

# 401(k) Changes for Long-Term Part-Time Employees

## What Is Changing?

401(k) plans no longer can have a **service** condition that prevents an employee from making 401(k) salary deferrals if they have worked for your company at least 500 hours for 3 consecutive years.

Example: Your 401(k) plan requires employees to complete a year of service (1,000 hours) before they are eligible to participate. You hired a part-time employee on 1/1/2021 who works 700 hours per year. Assuming this employee meets all other eligibility conditions, he or she will be eligible to make 401(k) deferrals beginning on 1/1/2024 (assuming your plan is using a calendar year plan year).

Beginning in 2025, this requirement changes to cover employees who have worked for your company at least 500 hours for 2 (instead of 3) consecutive years.

Employees who do not meet the normal 1,000-hour year of service requirement, but do meet this new minimum service requirement are called “long-term part-time employees” or LTPTEs.

Any non-service conditions, such as excluding hourly employees, salaried employees, interns, or highly-compensated employees, are still permitted as long as it is not a “disguised service condition”. Exclusions of “part-time employees” and “seasonal employees” generally are considered to be service conditions, and therefore **are** subject to the new rules.

## What Are Your Options?

You generally have two options, each with pros and cons outlined below:

1. Keep the plan’s existing service condition except that anyone who meets the LTPTE definition is allowed to make 401(k) salary deferrals to the plan.

Pros	Limits number of part-time workers eligible for the plan, which reduces administration cost and small account balances.  Ensures nondiscrimination testing and top heavy minimum contributions are not impacted.
Cons	Must track hours and ensure LTPT employees are identified and offered enrollment timely. Due to complexity, errors are more likely to occur, requiring corrections and increasing costs.  LTPTEs must earn vesting service for each year they work at least 500 hours. If your plan has a vesting schedule, these employees will vest in any company contributions much more rapidly than other participants unless you accelerate vesting for the full-time participants.

2. Modify the plan’s existing service condition to ensure all employees are able to make 401(k) salary deferrals before they meet the LTPTE definition.

Pros	Simplifies administration by permitting a single eligibility criteria (or easier to administer criteria), which may avoid errors in the future.  Complex eligibility and accelerated vesting rules applicable to LTPTEs will not apply to the plan; participants will be treated uniformly for plan-purposes.
Cons	May impact nondiscrimination testing, particularly if the plan is not a safe harbor plan. If the plan is safe harbor, this may increase required company contributions.  May increase number of accounts, which may increase audit/administration costs.

## What You Need to Do

We have determined that your plan has a service condition that will be impacted by the new rules. Please let us know what you would like to do (*choose 1. or 2.*):

1.  I will keep my existing service condition and allow only those employees who meet the LTPTE definition to make deferrals (*complete both A. and B.*):
- A.  With regard to company contributions (*select 1. or 2.*):
1.  I do not want these employees to be eligible for company contributions until they meet the existing service conditions.
  2.  These employees will be eligible for company contributions on the same basis as other employees.
- B.  With regard to vesting in company contributions (*complete both 1. and 2.*):
1.  I understand *these employees will earn vesting service for each year they work at least 500 hours* while other employees will earn vesting service using the “regular” 1,000 hour rule.
  2.  I want all employees to earn vesting service on the same basis (*select i. or ii.*):
    - i.  All employees will earn vesting for each year they work at least 500 hours.
    - ii.  All employees will vest using elapsed time (based on period of service regardless of hours).

2.  I will make the following eligibility changes (*complete both the Deferral and the Match/Profit Sharing sections below*):

Deferral Eligibility. I will modify the existing service condition for deferrals as follows (*choose A or B*):

- A.  I will keep my existing service condition AND permit employees who do not meet the current service condition in the first eligibility period to make salary deferrals after \_\_\_\_\_

*(Describe service condition — ex: “12 months of employment” or “500 hours of service in a 12-month eligibility period” — cannot be longer than 3 years of employment (2 years beginning 2025.))*

- B.  I will permit all employees to make salary deferrals after \_\_\_\_\_

*(Describe service condition — ex: “90 days of employment” or “500 hours of service in a 12-month eligibility period” — cannot be longer than 1 year of employment regardless of number of hours.)*

*Unless you notify us otherwise, any automatic enrollment provisions of the plan will apply to the newly eligible group.*

Match/Profit Sharing Eligibility. I will modify the existing service condition for company contributions as follows (*choose A or B*):

- A.  All employees eligible to defer salary will also be eligible to receive company contributions.  
*If you have a safe harbor plan, you must select this option if you want to ensure top heavy contributions are not owed for employees who have at least 1 year of service.*
- B.  Only a limited group of employees will be eligible to receive company contributions (*complete both 1. and 2.*):
1.  I understand that if I have a safe harbor plan, electing this option may mean I’m required to make top heavy minimum contributions for employees who have at least 1 year of service.
  2.  Only the following employees will be eligible to receive company contributions (*choose one*):
    - I will keep my existing service and other eligibility conditions for company contributions
    - Only the following employees will be eligible to receive company contributions:

Regardless of the elections above, I understand that I need to offer newly eligible individuals the ability to contribute 401(k) salary deferrals beginning January 1, 2024. Failure to do so may result in corrective contributions, penalties, and/or IRS filings.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date