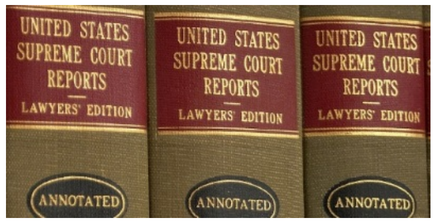
SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
560 Wheeler Road, Hauppauge, NY 11788
(631) 234-5588



QUALIFIFIED RETIREMENT PLANS FOR LAW FIRMS

FACULTY

Andrew E. Roth, Esq.
Danziger & Markhoff, LLP

January 11, 2022
Suffolk County Bar Association, New York

Like us on:

There's a whole new way to obtain your CLE certificate! It's fast, easy and best of all you can see the history of courses that you've attended!

Within 10 days of the course you attended, your CLE Certificate will be ready to view or print. Follow the instructions below:

1. Go to SCBA.org
2. Member Log In (upper right corner)
3. If you **do not** know your username or password, click the area below and enter your email that is on file with SCBA. Follow the prompts to reset your username and password.
4. After you log in, hover over your name and you will see "Quick Links". Below that you will see:

a. My SCBA
b. My CLE History
c. Update My Information
d. Update My Committees

5. Click on **My CLE History**, you will see the courses you have attended. Off to the right side you will see the Icon for certificates. You are now able to download the certificate, print it or save it. You may go to your history and review the courses you have taken in any given year!
6. **CLE certificates will no longer be mailed or emailed.** Certificates will be available within 10 days after the course.

Andrew E. Roth, Esq.

Andrew E. Roth is a partner of Danziger & Markhoff LLP with over 35 years of experience as an ERISA attorney. He is a frequent lecturer in the areas of pension, profit-sharing and employee benefits law. He has substantial experience in designing and implementing qualified plans for business owners that maximize deductible contributions on their behalf. His services include designing, drafting and obtaining IRS qualification for a broad range of defined contribution and defined benefit plans, as well as ensuring their continued compliance with applicable law. He also has substantial experience in connection with prohibited transactions and fiduciary matters.

Mr. Roth attended University College of Arts and Science of New York University (BA 1975) and graduated *magna cum laude* from Brooklyn Law School (JD 1981). Mr. Roth also received an LLM in Taxation from New York University School of Law (1982). He is admitted to practice before the U.S. Tax Court, the Federal District Courts for the Southern and Eastern Districts of New York and is a member of the New York State Bar Association.

Qualified Retirement Plan Design for Law Firms

How to Maximize Partners’ Contributions and Minimize Staff Cost

Andrew E. Roth, Esq.

The coronavirus pandemic is presenting new and unique challenges that many of us have never faced, including law firm partners. Qualified retirement plans are no exception. This presentation showcases the ways law firms can ameliorate the challenges presented by the current environment.

Specifically, topics covered will include:

- **Types of qualified retirement plans**
- **CARES Act, SECURE Act and regulatory updates**
- **2021 Contribution limits:**
  - What is the maximum amount that can be contributed on a partner’s behalf?
- **Limiting staff costs**
  - Coordinating 401(k) plans and profit-sharing plans as a strategy to reduce staff costs
- **Timing for 401(k) contribution deposits**
- **Average Deferral Percentage Test**
- **Pros and cons of Roth 401(k)s**
- **Cash balance plans**
  - State-of-the-art defined benefit plans which will enable partners to substantially increase their contributions. Ideal for multiple partner and multiple employee situations
- **Traditional defined benefit plans**
  - Prior service design
  - Accumulation design
- **Split plan design**
- **Coordinating plan design with the Section 199A QBI deduction**

Qualified Retirement Plan Design For Law Firms

Andrew E. Roth, Esq.

DANZIGER & MARKHOFF LLP

Attorneys at Law

1133 Westchester Avenue, Suite N208, White Plains NY 10604 (914) 948-1556 danzigermarkhoff.com

Danziger & Markhoff LLP

A Full Service Tax-Oriented Law Firm Since 1960

Employee Benefits

- Plan Design
- Documentation
- Administration
- IRS Plan Audits
- Non-Qualified
- Executive Comp
- ESOPs

Trusts & Estates / Taxation

- Estate Planning
- Wills & Trusts
- Estate Administration
- Tax Planning

Corporate

- Entity Formation
- Shareholder Agreements
- Partnership Agreements
- Employment Contracts
- Mergers
- Acquisitions
- Healthcare Compliance

