

SAFE-HARBOR LEVERAGING FOR SMALL BUSINESS, TOP-HEAVY RETIREMENT PLANS

2026

Many employers are debating how to most efficiently take advantage of the defined contribution limit increase to \$72,000. However, few owners of small businesses are aware of the extent to which certain types of “leveraging” are now permitted in qualified retirement plans. The purpose of this article is to illustrate the provisions that allow owners of small businesses to get the most in return for what they are willing to contribute on behalf of their non-owner employees.

In this article the word “leveraging” pertains to the ways a company can contribute a certain percent of pay for its non-owner employees, while allowing the owner to have a tax deduction of some *higher* percent of pay. The words “safe-harbor” pertain to the fact that with certain 401(k) features, the Highly Compensated Employees can defer the maximum with no concern about refunds due to low participation among rank-and-file employees.

The qualified plans sponsored by small businesses are usually “top-heavy.” A plan is deemed top-heavy when over 60% of the assets are attributed to certain officers and shareholders. In such a case, the employer must allocate to each “non-key” employee / participant at least 3% of pay in order for there to be significant contributions for key employees. This article is intended to explain the areas of leveraging that we typically recommend in top-heavy plans, as well as the results that can be obtained. Many of these provisions will even be of interest to sponsors of plans not required to make a top-heavy minimum contribution. The following are examples of leveraging allowed in qualified retirement plans:

A) Permitted Disparity (formerly called “integration with Social Security”) --- Every employer already sponsors one retirement plan called Social Security. However, when viewed as a percent of pay, both the FICA taxes paid by the company and the ultimate Social Security benefits discriminate against higher paid employees. For example, the company must pay the full 7.65% FICA tax for an employee making less than the Social Security taxable wage base (\$184,500 for 2026). But for an owner making twice the taxable wage base, the company’s FICA taxes paid on his behalf come to a much lower percent of his *total* pay. A private industry retirement plan is allowed to make up for this discrepancy by giving the higher paid participants a contribution which is a higher percent of their pay than is given to the lower paid employees. Many times, this permits the owner to get a contribution that is about 3% more than the percent s/he spends on lower paid participants in the same plan.

B) Safe-Harbor 401(k) Plans --- If an employer is willing to fully vest its top heavy minimum 3% contribution in a top heavy plan, not only does the owner get that same 3% contribution, but s/he can defer an additional \$24,500 for 2026. This is permitted even if none of the other employees choose to utilize the 401(k) portion of the plan. Also, anyone over age 50 can defer an additional \$8,000 for the year 2026 (or \$11,250 for the years they attain ages 60-63).

C) Matching Contributions --- Even without safe harbor provisions, 401(k) plans are permitted, within limits, to have owners averaging a higher percent of pay matching contribution than the non-owners receive. With the safe harbor provision described in the previous paragraph, a plan can have a discretionary match of up to 2/3 of the first 6% of pay contributed by the participant. This results in the owner getting a contribution of another 4% of pay, even if none of the other participants are contributing to the plan.

D) Vesting Schedules --- Much of the company contribution can usually be made subject to a vesting schedule, usually resulting in an even higher portion of the long-term contribution going to the owners.

The attached tables illustrate what can be achieved by combining some or all of these leveraging rules. RMS can help employers choose the plan design that most efficiently achieves these results.

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Safe-Harbor Leveraging for Small Business Top-Heavy Retirement Plans

