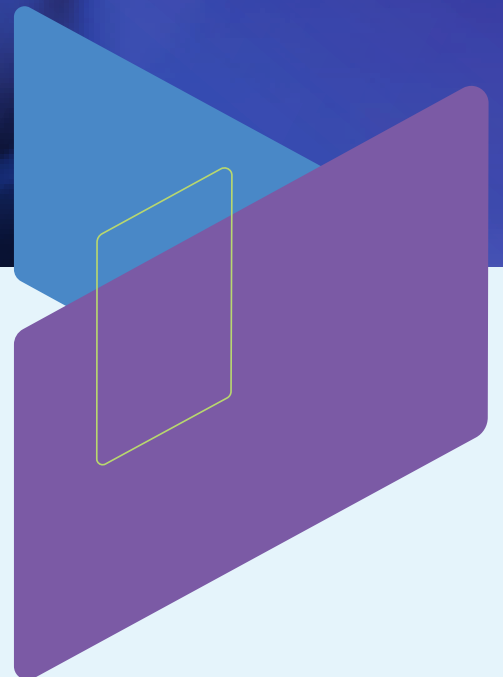




# 2025 Annual Compliance Update



# 2025 IRS Benefit and Compensation Limits

Each year the Internal Revenue Service (IRS) evaluates and may make cost-of-living adjustments to the applicable dollar limits for various employer-sponsored retirement and welfare plans. The adjustments to these dollar limits for 2025 are shown below and in comparison to the prior year limits.

	2025 Limitations	2024 Limitations
Annual Additions Maximum (415 Limit)	\$70,000	\$69,000
Employee 401(k) Contributions (402(g) Limit)	\$23,500	\$23,000
Catch-up Contributions (Age 50 or Older)	\$7,500	\$7,500
Increased Catch-up Limit (Ages 60 – 63)	\$11,250	\$7,500
Highly Compensated Employee Threshold	\$160,000	\$155,000
Key Employee Threshold	\$230,000	\$220,000
Annual Compensation (401(a)(17)) Limit	\$350,000	\$345,000
Social Security Wage Base	\$176,100	\$168,600

## Annual Notices

Regulations require that certain annual notices be provided to plan participants **at least 30 days (and not more than 90 days)** before the beginning of each plan year. Newly hired employees must receive these notices within 90 days of the date they become plan eligible.

### Traditional Safe Harbor 401(k) Notice

Notice discloses the plan's contribution and vesting provisions

### Qualified Automatic Contribution Arrangement (QACA) Notice for a Safe Harbor 401(k)

### Eligible Automatic Contribution Arrangement (EACA) Notice

Notice discloses the automatic enrollment feature to participants, including a participant's right to make their own deferral election

### Qualified Default Investment Arrangement (QDIA) Notice

Notice explains the circumstances under which a participant may be defaulted into the QDIA

### Participant Fee Disclosure (404(a)(5)) Notice

The DOL issued participant fee disclosure rules for participant-directed plans to help participants understand how much they are paying for administration of their 401(k) plan. They include both plan-related and investment-related information.

The required disclosures must be provided to all employees who are eligible to participate in the plan, including new hires and those employees who are eligible but have not elected to participate in the plan.

**Note:** Mid-year changes to any of the provisions reported in the above referenced notices must be distributed at least 30 days in advance of change.

*This information is provided herein is for educational purposes only. It is not designed to be complete in all material aspects. Therefore, it should not be construed as legal, investment-related, or tax advice.*

The Plan Sponsor Fee Disclosure (408(b)(2)) Notice must be provided reasonably in advance of entering in an arrangement with the plan. Changes to the disclosure must be provided "as soon as practicable, but not later than 60 days" from the date the service provider is informed of the change (the "**60 Day Rule**")

**Note: If you have signed up for Slavic's Document Fulfillment services, we will distribute the notices to eligible employees as part of the annual notification process in mid-November. If you have not signed up for Slavic's Document Fulfillment services, plan sponsors will be responsible for distributing the notices to their eligible employees.**

## Preparing for 2024 Annual Compliance Testing

The IRS requires that qualified retirement plans perform non-discrimination testing on an annual basis to ensure that the plan does not disproportionately favor the Highly Compensated Employees (HCEs). Each year Slavic will perform the annual non-discrimination testing and provide the Plan Sponsor with the test results.