DANZIGER & MARKHOFF LLP
Attorneys at Law

Topics for Discussion

— CARES Act / SECURE Act

— IRS Limits

— Defined Contribution Plans

- New Comparability Profit Sharing
- 401(k) Plans
- Safe Harbor Options
- Roth 401(k)
- Split Plan Design

— Defined Benefit Plans

- Traditional DB plans
- Cash Balance Plans
- Past Service Plans

Legal Update – CARES Act

DANZIGER & MARKHOFF LLP
Attorneys at Law

Temporary Relief for Qualified Individuals

- **Coronavirus-related Distributions (CRDs) during 2020**
- **Increased maximum loan amount for loans through September 22, 2020**
- **Due date of any loan repayment otherwise due from March 27 through December 31, 2020 delayed for one year**
  - ***Warning: state and local income tax treatment of CRDs and increased maximum loan amount may differ from federal income tax treatment***

CARES Act qualified plan-related relief for COVID-affected individuals expired at the end of 2020 and was not renewed

Legal Update – SECURE Act

- **Required Minimum Distribution age increased from 70½ to 72**
  - If you were born before July 1, 1949, the old rule applies (age 70½)
  - If you were born on or after July 1, 1949, the new rule applies (age 72)

- **Expanded start-up credits for small employers ($500 to $5,000)**

- **Deadline to Adopt New Plans Extended to Due Date (with Extensions) of Employer's Income Tax Return**
  - No longer need to adopt a new plan by the end of the tax year
  - Plans with a 401(k) component must still be implemented by year-end

Legal Update – SECURE Act (cont.)

- **Notice requirement for Safe Harbor nonelective plans eliminated**

  (still required for Safe Harbor Match plans)

  HOWEVER, to reserve the right to reduce or suspend safe harbor nonelective contributions during the year, SECURE Act did not change the requirement to provide notice of this possible mid-year amendment at least 30 days prior to the beginning of the plan year

- **Deadline to add a Safe Harbor nonelective component expanded:**

  OLD RULE: 30 days prior to the beginning of the plan year

  NEW RULE:

  - 30 days prior to the end of the plan year
  - Can be extended to the end of the following plan year if the 3% contribution is increased to 4%

DANZIGER & MARKHOFF LLP
Attorneys at Law

Legal Update – SECURE Act (cont.)

- **Minimum Service Rule for long-term part-time employees (employees who work 500+ hours per year)**
  - Employees need to work 500+ hours in 3 preceding consecutive 12-month periods to be eligible
  - First qualifying year is 2021, so the first year an employee can be eligible under this provision is **<u>2024</u>**
  - Only applies to the 401(k) portion of the plan (these employees are <u>not</u> required to receive any type of employer contribution)

Legal Update – SECURE Act (cont.)

- **Stretch Payouts from Qualified Plans/IRAs Eliminated**

Pre-SECURE Act: Defined contribution plan or IRA beneficiary can elect to take distributions from plan or inherited IRA over beneficiary's life expectancy

SECURE Act:

•Surviving non-spouse beneficiary generally required to include benefits in income by end of 10th calendar year following year of the participant's or IRA owner's death

Benefits can be distributed at any time during this period

•Beneficiaries still eligible for stretch payout: surviving spouse, disabled beneficiary, minor child, chronically ill individual and beneficiary who is less than ten years younger than the plan participant or IRA owner

DANZIGER & MARKHOFF LLP
Attorneys at Law

Benefits of Qualified Retirement Plans

- **Tax-Incentivized Savings**

  - Immediate tax deduction on "traditional" contributions with tax-deferred growth

  - Tax-free growth and withdrawal for "Roth" contributions

- **Creditor Protection on Qualified Retirement Plan Assets**

- **Attraction/Retention Tool For Employees**
  - Vesting schedule acts as "golden handcuff" for key employees

Vesting [§ 411(a)]

- Profit Sharing contributions subject to vesting schedule
- Generally called "2/20" vesting – balances vest over 6 years of employment service
- "Service" can exclude years prior to the plan effective date

Years	Vested %
0-1	0%
2	20%
3	40%
4	60%
5	80%
6	100%

Average U.S. Life Expectancy

DANZIGER & MARKHOFF LLP
Attorneys at Law

Year	Male	Female
1900	40.4	43.1
1950	62.6	67.4
*2020	74.2	79.9

* Source: www.cdc.gov

Average U.S. Life Expectancy at Age 65

Year	Male	Female
*2020	82.0	84.8

*Source: www.cdc.gov

DANZIGER & MARKHOFF LLP
Attorneys at Law

Good News . . . Bad News

Good News

- We are living longer.