What % of Pay is the Employer Willing to Contribute for the Lower Paid Employees?	What % of Pay is Expected to be Contributed by the Lower Paid Employees?	OWNER'S ANNUAL PAY												
		\$240,000	\$250,000	\$260,000	\$270,000	\$280,000	\$290,000	\$300,000	\$310,000	\$320,000	\$330,000	\$340,000	\$350,000	\$360,000
		CONTRIBUTION PERCENT THAT CAN BE ACHIEVED FOR THE OWNER												
3%	0%	17%	17%	16%	16%	16%	15%	15%	15%	15%	14%	14%	14%	14%
	2%	13%	13%	12%	12%	12%	11%	11%	11%	11%	10%	10%	10%	10%
	4%	13%	13%	12%	12%	12%	11%	11%	11%	11%	10%	10%	10%	10%
	6%	13%	13%	12%	12%	12%	11%	11%	11%	11%	10%	10%	10%	10%
4%	0%	19%	18%	18%	18%	17%	17%	17%	16%	16%	16%	16%	16%	15%
	2%	16%	16%	15%	15%	15%	14%	14%	14%	14%	13%	13%	13%	13%
	4%	15%	14%	14%	14%	13%	13%	13%	12%	12%	12%	12%	12%	11%
	6%	15%	14%	14%	14%	13%	13%	13%	12%	12%	12%	12%	12%	11%
5%	0%	20%	20%	19%	19%	19%	18%	18%	18%	18%	18%	17%	17%	17%
	2%	18%	18%	17%	17%	17%	16%	16%	16%	16%	15%	15%	15%	15%
	4%	16%	16%	15%	15%	15%	14%	14%	14%	14%	14%	13%	13%	13%
	6%	16%	16%	15%	15%	15%	14%	14%	14%	14%	14%	13%	13%	13%
6%	0%	22%	21%	21%	21%	20%	20%	20%	19%	19%	19%	19%	19%	19%
	2%	20%	19%	19%	19%	18%	18%	18%	17%	17%	17%	17%	17%	16%
	4%	18%	17%	17%	17%	16%	16%	16%	15%	15%	15%	15%	15%	15%
	6%	18%	17%	17%	17%	16%	16%	16%	15%	15%	15%	15%	15%	15%
7%	0%	23%	23%	22%	22%	22%	21%	21%	21%	21%	21%	20%	20%	20%
	2%	21%	21%	20%	20%	20%	19%	19%	19%	19%	19%	18%	18%	18%
	4%	19%	19%	18%	18%	18%	17%	17%	17%	17%	17%	16%	16%	16%
	6%	19%	19%	18%	18%	18%	17%	17%	17%	17%	17%	16%	16%	16%
8%	0%	24%	24%	24%	23%	23%	23%	23%	23%	22%	22%	21%	21%	20%
	2%	23%	22%	22%	22%	21%	21%	21%	20%	20%	20%	20%	20%	20%
	4%	21%	20%	20%	20%	19%	19%	19%	18%	18%	18%	18%	18%	18%
	6%	20%	20%	20%	19%	19%	19%	19%	19%	18%	18%	18%	18%	18%
9%	0%	25%	25%	25%	24%	24%	24%	24%	23%	23%	22%	21%	21%	20%
	2%	24%	24%	23%	23%	23%	22%	22%	22%	22%	22%	21%	21%	20%
	4%	22%	22%	21%	21%	21%	20%	20%	20%	20%	20%	20%	19%	19%
	6%	21%	21%	21%	20%	20%	20%	20%	20%	20%	19%	19%	19%	19%
10%	0%	26%	26%	26%	25%	25%	25%	24%	23%	23%	22%	21%	21%	20%
	2%	25%	25%	24%	24%	24%	23%	24%	23%	23%	22%	21%	21%	20%
	4%	24%	23%	23%	23%	22%	22%	22%	22%	21%	21%	21%	21%	20%
	6%	22%	22%	22%	21%	21%	21%	21%	21%	21%	20%	20%	20%	20%
11%	0%	27%	27%	27%	26%	26%	25%	24%	23%	23%	22%	21%	21%	20%
	2%	26%	26%	25%	25%	25%	24%	24%	23%	23%	22%	21%	21%	20%
	4%	25%	24%	24%	24%	23%	23%	23%	23%	23%	22%	21%	21%	20%
	6%	23%	23%	23%	22%	22%	22%	22%	22%	22%	21%	21%	21%	20%
12%	0%	28%	28%	28%	27%	26%	25%	24%	23%	23%	22%	21%	21%	20%
	2%	27%	27%	26%	26%	26%	25%	24%	23%	23%	22%	21%	21%	20%
	4%	26%	25%	25%	25%	24%	24%	24%	23%	23%	22%	21%	21%	20%
	6%	24%	24%	24%	23%	23%	23%	23%	23%	23%	22%	21%	21%	20%

