

Retirement News for Employers

October 2, 2014 Edition

Starting a plan

- [Resources](#) to help you compare retirement plans
- [Tax credit for starting a retirement plan](#) – what is it, who can take it and how much is it?
- [SEP plan for 2013](#) – sole proprietors who filed an extension for their 2013 Form 1040 may still adopt a SEP plan

Operating a plan and correcting mistakes

- [Retirement plan check-up](#) – one-page checklists and publications help with your year-end review
- [Retirement plan reporting and disclosure](#) – information about Form 5500 annual reports, participant notices and more
- [Fix-It Guides](#) – updated for SIMPLE IRA and 401(k) plans
- How to correct errors in your:
 - [SIMPLE IRA plan](#) – incorrect or late contributions
 - [SEP plan](#) – contributions weren't based on a uniform percentage of compensation

Terminating plans

- [Terminating a retirement plan](#) – general steps to terminate a plan
- [Plan termination FAQs](#) – information for employees and employers
- [Partial termination FAQs](#) – events that may trigger one and the consequences

Updated

- [Missing plan participants](#) – steps to locate them
 - [Mark your calendar](#) – deadlines for retirement plans
 - [DOL Corner](#) – updates from Department of Labor
 - [Taxpayer bill of rights](#) – know your rights and our obligations to protect them
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Help with Choosing a Retirement Plan

[Types of Retirement Plans](#)

Overview of IRS rules governing 401(k), SIMPLE IRAs, SEPs, etc.

[Choosing a Retirement Solution for Your Small Business](#)

Overview of retirement plan options and comparison chart (IRS Publication 3998).

[Webcast – Easy Low Cost Retirement Plans for Your Small Business](#)

How to start and operate a low-maintenance retirement plan.

Benefits to Starting a Plan

[Benefits to Starting a Retirement Plan](#)

Why the right retirement plan is your best bet for retirement security.

[Now is the Time to Start a Retirement Plan](#)

Colorful illustration of the top 5 benefits to starting a plan.

Hints for Buying a Plan from a Vendor

[Tips for Employers Using Pre-Approved Plans](#)

Questions to ask your service provider about your adoption and service agreements

Retirement Plans Startup Costs Tax Credit

You may be able to claim a tax credit for some of the ordinary and necessary costs of starting a SEP, SIMPLE IRA or qualified plan. A tax credit reduces the amount of taxes you may owe on a dollar-for-dollar basis.

If you qualify, you may claim the credit using [Form 8881](#), *Credit for Small Employer Pension Plan Startup Costs*.

Eligible employers

You qualify to claim this credit if:

- You had 100 or fewer employees who received at least \$5,000 in compensation from you for the preceding year;
- You had at least one plan participant who was a non-highly compensated employee; and
- In the 3 tax years before the first year you're eligible for the credit, your employees weren't substantially the same employees who received contributions or accrued benefits in another plan sponsored by you, a member of a controlled group that includes you, or a predecessor of either.

Amount of the credit

The credit is 50% of your ordinary and necessary eligible startup costs up to a maximum of \$500 per year.

Eligible startup costs

You may claim the credit for ordinary and necessary costs to:

- Set up and administer the plan, and
- Educate your employees about the plan.

Eligible tax years

You can claim the credit for each of the first 3 years of the plan and may choose to start claiming the credit in the tax year before the tax year in which the plan becomes effective.

The credit is part of the general business credit and you may carry it back or forward to other tax years if you can't use it in the current year. However, you can't carry it back to a tax year beginning before January 1, 2002.

No deduction allowed

You can't both deduct the startup costs and claim the credit for the same expenses. You aren't required to claim the allowable credit.

Related resources

- [Publication 560, Retirement Plans for Small Business \(SEP, SIMPLE, and Qualified Plans\)](#)
 - [Help with Choosing a Retirement Plan](#)
 - [Tax Information for Plan Sponsor/Employer](#)
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It's Not Too Late for a Tax Break - Start a SEP Retirement Plan for 2013

If you own a business, you still have time to set up a [Simplified Employee Pension \(SEP\)](#) plan for 2013. If you set up and fund your SEP by the due date of your 2013 business return (including extensions), you can still take a deduction for 2013.