Slavic will perform the following non-discrimination tests for all non-safe harbor plans:

- ADP/ACP Testing

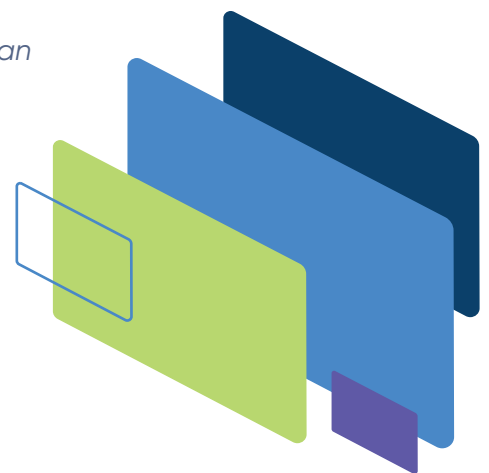
Slavic will perform the following tests for all plans:

- 402(g) Review
- 401(a)(30) Review
- 415 Testing
- 416 Top Heavy Testing

*Please note safe harbor 401(k) plans are subject to top-heavy rules for plan years in which one or more of the following events occur:*

- Safe harbor contributions are subject to longer eligibility requirements than employee deferrals.
- A profit-sharing contribution (including forfeiture reallocations) is made during the year.
- A match that is not exempt from the ACP test is made during the year.
- Voluntary (non-Roth) after-tax contributions are made (Slavic does not permit after-tax contributions)

All employer contributions made during the plan year will count towards satisfying the 3% top-heavy minimum contribution (if applicable).





Slavic uses the plan census data to perform annual compliance testing. The annual census contains vital information about each participant including:

- Name, Address, Phone, Email
- Date of Birth
- Date of Hire
- Date of Termination
- Ownership Percentage
- Officer and HCE Identification Codes
- Compensation
- Contributions: Deferral, Match, Profit Sharing

***It is important that plan sponsors ensure that participant payroll and census information provided to Slavic401k is accurate as this information is utilized for non-discrimination testing, annual required notice communications (both regular mail and email), eligible employee determination, vesting percentage, and contribution deferrals. Plan sponsors can view participant information on the PEO portal by running a***

***census report and identifying any discrepancies via Client Success or email: [clientsuccess@slavic401k.com](mailto:clientsuccess@slavic401k.com)***

Prior to testing the Plan Sponsor will need to review and confirm that the key employees (including officers and family members) and HCEs are properly identified. Below is a definition of each:

### **Who is considered a Highly Compensated Employee (HCE)?**

A “highly compensated employee” is an employee who:

- Owned more than 5% of the interest in a business at any time during the year or the preceding year, regardless of how much compensation that person earned or received
- Received compensation from the business of more than \$150,000 if the preceding year is 2023
- If the employer so chooses, was in the top 20% of employees when ranked by compensation

### **Who is considered a “Key” Employee?**

A “key” employee is an employee with major ownership and/or decision-making role in the business. Key employees are usually highly compensated either monetarily or with benefits, or both.

- More than 5 percent owner of the business (includes family members of more than 5% owners)
- Owns more than 1% of the business, and has annual compensation greater than \$150,000 (not indexed)
- Is an officer (C-suite) with compensation greater than \$220,000 for 2024 (as indexed)

## **Regulatory Filings (Form 5500)**

Plan Sponsors are required to file Form 5500 Annual Return/Report of Employee Benefit Plan annually seven (7) months after the plan year end, with an additional 2 ½ months extension if Form 5558 Application for Extension of Time to File\* is filed. The Form 5500 provides your plan’s yearly financial information and discloses required plan information to the Department of Labor (DOL) and IRS.

*\*The IRS Has postponed the release of the electronic filing of Form 5558 until January 1, 2025.*



Depending on if you are a large plan filer (over 100 employees with balances at the beginning of the plan year) or a small plan filer (under 100) determines if you will need a qualified auditors report and provide additional required schedules and attachments.

