

## Top-Heavy Determination

A plan is top-heavy for the current year if as of the last day of the preceding plan year the total account balances of all key employees is greater than 60% of the total account balances of all employees. In determining these account balances, for participants that earned an hour of service during the year, any distributions made during the plan year due to termination of employment and any in-service distributions made within 5 years are included.

Generally if a plan is top-heavy, it must provide a minimum allocation amount to eligible employees. Top-heavy plans must also use an accelerated vesting schedule on employer contributions. If a plan is top-heavy, IRS law will supersede certain plan provisions.

A key employee is an employee who, at any time during the preceding plan year was:

- ✦ a more than 5% owner,
- ✦ a more than 1% owner and earning over \$150,000 (as indexed),
- ✦ an officer with compensation in excess of \$145,000 (as indexed).

## Top-Heavy Consequences

Each eligible nonkey employee is required to receive a minimum allocation of employer contributions for each year that the plan is top-heavy. The minimum allocation must equal the lesser of 3% of compensation for the entire plan year or the percentage allocated to the key employee receiving the largest allocation percentage for the plan year.

Employer matching may be used to satisfy top-heavy minimum contribution requirements beginning January 1, 2002.

Special Notes:

In a 401(k) plan, elective deferral contributions count as contributions for key employees. The plan may be required to allocate an additional top-heavy minimum employer contribution even though only 401(k) deferrals were contributed to the plan.