If your business uses the calendar year for its tax year, the deadline to set up and contribute to a SEP plan for 2013 depends on the type of your business organization:

- If your business is a corporation, filing Form 1120 or 1120S, you have until March 15, 2014 (September 15, 2014, if you file for an extension).
- If your business is a partnership, filing Form 1065, you have until April 15, 2014 (September 15, 2014, if you file for an extension).
- If your business is a sole proprietorship, reported on Schedule C of Form 1040, you have until April 15, 2014 (October 15, 2014, if you file for an extension).

You can [set up a SEP](#) plan for little or no cost at a bank, investment firm or insurance company.

SEP plans offer high contribution and deduction limits, minimal paperwork and no annual Form 5500 filing. You can contribute to a SEP plan even if you participate in an unrelated employer's plan (for example, a 401(k) plan). Contributions to a SEP plan are subject to the [SEP contribution limits](#).

Other kinds of business-sponsored retirement plans must have been established before the end of 2013 in order for the business to get a deduction for 2013.

Additional resources:

[Publication 560, Retirement Plans for Small Business](#)

[Publication 4333, SEP Retirement Plans for Small Businesses](#)

[SEP Plan FAQs](#)

[SEP Checklist](#)

[SEP Plan Fix-It Guide](#)

Have You Had Your Retirement Plan Check-Up This Year?

A retirement plan needs regular care to keep it operating properly. Your plan's care should include a regular review of your plan's basic operations. These one-page checklists are a quick way to start your review. Each checklist links to a Fix-It Guide with tips on how to find, fix and avoid each potential error.

- SIMPLE IRA [Checklist](#)
- SEP [Checklist](#)
- SARSEP [Checklist](#)
- 401(k) Plan [Checklist](#)
- 403(b) Plan [Checklist](#)

The checklist is for your use on a voluntary basis. Don't file it with the IRS. Also, remember that the checklists aren't meant as a comprehensive review of every aspect of your plan – just an easy way to start.

Sample checklist questions:

1. Has your plan document been updated within the past few years to reflect recent law changes?
2. Are the plan's operations based on the plan document's terms?
3. Are all eligible employees participating in the plan?

What do your checklist answers mean?

Answering "no" to any of the checklist questions tells you that you may have a mistake in your plan operation. The expanded explanation for each question – the "Fix-It Guide" - gives you an example of how to correct the mistake.

Errors you might find:

Your checklist answers might uncover the following common mistakes:

- not covering the proper employees
- not giving employees required information
- not depositing employee deferrals timely
- not depositing employer contributions timely
- not following the terms of the plan document

- not limiting employee deferrals and employer contributions to the proper maximum limits

Need to make a correction? We can help.

The IRS has helpful [correction programs](#) structured to provide financial incentives to find and correct mistakes earlier rather than later. You can correct many mistakes easily, without penalty and without notifying the IRS.

The [Fix-It Guides](#) explain how to find and fix the most common retirement plan errors.

Additional Resources:

- [Plan Sponsor's Responsibilities](#) to help keep your plan running smoothly all year
 - [Publication 560](#), *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*
 - [Publication 3998](#), *Choosing a Retirement Solution for Your Small Business*
 - [Publication 4222](#), *401(k) Plans for Small Businesses*
 - [Publication 4333](#), *SEP Retirement Plans for Small Businesses*
 - [Publication 4334](#), *SIMPLE IRA Plans for Small Businesses*
 - [Publication 4336](#), *SARSEP for Small Businesses*
 - [Publication 4483](#), *Tax-Sheltered Annuity Plans for Sponsors*
 - [Publication 4484](#), *Choose a Retirement Plan for Employees of Tax Exempt and Government Entities*
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Retirement Plan Reporting and Disclosure

Retirement plans must file certain forms and reports with the IRS and the Department of Labor and send out notices to plan participants and certain others. Different reporting and disclosure requirements apply depending on the [type of plan](#) and the plan's circumstances.

This chart summarizes the requirements - [Department of Labor Reporting and Disclosure Guide](#) for Employee Benefit Plans.