Bad News

- We are going to need to save even more for retirement. AON Hewitt study concluded that retirees will have to replace an average of 126% of their salaries when they retire to meet their post-retirement needs.

DANZIGER & MARKHOFF LLP
Attorneys at Law

Taxable vs. Tax-Deferred - $61,000 Available

Investment Return: 6% per year
Combined Tax Rate: 50%

	No Plan	**Qualified Plan**
Period	After-tax savings =$30,500	**Pre-tax contribution =$61,000**
10 Years	$350,000	**$804,000**
20 Years	$820,000	**$2,244,000**
30 Years	$1,451,000	**$4,823,000**

IRS Limits

DANZIGER & MARKHOFF LLP
Attorneys at Law

		2021	2022	IRC §
Maximum Benefits	Defined Contribution	$58,000	$61,000	415(c)
401(k) Maximum Deferral	<50 years	19,500	20,500	402(g)
Catch-Up	>50 years	6,500	6,500	414(v)
Maximum Benefits	Defined Benefit	230,000	245,000	415(b)
Maximum Compensation		290,000	305,000	401(a)(17)
Highly Compensated Employee		130,000	135,000	414(q)

Highly Compensated Employees (HCEs)
[§ 414(q)]

DANZIGER & MARKHOFF LLP
Attorneys at Law

Ownership Threshold

- Any Employee who has a more than 5% ownership interest in the employer is Highly Compensated **regardless of actual pay**
- Attribution - Spouses, parents, children and grandparents are deemed owners for this purpose

Compensation Threshold

- Employees who earned more than $130,000 in 2021 are Highly Compensated in 2022
- Employees who earn more than $135,000 in 2022 will be Highly Compensated in 2023

Top Paid Group Election

- Employers can limit the number of HCEs who exceed the compensation threshold (not used in this presentation).

DANZIGER & MARKHOFF LLP
Attorneys at Law

Plan Coverage Requirements
Passing on Relative Basis [§ 410(b)]

Coverage Ratio of Non-Highly Compensated Employees (NHCEs) needs to be at least 70% of the HCE Coverage Ratio

EXAMPLES – 10 HCEs, 10 NHCEs (20 total employees)

- If 10/10 HCEs are covered, 7/10 NHCEs need to be covered.
- If 5 HCEs are covered, 4 NHCEs need to be covered.
- If 1 HCE is covered, only 1 NHCE needs to be covered.
  (passes coverage even though we are only covering 2 out of the 20 total employees)

Deduction Limits for Contributions
[§ 404]

DANZIGER & MARKHOFF LLP
Attorneys at Law

- Profit-Sharing Plan
  - Limited to 25% of compensation paid or accrued during employer's taxable year to all beneficiaries under the plan [§ 404(a)(3)(A)(i)]
  - Compensation is limited to $305,000 (2022) [§ 401(a)(17)]
  - For this purpose, 401(k) elective deferrals and catch-up contributions do not count

- Defined Benefit Plan (including Cash Balance Plan)
  [§ 404(o)] Greater of:
  - Sum of:
    - funding target for the year
    - target normal cost for the year
    - cushion amount for the year
      - Generally, 50% of funding target + certain funding target increases for future compensation increases
  - Minimum required contributions under § 430

2 Types of Plans

- **Defined Contribution**
  - Profit-sharing
  - Traditional 401(k)
  - Roth 401(k)
  - New Comparability
- **Defined Benefit**
  - Traditional Defined Benefit
  - Cash Balance

DANZIGER & MARKHOFF LLP
Attorneys at Law

Profit-sharing

Non-Integrated

DON'T DO THIS!

Participant	**Compensation**	**Contribution**	**Profit Sharing %**
Owner	$305,000	$61,000	20%
Employee	$40,000	$8,000	**20%**

DANZIGER & MARKHOFF LLP
Attorneys at Law

Simplified Employee Pension (SEP) vs. Qualified Plan

[§ 408(k)] [§ 401(a)]

Plan Feature	SEP	Qualified Plan
Permitted Disparity (Integration) – Form 5305-SEP	No	Yes
401(k) / Roth 401(k)	No	Yes
Catch Up	No	Yes
Reduce FICA in Sub-S	No	Yes
Individually-designed	No	Yes
Part-time Seasonal Exclusion	No	Yes
Vesting Conditions	No	Yes
Last Day Requirement	No	Yes
Loans	No	Yes
Insurance	No	Yes

DANZIGER & MARKHOFF LLP
Attorneys at Law

SEP vs. Qualified Plan (S-Corp)

- S-Corp deduction limit is 25% of total wages
  - $61,000 contribution requires $244,000 in wages ($61K x 4)

- 401(k) deferrals in qualified plans do not count toward limit
  - Employer deduction is $40,500 ($61,000 - $20,500)
  - $61,000 contribution requires $162,000 in wages ($40.5K x 4)

- $82,000 can be taken as an S-Corp distribution
  - Medicare savings of roughly $2,400

DANZIGER & MARKHOFF LLP
Attorneys at Law

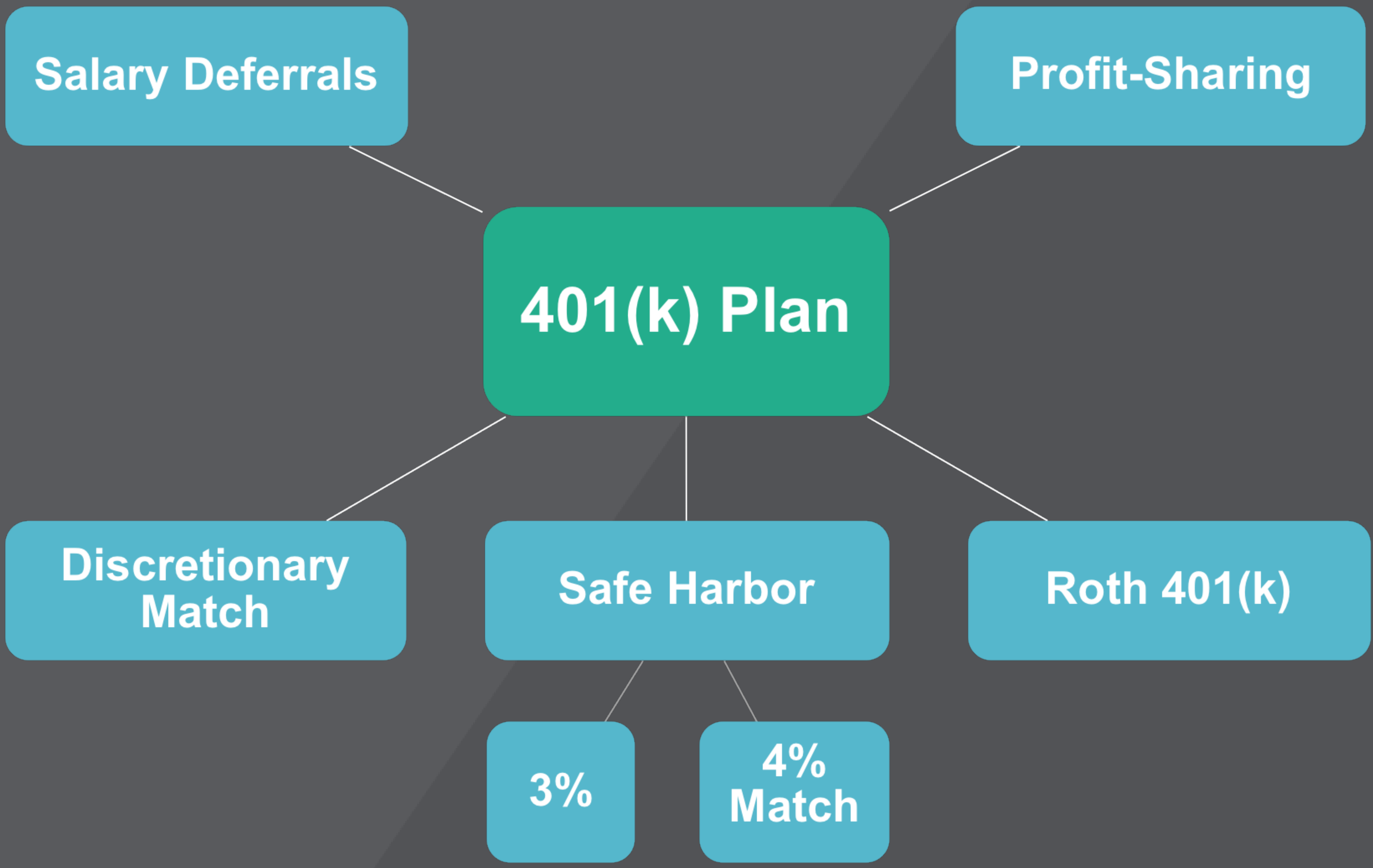
Profit-sharing

Integrated [§ 401(l)]

DON'T DO THIS EITHER!