What % of Pay is the Employer Willing to Contribute for the Lower Paid Employees?	What % of Pay is Expected to be Contributed by the Lower Paid Employees?	Safe-Harbor Leveraging for Small Business Top-Heavy Retirement Plans												Table 2
		OWNER'S ANNUAL PAY												
		\$240,000	\$250,000	\$260,000	\$270,000	\$280,000	\$290,000	\$300,000	\$310,000	\$320,000	\$330,000	\$340,000	\$350,000	\$360,000
		CONTRIBUTION AMOUNT THAT CAN BE ACHIEVED FOR THE OWNER												
3%	0%	41,300	42,000	42,700	43,400	44,100	44,800	45,500	46,200	46,900	47,600	48,300	49,000	49,700
	2%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
	4%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
	6%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
4%	0%	44,900	45,700	46,600	47,400	48,300	49,100	50,000	50,900	51,800	52,700	53,600	54,500	55,400
	2%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,100	43,700	44,300	44,900	45,500	46,100
	4%	35,300	35,700	36,200	36,600	37,100	37,500	38,000	38,500	39,000	39,500	40,000	40,500	41,000
	6%	35,300	35,700	36,200	36,600	37,100	37,500	38,000	38,500	39,000	39,500	40,000	40,500	41,000
5%	0%	48,500	49,500	50,500	51,500	52,500	53,500	54,500	55,600	56,700	57,800	58,900	60,000	61,100
	2%	43,700	44,500	45,300	46,100	46,900	47,700	48,500	49,300	50,100	51,000	51,800	52,600	53,500
	4%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,200	43,900	44,600	45,300	46,000	46,700
	6%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,200	43,900	44,600	45,300	46,000	46,700
6%	0%	52,100	53,200	54,400	55,500	56,700	57,800	59,000	60,300	61,600	62,900	64,200	65,500	66,800
	2%	47,300	48,200	49,200	50,100	51,100	52,000	53,000	54,000	55,100	56,100	57,100	58,200	59,200
	4%	42,500	43,200	44,000	44,700	45,500	46,200	47,000	47,900	48,800	49,700	50,600	51,500	52,400
	6%	42,500	43,200	44,000	44,700	45,500	46,200	47,000	47,900	48,800	49,700	50,600	51,500	52,400
7%	0%	55,700	57,000	58,300	59,600	60,900	62,200	63,500	65,000	66,500	68,000	69,500	71,000	72,000
	2%	50,900	52,000	53,100	54,200	55,300	56,400	57,500	58,700	60,000	61,200	62,400	63,700	64,900
	4%	46,100	47,000	47,900	48,800	49,700	50,600	51,500	52,600	53,700	54,800	55,900	57,000	58,100
	6%	46,100	47,000	47,900	48,800	49,700	50,600	51,500	52,600	53,700	54,800	55,900	57,000	58,100
8%	0%	58,400	59,800	61,200	62,700	64,100	65,500	68,100	69,800	71,500	72,000	72,000	72,000	72,000
	2%	54,500	55,700	57,000	58,200	59,500	60,700	62,000	63,500	64,900	66,300	67,800	69,200	70,600
	4%	49,700	50,700	51,800	52,800	53,900	54,900	56,100	57,400	58,700	60,000	61,300	62,600	63,900
	6%	48,800	49,800	50,800	51,900	52,900	53,900	56,100	57,400	58,700	60,000	61,300	62,600	63,900
9%	0%	60,800	62,300	63,800	65,400	66,900	68,400	71,700	72,000	72,000	72,000	72,000	72,000	72,000
	2%	57,600	59,000	60,400	61,800	63,100	64,500	66,600	68,200	69,800	71,500	72,000	72,000	72,000
	4%	53,300	54,500	55,700	56,900	58,100	59,300	60,600	62,000	63,500	65,000	66,500	67,900	69,400
	6%	51,200	52,300	53,400	54,600	55,700	56,800	59,700	61,100	62,600	64,000	65,400	66,900	68,300
10%	0%	63,200	64,800	66,400	68,100	69,700	71,300	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	60,000	61,500	63,000	64,500	65,900	67,400	70,700	72,000	72,000	72,000	72,000	72,000	72,000
	4%	56,800	58,200	59,500	60,900	62,200	63,600	65,100	66,700	68,300	69,900	71,600	72,000	72,000
	6%	53,600	54,800	56,000	57,300	58,500	59,700	62,700	64,200	65,800	67,300	68,800	70,400	71,900
11%	0%	65,600	67,300	69,000	70,800	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	62,400	64,000	65,600	67,200	68,700	70,300	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	4%	59,200	60,700	62,100	63,600	65,000	66,500	69,600	71,300	72,000	72,000	72,000	72,000	72,000
	6%	56,000	57,300	58,600	60,000	61,300	62,600	65,700	67,300	69,000	70,600	72,000	72,000	72,000
12%	0%	68,000	69,800	71,600	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	64,800	66,500	68,200	69,900	71,500	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	4%	61,600	63,200	64,700	66,300	67,800	69,400	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	6%	58,400	59,800	61,200	62,700	64,100	65,500	68,700	70,400	72,000	72,000	72,000	72,000	72,000