Failure to file timely can result in significant DOL and IRS fees and penalties.

- *Internal Revenue Service*: \$250 per day, not to exceed \$150,000
- *Department of Labor*: Up to \$2,259 for 2024 (subject to annual DOL adjustments) for each day the form is late with no overall maximum

If you are a plan sponsor of a **closed multiple employer plan (MEP)** or a **Pooled Employer Plans (PEP)** you are required to file one Form 5500 for the entire plan on behalf of all adopting employers. However, "open" MEPs are required to file one Form 5500 for each adopting employer of the Plan.

If you sponsor a **single-employer plan** and are considering joining a closed MEP, you will be required to close out the single-employer plan. Once all assets are transferred to the MEP, you must file a Form 5500, marked final, and show assets at zero at the end of the year.

## Required Minimum Distribution

Required Minimum Distributions (RMDs) are minimum amounts that a retirement plan account owner must withdraw annually. Unlike the RMD requirements from Traditional IRAs that mandate withdrawals when account holders reach a specific age (see chart below), the requirements from a 401(k) plan are different and depend on the employee's company ownership or working status:

### RMD Requirement for 5% Owners

A more than 5 percent owner of the company that holds a 401(k) account balance (or spouse or parent of an owner), must begin taking RMDs by April 1st following the year age 73 is reached and by December 31st each year thereafter.

### RMD Requirement for Non-Owners

Non-owner RMDs must occur by April 1st following the year that age 73 is reached, or the year the employee retires or leaves the company, whichever is later. In each subsequent year, the RMD must be made on or before December 31st.

Failure to process a RMD includes a 50 percent penalty tax to the participant by the IRS on the amount that should have been withdrawn in the calendar year. Secure 2.0 reduces these penalties for tax years beginning after December 31, 2023, but not with respect to distributions require before January 1, 2024. This tax is in addition to regular income taxes.

*IRS Notice 88-38 explicitly precludes individuals from aggregating RMD amounts from a qualified plan with RMD from an IRA. Therefore, participants must take the 401(k) RMD from each 401(k) account.*



## RMD Changes under Secure Act and Secure 2.0

The SECURE Act of 2019 increased the required minimum distribution (“RMD”) age to 72. SECURE 2.0 further increases the required minimum distribution age to 73 starting in 2023 and to 75 starting in 2033. See the chart below:

Year of Birth	Age	Governing Regulation
Before July 1, 1949	70 1/2	TRA 86
7/1/1949 - 12/31/1950	72	SECURE Act
1/1/1951 - 12/31/1959	73	SECURE 2.0
1/1/1960 and later	75	SECURE 2.0

### Account Balance

Secure 2.0 eliminated the requirement for pre-death RMDs for Roth Accounts. RMD calculations beginning in 2024 will no longer include Roth account balances. Many participants with Roth accounts will see a decrease in the amount of their RMD due to this change.

## Enhanced Retirement Plan Savings, Long-Term, Part-Time Employees

The first time a Long-Term, Part-Time (LTPT) employee were eligible to participate in a plan under SECURE 1.0 on January 1, 2024. Plans must allow part-time workers to make elective deferrals to the plan after completing a minimum of **500 hours in three (3) consecutive 12-month periods**. Pre-2021 service is disregarded for eligibility and vesting purposes.

The first time a LTPT employee will be eligible for a plan under SECURE 2.0 is January 1, 2025. Plans must allow part-time workers to defer to the plan after working a minimum of **500 hours in two (2) consecutive 12-month periods**. Pre-2021 service is disregarded for eligibility and vesting purposes.

## Roth Catch-Up Contributions

Requires catch-up contributions made by a participant with wages above \$145,000 (a “High-Paid Employee”) to be made on a Roth (after-tax) basis (rather than on a traditional pre-tax basis). Effective for tax years beginning after 2023 (January 1, 2024); however, IRS issued Notice 2023-62 on August 25, 2023, providing a two-year transition period through December 31, 2025. During two-year transition period, plans may continue to allow pre-tax catch-up contributions by High-Paid Employees.