Forms

[Form 5500 Corner](#) - annual reports of a retirement plan:

- 5500, Annual Return/Report of Employee Benefit Plan
- 5500-EZ, Annual Return of One-Participant Retirement Plan
- 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan
- 8955-SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits
- 5558, Application of Extension of Time to File Certain Employee Plan Returns

[Form 5330 Corner](#) - excise tax returns

[Form 8955-SSA Resources](#) - reports on deferred vested benefits

[Form 8822-B](#) to report a [change in identity](#) of a plan's responsible party

[All retirement plan forms and publications](#)

Notices to plan participants

- [Notices](#) you must provide to employees (IRS)
- [Department of Labor Reporting and Disclosure Guide](#) for Employee Benefit Plans

DOL and PBGC requirements

- [DOL Compliance Assistance](#)
DOL Employee Benefits Security Administration (EBSA) - see “for retirement plans”
- [PBGC Reporting and Disclosure](#)
PBGC resources for annual funding notices, reportable events and more

Additional resources

- [Mark Your Calendar](#)
Important due dates for retirement administrators
 - [Small Business Retirement Plan Resources](#)
 - [Determinations Letters](#)
 - [Proposed Regulations Will Require Electronic Filing of Forms 5500 and 8955-SSA When Filers Have 250 or More Returns \(September 18, 2013\)](#)
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Fix-It Guides - Common Problems, Real Solutions

Tips on how to find, fix, and avoid common mistakes in retirement plans.

Each guide provides:

- an overview of the rules for each plan type,
- an overview of the Employee Plans Compliance Resolution System,
- the most frequent errors we find in each plan type and
- tips on how to find, fix and avoid these mistakes.

The format of each guide enables users to navigate, select and print only the mistakes that are of interest to them.

- [401\(k\) Plan Fix-It Guide \(HTML\)](#) - [\(PDF Version\)](#)
- [403\(b\) Plan Fix-It Guide \(HTML\)](#) - [\(PDF Version\)](#)
- [SARSEP Plan Fix-It Guide \(HTML\)](#) - [\(PDF Version\)](#)
- [SEP Fix-It Guide \(HTML\)](#) - [\(PDF Version\)](#)
- [SIMPLE IRA Plan Fix-it Guide \(HTML\)](#) - [\(PDF Version\)](#)

Additional resource:

- [Tax Consequences of Plan Disqualification](#)
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Terminating a Retirement Plan

Retirement plans must be established with the intention of continuing indefinitely. However, you may terminate your plan when it no longer suits your business needs. For example, you may want to establish another [type of retirement plan](#).

Steps to terminate a plan

Generally, the steps to terminate a retirement plan include:

1. [Amend the plan](#) to:
 - establish a plan termination date,
 - update the plan for all changes in the law or plan qualification requirements effective on the plan's termination date,
 - cease plan contributions,
 - provide full [vesting](#) of benefits to all affected employees on the termination date (your plan should already have this provision), and
 - authorize the plan to distribute all benefits in accordance with plan terms as soon as administratively feasible after the termination date;
2. Notify all plan participants and beneficiaries about the plan termination;
3. Provide a [rollover notice](#) to participants and beneficiaries;
4. Plan to pay any outstanding required employer contributions to the plan;
5. Vest all "affected participants" 100% (applies to any employees or former employees with an account balance as of the termination date);
6. Distribute all plan assets as soon as administratively feasible (generally within 12 months) after the plan termination date to participants and beneficiaries;
7. File any applicable final [Form 5500](#) series return; and
8. If desired, ask the IRS to make a determination about the plan's qualification status at termination by filing a determination letter request:
 - [Form 5310](#), *Application for Determination for Terminating Plan* ([instructions](#)), for a pension, profit-sharing or other deferred compensation plan, or
 - [Form 5300](#), *Application for Determination for Employee Benefit Plan* ([instructions](#)), for a multi-employer plan covered by PBGC insurance, a plan that's only partially terminating, or for determining if the plan is part of an affiliated service group.

You must notify [interested parties](#) about your determination application.

Check with your plan's financial institution or a retirement plan professional to see what further action is necessary to terminate your plan. You should document all actions taken to terminate the plan.

Plans with undistributed assets

A qualified retirement plan that has not distributed its assets is considered an ongoing plan and must continue to meet the qualification requirements, including amending the plan document for law changes. See more on [missing participants](#).

Form 5310

Submit the following with your determination letter application on Form 5310:

- The appropriate user fee and Form 8717,
- A complete copy of the plan document(s) and all amendments adopted since the last favorable determination letter,
- A copy of the last favorable determination letter, if applicable,
- A copy of the latest opinion or advisory letter, if applicable,
- A copy of all records of all actions taken to terminate the plan, and
- Copies of all required attachments and statements.