		OWNER	EMPLOYEE
ANNUAL COMPENSATION		$305,000	$40,000
1	Non-Integrated	$61,000 (20%)	$8,000 (20%)
2.	Integrated	$61,000 (20%)	$6,819 (17.05%)

Adding 401(k) Component



DANZIGER & MARKHOFF LLP
Attorneys at Law

401(k) Compliance Issues

- Timely remittance of employee 401(k) deferrals / loan repayments [DOL Reg. § 2510.3-102]
- ADP Testing [§ 401(k)(3)]
- Top Heavy Testing [§ 416]

DANZIGER & MARKHOFF LLP
Attorneys at Law

Timely Deposit of Employee 401(k) Contributions
[DOL Reg. § 2510.3-102]

Employees' monies segregated from Employer accounts

- DOL regulations establish a safe harbor for plans with fewer than 100 participants
  - Deferrals must be remitted within 7 business days
- Larger plans - as soon as *"Administratively Feasible"*

~~***Not later than*** 15th business day of month following month of withholding~~
(this no longer applies thanks to modern payroll systems)

DANZIGER & MARKHOFF LLP
Attorneys at Law

401(k): Average Deferral Percentage (ADP) Test

[§ 401(k)(3)]

	Non-Highly Compensated Employees	Highly Compensated Employees
"2 times"	0%	0%
	1%	2%
	2%	4%
"Plus 2"	3%	5%
	4%	6%
	5%	7%
	6%	8%
	7%	9%
	8%	10%
"125%"	9%	11.25%
	10%	12.5%

DANZIGER & MARKHOFF LLP
Attorneys at Law

ADP Test
Stand-Alone 401(k)

Participant	Compensation	401(k) Contribution	Average Deferral Percentage
Owner	$305,000	$20,500	6.72%
Employee	$50,000	$2,420	4.84%
Average Deferral Percentage Test	Plan passes : "plus 2%"		

Top Heavy Plans [§ 416]

Owner accounts are 60%+ of total balances

- — Plan is Top Heavy
- — Sponsor must contribute 3% of compensation for each eligible “non-Key” employee
- — Even if those employees choose not to make 401(k) contributions that year!

Solutions for solving ADP & Top Heavy?

DANZIGER & MARKHOFF LLP
Attorneys at Law

Safe Harbor Plans [§ 401(k)(12)]

Two Safe Harbor options - both are fully vested:

-- Safe Harbor nonelective contribution [§ 401(k)(12)(C)]

- 3% contribution to all eligible employees
- Owners can get 3-1 leverage using new comparability
  (9% contribution to owners, 3% staff cost)

— Safe Harbor matching contribution [§ 401(k)(12)(B)]

- 100% match on first 3% of contributions, 50% on next 2%
- Caps at 4% when an employee contributes 5% or more
- If owners are limited to 401(k) + match, no top heavy
- $32,700 or $39,200 to owners, no staff cost if staff doesn't participate

DANZIGER & MARKHOFF LLP
Attorneys at Law

Profit-sharing + 401(k)

3% Safe Harbor - Age Neutral Plan Design [§ 401(k)(12)(C)]

Participant	401(k)	3% Safe Harbor	Profit Sharing Integ.	Total Contrib.	Savings (48%)
Owner $305,000	$20,500 (6.72%)	$9,150 (3%)	$31,350 (10.28%)	$61,000 (20%)	Total Contrib. $61,000 20% of Comp.
Employee $40,000	$0	$1,200 (3%)	$2,931 (7.33%)	$4,131 (10.33%)	$8,000 - 4,131 $3,869

DANZIGER & MARKHOFF LLP
Attorneys at Law

Profit-sharing + 401(k)

4% Safe Harbor Match - Age Neutral Plan Design [§ 401(k)(12)(B)]

Participant	**401(k)**	**401(k) Safe Harbor Match**	**Profit Sharing Integ.***	**Savings (68%)**
Owner $305,000	$20,500 (6.72%)	$12,200 (4%)	$28,300 (9.28%)	Total Contrib. $61,000 **20% of Comp.**
Employee $40,000	**$0**	**$0**	$2,531 (6.33%)	$8,000 - 2,531 $5,469

* If no profit sharing, then no top heavy minimum contribution

Safe Harbor Match: Calculation

Employee Salary = $40,000

Employee 401(k) Contribution		Safe Harbor Match	
1%	$400	1%	$400
2%	$800	2%	$800
3%	$1,200	3%	$1,200
4%	$1,600	3.5%	$1,400
5%	$2,000	4%	$1,600
10%	$4,000	4%	$1,600

