

Solo 401(k) FAQs

Frequently Asked Questions:

Q: Do I Qualify To Set Up A Solo 401(k)/Profit Sharing Plan?

A: In order to set up a Solo 401(k), you must be a business owner and your business cannot have any employees other than you, other owners, and your spouse.

Q: I Currently Have My Own Business Which Has A Few Employees; Can I Use This Business To Set Up A Solo 401(k)?

A: If your employees do not work more than 19.25 hours per week or 1,000 hours annually, your company may adopt a Solo 401(k). If your employees work more than 19.25 hours per week or 1,000 hours annually you may be eligible for a different Self-Directed Plan that allows your employees to participate as well.

Q: My Business Is A Sole Proprietorship And I Am The Only Employee; Can I Use This Business To Adopt My Solo 401(k)?

A: Yes. For purposes of setting up a Solo 401(k), this is fine. However, for tax and legal liability purposes, you may want to consider another type of entity for your business, such as an LLC or S-Corporation. Also, the sole proprietorship must have its own EIN (we can obtain if needed).

Q: Can I Start A New Business To Set Up A Solo 401(k)?

A: Yes. We can help you start a new business and that new business will then adopt the Solo 401(k). One caveat is that your new business must be legitimate, in other words, the intent of setting up your business must be to earn profits and pay yourself wages or self-employment income through non-passive income. During a full service Solo 401(k) the attorney can review this in your consultation.

Q: Can I Set Up a Solo 401(k) If I Have A 401(k) With My Current Employer?

A: Yes. You can have a 401(k) with your employer AND a Solo 401(k) for your own business. *However*, your contribution amounts are accumulative among all 401(k) plans you may have so be sure to track contributions made throughout the year.

Q: I Have An LLC That Invests In Rental Properties; Can I Use This Company To Adopt My Solo 401(k)?

A: Possibly, but it will require a separate property management company that gets some income from the rentals. This usually isn't advisable but can be done to allow for a solo(k). Ideally, a Solo 401(k) should be adopted by a company that is receiving ordinary/operational income rather than passive income such as rental income.

Q: How Much Can I Rollover Into My Solo 401(k)?

A: There are no minimum or maximum rollover amounts into your Solo 401(k). Make sure when doing a rollover that it is a direct rollover made to the plan. Otherwise, the funds being moved may be considered a distribution. A distribution causes major tax issues and disallows the funds as future retirement plan funds (a 60 rollover may be an option but is more complicated on your taxes).

Q: What Are The Requirements To Rollover An Existing Retirement Account Into My Solo 401(k)?

A: You can rollover almost every retirement account without penalty into your Solo 401(k) (traditional IRAs, prior employer 401(k)'s or 403(b) plans, etc.). One restriction is Roth IRA funds. Those cannot be moved from a Roth IRA to the Solo(k). In a full service consult your KKOS attorney can go over funds in your situation.

Q: Are There Minimum Contribution Requirements Into My Solo 401(k)?

A: It is possible for your Solo 401(k) account balance to consist of only your rollover amount. However, you should have a legitimate intent to contribute to your Solo 401(k) as the employee and the employer. The annual maximum employee contribution is \$19,5000 per year with a total overall annual contribution maximum of \$57K (both employer and employee).

Q: How Is A Solo 401(k) Different Than A Self-Directed IRA?

A: A Solo 401(k) is different than a Self-Directed IRA in that the custodian of a Self-Directed IRA must be a third-party company, whereas the custodian/trustee of a Solo 401(k) can be you. This gives you much more direct authority and control over your Solo 401(k) than a Self-Directed IRA. Second, a Solo 401(k) can be leveraged with debt in real estate investments without being subject to certain debt-related taxes (UDFI) which typically apply to a Self-Directed IRA. Third, a Solo 401(k) allows greater annual contribution amounts than a Self-Directed IRA. For example, a Solo 401(k) can receive contributions from you as the employee up to \$19,500 per year and from you as the employer up to 25% of your employee compensation (up to max of \$57K. Fourth, you can borrow money from your Solo 401(k) of 50% of the account balance, up to \$50,000.00 maximum. You can't do that with a Self-Directed IRA. Fifth, if your Solo 401(k) engages in certain prohibited transactions, the consequences are much less severe than if a Self-Directed IRA were to engage in the same prohibited transaction. Other than that, the Solo 401(k) is very similar to the Self-Directed IRA in that both may be used to invest into alternative assets such as real estate, LLCs, precious metals, and private companies. Second, your Solo 401(k) is subject to the same set of prohibited transaction rules as a Self-Directed IRA. Third, you can invest your Solo 401(k) into an LLC for asset protection purposes (401(k) LLC), just like a Self-Directed IRA LLC.

Q: Can I Pay For My Solo 401(k) Out Of My Current 401(k)?

A: Yes. We will begin preparing documents for your Solo 401(k) when we receive full payment. The purchase of a Solo 401(k) is a company expense, so in general, the adopting company would send payment for your Solo 401(k) and this is a business expense in your company. If this is not

possible, you may pay for your Solo 401(k) with personal funds which can be reimbursed by your company.

Q: How Do I Execute A Loan From My Solo 401(k)?

A: After we establish your Solo(K) we will mail you a binder with specific participant loan requirements for a loan to maintain compliance of your Solo 401(k). As an Additional Service, KKOS may prepare the necessary documents to process a loan for a fee of \$350.

Q: Who's who?

A: KKOS Lawyers is the Volume Plan Submitter. Your company will be the Plan Sponsor. You act as the Plan Administrator/Trustee of the Solo 401(k). There is no Third Party Administrator or Custodian required, although you can elect to name a Custodian. If you wish to elect a Custodian, Directed Trust Company is happy to act. Please see the 401k application for more details!

Q: What Is Included In My Consult With The Full Service Solo 401(k) Purchase?

A: Initial set-up, 401(k) rules, self-directed investment legal advice, rollovers, contributions and anything pertaining to the set-up of your Solo 401(k). Analysis or specific investment review for an actual transaction is billed separately. For Docs Only Solo(k)s, the attorneys or paralegals will bill their time hourly.

Q: What Additional Fees May Be Incurred After Establishing My Solo 401(k)?

A: Additional Services are outlined on our website and included in your binder upon purchase of a Solo 401(k). KKOS Lawyers will provide information and forms for some services for which you may opt to execute on your own. However, you may still request KKOS Lawyers to professionally execute any Additional Service.