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		CONTRIBUTION AMOUNT THAT CAN BE ACHIEVED FOR THE OWNER												
3%	0%	41,300	42,000	42,700	43,400	44,100	44,800	45,500	46,200	46,900	47,600	48,300	49,000	49,700
	2%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
	4%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
	6%	31,700	32,000	32,300	32,600	32,900	33,200	33,500	33,800	34,100	34,400	34,700	35,000	35,300
4%	0%	44,900	45,700	46,600	47,400	48,300	49,100	50,000	50,900	51,800	52,700	53,600	54,500	55,400
	2%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,100	43,700	44,300	44,900	45,500	46,100
	4%	35,300	35,700	36,200	36,600	37,100	37,500	38,000	38,500	39,000	39,500	40,000	40,500	41,000
	6%	35,300	35,700	36,200	36,600	37,100	37,500	38,000	38,500	39,000	39,500	40,000	40,500	41,000
5%	0%	48,500	49,500	50,500	51,500	52,500	53,500	54,500	55,600	56,700	57,800	58,900	60,000	61,100
	2%	43,700	44,500	45,300	46,100	46,900	47,700	48,500	49,300	50,100	51,000	51,800	52,600	53,500
	4%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,200	43,900	44,600	45,300	46,000	46,700
	6%	38,900	39,500	40,100	40,700	41,300	41,900	42,500	43,200	43,900	44,600	45,300	46,000	46,700
6%	0%	52,100	53,200	54,400	55,500	56,700	57,800	59,000	60,300	61,600	62,900	64,200	65,500	66,800
	2%	47,300	48,200	49,200	50,100	51,100	52,000	53,000	54,000	55,100	56,100	57,100	58,200	59,200
	4%	42,500	43,200	44,000	44,700	45,500	46,200	47,000	47,900	48,800	49,700	50,600	51,500	52,400
	6%	42,500	43,200	44,000	44,700	45,500	46,200	47,000	47,900	48,800	49,700	50,600	51,500	52,400
7%	0%	55,700	57,000	58,300	59,600	60,900	62,200	63,500	65,000	66,500	68,000	69,500	71,000	72,000
	2%	50,900	52,000	53,100	54,200	55,300	56,400	57,500	58,700	60,000	61,200	62,400	63,700	64,900
	4%	46,100	47,000	47,900	48,800	49,700	50,600	51,500	52,600	53,700	54,800	55,900	57,000	58,100
	6%	46,100	47,000	47,900	48,800	49,700	50,600	51,500	52,600	53,700	54,800	55,900	57,000	58,100
8%	0%	58,400	59,800	61,200	62,700	64,100	65,500	68,100	69,800	71,500	72,000	72,000	72,000	72,000
	2%	54,500	55,700	57,000	58,200	59,500	60,700	62,000	63,500	64,900	66,300	67,800	69,200	70,600
	4%	49,700	50,700	51,800	52,800	53,900	54,900	56,100	57,400	58,700	60,000	61,300	62,600	63,900
	6%	48,800	49,800	50,800	51,900	52,900	53,900	56,100	57,400	58,700	60,000	61,300	62,600	63,900
9%	0%	60,800	62,300	63,800	65,400	66,900	68,400	71,700	72,000	72,000	72,000	72,000	72,000	72,000
	2%	57,600	59,000	60,400	61,800	63,100	64,500	66,600	68,200	69,800	71,500	72,000	72,000	72,000
	4%	53,300	54,500	55,700	56,900	58,100	59,300	60,600	62,000	63,500	65,000	66,500	67,900	69,400
	6%	51,200	52,300	53,400	54,600	55,700	56,800	59,700	61,100	62,600	64,000	65,400	66,900	68,300
10%	0%	63,200	64,800	66,400	68,100	69,700	71,300	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	60,000	61,500	63,000	64,500	65,900	67,400	70,700	72,000	72,000	72,000	72,000	72,000	72,000
	4%	56,800	58,200	59,500	60,900	62,200	63,600	65,100	66,700	68,300	69,900	71,600	72,000	72,000
	6%	53,600	54,800	56,000	57,300	58,500	59,700	62,700	64,200	65,800	67,300	68,800	70,400	71,900
11%	0%	65,600	67,300	69,000	70,800	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	62,400	64,000	65,600	67,200	68,700	70,300	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	4%	59,200	60,700	62,100	63,600	65,000	66,500	69,600	71,300	72,000	72,000	72,000	72,000	72,000
	6%	56,000	57,300	58,600	60,000	61,300	62,600	65,700	67,300	69,000	70,600	72,000	72,000	72,000
12%	0%	68,000	69,800	71,600	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	2%	64,800	66,500	68,200	69,900	71,500	72,000	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	4%	61,600	63,200	64,700	66,300	67,800	69,400	72,000	72,000	72,000	72,000	72,000	72,000	72,000
	6%	58,400	59,800	61,200	62,700	64,100	65,500	68,700	70,400	72,000	72,000	72,000	72,000	72,000