401(k) Plan Special Applications
Spouse on Payroll

Employee	Compensation	401(k)	Profit-sharing	Total Contribution
Husband 50+	$305,000	$27,000	$40,500 **[13.28%]**	$67,500
Wife 50+	**$61,000**	$27,000	$40,500 **[66.39%]**	$67,500
Totals	**$366,000**	$54,000	**$81,000**	**$135,000**

Annual Addition Limit = Lesser of 100% of compensation or $61,000 (plus catch up)

25% Deduction Limit: 25% x $366,000 = $91,500

Roth 401(k) [§ 402A]

No Deduction for $ going in

— Contribution is "after-tax"

No Tax on $ coming out

— Tax-free growth

No Minimum Required Distribution (MRD) if rolled into a Roth IRA

DANZIGER & MARKHOFF LLP
Attorneys at Law

Roth IRA vs. Roth 401(k)

[§ 408A] [§ 402A]

	Contributor Restrictions	Individual Contribution Limitations
Roth IRA	**Income Restriction** **Single: $129,000- $144,000** **Joint: $204,000 - $214,000**	$6,000 + $1,000 Catch up
Roth 401(k)	**No Income Restrictions**	$20,500 + $6,500 Catch up

Roth 401(k) Dynasty

Husband rolls-over to Roth IRA

2021: Husband = 50 **[Husband adopts Roth 401(k)]**	$27,000/yr	Earnings Rate = 6% **[22 Deposits]**
12/31/2042 **[Husband = 71]**	$1,171,592	**Roth IRA;** no MRDs
12/31/2052 **[Husband = 81]**	$2,098,143	Husband Dies: Wife = Ben **[Wife = 76]**
12/31/2062 **[Wife = 86]**	$3,757,454	Wife dies; Son = ben.
SECURE ACT Stretch Limit	10 yrs	Lump Sum Distribution in 10^{th} Year
12/31/2072	At end of 10 yrs **IRA balance = zero**	

DANZIGER & MARKHOFF LLP
Attorneys at Law

Roth 401(k) Dynasty
Husband rolls-over to Roth IRA

2021: Husband = 50 **[Husband adopts Roth 401(k)]**	$27,000/yr	Earnings Rate = 6% **[22 Deposits]**
12/31/2042 **[Husband = 71]**	$1,171,592	**Roth IRA;** no MRDs
12/31/2052 **[Husband = 81]**	$2,098,143	Husband Dies: Wife Ben **[Wife = 76]**
12/31/2062 **[Wife = 86]**	$3,757,454	Wife dies; Son = ben.
SECURE ACT Stretch Limit	10 yrs	Lump Sum Distribution in 10th Year
12/31/2072	**$6,729,027 All Income Tax Free**	

Benefits of New Comparability

[Treas. Reg. § 1.401(a)(4)-8]

—Increased contributions for Owners

—Decreased cost for Staff

Ideal if **older** Owners / **younger** Staff

—Increased contribution flexibility

Use Classes and Sub-Classes

Reward specific employee "classes"

DANZIGER & MARKHOFF LLP
Attorneys at Law

Safe Harbor 401(k) + New Comparability

Type of Plan	OWNER Age 49 $305,000	EMPLOYEE Age 30 $40,000
New Comparability (no 401(k))	$61,000 (20%)	$2,000 **(5%)**
New Comparability + 3% Safe Harbor	$61,000 ($40,500 ÷ $305,000 = (13.28%)	$1,770 **(4.43%)**
New Comparability + Safe Harbor Match	$61,000 ($28,300 ÷ $305,000 = 9.28%)	$1,237 **(3.09%)**

DANZIGER & MARKHOFF LLP
Attorneys at Law

New Comparability - Case Study 1
Non-Owner NHCEs (New Comp + 3% Safe Harbor)

Employee	Compensation	Contribution % of Compensation	% of Total
Partner [Age 65]	$305,000	**$67,500**	$196,000 - **87%**
Partner [Age 62]	305,000	**67,500**	
Partner [Age 49]	305,000	**61,000**	
Assoc. [Age 44]	185,000	5,550 [3.00%]	$28,821 - 13%
Assoc. [Age 38]	165,000	4,950 [3.00%]	
Assoc. [Age 37]	160,000	4,800 [3.00%]	
Assoc. [Age 35]	145,000	4,350 [3.00%]	
Staff [Age 55]	65,000	2,850 [4.43%]	
Staff [Age 46]	52,000	2,304 [4.43%]	
Staff [Age 31]	46,000	2,038 [4.43%]	
Staff [Age 27]	44,000	1,949 [4.43%]	

