



CBIZ Actuarial & Benefit Consultants

New Comparability (Cross-Tested) Plans

Your business is all about people. At CBIZ Actuarial & Benefit Consultants, so is ours. Our goal is to work with you to develop a successful retirement program that meets **your** objectives and allows you to attract and retain the quality employees you need to be successful.

Qualified retirement plans are generally not allowed to discriminate in favor of highly compensated employees. Ordinarily, this requirement is satisfied by providing the same contribution or contribution rate to all eligible participants (e.g., every participant is allocated 10% of pay). New Comparability or Cross-Tested plans satisfy this requirement by comparing the benefit a contribution is projected to yield at retirement age as opposed to comparing the contribution going into the plan currently. As a result, a higher contribution rate (as a % of current pay) for an older participant is comparable to a lower contribution rate for a younger participant. Thus, an older owner or key employee may be allocated a higher percentage of pay when compared to a younger non-highly compensated employee without violating the non-discrimination requirements. For example:

Participant	Age	Pay	Contribution	% of Pay	Benefit*	% of Pay
Owner	60	245,000	49,000	20%	8,183	3.34%
Employee	30	50,000	2,500	5%	4,860	9.72%

* **Equivalent annual benefit payable at age 65 using 8.5% interest and IAM 83 mortality.**

In the example above, the plan would fail to satisfy the non-discrimination requirement on a “contribution basis” as the current contribution rate for the owner (20%) is higher than for the other employee (5%). However, by testing on the basis of the equivalent annual benefit payable at age 65, the non-discrimination requirement is satisfied because the benefit rate for the Owner (3.34%) is not higher than that of the Employee (9.72%).

Frequently Asked Questions about New Comparability (Cross-Tested) Plans

Why would I choose a New Comparability plan over another type of plan?

A New Comparability plan can allow you the flexibility of providing significantly higher contributions to some or all of your “key” employees depending on the demographics of your employee population. This flexibility to maximize “key” employee contributions while minimizing overall costs of the plan can be far more attractive than the traditional method of allocating contributions to participants.



How is the contribution amount determined?

Generally, there is considerable flexibility available in determining the amount and allocation of the annual contribution without the need to amend the plan. The contribution and its allocation is typically determined after the end of the plan year based upon the compensation, employment status and service of the participants as well as the level of contribution desired by the employer. Allocations to individual participants are limited to \$49,000 or 100% of compensation, whichever is less. The overall contribution to the plan is limited to 25% of the aggregate compensation of all the participants eligible to participate.

Do I have to contribute every year?

Unless a contribution is necessary to satisfy the non-discrimination or other minimum contribution requirement, contributions are “discretionary”. You are not required to contribute every year. In addition, the amount you contribute can vary from year to year.

How do I convert my current plan to a New Comparability Plan?

If you currently sponsor a 401(k) or Profit Sharing Plan, you may be able to simply add or modify the provisions of the plan to incorporate the New Comparability feature. If you currently sponsor a Simple IRA or Money Purchase Plan, you will need to suspend contributions and adopt a new plan. Generally, the assets in your existing plan are not required to be distributed or transferred.

What if I have employees?

Generally, all employees who meet certain age and service requirements must be considered for purposes of satisfying the minimum coverage requirements and non-discrimination requirements. The plan must cover a cross-section of all employees and contributions must be allocated in a manner that does not discriminate in favor of “highly compensated” employees. It is important to consider your employee population and the related costs before implementation.

What if I own businesses other than the one that would sponsor the plan?

Qualified retirement plans are subject to rules that require consideration of all the employees of the “employer”. The “employer” for this purpose includes all businesses in a controlled group or under common control. For this reason, common ownership must be considered before implementing a plan.

What happens if the laws affecting New Comparability plans are changed?

Should the laws affecting New Comparability plans change, it may be necessary to amend the plan or even re-consider its design. CBIZ Actuarial will assist you as necessary.