See [Apply for a Determination Letter – Individually Designed Plans](#) for additional submission instructions.

Defined benefit plan terminations

The following items must be submitted for defined benefit plan terminations:

- [Form 6088](#), *Distributable Benefits from Employee Pension Benefit Plans*,
- A signed and dated actuary's certification of the adjusted funding target percentage (AFTAP) for the last 2 years which includes the year of termination, and
- A Schedule SB to the Form 5500 for the last 2 years which includes the year of termination and for any other year in which the AFTAP was below 80 percent (the 80 percent is replaced with 100 percent in any year in which the plan sponsor is a debtor in bankruptcy).

See [Notice 2012-61](#). The [PGBC website](#) is also an important resource for defined benefit plan terminations.

Terminating specific types of plans

- Terminating a [401\(k\) plan](#)
- Terminating a [403\(b\) plan](#)
- Terminating a [SIMPLE IRA plan](#)
- Terminating a [SEP](#)
- Terminating a [SARSEP](#)
- Terminating a [Payroll Deduction IRA](#)

Additional resources

- [Plan Amendments Required Before Termination](#)
- [Retirement Plan Termination FAQs](#)
- [Determination, Opinion or Advisory Letters](#)
- [Types of Retirement Plans](#)

Missing Participants or Beneficiaries

Plan sponsors, administrators and qualified termination administrators (QTAs) sometimes need to locate missing participants or beneficiaries. For example, correction of a plan failure under the Employee Plans Compliance Resolution System (EPCRS) may require payment of additional benefits to terminated participants. See [Revenue Procedure 2013-12](#), Section 6.02(5)(d), for plan correction principles relating to lost participants.

Previously, the IRS provided letter-forwarding services to help locate missing plan participants, but with the August 31, 2012, release of [Revenue Procedure 2012-35](#), the IRS stopped this letter forwarding program. The IRS will no longer process requests to locate retirement plan participants or beneficiaries.

In the absence of IRS letter forwarding services, sponsors, administrators and QTAs may use a variety of other methods to locate missing participants and beneficiaries, including:

- commercial locator services
- credit reporting agencies
- internet search tools

Department of Labor guidelines

The Department of Labor in [Field Assistance Bulletin No. 2014-01](#) lists the following search methods as the minimum steps the fiduciary of a terminated defined contribution plan must take to locate a participant:

- Send a notice using certified mail
- Check the records of the employer or any related plans of the employer
- Send an inquiry to the designated beneficiary of the missing participant
- Use free electronic search tools

FAB 2014-01 also describes additional appropriate search methods and the distribution options for a terminating plan if a participant cannot be located.

Additional resources

- [Correcting Plan Errors](#)

Mark Your Calendar

Here are some important deadlines in the upcoming months. Most of the dates are for calendar-year plans; non-calendar-year plans must adjust the dates.

Oct. 1:

- Establish a [SIMPLE IRA](#) or safe-harbor 401(k) plan for 2014 (newly established businesses may have until later in the year).

- Conform plan operations for any additional benefit restrictions that may apply under IRC Section 436 if you sponsor a single-employer defined benefit plan and haven't received a certified [AFTAP](#) from the plan's enrolled actuary.

Oct. 15:

- [File](#) Forms 5500, 5500-SF or 5500-EZ, and 8955-SSA, if you filed Form 5558 for a 2½-month extension.
- Make deductible contributions for 2013 if you file a Form 1040, Schedule C and have an extension of your April 15, 2014, filing deadline.
- Set up a [SEP plan](#) for 2013 if you file a Form 1040, Schedule C and have an extension of your April 15, 2014, filing deadline.
- Make third quarter contributions to 2014 calendar-year defined benefit plans.
- Elect (or change a standing election) for single-employer defined benefit plans if they lost their standing election because they changed their enrolled actuary.

Nov. 2: Give a SIMPLE IRA or [SIMPLE 401\(k\)](#) plan notice to eligible employees of their 2015 salary reduction rights and whether the employer's required contributions will be matching or nonelective contributions.

Dec. 2: Give 2015 plan-year notice to eligible employees for [safe harbor 401\(k\) plans](#) and plans containing an [eligible automatic contribution arrangement](#).

Dec. 31:

- Distribute 2013 401(k) excess contributions and excess aggregate contributions (both adjusted for 2013 income and losses).
- Set up a qualified retirement plan for 2014 (you can't have retroactive elective deferrals).
- Distribute 2014 [required minimum distributions](#) (you have until April 1, 2015, to pay the first RMD for a participant who turned 70½ in 2014 or for a participant, other than a 5-percent owner, who retired in 2014).
- Revoke a single-employer defined benefit plan sponsor's previous election to use a funding balance to offset minimum required contributions for the 2014 plan year, to the extent the election exceeded the full minimum required contribution for the year. This deadline only applies to plans with valuation dates as of the first day of the plan year.
- Elect to reduce Jan. 1, 2014, funding balances to avoid or lift benefit restrictions under IRC Section 436 for single-employer defined benefit plans.
- Recertify a single-employer defined benefit plan's 2014 AFTAP if it had previously been certified using MAP-21 rates on or before Sept. 30, 2014, and the use of Highway and Transportation Funding Act (HATFA) rates causes a material change (deadline applies if changes in IRC Section 436 restrictions are applied prospectively) – see [Notice 2014-53](#).
- Elect to:
 - Revoke a deemed election to defer using HATFA rates for a single-employer defined benefit plan to 2014 by either providing written notice or filing an amended Form 5500, Form 5500-SF or Form 5500-EZ for the 2013 plan year – see Notice 2014-53.

- Restore any single-employer defined benefit plan's funding balances if a reduction made before applying HATFA rates is no longer necessary (if the original election was made on or before Sept. 30, 2014 – see Notice 2014-53).
- Add excess 2013 contributions made on or before September 30, 2014, to a single-employer defined benefit plan to the plan's 2014 funding balances (only if HATFA rates apply for 2013 – see Notice 2014-53).
- Redesignate any single-employer defined benefit plan contributions no longer needed for 2013 as 2014 contributions (only if HATFA rates apply for 2013 and the original contribution was made between January 1, 2014 and Sept. 30, 2014 – see Notice 2014-53).

Jan. 15, 2015: Make the 2014 fourth quarter contribution for defined benefit plans.

Jan. 31, 2015: [Cycle D](#) individually designed plans must amend for recent law changes and may submit the plan for a determination letter.

Feb. 2, 2015:

- File Form 945, *Annual Return of Withheld Federal Income Tax*. If you made timely and complete deposits of 2014 taxes, you may file Form 945 by Feb. 10, 2015.
- Trustees and custodians must issue Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, to recipients of 2014 retirement plan distributions.

DOL Corner

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance as featured below. You can subscribe to [DOL/EBSA's](#) home page for updates

Brokerage windows

On August 21, DOL/EBSA published a [Request for Information](#) on the use of brokerage windows, self-directed brokerage accounts and similar features in 401(k)-type plans.

Some 401(k)-type plans offer participants access to brokerage windows in addition to, or in place of, specific investment options chosen by the employer or another plan fiduciary. These "window" arrangements can enable or require individual participants to choose from a broad range of investments. DOL/EBSA received a number of questions about brokerage windows following the 2012 publication of a final regulation on participant-level fee disclosure.

The RFI asks questions concerning brokerage windows, including:

- the scope of investment options typically available through a window;
- demographic and other information about participants who commonly use brokerage windows;

- the process of selecting a brokerage window and provider for a plan;
- the costs of brokerage windows; and
- what kind of information about brokerage windows and underlying investment options typically is available and disclosed to participants.

Comments are due by November 19, 2014. Comments can be submitted electronically by email to E-ORI@dol.gov or through the federal [eRulemaking portal](#). Written comments may also be sent to:

U.S. Department of Labor
Office of Regulations and Interpretations
Employee Benefits Security Administration, N-5655
Attn: Brokerage Window RFI
200 Constitution Ave, NW,
Washington, DC 20210

Missing participants

On August 14, DOL/EBSA issued [Field Assistance Bulletin 2014-01](#), which updates DOL/EBSA guidance on how fiduciaries of terminated defined contribution plans can fulfill their obligations under ERISA to locate missing participants and properly distribute the participants' account balances.

Outreach and education

For notice of upcoming events as they are scheduled, subscribe to [DOL/EBSA's](#) Website home page. DOL/EBSA conducts seminars for small businesses on retirement and health benefits plans.