DANZIGER & MARKHOFF LLP
Attorneys at Law

New Comparability - Case Study 2
with 401(k) & Safe Harbor Match

Employee	Compensation	Contribution % of Compensation	% of Total
Owner [Age 75]	$305,000	$67,500	$270,000 - **98%**
Owner [Age 73]	305,000	67,500	
Owner [Age 52]	305,000	67,500	
Owner [Age 50]	305,000	67,500	
Staff [Age 35]	45,000	1,391 [3.09%]	$5,040 - 2%
Staff [Age 32]	40,000	1,237 [3.09%]	
Staff [Age 30]	40,000	1,237 [3.09%]	
Staff [Age 27]	38,000	1,175 [3.09%]	

DANZIGER & MARKHOFF LLP
Attorneys at Law

Building Blocks of Plan Design
Employee's Cost as % of Compensation

	Basic	Basic +	Fair	Good	Better	Best	
	Profit Sharing Non-Integrated	Profit Sharing Integrated	Profit Sharing + 401(k) (3% Safe Harbor)	Profit Sharing + 401(k) (Safe Harbor Match)	New Comparability Profit Sharing	New Comparability + 401(k) (3% Safe Harbor)	New Comparability + 401(k) (Safe Harbor Match)
Owner $305,000	20% $61,000	20% $61,000	20% $61,000	20% $61,000	20% $61,000	20% $61,000	20% $61,000
Employee $40,000	20% $8,000	17.05% $6,819	10.33% $4,131	6.33% $2,531	5% $2,000	4.43% $1,770	3.09% $1,237

Split Plan Design
Objectives & Ideal Candidates

- The use of multiple qualified retirement plans to maximize benefits for owners, key management and to minimize staff cost.
- Companies with more than 50 employees
- Non-Top Heavy situations

Split Plan Design
Reduce Staff Cost

Owners / Key Management
- 401(k) – $20,500
- Profit Sharing (Plan I) – $20,250
- Profit Sharing (Plan II) – $20,250
- Total – $61,000

Staff
- $20,250 ÷ $305,000 = 6.64%
- Minimum Staff Profit-sharing = 2.22% (6.64% ÷ 3)

Defined Benefit Plans
[§ 430, 404(o)]

- Limits Based On Maximum Annual Annuity Payable At Age 62 ($245,000 for 2022)
- Lump Sum Equivalent At Age 62 is $3,151,027
- Limit Phased-In Over 10 Years Of Plan Participation
- Maximum Accumulation of $315,103 Per Year

Defined Benefit Plan Special Applications (No Employees)

- Sole Proprietors / Independent Contractors
  - Real Estate Brokers, etc.
  - 1099 / Schedule C Income
- Mom & Pops
- Supplemental Incomes
  - Director's Fees
  - Speaking / Writing Fees
  - Consulting Fees
  - Executor’s Commissions
  - Trustee’s Commissions
- Business Transition

Defined Benefit Plan
Sample Maximums

Current Age	Compensation	Defined Benefit Plan Contribution
40	$245,000	$155,000
52	245,000	243,000
60	245,000	309,000

Single Participant Defined Benefit Plan & 401(k)/6% PS [§ 404(a)(7)]

Current Age	Compensation	DB Plan Contribution	401(k) Deferral + 6% PS	Total Contribution
40	$305,000	$155,000	$38,800	$193,800
52	305,000	243,000	45,300	288,300
60	305,000	309,000	45,300	354,300

DANZIGER & MARKHOFF LLP
Attorneys at Law

Defined Benefit Plan Special Applications

- Credit Prior Service
  - Larger first year contributions (i.e., personal injury attorney, etc.)

- Accumulation Design
  - Contribution based on current income compared to final average pay design.

- Exit Strategies

DANZIGER & MARKHOFF LLP
Attorneys at Law

Past Service Plan Design
Cash Flow Options

Year	Defined Benefit Plan Contribution	Past Service Plan Contribution
1	$100,000	$300,000
2	$100,000	$ 0
3	$100,000	$ 0
Target Total	$300,000	$300,000

Sample Participant Benefit Statement

Defined Benefit Pension Plan

Projected Pension Benefit	
Based upon your present salary, your Monthly Pension Benefit at Normal Retirement Age 65 (payable for life):	$10,269
Current Accrued Benefit	
Portion of Projected Monthly Pension that you have accrued to date ("accrued benefit"):	$1,191
Vested portion of accrued benefit:	40%
Current vested monthly accrued benefit:	$476

Cash Balance Plans [§ 411(b)(5)]

