

**Employee Benefit Plan**  
**Employee and Matching Contributions**  
**(Worksheet Number 11 – Determination of Qualification)**

See Explanation No. 11 (Rev. 11-2006) for guidance in completing this form.

Initials

**I. Applicability**

Plan Reference

Yes No N/A

a. If the plan is a defined contribution plan –

(i) does the plan provide for voluntary or mandatory employee contributions or employer matching contributions?

(ii) does the plan include a section 401(k) cash or deferred arrangement (CODA) and does the plan provide for the allocation of matching contributions or forfeitures on the basis of a participant's elective contributions?

(If the answer to (i) or (ii) is "Yes," complete this worksheet; but if the plan contains SIMPLE provisions, skip this worksheet and complete Worksheet No. 12. If the plan contains Safe Harbor CODA provisions, see part VII of this worksheet. )

**II. Discrimination**

a. Does the plan either:

(i) include the actual contribution percentage test set forth in section 401(m)(2)(A) of the Code and provide that it will meet the ACP test or [1101, 1102, 1103]

(ii) incorporate the test by reference including whether it is using the prior or current year testing method, and provide that it will meet the test? [1101, 1102, 1103]

b. If the terms of the plan set forth the ACP test rather than incorporate it by reference, does the plan, for purposes of this test:

(i) take into account the actual contribution ratios of all eligible employees; [1104, 1105]

(ii) take the proper contributions into account; [1106, 1107]

(iii) treat contributions made under plans that are aggregated for purposes of section 401(a)(4) or 410(b) as made under a single plan; [1108]

(iv) aggregate all plans under which a highly compensated employee (HCE) is eligible to make employee contributions or receive matching contributions for purposes of the HCE's actual contribution ratio; and [1109]

(v) determine the ACPs of the HCEs and of all other eligible employees using the relevant plan year? [1115]

c. Are employee and matching contributions available on a nondiscriminatory basis? [1112]

**III. Elective Contributions and Qualified Nonelective Contributions (QNECs)**

(Complete if the terms of the plan provide that QNECs and/or elective contributions are to be treated as matching contributions for the purposes of the ACP test.)

a. Are the QNECs:

(i) immediately vested, without regard to a participant's age and service; [1136, 1137, 1138, 1139]

(ii) distributed only under the distribution rules (other than hardship) applicable for elective contributions under a qualified cash or deferred arrangement (CODA)? [1136, 1137, 1138, 1139]

b. Are QNECs and elective contributions treated as matching contributions only if the conditions described in section 1.401(m)-2(a)(6) of the regulations are satisfied? [1147]

IV. Corrections	Plan Reference	Yes	No	N/A
a. If the plan is using the current year testing method, does it provide that in the event it would otherwise fail the ACP test the employer will make qualified nonelective contributions (QNECs) in order to satisfy the test? <i>(If "No," check N/A. If "Yes," also complete question III.)</i>				
b. Does the plan provide a mechanism by which employee and/or matching contributions of the highly compensated employees in excess of the amount allowed in the test in II.a. ("excess aggregate contributions") may be distributed or, if forfeitable, forfeited? <i>(If "No," check N/A.)</i>				
c. If the answer to the preceding question is "Yes" –				
(i) Is the amount of the excess aggregate contributions to be distributed to highly compensated employees (or if forfeitable forfeited) determined using the "ratio leveling method"? [1113, 1114]				
(ii) Does the plan determine the amount of excess aggregate contributions only after first determining the amount of excess contributions to be treated as employee contributions due to recharacterization under a CODA in this or any other plan of the employer? [1118]				
(iii) Does the plan properly determine income to be distributed or forfeited? [1119, 1120]				
(iv) If the plan will distribute matched employee contributions, will it also forfeit the corresponding matching contributions? [1121]				
(v) Will the distribution be made after the end of the plan year for which the excess aggregate contributions were made, and no later than 12 months following the end of the plan year? [1122]				
(vi) Are distributions or forfeitures of excess aggregate contributions determined using the "dollar leveling method"? [1123]				
d. If the answer to a. and b. is "N/A," does the plan contain provisions that will ensure that the ACP test is always satisfied? [1125]				
<b>V. Definition of Highly Compensated Employee / Compensation</b>				
a. Does the plan define highly compensated employee in accordance with section 414(q) of the Code? [1141, 1142]				
b. For this definition does the plan:				
(i) define determination year, lookback year, compensation, and, if applicable, top-paid group; and				
(ii) apply the aggregation rules of section 414? [1143, 1144, 1145]				
c. Does the plan define compensation and specify the period used to determine an employee's compensation for purposes of the ACP test? [1134]				
<b>VI. Reserved</b>				

