

Cross Testing or New Comparability

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*A new
comparability or cross-
tested plan
can help
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retirement
plan goals*

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The main focus of most testing in retirement plans is the concept of non-discrimination. When allocating profit sharing contributions in retirement plans, it is imperative to not discriminate in favor of your Highly Compensated Employees (HCEs). HCEs are basically defined as any participant with over 5% ownership or a participant who earned more than \$110,000 in the prior year. These are typically the participants the plan is attempting to benefit so applying non-discrimination rules can be frustrating. There may be an answer. Cross testing or new comparability allows a plan to give a participant a certain dollar or percentage contribution but allows the contribution to be tested on a benefits basis. When a contribution is tested on a benefits basis, the participant age is taken into effect. Basically, the actual contribution is converted into a number which is the amount that the benefit would be worth at the participant's retirement age. This allows many more robust opportunities for your plan. This design works especially well when the targeted participants are older than the remaining participants, a great plan design for an older owner with younger employees.



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Why should you think about a cross tested plan?

There are a couple of contribution allocations that are considered uniform and do not have to be tested for non-discrimination. These are the pro-rata contribution (where all employees are given the same percentage of contribution) and the integrated contribution (where participants with earnings over the taxable wage base are allowed a higher percentage). New comparability plans allow much more flexibility in the allocation of the contribution as the example below shows.

| | Compensation | Pro-Rata | Integrated | Cross-Tested |
|---------------|--------------|----------|------------|--------------|
| Owner | 245,000 | 39,954 | 41,893 | 49,000 |
| Participant 1 | 50,000 | 8,154 | 6,942 | 2,500 |
| Participant 2 | 30,000 | 4,892 | 4,165 | 1,500 |
| Total | 325,000 | 53,000 | 53,000 | 53,000 |

In the example above, the owner received 75% of the pro-rata contribution, 79% of the integrated contribution and a whopping 92% of the cross-tested contribution. This plan design works well for an owner who is closer to retirement age with a staff of younger employees. In order to get results like this, it is necessary to pass a gateway test. Gateway requires that all non-NCEs receive the lesser of 1/3 of the highest percentage allocated to an HCE or 5%. It should be noted that a 3% contribution given in a typical safe harbor plan or top heavy plan is allowed to be counted for that 5% contribution.

Recent changes in plan document choices allow us to categorize each participant as a separate group for testing purposes. This provides us with the ultimate flexibility in contribution choices.

There are a number of complicated steps to the testing process when converting the contribution dollar amount to an equivalent retirement benefit. There are numerous pieces to the test that need to pass and the results of the testing are largely based on the demographics of the participant group. The contribution is flexible in that it can be determined annually and is not mandatory, but just because the test passes one year does not guarantee that it will pass in future years.

If you are looking to maximize the contributions to a select group of participants while keeping your overall contribution cost to a minimum, a cross-tested or new comparability plan might be right for you! Please contact your administrator so we can prepare a projection based on the demographics and needs of your plan.