§ 1.401(m)-4 Special rules for mergers, acquisitions and similar events.
[Reserved]

§ 1.401(m)-5 Definitions.

Unless otherwise provided, the definitions of this section govern for purposes of section 401(m) and the regulations thereunder.

Actual contribution percentage (ACP). Actual contribution percentage or ACP means the ACP of the group of eligible employees as defined in §1.401(m)-2(a)(2)(i).

Actual contribution percentage (ACP) test. Actual contribution percentage test or ACP test means the test described in §1.401(m)-2(a)(1).

Actual contribution ratio (ACR). Actual contribution ratio or ACR means the ACR of an eligible employee as defined in §1.401(m)-2(a)(3).

Actual deferral percentage (ADP) test. Actual deferral percentage test or ADP test means the test described in §1.401(k)-2(a)(1).

Compensation. Compensation means compensation as defined in section 414(s) and §1.414(s)-1. The period used to determine an employee’s compensation for a plan year must be either the plan year or the calendar year ending within the plan year. Whichever period is selected must be applied uniformly to determine the compensation of every eligible employee under the plan for that plan year. A plan may, however, limit the period taken into account under either method to that portion of the plan year or calendar year in which the employee was an eligible employee, provided that this limit is applied uniformly to all eligible employees under the plan for the plan year. See also section 401(a)(17) and §1.401(a)(17)-1(c)(1). For this purpose, in case of an HCE whose ACR is determined under §1.401(m)-2(a)(3)(ii), period of participation includes periods under another plan for which matching contributions or employee contributions are aggregated under §1.401(m)-2(a)(3)(ii).

Current year testing method. Current year testing method means the testing method under which the applicable year is the current plan year, as described in §1.401(k)-2(a)(2)(i) or §1.401(m)-2(a)(2)(ii).

Designated Roth contributions. Designated Roth contributions means designated Roth contributions as defined in §1.401(k)-1(f)(1).

Elective contributions. Elective contributions means elective contributions as defined in §1.401(k)-6.

Elective deferrals. Elective deferrals means elective deferrals described in section 402(g)(3).

Eligible employee—(1) General rule. Eligible employee means an employee who is directly or indirectly eligible to make an employee contribution or to receive an allocation of matching contributions (including matching contributions derived from forfeitures) under the plan for all or a portion of the plan year. For example, if an employee must perform purely ministerial or mechanical acts (e.g., formal application for participation or consent to payroll withholding) in order to be eligible to make an employee contribution for a plan year, the employee is an eligible employee for the plan year without regard to whether the employee performs these acts.

(2) Conditions on eligibility. An employee who is unable to make employee contributions or to receive an allocation of matching contributions because the employee has not contributed to another plan is also an eligible employee. By contrast, if an employee must perform additional service (e.g., satisfy a minimum period of service requirement) in order to be eligible to make an employee contribution or to receive an allocation of matching contributions for a plan year, the employee is not an eligible employee for the plan year unless the service is actually performed. An employee who would be eligible to make employee contributions but for a suspension due to a distribution, a loan, or an election not to participate in the plan, is treated as an eligible employee for purposes of section 401(m) for a plan year even though the employee may not make employee contributions or receive an allocation of matching contributions by reason of the suspension. Finally, an employee does not fail to be treated as an eligible employee merely because the employee may receive no additional annual additions because of section 415(c)(1).