VII. Safe Harbor CODA Provisions	Plan Reference	Yes	No	N/A
<p>If the plan meets the requirements of this Part VII and does not provide for after-tax employee contributions, do not complete Worksheet #11 (other than Part V) because section 401(m) is satisfied. However, Worksheet #12, which contains the rules for satisfying the ADP test safe harbor, continues to apply, including notice and contribution requirements that are also applicable to the ACP test safe harbor under section 401(m)(11) of the Code. Further, Worksheet #12 contains additional rules if the plan changes from the current year ADP/ACP testing method to a safe harbor nonelective contribution method for the plan year, or from a safe harbor matching contribution method to the current year ADP (and ACP) testing method. Worksheet #12 should always be referred to in addition to this Worksheet.</p>				
<p>a. Does the plan provide for:</p>				
<p>(i) a basic matching formula, and no other matching contributions,</p>				
<p>(ii) an enhanced matching formula and no other matching contributions, or</p>				
<p>(iii) a safe harbor nonelective contribution formula and a contribution formula that satisfies (i) or (ii) above? [1152]</p>				
<p>b. With respect to matching contributions, does the plan:</p>				
<p>(i) meet the vesting requirements of section 411 of the Code with respect to matching contributions that are not needed to satisfy the ADP test safe harbor?</p>				
<p>(ii) provide that (1) matching contributions are not made with respect to after-tax employee contributions or elective contributions that in the aggregate exceed 6% of the employee's compensation, (2) the rate of matching contributions does not increase as the rate of employee contributions or elective contributions increases, (3) at any rate of employee contributions or elective contributions, the rate of matching contributions that would apply with respect to any HCE who is an eligible employee is no greater than the rate of matching contributions that would apply with respect to an NHCE who is an eligible employee and who has the same rate of employee contributions or elective contributions and (4) restrictions on employee contributions or elective contributions are limited to those permissible as described in Explanation #12, Section X, Line b? If not, the regular ACP test applies to these matching contributions. [1153]</p>				
<p>c. If the plan provides for discretionary matching contributions, does the plan provide that such discretionary matching contributions may not, on behalf of any employee, in the aggregate exceed an amount equal to 4% of the employee's compensation? If the answer to this is no, the plan fails to satisfy the ACP test safe harbor for a plan year, and the regular ACP test applies. [1154]</p>				
<p>d. Does the plan (i) permit after-tax employee contributions or (ii) permit matching contributions that fail to satisfy the ACP test safe harbor? If so, the plan must apply the regular ACP test to these employee contributions and matching contributions, taking into account the special rules for the ACP test described under Explanation #11, Part VII, Line d. [1155]</p>				
<p>e. Reserved</p>				
<p>f. Are matching contributions taken into account for a plan year under the ACP test safe harbor in accordance with the allocation and timing rules of section 1.401(m)-2(a) of the regulations? [1157]</p>				
<p>g. If the plan provides for a period of suspension when an employee makes a hardship withdrawal of elective contributions, does the period of suspension contributions last only 6 months? [1158]</p>				
<p>h. (i) Are other requirements applicable to both the ADP and ACP test safe harbors met, including satisfying the aggregation and disaggregation rules, as described in Explanation #12? [1159]</p>				

COMMENTS: