

What is a Solo 401(k) Plan?



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2/16/2018

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A 401(k) plan by any other name is still a 401(k) plan!

I have had several conversations with advisors and other plan service providers where they tell me that someone has a “solo 401(k)” or “solo-k” or “uni-k” plan and from the context of the conversation, I can tell that the person with whom I am speaking assumes that this is another *type* of 401(k) plan.

So what is a “solo 401(k)” plan? Actually, there is no such thing as a “solo 401(k)” or “uni-k” plan. You won’t find it in the Internal Revenue Code. These are marketing terms that some plan providers, like financial institutions and recordkeepers, have created to explain what is really a tax qualified 401(k) plan that meets the IRS definition of a “one-participant plan”. A one-participant plan, per the IRS, is a plan that, on the first day of the plan year, ONLY covers (1) an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; OR (2) a partnership that covers only the partners or the partners and the partners’ spouses.

What is the significance of meeting the IRS definition of a one-participant plan? If the plan meets this definition, then it is exempt from filing a Form 5500 for any year in which the assets are \$250,000 or less as of the close of the plan year.



In addition to the Form 5500 exemption, because the plan is ONLY covering the owner(s) of the business, it can avoid the normal compliance testing that would apply to a 401(k) plan. For this reason, some financial institutions and recordkeepers have drafted a stripped-down version of a plan document that may be used by a one-participant plan, which only contains language that is applicable to a plan not subject to testing. Does a one-participant plan have to use a document that is specifically labeled as a “solo 401(k)” or “uni-k” or “one-participant” plan to avail itself of the 5500

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exemption? No, absolutely not. It is perfectly permissible to use the same prototype 401k plan document for a one-participant plan as is used for a plan with thousands of participants. It is just that much of the language in the plan won't pertain to a one-participant plan. By offering a stripped-down document (which is much shorter and easier to complete); not having to perform compliance testing; and avoiding the Form 5500 (depending on the asset size), some plan providers market the "solo 401(k)" or "uni-k" plan at a lower price than a more complex plan that covers more than just the owners.

One common misconception about a one-participant plan is the belief that if the business owner hires an employee, his plan will no longer meet the definition of a one-participant plan. However, the one-participant plan definition has to do with who is covered under the plan, not who works for the employer. The employer may hire employees, but as long as those employees are not covered under the plan because they don't meet the age/service conditions, then the plan is still only covering the owner(s) and therefore is still a one-participant plan and has the advantages of a one-participant plan.

However, once employees become eligible for the plan, and are therefore covered under the plan, then the plan is no longer a one-participant plan, meaning it is subject to all the rules of ERISA (pertaining to vesting, reporting disclosures, funding rules, etc). If the employer is using a stripped-down plan document designed only for one-participant plans, then the plan document must be restated to a full-blown version that incorporates all the rules and provisions applicable to a plan that is covering non-owners. In addition, the plan will need to begin filing a Form 5500, regardless of the asset size.

So remember, a 401(k) plan is always a 401(k) plan. But if the plan meets the one-participant plan definition, then the plan administration is simpler. This is true regardless of whether the plan is referred to as a "solo 401(k) plan", "uni-k plan", "solo-k plan" or just plain old "401(k) plan".



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