## Mandatory Automatic Enrollment under SECURE 2.0

New 401(k) plans must adopt a special type of eligible automatic enrollment arrangement (EACA) that provides for:

- A deferral rate of at least 3% but not more than 10% during the first year,
- 1% auto escalation each plan year up to minimum of 10% and max of 15%,
- Right to opt out, and right to withdraw deferrals within 90 days of automatic enrollment.

## Using your Forfeiture Balance

On February 27, 2023, the IRS issued proposed regulations that would provide rules relating to the use of forfeitures in qualified plans. The proposed regulations generally require that plan administrators use forfeitures within twelve months after the end of the plan year in which the forfeitures occurred.

The proposed regulations provide a transition rule related to the 12-month deadline. Under this rule, forfeitures incurred prior to January 1, 2024, would be treated as having been incurred in the 2024 plan year, and so would have to be used no later than 12 months after the end of the 2024 plan year. For all subsequent plan years, forfeitures generated during the plan year must be used within twelve months after the end of the plan year in which the forfeitures occurred.

For calendar year plans this means forfeitures incurred in the plan year must be used by December 31st of the following plan year (i.e., December 31, 2026, for forfeitures incurred in the 2025 plan year).

As we know, forfeitures are generated when a participant separates from service and is less than 100% vested in employer contributions upon distribution. Additionally, forfeitures may be incurred when a plan merges into a MEP and the plan transferring in has a forfeiture balance. Lastly, forfeitures may be generated from ineligible employer contributions because of plan testing failures or over-contributions that are not eligible to be transferred out of the plan.

Your plan document will specify the timing of the forfeiture and will include language on how plan sponsors are permitted to utilize plan forfeitures. The forfeiture account balance can typically be utilized for:

- Paying plan administrative expenses,
- Reducing company contributions, and
- Allocating as additional company contributions

You can review your plan's forfeiture account balance by logging into your Plan Sponsor Portal on: [www.slavic401k.com](http://www.slavic401k.com). Log in under Employer and from the top menu bar select Plan and then select Plan Balance. At the top of the page click on 'View forfeiture balance'.

If you would like to use forfeitures to offset an employer contribution and you submit contributions via the Contributions Portal, you will need to log into your plan sponsor portal to initiate this transaction. Your forfeiture balance can be found on the "Summary" page under "Contributions". (Sponsor Portal/Contribution/Summary). We strongly suggest you view the video that is available on the portal to learn how to not only upload contributions but to also utilize available forfeiture balances to offset employer contributions. <https://slavic401k.wistia.com/medias/aadeccy93u>

Please note the Contributions Portal is only available for Multiple Employer Plans. If your plan does not submit contributions via the Contributions Portal, please reach out to your Client Success Representative to learn the process to follow to utilize your forfeitures.

If you would like to use forfeitures to offset plan expenses, please reach out to your Client Success Representative to discuss the amount the total forfeitures you would like applied to your next invoice.



# **State-Facilitated Retirement Savings Programs – Update**

Over the past decade, many states in the U.S. have proposed or enacted legislation aimed at facilitating retirement savings by millions of employees who otherwise lack access to a retirement plan in their workplace. These programs take various forms, including mandatory automatic individual retirement account (IRA) programs, voluntary automatic IRA programs, voluntary open multiple employer plans, and voluntary marketplaces. They complement the privately sponsored retirement plans market, and typically require employers with greater than a specified number of employees that do not offer a retirement plan to comply with the state-facilitated retirement program requirements. To comply with the state mandates, employers must enroll employees in the state-facilitated retirement program and may need to manage contributions and reporting to the state, but otherwise generally have no costs or other administrative requirements.

## **Enacted and Pending Legislation**

As of September 2024, 17 states have a mandate in place based on automatic IRA programs, and another three (Massachusetts, Missouri, and New Mexico) have enacted voluntary programs based either on automatic IRA programs or multiple employer plans. Among the states with a mandate, nine states have fully implemented their respective programs, including California, Colorado, Connecticut, Illinois, Maine, Maryland, New Jersey, Oregon, and Virginia. Implementation is currently underway in another eight states, including Delaware, Hawaii, Minnesota, New York, Nevada, Rhode Island, Vermont, and Washington. Meanwhile, proposed legislation to implement state-facilitated retirement plans is pending in another 23 states.

Against this evolving landscape, it's worth noting that while states like Massachusetts, Missouri, and New Mexico do not currently require employers to comply with their respective voluntary programs, that can easily change. On March 28, 2024, for example, Washington enacted a new mandatory automatic IRA program to replace its previous voluntary retirement marketplace program. Given these shifts, employers may wish to monitor these legislative developments as they progress through each state.

## **Cross-State Obligations**

Another important consideration for employers is the potential requirement to comply with state-facilitated retirement program mandates in other states where the employer's employees work and report income. Depending upon the provisions under the various state statutes and regulations for determining which employers and which employees are covered by the state-facilitated retirement program – which often look to the number of employees an employer has, as well as the state where an employee's employment is based or where that employee receives income – an employer potentially may be required to comply with a mandates in multiple states, or in a state other than where it is based.

For example, if an employer is based in a state without an automatic IRA mandate but has employees working or with income in a state with such a mandate, that employer potentially may be required to either register for the applicable state automatic IRA program or offer a private qualified retirement plan. If the employer already offers a private qualified retirement plan, it may nonetheless still be required to report its exemption to the state where its employees are working or reporting income. Accordingly, in addition to tracking the specific number of employees working in a state, employers may wish to monitor employee eligibility for different





state-facilitated retirement savings programs based on the states in which the employees' employment is based or in which the employees have income from that employment.

## **How We Can Help**

Staying informed and proactive in response to these regulatory changes is crucial for ensuring compliance and avoiding potential penalties. As always, please feel free to reach out to us with any questions or concerns regarding state-mandated automatic IRA programs or any other retirement plan-related matters.



# Compliance Corner – Q&A

## What is a Mistake of Fact?

The Employee Retirement Income Security Act of 1974 (ERISA) and its regulations, which regulate 401(k) plans, prohibit the use of plan assets for anything except the “exclusive benefit” of plan participants and restrict the ability to refund plan assets back to the employer.

### What does this mean?

What this means is that money deposited into a plan trust account generally cannot be returned to a plan sponsor or participant. However, a “mistake of fact” error is considered an exception to this rule.

The IRS has determined mistakes of fact to include mathematical and typographical errors occurring during the contribution process. For example, adding an extra zero to the amount remitted to the trust account for a payroll deferral or including a participant multiple times on the same report would potentially be characterized as a mistake of fact.

Conversely, the IRS has found that there is no mistake of fact where an employer or a participant unintentionally contributes an amount that causes the plan to fail annual testing. This would include exceeding IRS contribution limits for:

- Participant deferrals,
- Compensation limits,
- Average Deferral Percentage testing failures,
- Average Contribution Percentage testing failures,
- Top Heavy testing failures,
- Deductibility limits

A mistake of fact “does not occur” where a participant selects an unintended deferral rate, contributions are made on ineligible compensation, or an ineligible employee is allowed to participate. As they will not allow distributions as a form of correction for testing failures, the IRS has created an alternate system to allow correction for these operational errors.

### What is the difference between a mistake and a mistake of fact?

A mistake, or operational error, may occur when contributions are improperly allocated to the plan that do not agree with the terms of the plan. When a mistake occurs, employer money cannot be returned to the employer or plan sponsor. Instead, any ineligible employee contributions are returned to the participant, if permitted, and any employer contributions are forfeited.

Situations in which you are permitted to consider an issue a mistake of fact are very limited. In general, a misplaced decimal point, an incorrectly written check, or an error in doing a calculation are examples of situations that could be construed as constituting a mistake of fact.

### What does and does not qualify as a “mistake of fact”?

When a situation arises where funds have been contributed in error, you will first need to learn why the funds were contributed. Does the request fall under one of the reasons that qualify as a mistake of fact?



The IRS only allows for funds to be returned from a qualified plan under very specific circumstances. Below are a few examples of these circumstances that do and do not.

#### **Situations that do satisfy Mistake of Fact:**

- Mathematical and typographical errors occurring during the contribution process
- Adding an extra zero to the amount remitted to the trust account for a payroll deferral or
- Including a participant multiple times on the same report would potentially be characterized as a mistake of fact

#### **Situations that do not satisfy Mistake of Fact:**

- An employer or a participant unintentionally contributes an amount that causes the plan to fail annual testing. This would include exceeding IRS contribution limits for:
  - Participant deferrals
  - Compensation limits
  - Average Deferral Percentage testing failures,
    - Average Contribution Percentage testing failures,
    - Top Heavy testing failures,
    - Deductibility limits.
- Participant selects an unintended deferral rate
- Contributions are made on ineligible compensation
- An ineligible employee is allowed to participate

## **Opt-out of Automatic Enrollment**

When a participant opts-out of automatic enrollment (chooses not to participate), a few things need to happen:

- The employer must stop making automatic contributions to the participant's 401(k) account.
- If the participant opts out after contributions have already been made, the participant may be able to withdraw the automatic contributions within a certain period (usually 30-90 days) without penalties. The participant will forfeit any contributions that matched the automatic contributions, regardless of the vesting rate. This money will go into the forfeiture credit account.

Employers are not allowed to return automatic contributions to participants through payroll. If the participant opts out within a certain period (usually 30-90 days), the plan allows for a withdrawal of automatic contributions without an early withdrawal penalty. This means the contributions are returned directly to the participant from the plan (not via payroll).



# Key Dates

## January

2 Registration for the Slavic Annual Conference Opens: [www.slavic401k.com/conference](http://www.slavic401k.com/conference)

## February

1 Notification will be sent to clients that report K-1 Compensation

3 - 5 2025 Slavic401k Conference in Delray Beach, Florida

## March

7 Last Day to report K-1 Compensation for Testing

15 IRS deadline to process corrective refunds without incurring 10% excise tax. (non-EACA Plans)

## April

1 First time RMDs Due

17 Deadline to process 402(g) refunds

## June

30 Deadline to process corrective refunds for EACA Plans

## July

31 Deadline to file Form 5500 without Form 5558 Application for Extension of Time to File  
Deadline to file Form 5558 Application for Extension of Time to File (provides a 2 ½ month extension to file Form 5500)

## September

15 Form 5500 due to the Employee Benefits Security Administration (EBSA) from plans eligible for an automatic extension linked to a corporate tax extension.

30 Summary annual reports due to participants from plans that end December 31, 2021 – nine (9) months after that date, or two months after filing Form 5500.

## October

1 Last date to submit 1/1/2024 Slavic Plan Safe Harbor amendment request - Slavic to include the regulatory notice mailing.

5 Annual Compliance Census E-mail Blast Reminder will be sent

15 Deadline to file Form 5500 with Form 5558 Application for Extension of Time to File

## November

15 Summary annual reports due to participants if the Form 5500 deadline was extended because of a corporate tax filing extension.

17 Last date to submit 1/1/2024 Slavic Plan Safe Harbor amendment request

28 Last date for worksite to sign 1/1/2024 Slavic Plan Safe Harbor amendment (Slavic will provide the Plan Sponsor the Safe Harbor Notice to distribute once the amendment is executed.)



# Key Dates

## December

- 1** Last date to distribute Annual Safe Harbor Notice for the upcoming plan year  
Last date to distribute Annual Auto-Enrollment Notice for the upcoming plan year  
Last date to distribute Annual Qualified Default Investment Alternative Notice for the upcoming plan year  
Last date to submit 1/1/2024 Slavic Plan Non Safe Harbor amendment request
- 8** Last date for worksite to sign 1/1/2024 Slavic Plan Non Safe Harbor amendment
- 15** Summary annual reports due to participants if the Form 5500 deadline was extended because of filing Form 5558.
- 31** Deadline for ADP/ACP test refunds of excess 401(k)/(m) contributions and allocable income or re-characterization of pretax contributions  
IRS Deadline to fund Top Heavy Minimum contributions for the 2023 plan year  
IRS Deadline for Annual RMDs

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