**Table
2**

What % of Pay is the Employer Willing to Contribute for the Lower Paid 0	SIMPLIFIED EMPLOYEE PLAN (SEP) VS. 401(K) SAFE-HARBOR													
	OWNER'S ANNUAL PAY													
	\$240,000	\$250,000	\$260,000	\$270,000	\$280,000	\$290,000	\$300,000	\$310,000	\$320,000	\$330,000	\$340,000	\$350,000	\$360,000	
	CONTRIBUTION PERCENT THAT CAN BE ACHIEVED FOR THE OWNER													
3%	USING A SEP	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.6%	4.6%	4.7%	4.7%	4.7%	4.8%
	USING A 401(K) SAFE-HARBOR PLAN	13.2%	12.8%	12.4%	12.1%	11.8%	11.4%	11.2%	10.9%	10.7%	10.4%	10.2%	10.0%	9.8%
4%	USING A SEP	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.1%	6.2%	6.2%	6.3%	6.3%	6.4%
	USING A 401(K) SAFE-HARBOR PLAN	14.7%	14.3%	13.9%	13.6%	13.3%	12.9%	12.7%	12.4%	12.2%	12.0%	11.8%	11.6%	11.4%
5%	USING A SEP	7.2%	7.2%	7.2%	7.2%	7.2%	7.2%	7.5%	7.6%	7.7%	7.8%	7.8%	7.9%	7.9%
	USING A 401(K) SAFE-HARBOR PLAN	16.2%	15.8%	15.4%	15.1%	14.8%	14.4%	14.2%	14.0%	13.7%	13.5%	13.3%	13.2%	13.0%
6%	USING A SEP	8.2%	8.2%	8.2%	8.2%	8.2%	8.2%	8.7%	8.8%	8.9%	9.0%	9.1%	9.1%	9.2%
	USING A 401(K) SAFE-HARBOR PLAN	17.7%	17.3%	16.9%	16.6%	16.3%	15.9%	15.7%	15.5%	15.3%	15.1%	14.9%	14.7%	14.6%
7%	USING A SEP	9.2%	9.2%	9.2%	9.2%	9.2%	9.2%	9.7%	9.8%	9.9%	10.0%	10.1%	10.1%	10.2%
	USING A 401(K) SAFE-HARBOR PLAN	19.2%	18.8%	18.4%	18.1%	17.8%	17.4%	17.2%	17.0%	16.8%	16.6%	16.5%	16.3%	16.2%
8%	USING A SEP	10.2%	10.2%	10.2%	10.2%	10.2%	10.2%	10.7%	10.8%	10.9%	11.0%	11.1%	11.1%	11.2%
	USING A 401(K) SAFE-HARBOR PLAN	20.4%	20.0%	19.6%	19.2%	18.9%	18.6%	18.7%	18.5%	18.3%	18.2%	18.0%	17.9%	17.8%
9%	USING A SEP	11.2%	11.2%	11.2%	11.2%	11.2%	11.2%	11.7%	11.8%	11.9%	12.0%	12.1%	12.1%	12.2%
	USING A 401(K) SAFE-HARBOR PLAN	21.4%	21.0%	20.6%	20.2%	19.9%	19.6%	19.9%	19.7%	19.6%	19.4%	19.3%	19.1%	19.0%
10%	USING A SEP	12.2%	12.2%	12.2%	12.2%	12.2%	12.2%	12.7%	12.8%	12.9%	13.0%	13.1%	13.1%	13.2%
	USING A 401(K) SAFE-HARBOR PLAN	22.4%	22.0%	21.6%	21.2%	20.9%	20.6%	20.9%	20.7%	20.6%	20.4%	20.3%	20.1%	20.0%
11%	USING A SEP	13.2%	13.2%	13.2%	13.2%	13.2%	13.2%	13.7%	13.8%	13.9%	14.0%	14.1%	14.1%	14.2%
	USING A 401(K) SAFE-HARBOR PLAN	23.4%	23.0%	22.6%	22.2%	21.9%	21.6%	21.9%	21.7%	21.6%	21.4%	21.2%	20.6%	20.0%
12%	USING A SEP	14.2%	14.2%	14.2%	14.2%	14.2%	14.2%	14.7%	14.8%	14.9%	15.0%	15.1%	15.1%	15.2%
	USING A 401(K) SAFE-HARBOR PLAN	24.4%	24.0%	23.6%	23.2%	22.9%	22.6%	22.9%	22.7%	22.5%	21.8%	21.2%	20.6%	20.0%