- **Pay Credit:** Employer will contribute on behalf of Participants
  - Fixed % of Participant's Salary each year

    (e.g., 50% of $305,000 = $152,500)
  - Fixed $ amount each year

- **Interest Credit:** Account will grow at fixed % per year
  - Indexed (e.g. 30 Year Treasury Rate)
  - Flat rate (e.g. 4% Annually)

- **Account Balance:** Annual statement shows Account's "Cash Balance"

Cash Balance Plans - Hybrid

Like Defined Benefit Plans

- Substantially increase Owners' contributions
- Pooled Investments: No Directed Accounts
- Plan Benefits Guaranteed

  - Benefit (Account Balance) not subject to Market
- Level Annual Funding
- Reduce incentive for investment risk
- Lesser of 40% or 50 Participant Coverage Rule

Cash Balance Plans - Hybrid

Like Defined Contribution Plans

— "Quasi" Account Balances

— New Comparability type "Classes“

— Ideal for multiple Owners

— More easily understood by Owners & Employees

— Plan designed to pay out lump sums

DANZIGER & MARKHOFF LLP
Attorneys at Law

Cash Balance Add-on

	Defined Contribution	Cash Balance	Total
Owners / Highly Compensated Employees	$61,000 (20%)	$54,050+ ($54,050-$250,000+)	$115,050+
Staff Cost	5%	2½%	7½%

DANZIGER & MARKHOFF LLP
Attorneys at Law

Cash Balance & New Comparability

Cash Balance Add-On

Employee	New Comparability	Cash Balance	Totals	% of Total
Owner [Age 75]	$67,500	$173,000	$240,500	$962,000 98%
Owner [Age 73]	67,500	173,000	240,500	
Owner [Age 52]	67,500	173,000	240,500	
Owner [Age 50]	67,500	173,000	240,500	
Staff [Age 35]	3,375	0	3,375 (7.5%)	$14,850 2%
Staff [Age 32]	3,000	0	3,000 (7.5%)	
Staff [Age 30]	3,000	0	3,000 (7.5%)	
Staff [Age 27]	2,850	0	2,850 (7.5%)	
Staff [Age 25]	2,625	0	2,625 (7.5%)	

DANZIGER & MARKHOFF LLP
Attorneys at Law

Sample Participant Benefit Statement

Cash Balance Plan

Beginning Balance	Contribution	Earnings	Ending Balance
$100,000	$50,000	$4,000	$154,000
Current Value of Plan Benefit			
Vested Portion of Benefit:			100%
Current Vested Cash Balance:			$154,000

2017 Tax Cuts and Jobs Act – Pension Applications

Notes:

— Section 199A - Qualified Business Income (QBI) Deduction

— Will apply on an individual by individual basis

— Focus is ancillary benefits through plan design, not on the regulations

2017 Tax Cuts and Jobs Act – Pension Applications

Sole Proprietor – Specified Service Business

		No Retirement Plan	Retirement Plan
A	Net Schedule C Income	$440,100	$440,100
B	Plan Contribution	N/A	$100,000
C	Net Taxable Income (Before 199A) (A – B)	$440,100	$340,100
D	199A Deduction (C x 20%)	DISALLOWED	$ 68,020
	Net Taxable Income (After 199A) (C – D)	$440,100	$272,080

Action Agenda

Existing Plan

- Copy of Plan or SPD
- Most recent Valuation Report
- Employee Census + Target Group

No Plan

- Employee Census + Target Group

Qualified Retirement Plan Design For Law Firms

Andrew E. Roth, Esq.
(914) 220-8033 Aroth@dmlawyers.com

DANZIGER & MARKHOFF LLP

Attorneys at Law

1133 Westchester Avenue, Suite N208, White Plains, NY 10604 (914) 948-1556 danzigermarkhoff.com

SCBA Lawyers Helping Lawyers Committee

The SCBA Lawyers Helping Lawyers Committee provides free and confidential assistance to those in the legal community who are concerned about their alcohol or drug use and/or mental health or wellbeing or that of a colleague or family member.

Assistance is available to the legal community including attorneys, members of the judiciary, law students, and family members dealing with alcohol or substance abuse disorder, other addictive disorders, anxiety, depression, vicarious trauma, age related cognitive decline and other mental health concerns that affect one's well-being and professional conduct.

Please call the
Lawyers Helping Lawyers Helpline at (631) 697-2499
to speak with an attorney who will provide support and recommend resources. All calls are private and confidentiality is protected under Judiciary Law Section 499. (Lawyer Assistance Committee)

Feel Free to Join Us at Our Weekly Recovery Meeting