THE OWNERS-ONLY 401(k)

RAYMOND JAMES®

Company-sponsored 401(k) savings plans have long been considered one of the best ways to save for retirement. Offering easy participation, tax deferral and, often, matching contributions from employers, nearly 1.5 million people prepare for their futures with these plans today.

However, many small business owners believe they have not been able to take advantage of these benefits. If you operate an owner-only business – you either have no employees or your employees can be lawfully excluded from a qualified retirement plan – the advantages of having a 401(k) have probably been outweighed by administration difficulties, unmanageable costs and low-contribution limits when combined with other plans.

Fortunately, the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) changed the rules – most notably contribution limits – creating owners-only 401(k) plans that may be more attractive to you than other qualified plans.

The Benefits of an Owners-Only 401(k)

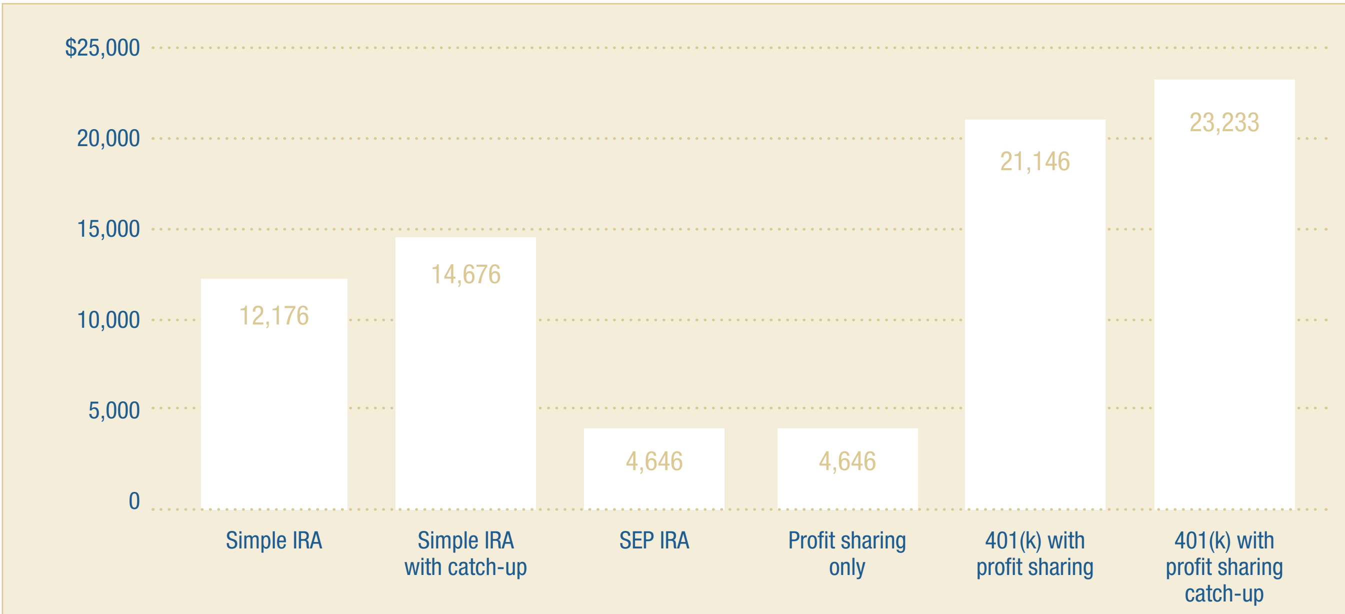
Until EGTRRA was passed, the total amount you could contribute to all defined contribution plans was 15% of total compensation. With the tax law changes, you can now designate up to 25% of total compensation to a profit sharing plan, plus up to $16,500 to a 401(k) plan, if you earn at least that amount annually. This brings total contribution levels up to a maximum of $49,000 – slightly more for those 50 or older who can also make catch-up contributions – or 100% of your total compensation, whichever is less.

In addition to the benefits of traditional 401(k) plans – including tax-deductible contributions, tax-deferred earnings, flexible contribution requirements and a variety of investment options – and the higher funding limits, owners-only 401(k) plans offer:

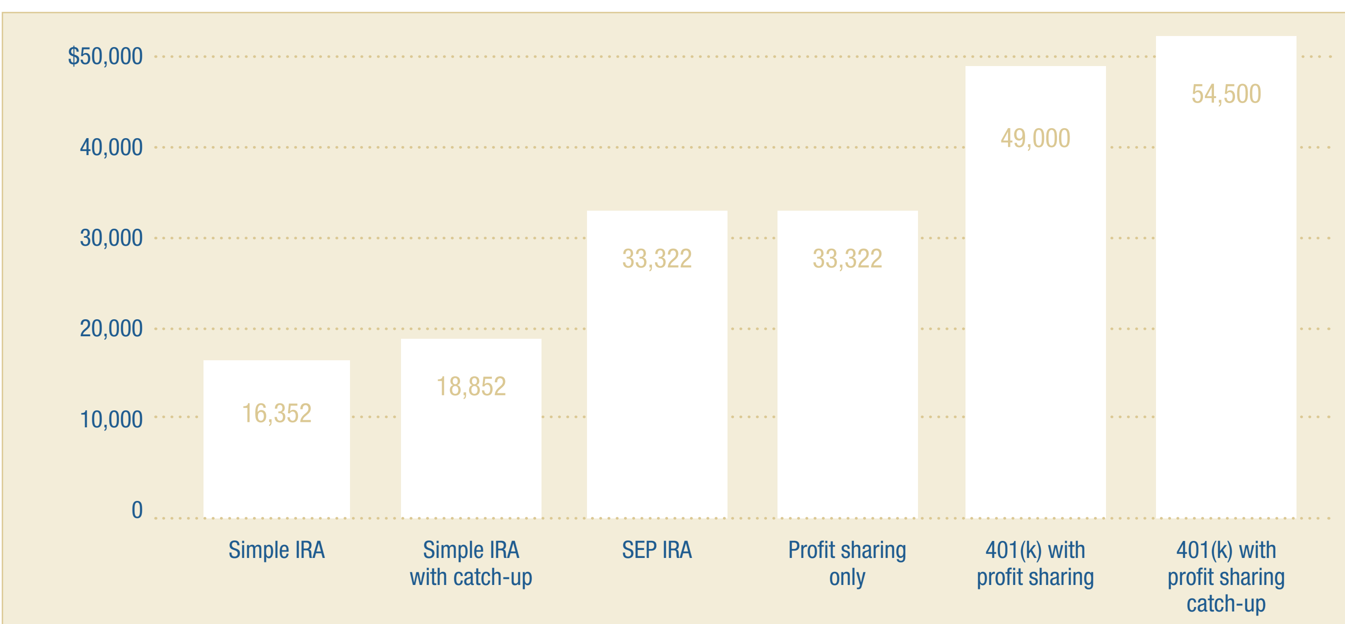
- Catch-up contributions | For 2009, those 50 and older can add an additional $5,500 to their 401(k) contributions.
- Tax-free loans | Although 401(k) plans are designed for retirement savings and can grow faster if the funds are left untouched, the owners-only 401(k) includes a provision that allows you to borrow from your account if you need quick access to funds.
- Consolidation of multiple accounts | Most retirement plan assets, including funds from profit sharing and money purchase plans, and both traditional and SEP IRAs, can be transferred into your owners-only 401(k).
- Spousal benefits | While this type of plan is specifically for businesses with no employees, both you and your spouse can participate if you are employed by and receive compensation from the business.
- No discrimination testing requirement | Because you don't have employees, you are not limited to employee contributions and can, therefore, maximize your contribution.
- Roth contribution | Individuals who cannot make contributions to a Roth IRA because of income limitations can now make Roth contributions inside their 401(k) plans. Simple IRAs do not allow for Roth (after-tax) contributions.

Owners-only 401(k) plans offer the same benefits as traditional 401(k)s, but with lower annual fees and reduced annual IRS filing requirements that make them appealing to small business owners.

This chart compares how much a self-employed person earning $25,000 can contribute to various defined contributions retirement plans for 2009.



This chart compares how much a self-employed person earning $175,000 can contribute to various defined contributions retirement plans for 2009.



Comparing Retirement Plans for your Business

Tom Herr is a 51-year-old consultant with no employees. He operates his business as an S corporation and earns $80,000 annually in W-2 wages. For the 2009 calendar year, Tom can defer up to $16,500 of his salary, and also make a $5,500 catch-up contribution, for a total salary deferral amount of $22,000. He can also make a 25% profit sharing contribution – $20,000 based on his $80,000 salary. The total contribution Tom can make to his owners-only 401(k) plan for 2009 is $42,000. Had he sponsored a profit sharing plan or an SEP IRA instead, he could have contributed a maximum of only $20,000.

Qualified Plan Contribution Limits

By making contributions to an owners-only 401(k), you can designate up to $49,000 per year toward your retirement – even more if you're 50 or older. Your profit sharing contribution must be the lesser of 25% of your annual salary or $49,000. The limits for your owners-only 401(k) are as follows:

	Standard limits		Limits for those 50 and older		
	Salary deferral limit	Maximum funding limit*	Salary deferral limit	Catch-up contribution	Maximum funding limit*
2007	$15,500	$45,000	$15,500	$5,000	$50,000
2008	15,500	46,000	15,500	5,000	51,000
2009	16,500	49,000	16,500	5,500	54,500

*Includes salary deferral and profit sharing contributions

Should You Consider an Owners-Only 401(k)?

