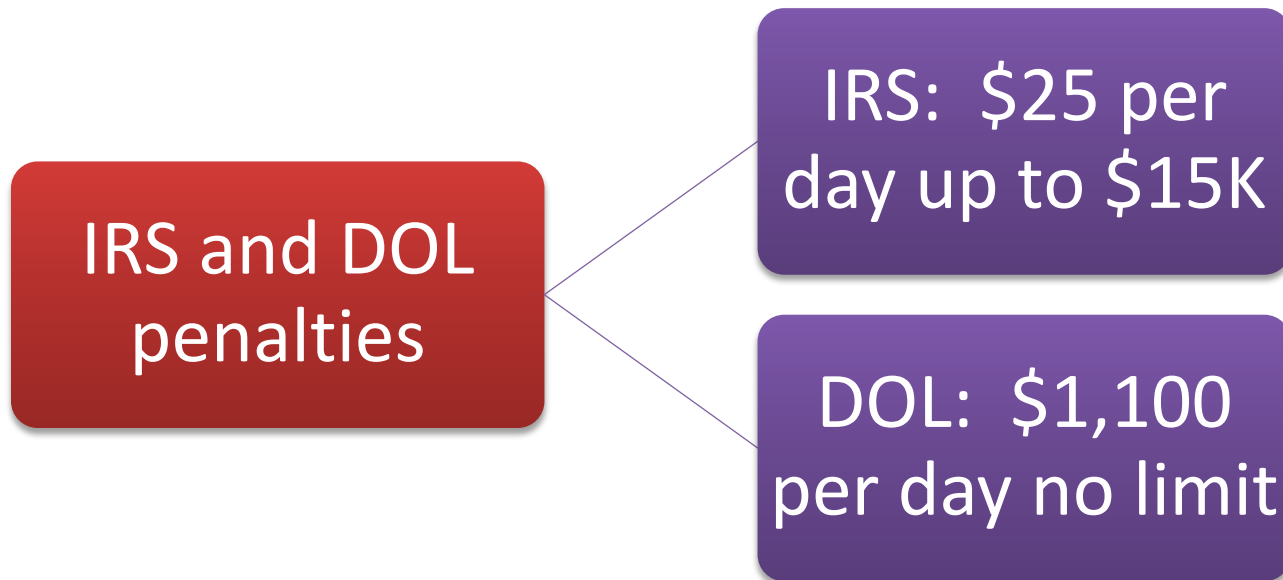
Reporting and Disclosure: Form 5500



Reporting and Disclosure: Form 5500 Due Dates



Reporting and Disclosure: Form 5500 Late Filing Penalties



Can correct through DOL's DVFC program for reduced penalty

Which of the following statements regarding Form 5500 filing requirements is/are TRUE?

- I. Form 5500 Schedule C is required for any large plan filer that changes the actuarial firm during the year.
 - II. A one-participant owner plan with \$500,000 of plan assets is not required to file Form 5500.
 - III. SEP plans are generally exempt from Title I Form 5500 reporting requirements.
-
- A. I only
 - B. II only
 - C. I and III only
 - D. II and III only
 - E. I, II and III

Which of the following statements regarding Form 5500 schedules is/are TRUE?

- I. Schedule D reports actuarial information.
- II. Schedule G reports financial transaction information.
- III. Schedule R reports minimum funding requirements.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III

All of the following statements regarding Form 5500 filing requirements are TRUE, EXCEPT:

- A. Form 5500-EZ may be filed for any plan that covers only partners and their spouses.
- B. Governmental plans are exempt from Title I Form 5500 filing requirements.
- C. SIMPLE IRA plans are exempt from Title I Form 5500 filing requirements.
- D. Generally, a large plan filer for Form 5500 purposes is a plan with more than 100 participants on the first day of the plan year.
- E. 95 percent of the plan's assets must have a readily ascertainable fair market value in order to qualify for filing Form 5500-SF.

All of the following statements regarding the filing deadlines for Form 5500 are TRUE, EXCEPT:

- A. Form 5500, without extension, is due January 15th for plan year ending June 30th.
- B. Form 5500, with extension, is due October 15th for plan year ending December 31st.
- C. Form 5500, without extension, is due June 30th for plan year November 30th.
- D. Form 5500, without extension, is due August 31st for terminated plan with final assets distributed on January 10th.
- E. Form 5500, with extension, is due August 15th for plan year ending October 31st.

All of the following statements regarding Form 5500 penalties are TRUE, EXCEPT:

- A. The IRS has the authority to impose penalties for late or deficient Form 5500 filings.
- B. The DOL has the authority to impose penalties for late or deficient Form 5500 filings.
- C. The DOL may impose a civil penalty of up to \$2,500 per day with no limit.
- D. The DOL may impose a penalty on a large plan for a missing auditor's report.
- E. Under the DFVC Program, plan sponsors may voluntarily file late returns in exchange for a significantly reduced late filing penalty.

Which of the following is/are requirements for satisfying the small plan filer audit exemption?

- I. No employer securities may be held by the plan.
- II. Additional disclosures are required on the SAR.
- III. At least 95 percent of the plan's assets must be invested in qualifying plan assets or a fidelity bond must be held in the amount of any non-qualifying plan assets.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III



Ethics and Code of Conduct

2. Advertising

Member shall not engage in any Advertising with respect to Professional Services that the Member knows or is reasonably expected to know is false.

3. Communications

A Member who issues a Professional Communication shall take appropriate steps to ensure that the Professional Communication is appropriate to the circumstances and its intended audience.

4. Compliance

A Member shall be knowledgeable about this Code, keep current with Code revisions and abide by its provisions. Laws may impose binding obligations on a Member. This Code is not intended to supplant, contradict or supersede Law (e.g., Circular 230) or other Codes of Conduct that establish professional standards for Members in the rendition of Professional Services and that have been sanctioned by the federal or a state government. Where the requirements of Law or such governmentally sanctioned Codes conflict with this Code, the requirements of Law or such governmentally sanctioned Codes take precedence.

5. Confidentiality

A Member shall not disclose to another party any Confidential Information obtained in rendering Professional Services for a Principal unless authorized to do so by the Principal or required to do so by Law.

6. Conflicts of Interest

A Member shall not perform Professional Services involving an actual conflict of interest unless:

- A. The Member's ability to act fairly is unimpaired; and
- B. There has been full disclosure of the conflict to the Principal(s); and
- C. All Principals have expressly agreed to the performance of the services by the Member.

If the Member is aware of any significant conflict between the interests of a Principal and the interests of another party, the Member should advise the Principal of the conflict and include appropriate qualifications or disclosures in any related communication.

7. Control of Work Product

A Member shall not perform Professional Services when the Member has reason to believe that they may be altered in a material way or may be used to violate or evade the Law. The Member should recognize the risk that materials prepared by the Member could be misquoted, misinterpreted or otherwise misused by another party to influence the actions of a third party and should take reasonable steps to ensure that the material is presented fairly and that the sources of the material are identified.

8. Courtesy and Cooperation

- A. A Member shall perform Professional Services with courtesy and shall cooperate with others in the Principal's interest. A Principal has an indisputable right to choose a professional advisor. A Member may provide service to any Principal who requests it even though such Principal is being or has been served by another professional in the same manner.
- B. When a Principal has given consent for a new or additional professional to consult with a Member with respect to a matter for which the Member is providing or has provided Professional Services, the Member shall cooperate in assembling and transmitting pertinent data and documents, subject to receiving reasonable compensation for the work required to do so. In accordance with Circular 230, the Member shall promptly, at the request of the Principal, return any and all records of the Principal that are necessary for the Principal to comply with federal tax Law, even if the Member is not subject to Circular 230.

The existence of a fee dispute generally does not relieve the Member of this responsibility except to the extent permitted by applicable state Law. The Member need not provide any items of a proprietary nature or work product for which the Member has not been compensated.

9. Disclosure

A Member shall make full and timely disclosure to a present or prospective Principal of all sources of direct or indirect material compensation or other material consideration that the Member or the Member's firm has received or may receive in relation to an assignment for such Principal. The disclosure of sources of material compensation or consideration that the Member's firm has received, or may receive, is limited to those sources known to, or reasonably ascertainable by, the Member.

10. Professional Integrity

A Member shall perform Professional Services, and shall take reasonable steps to ensure that Professional Services rendered under the Member's supervision are performed, with honesty, integrity, skill and care. A Member has an obligation to observe standards of professional conduct in the course of providing advice, recommendations and other services performed for a Principal. A Member who pleads guilty to or is found guilty of any misdemeanor related to financial matters or any felony shall be presumed to have contravened this Code and shall be subject to ASPPA's counseling and disciplinary procedures.

11. Qualification Standards

A Member shall render opinions or advice, or perform Professional Services, only when qualified to do so based on education, training and experience.

12. Titles and Credentials

A Member shall make truthful use of the membership Titles and Credentials of ASPPA to which the Member is entitled, and only where that use conforms to the practices authorized by ASPPA.

13. Additional Obligations

- A. A Member whose professional conduct is regulated by another membership organization shall abide by the professional Code of Conduct (or similar rules) of such organization. For example, a Member who is an actuary shall also abide by the Code of Professional Conduct for actuaries.

- B. A Member shall respond promptly in writing to any communication received from a person duly authorized by ASPPA to obtain information or assistance regarding a Member's possible violation of this Code. The Member's responsibility to respond shall be subject to Section 5 of this Code, "Confidentiality," and any other confidentiality requirements imposed by Law. In the absence of a full and timely response, ASPPA may resolve such possible violations based on available information.

Which of the following is/are violations of ASPPA's Code of Professional Conduct?

- I. Being convicted of a misdemeanor due to indecent exposure.
- II. Being convicted of a misdemeanor due to petty theft.
- III. Refusing to provide conversion data to a client's new service provider.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III

Which of the following actions is/are violations of the ASPPA Code of Professional Conduct?

- I. Performing a client's ADP test in a careless manner without gathering sufficient data.
- II. Being convicted of a misdemeanor due to traffic violation.
- III. Providing a plan amendment to a client after December 31, knowing that the client intends to back date the document.

- A. I only
- B. II only
- C. I and III only
- D. II and III only
- E. I, II and III

All of the following statements regarding ASPPA's Code of Professional Conduct are TRUE, EXCEPT:

- A. An ASPPA member may perform professional service involving a potential conflict of interest if certain conditions are satisfied.
- B. The ASPPA Code of Professional Conduct must be prominently displayed in each ASPPA member's office.
- C. An ASPPA member may use membership titles and credentials only in accordance with ASPPA's Code of Professional Conduct.
- D. An ASPPA member may provide opinions and advice only when qualified based on education, training or experience.
- E. An ASPPA member must disclose to a client all sources of direct or indirect compensation received with respect to services performed for such client.

Which of the following statements regarding ASPPA's Code of Professional Conduct is/are TRUE?

- I. Working for clients who have conflicting interests may be acceptable under ASPPA's Code of Professional Conduct if certain conditions are satisfied.
 - II. Precautions should be taken to ensure that professional communications are appropriate to the circumstances and the intended audience.
 - III. Refusing to provide conversion data to a client's new service provider violates ASPPA's Code of Professional Conduct.
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- A. I only
 - B. III only
 - C. I and II only
 - D. II and III only
 - E. I, II and III

Questions?