This type of retirement savings plan is appropriate for individuals who are the sole operators of their businesses. It may also be appropriate for those who share ownership and responsibility with family members or with partners, as long as they own at least 5% of the business. The owners-only 401(k) plan is available to all business entities, including sole proprietorships and partnerships, as well as C, S and limited liability corporations. Owners who employ or who may add unrelated workers in the near future who cannot be excluded under 401(k) eligibility requirements may find other plans to be more suitable. Employees who may be excluded include those under age 21 or who work less than 1,000 hours in a 12-month period, nonresident aliens, and union employees covered by a collective bargaining agreement.

Frequently Asked Questions

What is the deadline for establishing an owners-only 401(k) plan?

The deadline for establishing an owners-only 401(k) plan is the last day of your business's tax year, but no later than December 31. Incorporated businesses, sole proprietors or partnerships may want to establish the plan earlier to allow for salary deferrals.

Is there a deadline for funding an owners-only 401(k) plan?

The deadline for funding the employer contribution to the plan is the business tax filing deadline including extensions. The deadline for depositing salary deferral contributions is the earliest date on which the deferral can be reasonably segregated from the general assets of the business, but no later than the 15th business day of the month following the deferral.

The DOL has proposed a new regulation for small plans that provides a seven-day safe harbor for deposing salary deferral contributions to a plan. As long as the contributions are transmitted within seven business days after the amounts would have been paid to the employee, the contributions would be considered timely.

Due to final 401(k) regulations issued in 2006, an owner of an unincorporated business (sole proprietor) can postpone the deposit of a deferral until the tax filing date provided the deferral election is made by the end of the tax year, December 31, if a calendar tax year. For sole proprietors, compensation is deemed to be earned on the last day of the tax year, so the election to defer must be paid by that date, since an election to defer can never be made retroactively, but the deposit can be made up until the tax filing deadline including extensions.

From a funding perspective, are owners-only 401(k) plans more flexible than other types of business retirement plans?

Owners-only 401(k) plans are extremely flexible from a funding perspective. There are two primary components to an owners-only 401(k) plan contribution: profit sharing and salary deferral.

The profit sharing contribution can be any amount up to 25% of annual compensation.

Employee salary deferrals can be any amount up to $16,500 for 2009, plus an additional $5,500 catch-up contribution if the employee reaches the age of 50 or older by the end of the calendar year.

Employee salary deferrals can be either the traditional pretax or after-tax Roth contributions.

What happens to the salary deferral and catch-up contribution levels in 2010?

Both contribution levels for the owners-only 401(k) will be indexed for inflation.

Do contributions have to be made to the plan each year?

No. You have the flexibility to decide from year to year how much you can and are willing to contribute, up to the annual limits.

Can distributions from other retirement plans or IRAs be rolled over to an owners-only 401(k) plan?

Yes. Most owners-only 401(k) plans allow for rollover from other retirement plans. For example, traditional and SEP IRAs, profit sharing and money purchase pension plans, and other 401(k) savings are eligible for rollover into an owners-only 401(k). Roth IRAs are not eligible for rollover.

Can loan provisions be included in an owners-only 401(k) plan?

Yes. The same loan rules that apply to other qualified plans apply to owners-only 401(k) plans.

Are there any IRS reporting requirements associated with an owners-only 401(k) plan?

Not initially. If there are no other employees in the plan except the business owner and his or her spouse, Form 5500-EZ should be filed with the IRS only when the total assets in the plan reach $250,000, and in the final year of the plan.

Does Raymond James sponsor an owners-only 401(k) plan?

Yes. Please contact your Raymond James financial advisor for more details. By carefully considering your current situation and future goals, he or she can help determine if the owners-only 401(k) is right for you.

Are Roth 401(k) contributions separated from the pretax contribution?

Yes. Two accounts will be created: one with Roth contributions and the other with pretax contributions from salary deferral or profit sharing contributions.

Can you convert your existing pretax contributions to your Roth account inside your 401(k)?

No. They must remain either pretax or Roth at the time of election.

Can you make both pretax and Roth salary deferrals in the same year?

Yes. You may designate some or all of your elective salary deferrals as Roth contributions.

How are Roth 401(k) distributions treated?

Qualified distributions are tax-free if withdrawn after five years and due to death, disability or attainment of age 59½.

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